The Politics of Immigration in France, Britain, and the United States

A Comparative Study

Martin A. Schain
abolished the advantages of citizenship rights still attributed to the very NCW immigrants against whom restrictive legislation was directed in the first place. Indeed, although restriction in Britain has often been harsh (particularly the administration of family unification), the rhetoric of “zero immigration” has neither been important nor applied, and the rights of immigrants in the country have been far more extensive than in France, and better protected through anti-discrimination legislation. At the same time, however, surveys cited above indicate that these policies may be less effective in terms of integration than in France.

Finally, the dynamics of the party system were very different than those in France. Although the challenge of the British National Front in the 1970s appeared to have had some influence on the rhetoric surrounding the immigration issue, the party did not provide the same kind of electoral challenge as its counterpart in France. As a result, there was not an electoral dynamic to radicalize the movement toward restriction, and even in the relatively few constituencies with a high proportion of immigrants, the radicalization of the immigration issue has remained limited, and has not provided a challenge to the prevailing consensus. On the other hand, there has been only a limited tendency within the Labour Party to support a more open immigration policy, or to promote minority candidacies—in order to attract immigrant votes. Therefore, presence of immigrants within the electorate, has played a far less important role in the determination of immigration policy than in the United States (see ch. 10).

CHAPTER EIGHT
Development of U.S. Immigration Policy

Context: The Constitutional and Political System

What most differentiates the United States from France and Britain is the organization of its political system. Austin Ranney has pointed out that, even though the United States has been referred to as the “first new nation,” it is in fact older than most modern states of Europe. Indeed, in terms of the organization of its constitutional system, it is far older than France and—arguably older than Britain as well.1

If both France and Britain have evolved into different kinds of unitary, parliamentary systems, the American federal system is strikingly different in terms of its territorial and government organization. While the process of governmental decision-making under federalism has changed in the United States over the years that immigration policy has evolved, it remains an important consideration for the understanding of the politics of immigration since the nineteenth century. Similarly, while the organization of national government, and the relative balances among national institutions has also evolved, the complex organization of national government has been a key factor for understanding both the content and the politics of immigration policy.

In the American federal system the individual states have had broad authority to develop immigration policies of their own. Until almost the end of the nineteenth century, this included policy on admission of immigrants, and the processing of applications for entry. At the same time the federal government in Washington developed broad policies that shaped the flow of immigration for settlement. In most areas of policy and policy-making, federalism in the United States has never meant a division of powers. Instead it has generally been a sharing of the power of policy-making between the states and the federal government. At times, however, national policy and state policies have been directly in conflict. For example, the Burlingam Treaty between the United States and China in 1868 facilitated Chinese immigration into the United States, where they made a major contribution to railway construction and commerce.
However, fierce anti-Chinese sentiment in California—where many of the Chinese immigrants settled—resulted in anti-Chinese state legislation that undermined Chinese settlement. Similarly, relatively open national immigration policy after 1965, combined with weakly enforced prohibitions on the employment of undocumented immigrants, resulted in a (successful) campaign in California in the mid-1990s (Proposition 187) to deny welfare benefits to illegal immigrants. While federalism has generally enhanced the ability of the states to resist policies, it has also made it more difficult for the federal government to develop coherent national policy.

The political importance of the states has been enhanced within the national government through representative institutions that over-represent the relatively sparsely populated states. Thus, in the U.S. Senate, the representation of each state is equal, and in the House of Representatives, even though representation is roughly proportional to the population, each state is guaranteed at least one representative, regardless of population. Moreover, the popular election of the President of the United States is filtered through an electoral college that gives relatively greater weight to smaller states. Thus, from time to time, an American president is elected with fewer popular votes than his opponent (as in the election of President Bush in 2000).

In the United States, political parties are of limited importance for understanding the process of policy development. Although the two-party system has proven to be surprisingly durable since the end of the Civil War, the Democratic and Republican parties are highly decentralized, and have provided only a weak bridge among the structural divisions of American federalism. Parties dominate the organization of the House and the Senate, and modern presidents have each forged a national organization to support their election campaigns. Nevertheless, even when both houses of Congress and the presidency are controlled by the same political party, agreement among these three decision-making institutions on important policy initiatives usually requires substantial compromise.

Unlike in France and Britain, winning majorities for the passage of legislation generally include representatives of the minority party. In Europe, parliamentary parties have high and enduring party cohesion. The proportion of party representatives voting together on almost every issue approaches 100 percent. While members refuse to vote with their party from time to time (an increasingly frequent occurrence in recent years), this is a generally rare and noted event, a deviation from the norm. By comparison, in the United States Congress, cohesion reaches 100 percent only on the votes for the organization of each house, at the beginning of each session. Otherwise, cohesion indices are rarely higher than 60–70 percent.2

Since the end of WWII, mixed party government at the national level has been the rule, rather than the exception (see table 8.1). During the 60 years between 1947 and 2007, there was unified party government during only 22 (37 percent) of those years. Although the Democrats dominated the Congress until 1994, they did not always control both houses. If “cohabitation” in France under the Fifth Republic has meant prime ministerial domination of the political process, mixed party government in the United States has sometimes meant partisan and institutional polarization (1995–2001), and sometimes bi-partisan coalition-building across a wide range of issues (1953–1961). On the other hand, even during periods of one-party domination, conflict between presidential priorities and congressional resistance has been normal. One important study of the period 1946–90 has shown no difference between the rate of legislative production during periods of one party and mixed party control. Indeed, Republican President Eisenhower probably had an easier time working with a Democratic congress than did Democratic President Clinton.3

The modern policy-making process in the United States generally requires presidential leadership, which in practical terms means well-formulated presidential proposals, follow-through by a well-organized presidential staff, and cooperation with congressional leadership. Within both houses of Congress, committees and subcommittees are key figures in policy development and the mobilization of winning coalitions. In the Senate, with 21 standing committees, 68 subcommittees and numerous other special committees and joint committees, almost every one of the 100 senators chairs a committee or a subcommittee, as do about a quarter of the members of the much larger House of Representatives. Under the rules of each house, chairs can often prevent legislation from ever reaching the floor for a vote, and committees often have ongoing relationships with both major interest groups and administrative agencies, in their policy area. Members of both houses of Congress tend to build their influence and power within the committee system through seniority.

Samuel Beer has argued that two kinds of vertical (national) bureaucratic hierarchies have become a main feature of American federalism. In key areas of public policy, people in government service—the “technocracy”—tend
Table 8.2  U.S. legislation on Immigration and Citizenship

1798: First national naturalization legislation; “free white persons,” resident at least 2 years; swear loyalty to U.S. Constitution

1798: Alien and Sedition Acts; authorizes president to deport dangerous foreigners; 14-year residency requirement; amended in 1802 to 5 years

1819: Passenger Act; set minimal standards for immigrant ships; first federal regulation of immigration from Europe to the United States.

1875: Supreme Court decides Henderson v. Mayor of New York; held that the regulation of immigration is federal regulation of foreign commerce.

1882: Chinese Exclusion Act; suspends immigration of Chinese labor for 10 years; extended in 1892; modified in 1902; Chinese ineligible for naturalization.

1882: Immigration Act; under pressure from the State of New York, Congress “nationalized” state regulations for admission of immigrants; implementation still in hands of states

1891: Immigration Act; assigned responsibility for immigration to federal government, establishes post of Superintendent of Immigration in the Treasury Department, immigration centers at Ellis and Angel Islands.

1906: Ability to speak and understand English required for naturalization.

1907-8: by Gentlemen’s Agreement with Japan, Japanese laborers not issued travel documents in Japan for migration to the US (except for Hawaii; separate executive order banning migration from Hawaii to mainland).

1917: Literacy requirement for all new immigrants (required to read 40 words in any language); Asia designated a barred zone for immigration.

1918: The Passport Control Act required people entering the United States to first obtain visas from American consulates abroad, and that these visas be stamped in valid passports.

1921: Emergency Quota Act; admission from European countries restricted to 3 percent of each foreign-born nationality in 1910 census; Western Hemisphere unrestricted (except by literacy test); total immigration limited to 375,000.

1924: Johnson-Reed Act; total immigration (non-Western Hemisphere) limited to 150,000; temporary quota of 2 percent of foreign-born nationality resident in US according to 1890 census; commission set up to develop formula for determining quotas based on national origins of US population.

1929: National origins formula for quotas agreed to; quotas distributed by estimated origins of white US population in the 1920 census. No quotas for Western Hemisphere.

1942: The Bracero Program agreed to with Mexico, and passed as Public Law 45 in 1943. The agreement provided for Mexican contract workers to work in the United States for limited periods, supervised by both the Mexican and the U.S. governments. Similar contract labor agreements were made with other governments in the Caribbean. The program endured until 1964.

1943: Chinese Exclusion Act repealed.

1948: Displaced Persons Act. The first refugee legislation enacted in the history of the United States. It provided for the admission of more than 400,000 displaced persons through the end of 1951, by mortgaging future quotas.

1952: Immigration and Nationality-McCarran-Walter Act; revised 1929 quotas, with minimum annual quotas for all countries, ending most racial restrictions; ends ban on non-white naturalization; priority given to skilled workers and relatives of US citizens; requires ability to speak, understand, read and write English for naturalization; restrictions on the entry of communists.

1965: Immigration and Nationality-Hart-Celler Act; abolished national origins system, together with all race restrictions to immigration; set limit of 170,000, with 20,000 country limit, for Eastern Hemisphere, and 120,000 for Western Hemisphere (no country limits); created preference system for visas, emphasizing preferences for those with family connections and work.

Table 8.2 Continued

1978: Amendments to Immigration and Nationality Act; combined ceilings for a total of 290,000 worldwide, with limit of 20,000 per country.

1986: Immigration Reform and Control Act; focus on undocumented immigrants; amnesty: legalization of seasonal agricultural workers who were employed at least 90 days the year before; and others in continuous residence since 1982; outlawed hiring of undocumented workers, with mild employer sanctions. Provided for limited special agricultural worker program.

1990: Immigration Act; increased immigration limit to 700,000 per year; provided for highly skilled immigrants.

1996: Illegal Immigration Reform and Immigrant Responsibility Act; increased appropriations for border controls; easier deportation for illegal aliens, even immigrants with long residence; income restrictions for bringing relatives; limited due-process rights for immigrants; citizenship required for public benefits.

1997-98: Congress restored access to benefits for categories of immigrants who had been receiving them prior to 1996; increased number of visas for skilled temporary workers.

2000: Legal Immigration Family Equity Act; made it possible for immigrants to adjust legal status, with employer and/or family sponsors; increased ceiling for skilled temporary workers; automatic citizenship for foreign adopted children.

2005: The Real ID Act of 2005 required that drivers’ licenses issued by the states conform to national standards. Among the requirements for issuing a license is proof that the applicant is a legal citizen or resident or alien in the United States.

to initiate policy, and form alliances with their functional counterparts in state and local government. At the national level, they link the executive with congressional committees, as well as key associational interest groups in durable policy communities. Their territorial check and counterpart has been the “intergovernmental lobby” (IGL) of governors, mayors and other local officeholders—elected officials who exercise general territorial responsibilities in state and local governments. If the interests of the technocracy vary by the function of government for which they work, the intergovernmental lobby focuses on how policy costs and benefits are distributed among territorial units. The IGL links state and local governments with their elected officials in the House and the Senate. From the perspective of federalism, this evolution has been both centralizing, because it creates a national network for local elected officials with territorial interests, and decentralizing, because it has enhanced the ability of local officials to defend their local interests at and from the national level.4

The need for coalition-building in the policy-process in the United States has resulted in long cycles between the initiation of policy proposals and their successful approval. The first proposals for broad immigration control were made in the 1890s, but not finally approved in law until 1921 and 1924, and then implemented in 1929. The first important bills for revision of the quota system of 1924 were proposed in 1948, but not voted into law until 1965. Even when there are strong congressional majorities
in favor of legislation, the threat (and reality) of a presidential veto can delay legislation for many years (as happened with the exclusionary legislation of 1924). In addition, even when there are favorable congressional majorities, as well as presidential support, committee resistance can also prevent legislative enactment (as was the case with the 1965 legislation).

Thus, in contrast to France and Britain, the American federal system is replete with veto points that can both prevent and delay policy change. But, similar to France and Britain, the administrative process can both enhance and undermine the implementation of legislation that has been approved.

**Context: The United States as a Country of Immigration**

In many ways the pattern of immigration policy in the United States appears to be unique, and to follow a logic that is not related to other countries. Throughout the nineteenth century, the United States was a country of immigration that welcomed millions of immigrants and what would now be called asylum-seekers, with little restriction at the borders. A United States government document on immigration has estimated that during the century between the fall of Napoleon and WWI, 30–35 million immigrants came to the United State, a number that is four-times greater than the U.S. population in 1815.

Immigration contributed in a major way to the growth of the American population during the nineteenth century. Indeed, between 1850 and 1920, the percentage of foreign-born residents constantly hovered around 14 percent of the population. This was never the case for either France or Britain.

The flow of immigrants into the United States was high, and continued to increase—both in absolute and relative terms—until the 1920s, when immigration regulation began to go into effect. After 1930, with the impact of the imposition of the regulations from the 1924 legislation, combined with the impact of the Great Depression, it then fell to historically low levels. Neither France nor Britain ever experienced this level of influx of foreign populations. In terms of needs on both sides of the Atlantic, the trends in immigration were highly complementary:

The mass migration of the 19th century was the result of a near perfect match between the needs of a new country and overcrowded Europe. Europe at this time was undergoing drastic social change and economic reorganization, severely compounded by overpopulation. An extraordinary increase in population coincided with the breakup of the old agricultural order which had been in place since medieval times throughout much of Europe. At approximately the same time, the industrial revolution was underway, moving from Great Britain to Western Europe, and then to Southern and Eastern Europe. For Germany, Sweden, Russia, and Japan, the highest points of emigration coincided with the beginnings of industrialization and the ensuing general disruption of employment patterns. America, on the other hand, had a boundless need for people for settlement, defense, and economic well-being.

Although the closing of the American frontier was signaled by the census of 1890, the need for labor-related immigration continued unabated, through the rapid expansion of industry between 1890 and WWI.

Of course the pressures within Europe varied considerably. Thus, as we have seen, the United Kingdom of Great Britain and Ireland was a major country of emigration to the United States, Ireland in particular. Great Britain, on the other hand, also provided incentives for the emigration to other parts of the British Empire. German emigration to the United States was about as high as that from Britain, but by the end of the nineteenth century, after the establishment of the German state and a burst of population growth, was far higher. On the other hand, even after the disruptive beginnings of French industrialization at the end of the nineteenth century, official American figures on migration indicate little immigration from France. The population grew only modestly in France during the nineteenth century, particularly in comparison to its adversaries, Britain and Germany. Not surprisingly, the percentage of foreigners residing in France almost tripled between the middle of the nineteenth century and the end of WWI. (See Table 2.1.) In general, the main trends of emigration towards the United States from Europe can be understood, not only by the relative openness of the America frontier, but also by the population growth and the population policies of the countries of origin.

Thus, in terms of the results, the United States was by far the most important country of immigration until WWI. On the other hand, the United States was also the first major country to impose highly restrictive

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<th>Decade</th>
<th>% Population Growth</th>
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<td>1910-1920</td>
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legislation to control immigration, and for reasons that had little to do with labor market needs. The first and most serious restrictions were applied for reasons of national origin—first against Chinese, and then against other immigrants from Asia. However, these harsh restrictions were somewhat softened by citizenship policy. No restrictions were ever placed on the jus soli principle of citizenship, even when those who benefited from it were the children of those who were either not wanted or those who had arrived illegally.

As it turned out, the Chinese Exclusion Act of 1882 was not an isolated legislative case, but became a model for restriction (or exclusion) based on national origin that was shaped at the end of the nineteenth century, and then passed after WWI. This approach to exclusion and control was not unknown in Europe, and indeed, was discussed by French policy-makers at about the time that the 1924 Act was passed in the United States (see ch. 4), but this approach never gained much traction in Europe.

In the 1920s, when countries in Europe were welcoming, even seeking, immigration, the United States virtually closed its doors to immigration from Europe. Then, again, during the period after WWII, when countries in Europe were once again seeking immigrants for their undermanned labor markets, this exclusionary policy was maintained, but with many modifications related to the American need for labor and the evolution of the cold war. While America continued to exclude most immigration from Europe and Asia, however, it did not restrict immigration from the Western Hemisphere in the same way, and even created a guest-worker program for Mexicans.

During the forty-one years between 1924 and 1965, immigration slowed to a trickle, and the proportion of foreign-born declined from almost 15 percent of the population to less than 5 percent (the lowest level since 1830), at the very same time that the foreign-born population in Western Europe was rising rapidly. The legislation passed in 1924 had the explicit goal of freezing the ethnic composition of the United States (ultimately around “national origins” established by the 1920 census). Although countries in Western Europe were sensitive to the challenges of diversity, and in practice acted to create “balances” among immigrant groups, the seemingly rigid and discriminatory option created in the United States was explicitly rejected in favor of more open immigration policies.

