

CHAPTER 7

Whom to Exclude, Whom to Prefer: IRCA and the 1990 Reforms

In 1965, American legislators weighed alternatives according to how they would play in the eyes of NATO allies, Eastern European citizens, and the uncommitted leaders of newly independent countries, as well as American citizens engaged in supporting the civil rights movement. The dominant reason for fashioning those reforms was concern about the lack of fit between the country's claim to moral authority in the fight against communism and its practice of racist exclusion mechanisms. Two decades later—paradoxically when the American administration was reviving cold war competition—what concerned representatives most about potential American citizens was not whether they were ideological exemplars but whether they could compete economically with the Germans and Japanese at an intensity sufficient to salvage American power and authority. As with the 1965 act, change in the country's main international threat, rather than a profound or dramatic event such as a world war, prompted the reforms.

This is particularly noteworthy since it is not as if the period from 1965 to 1990 was uneventful, in the American economy, in American domestic politics, or in the country's relation to the rest of the world. During this period the war in Vietnam intensified and ended, as did public activism about the war; President Nixon removed the dollar from its role as linchpin of the international monetary system, normalized relations with China, negotiated *détente* with the Soviet Union, and resigned from office; the oil crisis destabilized Western economies and brought about a massive redistribution of wealth from the poorest and richest countries to the oil exporters; the Soviets asserted control in Poland and Afghanistan; and Iranian revolutionaries took Americans hostage in Tehran. During the 1980s, ongoing wars in Central America brought thousands of refugees to the country's southern border and led to an ecumenical movement for sanctuary whose activities purposely transgressed American law. As Congress was finalizing the 1990 act, the single most important circumstance controlling ideas about sovereignty and postwar immigration

policy, the cold war, silently ended. It is certainly plausible that any of these events, let alone landing men on the moon, could change the way the country thought of itself in relation to its environment. Yet it was something much more diffuse, fear of hegemonic decline and loss of global competitiveness, that dominated the arguments that legislators made regarding immigration policy.

What changed was what the legislators believed external events signified, why they were important. During the late 1960s, legislators and the public drew lessons about the country's position as global leader in the fight against communism. Cuban refugees, for example, provided the United States with ammunition in the cold war against the Soviets. By the late 1980s, in contrast, Congress drew lessons about America's ability to dominate European and Japanese markets. Congress's interpretation of Central American refugees' significance is one indicator of its changing standards for judging immigrants. Nicaraguan refugees—from a war that the executive branch interpreted as it had interpreted that in Cuba two decades earlier, as a proxy war—were not seen to raise the American score in the country's ongoing struggle with the Soviets. Rather, these maybe-cold war refugees were seen as important primarily for economic reasons, because they brought in capital and skills, or because they absorbed funds that could have gone to citizens dislocated by American economic upheavals. Although in 1979 and 1980 American politicians largely saw the Central American wars as ideologically significant to the U.S.-Soviet rivalry, by the mid-1980s they interpreted their consequences for the United States almost solely in economic terms.

This shift in standpoint affected some immigrant groups more than others. Soviet Jews, for example, were welcome when they were not allowed to leave the Soviet Union, but not welcomed when they were granted permission to exit. Koreans, in contrast, were welcomed first because of their loyalties in the cold war and later because of their beneficial effect in marginal economic areas. The "why" changed more than the "who," although the "why" changed gradually, as the currency in which costs and benefits were calculated changed from that of ideological struggle to that of economic survival. Regardless of the facts concerning America's ability to out-compete its main economic rivals, or any semiobjective assessment of economic risks versus military, cultural, or health risks to the country, over two decades legislators rebuilt the framework within which they judged threats and gauged the country's response. How they changed immigration policy and why reveals how their perception of the most important difference between Americans and all others was transformed.

Wars' results and the spin that diplomats could place on them mat-

tered, still, because of their consequences for American reputation. That reputation, in turn, determined the country's ability to lead the West and to win the cold war. Ed Koch of New York insisted that immigration policy continue to assist the country's effort in the cold war: "Soviet leaders, and the Jews behind their guarded borders, must be told that Americans of all faiths, acting through their elected Congress, deplore Soviet treatment of a proud minority and will make them welcome here."¹ Democrat John Rarick argued that "History records that every country that the free world has abandoned has, upon being taken over by the Communists, suffered a blood-bath of its anti-communist and non-conforming citizen; witness Red China and Cuba . . . the militant collectivist state[s]."²

In 1973, immigration questions became linked to trade when the Jackson-Vanik amendment to the Trade Reform Act denied most-favored-nation status to any country that did not allow emigration. Henry Kissinger, reported Senator Jesse Helms, explained that "the total thrust of these negotiations between American and Soviet officials has been directed toward the problem of Jewish emigration from the Soviet Union, and not toward the emigration of all citizens from all Communist countries."³ John Brademas echoed this when he said that "The refugee issue is but another challenge to the efforts of the United States to provide leadership for the free world."⁴ But as the debate shifted to a broad concern with American borders, the cold war disappeared as the central principle defining arguments over immigration policy. The last time any legislator linked it to a central immigration issue was when Paul Simon in 1985—in the middle of the 1980s defense buildup—argued that proposals to deport illegal immigrants mimicked Soviet policy.⁵

American leadership in the Third World, another cold war issue, continued to arise in the context of the immigration debate. Edward Kennedy and others argued that immigration from underdeveloped areas was bad not because of its effects on the United States but because it harmed those areas. "The issue here is especially complicated and fluid—involving our own national belief in the freedom of movement, and the collective responsibility of the advanced nations to assist the progress of the underdeveloped areas."⁶ This also operated as a political safety valve, retarding political progress abroad. "By acting as a safety valve for the underdeveloped countries and by accepting their excess population," argued B. F. Sisk, "we enable them to delay taking action on their own to deal with economic and population problems."⁷ American leadership demanded a prudent application of liberal principles.

In 1976, Leonard Chapman, the Commissioner of the Immigration and Naturalization Service, justified restriction using military imagery:

In this hostile world we must be vigilant and ever alert if we are to preserve the freedoms, and the way of life which so many of our veterans have fought to ensure, and for which many have laid down their lives. . . . I am concerned about another type of invasion of our country. It is ongoing now, and has been for several years—although it has gone largely unnoticed. For the perpetrators are not wearing uniforms, and are not carrying weapons. They are not storming our beaches under the cover of artillery. Rather their invasion is a silent one, occurring mainly at night across our unprotected borders.⁸

When the cold war did actually end, legislators saw it as having little significance for immigration policy.

One, William Lipinski, argued that the United States should accept immigrants to assure its continued credibility. “Why did we do the Berlin airlift—or go to war in Korea? The list goes on. Did we do all this just so we could tell the people we were fighting to protect and liberate? Well, we are glad you’re free—just don’t think about moving into my neighborhood.”⁹ The cold war vanished from the immigration debate at least six years before it ceased to dominate discussion of defense policy.

If all possible causes had generated discussion, this chapter would be divided into at least eleven sections: the Vietnam War, détente, disengagement of the dollar, normalization with China, the oil crisis, Watergate, martial law in Poland, the Soviet invasion of Afghanistan, the Iranian hostage crisis, Central American wars, and finally the cold war. Since many of these were met with ringing silence, what follows is a review of the events that legislators did raise as evidence in debate—Vietnam, Iran, El Salvador/Nicaragua—followed by a review of those that they did not. Cold war reasons gave way to economic reasons in spite of objective similarities among circumstances the legislators discussed and in spite of the cold war’s intensification during this period.

Reason: Politics of Labeling Allies and Enemies— Vietnam, Iran, Central America

War in Vietnam, like the world wars, the Korean War and the cold war, highlighted the divergence between the principles for which America was willing to fight and the principles by which it chose its citizens. After World War I, legislators argued that allies and enemies should be recognized as such in immigration policy; during World War II, Congress rescinded Chinese exclusion because of the Chinese effort against the Japanese; and in the late 1940s, a frustrated Truman found himself trying

to establish an alliance against the Soviet Union with people whom the Quota Acts banned. He, like presidents before him, argued strenuously that immigration and foreign policies had to be mutually reinforcing. The pattern continued during and after the Vietnam War.

Alien soldiers fought, as did citizen troops, for the United States. Convinced that aliens could provide no higher proof of commitment, legislators argued that aliens serving in Vietnam should be allowed to naturalize, regardless of whether they had completed their residency and other requirements. "It should be axiomatic," declared Edna Kelly, "that those who risk their lives in the defense of freedom are entitled to all of the benefits and privileges which we can bestow upon them."¹⁰ Representatives especially welcomed such loyalty from aliens at a time when many citizens refused military service. In 1968 Bob Wilson observed that "amidst domestic turmoil, caused by a vocal minority of antiwar protesters who feel no necessity to serve the United States, it is most heartening to find those of other countries who value what we stand for enough to be willing to risk their own lives."¹¹ A bill to waive administrative requirements for soldiers who wanted to naturalize passed the House with no opposition.

Both supporters and opponents of aid to Vietnamese refugees argued for their positions by invoking the necessity for consistency. Americans could not treat allies from one war in one way and treat those from another war differently. Americans went into Vietnam in support of the noncommunist southern Vietnamese, establishing a *de facto* alliance with the south. Allies in every earlier war had been acknowledged as eligible for citizenship; allies in Vietnam ought also to be accepted. No one had raised the issue until the early 1970s, by which time the prospect that the allies would be abandoned seemed real. Many worried about the responsibility that they had incurred to the Vietnamese.

In case of defeat or overthrow, it must be obvious to all Americans that millions of South Vietnamese will be liquidated in the name of peace by the Communist conquerors.

The American people as well as our leaders owe a responsibility to the people of South Vietnam. It was the Americans who made the assurances that we would make South Vietnam safe from Communist aggression and control.¹²

Republican Millicent Fenwick framed America's obligation as one of justice. "It seems patently unfair," she said, "that the same individuals who diligently served us in Vietnam should now receive less than sympathetic understanding from us here."¹³ Times were hard economically. Both conservative and liberal Democrats argued along the same lines. George Hud-

dleston contended that “it is up to our Nation, which bears a responsibility for the conditions which led the migrants here, to see that the assimilation is as easy as possible”;¹⁴ Edward Kennedy, who led the immigration debate in the Senate for most of this period, argued that “we have a special responsibility to help restore their lives, in part because we participated in a long war that helped to destroy the life they knew—and because our planes and ships helped many to reach our shores.”¹⁵ American policy had created the Vietnamese refugees; therefore, the country had an obligation to accept those that fled after Saigon fell.

Others argued that immigration policy had to be consistent with the country’s historical traditions. The United States owed itself a policy of integrity, a policy in concert with American traditions. Peter Rodino, for example, argued that the refugees would provide many tangible advantages to the United States, but “ultimately, however, we must do this because it is the only right thing to do. We are a nation of immigrants, and when we reject our humble foreign origins, we will have ended our reason for being as a nation.”¹⁶ In fact, some argued, moral consistency overrode material interests. In 1975, unemployment was up to 8.9 percent. “However,” said Joshua Eilberg, “this does not change the fact that we have an obligation to welcome the refugees of the war in the best American tradition, as we welcomed the Hungarians and the Cubans before them.”¹⁷ America’s future policies were to be consistent with those of the present and those of the past.

