

Mr. Fogarty,
Mr. Speaker,

This amendment would provide some hope of humanitarian relief to prevent separation of families by permitting the Surgeon General and the Attorney General to grant waivers of exclusion, under proper safeguards of the public purse and public safety, of mentally retarded children, and ^{of} close relatives with a past history of mental illness who have been cured. It is much narrower than the waiver provisions of the original Administration bill, which covered close relatives with all types of exclusionary mental afflictions. It is identical to the waiver provisions previously enacted by Congress for close relatives excludable for tuberculosis, except for the proviso which would bar relief if the parents leave a mentally retarded child behind.

This bill has been advocated, and properly so, as a reform of our immigration laws which emphasizes the reuniting of families. But unless my amendment is adopted, the bill will have no provision to prevent the needless separation of families from very close relatives, especially children and wives, in cases where to compel such separation is wholly needless, and in situations that are especially cruel.

①

XERO COPY XERO COPY XERO COPY

Let me illustrate by several cases referred to by Attorney General Katzenbach in his testimony. He described the case of the young man, of Italian descent, who met and married an Italian girl while he was on duty with the United States Navy in the Mediterranean. They had a daughter, who is an American citizen because her father is. The Navy now has transferred the young father to a new assignment in the United States and he has consequently made plans to take his family with him. But he cannot do so.

Several years ago, because of a nervous breakdown, his wife was hospitalized and then discharged after she recovered. The present law, however, takes no notice of medical advances in treating mental disturbances and makes any mental disability--whether present or past--the mandatory basis for permanent exclusion from the United States.

Consider the alternatives faced by this young serviceman. He could leave his wife and child in Italy, or he could leave the Navy and give up living in America in order to live with his family abroad.

Similarly, the present law is oblivious to the needs of mentally retarded children.

SECRET

There is the case of a five-year old child, whose father is a doctor presently employed by a foreign city as its chief pathologist. He had an approved first-preference visa petition filed in his behalf by one of our large city hospitals and by an outstanding medical school which wanted him to join its faculty. The child was denied a visa as a mentally retarded alien. This retardation was due to a birth injury. The father would not come to the U. S. if his child could not accompany him his wife and their other child. The father had an income in excess of \$20 thousand a year and the child was the beneficiary of a \$100 thousand life insurance policy on the father. Fortunately, a private bill was enacted to admit the child. But this is quite unusual. Aliens in this position are faced with the choice of giving up coming to the U. S. or of leaving a mentally retarded child behind.

XERO COPY XERO COPY XERO COPY

This is not a choice any of us would want to make. It is not a choice the United States of Americans should force any human being to make. The ~~Attorney General's~~ illustration ^{given} ~~of the epileptic child~~ ^{equally} applies generally if one of the ~~children in the family is mentally retarded.~~ ~~It applies~~ if the family is Italian, Scotch, or any other nationality. It applies if the father is an outstanding nuclear physicist, or a neurosurgeon needed by an American hospital or medical research center. It applies no matter how willing and able the family is to assure continued care for the child, who may in fact be only slightly or moderately retarded and quite able to live at home, or even do simple kinds of work. In short, the present law is rigid, cruel, and unnecessary.

4

XERO COPY XERO COPY XERO COPY

The subcommittee has done a generally excellent job on this bill, and the amendment respecting epilepsy is fully warranted. Unfortunately, the illustrations in the testimony of the Attorney General I just described were not before the subcommittee, since that testimony was given on February 10 of this year in Senate committee hearings. Let us therefore now recognize these humanitarian needs. This amendment is carefully restricted to the kind of immediate family situations I have described, and fully safeguards the public interest by provisions which are identical to present law in the case of relatives afflicted with tuberculosis. There is no sound reason for failure to include it in the bill, and the positive reasons for including it will be clear to each person when he thinks of the precious personal ties which exist in his own family.

(✓)