AN IMMIGRANT NATION:

UNITED STATES REGULATION OF IMMIGRATION, 1798–1991

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I. INTRODUCTION: QUESTIONS OF IMMIGRATION

For nearly a century after the American Revolution, few immigration problems arose that each State could not solve by itself. By the late 19th century, though, people began to ask questions about the effects of immigration on the nation. Who were these immigrants, more of whom came each year? Where did they come from, and where did they settle? Did immigrants harm the United States economy by dominating certain jobs and driving down wages? Could the public be sure immigrants would not bring epidemics and disease with them from Europe? Naturalization raised questions too. Was that process creating good, devoted citizens, or was it abused simply to gain the benefits that citizens enjoy?

These are a few of the questions of immigration policy and law. They are never permanently answered. As the nation changes over time, each generation of Americans must ask and answer them again. During the 20th century even more problems needed solutions. Should the United States impose rules on what sort of people it accepted as immigrants and citizens? If so, should the rules be based on political reasons, economic need, or past social experience? Should the law treat immigrants who come to live here differently than it treats tourists or visitors? What is the country's duty to people in other parts of the world who suffer political, racial, or religious persecution? And what of those people fleeing war or natural disaster? Can the United States always afford to welcome everyone?

The answers Americans gave to these questions over time shaped United States policy and fashioned immigration law. The law itself led to questions of enforcement. Could a nation with borders as vast as ours protect itself against illegal entries, and if so, how? If someone did enter illegally, could the United States send them back home? Finally, what part of the Federal Government can best regulate immigration? Was this an issue best managed by the Treasury, Labor, Justice, or other department?

Again, answers to these questions changed over time. United States immigration policy has always been a product of compromise between competing American goals. For example, policy must balance economic conditions on one hand and a traditional wish to welcome immigrants on the other. Events abroad, such as famine or war, also cause changes in policy. But United States immigration law and policy are generally the product of American political, social, and economic conditions.

The following document is a brief historical survey of United States immigration law and the Immigration and Naturalization Service. It follows the course of immigration law enforcement and administration over the years, stopping at times to more fully discuss important issues, trends, or developments. Appendices include a general bibliography, statistical and other charts, and a glossary of INS terms used throughout the text.

Immigrants arriving at gate, Ellis Island.

II. EARLY IMMIGRATION AND IMMIGRATION LAWS

During colonial times and following the Revolution, Americans encouraged relatively free and open immigration. It was not until the late 19th century the nation began to seriously question this policy. Leading those who demanded limits to immigration were American workers who worried about competition from foreign, contract laborers. In the 1890's Congress passed national immigration laws, created a federal agency to oversee immigration, and began to consider uniform rules for *naturalization.*

IMMIGRATION TO THE COLONIES AND THE NEW NATION

Some immigration laws did exist before the American Revolution, but each colony enacted different rules so a national policy never formed. Colonies usually favored immigration. They valued newcomers who would settle the frontier and help protect life and property. This almost unlimited immigration proved valuable, because *immigrants* and their children provided the *citizens* and labor needed to build a nation. Most colonists came from Northern Europe; from Britain, France, Scandinavia, and the Low Countries. Before 1808, nearly one-half million Africans imported to North America joined the Europeans.

With the founding of the United States, and for nearly a century after, federal law put no restriction on *admission* of *aliens.* There was only the ban on importing slaves that served to prevent immigration from Africa and, to some extent, from the Caribbean. Various leaders at the State and national levels voiced concern over the laxity of immigration policy. Benjamin Franklin, for example, suggested that there were so many German immigrants in Pennsylvania the State Assembly would need interpreters.

Thomas Jefferson thought open immigration might have more serious effects. After winning a revolution against monarchy, he felt it was unwise to invite immigration from countries still ruled by kings. The party of George Washington, the Federalists, opposed open immigration for another reason. They thought it drew too many migrants with democratic leanings.

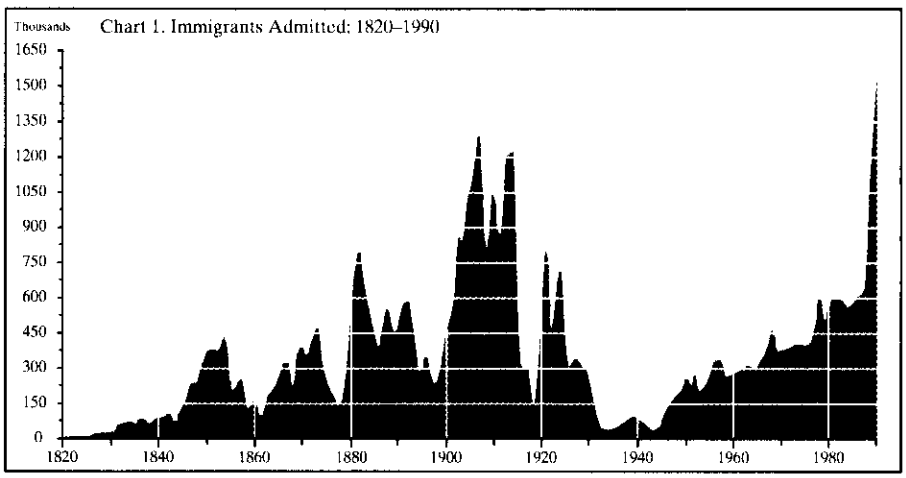


Chart 1. Immigrants Admitted: 1820–1990

The Federalists passed the Alien Act of 1798, the first national attempt to regulate immigration.[1] One of the Alien and Sedition Acts, this law allowed the President to *deport* any alien he judged dangerous to the United States. The deportations soon ended because the law was open to political abuse. It expired in 1800 after its 2-year term, but shows that immigration policy has been a political issue since the nation's founding.