To share such a view was not necessarily to reach the same conclusions. Democrat James Abourezk decried what he saw as rank hypocrisy in the way the country had decided which groups would be accorded refugee status. Those fleeing “fascism and barbarism in Chile” and those tortured “by several of our so-called allies” were ignored; meanwhile, Congress prepared to provide asylum for the Vietnamese, for “thousands of trained political assassins who operated the Phoenix program [reputed to be a CIA-sponsored program to train Vietnamese assassins], for Vietnamese who corrupted their own society using American money, food, and equipment; for prostitutes, bar girls, pimps and other undesirables.”¹⁸ In his view, Congress should grant refugee status regardless of ideology.

Those opposed to allowing Vietnamese entry, however, typically framed their arguments in terms of the government’s primary obligation to American citizens. Race loomed obviously in the debate only once. The Senate flatly rejected (6 to 74) Jesse Helms’s contention that aid to Vietnamese should be restricted to private charity because of “a growing belief that this Nation has experienced more and more social problems as a result of this melting-pot theory.”¹⁹ The House gave somewhat more sup-

port to Democrat Donald Riegle's proposal to provide to American citizens the same benefits given to Vietnamese refugees (71 to 346).²⁰ Most, though, shared Republican Jack Kemp's contention that "if we do shut our doors to these individuals—for they are all individuals—we will have taken that first step into a dark chapter of selfishness and isolation."²¹ In a debate that echoed those of earlier times, Congress voted to accept immigrants because they were allies, and because not to do so would be to diminish American moral credibility in the eyes of both American citizens and the outside world.

Both sides argued not primarily against their congressional opponents but against American public opinion. Legislators were alarmed by polls taken following the fall of Saigon that showed 57 percent of Americans opposed to receiving those fleeing, with only 32 percent in favor.²² "I was frankly ashamed," admitted one, "of the antirefugee sentiment which surfaced just after the evacuation of Saigon."²³

Iranian students' reaction to the hostage crisis of 1979 prompted congressional debate framed in term of "national security" versus "civil rights." One measure of America's integration with the rest of the world was the number of nonimmigrant visitors it received annually. Students, like tourists and business travelers, were not numerically restricted; many in fact had been recruited. Congress allowed the market to determine the number of nonimmigrant travelers because of its conviction that such visitors had only economic weight. They came, they spent or invested money, and they left. Those expected to make a political claim had to route themselves through the sluices providing entry to the American citizen population. The difference between immigrants and nonimmigrants was clear. Or it was clear until Iranian students in the United States demonstrated in favor of the Iranian takeover of the American embassy in Tehran.

When Iranian students chained themselves to the Statue of Liberty alongside an anti-Shah banner, legislators demanded that they be expelled. They had, after all, violated the terms of their visas. "How can we command any respect in the world, or even of ourselves, if we do not begin again to act like the powerful and morally strong Nation we once were, and should be?" asked William Dickinson.²⁴ Others sought solace in political fundamentalism. Larry MacDonald asserted that the incident challenged American sovereignty: "When a country ceases to defend its territory and the lives of its citizens without equivocation, it has ceased to exist as a sovereign power without identity or substance."²⁵ S. I. Hayakawa titled his bill, to consider all American embassies overseas U.S. territory, the "American Sovereignty Protection Act."²⁶ It would expand the definition of war to include terrorism, thus allowing the United States to

classify nationals of countries linked to terrorism as enemy aliens, subject to deportation.²⁷ Outraged that the Immigration and Naturalization Service could not readily supply details about the number or location of Iranian students in the United States, legislators insisted that it reform its record keeping. It did not, however, pass or even propose legislation to alter the Immigration and Nationality Act.

Wars in Central America also produced claimants for asylum, bringing immigration policy again to congressional attention. Congress was split on whether the refugees were fleeing, or were themselves, allies or enemies. To call a person a refugee was to acknowledge that he or she had a well-founded fear of persecution, so to call someone fleeing an ally a refugee was to admit that one's ally was probably persecuting its citizens.²⁸ Although in Central America the U.S. government trained and helped to supply troops engaged in a civil war against communists, as it did in Vietnam, this did not provide reason to accept refugees from the war—though it did in the case of Vietnam; although the government interpreted the war as a proxy war, as it did that in Cuba, this too did not provide a reason to accept refugees—though it did in the case of Cuba. Refugees from Vietnam in the 1970s fled an American enemy. Refugees from Central America in the 1980s largely fled an American ally. Unlike the debate about Vietnamese refugees, at stake in the debate over granting refugee status to Central Americans was the rightness of American policy.

Those opposed to American support for the Nicaraguan Contras thus labeled the “feet people” refugees. “I believe,” said David Durenberger, “that the United States bears a certain responsibility for the non-combatant deaths because of our support for the Salvadoran government and the military.”²⁹ Dennis DeConcini alleged that the State Department resisted accepting the refugees, since it “knew” that to do so “would reflect adversely on our Nation’s policy of assisting the government in El Salvador.” Instead, he said, it demonstrated the State Department’s “guilty conscience.”³⁰ Those in support of American policy declared that the migrants were fleeing the communists, not American allies, or insisted that they were only economic refugees. Steven Symms cautioned that “if we ignore the implications of the extension of the evil empire of the Soviet Union into the Western Hemisphere, no piece of paper, no law is going to stem the tide of people voting with their feet, seeking freedom in the United States.”³¹ On the other hand, those escaping from the Contras were economic refugees with no real moral claim to asylum.³²

Other events during the period from the mid-1960s to the mid-1980s were largely ignored in legislative debates on immigration policy. Détente with the Soviet Union, opening of relations with China, the Bretton Woods

crisis, the oil crisis, Watergate, martial law in Poland, and the Soviet invasion of Afghanistan all went unremarked in the world of immigration politics. The geostrategic events of this period, all cold war–related, provided reasons to preserve, rather than to corrode, prevailing immigration restrictions, which had after all been designed to handle just such crises that a cold war leader could expect to face. To administration eyes, the difference between Vietnam and Central America on the one hand, and the Soviet invasion of Afghanistan on the other, was simply that Americans fought Soviet proxies in the former, while Soviets fought American proxies in the latter. This difference meant that the United States incurred a straightforward obligation to help its Vietnamese, Nicaraguan, and Honduran allies but was less obligated to those it helped in Afghanistan. Immigration policy already screened out communists, welcomed anticommunist refugees, and articulated a liberal standard for citizenship appropriate for a country claiming authoritative leadership of the West.

None of these geostrategic events altered the nature of the world in which the United States existed, or the type of competition it faced, or the type of threat most dangerous to it. In fact, the big changes in the global distribution of power during this time, changes that the United States ignored when it reflected on immigration policy, were those that it had sought and engineered. More cold war–related events were not going to motivate change in a policy already geared to deal with the fallout of the cold war. All they could do was provide more reasons to hold on to current policy. What ultimately did have a profound though indirect effect were the economic changes associated with the death of the dollar standard and the oil price shocks on the early 1970s. At the time, legislators perceived neither of these as signaling a structural change either in the American economy or in the country's place in the international system. Immigrants were not discussed in 1971 because the dollar standard obviously had nothing to do with immigrants.

Rejecting the dollar standard and accepting oil price hikes did, though, affect inflation, the balance of manufacturing and service jobs, the U.S. balance of payments, and its fiscal balance. While during the 1930s, the United States and its competitors both suffered greatly, in the late 1970s and early 1980s, the United States suffered while some of its competitors did not. American scholars and policymakers turned their attention to Japan and Germany, said to be gaining in economic health and power as the United States sought a way to ease structural economic pains. The United States believed itself to be engaged in an ideological and military fight for which it was prepared. Immigration policy took care of that threat.

Reason: Economic Threat

It did not take care of the new economic threat. During the 1980s, two subjectively separate standards coexisted: the United States was primarily engaged in a struggle for military dominance with the Soviet Union; the United States was primarily engaged in a struggle for economic dominance with Japan, Germany, and others. The two standards conflicted only in the area in which there was overlap, the topics of military spending and export controls of strategic products. In the 1980s, legislators devoted their efforts to reforms benefiting the United States in both its competitions. In 1990, after the collapse of the Berlin Wall, Congress comprehensively revised immigration policy to tailor it to a world whose threat to the United States was economic rather than military or ideological. The story of the 1960s and 1970s is one of continuing attention to alliance rivalries. The story of the 1980s is one of transition to a world in which economic competition mattered as much as did military hostility.

Legislators and the public twice changed the standards by which they judged immigrants. Their starting point was ideological and military hegemony: the immigration that concerned the government had geopolitical causes and geopolitical consequences. The first shift was in the standards used to judge consequences. Causes remained the same—people whom Congress had seen as cold war refugees in 1965 they still viewed as such in 1975—but they judged the consequences of this immigration not in terms of the cold war but in economic terms. By the mid-1980s, there was another shift. Consensus was that the causes of immigrants' desire to leave their homelands were a mixture of humanitarian, ideological, and economic problems, with the great majority of them economic. From political cause and political consequence, perception changed to political cause and economic consequence, and finally to economic cause and economic consequence.

These stages are most clearly visible examining changing American arguments about and policy toward specific groups. In the 1960s, refugees from Cuba, for example, fled communism. Legislators measured their consequence for the United States in the propaganda and intelligence advantage that their flight gave the United States. A decade later, those who fled willingly or unwillingly left a communist enemy, but no longer carried much propaganda value with them. They did carry economic demands troubling to their new homeland. By the mid-1980s, Cuban refugees were seen primarily to flee economic distress in Cuba and to cause it in the United States.

Economic considerations had always played some role, as had humanitarian and ideological considerations. What changed was the bal-

ance among them and their political importance. *Economic* signified frivolous, unserious grounds for admission and was a label applied to groups that administrations did not want to accept. Good economic immigrants were necessary for the country to survive and indeed to dominate; bad economic immigrants would devastate the country's chances to exceed Japan and Germany. By the 1980s, economic criteria came to be seen as necessary to assure American competitiveness.

Good economic immigrants were "professionals" or "investors," while bad economic immigrants were simply "economic." This division did not pass unnoticed. The largely Democratic congressional Black Caucus, said Shirley Chisholm, "believes that the term 'economic refugee' was coined by the previous [Carter] administration to avoid this country's obligations as a country of first asylum and because of racist presumptions about Haitians."³³ Similarly, Pennsylvania Republican Arlen Specter requested a report from the General Accounting Office on discriminatory application of asylum provisions. He, like the Black Caucus, was concerned that refugees were labeled bad/economic because they fled non-European regions. The GAO reported to him that "those who described torture to support their asylum request had an approval rate of 4 percent in El Salvador cases, 15 percent in Nicaragua, 80 percent in Poland, and 64 percent in Iran."³⁴ In spite of such anger, policy began to adjust to the perception that the leadership other countries threatened most was not ideological or military, but economic.

