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Old Blood, New Blood, Weak Blood: The Nature of U.S. Immigration Laws

by Ronald Fernandez, Ph.D.
Central Connecticut State University

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"The national origins system contradicts our basic national philosophy and basic values… it judges men and women not on the basis of their worth, but on their place of birth… this system is a standing affront to many Americans and to many countries."

– Attorney General Robert Kennedy, July 22, 1964[1]

Abstract

This paper attempts to provide a century long overview of U.S. immigration policy. Rooted in research conducted at the Presidential libraries the article seeks to explain the motivations behind the dramatic changes in U.S. immigration policy in 1965. The article argues that, even today, the Congressional debate is propelled by the National Origins legislation of 1924.

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Old Blood, New Blood, Weak Blood: The Nature of U.S. Immigration Laws

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The Julian Samora Research Institute is the Midwest's premier policy research and outreach center to the Hispanic community. The Institute's mission includes:

- *Generation of a program of research and evaluation to examine the social, economic, educational, and political condition of Latino communities.*
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- *Development of Latino faculty, including support for the development of curriculum and scholarship for Chicano/Latino Studies.*

Old Blood, New Blood, Weak Blood:
The Nature of U.S. Immigration Laws

Who's Responsible?

In December of 1997 the U.S. Government Accounting Office (GAO) issued a report which read like an advertisement for Ripley's "Believe It Or Not." Rural America, home to an army of patriotic militia groups[2], also hosted roughly 600,000 illegal, agricultural workers. The foreign-born men, women, and children picked strawberries in California, beans in Texas, and tomatoes in Florida. Meanwhile, the U.S. Department of Agriculture reluctantly agreed that growers "depended" on these illegal workers. It would, of course, be better for all concerned if domestic help stooped to pick the nation's vegetables. However, in the absence of a homemade workforce, the USDA seconded the growers' contention that America needed, besides the illegal labor, a ready supply of temporary, agricultural "guest" workers.[3] In English that meant more Mexicans, many of whom may overstay their guest privileges. This, too, was a problem, but not as great as the one faced by growers – their nightmare was an Immigration and Naturalization Service that enforced the law.

Suppose, reasoned the farmers, the INS went so far as to raid farms when crops were ready to harvest? The tomatoes would rot and the strawberries would seep their juices into the fields.[4] So, to protect themselves against the possibility of law enforcement, growers have demanded a ready reserve of guest workers. Remember, on any given day, an ugly incident with an immigrant in Los Angeles or Chicago could trigger a political need to enforce the law. Where would that leave the growers and consumers who depended on fruits and vegetables for their economic and physical well-being?

In its role as objective analyst, the GAO asked the INS for its response to agribusiness. Were the growers correct? The INS answer? "Not on your life!" Agribusiness, the INS contends, neglected some facts. First, the INS had spent (1994-1997) over $2 billion on border control.[5]

The agency focused so heavily on keeping Mexicans out that less than 20% of the agency's resources went to officers who identified and apprehended illegal immigrants once they actually entered the country. Second, enforcement at factories and other work sites constituted less than 4% of INS enforcement activities in fiscal year 1996. Finally, current enforcement on the farms is only a tiny portion of the agency's already small enforcement activities. The end result? All concerned agreed that 37% of the agricultural workforce was illegal, but, since the INS had no intention of seriously enforcing the law – "conducting enforcement operations in agriculture is particularly resource-intensive" – farmers had no need for guest workers. They would, apparently, have to make due with the dramatically increasing supply of illegal immigrants – 3.9 million in 1992, 5 million in 1996.[6]

How many people read the report? My guess is not many. But the one certainty is the lovely assessment attributed to baseball icon Yogi Berra: "It's déjà vu all over again." The widespread thirst for Mexicans in general, and illegal immigrants in particular, is a 20th Century constant. Listen, for example, to John H. Davis, of Laredo, Texas, pleading for the "temporary admission of illiterate Mexican laborers" in 1920. As Davis put it to the U.S House of Representatives, "the Mexican labor has been with us always, as the Negro has been in the South… we are wholly dependent upon the Mexican, just as we are dependent on our wives at home. There is nothing done in that country worthwhile, outside of the towns – absolutely nothing done worthwhile – that is not done by the hand of that patient laborer."[7]

Give Davis credit for this: he told the truth. Moreover, turning a blind eye to illegal aliens has always included not only Mexicans, but also a wide variety of other ethnic groups. For example, leaders of the Irish Immigration Reform Movement pleaded with Congress (in 1987) to provide more visas for their brethren; that was the only way to stop

"discriminating" against the 150,000 Irish nationals and the estimated 90,000 Poles "forced to live in the shadows as illegal aliens." Add to these an estimated (as of 1996) 335,000 illegal El Salvadorans, 105,000 Haitians, 165,000 Guatemalans, and 95,000 Filipinos[8] and, without even including the illegal Chinese, Vietnamese, and Dominicans, you develop a Polaroid snapshot of those who live and work in the shadows of American life.

Living a lie is scary for illegal aliens, but it is even more frightening for others. Our contradictions – or lack of information – hide reality. If we are to ever deal with the issues raised by this book we need to, like Davis in 1920, tell it like it is.

- Since U.S. immigration laws were dramatically transformed in 1965, more than 23 million legal immigrants have arrived in the United States. Documents at the Kennedy and Johnson libraries indicate that government officials never meant to welcome the world. As Attorney General Katzenbach told Congress on Feb. 10, 1965, the new law was designed primarily to eliminate the institutionalized "evils" and "cruelties" of the 1924 and 1952 immigration acts.