The first Congress enacted rules regarding citizenship in 1790, and from then until 1802 established the United States' early naturalization procedure. The 1802 criteria for citizenship included good moral character, loyalty to the Constitution, a formal *declaration of intention*, and witnesses. Federal and selected state courts carried out naturalization and granted citizenship as they do today, though naturalization requirements have been modified over the years.[2]

As the nation grew and immigrants and their children pushed west, open immigration continued. With the 1819 Steerage Acts, Congress supported immigration by setting standards for conditions on passenger vessels coming into United States ports. Still, unlimited immigration was not always favored by all Americans. From time to time, mainly during times of economic decline, there were efforts to slow the tide of immigration. Unhappy with delays in federal action, some states passed local laws governing the entry of immigrants. Later, United States Supreme Court decisions of 1849 and 1875 declared all such State laws unconstitutional. The court interpreted them as attempts to regulate foreign commerce, a function that belongs to the Federal Government alone.[3]

The 1819 Steerage Acts regarding travel on sailing ships also ordered that ship captains provide port officials with passenger lists, or manifests. These ships' manifests formed the first formal immigration records. The records soon revealed patterns among early 19th century immigrants to the United States.

Between 1820 and 1840 most new immigrants came from Germany, Ireland, and the United Kingdom, comprising 70 percent of the total. They came to the United States for a variety of reasons, among them war, unemployment, or famine. These factors worked to push people, most of them rural farmers, out of these countries. The ability to get cheap, fertile new land worked to pull them to America.

Between 1841 and 1860, over 87 percent of incoming migrants continued to come from Germany, Ireland, and the United Kingdom. Yet there were some important differences between these immigrants and those who came in earlier years, differences due to changes on both sides of the Atlantic. Ireland's crop failures of 1846 and 1847, Germany's economic crises of the 1840's, and political revolutions across Europe in 1848 all forced people to migrate, as did the industrialization of Europe after 1848.

Industrialization also caused changes in the type of people moving to America. Unskilled or general laborers now dominated the workers coming from Britain and elsewhere in Northern Europe. In the years after 1840 this category of immigrants rose by 20 percent over prior decades. More of them came to the United States from European cities than before, and less from European farms.

Many of them moved to the growing American cities and towns where industrialization in the New World created a constant demand for labor. Industrial growth even made trans-Atlantic travel easier. Steam-powered ships running on regular schedules and the telegraph both worked to create a reliable transportation system.

Germany, Ireland, and Britain still provided most of the immigrants to the United States from 1860 until about 1880, but growing numbers came from Scandinavia, China, and South America. Factors that pushed immigrants from their homes, factors that pulled them to America, and better transportation explain this shift in migration patterns. For example, Norwegians suffered a long economic slump from 1866 to 1870 and Chinese in the Canton region faced famine.

Both events caused major migrations to America, while economic growth in the American West pulled immigrants by creating a demand for labor. Western mines, mills, and railroads hired large numbers of Latin American, Chinese, and European immigrants. For example, nearly one third of western miners in the 1860's were Chinese. Many others came from Chile, Peru, and Mexico.

EARLY FEDERAL REGULATION AND THE IMMIGRATION BUREAU

As the annual number of immigrants rose and economic conditions worsened in some areas, many states began

Inspector and immigrants at Ellis Island.

to insist on stricter control of immigration. At first laws were specific, as in California. One 1850 California statute charged foreign miners a $20 license fee, and by 1879 that State's constitution barred corporations from hiring Chinese workers. Only later, in 1882, did the United States Congress pass a general immigration law for the nation.

The Immigration Act of August 3, 1882, levied a head tax of 50 cents on each immigrant and blocked the entry of idiots, lunatics, convicts, and persons likely to become public charges. It also made the regulation of immigration a duty of the Federal Government. Before enactment of this first general immigration law, no federal agency directly controlled immigration. The law gave the Treasury Secretary authority to administer the immigration laws, but left enforcement to state boards or officers chosen by the Secretary.[4]

Three years later, in 1885, Congress passed the first national contract labor law. This, and another 1887 law, were Congress' response to the flood of foreign labor. The laws aimed to end a practice, by some employers, of importing large groups of workers that lowered domestic wages. Another law of 1888 permitted deportation of alien contract laborers within 1 year after their entry.

One group of immigrants affected by contract labor laws were the Chinese from Canton. They came to America to work in railroad construction, shipping companies, fish canneries, or the California gold mines. As their numbers increased, these Asians met with growing opposition from native labor groups.

The 1885 contract labor law was an effort to protect the pay scale of American labor by curbing the entry of cheaper, foreign labor. American anxiety over the "difference" of Asian culture also helped pass the first Chinese *exclusion* law in 1882. This law sharply limited the number of Chinese citizens allowed to enter the United States. Though controversial, Chinese exclusion remained until repealed in 1943.[5]

Late 19th century immigration law served to increase the Federal Government's role in regulating immigration while it reduced the duties of state governments. Later laws expanded or increased the number of "*excludable* classes" created by the law of 1882. The Immigration Act of 1891 excluded polygamists, persons convicted of *crimes involving moral turpitude*, and those suffering a loathsome or contagious disease (thus requiring medical examination of immigrants). A general immigration law of 1903 added epileptics, insane persons, professional beggars, and anarchists to the excludable classes. Immigrant Inspectors had to *inspect* each incoming immigrant to see that they were qualified to enter the United States.[6]

The 1891 law also ordered deportation for those who entered unlawfully. Another law in 1893 created boards of special inquiry to review certain cases, and required all vessels entering the United States to furnish passenger lists. Each of these new functions (inspection, deportation, case reviews, etc.) was the specific responsibility of the Federal Government.

By the Immigration Act of 1891, Congress created the Office of Immigration, the predecessor to today's Immigration and Naturalization Service. Before that time, a Treasury official oversaw the states' regulation of immigration to see that they complied with steerage or contract labor laws. The new law stated that a

Superintendent of Immigration should enforce the law under the supervision of the Secretary of the Treasury. The new Superintendent took charge of immigration matters during the summer of 1891. Four years later, by the Act of March 2, 1895, the title of Superintendent changed to Commissioner General of Immigration.[7]

A 1894 law related to immigration doubled the head tax to $1. Since 1882, transportation companies paid a head tax on each passenger landed in the United States. The money raised went into an Immigrant Fund used to cover the cost of administering the immigration law. Head tax funds also went to immigrants who needed help for some reason, such as needing transportation to their final destination.