The adjustment began with new criteria to use in evaluating immigrants' value. The cold war had provided a way to decide both legitimate reasons to immigrate and appropriate ways to understand immigrants' value. This framework began to change with an awareness of immigrants' economic costs. Conservative Jesse Helms argued that "Soviet expansion in Central America is causing havoc in Guatemala, Honduras, El Salvador and Costa Rica. Nicaragua is a Soviet base." Although he sympathized with those fleeing, he argued that refusing them entry would force their home governments to take care of them. To accept them as refugees was to bail out the communist governments.³⁵ Democrat Les Aspin agreed, observing that "for many decades it has been the policy of dictatorial regimes to hem in their people and prevent anyone from getting out. . . . But now there is a shift away from the Soviet approach. Cuba and Vietnam exemplify the growing attitude that it is easier to rule if you simply let those elements that might coalesce as an opposition leave the country." He commented that an open-door policy had been "acceptable to almost all Americans because, quite frankly, few people had the chance to get near the open door."³⁶

Immigrants' costs had long been raised as good reason to be sparing

about admissions. From the nineteenth century immigrants had been charged with burdening the country racially, morally, and economically. They were educationally or genetically unfit for democratic institutions and through some trick (that Americans never seemed to master) managed both to take jobs from Americans and to go on welfare. Some of these costs, to some degree and with some classes of immigrants, were likely correct. Determining which costs and how likely became the subject of government-sponsored, foundation-sponsored, and academic research. What was unique about this new cost-consciousness was that the arguments represented costs not as a forgone opportunity to aid citizens, but as an investment not made and workers not retrained, which were necessary to remain competitive with industrial economies overseas. What mattered was not immigrants' domestic effects but their international effects. And the international effects that mattered were economic.

In fact, the movement to excise the cold war from American immigration policy began much earlier than the cold war ended. Ironically, it was fading from importance as a determinant of immigrant characteristics as it was reaching its final crescendo under the Reagan administration. Early opponents of using ideology to exclude immigrants had framed their arguments in terms of ideology as a basis for American hegemony. A world leader should not be afraid to confront enemy ideas. In 1987, Daniel Moynihan contended that "by excluding aliens on ideological grounds, we behave as if we were afraid of their ideas, lending those ideas a credence that might evaporate under proper scrutiny."³⁷ As early as 1967, Edward Kennedy argued that "our definition of refugees, still guided largely by a cold war framework, needs revision and reforms."³⁸ Barney Frank similarly connected American principles and international reputation: "It is truly inconsistent for this country to advocate the freedom of travel and the free flow of information and ideas, and at the same time to keep out individuals based on the content of speeches they intend to give in this country."³⁹ Other opponents argued that such restrictions harmed Americans' and others' enjoyment of their legal rights.

Using these reasons to reverse the ban on ideological restrictions made it easier to argue that homosexuality as well should be removed from the list of exclusions. Although ideology was adopted and homosexuality was, arguably, not, opponents of using it as a basis for exclusion based their opposition on the same principles. In 1973, the American Psychiatric Association deleted homosexuality from its inventory of disorders; the American Surgeon General agreed in 1979. In its 1980 *Annual Report*, even the Immigration and Naturalization Service reported that "the Justice Department supports pending legislation that would remove homo-

sexuality as a ground for excludability.”⁴⁰ Alan Cranston, introducing a bill for repeal in 1985, noted, “Adoption of this legislation will end a form of discrimination which has no valid scientific or medical basis and which violates traditional American respect for the privacy and dignity of an individual.”⁴¹ Categorical bans of all types, including ideological ones, violated individual rights; therefore, the argument went, they were suspect.

Cultural and scholarly groups, frustrated in their efforts to get eminent writers to conferences in the United States, periodically complained that both visitors and immigrants could be excluded for activities that were not only perfectly legal for American citizens, but were specifically protected by the Constitution or by international agreements. Advocating nationalization of the banking industry or acknowledging homosexuality would guarantee refusal of entry. The standard response that foreigners were, by definition, not protected by the Constitution was unsatisfactory to those who believed that the Bill of Rights articulated protections that ought to apply to all. George McGovern in 1977 similarly used the Helsinki Final Act as a basis for arguing that immigrants not be excluded on ideological grounds. “If the United States is to remain an effective spokesman for the principle of ‘freer movement and contacts’ among nations and individuals, we must demonstrate to the world our own commitment to these ideals.”⁴² As an experiment, in 1987—after a 70 percent increase in the defense budget over seven years—ideology was removed from the list of exclusion criteria.⁴³ It then became law as part of a State Department authorization bill.

The international causes that propelled immigrants began also to be seen in economic terms. While some examined the economic effect of cold war immigrants, others questioned whether the immigrants in fact fled cold war conflicts. Cubans for example, had, to William Clay’s mind, forsaken their claim to refugee status if they had hesitated to leave, deciding to do so only after a decade following the revolution.

The real refugees of Cuba left in the early 1960s when they had to flee for sanctuary. They were the ones who opposed Castro politically and who faced oppression and mistreatment at the hands of the Castro regime. What we have now in our Cuban refugee policy is a direct subsidizing of the welfare program of an alien nation.⁴⁴

Similarly, though with less support from his peers, George Huddleston argued that Vietnamese were no different from Haitian refugees, having left their home country primarily to seek economic opportunity.⁴⁵

Giving economic aid to a country instead of refugee status to its citi-

zens made sense if the underlying cause of their escape was economic. This strategy was proposed more often as the 1980s wore on. Early assertions that “we must therefore help to increase economic opportunities in other countries in order to reduce their out-migration”⁴⁶ and observations such as “it costs far more to resettle a refugee in the United States or Europe than to give him hope in his own country”⁴⁷ highlighted immigration policy’s economic inefficiency. No longer tied directly to nationalist-communist revolution, “the real problems,” said Ted Weiss, “are the factors which push refugees out of their own countries. Those problems are primarily explosive population increases in the Third World and the corresponding inability of Third World countries to provide adequate jobs for the millions of unemployed and underemployed who are already straining their economies.”⁴⁸ Much of the fight involved framing the issue.

Aid to Mexico and plans for the North American Free Trade Agreement had one origin in concerns about immigration’s effect on American competitiveness. Edward Kennedy, for example, cautioned that “to deal effectively with this problem we are going to have to do what some of my other colleagues have stated, and that is to make Mexico the promised land so that people will want to go to Mexico, or stay in Mexico, because they realize there is real hope and opportunity, and that will be true in other problems of the flows of migration.”⁴⁹ William Richardson, leader of the Hispanic Caucus, contended that the country should establish “first, a free trade and coproduction zone along the United States–Mexican border; second, a United States–Mexican bilateral commission; third, a joint United States–Mexican development bank; and fourth, a multilateral commission on immigration.”⁵⁰ Economic concerns overwhelmed marginal humanitarian considerations. “I feel very sorry for the many people in other parts of the world, especially Central America and Mexico,” declared James Traficant. “But I think America must help them to fish so they can feed themselves.”⁵¹

Opponents of this viewpoint took issue not with the underlying economic framework but with particular claims about the mechanism connecting foreign economic aid and emigration. Alan Simpson, cosponsor of reform legislation throughout the 1980s, argued that “if you increase the development assistance to Third World countries, you will find this phenomenon: That kind of activity will often increase emigration from that country. In other words, as they increase their productivity, their workability, their ability to earn—these same people who put together enough and then leave the country. They earn money sufficient to leave that country, whereas the poor person will stay there. He cannot move, he does not have any resources whatsoever.”⁵²

Reason: Sovereignty and Hegemony

Sovereignty, undiscussed for decades, once again became the locus of public concern. When Americans had considered their greatest threat ideological, their concerns had centered on the consequences that discriminatory immigration policies could have on American reputation and hence leadership. The country perceived itself to have, in effect, two borders. One described the limits of the world it aimed to protect, separating communist countries from those identified with the West. The other separated the United States proper from its allies, which together provided a protective belt. Sovereignty was not a central issue because the boundary separating the United States from its main threat was not the U.S. border but that between East and West.

Bloc cohesion, rather than sovereignty narrowly defined, had been the policy goal. American immigration policy throughout this period reflected this, taking both the fact of allies and the fact of U.S. dominance within the alliance into account. The United States constructed a two-tier system in which immigration, more carefully controlled than before, could reinforce its ability to meet this threat. Intra-alliance immigration fostered Western cohesion and assured that the United States would be considered a credible liberal authority, just as migration within an empire had been encouraged by mercantilist governments. Interalliance immigration, that is, encouraging refugees and defectors from the East, demonstrated that the United States was, as it claimed, preferable to the Soviet Union. Sovereignty returned as a central concern when the Western alliance no longer protected the country from its most serious threat, economic competition from within the Western alliance.

Soon after Congress began to judge immigrants' benefits and costs in economic terms, it began explicitly to discuss threats in economic terms as well. If what was most important about immigrants was their economic impact, it made more sense to screen immigrants using economic standards than to use ideological standards to admit them but economic standards to gauge their effect. During the 1980s, two related ideas gained ground. One held that ideological exclusion criteria were bad: immoral, inefficient, and counterproductive. Another maintained that economic standards were good, far more important in measuring threat than was ideological pedigree. Both convictions developed in two stages. Up to 1989, people who argued for attention to international economic competition generally advocated adding economic considerations to the old policy. After 1989, they argued for replacing the old policy with one geared toward a world in which economic fights were central. These three convic-

tions—that ideological exclusions were misplaced, economic exclusions were wrongly ignored, and sovereignty was therefore being placed in jeopardy—came to undergird an increasingly popular alternative policy.

Sovereignty resurfaced in the 1980s as a central concern partly because immigration policy had unintended consequences, but mainly because it was outmoded, its intended consequences irrelevant to the problems that the country faced. Edward Kennedy claimed that “there have been two unintended consequences of this [1965] revision: a few countries of the world have come to dominate the legal immigration system, and the level of immigration has risen dramatically. Neither result was intended, and both have occurred because of the emphasis on family connections.”⁵³ While many agreed with Kennedy, this was not their main reason for advocating reform. Hart-Celler did in the main operate as intended. The problem was that one of the best immigration policies for a hegemon in an ideological battle was one of the worst immigration policies for an overextended ex-hegemon in an economic battle.

Interest groups and legislators on both the left and the right during the 1980s turned their attention to discovering why the United States had ceased to be competitive economically. Although academics in various social sciences have examined this assertion on its merits as a description of observable structural change, few in Congress thought it necessary to assess whether this were true or to determine how to balance the ideological-military threat against the new economic threat in considering risk. Consensus on this new fact of life was in fact broad. Republicans and Democrats differed not in how they defined the threat but in terms of which (American) policy they blamed for it. Republicans tended to blame unions’ and government’s protection of labor for pricing American goods out of the market, while Democrats pointed to defense spending. (Academics sometimes pointed to America’s overextension and subsidy of others’ military, but this was not a politically acceptable argument for either party.) People might disagree about whether Americans were overpaid or foreign workers were underpaid, but they agreed on the proximate cause of relative decline: American goods were overpriced.

