

THE WHITE HOUSE

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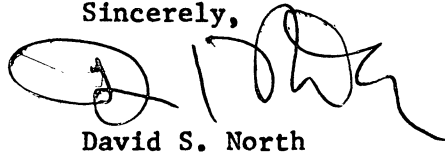
September 22, 1967

Dear Dr. Garcia:

We have enclosed a statement by Secretary Wirtz calling for regulation of the Green Card commuter practice as well as other Government announcements which may be of interest.

In the dialogue following the presentation of this testimony, the Secretary announced that the Department had rejected a request made by California growers for 750 braceros to work in the grape harvest.

Sincerely,

A handwritten signature in black ink, appearing to be "D. S. North", written over a circular stamp or mark.

David S. North

Dr. Hector P. Garcia
c/o The Roosevelt Hotel
Madison Avenue and 45th
New York, New York

Enclosures

STATEMENT OF W. WILLARD WIRTZ, SECRETARY OF LABOR
BEFORE THE SUBCOMMITTEE ON
IMMIGRATION OF THE SENATE JUDICIARY COMMITTEE

September 22, 1967

Mr. Chairman and Members of the Subcommittee:

From my first days in the Labor Department I have been aware of the vexing and complicated problem of the alien commuter--a problem of particular concern to our workers living near our border with Mexico.

There is considerable confusion--compounded by a dearth of information--about alien commuters. But there is no doubt that a serious difficulty has existed for many years and has exerted an adverse effect upon the wages and working conditions of United States workers. Some measure of relief is needed promptly.

Accompanying me today is Mr. Stanley Ruttenberg, Assistant Secretary of Labor and Manpower Administrator. After my testimony, Mr. Ruttenberg will be available to discuss data clearly illustrating the very poor economic conditions existing in our border areas, largely as a result of the alien commuter situation.

Alien commuters are aliens who have been admitted to the United States but who are permitted to maintain their actual dwelling places in Mexico or Canada and commute to jobs in the United States.

Many towns on our Mexican and Canadian borders are in a very real sense single communities that are artificially separated by the international boundry. As a border community developed there was a high

degree of economic integration between that portion in the United States and that portion in Mexico or Canada. The international border, in effect, was ignored. People lived, worked, and shopped on either side.

But in the mid-twenties conditions began to change. Restrictive immigration laws designed in part to protect American labor standards applied some restraints to the entry of aliens for work in the United States. There were, however, large numbers of people living in border communities in Mexico or Canada and working in the United States whose services were needed in the portion of those communities located in the United States. Although there was no specific language in the immigration laws to accommodate this need, the practice of admitting alien commuters was permitted to continue through administrative rather than legislative arrangements. This was no doubt felt desirable for several reasons--the recognition of the economic facts of life on the border, and as a matter of comity between the United States and the other governments involved.

Initially, the alien commuters were viewed as non-resident aliens entering the United States for purposes of "business" or "pleasure" within the meaning of the immigration law. In 1927 the Immigration Service began requiring commuters to qualify as immigrants. That requirement was confirmed in 1929 when the Supreme Court held in Karnuth v. Albo, 279 U.S. 231, that employment was neither "business" nor "pleasure", and that these people working in the United States must be considered immigrants. The Court's reasoning was based upon the intent of the Immigration Act to set safeguards for American workers by precluding the admission of alien immigrants to work under conditions that would adversely affect American labor standards.

This decision changed the commuter situation in theory, but not in fact. Aliens were still permitted to live in the foreign towns and work in the United States as long as they had first been admitted to the United States as immigrants. For identification purposes, aliens who had been admitted as immigrants, but who lived in another country, were issued identification cards to facilitate their entry. This card evolved into the present Alien Registration Receipt Card, now issued to all alien immigrants, commuters, or aliens who actually reside in the United States. It is commonly known as the "green card."

When an alien initially applies for his green card, the Secretary of Labor determines whether United States workers are available at his destination to do the work which he is to do and whether his employment would have an adverse effect on wages and working conditions. But this determination is made only once--at the time immigrant status is applied for. No new determinations are made thereafter, even though his employment may change a number of times.

There is convincing evidence, too, that alien commuters have harmed American labor standards, particularly on the Mexican border.

In Mexico, workers can live much cheaper than they can in the United States. They are willing to live in Mexico and commute to work in the United States where, by our standards, they are exploited in jobs paying less than a living wage to American workers. The Mexican alien commuters work primarily in the least skilled jobs where the harmful impact they exert is most concentrated.

It affects most directly those United States residents who are the most disadvantaged, who are the least able to compete for better paying jobs, and for whose benefit the Congress has enacted such safeguards as the Fair Labor Standards Act--and the labor certification provisions of the Immigration and Nationality Act. This supply of workers available and willing to work at substandard wages depresses the economy of the entire border community. Thus in our towns on the Mexican border we find wage rates much lower, and unemployment much higher, than in other cities.