THE NATURALIZATION ISSUE

By the beginning of the 20th century many flaws appeared in the naturalization system begun by Congress in 1790. These problems were largely due to a complete lack of uniformity in the practices of naturalization courts. No single system set standards for proof of eligibility, proof of new citizenship, or record keeping. For example, many courts routinely naturalized large groups of people on the eve of political elections, often without asking if they met the legal conditions. Because fraud became prevalent, respect for the naturalization process declined.

In February 1903, Congress approved the transfer of immigration work from the Secretary of the Treasury to the Secretary of a newly created Department of Commerce and Labor. At the same time, the Office of Immigration became the Bureau of Immigration. Then in 1905 a special commission investigated and reported on the flaws in the naturalization process. Based on that report, Congress passed the Naturalization Act of 1906, which framed the basic rules for naturalization still in effect today. Also, because the law made granting citizenship a federal responsibility, Congress increased the Bureau of Immigration's functions and renamed it the Bureau of Immigration and Naturalization.[8]

Many passengers, like this woman, were inspected before disembarking from passenger ships.

This federal agency now supervised naturalization, though the courts retained the power to grant or deny citizenship. The 1906 act assigned naturalization forms, and required filing duplicates of every naturalization paper and fee with the Bureau. Finally, applicants had to speak English and sign their *petition* in their handwriting. To safeguard against possible fraud, guidelines provided for the cancellation of certificates.[9]

The Bureau of Immigration and Naturalization directed naturalization work until March 4, 1913, when the Bureau transferred to the new Department of Labor. It then divided into two bureaus; the Bureau of Immigration and the Bureau of Naturalization. A Commissioner headed each bureau, and both were under the immediate direction of the Secretary of Labor.[10]

References

1. Alien Act of June 25, 1798, 1 Stat. 570.
2. Naturalization Act of April 14, 1802, 2 Stat. 153.
3. (Steerage) Act of March 2, 1819, 3 Stat . 488; The Passenger Cases (Smith v.Turner), 48 I U.S. 203, 12 L.Ed. 702 (1849); Henderson v. Mayor of New York, 92 U.S. 259, 23 L.Ed. 543 (1875); Chuy Lung v. Freeman, 92 U.S. 275, 23 L.Ed. 550 (1875) .
4. Immigration Act of August 3, 1882, 22 Stat. 153.
5. Chinese Exclusion Act of 1882 (Act of May 6, 1882), 22 Stat . 58; 1885, 1887, and 1888 contract labor laws, Act of Feb. 26, 1885, 23 Stat. 332; Act of Feb. 23, 1887, 24 Stat. 414; Act of Oct. 19, 1888, 25 Stat. 566. Repeal of Chinese Exclusion Act, Dec. 17, 1943, 57 Stat. 600.
6. Yet another general statute in 1907 added more exclusions to the list. It barred the "feeble minded," children under 16 traveling alone, and persons whose physical or mental handicap might hinder their ability to earn a living.

   Immigration Act of March 3, 1891, 26 Stat. 1004; Immigration Act of March 3, 1903, 32 Stat. 1213; Immigration Act of February 20, 1907, 34 Stat. 898.
7. Immigration Act of March 3, 1891, 26 Stat. 1084; Act of March 3, 1893, 27 Stat. 569. Act of March 2, 1895, 28 Stat. 780.
8. Act of Feb. 14, 1903, 32 Stat. 825.
9. Naturalization Act of June 29, 1906, 34 Stat. 596.
10. Act of March 4, 1913, 37 Stat. 736.

III. THE "NEW IMMIGRATION" AND ITS EFFECTS

Beginning in 1880, the number of immigrants to the United States began a sharp increase that would continue until World War I. At the same time, the source of immigrants shifted from Northwestern to Southeastern Europe. Both developments caused the nation to react. By the 1920's, Congress established a quota system to impose strict limits on the number of immigrants admitted yearly. During the 1930's, increasing use of deportation supplemented the quota system in reducing the nation's alien population.

THE 'GREAT WAVE'

The growing amount of legislation during and after the 1880's was a response to growing immigration. During 1882, a watershed year in the history of American immigration, the number of entries rose to an all-time high. The volume of people arriving from Northern and Western Europe reached its peak while that from Southern and Eastern Europe steadily grew.

Europe's changing economy now caused workers to move away from Southern and Eastern European countries, among them Austria-Hungary, Bulgaria, Italy, Greece, Poland, Portugal, Rumania, Russia, Spain, and Turkey. By the 1890's, this "new" immigration from Southeastern Europe exceeded the "old" from Northwestern Europe. The "new" immigrants were generally less skilled than those who came earlier.

Rapid industrial and economic growth pulled these migrants to American cities. The United States' own population simply could not meet the need for labor as industrial jobs multiplied. Even native-born, rural Americans migrated to jobs in cities as the farming frontier gave way to timberlands and desert.

From 1900 until 1920, the nation witnessed a dramatic increase in immigration. In these years the United States admitted over 14.5 million immigrants, the greatest number since the nation's founding. For 6 of those 20 years, immigrants exceeded one million per year. Sixty percent of the total number came from Italy, Russia, and Austria-Hungary.