The belief took hold that immigration policy, as other policies, ought to be judged in terms of its effect on competitiveness. As Arlen Specter insisted, “the concern ought to be on productivity and competitiveness in the world market.”⁵⁴ Immigrants became primarily factors of production. They could be separated into three categories: those who increased the country’s labor supply, those who improved labor quality, and those who contributed to the country’s capital base. While all of these had some constituency in theory, public interest arguments could be made only for the last two. Even were unemployment low, a general argument about increas-

ing quantity could only be interpreted as a general argument in favor of reducing the level of wages across the board. Arguments about labor shortages had to target specific sectors, demonstrably connected to those of high unemployment, if they were to appeal to the general social good.

Two arguments involving the last two ways of thinking about immigrants' economic effect met these criteria. First, skilled workers able to design products that the unemployed could then manufacture would help Americans without lowering their average standard of living. As Stanley Lundine argued, "Specialized technical skills such as engineering will be essential to maintaining and increasing the competitiveness of American industries in such a rapidly changing marketplace. We are in a time of economic transition, and this [preference for skilled workers] provision can help us to provide the talent necessary to keep American industry in the ballgame."⁵⁵ Jesse Helms was typical of those who agreed: "How do we expect America to remain competitive if our companies, who often face labor shortages in this country, can't recruit the best talent and top notch researchers from abroad?"⁵⁶ Also attractive was that this strategy would increase the population of skilled workers immediately, avoiding messy public policies. The alternatives, involving worker retraining, improving public education, and restructuring the connection between the manufacturing and service sectors, were every legislator's nightmare.

Second, many could and did argue that investors who became U.S. citizens would greatly benefit the American economic position. Tourists spent billions, but the problem with tourism as a solution was that it was two-way. Although "millions of visitors arrive every year from all over the world, [supplying] one of our largest sources of foreign trade revenue,"⁵⁷ unfortunately "the U.S. runs a deficit on the tourism account of over \$2 billion annually."⁵⁸ Immigrants, unlike tourists, would spend money for a lifetime. John LaFalce of New York first suggested, in 1979, preferring "entrepreneurs."⁵⁹ Say, the argument went, that an investor of \$2 million could create ten jobs. Allowing him or her to acquire citizenship prevented repatriation of profits, and "this transfer of funds represents one more cash outflow affecting adversely our balance-of-payments position."⁶⁰ Kept in, the wages and profits would both multiply through the economy. Moreover, since immigrants have a double effect, simultaneously increasing the population at their destination and decreasing that at their origin, the relative advantage to the United States would be double its absolute advantage; this money and these jobs were not only acquired by the United States but also denied to the investors' homelands. Finally, an investor preference rewarded hard work. "Opening the gateway of opportunity to more of these deserving individuals," said Alfonse D'Amato, "could only enhance our productivity and vitality as a culture."⁶¹

The most potent opposition to this change of standards for judging desirability came from those who argued that economic standards themselves were an offensive way to gauge who ought to belong to the community. Central to the debate about illegal aliens was the conflict between thinking about illegal residents in utilitarian or absolutist terms, that is, in terms of their economic consequences or in terms of what they had earned morally and politically. Either they should be judged according to what they had done—entered illegally versus paid taxes and served the community—or according to what they could do—boost or drain the pool of jobs and social services. A similar conflict shot through the parallel debate about immigrants. Should economic immigrants be preferred? Or should the country privilege those, perhaps poor, who shared some set of communal norms?

Dale Bumpers, of Alabama, argued most passionately against economic preferences. “Nobody ought to be admitted into this country simply because he can produce \$250,000 [later \$2 million] . . . I do not think the United States ought to indicate by allowing this to stay on the books that we will sell the United States piece by piece to the wealthiest bidders, to those who may be seeking a safe haven in the United States.”⁶² If this were to happen, he charged, “the road to the United States today, if this bill becomes law, will be a toll road.”⁶³ Ben Nighthorse Campbell objected on similar grounds. “It remains inescapable that America would, for the first time in its history, be granting a statutory preference for citizenship based on wealth.”⁶⁴ In this view, economic consequences were irrelevant and objectionable as the basis for choosing citizens, not because such consequences were unimportant but because doing so threatened to undermine how Americans understood citizenship.

Forced to acknowledge these objections, those who advocated preferences for investors had to demonstrate how those preferences recognized individual achievement. It was not the consequences, they argued, that really mattered. Preferring the rich recognized industry and American value. Phil Gramm made the argument:

Let us say you have a father in Hong Kong who has two sons. His clever son he puts into business and the son who is not quite so clever he sends to graduate school and he gets a Ph.D. But Hong Kong’s lease is ending and the Communists are about to take over, so the two sons decide they want to come to America. The Senator from Arkansas [Bumpers] asks, well, the one who has the money, does he love freedom? He has this money but does he love freedom? He is not asking the guy who has the Ph.D., if he loves freedom.⁶⁵

Gramm's approach was both to frame economic preferences in terms of desert, not consequence, and to question the justification for all preferences.

Bumpers and those who agreed with him then framed their arguments in consequentialist terms. To rely on economic criteria for citizenship would be to accept market principles' triumph over communitarian principles. Sovereignty would be empty as everything was for sale in the global market. "We are already being bought up," he said. "Listen to this: the Japanese are financing 30 percent of our debt. There is over \$1.5 trillion of foreign investment now. Every Governor I know is spending half his time in Europe and Japan trying to get people to come here and build plants. British investment in this country has gone up 192 percent since 1980. We are being bought out lock, stock, and barrel."⁶⁶ John Bryant of Texas charged that

this bill is a culmination of the excesses of the 1980s, a period in which we tripled our national debt, a period in which we became the biggest debtor nation in the world, a period in which we became a country that no longer pay[s] its bills anymore without borrowing staggering sums of money, a period in which we sold off our most precious assets to the point that foreign ownership in our country has tripled in the last 7 years, and now we are selling our last and most precious possession, citizenship.⁶⁷

Legislators agreed that economic competition challenged the United States and that it had to respond. They disagreed about whether to respond by trying to beat them or join them.

Worries about competitiveness were not restricted to Republicans, or even to those in favor of immigration reform. Democrat Glenn Anderson echoed his colleagues' analysis: "By letting in skilled workers and those who have special knowledge or technical ability, we improve the competitive structure of the U.S. economy, allowing us to better perform in the world marketplace. When we are under attack from nations like Japan, we must use all possible advantages of the brainpower and expertise that immigrants offer us."⁶⁸ Dale Bumpers, the most passionate opponent of preferences for investors, also framed his objections in these terms. "If we are going to talk about jobs," he said, "let us talk about restoring the U.S. competitive edge."⁶⁹ Others such as Republican Harold Daub worried that increasing immigration would have the opposite of its intended effect.

By encouraging immigration, the United States fostered dependence on labor-intensive production processes, giving businesses a disincentive

to invest time in the technological breakthroughs necessary for long-term competitiveness. "Amnesty," he argued, "could damage the U.S. economy. The United States is moving toward a high-technology, computerized, robotized kind of economy and absorbing those large numbers of skilled workers from abroad would require the United States to develop a very different kind of economy."⁷⁰ Although these detractors disagreed about whether the change should be initiated through immigration or industrial policy, they agreed that some "changes are vitally necessary if the U.S. is to remain competitive in a global economic climate."⁷¹

Two aspects of this framework for interpreting American goals were new: (1) economic concerns' centrality (2) in a context that remained essentially cooperative and global. Economic difficulties had been raised in the past, though never as the decisive evidence requiring exclusion and never as important because of foreign competition. For example, the United States at different times believed that it owed returning veterans jobs, or that it needed to encourage agricultural labor, both of which were justified in terms of domestic distributive values. And in the 1960s its immigration policies had adapted to its chosen role as global leader and regime-maker.

In the 1980s, the country began to substitute "economic" for "ideological" without also substituting "protectionist" for "internationalist." The commissioner of an immigration study ordered during the Carter administration, for instance, outlined his view of the United States as enmeshed in a constraining web and as dependent on other countries to fulfill its objectives.

we live in a shrinking, interdependent world and that world[']s economic and political forces result in the migration of peoples. . . . The widespread magnitude of actual migration and the fear of other potential large-scale movements between countries has led many governments to adopt ever more restrictive immigration policies in an effort to maintain national control over borders and shores. The world situation today, however, throws into serious question the assumption that international migration can be controlled by domestic policy.⁷²

The United States was going to have to negotiate, rather than assert, its international primacy.

Interdependence posed a philosophical problem for the United States. On one hand, the country stood for liberalism. Its institutions rested on liberal principles, its economy found justification in liberal analysis, and its international authority depended upon it behaving in a way consistent with liberal tenets. On the other hand, liberalism when fol-

lowed to its logical conclusion tended to erode borders. Nothing in liberal philosophy provided good reason to segregate markets or to exclude people, and much in it provided good reason not to. In fact, classical liberals such as Adam Smith and John Stuart Mill took as their starting point the conviction that such boundaries were irrational, forcing a society to accept an outcome less than optimal. Liberalism in one country can be just as odd a concept as socialism in one country. The dilemma was not acute as long as the country was strong enough to export its sense of order and justice. Hegemony made the apparent contradiction moot.

Declining hegemony created conflicts that had not existed before among American policies. Trade had produced absolute and relative gains; later it was seen to produce absolute gains and relative losses. Refugees and immigrants had helped the United States and hurt the Soviet Union in their ideological fight; later Soviet immigrants hurt the United States and helped the Soviet Union as the United States accepted, and the Soviet Union shunned, responsibility for their training, welfare, and social integration. American hegemony and liberal values rested on, and had institutionalized, a level of openness that could not be maintained if the United States were to assume the position of one among equals. It needed asymmetry. Symmetry involved feedback, and feedback threatened sovereignty. Theodore Hesburgh, former president of Notre Dame and commissioner of the 1980 immigration study, described the conflict in this way:

Some among us, often moved by deeply religious values, ask the question: Why should immigration be a problem? Why shouldn't people be free to move wherever they want to? We are all one species, all children of one God; and from the beginning of time, human beings have been a curious, migratory species. Why not let down the barriers of nation-states and permit people to move freely?

The questions almost answer themselves. Immigration is a problem because nearly all peoples believe in nationalism and wish to maintain the integrity of national ideologies and institutions. We believe this in the U.S., too, but not for narrow, nationalistic, selfish purposes only, but also because we believe that our nation has become a symbol of the possibilities of freedom and the potentiality for justice. The existence of our nation as a nation is tied to the realization of high goals for all of humanity. Our nationalism is not inconsistent with internationalism.⁷³

The United States had to settle for influencing the world passively, by setting an example, if it wanted to maintain its integrity.