In the 1970s, when doors to immigration were closing all over Europe, the United States altered its basic policy on immigration control. It then maintained and even expanded a more open immigration policy that had been passed in 1965. As policy became increasingly exclusionary in Europe, American immigration policy became increasingly open. As European policy was increasingly oriented towards the exclusion of third-world, non-white immigration, American policy tended to favor immigrants from Asia and Latin America, many of the same immigrants that had been excluded under the legislation of the nineteenth and early twentieth century. Indeed, one of the primary goals of the 1965 legislation—amended by the Immigration Act of 1990—was to maintain diversity of immigration through the admission of “diversity immigrants” from under-represented countries.

Thus, the policy exceptionalism of the United States, far from being recent, has been typical, in different ways, of the past hundred years. What we will describe in this chapter, is the policy orientation of the United States during the past two centuries, the change in policy, and primarily the change in orientation of that policy.

### Immigration Policy: The Nineteenth Century—1921

**Shaping Immigration: Population Policy**

It has sometimes been argued that prior to 1882, the United States did not have a policy on immigration, and that the invisible hand of the international labor market dominated transatlantic flows. However, this is only true in the most formal way. First the federal government played an active role in setting the context for immigration. Second, both the states and the federal courts dealt directly with questions of immigration control from the earliest days of the republic. Finally, the dynamics of the federal system influenced the development of restrictionist immigration policy at least as much as any decision by the national government.

It is indeed true that for almost one hundred years the federal government of the United States played only a small role in directly controlling immigration. Nevertheless, immigration was part of what Aristide Zolberg has called “a comprehensive population policy” that was meant to stimulate economic growth and expansion. The federal government, according to Zolberg, generally tended to create a framework for immigration that was both expansive and encouraging. (See ch. 10.) Federal
policy created both positive incentives to attract immigrant settlement, and attempted to reduce the barriers in Europe that would prevent exit.

The federal government also attempted to control some aspects of immigration. The Passenger Act of 1819 attempted to discourage the immigration of paupers, and this legislation was echoed by some state governments that passed restrictive legislation against paupers and other “morally undesirable” immigrants. During the Civil War, the Republican administration took steps to ensure continued expansion. The Homestead Act of 1862 opened cheap land to immigrant settlers (the legislation offered 160 acres of land free to both citizens and aliens).

While the federal government attempted to shape immigration in various ways, it was the states that took the lead in restriction, first by resisting some expansive federal policies, then by mobilizing against them. (See Chapter 9.) State regulation was not a simple matter. Along the Eastern seaboard, numerous states attempted to restrict the entry of paupers and “undesirable” immigrants, attempts that were generally unsuccessful, in part because of differences in state legislation. Perhaps more important, the administration set in place by the states that received immigrants (New York, which received the majority of immigrants, Massachusetts, Pennsylvania, Maryland and South Carolina) generally consisted of volunteers who were often from charity organizations that were favorably disposed towards immigrants, “protective charity foundations,” that were unlikely to enforce restrictive measures with great vigor.

Finally, the ability of the states to regulate was constrained by the courts, which also shaped, but did not forbid state regulation. 

The initiative for immigration policy appeared to move definitively to the federal level on March 20, 1876, when the U.S. Supreme Court ruled that the regulation could no longer be controlled by the states as ordinary police power, but instead came under the formal jurisdiction of the federal government to regulate commerce (including “human commerce”). Nevertheless, federal power to regulate immigration remained limited to the provisions of legislation passed in 1875, which voided contracts for the importation of prostitutes and excluded convicted criminals from entry into the United States. For the first time, provision was made for federal inspection of ships carrying immigrants, and for federal deportation of undesirable aliens.

Despite the shift in authority indicated by the court decisions, there was relatively little impact on policy at the national level. It is clear that forces proposing immigration control (let alone restriction) were insufficiently strong until the 1880s to enact any important federal role in immigration regulation, even when the state alternative was eliminated by the Supreme Court, and when the Court strongly urged the federal government to assume control. (See Chapter 10.) For six years the directors of local charities were left without funding, although immigration control was still their responsibility, and they lobbied intensely for federal legislation.

Eventually, the federal government did take action, under federal legislation passed in 1882 (the Immigration Act of 1882), in which the secretary of the Treasury was given responsibility for collecting a head tax on immigrants and excluding classes of people previously excluded by state law. The actual inspection of immigrants entering the country, however, was still left to under-manned and under-financed state commissions, which often farmed these obligations out to the same charitable organizations that had administered them before. Therefore, it is not surprising that in 1889, a select committee of the House of Representatives (the Ford Committee) found that all of the categories of immigrants that had been excluded by previous legislation were able to gain entrance into the United States with little difficulty.

**Chinese Exclusion**

The Chinese Exclusion Act in 1882, and its follow-up legislation in 1888 and 1892, was the most draconian exclusion legislation ever passed in the United States. It not only suspended and then excluded immigration from China, but went further by excluding naturalization. The 1888 legislation (the Scott Act) prohibited entry to any Chinese person (not just laborers), and excluded reentry of those who had been able to legally reenter under the 1882 act. (To reenter, they had to demonstrate that they had left behind both family and property valued at over a thousand dollars.) Finally, the Geary Act in 1892, which reimposed what had been a 10-year suspension for ten more years (it was later made permanent), imposed humiliating conditions on those Chinese legally resident in the United States. The law denied bail to Chinese in habeas corpus cases, required them to carry a certificate of residency and required them to prove with a white witness that they had resided in the country prior to 1882.

The federal courts, which had previously acted to protect open immigration from Europe from incursions by the states, now moved in the opposite direction. The federal courts not only supported the rights of the federal government to impose harsh conditions upon and reduce the established rights of Chinese residents, but also established a “plenary power doctrine,” which stated that:

...not only has [the federal government] the power to regulate immigration, but that the political branches could exercise this power without being subject to judicial scrutiny. Congressional authority to regulate immigration was based on the imperatives of national security, territorial sovereignty, and self preservation.
Justice Stephen Field, who wrote the opinion in the "Ping" case, further elaborated:

[If Congress] considers the presence of foreigners of a different race in this country, who will not assimilate with us, to be dangerous to its peace and security...its determination is conclusive upon the judiciary.

In subsequent decisions, the court extended and deepened this doctrine to virtually all federal officers, and made deportation equal with exclusion.

Nevertheless, the Chinese did manage to find some success in the state courts of California, where through a creative use of documents, they forced the otherwise unsympathetic judges to certify residents who had dubious credentials. Thus, at least at the margins, the well-organized Chinese community learned to use the court system to prevent strict enforcement of the Chinese Exclusion Act.

An Accelerated Process

By 1889 both houses of Congress had established special committees to deal with immigration, and very quickly after, Congress acted to consolidate control over immigration. For the first time, under the Immigration Act of 1891, the Federal government assigned the Bureau of Immigration to assume effective control over the entry of immigrants into American ports (and built a new facility on federally-owned Ellis Island in New York harbor).

During the 25 years between the end of the Civil War and 1890, three general, pieces of legislation were passed that did not basically alter the relatively open system. Of far greater consequence, in terms of previous tradition, was the Chinese exclusion of 1882. After the establishment of the Congressional committees, hardly a year passed without consideration of major legislation on immigration at the national level. Indeed, new legislation was passed in 1891, and again in 1893; and literacy legislation was passed in 1896—then vetoed—then re-proposed in 1898, passed by the Senate, but rejected by the House of Representatives. Literacy legislation was passed two more times (1913 and 1915) and vetoed, before it was definitively passed over President Wilson's veto in 1917.

Congress acted to limit and shape immigration as best it could during the period before WWI. As well shall see in Chapter 10, Congress was most successful in establishing national structures that would later be used to enforce restriction.

Thus, in 1906, the Naturalization Act was passed, requiring the knowledge of English for naturalization. However, far more important from the perspective of policy development, it also established the Federal Division of Naturalization to supervise the process, and restricted naturalization to certain courts. The overall effect was to limit and shape naturalization, but in a way that was acceptable to political reformers.

During this period, the list of those excluded for specific reasons also grew. Anarchists, epileptics and beggars were added in 1903, and people with TB, and mental or physical defects were added in 1907. Through a "Gentleman's Agreement" between the United States and Japan, the Japanese were placed in the same category as the Chinese.

Finally, the Immigration Act of 1917 established the requirement of a literacy test, a requirement that prohibited the entry of aliens over the age of 16 who were unable to read in any language. Interestingly, President Wilson vetoed the legislation as a violation of the traditional American commitment to political asylum (the law, however, specifically excluded those fleeing religious—but not political—persecution). The law was passed over his veto. The new legislation also increased the list of "genetic" conditions for which an alien could be excluded, and most notably established an Asian Barred Zone to include "Hindu and East Indian labor."

By the time of American entry into WWI, the principle of immigration exclusion based on racial and identity considerations was firmly established, but used only for an expanding category of Asians. Controls of European immigration were also in place, but relatively loosely administered, and were based on individual characteristics, rather than racial categories. Nevertheless, eugenicist thinking was sufficiently strong in the policy-making institutions of Congress that it was likely to become public policy on immigration from Europe during the post-war period, and indeed it did.

During the war, however, restrictionists won a significant, if temporary victory. The federal agency given responsibility to decide admission at the gates of entry—the Immigration Bureau—was generally distrusted by restrictionists, and was generally assumed to have the same pro-immigrant biases as the social service agencies that it replaced. The Passport Control Act of 1918 required people entering the United States to first obtain visas from American consulates abroad, and that these visas be stamped in valid passports. More to the point, gate-keeping was transferred from the Bureau of Immigration to the State Department, which worked more closely with restrictionist interests in congress. The "temporary" visa requirements were made permanent by the Johnson-Reed Act in 1924.

Thus, at least until WWI, in a more chaotic process that was shaped by federalism, American policy-makers wrestled with many of the same problems as their counterparts in France. A perceived need for manpower—for settlement and labor—was always in tension with questions of identity and rejection. In France, national needs of the armed forces and the labor market assured that immigration would remain open and that naturalization would remain easy. On the other hand, fears that immigration would dilute national identity resulted in severe restrictions on naturalized citizens (see ch. 2). In the United States, until after the Civil War, there were clear political majorities in favor of open immigration.
However, this began to change after the war, as the immigration issue was framed increasingly in terms of identity, and less in terms of manpower needs. (See ch. 10.) The first indication of change in the political balance was the ability of Congress to override President Wilson's veto of the Immigration Act of 1917. A more definitive sign, however, was the passage of the Emergency Quota Act of 1921.

**Immigration Restriction**

*The Emergency Quota Act of 1921*

By the end of WWI, restriction on immigration was politically inevitable. Over 800,000 immigrants entered the country in 1921. This was certainly not a record, but it did approach the peak years of the period before the war. By 1920 the political climate had changed. The combination of a surge in unemployment and the post-war “red-scare” lent considerable public support to the restrictionist cause. Indeed, within the House immigration committee, there was a consensus on restriction. The real issue was what form it would take. While the House committee was in favor of a total suspension of immigration—as a reaction to the perceived emergency—the Senate committee was more influenced by business interests that sought to keep immigration open, and sought a compromise.

The compromise was presented by Senator William Dillingham, the chairman of the pre-war U.S. Commission on Immigration (see ch. 10), who convinced the committee to adopt a proposal that he had made before the war, to limit immigration to a percentage of the foreign-born populations in the country in 1910. The percentage finally accepted in negotiations with the House committee was 3 percent, with a total ceiling of 350,000. The bill passed both houses with overwhelming votes. After the outgoing President Woodrow Wilson refused to sign it, it was re-passed by even larger margins and approved by the newly elected President Warren Harding.24

The 1921 legislation was meant to be temporary. However, this should not obscure the fact that it represented a turning point in American immigration policy. The turning point was not so much that immigration was restricted, but rather in the way that it was restricted. By restricting immigration through quotas, its objective was to freeze the composition of the American population, and to ensure that immigration from southeastern Europe would be limited. This concept of shaping the composition of immigration along national and racial lines (all Asians remained eliminated from consideration) then remained the principle of immigration control for the next 44 years. During the next two years, the level of immigration was cut in half, although there was a final sharp peak in 1924, in anticipation of the legislation passed that year.

The temporary legislation was extended until 1924, while discussions within congress continued on how to make the system both permanent and more restrictive. The principle of quotas that reflected existing population distribution was already in place. What had not been finally resolved was how these quotas would be calculated. For the moment, it was possible to use a proportion of those born abroad already in the country, but this permitted a level of immigration from Eastern and Southern Europe that proved to be politically unacceptable. With 150,000 entries in 1922 from Southern and Eastern Europe, immigration was continuing at a level that was unacceptable to developing congressional sentiment. Between 1921 and 1924, the political pressures no long revolved around whether there should be restriction, but rather the formula that should be used.

*The Johnson-Reed Act of 1924*

The “permanent” legislation passed in 1924 was also a compromise of sorts. On one hand, the total ceiling each year was reduced from 350,000 to 150,000. More important, the base year for calculating quotas was changed from 1910 to 1890, and the percentage was temporarily reduced from three to two percent, until a new formula based on national origins of the total population could be devised.

The core principle integrated into the 1924 legislation was that of “national origins,” the idea that immigration should be shaped to perpetuate the ethnic composition of the United States at the time of the founding of the Republic. The formula that was adopted was complicated: “...a number which bears the same ratio to 150,000 (the legislated ceiling as the number of inhabitants in the United States in 1920 having that national origin, going back to the date of the founding of the republic, bears to the number of white inhabitants of the United States in 1920, with a minimum quota of 100 for each nationality.”25 Since the 1921 legislation was based on a percentage of the different foreign-born populations, the principle of national origins (if it could be calculated) gave far more weight to the larger native population.

For two years a debate raged about the base year for this calculation, whether it would be 1890 or 1920 when the immigrant and naturalized proportion of the population was larger. This decision was of some importance for determining the differences between the number of Eastern and Southern Europeans, but far more important for determining the differences among the more acceptable countries of Northwestern Europe. When the decision was finally made to choose 1920 as a base in 1927 (a very small victory for those who opposed restriction) it had been calculated by a specially appointed committee that 44 percent of the population consisted of the descendants of “native stock,” descendants of those present in the United States in 1790, and 56 percent of the descendants of “immigrant stock” those who arrived after 1790. The quotas that were finally decided were based, not on a percentage of the proportion of foreign-born population the United States in 1920, but on a proportion of the estimated number of citizens of a specified national origin.26
Because the Anglo-Saxon population had been dominant in 1790 and German immigration had been important during the earlier years of the nineteenth century, the formula strongly favored the quotas from these countries. However, the 1920 base year also favored British over Germans quotas. One unanticipated consequence of this decision would be to allot fewer places to German-Jewish refugees after Hitler came to power. When the national origins formula was finally implemented in 1929, about 58 percent of the 150,000 places were allotted to Great Britain, Northern Ireland and the Irish Free State, and another 15 percent to Germany. The remainder of the places was distributed among 58 countries, the vast majority of which were given 100 places. The Johnson-Reed Act then became the basic framework for American immigration policy until 1965.

Changing Johnson-Reed

During the years after the quota system was implemented immigration into the United States fell to its lowest point since the decade of the 1830s. Just over half a million people entered during the entire decade of the 1930s, including an estimated 250,000 refugees from Nazi persecution.

Although refugee pressure increased substantially through the decade of the 1930s, the liberalization of immigration legislation was impossible during a period when the country was suffering from the worst economic depression in its history. Once the United States entered the Second World, however, the economic environment was substantially altered in a number of ways. War production finally ended the depression, and wartime exigencies gave the State and War Departments more clout. In 1943, in deference to our Chinese allies, the Chinese Exclusion Act was repealed, and a small, symbolic Chinese quota was established.

At the same time, a new contract labor program was agreed to by the Department of State and the Mexican government to meet the wartime needs of agribusiness in the southwest, The Bracero Program of 1943, which would endure until 1964. It provided for temporary labor for agriculture, with apparent safeguards to prevent abusive acts that had taken place before. The program, which had its roots in a similar program during WWI, authorized the entry of 4–5 million temporary workers, and bypassed the legal requirements of literacy. At the insistence of the Mexican government, safeguards were negotiated that would require wages and social services comparable to native American workers. The Mexican government would supervise recruitment, and workers were assured that they would not “...suffer discriminatory acts of any kind.” On the other hand, the U.S. government was assured that the contract workers would return home, because a portion of their wages was to be deposited in a Mexican bank until their return.

In practice, none of the protections was honored, and massive illegal entry was tolerated during crop season.

Mexican braceros routinely received lower wages than domestic migrant workers and endured substandard living and working conditions. Contrary to the bilateral agreement, the INS permitted employers to recruit braceros at the border. If they did not allow employers to recruit their own guest workers, one INS official recalled, “a good many members of Congress would be on Immigration’s neck.”