This rise in immigration occurred during a period of economic distress in the United States, and resulted in public demands for strict limits on immigration. When more than 1.2 million people migrated here in 1907, a federal commission led by Senator William P. Dillingham began to study the problem. The commission's final report of 1911, known as the "Dillingham Reports," filled forty-two volumes and concluded that the nation must regulate the kind or type of immigrants admitted.[11]

Dillingham Commission recommendations influenced the Immigration Act of 1917, which restated all past exclusions and added two more. The first was a literacy requirement for all people entering the United States as immigrants. Second was exclusion of persons coming from a geographic area termed the "Asiatic Barred Zone" containing most of Asia and the Pacific Islands. The act also defined and expanded the powers of immigration officers, improved deportation practices, and created a system to admit certain excluded groups in special cases. The 1917 law

Some immigrants had to demonstrate they were not of an excludable class. This woman takes an intelligence test around 1920.

also increased the head tax to $8. Since 1894, movements to limit or reduce immigration usually advocated raising the tax.[12]

President Woodrow Wilson opposed any literacy test and vetoed the bill. Congress nevertheless mustered the majority needed to override the veto and the bill passed on February 5, 1917. While this law regulated the selection of immigrants, there was still no attempt to limit the number of people admitted.[13]

After 1913 the volume of immigration to the United States fell due to World War I in Europe. From then until 1918, war proved as capable as strong immigration laws to regulate immigration. During 1918, just over 100,000 migrants came to the United States, the lowest number in over half a century.

THE NATIONAL ORIGINS SYSTEM

After the devastation of Europe by World War I, the volume of immigrants soared again. During 1920, the number of entries grew 300 percent over 1919. At the same time, American unemployment and housing shortages grew. Many citizens either resented the flood of foreign workers with whom they competed for jobs, or feared foreign political ideas that they thought threatened American stability.

From this time on Americans' attitude toward immigration changed. Historically, they regarded free and open immigration as healthy for the nation. As economic growth slowed and Americans experienced their first "Red Scare," opinion grew favoring laws to limit immigration even more strongly than the 1917 act could.

The product of these fears was the Quota Act of 1921 installing a principle of national numerical limits in American immigration law. Planned as a temporary measure, the 1921 statute set annual admissions using a formula based on the Census of 1910. However many persons of a certain *nationality* were in the United States in 1910, 3 percent of that number could henceforth enter yearly from that country. The Immigration Act of 1924 made such quotas permanent, but used 1890 census figures as a base.[14]

The 1924 law also required immigrants to obtain visas, in advance, from United States embassies in their countries of origin. While immigrants now had to secure visas from United States *Consuls* abroad, inspection abroad was not a new policy. The 1891 law had listed fines and penalties for steamship companies who landed excludable aliens, or landed them at any port other than those named by the Immigration Bureau.

Transportation companies usually tried to confirm that all passengers would be admitted upon arrival in the United States. Beginning in 1903, ship's surgeons had to examine immigrants sailing to America to be sure they carried no "loathsome or dangerous contagious disease." Such diseases were grounds for exclusion since 1891, based on the immigration law's responsibility to protect the pub-

This cartoon from the 1920's portrays the purpose of the National Origins (Quota) System.

lic health. In those years Americans worried most about cholera, trachoma, tuberculosis, and other illnesses common at the time.[15]

By 1917, the Immigration Bureau sent officers to various foreign cities to advise the consuls there. The Public Health Service performed medical examinations of immigrants at the point of departure. This saved much time for people passing through American ports, and reduced the number of people who had to be excluded and sent back home. Beginning with the 1924 Immigration Act, issuance of visas abroad worked to select immigrants under the national origins system.[16]

The quota system, or national origins plan, begun in the 1920's served two purposes. The first was to reduce the volume of immigration from Eastern Hemisphere countries and their colonies by limiting quota immigrants to about 150,000 each year. The second purpose was to select the nationality of admissible immigrants. Fixed quotas for each country limited the sources of immigration to certain "desired" nations.

The first quota laws favored immigrants from Northern and Western Europe. They did so because people from these regions, the sources of "old" immigration, made up a larger portion of the American population in 1890 than they did in 1910. The quotas were less generous to immigrants from Asia, Africa, and Australia. After July 1929, Congress adjusted quotas to relate to the foreign-born population in the 1920 census.

The 1924 act created two categories not subject to quota limits. The first was non-quota immigrants, which included persons born in Western Hemisphere countries and their families, clergymen, and present or former American citizens and their families. Second was *nonimmigrants,* or visitors.[17] (See Appendix B for various nonimmigrant classes over time).

An unintended result of the quota system's limits on immigration was a great rise in illegal immigration by 1923. European refugees often migrated first to Canada or Mexico, countries not subject to quotas, then entered the United States. A whole industry grew up around smuggling *illegal aliens*. Thus the 1924 act granted funds to remake the Bureau's small mounted border guard into the larger Border Patrol. In 1926 the Service again reformed and expanded the Border Patrol so that it might better deal with the problem of illegal entry (see page 23 for further discussion of the Border Patrol).
By the early 1930's, the bulk of Immigration Bureau work had shifted to exclusion and deportation. Admissions during 1933 were the lowest in a century. Yet reviewing applications for admission under the various categories and answering public questions about the new law increased the Bureau's workload considerably.

THE GREAT DEPRESSION

The Immigration Bureau underwent reorganization, reform, and rapid change during the decade of the Great Depression. Executive Order 6166 of June 10, 1933, again combined the Immigration Bureau and Naturalization Bureau and placed both functions within the Department of Labor. It has since been known as the Immigration and Naturalization Service (INS).[18]

The purpose of reorganization was to bring naturalization under more centralized control. INS's Central Office set standard naturalization procedures, and in 1934 the Secretary of Labor selected an Ellis Island Committee to study naturalization and immigration problems and to suggest reforms. There were fewer entries and a smaller alien population than in earlier years. In fact, during the early 1930's immigration fell to a record low and emigration climbed to a record high. Yet many Americans in the 1930's clung to the idea that the nation was drowning in a flood of immigrants. The committee's report led to various laws regarding, among other things, naturalization and nationality, deportation, and *suspension of deportation.*

Though the United States asserted its right to deport aliens since 1798, deportation was rare through most of

the 19th century. Only when federal immigration law created exclusions during the late 19th century, and increased the number of grounds for exclusion, did deportation come into use as a way to enforce immigration laws. Steamship and railroad companies began to inspect passengers because United States law required them to provide return passage for any excludable aliens. The immigration law of 1891 specified that deportation could only occur within 1 year after entry, but this limit grew over time. By 1924 the limit on deportability became 5 years for most *violations*, while for others there was no time after which deportation is impossible.