When it came to foreign people, a restrictive sovereignty rather than an expansive hegemony began to define American interests and obliga-

tions. What was once an interest, even a duty, became charity—and “as mortals, we live in a world of limits—and, tragically, that must include limits to our charity.”⁷⁴ Accepting Cuban refugees, for example, was a luxury the United States could no longer afford. Robin Beard argued that “when Fidel Castro can decide to dump with impunity tens of thousands of undesirables on us, our national sovereignty is violated. Secure borders are an integral part of sovereignty.”⁷⁵ Whereas the United States had looked on the world from a position of security, the world now seemed to loom up at it. “If the United States,” said Jennings Randolph, “is to continue to preserve a stable economic and political sovereignty in the face of the multitudes yearning for freedom and opportunity, we must temper our compassion and generosity.”⁷⁶ Robert Garcia and Jesse Helms, very different men, agreed about the centrality of immigration control to the question of American sovereignty. While Garcia observed that “control over the entry of noncitizens is key to how we determine our national sovereignty,”⁷⁷ Helms argued that “the fundamental question before us is the preservation and enforcement of our sovereignty.”⁷⁸ Declining hegemony meant that the United States could no longer think only of what type of sovereignty it wanted, but had to consider how to preserve some type at all.

Alan Simpson was the most blunt and specific. Outraged about a *Wall Street Journal* editorial that claimed that he proposed to close the borders, Simpson outlined what open immigration would mean. “They [the *Wall Street Journal*] want a five-word constitutional amendment that says, ‘there shall be open borders.’ . . . Where that would lead us would be to a defenseless America without any security of its borders whatsoever. Absolutely stupid. . . . And the Civil War arose from the fact that some people wanted cheap, subservient labor.”⁷⁹ When the United States could control the very geoeconomic and political structures that led immigrants to seek a place in the United States, explicit laws were important as symbolic statements revealing America’s sincere belief in the norms it espoused. When it thought it could no longer control them, laws became practically necessary.

If sovereignty was the goal, lack of control was the problem. Legislators identified three problems that were logically, sequentially related. The first was definitional. Regardless of how many immigrants admitted, or whom it admitted, the government must be in control of admissions. It, not the immigrants and certainly not foreign governments, had to dictate the who, when, and why of immigration. As Edward Kennedy argued, to consider only its citizens’ welfare was in fact the duty of every government:

We are entitled as private individuals to make any sacrifices of our own interest that we may wish—for example out of compassion or in

order to satisfy our own moral beliefs. However, the primary obligation of government, indeed the very reason for its existence—and justification for its power—is to promote the national interest; that is the long-term well-being of the majority of the nation's citizens and their descendants.⁸⁰

The second problem had to do with numbers. Beyond a certain point, American institutions would not be able to handle immigrants even if Congress did retain control over entry. Finally, there was a problem with who could enter.

Control was crucial. Without it, even were there no immigration, the country could not be considered sovereign. Alan Simpson used this argument to whip up congressional enthusiasm and attention: "Immigration to the United States is out of control and it is so perceived at all levels of government by the American people—indeed by people all over this world. I deeply feel that uncontrolled immigration is one of the greatest threats to the future of this Nation, to American values, traditions, institutions, to our public culture, and to our way of life."⁸¹ The fact of control, not policy specifics, Simpson argued was the central issue. "Because of this bill, we will know for the first time exactly how many immigrants will arrive in the United States in the coming year."⁸² Control definitely involved assuring that the U.S. government and not other governments determined who could become a citizen.

Even a standing refugee policy was insufficient, since "'Baby Doc' Duvalier and Fidel Castro and all the other despots in the world . . . can send to our shores any number of people at any time and decide who they will be."⁸³ Control also meant assuring that the government, not individuals—even if those individuals were citizens—decided who was eligible. If Congress were truly to have control, everyone, including relatives, had to be subjected to government limits. "If this Nation is to achieve true control over its immigration," argued Eldon Rudd, "all entrants should fall under the annual ceiling."⁸⁴ Together, this meant that the government would be in a "position in which we, not other governments, or the people of other nations, control immigration to this country."⁸⁵

Legislators were aware of what scholars would call the theoretical implications of their choice. To choose control was to choose sovereignty. Anything less meant its abandonment. Among others, George Huddleston reflected:

Immigration presents us with one of the most basic of all social and legal problems: Is the concept of the nation-state legitimate? Behind all of the debates over immigration, there is that basic philosophical

and moral question. Is it legitimate for there to be a United States, for this country to have citizens and to define all other people in the world as noncitizens? Is it fair and right for the United States to prevent any person in the world from living here? [The country must say yes.] If we do not [agree], then we shall have to consider a revolution in the world order.⁸⁶

Such a defense of particularism was necessary to justify sovereignty. The interdependence that the United States had helped to establish meant that sovereignty required more than a theoretical defense. The country had to construct the international-legal equivalent of a parachute.

Immigrants presented two other closely related practical challenges to American sovereignty, one quantitative and the other qualitative. The first problem was too many people. The United States could not accept many people, in this view, even legal immigrants, without taking something away from citizens. Lloyd Bentsen of Texas noted that “we are the only nation that has virtually abdicated control of our borders and is unable to account for millions of aliens—legal and illegal—living, studying, and working in this country.”⁸⁷ Similarly, Eldon Rudd of Arizona argued, “During the past two decades, immigration has increased to the point where we have lost virtually all control over our borders.”⁸⁸ This was not a concern only in the Mexican border states. A Pennsylvanian contended in this context that “the Federal Government of the United States, or any Federal Government, any central government anywhere in the world, has as its primary responsibility the securing of its borders. . . . That just goes without saying, to preserve national unity, national identity, national cohesiveness, the borders must be secure.”⁸⁹ And one of reform’s leading proponents, Romano Mazzoli, was from Kentucky: “The authority of Congress—indeed, its responsibility—to regulate immigration derives from a source even higher than the Constitution. . . . For Congress to ignore its responsibility in this area by failing to consider and enact immigration reform and control legislation is to ignore the very sovereignty upon which our Nation is based.”⁹⁰ Sovereignty depended on control.

The second problem involved the kind of people who had immigrated. Many immigrants were “immigrants” literally but not legally. Illegal immigration presented several problems. First, a sovereign country should at a minimum be able to stop persons from entering its territory without its consent. James Scheuer worried “that given the hemorrhaging that is occurring on our southern border, one could question our Nation’s sovereignty.”⁹¹ Second, numbers added up, and illegal immigrants’ numbers were especially hard to control. Like legal immigrants, illegal or

undocumented aliens⁹² added to the population and therefore contributed to all of the problems as well as all of the benefits of citizens.

Third, illegals were particularly bad for communities precisely because they were illegal. Their presence demonstrated that they were willing to break the law; in fact, that had been their first act. Bob Graham of Florida declared that “we must meet flagrant disregard for our laws and the integrity of our borders with all the power and purpose of a great nation. . . . Our national security is being challenged. It is time we take control of access to our own, sovereign territory.”⁹³ Finally, the government increasingly found itself evaluated—as functionalists and even T. H. Marshall had argued it would—in terms of how well it provided for its citizens’ material well-being. Mack Mattingly reminded representatives that “the United States as a sovereign nation must ensure the well-being of its people.”⁹⁴ Americans simultaneously believed in the free market and held the government directly responsible for increases in unemployment, inflation, mortgage rates, and food prices.

To have a national interest, obviously one first had to have a nation. Such discussions of sovereignty helped legally to ground a formal consideration of American national interests, but they could not help in determining what the content of those interests should be. A new appreciation of foreign economic interests and economic threats began in the 1980s to infuse references to America’s national interest. “By placing more emphasis on the skills and qualities that independent immigrants possess, immigration policy will be more closely coordinated with the national interest,” which interest was, in Alan Simpson’s view, to improve the country’s relative place. Rather than explain the connection, legislators took it for granted. For example, “our legal immigration system is not now serving the national interest as well as it should or could. Today, more than 90 percent—this is a rather startling figure—of all immigrants enter this country without any screening at all of their impact on the U.S. labor market and without any determination of what our labor needs are,”⁹⁵ or “I strongly believe that one of the objectives of our immigration policy should be to increase the number of immigrants who would come into this country because of greater skills. This is in our national interest.”⁹⁶ In no other context was the national interest regarding immigrants mentioned. It was no longer discussed in ideological or cultural or military terms. Economic competition defined, by implication, America’s core national interest regarding foreigners.

To strengthen and then protect Americans’ economic position became the government’s central purpose. Once the framework for assessing costs and benefits was settled, the camps divided predictably and

neatly. Those who believed that immigrants drained resources struggled against those who claimed that they contributed far more than they took. At one level, this was an empirical question. Presumably, it had a right answer that someone, possibly the Congressional Research Service or the General Accounting Office, could discover. At another level, the question was fundamental and philosophical—and the same. What legitimate value did borders serve? The first, cheap, answer was that always given, protecting Americans. The harder answer had to define both “American” and “protection.”

Neither was easy. To this end, American society had to accomplish two things. First, it had to determine who Americans were, who was in the population for which the government was economically responsible. Next it had to assure that Americans were connected to international economic structures in which they could succeed, both in absolute and in relative terms. That specifically meant encouraging employers and the highly skilled to immigrate. The first task, though, was to define the population that would serve as the denominator in calculations of gain and loss. Efforts to clarify the boundary separating citizen from noncitizen began first. They centered on the task of pushing the people who lived in a legal grey area either toward citizenship or toward deportation.

Reason: Helping or Eliminating the Underclass

Unlike many other countries, the United States never accorded legitimacy to a common class: persons who remained indefinitely in a political community, were subject to its laws and received its benefits, but could not become citizens. Such a “second-class citizenry,”⁹⁷ defined variously as “alienated people who are neither fish nor fowl,”⁹⁸ as those “who are here under no particular identity,”⁹⁹ and as “the Indian equivalent of the Untouchables,”¹⁰⁰ was un-American. It was not the economic or demographic characteristics of this group but its indeterminate status that nagged at the legislators. A person either was a citizen—was born or naturalized in the United States, was protected by the U.S. Constitution, and was obligated to serve the government when it called—or was not. If not, constitutional protections did not apply. For the first time, American society grappled with applicants who fit neither of the traditional categories. Laws imagined two types of persons: citizens born on U.S. territory and aliens born elsewhere who lived in that same elsewhere while they applied for entry. In both cases, the government granted citizenship according to who a person was.

In deciding what to do with the illegals, however, the government had

to consider what a person had to do to earn citizenship. To this date, the only persons who had been given citizenship in exchange for their efforts were those who had fought with the U.S. military in its major wars. The only intermediate category that the government recognized was the one that described persons moving briskly between these two stations. Before applying to naturalize, an immigrant had to maintain residence in the United States for a period of years, most commonly five. During this time, he or she would be given permanent residence status. An alien could maintain this status indefinitely, but permanent residents, like Cub Scouts, probationers, and assistant professors, were expected to retain this status for only a few years. It was something one grew out of. The category was analytically temporary largely because it was morally suspect.

