THE REPORT OF THE U.S. SELECT COMMISSION
ON IMMIGRATION AND REFUGEE POLICY:
A CRITICAL ANALYSIS

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FROM REFORM TO RESTRICTION:
THE HISTORY OF THE SELECT COMMISSION ON
IMMIGRATION AND REFUGEE POLICY

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My presentation will begin with a very quick review of the
whole process that led to the report issued by the Select Com-
misson on Immigration and Refugee Policy. When Jimmy Carter
first took office, his administration decided to solve what they
saw as the problem of undocumented persons in this country
and formulated a proposal which we all know well by now. That
proposal called for an employer sanctions law, a national system
of worker identification, and stricter enforcement of immigration
laws — basically, many of the recommendations made by the
Select Commission in its report. The economy was in a little
better shape at that time: it was a more optimistic period, the
inflation rate had not reached the levels which we experienced
later in the Carter administration, and unemployment was not so
high as we saw in the latter days of Carter's tenure. Further-
more, the Chicano community and other liberal groups were able
to rally together with MALDEF at the lead to check that legisla-
tion and prevent further hearings on it after the initial round.

The main thrust of MALDEF’s objections to the Carter pro-
posal was that it contained pure political fantasy, without any
academic data on which to base its recommendations. We did
not know how large the undocumented population was, and we
had no idea whether or to what extent the undocumented popu-
lation contributed to the nation’s economy. So as a way of dodg-
ing the question, Congress came up with the idea of appointing a
Select Commission to study the issue for two years. This move
generated a spirit of optimism about the issue, especially in the
academic community, because it prompted many to feel that at
last immigration policy would be grounded on facts drawn from
good, conscientious research.

So the Select Commission held hearings throughout the
country, and representatives of community and special-interest
organizations, including MALDEF, participated in those hearings
believing that their participation would ultimately have some
effect on the Commission’s recommendations. And the
academic community in good faith studied this issue and participated in the Commission’s work, also believing that their research would be read at least by staff members, if not by the Commissioners themselves. However, the Commission’s final report, according to staff members and Commissioners alike, did not benefit at all from the studies and the hearings. The report does not refer at all to the hearings and only superficially to the commissioned research. Not surprisingly, the report is a political document; from a political body which included four members of the Senate, four from the House, four Cabinet members, and four presidential appointees, we should have expected a political document.

When the Commission began its two-year study, the academicians and the activists could find good reasons for optimism. However, as time went on, their hope for a comprehensive, enlightened immigration policy began to dissipate. I happen to have been present at the Commission’s meeting of January 6, 1982, when the Commissioners debated the thirty-three grounds for exclusion under the present Immigration and Nationality Act (INA). As they began to consider the issue, these politicians referred to it as a political “hot potato.” Peter Rodino in particular reacted as if to say: “We can’t touch this; we’ll have no credibility at all with Congress if we deal with this topic, so let them deal with it.” Of course the Commissioners knew that recommending such a course of action would be tantamount to maintaining the status quo in this area. Furthermore, they did not discuss at all their recommendation that committing a crime which carries a potential penalty of six months or more would provide grounds for exclusion. Under the existing law, a potential immigrant must commit a crime punishable by a year in prison in order to run the risk of exclusion, yet the Commissioners did not debate the topic. Benjamin Civiletti raised the suggestion as a last-minute thought; the staff had not made the recommendation, but because no one took issue with his casual suggestion, they went ahead and passed it in thirty seconds. That change will have a devastating impact on any immigrant in this country, because practically any misdemeanor carries a six-month term. Thus, in many ways, the attitude of the Commission’s members swung to the conservative side.

I find three causes for the change in their attitudes. First, the economic decline in the U.S. led to a more conservative sweep in the mood of the American public. Secondly, the shift to conservatism found an expression in Congress, especially in the Senate, after the 1982 elections, and the Commissioners’ attitudes reflected that change. Even though the Commissioners were incumbents, the shift in the mood of Congress very heavily influenced them, as well as the Commission’s staff, many of whom changed important recommendations overnight. Thirdly, the so-called Cuban invasion and the influx of Haitian boat
people precipitated a reactionary response by the Commission. Congress had just passed a new law to deal with the problem of refugees, but it did not provide us with the means to deal with the massive influx of Caribbean peoples who appeared on our shores in 1981. The Commissioners responded in frustration with this very reactionary document. Of course, the situation of desperate people arriving in sinking boats leaves us with little choice about what to do, no matter what the law says.

But the Commissioners did not recognize that fact. Their report in the main indulges in scapegoating — blaming the victim, the undocumented, for many of the social and economic ills that this country faces. The academics who have studied international migration have shown that in fact migrants to this country, even the undocumented, contribute greatly in economic terms to our nation. But the Commissioners ignored that expert advice because they are politicians. What they did listen to were the polls. They listened very carefully to the strong backlash in their communities against Third World people.

This issue reduces at its core to what the white majority perceive as a power struggle. But the ethnic groups currently in control in our country will remain in control without a doubt; Hispanics represent a very insignificant proportion (by the latest census, something like 6.4%) of the total current population. The white backlash against Hispanics has occurred because of what the public perceives as a "Hispanic population explosion." The 1970 census had the Hispanic population at 9 million, and the Census Bureau's current population survey for 1979 had it at 12 million. But the 1980 census showed a Hispanic population of 14.6 million, an incredible leap of 2.6 million in one year. Of course, these figures really reveal very serious undercounts in earlier surveys, but tied in with propaganda about the "Decade of the Hispanic," they have contributed to a majority backlash. Both the white community and blacks feel threatened by the possibility that Hispanics may eventually gain some token political power in the U.S.

We seem to be headed for a new kind of McCarthyism in this country, one that might be called Simpsonism, after Senator Alan Simpson of Wyoming. Simpson has no blacks in his community, no undocumented workers, not even Hispanics displacing the white labor force. He has no political base other than a group of white voters in his community who feel threatened, who identify with "white power," and in their fear we have the kernel of what this battle is all about. This reactionary attitude bodes very ill for Hispanics, and we therefore must begin to build bridges of alliance with the Jewish community, the black community, and the white community to point out the racist underpinnings of this attitude. While we need academic studies to back us up, the polls don't listen to those studies, and we must get the
word out; we must keep on with that battle of building coalitions and building bridges, because I see that as our struggle for the eighties.