  Architects of the new bill only included features like "first come first serve" in large part because of the "injustices under the old system."[9] So, the ethnic mix of U.S. society was forever changed as a result of the unintended consequences of introducing our professed ideals (e.g., all people are created equal) to the laws of the land.

- Whether legal or illegal, immigration to the United States is part of a worldwide process. It is fueled by factors like greed, poverty, family ties and networks, the nature of capitalism, and economic change. It is these changes, for example, that make high – and low-skilled jobs a plentiful source of employment for immigrants working in Paris and San Diego, Tokyo and Chicago, or Brussels and Miami.

- Millions of immigrants live in America because of the consistently neglected consequences of U.S. foreign policy. For example, whether it is a million Cubans or a million Vietnamese, you cannot grasp their presence in this country without recalling the Cold War that brought these "boat people" to U.S. shores.

- Roughly 20% of the El Salvadoran people now live in the United States.[10] Their continuing presence is intimately linked to President Reagan's handling of Central America civil wars.

This list could be extended; the presence of immigrants from Southeast Asia and Central America cannot be separated from the consequences of U.S foreign policy. And, like legal and illegal Mexicans, the presence of Jamaicans and Barbadians is intimately linked to U.S. agricultures need for cheap, disposable labor.

So, as we trace the history of recent immigration to the U.S., let us start with a request and a conclusion. Don't blame the newcomers. In the year 2000, primary responsibility for the ethnic composition of the United States squarely rests on the shoulders of at least five generations of U.S. political and economic interests.

Chickens Coming Home to Roost

National Origins Law of 1924

In 1923, Democratic Congressman John Miller (Washington) lectured his colleagues on "old," "new," and "weak" blood. "We are fairly settled with the Chinese," he said. "They cannot come. They understand it; we understand it."

Asked if he knew anything about the smuggling of Chinese from Canada to Washington, Miller said "oh, yes… everyone does more or less." However, "there is not near as much smuggling as formerly." The real problem was "the enormous number of other orientals coming to our country, the largest number being the Japanese."[11]

Miller stressed that there was a sociological aspect of this. “A Chinaman coming to this country remains a Chinaman. Oriental blood is old blood; the last blood in the world to change, and the hardest to change. You can change the blood of a nation which is a new blood and modernize it much more readily and easily; it responds much more quickly than the blood of the old nations.”[12]

Congressman Elton Watkins (R., Oregon) wanted to know if that not true of every race except the Nordic.” Miller replied affirmatively. “Yes sir, you can modernize and Americanize the citizens of Northern Europe; they are new blood in the world. But the blood of the Orient is the oldest blood, the hardest to change…”[13]

Luckily, Miller contended, “not one (Chinaman) out of a thousand marries a white woman.” But the races did occasionally mix – “a Japanese frequently wants to marry a white woman” – and, as Miller instructed his colleagues, “…a half caste is a failure in most cases; there are some exceptions. The half-caste Indian is a failure; the half-caste black man is very likely to be a failure. But the half-caste oriental is worse. He seems in the majority of cases to inherit the vices of both races and the virtues of neither. It makes, as a general rule, a bad product.”[14]

By excluding “orientals” the United States prevented the manufacture of damaged goods. This was beneficial in any case, but especially important in 1923 because, Miller believed, scientists agree that white blood is the weakest in the world and the most easily tainted. And the half caste, as a general rule, partakes more of the other race in his temperament than he does of the white race.

Miller’s logic challenged Charles Darwin. If only the fittest survived, how did the “weak” blooded whites manage to achieve anything of significance? Was old blood tired blood?

Was weak blood, so easily “tainted,” better blood? And, if the half caste oriental was more of an oriental than he was a white man, wasn’t old blood stronger than new? Or, was new blood better, because, like a shiny Model T, it had just come off the human assembly line?

In 1923 nobody asked these questions. On the contrary, Miller’s colleagues politely listened as he summarized the justification for the new immigration law. “The perpetuity of the institutions of a country depends upon the passing from one generation to another of the full blood; that is the way great institutions are perpetuated.”[15]

However candidly, Miller expressed an anxiety shared by the architects of the 1924 immigration act.[16] Albert Johnson, Chair of the House Committee on Immigration and Naturalization, warned that the people of the country, “when they see the aliens creeping up in New York City like locusts a block or two at a time, have reason for apprehension.” Congressman William Vaile of Colorado told a story about an alligator and a cat. “The cat looked the alligator over the very moment the alligator was brought into the house. The alligator snapped at the cat frequently; and the alligator kept growing larger and larger. The cat did not grow. And finally, one day the alligator killed the cat.”[17]

Congress decided to act before the alligator opened its jaws. Indeed, despite witnesses who complained that the law blatantly discriminated against Chinese and Greeks, Japanese and Italians, Poles and Russians,[18] the House Committee earnestly explained that the new law imposed strict quotas on countries like Italy primarily because it was the “new seed” that discriminated against the old.

Congress offered these figures. From 1871 to 1880 the total number of immigrants into the United States from Western Europe was over 2 million while the total from Southern and Eastern Europe was only 181,638. But, from 1897-1914, the “old immigration” was nearly 3 million, the “new immigration” more than 10 million.[19] The alligator was growing quite large and, as this Congress never forgot, the alligator had a family.

Then, and now, the U.S. immigration laws established preferences for the immediate relatives of naturalized citizens and “certain declarants.” Husbands, wives, and others came to entry points like Ellis Island outside the overall quota set by law. The intention was noble, to allow families to unite. But, given the 3-to-1 ratio of new-to-old immigrants, the former would quickly swallow the latter unless the law forever stopped “the endless chain of relatives.”