The worst one could say about undocumented aliens was that they were illegal, unchosen, and hence prone to break other laws; the best one could say about them was that they constituted an underclass subject to economic and political exploitation without even recourse to the vote. Employers were alleged to use illegals' fear to exploit them and to have them deported before they were paid.¹⁰¹ Labor leader Lane Kirkland argued that "unless that [amnesty] is done, we will as a society be contributing to the continuing victimization of an underclass, made up of those whose fear of deportation makes them vulnerable to exploitation by unscrupulous employers and who are unable to protect themselves or to call upon the government for protection."¹⁰² No one did or could argue that retaining such a class was in the public interest.

Efforts to clarify the citizenship status of America's population therefore focused on eliminating this group. Debate centered on whether to legalize (technically termed "adjustment of status") or to deport the undocumented. Those advocating legalization, popularly known as "amnesty," argued that these residents had earned civic recognition by contributing their labor, taxes, and respect for many years to an unresponsive country. Those advocating deportation contended that the residents had earned nothing, since they were unwanted, and had devalued American citizenship by their very presence. Everyone agreed that social control over America's political borders was at issue. They disagreed about who had been taking advantage of whom.

Consensus about the moral impossibility of allowing the illegal population to maintain itself indefinitely laid dormant until concerns about declining hegemony, crystallized by fiscal and balance of payments deficits, grabbed the national agenda. Germany, already a feared competitor, was having difficulty ridding itself of its guest workers; Japan, doing better than Germany, had wisely not recruited any. "We were stunned," said Alan Simpson, "at the situation that has occurred in Germany and

France with regard to temporary guest workers—the ‘Gastarbeiter’ program in Germany.”¹⁰³ Americans viewed the underclass as a burden. Shedding it would free it to compete with more strength.

But although economic change pushed the illegal immigration issue to the front of the congressional agenda, it was not simply in economic terms that Americans viewed the issue. Republicans and Democrats, Southerners, Midwesterners, and Easterners alike insisted that such an intermediate category was morally untenable. Lawton Chiles worried that “illegal aliens exist as a subclass in our society. They are beyond the obligations and protections of our laws,”¹⁰⁴ while Charles Grassley viewed them as a “fugitive underclass, afraid to claim even the most basic of human rights.” The problem for them both was that “the existence of such a class of underground residents undermines the fabric of our democratic society.”¹⁰⁵

The strength of the consensus against accepting an intermediate class can be measured by the anger that administration proposals of both parties elicited. As a step toward incorporating illegals into American political life, Carter suggested granting illegals permanent resident status. Shocked opponents declared that “for the first time in American history, an American President is attempting to create a new class of resident in this country.”¹⁰⁶ A contrary proposal offered by the Reagan administration would have had these aliens pay taxes but receive no benefits. This, too, was decried as the “establishment of an entire underclass.”¹⁰⁷ Somehow, the country had to clarify who was in and who out without allowing a category in between.

Reasons to incorporate the illegals into American political life drew on the belief that *de jure* membership ought to reflect *de facto* membership. Participation in communal life, whether invited or not, created a presumption in favor of inclusion. This view drew, usually implicitly, on Locke’s suggestion that those subject to a country’s laws ought to have a voice in its affairs. Labor leaders such as Lane Kirkland argued for legalization’s practical and moral benefits. By eliminating fear, amnesty would make exploiting undocumented workers harder. This would aid all workers.¹⁰⁸ Others pointed out that legalization would produce taxpayers.¹⁰⁹ Ron Dellums of California viewed the problem as both moral and practical:

I would like to suggest that the legalization of the exploited subclass of undocumented workers is terribly important not only to those who would be allowed permanent residence, but for the Nation as a whole. We cannot, practically or morally, embark upon a massive and expensive effort to deport millions of people. We cannot continue to have an underground society whose people are forced to live in the

shadow of the law. And we cannot afford to have our society continually polarized into ethnic groups who are continually harassed by ethnic groups who, on the one hand, resent them, and on the other hand exploit their underclass status.¹¹⁰

In his view, the moral problem was one of debt to the alien.

Detractors took the opposite position. Amnesty would not solve the practical problem—“To say that we are solving the problem of illegal immigration by declaring illegals legal is the exact equivalent of curing poverty by declaring poor people rich”¹¹¹—nor would it erase the moral debt, which was to American citizens. Attorney General William French Smith unsurprisingly viewed the country’s dilemma in law-and-order terms, asserting that “this great nation [cannot] long tolerate the existence of a hidden foreign people within our borders, living apart from American laws.”¹¹² Jesse Helms argued that this practical problem had a moral spin. “Amnesty also creates a moral problem in that it rewards law-breakers.”¹¹³ Summing up this position, Harold Daub mentioned that “there are a lot of people in this country who feel that amnesty in blanket terms without some rule attached to it, *carte blanche*, cheapens or devalues or shrinks, somehow just erodes the value of American citizenship.”¹¹⁴

Logically, it seems that one should decide who is to be protected before determining what they are to be protected from, but in practice these decisions were made together. In the 1980s, citing the Japanese or Germans as the threat implied that workers in manufacturing were to be protected; citing illegals as the threat implied citizens were to be protected; citing resource depletion as the threat implied that the world’s people were all to be saved from themselves. These diagnoses shared a theme. The United States had entered what academic Wayne Cornelius called “an era of limits,” in which the bottom of every barrel seemed visible. Jobs, welfare, fresh air, and compassion were all in finite supply.

Jobs, supposed to be created, not removed, by increases in employment, seemed to disappear. Every job taken by an alien was not only lost to an American, many believed, but likely to an underprivileged American. John Conyers, representing industry-oriented and largely black Detroit, asked: “Should we spend them [dollars] on Vietnamese ‘refugees’ or should we spend them on Detroit ‘refugees’?”¹¹⁵ For this reason, since the secretary of labor had to certify job shortages before aliens could fill them, Frank Lautenberg proposed giving American workers this information before approving immigration.¹¹⁶ Such unemployment alone was difficult enough to eliminate, but compounding it were shrinking welfare reserves. Job loss and welfare costs interacted to amplify the effect of each, “adding to our tax burden and bleeding the Nation’s economy.”¹¹⁷ Jack

McDonald argued, typically if contradictorily, that aliens “either create new ghettos or go on welfare—when they are not taking jobs from needy citizens and driving them on welfare.”¹¹⁸ Aliens were even characterized as “preying on our schoolchildren by stealing their lunch money.”¹¹⁹

Proposals to confine benefits to legally admitted immigrants, though at least partly unconstitutional, were also popular.¹²⁰ Entitlements were bad enough, warned George Huddleston, without setting up for illegal aliens “one of the greatest entitlement programs in the history of this country.”¹²¹ One could simply believe that aid would be useless. “Our country is full of people. If we bring in more, it will not so much improve the status of immigrants as it will lower the living standards of our own working people to the level of those in the world’s poor countries.”¹²² In a zero-sum world, trying to improve the lot of one group was impossible without harming that of another. “We cannot be so generous that we stretch our own scarce resources to the breaking point and diminish the quality of American life for all.”¹²³

Many legislators looked back nostalgically on the days when, they imagined, such difficult choices did not have to be made. Strom Thurmond, for example, looked back to “a time when this Nation could welcome millions of newcomers without jeopardizing the national interest.”¹²⁴ America was once open to those with initiative, they said, but must now be shut. The country had recently been faced with vast numbers of such newcomers, which “are staggering and their economic consequences suffocating to what this goose that lays the golden egg must offer to those poor, those tired, those huddled masses yearning to breathe free.”¹²⁵ America was also once geographically open, but must now be shut: “We are no longer the frontier America we once were, with vast undeveloped resources and wide open spaces.”¹²⁶ In its final report, the commission charged by the Carter administration with a review of immigration policy concluded:

If it is a truism to say that the United States is a nation of immigrants, it is also a truism that it is one no longer, nor can it become a land of unlimited immigration. As important as immigration has been and remains to our country, it is no longer possible to say as George Washington did that we welcome all of the oppressed of the world, or as did the poet, Emma Lazarus, that we should take all of the huddled masses yearning to be free.¹²⁷

Scarcity explained the country’s impending break with what it viewed as its traditional generosity toward immigrants.

Cosmopolitanism could lead to the same place as localism. In a zero-

sum world, although Americans would be harmed, at least someone would be helped. Someone would find a job, get welfare, receive an education. To many, however, the world was even less benign. It was in America's and the world's interest, in fact, to reduce the American population. Americans consumed more resources and emitted more pollution than any other country. About 5 percent of the world's population, Americans consumed a third of the world's petroleum. In the 1970s, a movement for zero population growth had hoped to convince Americans that they must at a minimum halt population increases. By the 1980s, with fertility at below replacement levels, population control meant not fertility reduction but immigration restriction. "We have done a good job in birth control," felt Lawton Chiles, "and in getting our population down. We are about a zero population. It is not going to mean anything if we take all of the problems of everybody else in the world on our shoulders, and that is the way it appears to be headed."¹²⁸

Americans, went a slightly different argument, were almost disgusting in their use of world resources. The least they could do was to prevent others from imitating their pattern, and the easiest way to do that was to keep them from entering the country. B. F. Sisk maintained:

An additional 75 million people living in this country, using energy at an average U.S. consumption level (1972), is the equivalent of adding 4.65 billion people living at an Indian standard of living (expressed in terms of per capita energy consumption). This additional resource consumption—to say nothing of the needed timber, food, minerals, water, highways, homes, automobiles, employment, health care, et cetera, will dramatically increase pollution, deplete our forests, erode our soil and land, dwindle our fossil fuels, crowd our overburdened cities and escalate our taxes.¹²⁹

Robert Dole, using the same strategy, reached complementary conclusions: "Assuming an immigrant on the average consumes as much energy as an American, the 4.5 million legal immigrants who came here in the 1970s require energy equivalent to half the oil production of the Alaska pipeline."¹³⁰ Environmentalists, often associated with left-liberal causes, ought in this view to shun proposals to liberalize immigration ceilings. "We will never have environmental stability in this country as long as our population grows that fast, because the demands on our dwindling supply of open land and natural resources are intensified."¹³¹ Replying to critics, George Huddleston said, "As for the assertion that reasonable restraint would be a repudiation of the inscription on the Statue of Liberty—which, incidentally, were the words of a French poet and not a reasoned policy

developed by the Congress or the people of the United States—I believe that reason must be applied here also.”¹³² In 1884, he said, there had been no energy crisis.