* The unemployment rate in Texas border towns is almost double what it is in other parts of the State.

* Wage rates for seasonal farmwork are about 30 percent lower in the border areas of Texas than elsewhere in the State.

*Earnings of nonfarm workers in the border areas compared to those of workers in the interior show almost as great a disparity. The same general conditions prevail in the other border States, although the comparisons are not quite as stark.

*Trade unions attempting to organize workers in the border areas have frequently found their efforts frustrated by workers living abroad who do not have the same interest in improving working conditions as do U.S. workers, and who will work willingly as strike breakers. The most recent example of this was in the farm labor dispute in Starr County, Texas.

With the very poor economic conditions in the border areas, employers have frequently paid lower wage rates than those required by our laws. In the past fiscal year, for example, over 20 percent of minimum wage underpayments found by Labor Department investigators in Texas, New Mexico, Arizona, and California, were found in border counties of these States containing only about 6 percent of the nonfarm employment.

Nobody really knows precisely how many aliens live in Mexico and work in the United States. Some cross daily from their residence in Mexico to jobs in the United States. Some may hold jobs some distance from the border and return to their homes in Mexico for weekends and holidays. Others, particularly seasonal farm workers, maintain a permanent residence in Mexico, cross the border and live and work in the United States for several months, returning to their homes in Mexico during the slack season. At a minimum, according to data from the Immigration and Naturalization Service, there are about 44,000 alien commuters crossing the Mexican border daily. At least that number were counted crossing on a day in mid-January 1966. (At the same time about 11,000 Canadian commuters were counted crossing the Canadian border.)

Residents of our border towns have asked for relief in the past whenever they have had an opportunity. Most recently, their pleas have been voiced at the hearing Congressman Tunney of California held May 13 in El Centro, California, and at the June 17 meeting in San Antonio of the Texas State Advisory Committee to the Civil Rights Commission.

It is my considered judgment that action is long overdue. I believe that aliens should not be permitted to live abroad and work in the United States under conditions that adversely affect the wages and working conditions of American workers.

I do not propose, however, that all alien commuters be barred from working in the United States. There is much merit to the argument that the border communities are really single integrated economic units. Our towns need the services of Mexican workers. Some business establishments depend upon residents of Mexico for much of their sales. Mexican towns and their residents depend for much of their income upon the earnings of workers employed in the U.S. But when Mexican residents work in our country they should not be exploited and our own labor standards adversely affected.

Officials of the Labor Department and the Justice Department have frequently discussed the need to prevent the employment of commuters under substandard working conditions from having an adverse effect upon American workers. A number of alternatives have been considered and a few steps taken.

One concrete step was the issuance by the Attorney General of a regulation effective July 9, 1967, making green cards invalid for use in admission of persons intending to work at a place where the Secretary of Labor has announced that a labor dispute exists. This regulation, however, only takes a short step in the direction of preventing aliens from being used as strikebreakers. It does not apply to persons hired after the commencement of a strike and before its announcement by the Secretary of Labor. It does not prevent an employer from hiring alien commuters to build up his work force in anticipation of a strike.

By administrative rulings, commuters already occupy a status which is different from that occupied by other immigrants.

First, they do not have to actually live in this country. The fact that a commuter works in this country has been found enough to qualify him for status as a "resident alien" for purposes of according him immigrant status.

Second, if a commuter is unemployed for a period of six months he loses his status as an immigrant -- a rule not applicable to noncommuter immigrants.

Third, a commuter does not receive credit toward the residence requirement for citizenship as do other immigrants.

Finally, as discussed above, commuters may not be hired at a place where a labor dispute has been announced.

The Attorney General through these actions has recognized that reasonable conditions may be imposed upon the continuation of commuter status. The question is whether the addition of a requirement that commuters must be employed under conditions which will not adversely affect American workers is consistent with the powers of the Attorney General to impose reasonable conditions or whether it requires new legislative authority.

The possibility of further administrative and legislative action is being explored with the Department of Justice. In addition, this matter will be taken up in the forthcoming meetings of the Select Commission on Western Hemisphere Immigration on which you sit, Senator Kennedy, and on which Assistant Secretary of Labor, Stanley Ruttenberg and the Commissioner of the Immigration and Naturalization Service, Mr. Raymond F. Farrell, also sit.

I wish to await consideration of this problem by the Western Hemisphere Commission before coming to any final conclusions regarding the administrative or legislative actions which will most effectively resolve this matter.

This serious problem deserves our continuing and close congressional, executive, and Commission attention until a satisfactory solution is achieved.