The House Committee, therefore, stressed that "herein lies one of the prime reasons for reduction of quota" to 2% and establishment of "base for quota on the 1890 census." In the future, the U.S had to figure a country's yearly quota of new immigration based on 2% of its total in 1890 (thus Britain got 62,458 slots, Italy 3,912, Greece 47, and China and Japan got none[20]). If Congress set a base line of 1910 or 1920, it guaranteed the "future pyramiding" that built, on American soil, ever-expanding monuments to Southern and Eastern Europe. Thus, House leaders proposed that new citizens could bring in orphaned nieces and nephews but, if they had parents, they "stay home." And give the same message to grandma and grandpa. They would be denied admission as "nonquota" immigrants to prevent future appeals for admission from lines running to the grandparents."[21]

In the name of equalizing conditions for the old seed, Congress successfully sterilized the new seed. Until 1965 Italians and Greeks with money always managed to get Congressmen to pass "special bills" for their special friends, but, for virtually all "orientals" and most Southern and Eastern Europeans, the new law was a brick wall. After 1927 the law parceled 150,000 immigration slots in proportion to the distribution of national origins in the white population of the U.S. in 1920. The overall quotas for nations like Italy and Greece were not markedly changed. Not even World Wars demolished it, and the most principled criticism never moved his colleagues to heed the pleas of Congressman Emanuel Celler.

McCarran-Walter Act of 1952

Representing a Brooklyn District, Celler entered Congress in 1923. In 1951 he challenged the national origins system when it was first introduced and again voiced his principled opposition as Congress debated major revisions of the nation's immigration, naturalization, and nationality laws.

"Suffice it to say, national origins is as dead as a dodo from a scientific standpoint. We had the best example of that in the Hitler regime, when we had the Herrenvolk and the Sklavenvolk, super race and slave race. That was the Hitler theory. It should be scotched in all scientific minds that one race is better than another race. History should certainly prove that."[22]

Despite history, Celler avoided a frontal attack on the national origins theory. His opponents easily had all the votes required to maintain restrictions, so Celler said, "I bow down to the inevitable." But what about the unused quotas of Great Britain and Ireland? Year after year over 40% of the English quota "remained idle." Meanwhile, Congress found itself passing "private bills" that made increasing exceptions to the national origins restrictions. Celler thought the time had come when a portion of these unused quotas should be divided equitably among those nations whose quotas are pitifully small. And they are pitifully small."[23]

Celler then explained how the small became smaller. In the original (1924) and proposed (1951) legislation, statues specified that a country could use no more than 10% of its yearly quota in any one month. Spain, for example, had a quota of 252, yet if 26 Spaniards wanted to migrate in January, the 26th one had to wait. While the law did allow a country to fulfill the remainder of its entire quota in November and December, Celler said to "see how the quotas of small countries who desperately need the quotas go to waste because of such a provision." Turkey had a quota of 226 but only 177 were used. And, despite Spain's total of 252 immigration slots, only 63 were used in 1947 and only 189 in 1948.[24]

Celler wanted to determine how many quotas were unused and, in the next years, allocate among those countries having quotas less than 7,000. "That is all."[25] Congressman Francis Walter (D-Penn.) said "there is a very delicate question of foreign relations involved, diplomatic relations." Presumably Great Britain or Ireland would react angrily to the U.S. using their unused quotas. Celler responded that when Congress "whittled away" at the already tiny quotas, it also threatened our ties with nations like Italy and Greece. But, sensing that he was once again spitting in the wind, Celler turned to "what might be deemed a discrimination against the colored people."[26]

In the 1924 legislation no quotas existed against immigrants with origins in the Western Hemisphere. Especially after the U.S. military occupation of Haiti (1915-1934) and the Dominican Republic (1916-1924),[27] the United States received heated criticism from its Southern neighbors. So, in what would later be called the "Good Neighbor Policy," the U.S. theoretically opened its doors to anyone in the Western Hemisphere.

What bothered Celler – and his Brooklyn constituents – was a new quota for the British colonies of Jamaica and Trinidad. By virtue of the 1924 law, immigrants from these colonies entered under the British quota. That was the largest total thus far, so the 1951 law proposed that all colonies and non-self governing territories shall have a quota of 100. Even that number was further restricted (e.g., 30 of the 100 slots went to parents of Jamaicans or Trinidadians who were already U.S. citizens) so Celler argued that politicians should "hesitate long before" taking that action. "We do not do it with reference to any other landmass in the Western Hemisphere. We do it just for those two. And it might be deemed a discrimination against the colored people. I think they have a right to claim discrimination because the colored folks come from those areas."[28]

Indeed they did! As laborers in Florida and Connecticut, West Indians engaged in the "stoop and squat" work that put sugar on America's tables and cigars in a Congressman's mouth. One Connecticut tobacco grower even told Sen. Paul Douglas of Illinois, in February 1952, how important the low wage West Indians were: "I think probably agriculture in the State of Connecticut would be nonexistent if the price rose to where it would attract the (U.S.) labor." [29]

Like Mexicans on the West Coast, Jamaicans (and Puerto Ricans) proved to be indispensable on the East Coast. In Hartford, farmers welcomed them to pick tobacco, while in Washington Congress easily passed the Mc Carran-Walter Act of 1952. In vetoing the legislation, President Truman proclaimed the national quota system out-of-date, inadequate, deliberately and intentionally discriminatory, unrealistic, unworthy of American ideals and traditions, and "repudiates our belief in the brotherhood of man."[30]

Congress quickly overrode the President's veto on March 25, 1952. Old restrictions against new and "colored" blood remained in force for more than a decade until President Kennedy courageously decided to act on his ideals – and the timely death (in 1963) of Congressman Francis Walter. Walter, as Chair of the House's Committee on Immigration and Naturalization, was the one man who might have toppled Camelot's "white knights."