Deportation usually serves one of two purposes. Either it defends the public against crime or economic burden, as happens with criminal aliens or public charges, or it protects national security by removing subversive or disloyal aliens. In short, it is a method of expelling those who should have been excluded when inspected, who entered illegally, or who became deportable after entry.

The number of deportable classes grew along with the number of exclusions, since the two are linked. Also, national political or economic conditions influenced the focus of deportation at various times. After 1917 the Bureau focused on deporting subversives, while during the Great Depression many public charges faced deportation because they could not support themselves.

Increasing numbers of refugees applied for admission to the United States as Europe experienced economic depression and the rise of fascism in the 1930's. In 1938 Adolph Hitler invaded Austria and sparked further movement of refugees and displaced persons that would grow in the post-war period. Yet the Quota Act allowed only a few of these people to immigrate to the United States in the 1930's, far fewer than applied.

These Italian women were among many thousands in the 1930's who learned English in citizenship classes. (Minnesota Historical Society)

Naturalizations increased during the Great Depression. Immigrants mainly had economic reason to naturalize in these years, as citizens were hired first in a country where jobs were scarce. Also, benefits from many social programs created by the New Deal went only to citizens. Naturalization work expanded, so INS built a special unit to investigate naturalization fraud. Though able to eliminate most fraud and corruption, the unit still found few uniform naturalization practices across the country.

Rapid changes in transportation challenged immigration inspections work in the 1930's. Historically, the vast majority of people entered the country at seaports, where ships landed daily during regular business hours. With the growing use of cars on new highways, there were now more land ports than seaports. Furthermore, land ports were open twenty-four hours a day and created a need for more Inspectors and Border Patrol Agents. By the end of the decade, INS began preparing for changes in international air travel as well.

The outbreak of World War II slowed immigration to its lowest level since 1831, with the exception of 1933. Quota immigration remained low throughout the war, but nonquota immigration continued. Nearly 70,000 migrants came from Canada, Mexico, and the West Indies.

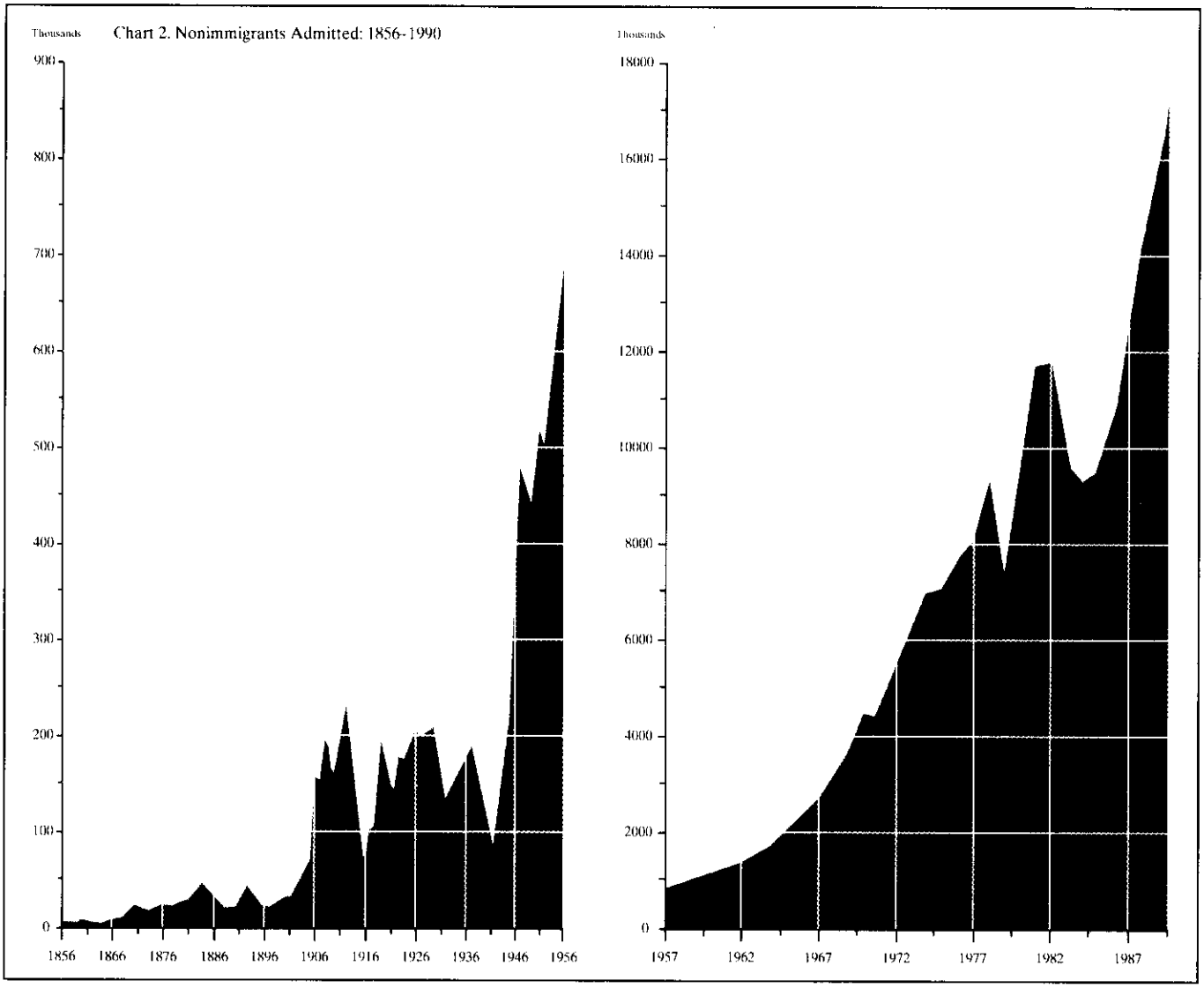


Chart 2. Nonimmigrants Admitted: 1856-1990

References

11. Reports of the Immigration Commission, 1907-1910 ('Dillingham Reports'). 61st Congress, 3rd session, S. Doc. no. 756 (42 vols.) Washington, DC: GPO, 1911.