Thus, while the restrictive quota system remained in place as the framework of American immigration policy, the number of exceptions to the legislation (“non-quota entry status”) increased progressively. Two legislative efforts are indicative of this trend. The first consisted of two laws in 1945 and 1946 that contributed to the establishment of the principle of entry based on family unification. The War Brides Act of 1945, and the Fiancés Act of 1946 gave foreigners who would or did marry an American GI non-quota entry status. The second, the Displaced Persons Act of 1948, was the first legislation in the nation’s history to deal with refugees. It ultimately provided for 400,000 places for displaced persons from Europe (Poles accounted for a third of those admitted, followed by German ethnicity) over the next three years. However, the restrictions in the legislation—for example, preference for those having been engaged in agriculture, and the requirement that visas could only be secured by applicants having entered Western zones of occupation before December 22, 1945—were deeply biased against Jewish refugees, and the law was only reluctantly signed by President Truman. These restrictions were removed in new legislation passed in 1950, giving new impetus for a liberal immigration reform coalition. This small victory, however, also served to mobilize the restrictionists in congress, particularly those on the Senate Judiciary Committee, and their allies on the House Immigration Sub-committee.

The McCarran-Walter Act

The restrictionist coalition first succeeded in increasing restriction, by including in the Internal Security Act of 1950 authorization to exclude aliens who had been communists at any time, and/or belonged to organizations that were deemed “front” organizations. It also provided for the expulsion of any non-citizen residing in the United States who had been a communist or had engaged in “subversive” activities. Thus, congress took the initiative in once again reinforcing an isolationist trend, and linking aliens and immigration to danger to the security of the United States.

In the ensuing congressional debate on the 1952 McCarran-Walter bill, the case for maintaining the 1924 framework was made primarily on grounds of national security, but also on the grounds of ease of integration; the racial theories of the 1920s remained in the background. This proposal called for some reform around the edges. The quota system
would be maintained, but within each quota, preference (50%) would be given to those with higher education and “exceptional abilities,” with the remainder of the places allocated to specified relatives of U.S. citizens and permanent residents. Asian exclusion and the Asiatic Barred Zone would be abolished, but only a small quota would be established for a vast Asian-Pacific Triangle that extended from India to Japan and the Pacific islands. Perhaps most important, the bar on Asian naturalization would finally be lifted.32 On the other hand, the law confirmed the quota system as well new categories that reinforced the exclusion of “radicals”.33

The Democratic House and Senate overrode the veto by President Truman, and rejected a parallel proposal for more liberal reform. Nevertheless, support for more liberal immigration reform remained important, and many of the reform leaders who were on the losing side of that issue in 1952, would remain in congress to continue the struggle. Indeed the struggle continued in a variety of ways. In passing the 1952 legislation, congress had framed the issue in terms of national security and integration, frames that were more easily challenged than the original racist frame of science and eugenics. The outgoing Truman administration began to build a new frame for immigration control by establishing a Presidential Commission on Immigration and Naturalization in 1952 that specifically challenged the methodology and conclusions of the pre-WWI Dillingham Commission.34 (See ch. 10.)

In addition, the existing system was increasingly challenged by a growing number of non-quota admissions of refugees from communist countries under a series of refugee acts, and by special presidential exemptions (“parole powers”) that had been authorized under the McCarran-Walter Act. Although each exemption had to have a specific reason, by 1965 only one in three immigrants was entering the United States under the quota provisions of the framework act of 1924. In 1964, more than half the British quota and a third of the Irish quota remained unused, while there were long waiting lists in Italy and Greece. A congressional report argued in 1965 that

[The national origins system has failed to maintain the ethnic balance of the American population as it was designed and intended since the nationals favored with the high quotas have left their quotas largely unused. Immigration statistics establish that only one of every three immigrants, during the last two decades, actually was admitted to the United States as a quota immigrant under the national origins system.35

The political struggle to reform immigration nevertheless endured long after it was evident that the system was no longer working. Indeed, as we shall see, without the pressures created by the civil rights movement, and ultimately, what one scholar has called “the Great Society Juggernaut,” reform might have been delayed well beyond 1965.

The New System

The Hart-Celler Act of 1965

The Immigration and Nationality Act of 1965 was formally an amendment to the legislation passed in 1952. A decade later it was seen as “...the most far-reaching revision of immigration policy in the United States since the First Quota Act of 1921.”36 Nevertheless, at the time, both President Johnson and some of the act’s key sponsors saw the impact of the legislation as relatively marginal.37 The new law recast the framework for immigration and immigration control. It incorporated some of the principles already in McCarran-Walter, but more fundamentally, it abolished the national origins quota system.

In place of preferences based on nationality and ethnicity, the law established a system based on family unification and needed job-skills. It established a preference system of seven categories, beginning with unmarried adult children of citizens of the United States, then spouses and unmarried children of legal residents. No limit was placed on spouses, parents and unmarried minor children of U.S. citizens. Preference was also given to married children and adult brothers and sisters of U.S. citizens. Finally, preference was given to gifted intellectuals and skilled workers. For the first time, refugees were also given a preference category. All in all, 74 percent of admissions were given to family immigrants, 20 percent for employment and 6 percent to refugees. A ceiling was established at 170,000, with a limit of 20,000 per country for the Eastern Hemisphere; for the first time a limit was placed on the Western Hemisphere of 120,000, with no country limit. This total ceiling of 290,000 doubled the existing ceiling, and it would continue to rise over the next 25 years.

In 1976 and 1978, the system was somewhat modified, and the separate ceilings between the Eastern and Western Hemispheres were collapsed into a general ceiling of 290,000. Of far more significance was the Immigration Act of 1990, which reaffirmed the expansive system of 1965, significantly increased the ceiling, and put in place important new rules for entry.

The Immigration Act of 1990

As we shall see in chapter 10, by the late 1980s it was clear that the dynamics of the politics of immigration were vastly different from what they had been before 1965. The great debate over Americanization and the assimilability of a diversity of immigrants appeared to have changed substantially. In the 1980s, although there was some negative reaction to immigration from Latin America and Asia, restrictionists were unable to gain sufficient political support to limit immigration. The best they could do was to place the same per-country ceilings on Western Hemisphere immigration (in 1978) that had been applied to the Eastern Hemisphere.
Instead, at a time when all major countries in Europe were debating how, not whether, to reduce immigration, the debate in the United States was focused on how, not whether, to expand legal immigration. Republican interest in expanding the number of skilled workers for business merged, somewhat uneasily, with Democratic interest in expanding entry for Irish immigrants. The result was the Immigration Act of 1990. The fears of the Asian and Latin American lobby groups that family unification entries would be sacrificed to employment entries resulted in the overall increase of the ceiling to 675,000, with the possibility of “piercing” that ceiling for immediate relatives of citizens. Family-based visas increased modestly, and employment based visas substantially. The Irish interests were accommodated by a program of “diversity visas,” that would eventually provide for the admission, on an annual basis, of 55,000 immigrants from “under-represented” countries. (See chapter 9)

Dealing with Illegal Immigration and Asylum

By 1990, immigration legislation that dealt with legal immigration had been separated from legislation that dealt both with refugees, and with illegal immigration. A decade before it was not obvious that the tracks of each category would diverge. After all, refugee admission had been folded into the Immigration Act of 1965, and by the 1970s illegal immigration appeared to be the leading edge for the mobilization of a new restrictionist movement. 38

The separation of these issues was largely the work of the Select Commission on Immigration and Refugee Policy (SCIRP), established in 1978, in the aftermath of the refugee crisis engendered by the chaotic end of the war in Vietnam. SCIRP conducted hearings on how to deal with immigration and asylum. In many ways, this commission was the parallel of the pre-WWI Dillingham Commission, in the sense that it served to define what the problem was, and what were the legislative choices (see ch. 10).

We will look at the report of the commission more carefully in Chapter 10, and analyze its importance for framing the issues of immigration. Here, however, it is important to note that the final report in 1981, Immigration Policy and the National Interest, strongly supported both an expansive immigration policy and a compassionate refugee policy in the national interest. On the other hand, the report strongly condemned the adverse impact of illegal entries, and urged that such entries be dealt with through strong employer sanctions, border enforcement and the initiation of a national identity card. It argued that “illegality erodes confidence in the law generally, and immigration law specifically”. The precondition for increasing legal immigration was to effectively control illegal entry. 39 In the end, Tichenor argues, one important impact of the SCIRP report was to separate out the policy tracks of legal and illegal immigration, which made it far more difficult for restrictionists to use one against the other.

Asylum legislation was also separated out. In 1980, the United States passed the Refugee Act of 1980, the most important comprehensive refugee legislation in the history of the country. For decades, waves of refugees who had fled various communist regimes had been accepted for entry into the United States, generally under special legislation, and special presidential “paroles” that had been authorized under the McCarran-Walter Act. A notion of a “normal flow” of refugees was established at 50,000, a number which could be increased when necessary, and that was separate from other categories of legal immigration. The legislation provided for full legal residency after one year, as well as settlement and welfare assistance. Perhaps most significantly, it created an expansive definition of “refugee” that went beyond the Cold War definition of those fleeing from Communist regimes, and that accepted international criteria defined under the United Nations Refugee Convention of 1951 and the 1967 Protocol. A refugee was now defined as a person who is unwilling or unable to return to his country of nationality or habitual residence because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. 40

The new legislation was immediately challenged by the Mariel Boatlift, when Fidel Castro ordered the mass expulsion of 125,000 Cubans. The Cubans, and a smaller number of Haitians arrived in Florida and demanded asylum, but the Carter administration refused to classify them as refugees (under the 1980 act this decision was made by the attorney-general). Their status was not finally settled until 1986. At the same time, more than 200,000 Indochinese and other refugees were accepted for settlement under the new legislation.

The Immigration Reform and Control Act of 1986 (IRCA)

For almost 15 years, legislation on illegal immigration had been debated in Washington. The 1986 legislation was the end-product of bipartisan efforts by Congress under four presidents. The first bill had passed the House of Representatives in 1972. Considering that the Select Commission on Immigration and Refugee Policy (SCIRP) had recommended strong means to control illegal immigration (which it considered a danger for growing legal immigration), that these recommendations had been generally accepted, and that public opinion was overwhelming in favor of stopping illegal immigration, the 1986 legislation was surprisingly weak and virtually unenforceable.

The new legislation proposed to deal with illegal immigration in two ways. First, it provided for employer sanctions, certainly the most controversial provision, but one that had been recommended for many years.
Penalties would be imposed on employers who knowingly employed aliens who were not authorized to work in the United States. However, no identification system was established under the law, and the sanctions program had little support in both Congress and the administration, and was never fully funded, particularly under the Reagan administration, which was far more interested in deregulation of business than in imposing additional regulations.\textsuperscript{41} IRCA also provided additional funding for expansion of the border patrol.

Second, the law contained provisions that would grant the largest amnesty in American history (far larger, in fact than had been granted by any European country), would make it easier for aliens to become permanent residents, would establish a new farm-worker program, and would give greater legal protections to aliens working in the United States. The amnesty applied for one year to illegal immigrants who had been in the United States prior to 1982. Eventually, more than 3 million illegal immigrants would benefit from IRCA, in part because the courts overruled attempts by the INS to establish restrictive rule of implementation.\textsuperscript{42} That total was also increased by the “late amnesty” agreement in 2000 between President Clinton and Republican congressional leaders, which permitted amnesty for illegal aliens who had been part of lawsuits claiming eligibility to reinstate their claims under IRCA.

Under the provisions for the farm-worker program, up to 350,000 workers would be granted temporary residency permits for three years, if they worked in agriculture for at least 90 days each of those years. After four years of farm labor, aliens would be eligible for permanent residency permits. This concession to agricultural interests, together with the amnesty, was meant to create a more secure, legal agricultural work-force, and to undermine the basis of illegal immigration. Nevertheless, the number of illegal immigrants continued to grow unabated by IRCA.\textsuperscript{43}

In fact, the section of the legislation that proved to be least effective was the section most directly related to its original intentions, employer sanctions for employing illegal immigrants. Although this provision was popular in public opinion, its actual enforcement was difficult, and was strongly resisted by both pro-immigrant groups and by employers associations. For both of these reasons, the issue would continue to reverberate, making illegal immigrants the target—\textit{faute de mieux}—of political actors whose real target was sometimes legal immigration.

Thus, a decade after IRCA, with the apparent success of Proposition 187 in California and the report of the Jordan Commission urging reduction of immigration ceilings, the country seemed to be going through a backlash against immigration (see Chapter 10, pp. 237–274), but the principal victims were illegal immigrants. \textit{The Illegal Immigration Reform and Responsibility Act}, passed during the election campaign of 1996, once again bolstered border control, tightened asylum procedures, and generally made life more difficult for illegal aliens. Welfare legislation passed at the same time, however—\textit{The Personal Responsibility and Work Opportunity Act} of 1996—also blocked a range of welfare benefits for legal residents for five years after their arrival. As we shall see, one important consequence of the legislation of 1996 was a massive naturalization campaign, and a vast increase of Latino voters that benefited the Democratic Party. (See Chapter 10.) On balance, the net result of the reaction of the 1990s was a reaffirmation of expansive immigration policy. A decade later, the number of illegal immigrants was double that of 1996, but the same issues were being debated in much the same way as they had been before.

Since 2001, political concerns about illegal immigration have overlapped with growing concerns about national security. One result was \textit{the Real ID Act} of 2005. The new legislation required that drivers’ licenses issued by the states had to conform to national standards. Among the requirements for issuing a license is proof that the applicant is a citizen or legal resident or resident alien in the United States. While states were not obliged to conform to these standards, after 2008 non-conforming licenses would no longer be accepted by any federal agency (including airport security) as valid identification. Perhaps the most controversial aspect of the new law, however, was the severe limit that it places on judicial appeal. Appeals to federal courts about provisions of the act were limited to constitutional issues. It also barred non-citizens from the right of habeas corpus review for most detention and deportation orders, tightened requirements for asylum, and facilitated deportation by defining a range of activities linked to “terrorism”. Finally, the law authorized the construction of new border barriers, and then waived all laws that interfered with this construction. The construction was under the authority of the Attorney-General, but waivers were to be decided by the Secretary of Homeland Security. Thus, while the new law specifically targets illegal immigrants and border control, it also has consequences for immigrants who are legally in the United States.

New immigration legislation was proposed by President Bush to deal with the massive presence of illegal immigrants, estimated at almost 11 million in 2006.\textsuperscript{44} At the heart of the president’s proposal were some familiar ideas: a temporary worker program would be linked to an amnesty program. The temporary worker program “would create a legal path for foreign workers to enter our country in an orderly way, for a limited period of time. This program would match willing foreign workers with willing American employers for jobs Americans are not doing.” Thus, the agricultural worker program created by IRCA would be expanded to other parts of the workforce, but this temporary workers would not have a path to permanent residency, and would be required to return home. This would be enforced with the use of a “tamper-proof” identity card, presumably related to the license required under the \textit{Real ID Act}. Finally, the president proposed a pathway to legality (he specifically denied that this would be the equivalent to “amnesty”) for those who met specific requirements, as a means of reducing the unprecedented number of illegal immigrants already in the country.\textsuperscript{45}
In the run-up to the mid-term congressional elections of 2006, the debate in Congress was sharply divided, with the Republican majority in the House of Representatives taking the lead in focusing on the presence of illegal immigrants in the United States, and the weakness of border controls, while most Democrats supported the Kennedy–McCain proposal (see below). In December 2005, the Republican-controlled House passed legislation that would make illegal presence in the United States a criminal offense, that would eliminate diversity visas and that would authorize the construction of additional barriers along the border with Mexico. The bill contained none of the key provisions advocated by the president.\(^{46}\)

Five months later, the Republican-controlled Senate passed very different legislation—a bi-partisan proposal supported by Democrat Edward Kennedy and Republican John McCain—that contained most of the president’s proposals. The bill would have provided for 200,000 new temporary guest-worker visas a year, and created a separate guest-worker program for farm workers. The bill also divided the illegal immigrants into three groups.

Those here five years or longer would be allowed to stay and apply for citizenship, provided they pay back taxes, learn English and have no serious criminal records. Those here two to five years would eventually have to return to another country and apply for a green card, which could allow their immediate return. The roughly 2 million immigrants who have been in the United States illegally for less than two years, would be ordered home, and be subject to deportation. Illegal immigrants convicted of a felony or three misdemeanors would be deported no matter how long they have been in the United States.\(^{47}\)

Legislation that would authorize extension of the border fence was passed and signed by the president in October 2006. However, as the mid-term elections approached, no compromise appeared to be possible on the remaining bills, and the issue was put off until the next session of Congress in 2007, where it quietly died. The House never passed the McCain Kennedy bill, and it died a slow death, as the presidential race began in earnest in 2007.

