

STATEMENT OF REP. JOHN E. FOGARTY BEFORE SUBCOMMITTEE NO. 1
OF THE HOUSE JUDICIARY COMMITTEE, JUNE 11, 1964

Mr. Chairman:

I welcome the privilege and the opportunity of submitting this statement to this Immigration Subcommittee in its consideration of the various legislative proposals to amend our immigration and nationality laws. I urge the prompt and favorable consideration of my bill, H.R. 7976, introduced in the present Congress on August 7, 1963, and recommend its speedy enactment.

My bill is identical in content with H.R. 7700, which was introduced by Mr. Celler, the Chairman of the Judiciary Committee, and both bills would carry out the recommendations of the Administration in respect to revisions to be made in the immigration law.

The word "revisions" is perhaps too weak a term to describe what would be accomplished by this legislation. In his message to the Congress of July 23, 1963, the late President John F. Kennedy pointed out that there was a compelling need for the Congress to reexamine the immigration laws and in particular, to enact a fundamental reform of the national origins system of selecting immigrants. I am in full accord. A copy of the President's message is attached and I request that it be included as part of my remarks.

It is not my purpose to encumber the record by including at this point in my statement a full analysis of the legislation which I have introduced; however, a section-by-section analysis thereof is attached and I request that it be included in the record as a portion of my remarks.

One of the most basic defects in our immigration system is that, established in 1924, which bases the quantum of immigration from the various countries in the world upon the national origins of the population of the United States in 1920. There is no sound reason, and in my view there never has been, a logical basis for such a system of selecting and limiting immigrants who may come to this country. Statistically, it is established that the present system discriminates unjustly, unreasonably, and unfairly against certain countries and races, particularly those from southern and eastern Europe and from other parts of the world.

Because of the fallacy implicit therein, while thousands of prospective immigrants from those places are prevented from obtaining visas to come to the United States because their quotas are oversubscribed, many thousands of quota numbers go to waste because they are available only to persons coming from the nordic or northern areas of Europe whence the pressure for immigration is comparatively low.

My bill would do away with the national origins system and in its place establish a method whereby immigration to the United States will be influenced and regulated on the basis of the skills of the immigrant, the value thereof to the needs of the United States, family relationships to persons already here, and priority of registration. The highest priority would go to those whose abilities would add to the national welfare; next would come persons wishing to be reunited with their relatives.

This bill would come into effect gradually so as to avoid unreasonable hardships upon persons who were depending upon the present system for seeking admission to the United States. Furthermore, the bill would have flexibility to permit adjustments to be made in the administration of the immigration law when necessary to prevent undue restrictions upon natives of other nations.

Existing quotas would be reduced gradually and the numbers released thereby would be placed in a pool to be distributed on a new basis. No one country would receive over 10% of the total quota numbers authorized in any one year. An Immigration Board would be set up to advise the President upon the reservation of a designated percentage of the unallocated quota numbers, and to formulate recommendations to the President regarding the use of the quota reserve pool.

My bill further would abolish the inequity which now exists resulting from the failure of the present law to permit the utilization of all authorized quota numbers. As many as 60,000 quota numbers are wasted each year because natives of the countries involved do not seek, in sufficient numbers, to migrate to the United States. This deficiency would be corrected by my bill.

The bill, in addition, would repeal the discriminatory provisions in existing law establishing a harsh and unjustified formula regulating immigration of persons who are attributable by race to an area within the Asia-Pacific triangle. This is one of the most notoriously offensive sections of our present law which would be wiped from the books.

As is well known here in Congress and among my constituents, I have always been in favor of removing barriers which prevent the reuniting of families. In that direction my bill would give nonquota status to parents of American citizens, thereby permitting their timely migration to this country. In addition, the bill would give a preference in the quota system to parents of resident aliens, instead of forcing them to wait on the same quota waiting lists with persons in other categories who have no connections in the United States.