Immigration and Nationality Act of 1965

First stop for the Kennedy men was the office of Emanuel Celler. As Chair of the House Judiciary Committee, Celler helped captain the disposition of all immigration issues. After 40 years of spirited resistance to the national origins system his support seemed certain, yet Kennedy staffers wisely chose to not take him for granted. As a sign of respect, Celler received one of the first congressional briefings about the President's proposals. During the meeting Celler obligingly scanned the legislative outline that existed in 1963 and, despite the lack of specifics, appeared "reasonably pleased with the bill." Precise details would be worked out over time; meanwhile Celler offered both principled, as well as practical, support.[31]

Problems developed when Kennedy staffers stumbled over the neglected ego of Congressman Michael Feighan (D-Ohio). As new Chair of the House Subcommittee on Immigration and Naturalization, Feighan "felt slighted, I think, that we had gone to see Celler before we went to see him. He made us absolutely no promises about whether he would support it or whether he was sympathetic."[32] In fact, he seemed very nettled, irritated, and unfriendly.

The President's men decided to, as they say in Columbia, *chupa medias* (suck socks). Assistant Attorney General Norbert Schlei said, he explained to Feighan that they were there to get his ideas and nothing was final… they had gone to see Celler first out of feeling that it was the proper thing to do – "you go to see the Chairman of the full committee first and then go to the Chairman of the subcommittee." Feighan also received assurances that Celler had nothing whatsoever to do with the development of the bill. Schlei and his colleagues "went to see him, we told him about it, but I'll bet you that he could not give a precise description of what's in it."[33]

Did Feighan buy this line? Apparently not. Schlei said that the stroking may have mollified Mr. Feighan some, "but he seemed very cool."[34] In fact, Feighan placed both stumbling blocks before the immigration bill for the next two years.

Appearing in the *Kansas City Star* on July 29, 1963, a political cartoon depicted one response to the formal congressional submission of the President's bill. Strapped to the side of the torch held by the

Statue of Liberty President Kennedy uses a bellows to blow life into Ms. Liberty's flame. While the flame flickered, the determination in the President's eyes assures all that he will relight the way for the world's huddled masses.[35] As the editors of the *Bayonne Times* stressed, "while this country is engaged in a great struggle to eliminate discrimination among its citizens… it is only fitting that the United States cut through the racial curtain that has separated us from peoples throughout the world."[36]

Other papers defended the national origins system. The *New Orleans Times-Picayune* wrote that in spite of much propaganda to the contrary, the United States has one of the most liberal immigration and naturalization laws in the world. Moreover, "unassimilated minority groups are easy pickings for the unscrupulous politician." This sentiment was shared by the *Times-Press* in Illinois. "No people, regardless of northern or southern Europe or elsewhere around the world, have a legitimate complaint of the present immigration plan of the United States. It is time we assume a role of enlightened selfishness, with the idea that charity begins at home."[37]

A third response to the President's message was surprise. In Lubbock, Texas the *Avalanche Journal* wrote that millions of Americans must have rubbed their eyes when they read of the plan the President submitted to lawmakers this week." In Santa Monica, *The Outlook* seemed equally confused. "One of the last causes that we would have expected President Kennedy to espouse at this time is that of ending quotas for immigration into this country… it's a strange kind of sentimentalism… which makes John F. Kennedy long for a return to the melting pot of the decades between the Civil War and World War I."[38]

The Outlook was wrong. Instead of a longing for days gone by, it was idealism – mixed with a healthy dose of politics – that fueled the efforts of the President's closest immigration advisors. Officials, for example, thought that Congress remained wedded to the national origins system. Abba Schwartz therefore argued that instead of embracing certain defeat, the President ought to seek the minor changes that could, with luck, open additional slots for Italians, Greeks, and Poles.

Mike Feldman, the the President's Deputy Special Counsel, took the high road. In White House discussions he not only cited the pledge in the President's 1960 platform, he (and others) emphasized that "the national origins system was the only thing left in the law of the United States… that discriminated against people on the basis of their race or their place of birth… it was just something that we felt as a matter of principle the Administration should not be in a position of defending…."[39]

While White House and Justice Department officials really wanted "to shoot at what we regarded as a major evil," they also needed to re-elect the President. "The bill was a great boon in dealing with the Italian-Americans and Americans of Greek origin and all the… hyphenated groups and the organizations that were interested in… immigration."

For the President, the bill was a win-win proposition. He acted on the basis of theoretically all-American ideals and, even if the bill failed in Congress, "hyphenated" Americans would sing his praises all the way to the ballot box. That was a grand slam for any politician so, when the bill died in the 1963 Congress, the President expected to resurrect it in 1964, the year of his presumed re-election.