Thus by early 2007, the decoupling of legal and illegal immigration had led to a passionate debate about the rapidly increasing population of illegal immigrants that even the conservative Republican House leadership agreed could not be deported.\(^{48}\) On the other hand, these same Republicans were willing to defy their own president to prevent legislation that would contain even partial amnesty. For their part, the Democrats and allied Republicans supported a partial amnesty and guest-worker program that could alleviate the immediate pressure of more than 11 million illegal aliens, but would probably do nothing to prevent the continued flow of illegal immigrants into the United States. None of the proposed legislation seriously increased employer sanctions, the enforcement of which had been declining for many years. The enforcement provisions in the IRCA legislation were relatively weak, but the 20-year history of declining audits, warnings and fines collected was a clear indication that there was no political will to use even these meager tools. As a result there was no incentive for employers not to hire illegal immigrants, and no deterrent to the pull of employment in the United States.\(^{49}\)
CHAPTER TEN

Politics of Immigration in the United States

The politicization of immigration in the United States has always been different from that of France and Britain. In general, although there are clear similarities in the ways that immigration issues have been framed, the cross-national differences between the United States, on one hand, and France and Britain on the other, are striking. While both the United States and the two European countries have focused on immigration as an identity issue, the former did so most intensely during the period before 1930, while the latter framed the issue in this way during the period of post-WWII immigration.

To some extent, this can be explained by the importance of the structural dimension. The American federal system has been, and remains an important political element. Agenda formation, the political process, the politics of change, and electoral strategies have all been deeply influenced by the dynamics of the federal system, although the system itself has changed in important ways over time. Until the last quarter of the nineteenth century, the states were more important than the federal government in agenda formation, and in some aspects of policy development. Although the balance changed after 1876, federal initiatives and the federal framing of the immigration issues were influenced by regional considerations expressed through the Senate and regional coalitions.

During the early period, regional divisions tended to deeply divide political parties on immigration issues, but so did major interest groups. Thus the Republicans were divided between their pro-immigration business wing, and their pro-restrictionist identity wing; the Democrats were divided between their pro-immigration electoralist wing, and their restrictionist labor wing. New England Republicans and Western Democrats tended to be the most restrictionist.

However, none of these dividing lines were hard and fast, and they did change over time. Nevertheless, many of the issues around which the politics of immigration were organized in the nineteenth century continued to be important during the period after 1965. The difference in outcomes can be explained by the changing strength of the actors, their ability to
reframe immigration issues within the political system, as well as changes in the system itself.

Framing the Issue

The framing of the political issue of immigration in the United States has been linked to a complex history of racism, but it is also related to economic and geographic expansion and growing labor market needs. In the early years of the Republic, the conflict was entirely about framing the issue. At the same time the federal government was framing policy in terms of population, and promulgating policies that were destined to attract immigration from Europe, many of the receiving states were influenced by the reactions to the results of these same policies, and framing policies in terms of identity. The overall impact of the relatively permissive Passenger Acts in 1819 (relative to the more restrictive British counterparts), of the land policy pursued by the federal government, and the relatively easy naturalization, was to maintain an open door to successive waves of immigrants from Europe. Although these policies had as their object some elements of immigration control, they more generally reflect the desire to attract, rather than restrict immigration. The incentives built into these policies would endure, and in some ways be reinforced, until after the Civil War.

Immigration and Population Policy

Federal authorities were never completely insulated from the concerns of the states, particularly those states that received the bulk of immigrants entering the country. Thus, the Passenger Acts reflected some of the immigration concerns of the German community in Pennsylvania and Maryland, as well as the concerns of shipping companies. On the other hand, the legislation was clearly framed as a way of molding, rather than restricting immigration. At the federal level, the immigration issue was framed largely in terms of what Aristide Zolberg has called “a comprehensive population policy” that was meant to stimulate economic growth and expansion (see ch. 8).

This framing was subtle in the sense that immigration was seen largely in terms of a much broader policy that included natives as well as immigrants. Thus the Homestead Act of 1862 did not distinguish between citizens and immigrants, and citizens moving West were routinely referred to as “immigrants”. The act was widely publicized by American consulates in Europe, some of which hired full-time recruitment agents. At the same time, railroad agents and representatives of Western states and territories also actively recruited European settlers. The Civil War only intensified the view that labor recruitment was essential, and new legislation authorized the establishment of a Bureau of Immigration to coordinate the recruitment effort. (See ch. 9.)

At the same time, at the state level, a movement was growing that framed immigration in an entirely different way, in terms of a challenge to American identity. In fact, in the politicization of immigration at the state and local level during the 1840s, issues of immigration were framed in two ways that would endure until the present. On one hand, during the decade-long rise of the American (“Know-Nothing”) Party, the party and their supporters focused entirely on questions of identity and religion (they were both anti-immigration and anti-Catholic). On the other hand, those who opposed them, particularly the Democrats, focused more intensely on immigrants as voters and political resources. In New England, the emerging Republican Party was often allied with the Know Nothings (see below), but in the Midwest other Republicans were influenced by the support from immigrant populations. If considerations of growth and expansion dominated the way that immigration issues were framed at the national level, under the pressure of the American Party, the issues were framed in identity terms in a large number of states.

At the end of the Civil War, there appeared to be a consensus among party elites at the national level that immigration policy would be framed in terms of the benefits for economic expansion and settlement. The Republican Party platform of 1864 proclaimed:

Resolved, That foreign immigration, which in the past has added so much to the wealth, development of resources and increase of power to the nation, the asylum of the oppressed of all nations, should be fostered and encouraged by a liberal and just policy.

What made this view of immigration, and this commitment, more significant is that this was a period of virtual one-party Republican government at the national level. Indeed,

If the Whigs and Republicans were more sympathetic to xenophobic sentiment than were the Democrats, then this period of one-party rule might seem opportune for Republican nativists to win passage of restrictionist legislation. But no such initiatives were enacted.

In fact, as we have seen, quite the opposite was true. It is not that immigration was not on the political agenda; it was, but framed in a way to encourage immigration. The national Republican Party still regarded immigration as a component of population policy, necessary for labor and the settlement of a still-expanding country.

It soon became obvious, however, that the separation between the national perspective of immigration policy and the very different state and local perspective that had been developing for 25 years were on a collision course. By the 1860s, Democrats in California had begun to mobilize in favor of legislation on Chinese exclusion, and were far more effective than Eastern exclusionists had been before the war. The Burlingame
Treaty had had the enthusiastic support of the national Republican party, and Western Republicans in particular, who saw in the treaty not only benefits for trade, but also an expression of the multiracial ideals of the Reconstruction period.

Reframing the Issue: Race and Identity

For Western Democrats, however, the expansive immigration policies of the Reconstructionist Congress in Washington provided a wedge issue in California that enabled them to gain control of the government of the state. The same political party that had successfully checked the Know Nothings in the East by mobilizing new immigrant voters now took the leadership of the anti-immigrant identity movement in the West. After the Democrats gained control over the California state government in 1867, measures to discourage, and then drive out, Chinese immigrants multiplied both at the local and state levels. The Democratic success, however, also undermined the position of the Western Republicans at the national level, and, for the first time, broke the alliance between Western Republicans and the national Republican Party on the framework for understanding immigration.

At the same time, the courts redefined the balance between the states and the national government on questions of immigration. First the lower courts, and then the Supreme Court, in the Ah Fong case, asserted the supremacy of federal jurisdiction in this area, forcing groups and the states seeking Chinese exclusion to switch venues to the federal level. Had these decisions not come into play, Chinese exclusion—passed in 1882—certainly would have been voted at the state level in the early 1870s.

The process that evolved at the national level effectively altered the framework within which immigration was understood, and policy developed, albeit as applied specifically to immigration from China. In 1868, Republicans in Washington had given strong support to the Burlingame Treaty, which extended to free immigrants from China the protections of American citizens. But this was when the Chinese were understood to be part of a larger plan to build trade relations with the American West, and as “...pouring out over our land millions of willing hands and stout hearts, adding millions to our prosperity.”

The key move in the shift to Chinese exclusion to the national level came the year after the court decisions in 1875, when the U.S. Congress established a Joint Special Committee to Investigate Chinese Immigration. After extensive hearings, its report in 1877 served to mobilize a broader coalition of support for the Chinese Exclusion Act, which finally passed five years later. Thus, Chinese exclusion first emerged as a Western regional issue, initiated by the Democrats, where the issue was framed in terms of identity and race. Democrats and eventually Republicans, focused on the Chinese as a way to mobilize voters, but the way they framed the issue endured. As the proponents of exclusion sought to build a broad coalition at the federal level, among representatives of states in which there were few if any Chinese laborers, the issue became increasingly racialized.

A decade later, New England Republicans—who had deeply opposed Chinese exclusion—would take the lead in opposing the new wave of immigration from Southern and Eastern Europe, using many of the same arguments that had been used by others against the Chinese. Therefore, although the results of the debate appeared to be limited to Chinese exclusion, in fact the more profound result was to alter the framework within which all questions of immigration would be considered.

The framing of Chinese exclusion as a racial issue gradually solidified a coalition among a broad range of Democrats, that enabled Democratic supporters to differentiate the Chinese from European immigrants. However, Chinese exclusion soon became a model of identity-based, racist legislation that would later be used to exclude European populations who were also designated as undesirable, not because of labor market challenges or immoral behavior, but because they were regarded as unintegratable. Therefore the joint Congressional Report of 1877 marks a turning point, not only because it initiated a process of exclusion, but because it reframed the immigration issue in a way that it had not been framed before. It was the first of a series of reports on immigration over the next 100 years, supported by a large number of witnesses (130), by more than 1,200 pages of testimony, by facts, figures and a tone of neutrality. In this report, as in subsequent reports, each of these investigations developed (or attempted to develop) a new frame of reference for understanding the problem of immigration.

Until the mid-1890s, the focus of discussion among political elites had been almost entirely on Chinese exclusion. The racial arguments that were developed for this campaign in California and then used in Washington, most unambiguously by the Democrats, were then broadly extended and given a scientific base by Republican restrictionists in the 1890s.

Discussions of immigration were refocused on the problem of the assimilation of Europeans, and on an effort to define the content of American citizenship, and both were tied to more highly focused scientific discussions of race based on eugenics, and on a new nationalism based on racial and religious type.

The impetus for the redefinition of the immigration issue in nationalist and racial terms came from congressional leaders and intellectuals. After Chinese exclusion in 1882, the first indication of a more general shift in thinking about the immigration question came with the emergence of a movement to impose literacy tests on new immigrants in the 1890s. The movement was organized and led by the Immigration Restriction League, founded by Boston intellectuals in 1892, and for which Senator William E. Chandler and Henry Cabot Lodge were the chief spokesmen. Chandler was the chairman of the Senate Immigration Committee, which had been established in 1889. Literacy tests, argued Chandler, were the most effective means of restricting the entry of certain races, alien to American nationality. “No one,” he said in 1892, “has suggested a race distinction.
We are confronted by the fact, however, that the poorest immigrants do come from certain races.”

Nevertheless, other views of immigration restriction during this early period remained open, and even dominant outside of the immigration committees and their allies. Both presidential party platforms in 1892 contained planks that supported restriction in the following terms. The Republicans simply favored “…the enactment of more stringent laws and regulations for the restriction of criminal, pauper, and contract immigration.” The Democrats were both more forceful and more circumspect:

We heartily approve all legitimate efforts to prevent the United States from being used as a dumping ground for the known criminals and professional paupers of Europe, and we demand the rigid enforcement of the laws against Chinese immigration, or the importation of foreign workmen under contract, to degrade American labor and lessen its wages, but we condemn and denounce any and all attempts to restrict the immigration of the industrious and worthy of foreign lands.

The earlier discussions of exclusion and restriction of individuals had evolved into debates about exclusion and restriction of groups that either could not or should not be assimilated into the American national community, or that could be assimilated only with great difficulty. In December 1896, Congress sent to President Grover Cleveland the legislation that embodied an important break with the American tradition of relatively unrestricted immigration. What made the break important was not the imposition of a literacy test as such, but what Congress acknowledged this test had come to represent. The Senate committee report noted a new approach to immigration—

The illiteracy test will affect almost entirely those races whose immigration to the United States has begun within recent times and which are most alien in language and origin to the people who founded the 13 colonies and have built up the United States—

even as it argued that the legislation was a continuation of former policy:

…it would tell most heavily against those classes of immigrants which now furnish paupers, diseased and criminal, excluded by existing law, and is therefore a continuance of the present policy of the United States which has met with general acceptance.

The Senate report includes a survey of governors (26 responded) in which they were asked whether immigration was desired, and, if so, from which races. The report notes that “…with two exceptions none of the excluded races, as shown by the letters of the governors of the different States, are desired in 26 States of the Union from which reports have been received.” (Germans seemed to be the most popular “race” overall.)

In President Cleveland’s veto of the legislation, he too noted the sharp departure from previous approaches, and argued that “The time is quite within recent memory when the same thing was said of immigrants who, with their descendants, are now numbered among our best citizens,” Reflecting the concerns of many business interests at the time, he wrote that the exclusion of illiterates would hardly protect this country against “…one of those unprudently agitated who can not only read and write, but delight in arousing by inflammatory speech the illiterate and peacefully inclined to discontent.” Literacy legislation was finally approved on the eve of America’s entry into WWI, after twice being vetoed by President Woodrow Wilson (see below), but by then the changed view of the new immigration was already far more advanced.

Henry Cabot Lodge, the most important congressional leader of the political movement in favor of immigration restriction before WWI, went to considerable effort to build his case with scientific support for racial differences. As early as 1891, Lodge published his own statistical analysis of what he called the “distribution of ability” among different racial strains in the American population. The results clearly demonstrated, he argued, the threat of “…a great and perilous change in the very fabric of our race.”

Lodge’s thinking (and writing), in fact, was part of an ongoing dialogue that included at least one university president (Francis Walker of MIT), one of the leading sociologists of the day (Franklin Giddings, the first professor of sociology at Columbia University), and, ultimately, the president of the United States, Theodore Roosevelt. In a wide-ranging debate on the ability of the United States to absorb the new tide of immigrants, the focus was increasingly on race and racial superiority or inferiority. On both sides of the issue the definition of the immigrant problem was becoming racial.

Walker argued that the superior Anglo-Saxon racial strains were being overwhelmed by inferior European strains, in part because of declining native birthrates, while Giddings contended that we had nothing to worry about, since the superior Anglo-Saxon races would dominate here as they dominated there. Roosevelt, while rejecting the case for restriction, concluded that we may have something to worry about, and he initiated a campaign for more children (and against birth control) to prevent “race suicide.”

The President’s campaign, in itself, greatly accelerated and popularized race thinking. After analyzing the reaction to the campaign in the popular press, the historian John Higham concludes that

In the end, the whole discussion probably caused much more race-thinking than reproduction. At least it brought to a wider audience the racial pessimism previously confined to a limited group of upper-class intellectuals.

One indication of this pattern of dissemination of race thinking in the public policy debate is the change that began to take place in American
history textbooks about 1900. Earlier nineteenth century texts had focused on the Protestant religious identification of Americans, and many had been violently anti-Catholic. In the 1890s, however, when the public secondary school system became larger than the church-based private school system, texts became neutral on the question of religion, emphasizing the common citizenship of Americans, but not neutral about immigrants.

School systems in large cities were often charged with offering special services for immigrants, as well as with their "Americanization," often at the encouragement of the Americanization Division of the U.S. Bureau of Education. This charge created additional pressures for defining the content of what an American was, and it was about 1900 that major textbooks began to develop a new distinction between "we Americans" and "the immigrants," and texts began to emphasize English ancestry as the basis of being American. In sometimes subtle ways, the new texts reflected much of the racial pessimism of the time. Immigrants were a problem and a strain on American institutions, "a constant menace to our free institutions." Some texts were more explicit about the problem of race (used interchangeably with nationality): "Great racial groups, especially such as speak foreign languages, or belong to races with which we do not readily intermarry, do add to the difficulty of solving certain social problems."  

What is startling about reading these notions of Americanism is that these texts were most often meant to orient and educate the very people who were written off as "inassimilable." The Muzzy text cited above appeared the same year as the report of the Immigration Commission, which reported that 57.8 percent of the children in the schools of 37 of the country's largest cities were of foreign-born parentage. In New York, the percentage was 71.5, in Chicago, 67.3 and Boston 63.5.

At the same time that the new race thinking was being integrated into school texts, it was being given increased legitimacy by scientific and pseudo-scientific writing. As imported from continental Europe and England, the eugenics movement converted genetic theory into a social program for manipulating heredity, and added a sense of urgency to the now widespread notions of the danger of racial death. For the eugenicists, immigration was a biological problem that could not be solved by manipulating the environment through Americanization. The movement, which included a number of important patrician intellectuals, exerted considerable influence over the ongoing dialogue on immigration.