The bill would also modernize and liberalize the procedure for granting preference to highly trained or skilled immigrants who are needed in the United States for the improvement of our economy and culture. The bill would also remove the discrimination resulting from the numerical limitations upon their quotas with respect to the newly independent nations of the Western Hemisphere.

One of the most important provisions, in my opinion, contained in the bill which I have introduced, is that which would permit the admission to the United States of family members who would be otherwise excludable because of mental illness or defect. The bill would grant discretionary authority in this respect to the Attorney General, under proper safeguards, to waive the provisions of law which would prohibit the admission of persons afflicted with certain mental problems. The bill also makes a technical change with respect to the registration of certain quota visa applicants and to regulate the time of payment of visa fees.

As President Kennedy said in his message to the Congress on July 23, 1963, the enactment of the measures which he recommended, and which are contained in my bill, will not solve all the problems of immigration. Nevertheless, these proposals have the full support of the present Administration under the leadership of President Lyndon B. Johnson and nothing less than full and complete enactment should be regarded as acceptable by the Congress. If this bill is enacted it will mark a further step in the progress of the United States toward realization of its ideals; it will eliminate discrimination and serve to raise the stature of the United States in the eyes of the entire world now so concerned with the problems of humanitarianism and elimination of discrimination as between peoples and races, nations and nations.

In addition to the proposals which are already contained in my bill, H.R. 7976, I urge the enactment of additional legislation to amend clause (a) of section 249 of the Immigration and Nationality Act (8 U.S.C. 1259) by striking out the date "June 28, 1940" and inserting in lieu thereof "December 24, 1952". The purpose of this proposal is to revise and liberalize that section of the law which permits the adjustment of immigration status of certain aliens who entered the United States many years ago and who are deportable from this country principally on technical grounds. My proposal would move up the date prior to which entry must have occurred from June 28, 1940 to December 24, 1952. No change would be made in the present requirements regarding continuous residence, good moral character, and the like. By changing the date to

December 24, 1952, the law would establish the date of entry as prior to the effective date of the Immigration and Nationality Act, the present basic code. In other words, a benefit would be granted to persons who entered this country before the new requirements which became effective at that time.

No harm would result to this country from the enactment of this proposal. On the contrary, it would serve to permit the reuniting of families and to permit technically deportable aliens to remain in this country without harshly tearing them away from the arms of their loved ones here. I urge favorable and prompt consideration by this Committee of this proposal.

Mr. Chairman, I am also the author of a bill, H.R. 10160, which I introduced in the present Congress on February 27, 1964, and I urge and recommend its prompt enactment. At the time of the introduction of this bill I pointed out in my remarks that this proposal would permit the immigration of mentally retarded persons under the same conditions as have been imposed upon the victims of tuberculosis. My interest in the problems of the mentally afflicted are well known to all. In regard to immigration the problem is a particularly distressing one because it affects the basic unit of society - the family.

Consider the heartbreaking results which must follow under existing law merely because a child or other relative in a migrating family is mandatorily excludable from the United States without any recourse

because of mental retardation. Shall the child be wrested from the arms of its mother and placed in the speculative care and custody of an institution or stranger abroad? Shall the whole family be forced to remain outside of the United States because of the dreadful affliction of the child? In my view, the answer to both of these questions must be in the negative.

Due recognition must be given to the progress of this country in health and rehabilitation, in health and health-related research sponsored and supported by the Federal Government. Thousands of programs are now in effect under legislation providing for child care, study of mental retardation, construction of research centers, and training of special teachers. This country has made tremendous advances in the health field and I believe from the legal aspect in regard to the administration and application of the immigration laws we should also look forward. This country should not deprive itself of the presence and contribution of persons and their families in this country merely because of affliction with illness which can be controlled and, in some respects, cured or at least alleviated. Accordingly, I reiterate my strong recommendation that my bill, H.R. 10160, be promptly enacted so that here too the United States can exhibit to the world at large its policy of alleviating hardship, of reuniting families, and of advancing the course of progress in all possible respects.