12. In 1903 head taxes had gone up to $2, but no longer applied to migrants from Mexico, Cuba, or Canada. The tax doubled again, to $4, in 1907. In that year head taxes also began working to select immigrants. Immigrants favored by the United States, like skilled workers or whole families, were exempt from paying the tax. The head tax rate remained at $8 from 1917 until 1952, when the I&N act of that year abolished head taxes. The quota act of 1924 created added revenue by charging a fee of $9 with visa applications. Application fees continue today, but since 1952 they have not been directly used to influence immigration policy.

13. Immigration Act of Feb. 5, 1917, 39 Stat. 874.

14. Quota Act of May 19, 1921, 42 Stat. 5; Immigration Act of May 26, 1924, 43 Stat. 153.

15. Diseases were dropped from the list as cures were found, while others were added to the list, as was leprosy in 1952. Congress grants waivers to the exclusion in special cases, but the "dangerous contagious disease" exclusion remains to protect the public health.

16. Later, when the United States replaced national origins with other policies for selecting immigrants, visas would serve the same purpose. A 1952 shift in immigration policy set aside most immigrant visas for the highly skilled or educated, a category of people needed by the United States. After 1965, when family reunification finally replaced national origins as the basis for policy, most immigrant visas went to the family members of U.S. residents. Reunification of families and needed skills continue to guide allocation of visas today.

17. The number of nonimmigrant visas issued to tourists, students, and others who temporarily enter the United States grew steadily over the years. Especially after World War II, tourism became a larger American industry. There were more nonimmigrant classes after 1952. Soon so many people wished to visit the United States that nonimmigrant visa applications overwhelmed consular staff abroad. Various measures in the 1970's and after did little to smooth the process until 1986. Beginning that year a trial Visa Waiver Program allowed travelers from some countries to enter the United States without a visa.

18. Executive Order No. 6166 of June 10, 1933.

IV. IMMIGRATION AND NATIONAL SECURITY

America's involvement in World War II heightened national security concerns in all branches of government. The INS detained and *interned* enemy aliens throughout the war, and efforts to identify and monitor the United States' alien population began in these years. Following war's end, cold war concerns influenced the admission of *refugees*, as well as revision of the law into the Immigration and Nationality Act of 1952.

WORLD WAR II AND ALIEN REGISTRATION

War-related legislation increased the INS workload by requiring more thorough inspections, investigations, and travel control. In 1940 President Franklin D. Roosevelt's Reorganization Plan Number V transferred the INS from the Department of Labor to the Department of Justice. Transfer to an enforcement agency was a logical step. Before and during the war the INS cooperated with other agencies, such as the Federal Bureau of Investigation, when dealing with alien enemies or subversives. Once at war, Congress passed a series of acts intended to provide more control of aliens in the United States.

The Alien Registration Act of 1940 made members of certain criminal and subversive groups subject to deportation, and required registration and fingerprinting of aliens entering the United States as immigrants. Since 1845 there had been attempts in the United States to create or require a record of aliens within the country. A 1906 law even mandated beginning such a registry. But not until the Alien Registration Act of 1940, passed as a war measure, did a registry come into existence. The new law caused incoming immigrants and all aliens in the United States to be fingerprinted and to register annually with the INS.[19]

The Alien Registration Act of 1940 worked to deport more subversives, and made failure to register under the act a new ground for deportation. This law codified *voluntary departure*, a practice that would come into greater use in the 1960's and after when the number of illegal entries began to grow. By the late 1960's deportation procedures became more costly and time consuming. Under voluntary departure aliens agreed to return to their home countries at their own expense, thus avoiding a record of deportation. Many chose this option because deportation would exclude them from future legal admission to the United States for 5 years, while voluntary departure had no such ban.

Aliens who do not admit being excludable, and therefore deportable, may appeal an exclusion or deportation order. Only after a fair hearing before a special inquiry officer, now called Immigration Judge, can an alien be deported. At deportation hearings aliens are entitled to several things; notification of charges against them, legal representation, a chance to confront evidence against them, and the opportunity to present witnesses or evidence on their behalf.

If, after the hearing, the order of deportation remains, the alien may appeal the decision to what is now known as the Board of Immigration Appeals. Earlier in the century, in the 1920's, there were so many

Under the Alien Registration Act of 1940, resident aliens registered at their local Post Office.

appeals to the Secretary of Labor that he established a Board of Review to help him decide all the cases. When the Service transferred to the Department of Justice in 1940 the Board of Review became the Board of Immigration Appeals, now separate from the INS within the Justice Department.[20]

The INS operated several detention centers and internment camps for enemy aliens throughout the war as part of its duty to monitor aliens resident in the United States. The Service deported some enemy aliens, *paroled* some, and detained or interned others for the duration of the war. The INS detained Germans and Italians at the camps, but the overwhelming majority of internees were Japanese, or of Japanese descent. When internment camps opened during World War II Americans feared a West Coast invasion by Japan. It was not until 40 years later that the nation investigated whether internment had been justified.[21]

The INS undertook other war-related activities dealing with labor issues and naturalization. A civilian manpower shortage began to be recognized in the United States when the country mobilized for World War II. To reduce the shortage, the INS took part in administering a 1942 program to import *temporary workers* from neighboring countries.