William Rippy, an economist from MIT, published an early work on The Races of Europe, which related physiological traits to geographical and social conditions. He ultimately built this work into a thesis on how the mixing of inferior and superior races can undermine the superiority of the latter through a biological "reversion to primitive type." The most influential of the books that came out of this movement was probably Madison Grant's The Passing of the Great Race, published in 1916. Grant, the chairman of the New York Zoological Society, who was a committed anti-Semite, focused on the danger of reversion to primitive type, and the need for racial pride for the very survival of what he presumed to demonstrate was the superior race.

Within the intellectual and scientific community there was certainly no consensus about the race thinking being advanced in scientific terms by the eugenics movement. Leading anthropologists such as Franz Boas, for example, wrote in opposition to much of this work, and Higham argues that anthropology as a discipline remained distant from most of the concerns and conclusions of eugenics. Nevertheless, it seems clear that the racial categories advanced by eugenicists provided the core of the evolving debate that was then disseminated through the popular press. One study indicates that between 1910 and 1914, popular magazines published more articles on eugenics than on slums and living standards combined.

One clear indication of the growing integration of race thinking into public policy thinking was the change that took place in the categorization of immigrants at the turn of the century. Until 1899, the Bureau of Immigration published immigration statistics (from census reports) that were based only on country of birth. After that, classification was switched to crude categories of "race" or "people."

The congressional committees set the stage for a massive research and education effort. The Immigration Act of 1907 established the U.S. Immigration Commission, which was charged with making a full investigation of the problem of immigration in the United States and making legislative recommendations to Congress. The commission was dominated by the immigration committees themselves (six of the nine members), and, therefore its conclusions were determined by the commitments of its members. After four years, the commission produced 42 volumes of data, documents and studies, on the basis of which it adopted a moderate restrictionist position. The report also inevitably strengthened the case for additional restrictive legislation, and set the agenda for the great changes in immigration policy.

By the time the Immigration Commission issued its massive report in 1911, race thinking was far advanced, but the report itself both framed and solidified the political agenda. Thus, the introduction to the report elaborates both the scope of the inquiry, as well as a way of understanding the difference between the "old" and the "new" immigration. The old immigration came primarily from Northern and Western Europe. It was:

...largely a movement of settlers who came from the most progressive sections of Europe for the purpose of making for themselves homes in the New World.... They mingled freely with native Americans [as opposed to immigrants] and were quickly assimilated, although a large proportion of them, particularly in later years, belonged to non-English-speaking races.
By contrast, the new immigration came from Eastern and Southern Europe. It was:

...in large part temporary, from the less progressive and advanced countries of Europe in response to the call for industrial workers in the eastern and Middle Western states. They have...congregated together in sections apart from native Americans and the older immigrants to such an extent that assimilation has been slow as compared to that of the earlier non-English-speaking races.

Perhaps more important,

The new immigration as a class is far less intelligent than the old...Racially they are for the most part essentially unlike the British, German, and other peoples who came during the period prior to 1880, and, generally speaking they are actuated in coming by different ideals, for the old immigration came to be a part of the country, while the new, in large measure, comes with the intention of profiting, in a pecuniary way...and then returning to the old country.26

Thus the old immigration was comprised of “races” that came for settlement, were generally more intelligent, engaged in independent farming, and were easily integrated. The new immigrants had come temporarily, for pecuniary reasons, and were generally less integrated and integratable.

While the framing of the problem is relatively moderate, the Commission’s report is laced with references to “racial” differences, and contains a full volume entitled Dictionary of Races or Peoples, which synthesized much of the information, if not the conclusions and concerns, of the eugenicists. There is considerable emphasis on physical types and differences, linked to the acceptability of different racial groups.27

The recommendations of the commission reflect its framing of the problem. First, the recommendations focus on which kinds of potential immigrants should be excluded from entering the United States: “...the physically and morally unfit.” In addition, the United States should exclude those “...who have no intention to become American citizens...”

As far as possible the aliens excluded should also be those who, by reason of their personal qualities or habits, would least readily be assimilated or would make the least desirable citizens.

The following methods of restricting immigration have been suggested:

(a) The exclusion of those unable to read or write in some language.
(b) The limitation of the number of each race arriving during a given period of years.
(c) The exclusion of unskilled laborers unaccompanied by wives or families. ...28

By the time of WWI, the problem of immigration had been clearly framed in terms of race thinking, and in terms of stark differences between what was termed the “old” and the “new” immigration from Europe. The census began publishing statistics on the racial origins of immigrants in 1899, and these categories were elaborated and solidified by the reports of the Immigration Commission a decade later. Although grounds for exclusion in the report focused on literacy, the recommendations also set the stage for quotas based on “race,” conceptualized as nationality—including physical types that derive from race—rather than citizenship or place of birth. This framing of the issues, moreover, had become well established among virtually all political actors, and became integrated into political thinking through the actions and writing of government agencies.

Racial concerns made it possible for Republican restrictionists—based almost entirely in New England—to distance themselves from the business orientation of their party at the turn of the century, and finally to link their political agenda to that of Southern Democrats, who, with some reluctance, accepted the racialization of the new immigration. This definition of the problem of immigration from Europe did not become widespread beyond Congress until the turn of the century, when patrician concerns about race, supported by new areas of scientific enquiry, gave form to growing popular nativism.

From Racial Exclusion to Multicultural Integration

After the end of WWII pressure began to mount for the revision of the immigration process of the United States, mostly fueled by the executive branch and foreign policy concerns. President Truman ignored congressional opposition, as early as 1945, and issued executive orders admitting European refugees, a practice that would be continued by other presidents, who used the special “parole powers” of the McCarran-Walter Act of 1952. During the year prior to the 1952 election, Truman took the lead in a campaign to reframe the issue of immigration.29 Indeed, the real contest over the next decade would be the struggle over how to define the question of immigration. What began as a “foreign policy necessity” of the 1950s ended up as question embedded in the civil rights struggle of the 1960s.

The Truman administration’s answer to the pre-WWI Dillingham Commission appeared in the report of the President’s Commission on Immigration and Naturalization: Whom Shall We Welcome.30 “I suggested that the Congress create a representative commission of outstanding Americans to make a study of the basic assumptions of our immigration policy, the quota system and all that goes into it, the effect of our immigration and nationality laws, and the ways in which they can be brought into line with our national ideals and our foreign policy,” Truman argued in his statement that established the commission. “The congress did not act upon these suggestions....I am, therefore, appointing this Commission in the belief that its recommendations will enable the next Congress to consider the subject promptly and intelligently.” None of the members of the
commission were from the congress, and all of them were sympathetic to reform of the existing system.\textsuperscript{31}

Incorporated into the report was President Truman’s long veto message of the McCarran-Walter revision of the Immigration and Nationality Act (passed by Congress over his veto before the summer of 1952). The President emphasized, in this long message, two key objectives that he had been attempting to achieve since entering office: the abolition of racial or national barriers to naturalization; and the abolition of the existing system of quotas. The first he linked to his civil rights message of 1948, just prior to the Democratic Convention, in which he had urged Congress to pass strong civil rights legislation; the second to foreign policy needs.

I have long urged that racial or national barriers to naturalization be abolished. This was one of the recommendations in my civil rights message to the Congress on February 2, 1948. … The basis of this quota system was false and unworthy in 1924. It is even worse now. At the present time this quota system keeps out the very people we want to bring in. … Today we have entered into an alliance, the North Atlantic Treaty, with Italy, Greece, and Turkey against one of the most terrible threats mankind has ever faced. But, through this bill we say to their people: you are less worthy to come to this country than Englishmen or Irishmen.\textsuperscript{32}

The hearings of the commission took place during the height of the presidential race of 1952, and the report was issued after the election, but before the inauguration President Eisenhower. In its key conclusions, the commission used testimony and new scientific evidence that it had gathered to argue against the eugenicist basis of the Dillingham Commission report, and offered arguments on race that were as applicable to questions of civil rights in the United States as to policy on immigration and naturalization. The Commission argued (bold text in the original):

- The United States is the only major English-speaking country in the world which has written discrimination into its national immigration laws. … The basis of the national origins system is scientifically invalid. … In summary, it would appear that there was no reliable evidence that the new immigrants were inferior to old immigrants in terms of personal qualities.\textsuperscript{33}

- The national origins system is based on false assumptions, unsubstantiated by physical science, history, sociology, economics, or anthropology. The Commission found substantial evidence to corroborate the Senate Judiciary Committee statement that many of the considerations which lay behind the passage of the national origins quota law have now become of little significance. The Commission recommends, therefore, that since

the basis of the national origins system is gone, the system itself should go.\textsuperscript{34}

- American immigration policies have frustrated and handicapped the aims and programs of American foreign policy throughout the period since 1924. The interference is acute today. The contradictions are sharper now in part because the 1952 law is more restrictive than before. The major factor, however, is the new circumstance of American leadership in the world rivalry between democratic freedom and Communist tyranny. The major disruptive influence in our immigration law is the racial and national discrimination caused by the national origins system.\textsuperscript{35}

What was most evident from the commission report was that the weight of the scientific community had shifted against the intellectual foundations of the quota system. Those who supported the system could do so on pragmatic or political grounds, but could no longer ground their arguments in widely accepted scientific research. In the committee report for the McCarran-Walter Act—which had supported the continuation of quota system—the Senate Judiciary Committee no longer relied on the scientific basis behind the original act: “Many of the considerations which lay behind the passage of the national origins quota law have now become of little significance.” Instead, the committee relied on pragmatic considerations: “…quotas thus established by law are definite and automatically resist the pressures of special groups,” and on the unsupported argument that quotas admitted immigrants “…considered to be more readily assimilable because of the similarity of their cultural background to those of the principal components of our population.”\textsuperscript{36}

Thus, both the research and the hearings of the commission framed not only the emerging case for immigration reform, but also presented a snapshot of an emerging expert consensus:

The research and testimony gathered by the commission captured a growing expert support for more universalistic admissions standards. It also helped recast public discourse on immigration, drawing attention to the benefits of expanding immigration opportunities.

Opponents to reform were often reduced to simply referring to supporters of the commission report as “…well-meaning but misguided ‘liberals’ and the demagogues who auction the interests of America for alleged minority bloc votes.”\textsuperscript{37}

Political resistance to reform was strong (see below), but because immigration reform was increasingly embedded in the issue of civil rights, support and opposition to reform was increasingly molded by the way that the issue was defined in the 1952 commission report. By the 1960s, 40 years after the quota legislation was passed, the definition of the problem of
immigration that had framed this legislation had disappeared. Moreover, the issue became increasingly linked to a multicultural understanding of American society. We were a “nation of nations,” argued President Kennedy (quoting Walt Whitman), in what became a famous essay published by B’nai Brith in 1958.38

This framing of the immigration issue became dominant by the mid-1960s, but not unchallenged. At the national level, Americanization as a cultural requirement for American citizenship was replaced by an advocacy of permissive multiculturalism. In 1972, Congress voted $15 million to fund an ethnic heritage program, and history curricula were altered to include African Americans, Native Americans, as well as a variety of ethnic groups. Nevertheless, advocates for cultural requirements remained vocal. Some, such as Samuel P. Huntington, who had previously dismissed Americanization cultural arguments in favor of a civic culture, now embraced them with fervor.39 It is striking that, given the long history of racism in the United States, the issue of immigration did not become racialized once again after 1965, even when it became apparent that the primary result of the new legislation was a rising wave of non-white immigration. Three commission reports, the first in 1978, the second in 1981, the third in 1997, did reflect growing concerns about the about the impact of immigration after 1965, and helped to frame the issues of immigration. Although they accepted the general framework set in 1965, as well as the core policies that emerged out of that framework, they also focused on other issues that remain the key concerns of immigration policy today.

The Select Commission on Immigration and Refugee Policy (SCIRP) was created by Congress in 1978, largely in reaction to the refugee crisis after the end of the war in Vietnam, and growing popular opposition to immigration during a period of economic stagnation. The SCIRP, whose commissioners were weighted heavily in favor of those sympathetic to an open policy (the Commission was chaired by Father Theodore Hesburgh, president of Notre Dame University and former chair of the Civil Rights Commission), were charged with making legislative recommendations to what was broadly perceived as an immigration crisis that was a result of the unanticipated consequences of the Hart-Cellar Act of 1965: legal immigration was far higher than had been anticipated; illegal immigration was also growing; far larger numbers of immigrants were arriving from areas of the world that were also not anticipated by the legislation; there was a sharp growth in the admission of refugees in the late 1970s; and opposition to all forms of immigration was growing in public opinion.40

In addition, in the 1970s Congress had failed to pass legislation on employer sanctions for employers who knowingly employed illegal aliens, and then rejected proposals by President Carter in 1977 on enforcement and amnesty. The congressional supporters of immigration hoped that the commission would issue a strong defense of legal immigration, while finding some compromise way of dealing with illegal immigration.41 Indeed, that is more or less what the SCIRP produced.

The final commission report in 1981 strongly defended an open policy of immigration both as “a positive force” for the United States, and as in the national interest. It made a strong case that the existing system of legal immigration should be maintained: that the slots for family unification should be increased, and that there should be an increase of immigrants with no family ties but with special skills. Recommendations about illegal immigration, however, were quite different.

On one hand, the commission agreed—on the basis of existing studies—that there appeared to be 3.5 to 5 million illegal immigrants in the country, less than half of whom were from Mexico; that these immigrants were attracted by employment opportunities, and that they earned above the minimum wage; that they tended to depress the wages of those on the lowest end of the wage scale; that, while they paid payroll taxes, they tended not to benefit from social services.42 On the other hand, the commission took a strong stand on the consequences of permitting illegal immigration to continue. Illegal immigration had to be curbed, not because of its social or economic consequences, but because “illegality breeds illegality.”43

- This illegal flow, encouraged by employers who provide jobs, has created an underclass of workers who fear apprehension and deportation. Undocumented/illegal migrants, at the mercy of unscrupulous employers and coyotes who smuggle them across the border, cannot or will not avail themselves of the protection of U.S. laws. Not only do they suffer, but so too does U.S. society.
- Most serious is the fact that illegality breeds illegality. The presence of a substantial number of undocumented/illegal aliens in the United States has resulted not only in a disregard for immigration law but in the breaking of minimum wage and occupational safety laws, and statutes against smuggling as well. As long as undocumented migration flouts U.S. immigration law, its most devastating impact may be the disregard it breeds for other U.S. laws.
- The select commission holds the view that the existence of a large undocumented/illegal migrant population should not be tolerated....Society is harmed every time an undocumented alien is afraid to testify as a witness in a legal proceeding, to report an illness that may constitute a public health hazard or disclose a violation of U.S. labor laws.

Therefore, the commission recommended stronger controls at the border and enforcement at the workplace, as well as a program of legalization for illegal immigrants then present in the United States. However, stronger controls were seen as a precondition for legalization: “...that legalization begin when appropriate enforcement mechanisms have been instituted.” Tichenor argues that, during the two decades that followed, supporters of immigration would attempt to maintain this “decoupling,” while restrictionists would attempt to fuse the two. In general, the supporters were successful.44 By the early 1980s, the understanding of the immigration issue
was that there should be broad acceptance of legal immigration, combined with a commitment to dealing with illegal immigration in some way.

A decade later, a broad movement to stem the tide of illegal immigration began to take shape. It was propelled largely by a reaction to illegal immigration in California, and fueled by the failure of the Immigration and Control Act of 1986 (IRCA). Indeed, the act ultimately authorized the legalization of about 3 million people, without legislating effective employer sanctions or successfully halting the arrival of increased numbers of illegal immigrants.

In a somewhat different form, for a short time, the politics of immigration in the United States would reproduce the racialized pattern of Europe, and, indeed, its own heritage from the early part of the century. Many of the elements seemed to be in place: a resounding Republican victory in the congressional elections of 1994; a political reaction in California in 1994 (the success of Proposition 187, that limited access of even the children of illegal immigrants to schools, hospitals and welfare services), led by the suddenly restrictionist governor, Pete Wilson, provided the cutting edge. An upsurge of negative public opinion that followed the political initiative and the beginning of a movement that resembled the eugenics movement of the turn of the century indicated both popular and intellectual support. Dorothy Nelkin wrote at the time that

The immigration discourse of the mid-1990s is assuming an ominous but familiar tone. We hear, for example, that “natural” laws support “territorial integrity,” that certain groups are “genetically inferior,” that immutable biological differences underlie social distinctions, and that immigration will weaken the American “gene pool” and result in “race suicide.” Once again, arguments about race relations in America (The Bell Curve) have been linked to immigration (Brimelow, Rushton, and the statements issued by FAIR).45

The Commission on Immigration Reform (The Jordan Commission) had been established by the 1990 Immigration Act, and it issued reports in 1994, 1995 and (a final report) in 1997. Its agenda was, therefore, strongly molded by this reaction of the 1990s. In addition, the composition of the commission was quite different from the SCIRP. In addition to supporters of immigration, the commissioners included strong restrictionists, and its reports represented a much broader compromise than the report in 1981. Although it recommended the maintenance of the principles of the existing system, it also recommended more important changes than had been previously addressed: a reduction of legal immigration, strengthened employer sanctions, and a well-supported program of “Americanization.”