Death stopped John F. Kennedy. However perversely, it helped his immigration bill. As the fiery rhetoric of Malcolm X suggested, "the chickens were coming home to roost." Too many seeds of hate had produced a toxic mix, yet, besides more violence, the President's assassination also fueled laudable efforts to introduce our professed ideals to the laws of the land. Segregation and exclusion, separate water fountains and "pitifully small" quotas marked two sides of the same coin. In 1964 and 1965 Congress rushed to make up for the past. So, as we today experience the immigration consequences of those transforming efforts, recall that the details of the new immigration law were required primarily because of what Malcolm X correctly called an institutionalized "climate of hate."[40]

In his Oral Interview for the Kennedy Library, Norbert Schlei said one of the great problems of getting a bill passed that would abolish the national origins quota system was to "think up some system that would not produce chaos to take its place."[41] For example, all concerned agreed that already established preferences for family members and skilled labor made sense. Many of the close relatives would be consumers who bought American goods rather than workers who took American jobs; meanwhile, unions could not balk if new immigrants imported skills urgently needed by the United States.

The sticky issue was how to let migrants in without using a system rooted in national origins. Schlei said "the idea that we came up with – and I think essentially this was my idea – we should start with 'first come, first served' because that's an unanswerably fair kind of a basis." In essence, if Americans truly believed that all men were created equal, the only principled choice was to say "yes" to anyone who walked through the immigration door. "We arrived at the conclusion that there should be a worldwide preference system and that quota immigration should be on a first–come, first-served basis within the preference categories."[42]

With one problem solved, another remained for the President. What about the waiting lines produced by 40 years of non-stop discrimination? In a legislative guidebook presented to every Congressman – a copy in the Johnson Library is labeled "Road to Final Passage" – anonymous authors focused on size and location. The waiting line was over 800,000 immigrants long and almost 60% of them came from four countries – Italy, Greece, Poland, and Portugal. "By far, the largest component of the world-wide waiting list was European."[43]

Critics – especially "rural Congressmen" –could relax. As if an ad subliminally flashed on a movie screen, readers of the "Road to Final Passage" could rest assured that most new immigrants would still hail from Europe. But if "first-come, first-served" were allowed, if that system were allowed to dictate the entire quota immigration policy, we would get 90% of our quota immigration from Italy; we would get about 8% from Greece, and we would get the other 2% from Poland and Portugal."[44]

That was politically intolerable in forums like the United Nations. How, for example, could U.S. diplomats tout the virtues of brotherhood when, in 1965, the Chinese quota (of 100) was already mortgaged until 2008?[45] Similar mortgages existed worldwide. Once you added in important allies, like Germany and Great Britain, it became apparent that the system needed other features in order to have it meet fairly and practically the problems that confronted them – in large part because of the injustices under the old system."[46]

Feature One stipulated a 5-year, phased in version of the new law. In that manner, countries with no present problems (i.e., England and Ireland) averted a "sudden, instant impact" on their immigration possibilities.

Feature Two authorized the President, in consultation with Congress, to reserve 30% of the numbers in any one year for distribution to immigrants important to the United States' national security. Events, like the Soviet invasion of Hungary in 1956 and Castro's politics in Cuba, were prime motivations for this immigration provision.

Feature Three – arguably the most important of all – put a "maximum limit" on the number of immigrants from any one country. Given the backlogs in Italy, Greece, Poland, and Portugal, the new law's architects argued "that if any one country got 10% of the total authorized immigration from the entire world, it was fair to impose a limit at that point." The new law also required that the rest of the quota numbers be distributed to other countries.[47]

Combined with preferences for close relatives, and "first-come, first-served," Feature Three deserves credit for forever changing the ethnic composition of the American people. Any country on earth was now entitled to 10% of the U.S. immigration quota and, over and above that fixed total, immigrants could quickly bring in a wide variety of close relatives who, over time, could bring in their mothers, fathers, sisters, brothers, husbands, wives, children…

The extraordinary paradox is that to eliminate the evils and cruelties of national origins, the Kennedy/Johnson team sanctioned the "endless chain of relatives" feared by the designers of the 1924 legislation. In 1996, 915,900 immigrants were admitted to the United States. Over 65% were "family sponsored immigrants" and 50% of those family sponsored immigrants – over 300,000 people – came as the immediate relatives of U.S. citizens. They entered the United States over and above the statutory limit imposed by Congress.

One conclusion is that both God and the government work in mysterious ways. Another is that none of the President's men wanted, or predicted, our contemporary result. Instead, they confidently assured Congress in 1965 that the effects of the new legislation would be both limited and short term.

Before the House of Representatives, Attorney General Nicholas Katzenbach tried to be specific. "The countries of southern Europe, southeastern Europe, Italy, Greece, Portugal, Spain, and also Poland… would be the principal beneficiaries of the new bill." He also stressed that the "total" increase in immigration would be no more than 70,000-80,000 people – and that included the relatives that would come outside of the specific total set by Congress.[48]

Congressman Feighan was worried. While he apparently accepted the Attorney General's sincerity, he nevertheless asked if the Justice Department would oppose "an annual ceiling," which Katzenbach affirmed. He stressed that Congress could always change the total number if Justice's estimates proved to be incorrect. But, while noting that his estimate might be as much as 35,000 off the mark, Katzenbach emphasized that "it cannot be very far wrong."[49]

Why? Because the President's men felt that their immigration bill rested on scientific knowledge. It was "the first that ever was formulated… that was checked out in terms of its statistical impact… that was systematically… practical."[50]

Besides noble ideals, the President's men also shared an air of arrogance. Thus, Schlei told the Senate that they anticipated, at the end of five years, there will be no preference waiting list in the world, with the possible exception of Italy. "That means that we will have no relatives, no people who want to rejoin their relatives, who are being kept out."[51]

Senator Sam Ervin (D-North Carolina) asked about prophets. "Do you not agree with me that it takes a man with prophetic powers to foretell what would happen under this bill with respect to applications for immigration to the United States after the expiration of the five years?"