The bulk of these workers came from Mexico and migrated to the United States each year to work in seasonal agricultural jobs. Congress extended the wartime law that permitted importing needed foreign workers until 1950, when President Harry Truman named a commission to study migratory labor. The commission's report led, in 1951, to the Migrant Labor Agreement between

Sharp's Park, California, enemy alien temporary detention camp operated by the INS, 1942.

the United States and Mexico. This agreement began a migrant labor program run by both the INS and the Department of Labor. Known as the Bracero Program, it lasted until December 1964 (see p. 23).

A new Nationality Act of 1940 recodified most naturalization laws. Also, Congress passed laws reducing racial barriers to American immigration and naturalization. In 1943 Congress repealed the controversial Chinese Exclusion Acts, and made Chinese immigrants eligible for naturalization. Potential immigrants had to be eligible for United States citizenship to get visas, and in 1946 Congress extended eligibility for citizenship to natives of India and the Philippines. Before, only Filipinos who served in the United States military could gain citizenship. Naturalizations increased during the war, due in part to the number of aliens who earned citizenship by serving in the United States armed forces. New naturalized citizens came from Europe, Africa, the South Pacific, and elsewhere.[22]

REFUGEES IN THE POST-WAR ERA

World War II brought global population shifts and change to the United States and many other countries throughout the world. The United States Government grew in size during the war years, and the INS shared in that expansion. Not only were new units created within the Service but the number of employees more than doubled, jumping from about 4,000 to 8,500 in just 2 years.[23]

America discovered new obligations and problems as it emerged as a superpower. As the nation converted back to peacetime after World War II, many of the old immigration laws were clearly inadequate or obsolete. During 1946, admissions were higher than they had been in 16 years, and illegal entries were higher than ever before in history. The American public soon became concerned, even fearful, about the large number of refugees and displaced persons seeking to move from Europe to the United States.

There is a long tradition in America of welcoming people who flee or have fled persecution, war, or natural disaster. Through colonial times and most of the 19th century there were no restrictive immigration laws. Therefore there was no need for refugee policy or laws of asylum. By the 1940's, United States laws limiting immigration lacked a mechanism to deal with the numbers of refugees fleeing Europe.

President Harry Truman began to face the issue of European refugees in December of 1945. A Presidential Directive of December 22, 1945 then allowed the admission of 40,000 refugees outside the immigration laws. To provide further relief to emigres fleeing war-ravaged areas, Congress in 1948 passed the Displaced Persons Act.

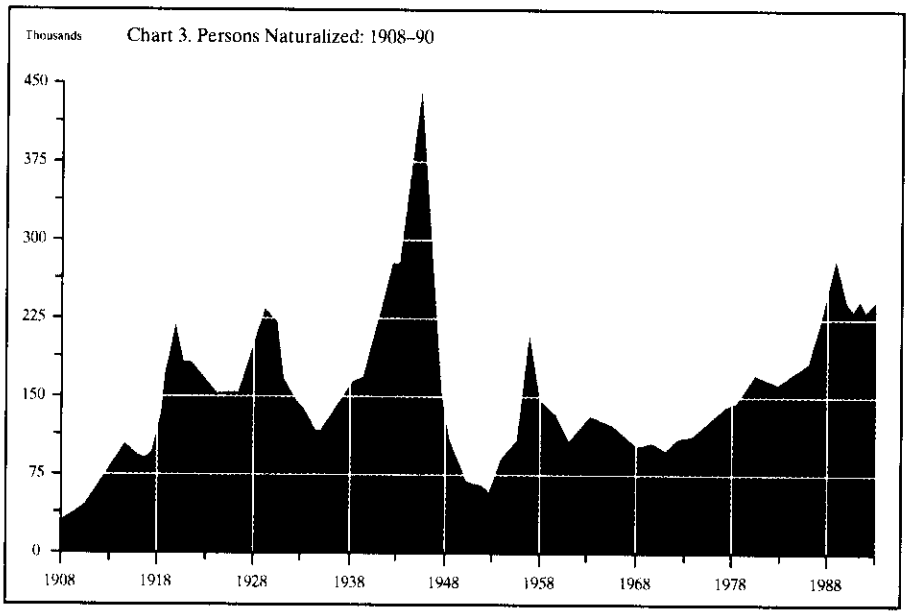
This law operated outside the immigration selection system of the Immigration and Nationality Act. Extended until 1952 and executed by the Displaced Persons Commission, the Displaced Persons Act ultimately allowed the admission of over 390,000 people to the United States. To protect the national origins system of United States' immigration policy, the Displaced Persons Act allowed these entries by mortgaging country quotas into the future.[24] Early in the Cold War, Congress passed the Refugee Relief Act of 1953, which began a new policy of admitting certain

A family of Hungarian Refugees (left) is processed by officials from the (l–r) Department of Labor, Immigration and Naturalization Service, and U.S. Army.

refugees outside the quota system. Refugee Relief Act visas went to European refugees and "escapees" from communist countries.[25]

In later years the United States responded to waves of refugees from various parts of the world much as they responded to European refugees following World War II. Congress implemented special programs for each group. An example were the 32,000 Hungarian Escapees temporarily paroled into the United States after 1956. Later, in 1958, Congress adjusted their status to *permanent residents*. Cuban refugees of the early 1960's are another example. After the overthrow of the Cuban government in late 1959, the number of refugees quickly rose. The President declared the United States would accept all those seeking refuge here, and, in the absence of any other mechanism, the Attorney General exercised his authority to parole Cuban aliens into the United States. Later, Congress passed a special law allowing Cuban refugees to adjust their status.[26]

The influx of refugees in the late 1940's, the onset of the Cold War, and the outbreak of the Korean War fed American fears to the point of a second "Red Scare." In 1950, Congress responded with the Internal Security Act of 1950. The new law allowed exclusion or deportation of anyone "connected with the worldwide communist movement" or guilty of other subversive or un-American activities. Because the new law increased the INS' investigations workload, the act also allowed for more personnel.[27]