The commission supported the fundamental principles of the existing system of immigration control as follows:

The Commission supports the basic framework of current policy—family unification, employment-based immigration, and refugee admissions. We considered alternative frameworks, particularly a point system, but rejected these approaches. At the same time, the Commission is convinced that our current immigration system must undergo major reform to ensure that admission continues to serve our national interests. Hence, the Commission recommends a significant redefinition of priorities and a reallocation of existing numbers to fulfill more effectively the objectives of our immigration policy.46

In its consideration of alternative systems of control of admission, the Commission argued that it decided to support the existing system because it “…relies on the judgment of American families and employers within a framework that protects U.S. workers from unfair competition.”47

Nevertheless, the system set both standards of selection and the limits of acceptance within each category, and the Commission recommended that these standards be altered first by gradually reducing overall immigration by a third, to 550,000. The largest reduction (both absolute and relative) would be in family unification, and this would be achieved by giving strong preference to spouses and minor children of U.S. citizens. Secondary priority would be given to parents of U.S. citizens, but only if they are fully supported by those who sponsor them; and then to spouses, minor children and dependent children of legal permanent residents. The big losers under these proposals would be the parents of U.S. citizens and the families of legal permanent residents. The presumption was that the states would also gain if claims by immigrants to state services could also be reduced.48

Many of the Commission’s recommendations with regard to illegal aliens would seem quite familiar today. It recommended strengthened border controls based on “Operation Hold the Line,” (see chapter 9) then in its early stages, but also the use of new technologies to enhance security at airport ports of entry. However, then as now, the core of the problem was worksite enforcement, and the report implied that there was no political will for tough requirements. While the Commission did recommend an increase of inspection staff, the emphasis was placed on the employer initiative and responsibility to verify the legality of the workers that they hire through the use of the Social Security Administration data base. This, combined with enforcement of existing penalties was regarded as “the most promising option for eliminating fraud and reducing discrimination, while protecting individual privacy.”49

Finally, the Commission placed considerable emphasis on new programs of “Americanization” as a way toward a more robust system of integration: “The Commission reiterated its call for the Americanization of new immigrants that is the cultivation of a shared commitment to the American values
of liberty, democracy and equal opportunity." Although the Commission
did not recommend specific programs, it did call on governments at all
levels of the federal system to provide leadership and resources to educate
immigrants in the English language and "core civic values."\textsuperscript{50}

The Jordan Commission's hearings and reports spanned the years of the
strongest negative reaction to immigration. By the time that its final report
came out in 1997, the reaction to the reaction had begun to emerge. As a
result, the general support for continued immigration was affirmed by the
Clinton administration, but the more controversial recommendations for
reductions in legal immigration—proposals that amounted to a reversal of
the trend of immigration policy since 1965—were never implemented. Its
recommendations on illegal immigration, however, which echoed those
of the SCIRP, are still part of the immigration debate in 2007.

Thus, efforts over the years since 1965 to recast how the immigration
issue is framed have met with only limited success. All efforts to limit
legal immigration, as well as the general framework of legal immigration
have been unsuccessful, and efforts to closely tie illegal immigration to
the legal frame have been particularly unsuccessful. The failure to check
the flow of illegal immigrants to the United States—indeed the doubling
of the stock of illegal immigrants since 1996—has become the focus of
immigration politics. Indeed, this failure has raised serious issues about
the intentions of immigration policy, or the contradiction between inten-
tions and implementation that this failure reveals.

The Political Process

\textit{Two Models}

Daniel Tichenor has argued that two kinds of politics have driven open
and expansionary immigration policies in the United States over time:

\ldots one rooted in immigrant enfranchisement and competitive dem-
ocratic elections, the other in the insulation of elite decisionmakers
from mass publics. The first kind of politics shaped pro-immigration
policies in the United States for much of the nineteenth century. The
second kind animated new refugee admissions and passage of the land-
mark Hart-Celler Act in the postwar era. Pro-immigration policies of
the contemporary period have been fueled by both kinds of expansive
politics.\textsuperscript{51}

However, parallel to the politics of expansion has always been the politics
of restriction and exclusion. At the same time that pro-immigration poli-
tics generated expansionary policies in the nineteenth century, restric-
tionist politics attempted to both constrain these policies and change them.
At the same time that restrictionists succeeded in closing the front gates in

1921, expansionists succeeded in keeping the back gates open, and then
slowly opened the front gates through refugee admissions and the Hart-
Celler Act in 1965. Since 1965, pro-immigration politics have dominated
the political agenda, but restrictionists have had some success as well.

Some scholars have related the insulation of elite decision-makers from
public opinion and electoral pressures to patterns of client politics that
have supported pro-immigration policies, even in a more hostile environ-
ment of public opinion (see ch. 1). They have also argued that "conditions
of high salience," such as those related to competitive democratic elec-
tions, tend to be related to more restrictive patterns of policy because of
the importance of hostile public opinion in the electoral arena.\textsuperscript{52}

In fact, we have found that insulated elites and client politics in the
United States have both promoted restriction (1890–1924) and more
expansionary immigration policies (Western Hemisphere immigration
after 1924, and Hart-Celler in 1965). Conditions of high salience have also
supported restriction: the Know Nothings, Chinese exclusion, restric-
tionism after WW1, and some more recent reactions to immigration from
the Western Hemisphere. They have also promoted pro-immigration
policies, however: support for open immigration in some localities in the
nineteenth century, and, more broadly since 1965.

The difference in outcomes is in the way that the immigration issue has
been framed, the kinds of voters that have been mobilized on each side,
and the kinds of mass publics from which elite decision-makers seek insu-
lation. Thus, where there are high concentrations of immigrants, com-

erative democratic elections can generate support for pro-immigration
policies only if immigrants are voters or are seen to be potential voters. In
this case, decision-makers need little insulation from these mass publics
to support expansionary policies. On the other hand, in these same dis-

tricts, if policy-makers see voters reacting to immigrants as a challenge to
identity, then, only by insulation from these voters would they be able to
support pro-immigration policies.

The restrictionist policies of 1890–1965 were generated by the relatively
autonomous decision-makers of the immigration committees of the Congress,
but were also supported by strong anti-immigration majorities in each house,
themselves supported by mass publics that favored restriction. As the im-
migrants of the pre-1921 period became voting citizens, the restrictionist posi-
tions of policy-makers became increasingly less tenable in electoral terms.
Immigrants who became voters in big cities in large states became an impor-
tant component of the Roosevelt presidential coalition, far more important
than they had been between the Civil War and WW2 (see below). Their
interests also became increasingly important in Congress—but not among
the key congressional actors who controlled the committee system.

Thus, restrictionists were able to keep the front door mostly closed
because they were insulated from changing public opinion by the congres-
sional committee system. With the policy shift in 1965, expansionary poli-
cies were then supported by the political patterns described by Tichenor.
At the same time, however, restrictionist forces were also animated by competitive democratic elections; but restrictionist policy-makers, lacking an important congressional committee base, were relegated to periphery at the state level.

Structural changes in the American political system have been important, moreover, in changing the balance of forces between the two patterns. The first change has been the way that federalism has influenced each pattern. The second has been the evolving role of the presidency. The third has been the evolution of the structure and forces within the congress.

**The Balance of Federalism: Open Immigration and Restriction of Immigrants**

The open immigration policies that were dominant until the 1870s were the product of a national political system in which immigration was embedded in larger considerations of expansion. Little legislation was passed by Congress to expand immigration, but few limits were placed in the way of executive action the encouraged the successive waves of immigration that supported American growth and expansion, at least until 1882. At the same time the national government was more or less insulated from the restrictionist forces that were becoming increasingly important at the state level. If federalism permitted and protected many of the worst discriminatory practices against immigrants that were initiated at the state level, it also protected the national government from these same forces.

Thus, open immigration was less the consequence of the fact that the United States was a "country of immigration" with broad support for growing immigration, and more a result of the complex politics of immigration that permitted the federal government to act in an expansionary manner, despite widespread electoral opposition that grew during the decades prior to the Civil War. Support for restriction increased significantly as immigration grew in the 1840s, and electoral support for the American ("Know Nothing") Party spread during the decade prior to the Civil War.

The Know Nothings—the name is presumed to derive from the secrecy of the early party organization, and the response that its members gave when they were asked about their membership—first gained significant support in New England, and came close to making a national breakthrough in 1855–1856. Indeed, by most electoral measures (support, elected representatives and expansion), it should be noted as the first successful anti-immigrant party in the Western world. One local predecessor of the Know Nothings in New York City elected a mayor and entire Common Council in 1837. In subsequent stages of development it expanded to all of New York State and New Jersey, then to Boston and Charleston, SC. Finally, in the 1850s the American Party was formed as a national party.

The success of their appeal was phenomenal, and in the state legislative elections of 1854 the new party carried Massachusetts, Delaware, and, in alliance with the Whigs, Pennsylvania. In Massachusetts, the governor and all state officers were Know-Nothings, as was the state senate and all but two of 378 members of the state house of representatives. In the fall election, about seventy-five party members were elected to Congress, and in the next year, major state offices in Rhode Island, New Hampshire, and Connecticut were won by nativists.53

Indeed, the party nominee for the presidency (former president Millard Fillmore) polled almost 25 percent of the vote in 1856. At the height of their influence (1855–1863), the Know Nothings had national representation in 17 (out of 33) states. (See table 10.1.)

In 1855–1857, the American Party was the third largest party in the House of Representatives, and was dominant in New England. Every representative from Massachusetts, Connecticut and New Hampshire was elected from the American Party. In all, about half the AP representatives in the House were from the Northeastern states. The other half were primarily from the Border States. In coalition with the Opposition Party, the AP was a component of the majority, and held the speakership of the House of Representatives, although it did take a record two months, and 133 ballots, before a speaker could be elected by plurality.

The Speaker, Nathaniel Banks of Massachusetts, embodied both the success and failure of the anti-immigrant movement. He linked nativism to antislavery, but with antislavery more dominant. By the elections of 1856, the entire AP delegation from Massachusetts had moved to the Republican Party, including Banks, as had the rest of the AP representatives from the Northeast. The movement into the Republican Party, and the subsequent collapse of the Know Nothings as a party, did not, however, end the commitment to nativism of many of those who passed

<table>
<thead>
<tr>
<th>Table 10.1 “Know Nothing” representation in the U.S. Congress, 1855–1859</th>
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<tbody>
<tr>
<td><strong>The U.S. Senate</strong></td>
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<tr>
<td></td>
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<tr>
<td>1855</td>
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<tr>
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</tr>
<tr>
<td>Democrats</td>
</tr>
<tr>
<td>Whigs/Republicans</td>
</tr>
<tr>
<td>American Party</td>
</tr>
<tr>
<td>Total</td>
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</table>

<table>
<thead>
<tr>
<th><strong>The U.S. House of Representatives</strong></th>
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<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>Democrats</td>
</tr>
<tr>
<td>Whigs/Republicans</td>
</tr>
<tr>
<td>American Party</td>
</tr>
<tr>
<td>Others</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

through the American Party in New England. Banks, "...gave full vent to his Nativist inclinations" when he became governor of Massachusetts in 1858, and identity-based nativism in the Republican party reemerged in Congress after the Civil War.

Given this significant electoral breakthrough at the national level, why were there no legislative traces of the movement? After all, the Know Nothings had broken through many of the constraints of the federal system, and achieved both local and widespread national support. If they were somewhat short of control of the only popularly elected legislative body, they certainly held strong influence during the four years before the war broke out. One explanation is the division of territorial interests under the federal system. In 1856, the House Committee on Foreign Affairs approved legislation that would have prohibited the entry of paupers and convicts, and initiated a program of what became known as "Americanization". Probably because of the regional opposition of southern representatives who were protecting states' rights against the central government (many of these were elected with the American Party label), the legislation proposed relatively little federal immigration control.

A further explanation for Know Nothing failure is that a diverse coalition of political forces opposed to federal legislation in this area remained intact. In the end, even this very limited legislation failed to pass the House. An effective veto was maintained by the same coalition that would continue to keep the gates open for a few more decades:

...business-minded immigrationist Northerners, be they Whigs or already Republicans; Republicans and surviving Democrats seeking to court immigrant constituents; and Southerners...whose paramount objective was to forestall federal encroachment in the sphere of states' rights. Like all veto coalitions, however, it was defined more by what it did not want than what it would support. Business wanted to maintain cheap labor; Southerners wanted to maintain states' rights; and only the relatively few urban Democrats and Republicans that depended on immigrant and ethnic votes actually supported open immigration as such. Thus, the importance of electoral considerations for the support of open immigration, either before the Civil War or after, has probably been exaggerated, and was far less important than considerations of cheap labor or states' rights.

Before the Civil War, the Know Nothings used electoral considerations to great advantage in building up support in the Northeast. After the war, the Democrats in the West were equally successful by using opposition to the Chinese to gain control of California. In both cases, success at the state level was resisted at the national level. As Zolberg has pointed out, however, the inability of the Know Nothings to effectuate restriction at the national level should not diminish their success in various states, indeed the very states where immigrants were concentrated. This is equally true for the Democrats in California. The federal system that limited the actions of the national government to restrict immigration, also granted considerable power to these states to restrict and oppress immigrants.

Finally, the dynamics of the federal system favored veto rather than change. There was no institutional organizer of policy. No regional interest was sufficiently strong to dominate policy-formation at the national level, and no national leader, including the president, was capable of mobilizing a majority in the Congress for serious immigration control. Before the Civil War, there was no political party that had a secure majority, nor were major interests organized nationally. Thus the most important outcome of the vast electoral sweep of the Know Nothings (aside from provoking Irish voters to vote in New England) was to reemphasize the federal balance: the weakness of national policymaking for imposing immigration controls, and the importance of the states in dealing with immigration.

A New Policymaking System

The courts then radically altered the federal balance. The court decisions of 1875-1876 (see ch. 8) forced restrictionists at the state level to act at the national level. The formula implied in the report of the House Foreign Affairs Committee in 1856 was no longer applicable twenty years later. The issue of immigration had shifted to the national level, primarily as a result of court decisions, but also under pressure from electoral politics in the West. The issue of Chinese exclusion dominated the politics of the state of California, and the close popular votes in favor of the Republicans in the presidential elections of 1876 and 1880 greatly magnified the electoral priority in favor of exclusion for the Western Republicans. Thus, the object of regional initiatives shifted to Washington, and California took the lead both in promoting Chinese exclusion at the national level, and in constructing and mobilizing the coalitions in the Senate and the House that finally ensured its passage.

The process began with the appointment of a Joint Congressional Special Committee to Investigate Chinese Immigration during the presidential race of 1876. The committee report was submitted in February 1877 by Senator Sargent of California, who was also honorary vice president of the Anti-Coolie Union of San Francisco. The process ended after the presidential election of 1880, after Congress reversed the veto of President Chester Arthur of the Chinese Exclusion Act; Arthur had justified his veto in terms of foreign policy considerations, but finally signed revised legislation that was harsher than the original.

Once immigration policy was forced to the national level, the dynamics of the federal system demanded positive coalition-building to overcome the veto-points of the system. This would prove to be a difficult and lengthy process. Nevertheless, the passage of the Chinese Exclusion Act in 1882 demonstrated that, given the proper framing of the issue (and given sufficient time), majorities in favor of immigration restriction
and exclusion could be mobilized at the national level, even if the president opposed such legislation. A decade after the passage of the Chinese exclusion act, the same New England Republicans that bitterly opposed Chinese exclusion would use a similar approach to mobilize congressional support for control and exclusion of European immigrants.

This process was given form, and strength, by new institutional arrangements, beginning in the 1890s, that both reflected and accelerated the changing terms of the debate. The key innovation was the establishment by both houses of the Congress of standing committees to consider immigration legislation. Both committees were quickly captured by restrictionist interests, became the key organizers of the debate on restrictive legislation within Congress, and provided sustained legislative leadership that had been lacking until then.

It was these committees, with strong connections to the Immigration Restriction League, that not only produced the literacy legislation of 1896, but that also produced the considerable documentation and expert evidence that changed the terms of the immigration debate. With the Republicans in control of the Senate for almost the entire period between 1880 and 1913, and then again from 1919 until the election of Franklin Roosevelt, the Senate Committee on Immigration tended to take the lead during the early period (until about 1907), often supported by the House committee after 1897, when Republicans began to dominate the House as well. After 1907, the House Committee, under the control of representatives from the South and Far West, became more forceful, and, indeed, more radical in their approach than the Senate Committee.

During the 25 years between the end of the Civil War and 1890, with the exception of Chinese exclusion, three general, but relatively inconsequential pieces of legislation were passed. After the establishment of the Congressional committees in 1889, hardly a year passed without consideration of major legislation on immigration at the national level. Moreover, majorities in favor of immigration restriction became easier to mobilize more frequently. Restrictive legislation was passed in 1891, again in 1893, and literacy legislation was passed in 1896—then vetoed—then reposed in 1898, passed by the Senate, but rejected by the House of Representatives. By the time that the Dillingham Commission was established in 1907, a clear bi-partisan majority had emerged in both houses of Congress in favor of immigration restriction, certainly in favor of legislation on literacy tests, which had become the benchmark indicator of restrictionism.