While Schlei agreed that the "predictions becomes less certain as you go into the future," he wanted to add this fact. "The impact of registrations is bound to be limited because at all times… a minimum of two-thirds of the people would come in under this system (as) preference immigrants who will either be people of extraordinary attainments or… relatives of American citizens."[52]

Ervin refused to let go and expressed serious concern about unlimited immigration from "the Eastern Hemisphere," using India as a prime example.

"If my recollection is right," Ervin said, "India has… at this time, about 450 million people."

Schlei: "I think that is right."

Ervin: "India has a minimum quota now, do they not?"

Schlei: "I believe they do, yes, sir."

Ervin: "Is anybody that gifted with enough prophetic foresight to foretell how many people from India are going to apply for admission to this country as immigrants when they are assured that we have abolished all discrimination by immigration laws?"

Schlei: "No, sir, but I can foretell that there will be a relatively limited number of people who will qualify…"[53]

Schlei missed, and Ervin perceived the endless chain of relatives for the same reason: both men were arrogant. But where Schlei's conceit rested on his presumed powers of prediction, Ervin's arrogance revolved around a profound sense of national and racial superiority. Ervin championed what men like Katzenbach called "evil." In the process, Ervin raised crucial questions about the meaning of the U.S.

Throughout the Senate Hearings Senator Ervin emphasized that he supported the restrictions imposed by the national origins system. "With all due respect to those who cast aspersions on it, the purpose is to bring to the United States people who have relatives here in a national origins sense, who have made contributions to our population and contributions to our development. I believe that we ought to give preference to those who have made such contributions to America and not put them on exactly the same basis as people who have made very little or no contribution to our population and no contribution to our development."[54]

Ervin used Greeks and Africans as an example of why he favored restrictions; "…as far as the people of Hellenic descent are concerned, it is much easier for the United States to assimilate 11% in new population each year if they come from the same nationalities which have contributed in a substantial manner to the population of the United States."[55]

Africans were different. Ervin admitted that he was treading on soft ground since he lived below the Mason-Dixon line. "I should not refer to the Congo, because people immediately say I am full of prejudice." Nevertheless, he cited the testimony of his secretary, whom he considered "a wide reader." She told the Senator that, when the Belgians gave the Congo independence, people thought freedom and liberty came in a package. "…people that have that idea of freedom and democracy are not quite as ready to be assimilated into American life as people who come from a civilized nation like Greece or France or England or any of other older nations."

While no one pressed Ervin on the age of African nations, or the implied civilized/barbaric dichotomy, Senator Hiram Fong (D-Hawaii) artfully challenged his colleague. "Following the line of reasoning of Senator Ervin, if we were to adopt his theory, then we would certainly have to open up immigration to a lot of African nations, would we not? We have 11% of our population who are of Negroid ancestry?"[56]

One of the problems with reading Congressional hearings is that expressions and tone of voice are hidden from view. Nevertheless, when Fong got the witness to admit that, "yes, you would have to admit Africans because of their contributions," Ervin interrupted. "If you will pardon me, Senator Fong, you would not have to do anything of the kind. I stand for the nationality system, and it would be on the basis of the nations who have their representatives in this country."[57]

No wonder Ralph Ellison wrote the *Invisible Man*! Ervin totally disregarded the contributions of 20 million African-Americans, as he continued to champion his philosophy with passion. In one instance Rosalind Frame of Savanna, Ga., explained the origins of the Asia Pacific Triangle. In this section of the national origins legislation "if a person is indigenous to the Pacific or to Asia, he must be charged to that area when seeking entry to our nation." Thus, a Chinese or Japanese person born in Brazil would nevertheless be charged to the Japanese or Chinese quota.

"Why was it necessary to impose the Asia-Pacific Triangle?" Frame asked. The answer was birth rates. "The Chinese reproduce at the rate of more than three times the average American Caucasian. "Thus, I also present here a short sheet showing the overall character of expected immigrants under the proposed administration bill… within a 40-year period (which all of us might live to see) there will be 114 million Red Chinese without considering the children of the million Chinese already living within the United States. This figure of 114 million is 57% of our present population."[58]

Senator Ervin listened to this, and other, explanations of U.S. and world immigration policies. "Mrs. Frame," he asked, "is it correct to conclude from your testimony that your research and study indicates that the McCarran Walter Act (the 1952 legislation) discriminates against the admission of no immigrant on account of his race or on account of his religion or on account of his place of origin."

Frame agreed and that moved Senator Ervin to end with this question."So, instead of being a discriminatory law on immigration as it is pictured to be, it is the least discriminatory of all the immigration laws of any country on the face of the earth that you have studied?"

"That is a fact," Frame replied.[59]

Senator Sam Ervin represented – and represents – millions of Americans.[60] We changed the laws, but failed to reach a consensus about the meaning of the United States of America. The result is that in 1998 about 9% of the American people are foreign born. Meanwhile, 95% of all U.S. residents live in places that have less than 9% foreign born residents.[61] We remain a people divided – by geography and by the beliefs and values of men like Senator Ervin.