THE 1952 ACT AND COLD WAR RESTRICTIONS

Between 1947 and 1950, the Senate Judiciary Committee investigated the immigration and naturalization system, policy, enforcement, and administration. The committee advised revising and rewriting existing laws regarding immigration. The result was the Immigration and Nationality Act, passed June 27, 1952, which codified many previous immigration and nationality laws. The new law revised the *preference* structure by creating separate categories for skilled workers and for relatives of citizens and resident aliens. It expanded security procedures and investigation of immigrants and aliens. It also removed all racial barriers to naturalization, and granted the same preference to husbands as it did to wives of citizens..[28]

Some 1952 changes regarding exclusion were American reactions to the Cold War. Hundreds of thousands of displaced persons and refugees had come to the United States after World War II from communist countries. This encouraged American fears of communism both abroad and at home. Despite new elements to immigration law, the 1952 act—like those of 1917 and 1924—retained restrictions based on national origin.

The alien registration system begun during World War II became permanent under the 1952 I&N Act. The new law called for registration upon obtaining an immigrant visa. Between 1952 and 1981, aliens present in the United States were also required to file annual address reports. .[29]

The 1952 act also provided a complete revision of the naturalization and nationality laws. While petitioners for naturalization still had to prove they could read, write, and speak the English language, there were exemptions for elderly people, long-time United States residents, or those with relevant disabilities. A declaration of intention was no longer required for naturalization, though lawfully admitted aliens could make a declaration if they wanted the record for another purpose.

Conditions for gaining and keeping United States citizenship by citizens' children born abroad also changed with the 1952 act. The law set new rules and criteria for United States nationals living abroad regarding *dual citizenship* and loss of citizenship. Finally, it revised the grounds for canceling citizenship, and added new grounds involving conduct of a subversive nature and adverse to the interests of the United States.

Many Americans opposed the 1952 act because it did not really change the restrictive policy. President Harry Truman vetoed the bill because it, like the old 1924 act, was based on national origins. After Congress overrode his veto December 24, 1952, President Truman named a special commission to study the weaknesses of the I&N law. The commission's 1953 report urged replacement of the national origins system, and suggested instead a system based on reunification of families or upon skills needed by the United States.[30]

References

19. Alien Registration Act of June 28, 1940, 54 Stat. 670.

20. Gordon and Mailman, Immigration Law and Procedure, vol. 1, chap. 2, "The Development of Immigration Laws," (New York: Matthew Bender, 1989).

In 1983, the Attorney General created the new Executive Office for Immigration Review to supervise the Board of Immigration Appeals and the immigration judges which were transferred from INS. Legislation of 1986 increased the Executive Office for Immigration Review's responsibilities in these areas, and recent Supreme Court decisions modified hearing procedures. The court has not modified Congress' right to deport excludable aliens. Immigration Reform and Control Act of Nov. 6, 1986, P.L. 99-603, 100 Stat. 3359.

21. Presidential Proclamation No. 2525 of December 7, 1941 (Control of Japanese Alien Enemies): Executive Order No. 9066 of February 19, 1942.

In 1980 Congress established the Commission on Wartime Relocation and Internment of Civilians. The commission's 1982 report, *Personal Justice Denied,* concluded that there had been no military necessity to remove, exclude, or detain resident Japanese aliens or Americans of Japanese descent. Six years later, in 1988, President Ronald Reagan signed a bill representing a formal apology from the American people to Japanese Americans for the war-time violation of their rights. The bill also created a trust fund from which every surviving internee would receive $20, 000 in reparations . Commission on Wartime Relocation and Internment of Civilians Act, P.L. 96-317, July 31, 1980; *Personal Justice Denied,* report of the Commission on Wartime Relocation and Internment of Civilians. Washington, DC: GPO, 1982; Act of August 10, 1988 (Reparations) HR 442, P.L. 100-383.

22. Nationality Act of Oct. 14, 1940, 54 Stat. 1137; Repeal of Chinese Exclusion Act, Dec. 17, 1943, 57 Stat. 600; Act of July 2, 1946, 60 Stat. 416.

23. "Administrative History of the Immigration and Naturalization Service during World War II," U.S. Immigration and Naturalization Service, August 1946.

24. Many of the oversubscribed, or mortgaged, quotas were later overlooked. Displaced Persons Act of June 25, 1948, 62 Stat. 1009 (amended with the Act of June 16, 1950, 64 Stat. 219).

25. Refugee Relief Act of Aug. 7, 1953, 67 Stat. 400; Congress also passed the War Brides Act of Dec. 28, 1945, 59 Stat. 659; and the Fiancees Act of June 29, 1946, 60 Stat. 339.

26. Hungarian Adjustment, Act of July 25, 1958, 72 Stat. 419; Cuban Adjustment, Act of November 2, 1966, P.L. 89-732, 80 Stat. 1161; Cuban/Haitian Adjustment, sec. 202 of the Immigration Reform and Control Act of 1986, P.L. 99-603, as amended by sec. 2(i) of the Immigration Technical Corrections Amendments of 1988, P.L. 100-525; Refugee Act of March 17, 1980, P.L. 96-212, 94 Stat. 107.

27. Internal Security Act of Sept. 23, 1950, 64 Stat. 987.

28. Immigration and Nationality Act of June 27, 1952, P.L. 82-414, 66 Stat. 163. By abolishing racial bars to naturalization, the law also ended racial barriers to immigration. The new law provided an annual quota of 100 for previously excluded Asians from the Asian Pacific Triangle (Asian Pacific Barred Zone).

29. When properly registered every resident received a registration card showing their lawful status. Officially known as Form I-551, it is popularly known as a "green card" though the cards were not green. Immigration and Nationality Act of 1952, 66 Stat. 163; Sec. 11, Act of December 29, 1981, 95 Stat. 1617.

30. U.S. President's Commission on Immigration and Naturalization. Whom Shall We Welcome; report. Washington DC: GPO [1953].