During the last decade of the nineteenth century, the leadership in the effort to restrict immigration passed from the West to the Northeast, and from a focus on Asian immigrants to a focus on immigrants arriving from Southern and Eastern Europe. Among the strongest opponents to restriction were legislators from the South, as well as business-oriented Republicans. Southern states hoped to stimulate economic expansion by recruiting large numbers of European immigrants. This effort was similar to the efforts of French policy-makers before and after WWII. Therefore, it is not surprising that most Southern legislators generally opposed restrictive legislation.

This did not prevent literacy test legislation from passing both houses by substantial margins in 1896, strongly supported by legislators in the Senate and the House from the Northeast, states with growing immigrant populations. When the legislation was vetoed by President Cleveland, the failure to override his veto was due both to Southern opposition, and to opposition from the business wing of the Republican Party in the Senate.

Sixteen years later, the racial framing of the immigration issue began to reap results in the South, as southern legislators adopted the eugenics approach to justify the rejection of the new immigration, and became strong supporters of restriction. At the same time, there was evidence in congressional voting patterns that revealed increased opposition to restriction among legislators in states in the Northeast with growing immigrant populations. In the Senate (still indirectly elected), restrictionist votes in the Northeastern states, as measured by the votes to overturn the president's veto of the literacy bill, were overwhelming. In the House, however, voting patterns changed dramatically. Although Southern representatives shifted sharply toward restriction, those from the Northeast moved in the opposition direction (see table 10.2).

In each case, the movement both created and responded to electoral pressure—different kinds of electoral pressure. In the Northeast the shift was a response to immigrant disfranchisement, and the growing local importance of the immigrant vote. Even as 14 of the 16 senators in the Northeast strongly supported restriction in 1913, less than a third of the elected representatives supported restriction (compared with almost 2/3 of 16 years before). In the South, the shift was related to a reaction against immigrants (and immigration) influenced by a surge of the racist-related identity movement mobilized by populism. In the Senate, 21 of the 22 senators supported restriction, as did 85 percent of the representatives (compared with less than a third sixteen years before). Majorities in both houses supported restriction, but different majorities than those that supported restriction in the earlier period.

This polarization represented a growing division within the Democratic Party that went well beyond the question of immigration restriction, and that would endure until the 1970s.

When urban ethnics started voting in large numbers in the 1920s, they turned increasingly to the Democratic Party. The rise of urban power in the Democratic Party threatened the once dominant rural forces [overwhelmingly in the South], and urban-rural tensions increased and divided the Democrats. The battles in the 1920s may have represented the final grasp for power by rural Democrats.

In 1897, there were about as many representatives from the South as there were from the Northeast, but this balance began to change by 1913, and
Table 10.2  The changing restrictionist majority in the House of Representatives (Votes in the House of Representatives to overturn the presidential veto of Immigration Bills of 1896 and 1912 (Literacy Bills); in favor of Immigration Restriction Bills of 1920 and 1924 in 11 Southern states, 8 states in the Northeast, and California)

<table>
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<td>Yes</td>
<td>Restrict</td>
<td>%</td>
<td>No</td>
<td>%</td>
</tr>
<tr>
<td>South</td>
<td>28</td>
<td>31%</td>
<td>22</td>
<td>24.4%</td>
<td>40</td>
</tr>
<tr>
<td>NE</td>
<td>60</td>
<td>65%</td>
<td>9</td>
<td>10%</td>
<td>24</td>
</tr>
<tr>
<td>CA</td>
<td>4</td>
<td>57.1%</td>
<td>1</td>
<td>14.3%</td>
<td>2</td>
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<tr>
<td>Total</td>
<td>195</td>
<td>54.9%</td>
<td>137</td>
<td>38.6%</td>
<td>123</td>
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<tbody>
<tr>
<td></td>
<td>Yes</td>
<td>Restrict</td>
<td>%</td>
<td>No</td>
<td>%</td>
</tr>
<tr>
<td>South</td>
<td>80</td>
<td>85%</td>
<td>8</td>
<td>8.5%</td>
<td>6</td>
</tr>
<tr>
<td>NE</td>
<td>32</td>
<td>32%</td>
<td>45</td>
<td>45%</td>
<td>23</td>
</tr>
<tr>
<td>CA</td>
<td>5</td>
<td>62.3%</td>
<td>2</td>
<td>25%</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
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<td>186</td>
<td>49%</td>
<td>52</td>
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Note: a Yes is a vote in favor of immigration restriction.

Source: All results are from the Congressional Record of the United States, 1897 and 1913 (see below).

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<thead>
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<th>1920</th>
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<tbody>
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<td></td>
<td>Yes</td>
<td>Restrict</td>
<td>%</td>
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<td>%</td>
</tr>
<tr>
<td>South</td>
<td>89</td>
<td>85.6%</td>
<td>1</td>
<td>1%</td>
<td>14</td>
</tr>
<tr>
<td>NE</td>
<td>32</td>
<td>31.4%</td>
<td>28</td>
<td>27.5%</td>
<td>42</td>
</tr>
<tr>
<td>CA</td>
<td>9</td>
<td>81.8%</td>
<td>0</td>
<td>0%</td>
<td>2</td>
</tr>
<tr>
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<td>68.7%</td>
<td>42</td>
<td>9.7%</td>
<td>93</td>
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<td>Restrict</td>
<td>%</td>
<td>No</td>
<td>%</td>
</tr>
<tr>
<td>South</td>
<td>96</td>
<td>92.3%</td>
<td>0</td>
<td>0%</td>
<td>8</td>
</tr>
<tr>
<td>NE</td>
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<td>37.6%</td>
<td>56</td>
<td>47.9%</td>
<td>17</td>
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<td>81.8%</td>
<td>0</td>
<td>0%</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>323</td>
<td>74.8%</td>
<td>71</td>
<td>16.4%</td>
<td>38</td>
</tr>
</tbody>
</table>

Note: a Yes is a vote in favor of immigration restriction.

Source: Congressional Record of the United States, March 3, 1897, pp. 2946–2947; February 16, 1913, p. 3429; December 13, 1920, p. 236; April 12, 1924, pp. 6237–6238.

would change even more after immigration restriction was passed in 1924. Nevertheless, the number of representative who resisted for electoral reasons were a clear minority in the House of Representatives, but a growing force within the Democratic Party.

Until 1917, however, the dynamics of the federal system effectively prevented the enactment of restrictive legislation. Presidents since the administration of Rutherford B. Hayes (1877–1881), had been regularly vetoing restrictionist legislation, generally successfully. Vetoes were sometimes justified on the grounds of foreign policy (as with Chinese exclusion), but just as often on other grounds, particularly at the beginning of the twentieth century.

Increasingly, the dynamics of presidential politics worked against the efforts by congress time and time again. If senators from the Northeast were insulated from the electoral influence of their growing immigrant populations, presidents were not. Thus, Theodore Roosevelt had indicated support for the literacy legislation in his first annual message to Congress, and Woodrow Wilson seemed quite sympathetic to the eugenics perspective in a history text that he had written in 1902. Nevertheless, Roosevelt, Taft and Wilson either vetoed or refused to support literacy legislation, and, in their presidential campaign sought the support of ethnic voters opposed to restriction.59

Moreover, presidential vetoes were supported by a House of Representatives that was centrally controlled by strong party interests—generally Republican. At least until 1910, Republican leadership— influenced by both ethnic lobbies and traditional Republican business interests—prevented literacy legislation from reaching the floor of the House. By 1910, (Republican) Speaker Cannon was opposed by both a growing caucus of Southern Democrats, as well as progressive Republicans. Progressive Republicans, armed with "scientific" evidence to support restrictionist measures, finally used Cannon's manipulations to block the literacy legislation as an excuse to ally with the Democrats to seize control of the House and alter the rules. The new rules, with their emphasis on seniority for committee chairs, redistributed power to committee chairs in other ways as well, and maximized the power of the Immigration Committee, now firmly in control of restrictionists from both parties.

The override of Wilson's final veto of the literacy test in 1917 indicated the beginning of the collapse of resistance to restriction, certainly within the Congress, but more importantly by the President. It had taken 20 years after the emergence of restrictionist majorities in both houses of Congress for the first substantial piece of restrictionist legislation to be passed. The coalition that supported restriction then consolidated after WWI, despite the continued development of electoral influence of ethnic voters, and the growth in the number of representatives and senators who were sensitive to this influence.
The System Changes: The Front Door and the Back Door

In time, a clear majority in favor of reform would emerge from this process, but, just as the veto points in the federal system frustrated the restrictionist majorities, reform majorities would be stymied by the institutionalized power of the restrictionists. Beginning with Franklin Roosevelt, presidents courted immigrant voters and their children once again, and favored reform of the quota system that had gone into effect just prior to Roosevelt’s election. Indeed, the Roosevelt coalition, which served to realign the party balance in favor of the Democrats for thirty years, was built on the entry of immigrants and their children into the electorate, and their mobilization primarily by the Democrats. Therefore, Congressional minorities favorable to immigration reform continued to grow, particularly among Democratic representatives from urban areas where new immigrant voters and their children were concentrated.

Their weight was important for the passage of displaced persons legislation in 1948 and 1950, but on immigration reform they were blocked by the restrictionist Southern bloc within their own party, who were allied with Democratic isolationists (such as McCarran of Nevada and Walter of Pennsylvania) and Northern Republican conservative restrictionists. The southerners exacted conservative opposition to civil rights legislation in return for their opposition to social reform (health care for example) and support for anticommunism. For two decades after the end of the war, this conservative coalition succeeded in outmaneuvering their opponents in Congress.

By maintaining control of the immigration subcommittees of both houses during the post-war period (in 1947, Congress replaced the Immigration and Naturalization Committees with subcommittees within the Judiciary committees of both houses), restrictionists were able to shape proposals on immigration reform, and often prevented them from ever reaching the floor of Congress. While restrictionist interests were more or less safe in the hands of the parent committee in the Senate during the first two decades after the war, with Pat McCarran of Nevada and James Eastland of Mississippi in control for most of this period, the House became somewhat less secure when Emmanuel Celler became chair in 1949, but he was effectively countered by his Democratic colleague, Francis Walter, who chaired the Immigration sub-committee.

The immigration sub-committees continued to be controlled by supporters of restriction long after there were no majorities in Congress to back them up. The restrictionist South would come to dominate the process through the relevant congressional committees. The Northeast and California had become increasingly favorable to reform, but the it was not until the 1960s that the conservative coalition could be overcome when Celler and Hart detached reform from anticommunism, and successfully linked it to civil rights.

It is important to note that the political party affiliation of representatives was less relevant than their region for understanding support (as well as shifting support) for restrictive or expansionary immigration policy, even if partisanship within regions did become important during the cold war. In 1924 (the vote in favor of Johnson-Reed quota act), in states with large immigrant populations, such as New York, New Jersey and Massachusetts, a larger proportion of Republicans than Democrats supported immigration restriction, but they were a still a minority, of Republican representatives. In California, all of the Democratic representatives supported restriction, and so did every Democratic representative in the “solid” Democratic South.

The institutional actors in the political process remained the same after 1924, but their roles changed radically. Restrictionist committees now became the powerful veto-points rather than the initiators of change. The President’s role now changed from resistance to leadership in favor of reform; and major (ethnic) interest groups now became the advocates of change. Even as the growing electoral weight of ethnic voters tended to favor reform, the structural context favored the status quo. No reform legislation reached the floor of the Congress until after the end of WWII.

On the other hand, there were structural changes that did favor reform. The most important of these was the growing power of the presidency, and the ability of the president to effectuate change without legislation. In addition, though less important, was the diminished insulation of the Senate and senators (after the seventeenth amendment became operational in stages after WWII). Senators from such states as Massachusetts, New York and Pennsylvania could no long avoid electoral responsibility for their votes in favor of immigration restriction.

After WWII, the policy framework set in place in 1924 endured. The political process had changed substantially, however. A substantial majority in each house of Congress still supported the principles of the quota system, but there were changes around the edges that cumulatively resulted in important expansionary changes. The Displaced Persons Acts of 1948 and 1950 were conservative measures, that represented far less than what the president wanted (he referred to the 1948 legislation as “a pattern of discrimination and intolerance”). Nevertheless, 400,000 refugees entered under this legislation. President Eisenhower fought hard for the Refugee Relief Act of 1953 that granted 209,000 special visas (nonquota) to refugees from Europe.

The McCarran-Walter Act was (unsuccessfully) vetoed by President Truman in 1952. Nevertheless, even this conservative legislation contained provisions that expanded immigration in small ways. It abolished racial restrictions imposed on the naturalization of Asians immigrants, and created a preference system within the national quotas. Under McCarran-Walter, the president was given “parole powers” to admit individuals to the United States in an emergency situation. President Eisenhower first used these powers to admit over 30,000 Hungarian refugees in 1956. This precedent would be used by future presidents’ to admit thousands more.

As we indicated in chapter 9, under both presidential and congressional actions even before the end of WWII, nonquota exemptions had been
increased first in response to the war and then to foreign policy requirements, and in response to pressures from agribusiness for more labor. In addition, selected groups of refugees from Europe gained special entry into the United States during the years after the war. As the rule changes accumulated after 1945, the number of nonquota entries increased dramatically. Table 9.1 indicates that, even as quota entries from Europe increased during the 1950s, the proportion of nonquota entries increased even more.

The effectiveness of presidential leadership cannot be seen in broad immigration reform. It can be seen in the broadening exceptions to the quota rules, however. As we noted in chapters 8 and 9, by 1963, quota entries from Europe represented only a third of immigrant entries to the United States. A relatively large proportion of nonquota entries were related to the cold war, but this way of framing the questions of entry had its downside as well. It also resulted in broader criteria for exclusion, and accentuated party differences. We can see this in the vote in June 1952 to override the veto of the McCarran-Walter Act. The vote accentuated partisan differences on this immigration legislation particularly in regions where they had been narrowing—in New England and the West (California in particular). In these key regions, where there were concentrations of ethnic voters, the anticommunist/national security framing of the legislation polarized the vote even more than in 1924. (See table 10.3.)

Although the accumulated exemptions resulted in increased nonquota immigration from Central Europe, and Germany and Britain provided the largest number of quota immigrants during the decade of the 1950s, the number of nonquota immigrants from Mexico more than doubled. In 1963, the census reports that 55,000 legal immigrants entered from Mexico, slightly more than the number that entered from Canada, and twice the number from either German or British. Under the 1924 legislation, Mexican immigration was limited only by literacy. Aliens with a minimum residency of ten years in the Western Hemisphere could enter the United States as nonquota immigrants—a provision meant to restrict the entry of Europeans through the “back door,” but not Latin Americans (or Canadians).

In fact, immigration from the Western Hemisphere was linked to a political process that was quite different from the process that governed immigration from Europe (see ch. 9). This process was supported by many of the same legislators and committee chairs in the South and West who provided the core of opposition to reform of the quota system. Generally insulated from electoral reaction, this client process had the support of agribusiness and employers of low-skilled labor. In 1934, the AFL proposed legislation to establish a quota for Mexican immigrants, but the proposals were quickly rejected by the immigration committees. After the war, the AFL-CIO unsuccessfully opposed the Bracero Program, which continued for another 20 years, until 1964. By the end of the century Mexico became the single largest source of immigrants to the United States. During the decade of the 1960s, 14 percent of immigrants came from Mexico. This increased to 14.3 percent the following decade, 22.8 percent during the decade of the 1980s, and 24.7 percent during the decade of the 1990s. Of course the number of undocumented aliens from Mexico also increased (see ch. 9).

The role of the back-door system is also evident in the pattern of cycles of enforcement described in chapter 9. Each cycle usually begins, either because the president would like to create pressure for related legislation, (such as Eisenhower’s “Operation Wetback” support for employer sanctions in 1954), or in reaction to expanding local movements in opposition to immigration, (such as Clinton’s reaction “Operation Hold the Line” to the Proposition 187 movement in California in 1993). It may also be an attempt to pressure Congress to pass relatively pro-immigrant legislation, such as the Bush enforcement cycle that began in 2006. (See have we seen in chapter 9, each cycle generally ends with diminished enforcement, as the agribusiness lobby—with the support of state governments—either gains additional benefits (as in the Eisenhower cycle), or gains relief (as it seems is happening in the Bush cycle).

In fact, it may be more useful to understand these cycles as an attempt to expand the scope of politics (or what Schattschneider call “the scope of conflict”) beyond the control of the understandings of insulated client politics, or to challenge (or appear to challenge) the constraints imposed by the agribusiness “iron triangle”. By “going public,” Eisenhower supported stronger employer sanctions, Clinton put California agribusiness on notice, and Bush challenged the congressional wing of the agribusiness of the iron triangle to support his proposals for immigration reform.