Perhaps the strongest measure of the hold that this framework had on discussions of immigration policy is the extent to which opponents shared its assumptions and engaged in debate within its narrow terms. When one charged that illegal aliens received refunds without paying taxes in the first place,¹³³ others responded that aliens paid more in taxes than they consumed.¹³⁴ A proposal to give high-immigration areas more in federal dollars to help them pay for social programs was countered by the argument that the areas ought to be paying the federal government: immigrants gave these areas more than they took.¹³⁵

A complementary indicator is the scarcity of arguments such as the following, offered by Missourian Durward Hall. Such a clear exposition of homogeneity’s value would have been the norm only a few decades earlier:

I do not doubt that many of the new immigrants will make good citizens. Good citizenship does not necessarily depend upon the color of a man’s skin. But, there is no evidence to justify an optimistic conclusion that it will inevitably benefit this Nation for these people of alien cultures to come here. It is their ‘problems’ and ‘concepts,’ which have kept their nations of origin from being great countries, with benefits of liberty and prosperity for their citizens. Specifically, I wonder just how this Nation benefits from a decline of 54.3 percent in immigration from Northern and Western Europe while we have an increase of 442.6 percent from Hong Kong, 247.4 percent from China, 1,637.8 percent from India, 896.9 percent from the Philippines, 718.3 percent from Jamaica, and 1,415.5 percent from Trinidad and Tobago?¹³⁶

A third measure of the hold that economic standards had on interpretations of American public interest is the degree to which people wishing to rely on old arguments had to make explicit their rejection of the old symbolism and the adoption of the new. Preferences for those who had a facility with the English language are a case in point. A couple of times proponents of an English-language preference echoed earlier arguments, as did S. I. Hayakawa when he said, “Language is a unifying instrument which binds people together. When people speak one language they become as one, they become a society.”¹³⁷ So unacceptable had an argument in favor of cultural homogeneity become, and so prevalent had become economic criteria, that Edward Kennedy and Alan Simpson, cosponsors of the 1980s immigration reforms, enacted on several occa-

sions a stylized dialogue in which one would question preferences for English speakers and the other, usually Simpson, would explain that English was (1) a minor preference, that (2) had value because knowledge of the common language makes it easier to be a productive employee.¹³⁸ They publicly shunned other reasons.

Others went further, distancing themselves from old points of view by ridiculing arguments in their favor. Racial and cultural homogeneity were favorite targets. A few years after Congress rescinded the racial limits of McCarran-Walter, John Dow asserted that "having such a diversity assures that our country will consist of openminded people rather than those who are grounded in a narrow parochialism of centuries of living together without the introduction of new blood."¹³⁹ From multiculturalism came the country's strength.

Those who disagreed, finally, took issue not with the measuring stick used but with the measure taken. Herman Badillo and others argued that "the problems of unemployment and economic dislocation will not be solved by pitting American-born workers against the foreign-born," but by making hard choices about how opportunity and resources would be distributed within the American population.¹⁴⁰ Patricia Schroeder similarly took issue with what she saw as scapegoating. Accepting that the severe economic competition the United States faced was its central challenge, she pointed out that the size of America's foreign-born population was unlikely to matter one way or another. In the debate, contestants had taken for granted that the United States had the highest proportion of foreign-born compared to other countries because it had the highest number of immigrants annually. The United States also, though, had a population much higher than that of many host countries. According to a study Schroeder had requested, foreign-born accounted for a much higher proportion of populations elsewhere. While the United States was in the 5 to 9 percent range, many smaller countries contained as high as 70 percent aliens. Countries that the United States might consider peers were also higher, with Australia near 25 percent, Canada and Switzerland at 18 percent, and France at 13 percent. The list, she said, could go on.¹⁴¹

To be effective, decisions about who was out had to be complemented by decisions about who was in. Simply to clarify the citizen population would be to reassert sovereign control over borders without changing those borders' purpose. Since expatriating and deporting deadwood citizens was unconstitutional, policy focusing only on American residents would not be sufficient. To make the borders effective in a struggle that was primarily economic, policy toward new immigrants also had to change. Immigration policy could help to improve America's ability to export.

At issue in this debate was how the government should think about the future of American leadership. If one took for granted that American competitiveness and the era of its hegemony were closing, as most but not all did, then the country had three options. It could fight to maintain its position as world leader, not only aggressively championing the norms and institutions that had secured its lead, but also striving to reverse its balance of payments, manufacturing, and fiscal problems. Or it could try to protect itself from these institutions. When the United States had benefited from the openness that these institutions required more than had other countries, the institutions were useful to it, but once others' gains and its own became equal, the openness only produced vulnerability. A third option lay between these. The country could strengthen the international institutions that served its interests but allow others to benefit relatively more from them. It could choose to use the postwar "regimes" as a parachute. Which type of immigration policy the government would choose depended on which image of its future it decided to pursue.

Its past choices affected its current possibilities. Just as the beggar-thy-neighbor policies of the 1930s haunted those charged with designing industrial and trade policies to boost the United States out of its economic doldrums, so did the Quota Acts haunt legislators trying to fashion an immigration policy capable of limiting the population to which the government was economically accountable. By institutionalizing the lessons they drew from the Depression, postwar economic policy advisers changed firms' interests as well as their beliefs about effective and legitimate trade policy, thus making protectionism far less likely a solution when similar difficulties arose in the future.¹⁴² A parallel openness had not been institutionalized in American immigration policy; in fact, Congress had extended regulatory control steadily until the only group that remained numerically unrestricted was close relatives.

The liberalism embedded in immigration policy was instead that of barring discrimination among persons on account of ascriptive characteristics such as race or sex, or, increasingly, homosexuality or ideology. Liberal trade policies encouraged the free flow of goods across boundaries, but expected that consumers could discriminate among the goods according to their tastes. Liberal immigration policies allowed regulation at the border but disallowed discrimination among the people who entered. Whereas debate from the turn of the century to the mid-1950s had pitted a closed, protectionist, and xenophobic nationalism against a universalistic, utopian internationalism, that in the 1980s had adapted to the realities and contradictions of policy practice. It then became possible, even common, to say that "our nationalism is not inconsistent with internationalism. . . . As a nation, we cannot survive without international cooperation."¹⁴³

If the country's national interest had become economic rather than ideological, this change had taken place within the context of a continuing commitment to liberal international institutions.¹⁴⁴ These institutions had served American interests by securing agreement on a particular set of rules about conducting business and on a body of norms about legitimate and illegitimate goals and means of change.¹⁴⁵ The American interest in these institutions had if anything grown stronger as the unilateral enforcement of its wishes became a less credible alternative. Regarding immigration policy, as well as other policies negotiating America's foreign relationships, U.S. legislators judged their choice in terms of its consequences for American authority. For example, in 1970 Peter Rodino argued in terms of American ideological authority: "The position of the United States as a world leader demands that we, with other countries of the free world, be in a position to offer asylum to the oppressed."¹⁴⁶

But five years later, Jack Kemp warned that "few things, if any to me, could more dramatically illustrate the decline of a great nation and its people than the adoption of such a [restrictionist] point of view."¹⁴⁷ Later, Robert Garcia described what he considered an illiberal proposal as "an extraordinary program which gives the American public the impression that we are in a state of war with the rest of the world."¹⁴⁸ Charles Percy, equating an American-enforced liberal immigration regime with American hegemony, argued that "large refugee populations threaten the stability of countries of first asylum . . . [so an] amendment which combines immigrants and refugees under one ceiling would undermine our position of leadership in the international community."¹⁴⁹ By the late 1980s, a policy's supposed effects on declining hegemony was commonly used as evidence in support of one or another position. In 1989, for example, Douglas Bereuter argued that preferences for investors were unfair and illiberal. "If the other body has its way, this Nation will clearly be forced to reconsider its status as leader of the free world."¹⁵⁰

Who qualified as an American and what constituted legitimate protection could not be decided in the abstract. Exactly whom those decisions would affect, and how, influenced the determination. In the past, Congress had not had to consider the politics of enforcement as it did in the 1980s. Previous changes in immigration policy had altered the way that the government selected one set of foreigners, how it divided one alien from another alien. Proposals to grant amnesty to illegal aliens and then presumably to deport those unqualified involved separating aliens from Americans inside the United States. This had been done once before, during World War II, when Japanese Americans, both citizens and noncitizens, had been interned. Although the government had reversed its order to incarcerate citizens, it had not offered those it released opportunities

equivalent to those available to the white population. Japanese Americans, like black citizens, faced legal as well as extralegal discrimination.

The obvious, efficient way to distinguish among American residents, identity cards, was impossible because of privacy concerns. In response, George Mitchell asked whether “we are contemplating a pass card system similar to that as exists in South Africa?”¹⁵¹ The remaining option, one which made most legislators queasy, was demanding identification and proof of citizenship from those citizens who INS officials had some reason to suspect were foreign. This meant, in effect, frisking farmworkers, those with an accent, and those who looked non-Anglo. Abraham Kazen of Texas spelled out what this meant: “No blond white American faces the requirement of proving his citizenship when he applies for work, but under this legislation the Latin, the Oriental, the black and brown people of the Mediterranean and Caribbean lands would have to be challenged by every potential employer.”¹⁵²

If these were the means, then the end, separating citizen from noncitizen clearly, many considered not worth pursuing. For all the costs the legislators thought they faced from having “leaking borders,” they were small compared to those they would incur by rounding up Hispanics. In 1982, these fears seemed to be realized. During INS “Operation Jobs,” its term for anti-illegal alien raids in the Southwest, the Service detained citizens for being brown.¹⁵³ Rumors flew that American citizens had been taken to Mexico and abandoned because they were unable immediately to prove that they were born in the United States. Patricia Schroeder charged that “During Operation Jobs, . . . they did not find any aliens at all. . . . 99.3 percent of the people they picked up were from Latin America or the Caribbean; that is black or Hispanic.”¹⁵⁴ Not all of the uproar came from those representing southern and western states. Cardiss Collins of Illinois charged, as did others, that the checks were racially motivated. “I seriously doubt that such fervor against undocumented workers would be stirred if they were fleeing dictatorships and failing economies in Western Europe rather than in Latin America, the Caribbean, and Southeast Asia.”¹⁵⁵ Henry Gonzalez summed up this position by noting that “the Statue [of Liberty] never looks south.”¹⁵⁶ Table 9 outlines the proposals that were made for revising immigration policy.

Immigration Reform and Control Act

The idea of sanctioning those who employed illegal aliens solved this dilemma by providing a way to determine legality without discriminating among citizens. Edward Kennedy wanted sanctions to fall on employers,

TABLE 9. The Immigration Act of 1990 Compared to the Laws and Proposals It Replaced

Category	Current Law	Actual 1987	Kennedy-Simpson 1988	Simon-Kennedy 1989	Helms Amendment	Immigration Act of 1990
National level	none	500,000	590,000	600,000	600,000	
Immigrant relatives	no limit	218,500	220,500 ^a	220,000	220,000	
Family preferences						
Preference 1 ^b	54,000	11,382	33,000	24,200	14,400	
Preference 2	70,200	110,758	143,000	148,000	136,800	
Preference 4	27,000	20,703	22,000	23,000	24,000	
Preference 5	64,800	68,966	22,000	64,800	64,800	
Total family	216,000	211,809	440,000	480,000	460,000	480,000
Independent						
Special	no limit	3646	6000	6,000	4,200	
Preference 3	27,000	26,921	27,600	27,600	46,200	
Preference 6	27,000	26,952	27,600	27,600	46,200	
Employment investors	0	35	4,800	4,800	2,800	
Selected	0	n/a	54,000	54,000	40,600	
Total independent	54,000	57,554	120,000	120,000	140,000	140,000
Diversity						55,000
Total immigrants			590,000	600,000	600,000	675,000

^aThis and the 220,000 in the next column are estimated annual levels of a still-unlimited category.