Final Passage

Did the President want to cut a deal? After "extensive discussions" with Congressman Michael Feighan, "there is only one issue between us that could block agreement." Would Feature Three – the 10% limit on immigration from any one country – cover the Western Hemisphere? Feighan said yes. "Our bill would leave the Western Hemisphere outside the quota system – as it now is."[62]

The President and his advisors were caught in a contradiction. As Feighan and Congressman Peter Rodino stressed during the House Hearings, "Mr. Attorney General, in retaining a nonquota status for the Western Hemisphere, would that not be discrimination? Now it is certainly a privilege, which is not given to any other country outside the Western Hemisphere. It is a privilege based on the accident of birth…." Why was one form of discrimination better than another? Why was it evil to effectively exclude immigrants from the Asia Pacific Triangle, but acceptable to show preference for countries like Argentina and the newly independent nations of Trinidad and Jamaica?[63]

In public Katzenbach "respectfully disagreed." What Feighan missed was that the nonquota status of the Western Hemisphere was never intended as a form of discrimination against anyone. Instead, the U.S. was including more immigrants because of foreign policy considerations. Pressed again by Feighan, Katzenbach reluctantly conceded that it was conceivable to make the argument that it is favoritism in theory. "I do not think you can say it is favoritism in fact."[64]

Of course it was. But, as the President read in a May 8, 1965 memo, Secretary of State Dean Rusk felt that if they went along with Feighan they would "vex and dumbfound our Latin American friends, who will now be sure we are in final retreat from Pan Americanism. The immigration project, on top of (the April 29th, 1965 U.S. military intervention in) Santo Domingo, will be, in the opinion of Rusk too much too quick from them to take."[65]

Feighan needed to remember the Good Neighbor Policy. And, if that memory failed to produce an agreement, Schlei nevertheless suggested no compromise. Immigrants had to prove they would never be a public charge and the Secretary of Labor could exclude anyone who threatened American working conditions. Thus, the grant of nonquota status meant nothing because "there are a great many restrictions having to do with health, security, etc. Taken together, these restrictions can be so administered as to keep immigration from the Western Hemisphere at almost any desired level."[66]

Based on documents at the Kennedy and Johnson libraries, Schlei's stark cynicism is out of character. Moreover, the ability to administratively close the door on immigrants we supposedly embraced had nothing to do with Feighan's insight. He legitimately criticized the Administration's "favoritism" based on place of birth (i.e., the Western Hemisphere) and the President and his subordinates simply disregarded it.

Ultimately the Senate resolved this dispute by siding with both Congressman Feighan and the Secretary of State! With no preference categories or country quotas, the Senate's final version of the law imposed a ceiling on Western Hemisphere immigration, but delayed imposition of the ceiling until a Commission decided if the Secretary of State's dire predictions proved to be accurate.

In October of 1965 the new immigration law passed by an overwhelming majority in the House and by a voice vote in the Senate. As Schlei later boasted, "they didn't even count because it was obvious that it had passed."[67]

Results of the New Immigration Law

Despite various major and minor modifications over the last 33 years, U.S. immigration policy continues to be shaped by principles established in 1965. Under the umbrella of the six or more specific preferences for family members and priority occupations, immigrants still generally arrive on a "first-come, first-served" basis. As of 1996, the cap on the number of visas from any one country has been raised to 28,016, but the law still puts a firm limit on the number that can legally migrate from any one country in any one year.

One of the 1965 law's conspicuous consequences has been a marked increase in newcomers' diversity:

- From 1820-1860, 95% of all immigrants came from Northern and Western Europe. The total number of immigrants was more than 5 million;

- Between 1901 and 1930, Southern and Eastern Europe accounted for almost 70% of all U.S. immigrants. The total number of immigrants equaled 18.6 million;

- Between 1931 and 1960, 41% of the immigrants came from Northern and Western Europe, 40% from Southern and Eastern Europe (remember the "special bills" always passed by Congress), and 15% from Latin America. The total number of immigrants equaled slightly more than 4 million men, women and children;

- Between 1966 and 1997, more than 23 million immigrants arrived in the United States. The percentage from all of Europe hovers around 15-17%. Asia, including a large number of refugees from countries like Vietnam and Cambodia, now accounts for roughly 37% of all immigrants while Latin America and the Caribbean account for 40% of all U.S. immigration;[68]

- Mexico alone accounts for 12.5% of all new immigrants; other major sources of new immigration include the Philippines (which often ranks second), Russia, Vietnam, El Salvador, China, the Dominican Republic, India, Korea, Jamaica, Poland, and Haiti;[69]

- In 1910, 14.7% of the U.S. population was foreign-born. The figure in 1970 was 4.8%; the figure in late 1996 was 9.3%;

- Immigrants are geographically concentrated. Six states – California (23%), New York (18%), Florida (9%), Texas (7%) New Jersey (6%), and Illinois (5%) – contain almost 70% of the immigrant population;

- Finally, the new law produced waiting lines every bit as long as the ones that existed in 1965 for Italians and Greeks. The waiting list for Filipino professionals, for example, is roughly 16 years long; the Filipino line for the brothers and sisters of U.S. citizens was last calculated at 12.5 years.