Thus, although the Hart-Celler Act and subsequent legislation appeared to have ended the policy differences between the two systems, the differences in political process appear to remain important. What did break down after 1965 was the myth that immigration from Mexico and Latin America was what Daniel Tichenor called “the returnable labor force,” and that immigration from other parts of the world was for settlement.

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Table 10.3 Votes in the House of Representatives to override the veto of President Truman of the McCarran-Walter Act in 11 Southern states, 8 states in the Northeast, and California in 1952

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>%</th>
<th>No</th>
<th>%</th>
<th>Abstain</th>
<th>%</th>
<th>Total</th>
<th>%</th>
</tr>
</thead>
</table>
| South-Dems | 84  | 79.2% | 2  | 1.9% | 20 | 18.9% | 106 | 100%
| Rep   | -   | -   | -  | -   | -      | -   | -     | -   |
| NE-Dems | 2   | 4.4% | 41 | 91.1%| 2   | 4.4%  | 45  | 100% |
| Rep   | 45  | 69.2% | 13 | 20.0%| 7   | 10.8% | 65  | 100% |
| NE Total | 47  | 42.7% | 54 | 49.0%| 9   | 8.2%  | 110 | 100% |
| CA-Dems | 1   | 9.1% | 9  | 81.8%| 1   | 9.1%  | 11  | 100% |
| Rep   | 12  | 100% | 0  | 0.0% | 0    | 0.0%  | 12  | 100% |
| CA Total | 13  | 56.5% | 9  | 39.1%| 1   | 4.3%  | 23  | 100% |

The New System

By 1965, as immigration reform was framed once again in terms of civil rights, majorities emerged in both houses that supported immigration policy reform. This emergence was aided considerably by the large Democratic sweep in the elections of 1964. The Democrats gained 36 seats; the gains were among party supporters of civil rights and social reform, and the losses were among the members of the conservative coalition. Nevertheless, the primary impediment to revision of the immigration system was opposition from the congressional committees that still controlled the legislation.

The key to the success of reform was presidential leadership. President Johnson made the Hart-Celler bill a priority, and backed his decision up with impressive skill. Increasingly, what held the reformers together was fundamental opposition to the racial and discriminatory basis of the quota system, and support for a new system that was more consistent with emerging values. Public opinion never favored legislation that would increase immigration, but it did increasingly favor proposals for civil rights legislation. It was the persistent linkage between the two by liberal Democrats that finally convinced President Johnson to place immigration reform high on his legislative agenda in 1964, and this priority was nailed down by the Democratic electoral sweep in November, 1964.

With tremendous energy, President Johnson applied pressure to the Southern chairman of the Senate Immigration sub-committee, James Eastland. Eastland agreed to hand over control of the sub-committee temporarily to Senator Ted Kennedy, who then put the legislation to a vote. Eastland then voted against the immigration proposal, which nevertheless passed. In the House, the leadership agreed to expand the membership of the sub-committee, to prevent the chair, Michael Feighan of Ohio, from bottling up the legislation. Feighan, reflecting on a tough 1964 primary fight in a district with a significant immigrant population, insisted in 1965 that he had supported reform for some time. The final vote was overwhelmingly favorable in both houses. In the key regions of ethnic concentration, the Northeast, the vote in the House was unanimous; in California, three Republicans opposed the legislation, but a majority voted in support. (See table 10.4.)

Very quickly, immigration from Europe, and even Asia, became relatively uncontroversial, indeed unchallenged. One indication of this was that the politics of European and Asian immigration rapidly became client politics, where issues were settled in the context of a policy community, hardly challenged on the floor of congress. On the other hand, changes in immigration law after 1965 also responded to perceived electoral pressures. What Tichenor dubbed "reproductive mechanisms" of expansive admission policy gradually took hold.

As more immigrants were admitted after 1965, particularly after they gained citizenship and the right to vote, they became better organized and exploited their local political influence. While local influence was limited before 1924, it became more widespread after 1965. For this reason, the importance of ethnic voting no longer depended on the strength of national political parties, or on the dynamics of presidential politics, as it did before 1924. Thus, while this pattern of influence applied mostly to presidential politics before 1924, it applied broadly to congressional politics as well after 1965. Moreover, while these dynamics applied to European immigration before 1924, after 1965 they applied increasingly to immigration from Latin America. (See below.)

The back door was hardly considered in the debates on the Hart-Celler bill. Nevertheless, the differences between the two sources of immigration were breaking down even before the legislation was passed. By the early 1960s, at more than 40,000, legal immigration from Mexico was the largest single source of immigration for settlement (and has remained so) to the United States, and the numbers grew by 400 percent by 2000. Therefore, just as the "temporary" and "guest" workers from Turkey and North Africa in Europe decided to stay, the "returnable labor force" from Mexico made the same decision. What made President Bush's proposal for a new contract labor program less credible in 2006 than previous programs had been was this change in settlement patterns.

At the same time, as we have seen, given the attractions of the American labor market, the population of undocumented aliens also began to accelerate to its present levels. In fact, it now appears that the same political dynamics that have been reinforced by legal immigrant settlement, have also contributed to the growth of undocumented immigration. Businesses that profit from illegal immigration have been a powerful force for limiting cycles of enforcement, but support for enforcement is also limited by the rising electoral power of Mexican immigrants who are legally settled.

The Electoral Factor

The United States is quite different from either France or Britain both with regard to the political geography of immigration, and with regard to
Politics of Immigration

The relationship between political geography and policy outcomes. One aspect of this is quite familiar, the importance of immigrant populations for presidential politics. In 1990, only six states (California, New York, Florida, Texas, New Jersey, and Illinois, in that order) accounted for almost three-quarters of the foreign-born population in the United States, (with California and New York alone accounting for almost half). Politically, immigrant populations in these states gained considerable importance—or at least potential importance—during the following decade because of the importance of these states in presidential elections.

Moreover, in each of these states, congressional districts (CDs) with 10 percent or more of the populations born abroad accounted for half or more of the CDs by 2000. Thus, with two exceptions, every CD in California had a population born abroad greater than 10 percent, as did two-thirds of those in New York, and more than half in Texas. In each state, the local political dilemma was how do deal with the question of immigration and immigrants.

One option was presented in California in 1994, where a sustained effort was made to mobilize growing negative public opinion against undocumented immigrants. In an environment of high immigration pressure and rising local unemployment, Proposition 187—that would limit access of these immigrants and their families to state services—qualified for the 1994 ballot, supported by Republican Governor Pete Wilson (who had previously supported immigration from Mexico). Wilson was reelected and the initiative passed in a campaign that grew increasingly anti-immigrant in general as it wore on. During the same time-period, both Democratic senators from California introduced immigration control legislation in the U.S. Senate. During the next two years, President Clinton toughened the patrols along the Mexican border, supported legislation that restricted the rights of legal aliens, and established the Commission on Immigration Reform, the Jordan Commission, which quickly recommended a reduction in annual immigration limits. Finally, Pat Buchanan became the most prominent political leader in favor of immigration restriction after his Republican primary victory in the New Hampshire presidential primary in 1996. Thus the California conflagration spread quickly to national politics.

A second option, however, was presented in other states with high immigrant concentration, an electoral option that saw immigrants as a political resource, and that gave priority to the mobilization of potential immigrant voters. The politics of immigration in both France and Britain was built around the mobilization of sentiment against immigrants. However, the other impact of immigration is the potential of citizenship, its impact on the distribution of votes among political parties, and the speed with which this impact is felt.

We have noted that Kristi Andersen demonstrates that the party realignment that took place in the United States between 1928 and 1936 was essentially related to a new electorate of immigrants and their children voting for the first time in large cities in the United States, rather than voters switching from the Republican to the Democratic Party. More recently, in areas of high immigration, where immigrants are voters or are perceived as voters or potential voters, the electoral pressure has increasingly moved political elites toward a more favorable position on immigration. This dynamic appears to have taken hold in the United States, first in localities like New York and California, and more recently at the national level.74

A decade after Proposition 187, it was clear that the impact in California was to mobilize new immigrant voters by the Democratic Party. Republican Pete Wilson lost his second race for governor, and Orange County, long a conservative Republican bastion, became increasingly competitive, thanks to the incorporation of Latin American immigrants and their children into the electorate.75

It is in this context that the president decided to court the Latino and prospective Latino vote. Existing studies show that Latinos (with the exception of Cubans) are strongly Democratic in orientation, and become more so with increasing education and tenure in the United States. Nevertheless, as Republican governor of Texas, President George W. Bush had some success in attracting Latino voters, and the president seemed to feel that not to make this effort would be to surrender the electoral future to the Democrats. Indeed, this gamble had some payoff in the 2004 presidential election.76

At least some of this shift in orientation can be attributed to the different kind of political geography of immigration in the United States as compared to Europe. Although concentrations of immigrant populations are limited to certain areas of the country, these areas are also far more widespread than in Europe. (See table 10.5) More than a third of the states (35%) and more than a third of the congressional districts (35%) in 2000 had immigrant populations of 10 percent or more. This distribution of CDs with a high proportion of immigrants is far greater than in France or Britain (about twice as great), and provides a reasonable measure of the potential electoral gains and the dangers of ignoring this population.

Although these gains can be particularly important for the Democrats, since two-thirds of these congressional districts (CDs) have Democratic

<table>
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<th>Table 10.5 U.S. Congressional Districts 10 percent + born outside of the United States (2000) after congressional elections of 1998</th>
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<tr>
<td><strong>New York/CA</strong></td>
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<td><strong>%</strong></td>
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<tr>
<td>Republican CDs (50%+ 1998)</td>
</tr>
<tr>
<td>Democratic CDs (50%+ 1998)</td>
</tr>
<tr>
<td>Total</td>
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Note: CD= 435.
Source: U.S. Bureau of the Census, Congressional District Data Book.
representation, their importance is also quite real for the Republicans who represent the other third. With this number of CDs at stake, neither party can afford to ignore the electoral potential of immigrant populations. Thus, compared to France and Britain, the electoral stakes are far more important in the United States. While the mobilization of immigrant citizens and ethnic voters has become central to American party competition at the national level, it has been marginal and episodic in France and Britain.

Therefore, the electoral stakes in the United States of such questions as illegal immigration and border control can be high. However, when such issues become politically salient, the electoral consequences can be both the mobilization of an anti-immigration electorate, as well as an immigrant electorate favorable to more open immigration policies, as the struggle over Proposition 187 demonstrates. In 2006 and 2007, the Bush administration attempted to balance these consequences, by offering immigration legislation that would appear to be favorable to immigrant interests, while the Department of Homeland Security initiated a cycle of enforcement.

The early primary campaign for the presidency also demonstrated the challenge of electoral consequences. On one hand, Republican candidates in particular have taken a harsh stand on illegal immigration, in an attempt to play to the Republican-Right electorate that may determine their fate in the early primaries. On the other hand, numerous Republican strategists have warned about the price they will have to ultimately pay in the general election:

Michael Gerson, a former speech writer for President Bush wrote... that the electoral math made it shortsighted for the Republicans to use immigration as a "weapon." "At least five swing states that Bush carried in 2004 are rich in Hispanic voters—Arizona, New Mexico, Nevada, Colorado and Florida," he said... A substantial shift of Hispanic voters toward the Democrats in these states could make the national political map unwinnable for Republicans.

The Role of the States

Related to the national process of policy formation, policy development at the state level remains important. When the federal government has found it difficult to act on questions of illegal immigration, both because the stakes are so high, and because the veto points are so numerous, state governments have been increasingly acting either exclude or protect these same illegal immigrants.

On one hand, there is evidence that restrictive legislation as the state level has diminished in importance, and has been limited by the courts. Over the last two decades the six states with the highest concentrations of immigrant populations have generally reduced the citizenship requirements for dozens of occupations, many of which had been imposed since the nineteenth century. Other requirements have been poorly enforced.

Our data show that the number and range of citizenship requirements have declined dramatically. These changes are largely in response to federal court rulings and the legal opinions of state attorneys general that anticipate court oversight.

Many states have acted as a result of limits imposed by judicial decisions in these areas. However, in other areas where the law continues to impose limits on the political activities of immigrants, states have broadly interpreted the limits of such laws.

The states have also remained important initiators of policy. In 1921–1922 the vast majority of the states had implemented laws dealing with Americanization. Initiatives appear to have diminished after that. In 2006–2007, however, there was a major increase of state initiatives, largely in reaction to the failure of congressional action. The National Conference of State Legislatures reported that 1404 proposals dealing with immigration had been considered by August 2007, more than twice the number in 2006, and 170 laws had been passed in 41 states. Some states have passed legislation that would ease the passage to citizenship of legal residents; while others have sought to constrain and define those who could help and advise immigrants in the process of naturalization.

In 2006 California voted to provide free naturalization services, and Vermont required courts to advise defendants that they could be denied citizenship or be deported if they pled guilty to a criminal offense. Kansas, Maine, and Tennessee, on the other hand, voted to allow only immigration lawyers who have passed the bar to give legal advice to immigrants; notary-publics in particular (more available in immigrant communities) are prohibited from giving such advice. Indeed, this is part of a more general pattern of state activism in various aspects of policymaking that affects immigrants.

Twenty-six states have enacted laws that have dealt with questions of identity cards and licenses of various kinds. Many of the new laws were meant to strengthen requirements for drivers licenses and require valid identity papers for state services. However, there was evidence of a growing rebellion among the states in opposition to the federal Real ID Act. As of this writing, Maine, Georgia, Montana, New Mexico, Washington, Wyoming, and Vermont have either passed or are considering actions that would resist the requirements for a federally standardized driver's license that would be used to confirm identity. Opposition seems to reflect both resistance to what would amount to a national ID card, as well as the considerable expense of such cards for the states.

As in the past, state initiatives have been coordinated through intergovernmental networks, and are an integral part of the policymaking process. They are an intergovernmental lobby for promoting federal legislation,
but also for changing and resisting it. State legislatures, are often far more sensitive to the costs of immigration than the federal government, in part because they are required to bear the costs imposed by federal law. This is particularly true in the area in which the states play the most critical role—in shaping the settlement and incorporation of immigrants.

**Conclusion**

The politics of immigration in the United States has changed dramatically during the past century. Framed in terms of population policy by the federal government until after the Civil War, immigration policy remained open and relatively expansive until state reactions against Chinese immigration forced a change of course at the national level that eventually had an impact on European immigration as well. The politics of identity dominated the policy process until after WWII.

The growing electoral importance of the great wave of immigrants of the early twentieth century first became evident in the 1930s. The weight of this electorate, in turn, gradually forced not only a change of immigration policy, but also altered the process through which policy was developed. The tension between an identity frame and an electoral frame gave way to a domination of the latter—but not entirely. It is primarily in this way that we can understand why immigration from Europe at the beginning of the twentieth century provoked policies of exclusion, while immigration from Asia and Latin America at the end of century did not alter the expansionist system put into place in 1965.

What changed most was both the framing of the immigration question and the policy process in congress. The presidency had always been more favorable to open and expansionist immigration policies for two reasons: first because presidents were more aware of and sensitive to the implications for foreign relations; second because, since the end of the nineteenth century, big states with large urban areas had been at the core of the president's electoral constituency. It was only when the relative power of the presidency and the executive increased, however, that the president could be the focal point for leadership in policy formation, and not simply a veto-point.

**CHAPTER ELEVEN**

**Conclusion**

Western Europe and the United States have both become “countries” of immigration during the past 30 years. With no end in sight, moreover, these trends are likely to continue into the foreseeable future. So, the question is not whether immigration will continue, but how that immigration will be controlled. For France and Britain, the result has been the longest sustained wave of immigration in their history, and Britain has now become a country of net immigration for the first time in its modern history. The wave of immigration since 1965 has reinforced and given new meaning to the idea of the United States as a country of immigrants.

However, as we have seen, the broad policy objectives of France, Britain, and the United States have been quite different during the past 40 years. French policy was to reduce immigration to more or less “zero”; British policy was to reduce sharply the number of immigrants entering the United Kingdom from New Commonwealth countries in Asia and the Caribbean. By contrast, American policy was to permit, even promote, immigration based on criteria of family unification, labor needs, and diversity. In fact, each of these policy objectives more or less failed. Immigration into France has continued at levels lower than before 1973, but at levels far higher than policy would indicate. Immigration into Britain has gradually increased, in general, and from New Commonwealth countries in particular. Policy in the United States has supported and promoted high levels of immigration, but record numbers of undocumented immigrants have either entered or remained in the country.

**Is Immigration Out of Control?**

Yet the preceding analysis does not support the conclusion that immigration is “out of control,” (in the European cases) or that immigration policy is ineffective (in the American case). I have argued in various ways throughout this volume that, regardless of the broad, stated policy objectives of governments, the actual policies on immigration in place reflect the complexities of the democratic political process, complexities that are