^bPreference 1: Unmarried adult sons and daughters of citizens; 2: spouses and children of permanent residents; 3: persons in the professions and those of exceptional ability; 4: married sons and daughters of citizens; 5: never-married brothers and sisters of citizens; 6: skilled workers for which there is a demonstrated need; special.

not on aliens, to prevent discrimination.¹⁵⁷ As early as 1972, Peter Rodino offered a bill to fine employers of illegal aliens \$1,000,¹⁵⁸ and in 1977 Don Bonker of Washington had suggested printing nonforgeable social security cards.¹⁵⁹ He said that “rather than invest in costly and draconian measures to make a Berlin Wall out of our borders, as some suggest, or harass American citizens of foreign extraction, we must focus attention on the root cause of the illegal alien problem—the employment of illegal aliens in the United States.”¹⁶⁰ Finally, an amendment to have all employers fill out a two-identification affidavit passed the House by 321 to 97, with 15 not voting.¹⁶¹ Peter Rodino, an advocate of reform, declared that “in my judgment, employer sanctions are essential if this country is to regain control of its borders. Indeed, it is our sovereign responsibility to do so.”¹⁶² It had to do this, but without violating citizens’ civil rights.

Unlike those of earlier periods, votes on immigration reform in the late 1980s broke more along party lines than along regional lines, though this was only true for the House of Representatives. This was true both for the first votes on the Immigration Reform and Control Act (IRCA), which instituted employer sanctions and amnesty, and for the immigration reform legislation of 1990, which unified the numerical ceiling and revamped exclusion provisions. Republicans were almost evenly split on IRCA, while Democrats favored it by two to one; by 1990, the divisions had grown, so that three times as many Republicans opposed as favored the legislation, while three times as many Democrats favored as opposed it. The arguments made for and against these pieces of legislation resonated more closely with those generally associated with one or another political party than had arguments forwarded in the past.

Economic worries were central to the debate and are central to explaining why parties should suddenly matter. The legislators agreed that American power worldwide was in danger and that the threat could be met by manipulating immigration policy. When the threat had been racial or ideological, neither party had a prepackaged solution to the problem or was identified as being particularly strong on the issue. At the turn of the century, neither Republicans nor Democrats were “whiter” than the other; at midcentury, neither was more anticommunist than the other. Each had to create a response from fairly raw materials. Economic programs, though, both had in abundance. They were waiting for just such a crisis to be used. The Republicans advocated open migration of labor and capital to stimulate the economy; the Democrats sought retraining and investment garnered from the surplus that the wealthiest owned. More Democrats than Republicans, therefore, wished to halt the employment of illegal aliens and to cap the aggregate number of immigrants that the country would annually accept. Figure 9 outlines the arguments that were made preceding the 1980s reforms.

on the goals the United States should pursue, or rather on what the United States should be, a question more fundamental than those for which party functionaries prepared answers. The 1980s votes were not about this because competitiveness was agreed; they were about the means to this end, for which the parties had prepared positions. Party matters in immigration politics to the extent that disagreement centers not on ultimate goals but on means. Party politics have become more important as consensus has grown on the importance to the United States of meeting the challenges the external world presents to American power.

In legislators' minds, two distinct though interrelated tasks faced the United States. First, it needed to clarify its population. Citizens should be inside the country, and aliens outside it. Proposals to sanction employers and others who helped illegal aliens complemented those to give amnesty to those illegally resident for a long enough period that they had become *de facto* citizens. Legislators did not disagree about the validity of this goal; debate centered on how to achieve it without discriminating against citizens, especially on the basis of race. The second task was to improve the country's position in the world economy. Expelling illegals was a first step, as illegal aliens were seen to be taking jobs and welfare benefits that could go to citizens, but it was insufficient. Figure 9 outlines the arguments made about legalization.

In need of a more highly skilled labor force, and domestic—not foreign—investment, the country had two broad choices. It could construct an industrial policy guiding labor education and retraining, and investment into manufacturing and basic research. This would involve extensive cooperation from the public sector, across the ideological spectrum. It also would be expensive. Or it could try to attract investors and the highly skilled from abroad, which had the advantage of avoiding all of the social and economic costs of imposing and implementing an industrial policy. Given that Congress came to agree that these were its options, it is unsurprising that it chose to alter immigration policy (table 9 lists the possibilities and the choice). More interesting and significant is that it arrived at this array of options; that when faced with an external threat to its relative power, it again turned to immigration policy as one attractive avenue of change.

Table 10 outlines the changes that the Immigration and Control Act and its successor legislation in 1990 made to the Immigration and Nationality Act. The U.S. Congress passed twin immigration reforms in the late 1980s. The Immigration Reform and Control Act of 1986 (IRCA) focused solely on persons already resident on U.S. territory. Its purpose was to clarify residents' legal status, dividing them clearly into

citizen and noncitizen categories. The act allowed an amnesty for undocumented resident aliens who had been continuously present in the United States for some period of years, allowing them to use their residency toward naturalization.¹⁶³ As Congress saw it, “there are really two thrusts to this bill. . . . One of them is to regain control over those borders. The other one is to prepare expeditious means for handling the procedures for asylum and deportation.”¹⁶⁴ While the Immigration and Naturalization Service cleaned house, Congress set about repairing the fence. Legislators envisioned these bills as two stages of the same process. As Theodore Hesburgh, in charge of the Carter administration’s commission on immigration reform, argued, “We had to close the back door on illegal immigration to keep the front door open for legal immigration.”¹⁶⁵ The Immigration Act of 1990 thoroughly revised American laws governing criteria for entry and exclusion. For the first time, all immigrants, regardless of place of birth, reason for emigrating, or relation to a U.S. citizen, became subject to numerical restrictions. The twin reforms followed the pattern established in the first part of the century by simultaneously extending regulatory control and liberalizing the criteria for exclusion.

Congress understood itself to be acting to support, or re-create, American sovereignty. While some viewed this task as straightforward and unproblematic, others saw it as tragic. A liberal state could continue only if it remained a state, remained sovereign, and yet could only remain liberal if it recognized human equality regardless of birthplace. Dale Bumpers worried that the bill “presents us with a conflict between our normal commitment to human rights, our Judeo-Christian beliefs and ethics, on the one hand, and on the other hand our commitment to the first law of nature, which is self-preservation.”¹⁶⁶ Those enmeshed in the immigration debate saw clearly the tension between the liberalism and the nationalism that they were seeking to forward. Gary Hart, like Bumpers, reflected that immigration restriction “is an issue which forces us to balance our Nation’s sovereignty—and ability to control the borders—with the role America has played as a haven for the oppressed. It is an issue which forces us to reconcile law enforcement needs with our commitment to civil liberties and civil rights.”¹⁶⁷ He saw the tension as between sovereignty and American domestic liberalism.

How this tension would be resolved both revealed the country’s values and shaped the country’s future. Edward Kennedy argued this when he said that “what we do on the issue of immigration says a great deal about the kind of society that we are and that we want to become.”¹⁶⁸ And opponent George Huddleston observed that “immigration, without ques-

TABLE 10. Immigration Reform and Control Act and Immigration Act of 1990

Act	Numerical Restrictions	Preferences Categories	Unrestricted (Non-quota) Immigrants	Exclusions
INA Amendments (Hart-Celler)	<i>Overall ceiling:</i> 290,000 <i>Method of allocation:</i>	<ul style="list-style-type: none"> •1st: Adult unmarried children of U.S. citizens, 20% •2d: Spouses and unmarried children of resident aliens, 20 percent •3d: Professionals, 10 percent •4th: Married children of U.S. citizens, 10 percent •5th: Brothers and sisters of U.S. citizens, 24 percent •6th: Other needed workers, 10 percent •7th: Conditional (refugees) •Nonpreference: Unused slots from above 	<ul style="list-style-type: none"> •Spouses, children, and parents of U.S. citizens •Ministers •Former employees of the U.S. government abroad •Foreign medical graduates 	<ul style="list-style-type: none"> •Sexual deviation
Immigration and Nationality Act Amendments of October 3, 1965	120,000 general cap for the Western Hemisphere; 170,000 cap for the Eastern Hemisphere, with a limit of 20,000 per country per year			
IRCA	Increased from 600 to 5,000 the cap for immigrants from dependencies	<ul style="list-style-type: none"> •Retired employees of international organizations •Countries adversely affected by the 1965 act 	<ul style="list-style-type: none"> • “Amnesty” for illegally present aliens resident in the U.S. since January 1, 1982 	
Immigration Reform and Control Act of 1986				
Immigration Act of November 29, 1990	<p>To 1994 <i>Overall ceiling:</i> 700,000</p> <p>After 1994 <i>Overall ceiling:</i> 675,000</p>	<ul style="list-style-type: none"> •Family-sponsored immigrants, 71 percent •Employment-based immigrants, 21 percent •Diversity immigrants, 8 percent 		<p>Reduced to 9 categories:</p> <ul style="list-style-type: none"> •Health threats •Criminals •Security risks •Public charge risks •Labor competitors •Illegal entrants •Those without visas •Those ineligible for citizenship •Miscellaneous (polygamy)

tion, is one of those rare policies which ultimately impacts upon almost every aspect of our society and economy, and to a large degree determines what kind of country we are.”¹⁶⁹ The balance that Congress struck in the late 1980s again sought to liberalize the criteria governing which types of persons might immigrate, while extending national control over not only who, but also how many people might become citizens. Like its legal predecessors, its liberalism was qualitative; its conservatism quantitative.

In the decade following the 1990 reforms, Congress discussed, and approved, three dozen bills relating in some way to the Immigration and Nationality Act. Most dealt with a single, and minor, element of the law; for example, P.L. 105-73 was entitled “To Amend the Immigration and Nationality Act to exempt internationally adopted children 10 years of age or younger from the immunization requirement in section 212(a)(1)(A)(ii) of such Act.” Of these many bills, only one received political attention. The “Illegal Immigration Reform and Responsibility Act of 1996” (P.L. 104-208) asked the INS to gather data on visitor entries and exits, to better monitor visa overstays. Business people, customs, and the INS, however, argued that this would tie down resources and back up traffic at the border; in 2001 it was effectively abandoned. As the twentieth century ended, legislators and the American public were largely content with the single, comprehensive limit that had resulted from the century of debate.