

# A Short History of the Politics of Immigration

BY ROBERT H. COHEN



The subject of immigration has engendered strong opinions and contentious political debate from the early days of American history. Before the Revolutionary War and independence, Americans were already debating the merits of immigration and who should be permitted to reach our shores.

While we think of immigration as the current contentious debate that most recently caused the government to partially close for more than a month while the president and speaker of the House exchanged tweets, barbs and accusations, the debate is older than the Republic. As early as 1751, Benjamin Franklin argued that large

numbers of German immigrants should not be permitted to settle in Pennsylvania because they would change the character of the colony:

"Why should Pennsylvania, founded by the English, become a Colony of Aliens, who will shortly be so numerous as to Germanize us instead of our Anglifying them, and will never adopt our Language or Customs, any more than they can acquire our Complexion."<sup>i</sup>

A complete study of Benjamin Franklin's views on immigration reflect a more nuanced view. He appreciated the industrious nature of the German immigrants, and sought to understand cultural differences that would explain his observations, but he still insisted that if too many industrious German immigrants

were permitted to immigrate to Pennsylvania, the nature of the colony would be transformed.<sup>ii</sup> Franklin understood the benefits of immigration and the industrious nature of those who made their way to the colonies to find a new beginning, but he also feared the change that the immigrants might bring to society.

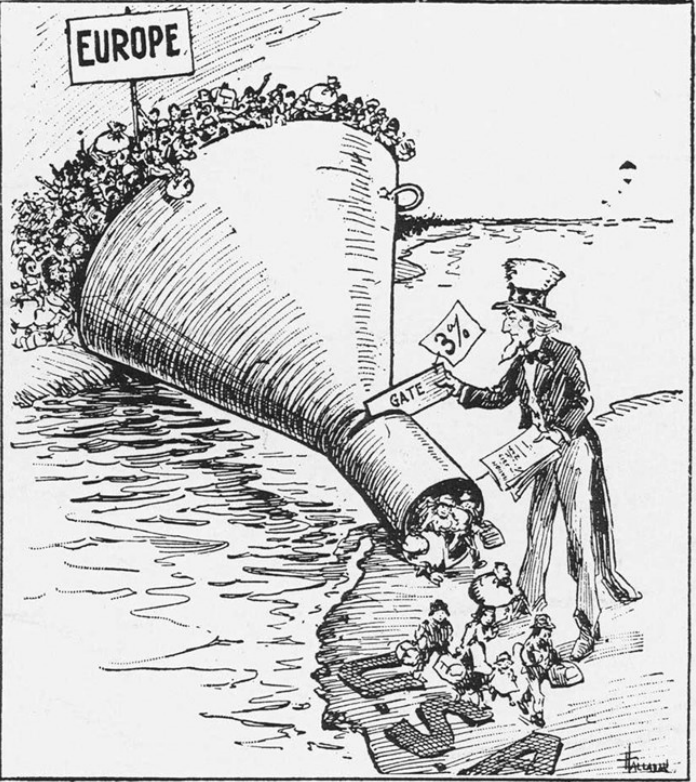
This dichotomy reflects the debate throughout our history. We take pride in the history of our country, that we are a nation of immigrants, welcoming immigrants from around the globe seeking opportunity, religious or political freedom or simply a fresh start in life. We celebrate the immigrants who have become famous and have made enormous contributions to our society, immigrants such

as Albert Einstein and more recently Sergey Brin, the founder of Google. Many immigrant communities are associated in the folklore with particular occupations. The Irish were identified as police officers in Boston, whereas the Chinese were known to have built the railroads in the last half of the 19th century. Jewish immigrants, often excluded from universities or professional positions, founded scrap businesses. However, a brief review of some of the landmark legislation that has addressed questions of immigration during the past 240 years reflects a deep fear of immigrants and changes they may bring to our society.

Beginning with the Alien and Sedition Acts of 1798, Congress was concerned that immigrants would constitute a Fifth Column, undermining the security of the United States during its early years. During the 1850s, the American Party, better known as the Know-Nothing Party, represented the strong anti-immigrant sentiment of the day. At its height in 1855, the Know-Nothing Party was represented by 43 members of Congress. The party was sufficiently prominent to nominate a candidate for president in the 1856 election, former President Millard Fillmore who had served as president from July 1850 until March 1853.

The clearest example of legislation targeting a specific population of immigrants was the Chinese Exclusion Act of 1887. This law excluded Chinese immigrants, notwithstanding the wide recognition of their contribution to the construction of the transcontinental railroad system. The Chinese Exclusion Act was first limited to 10 years, but was renewed twice before it became permanent. Congress did not repeal the law until 1943.

The national quota system was introduced in 1924, and limited immigration based upon a percentage of immigrants from each country already in the United States as reported in the 1920 census. This quota system



1921 political cartoon

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had the effect of limiting immigrants to the countries from Western Europe considered desirable. Italians, Eastern Europeans and Africans were limited to a mere handful of immigrants, and Asians were excluded entirely.

The Immigration and Nationality Act of 1952, known as the McCarran-Walter Act, implemented the structure of immigration law that remains in place today. The Act included a number of provisions for family reunification and employment-based immigration as well as provisions to address the continuing refugee crisis from World War II. At the height of the "communist scare," the Act also included ideological provisions, many of which remain part of the Act today. However, one key component of the 1952 law was that it retained the very restrictive quota system from the 1924 law. While the presentation of the quota provisions was more mild

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and less overtly racist, the effect of the law was the same. It was the continued quota system that President Truman cited when he vetoed the bill. His veto message echoed similar arguments that one might hear today as immigration continues to be a contentious issue.<sup>iii</sup> He noted the benefits of immigration, expressed concern that our racist policies made it difficult to advance diplomatic initiatives and that immigrants contributed to our workforce to make our economy stronger. Congress voted to override the veto, and the 1952 Act became law over the President's veto.

The restrictive national quota system was finally eliminated from the law in the 1965 amendments to the Immigration Act. Instead, the law adopted the current structure which does not discriminate against citizens from any particular country and instead established a series of classifications based upon employment and family relationships. These classifications were modified in the Immigration Act of 1990 and remain in place today. There is one remaining limitation based

upon country of birth. Each country is limited to seven percent of the total in any one classification, based upon country of birth. For family-based applicants, this quota limitation impacts individuals born in Mexico and the Philippines; for employment-based categories, the limitation restricts those born in India and China. There are currently bills in Congress to eliminate this restriction, and one such bill, H.R. 392, has 327 co-sponsors. Even with this overwhelming bi-partisan support, the bill has been unable to reach a floor vote.

The last major overhaul of the immigration laws was the Immigration Reform and Control Act of 1986. Congress addressed the problem of the estimated 3 million undocumented immigrants by providing a process for legalization. Immigrants who could prove they had lived in the United States without lawful status from Jan. 1, 1982 until the enactment on Nov. 6, 1986, were permitted to apply for temporary resident status. After 18 months, and a period in which their applications were screened for criminal behavior and other disqualifications, they

were permitted to apply for full resident status. In exchange for this legalization program, Congress also enacted the employers' sanctions provisions that required employers to verify the employment eligibility of every new employee by completing Form I-9 and reviewing documents to demonstrate eligibility. Theoretically, proponents of the legislation argued, this solved the problem of the undocumented immigrants and also set up a system to discourage further undocumented immigration.

The 1986 law, however, failed to provide a sufficient process for future legal immigration, known among the policy

wonks as the future flows. A number of factors impact the demand for immigrant visas, including political and economic conditions in the United States and around the world, employment markets and for many individuals, family developments. Congress established levels of



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immigration in the Immigration Act of 1990, and while this may have been appropriate for the early 1990's, by the end of the decade, the numbers were already obsolete. However, the law does not permit flexibility and the levels of immigration were not sufficient to meet either the economic or humanitarian demands. The law of supply and demand overwhelmed the immigration system, leading to significant dysfunction and we again find ourselves in a similar situation that prompted the 1986 Act. Estimates are that there are between 10 and 13 million immigrants in the United States without lawful status. Questions of compassion, humanitarian treatment, work force demands and security still have the capacity to roil the public discourse. In 1952, President Truman wrote that "I am sure that with a little more time and a little more discussion in this country the public conscience and the good sense of the American people will assert themselves, and we shall be in a position to enact

an immigration and naturalization policy that will be fair to all." The current President has not followed this example, and the debate today unfortunately harkens back to the dark days of the Know-Nothing Party and the Chinese Exclusion Act.

<sup>i</sup> Swarthy Germans, by Matthew Yolesias, Atlantic, February 4, 2008. <https://www.theatlantic.com/politics/archive/2008/02/swarthy-germans/48324/> [last visited January 27, 2019].

<sup>ii</sup> Letter to Peter Collinson, May 9, 1753. <http://teachingamericanhistory.org/library/document/letter-to-peter-collinson/> [last visited January 27, 2019].

<sup>iii</sup> Veto of Bill to Revise the Laws Relating to Immigration, Naturalization and Nationality, Public Papers of Harry S. Truman 1945-1953, June 25, 2952. <https://www.trumanlibrary.org/publicpapers/index.php?pid=2389> [last visited January 28, 2019].

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