Full Circle: Diversity Immigrants

The previously-mentioned statistics scare many Americans. In *Alien Nation,* Peter Brimelow (a senior editor of *Forbes Magazine* and a naturalized immigrant from England) recently wrote, "the American nation has always had a specific ethnic core. And that core has been White."[70] While "White" is not an ethnic group, Brimelow – like Ervin in 1965 – expresses a provocative concern about the present and future shading of the American people. Indeed, despite Census figures which indicate (as of September 1997) 83% of the American people were still labeled "White," critics like Brimelow bemoan the "inundation" of an "indefinite number of foreigners." Presumably they will consume the light racial core, with results that are as ominous as the White Identity movement that fuels many contemporary militia groups.[71]

As early as 1989, Congress was also worried about the ethnic makeup of the new immigrants. But, instead of using the White/Black dichotomy, Congress talked of seeds – old ones, new ones, and the proper mix required to allow old seed immigrants to once again produce new Americans. "It is a question," said Sen. Edward Kennedy (D-Massachusetts), "of how we correct an unexpected imbalance stemming from the 1965 Act – the inadvertent restriction on immigration from the old seed sources of our heritage."[72]

Kennedy, the younger brother of the former President, noted that, as far back as 1981, Congress received indications that "old seed" immigrants experienced problems entering the United States. First, the preferences established by law favored those with needed skills and/or relatives in the United States. Second, as the 1965 debates made clear, groups like the Irish and English had rarely used the huge quotas deliberately assigned to their nations in 1924. Old seeds, therefore, lacked the immigrant base required to bring in close relatives. Finally, even after the 1965 laws opened America's door to the world, many Northern Europeans continued to stay home. By 1980, poorer members of the original heritage groups finally wanted to come to the United States, yet lacked either the skills mandated by the laws or recently migrated relatives.

The mayor of Boston, Raymond L. Flynn, explained that in the face of these discriminatory restrictions, Irish nationals now broke the law. Instead of suggesting that these illegal immigrants be arrested and deported, Flynn told Congress that "it is wrong that literally tens of thousands of young people from Ireland and other nations must today live shadow-like existences in our nation's largest cities… it is wrong that they must exist only from day to day without access to health insurance… it is wrong, above all, because this is not the American way, and it is equally intolerable for me that many of the victims of the current bad law include thousands from Italy, Haiti, and other countries as well."[73]

Haiti! Was Flynn suggesting that Haitians qualified as "old seed"? Or that the United States allow illegal Haitians the same rights as illegal Irish and Italians? On the rights issue Flynn seemed to say "yes." When it came to a specific plea, he focused on the Irish. They were 8% of the U.S. immigration mix in 1950 and only one-fifth of 1% since 1965. "How is that situation fair?"[74] And what was Congress going to do to restore the balance for old seed immigrants?

The State Department proposed this solution: it would use the old national origin prejudices to help reverse the consequences of eliminating the old national origin prejudices. Officials explained that certain – mainly European – countries had been "adversely affected" by the 1965 immigration law. So, to admit an additional 50,000 immigrants each year, the State Department devised a formula based on migration while the national origin prejudices still determined who entered the United States. Government officials totaled the number of immigrants between 1953 and 1965 and compared that to the number of immigrants from 1965 to 1985. Ireland, for example, had 6,853 immigrants in the first period and only 1,500 in the second.

By this reasoning Ireland had been adversely affected; one part of any solution was a point system for potential immigrants. In the bill before Congress, people from Great Britain, Ireland, France, Germany, Italy, or Poland received 30 points for their place of birth and another 10 points if they spoke English. While a person also got 10 points for a high school diploma and another 20 points for having a confirmed job offer, the focus on national origins provoked a strong response from those with bad memories.[75]

Steve W. Chu expressed his concerns. He understood the old seed, "political considerations" moving the legislation yet the 40-point head start offered to the English and Irish immigrants assured anything but equal opportunity. Given the same skills and education, the European would be chosen before the person from Korea or Japan. To Chu, an attorney, "this (1987) bill definitely gives the flavor of being anti-Asian or pro-European."[76]

Lawrence Fuchs (a member of the 1981 Select Commission on Immigration) said that, given the cap on immigration from any one country, the bill was a form of "affirmative action" for European countries. He recommended dropping the category of "adversely affected country." The United States, he said, should seek individuals as immigrants because they were "desirable for their attributes as persons." New Americans should never be selected because of their national or ethnic backgrounds.[77]

While critics initially blocked the 50,000 new slots for old seeds, Senators like Edward Kennedy and Patrick Moynihan still strongly supported the resurrection of national origin prejudices. By late 1989, the program had received a new name – "diversity immigrants" – with the hope that, by mentally linking the legislation to programs that benefited minorities, critics would overlook the legislation's 1924 roots.

Before, Congressional advocates of the bill proved to be their own worst enemies. As Donald Martin, national political coordinator of the Irish Immigration Reform Movement, told the House of Representatives, "there is no question that the diversity visas or the alternative replenishment visas (another new label) are not fair and balanced by themselves; they are not meant to be… they create some balance against a system… currently heavily weighted against many countries in the world."[78]

Once again, the Asian-American community immediately raised its voice in protest. In a long legal brief submitted by a coalition of Asian groups, the attorneys argued that the 1965 law was not heavily weighted against certain countries. On the contrary, many applicants from "low-demand countries" were given the same access and opportunity to apply for visas, but chose not to or deselected themselves when visas became available. The system was "first-come, first-served" and the cap on immigration from any one country assured more ethnic diversity than at any period in U.S. history.

Thus, the proposed 50,000 new slots for mostly European immigrants should be rejected because the legislation assumed that certain nationalities were more desirable than others. It therefore disregarded a fundamental U.S. consensus against discrimination on the basis of nationality or ethnicity. Most depressing of all, the bill "was bound to result in ethnic tension and conflict" within the U.S.[79]

Congress chose to ignore the Asian and other critics of "replenishment." Arguing that 34 countries (Haiti was not one of them) experienced adverse affects as a result of the 1965 legislation, Congress established (in 1990) a transitional "diversity" program for three years – 1992-1994. The law allowed 40,000 new slots a year for these "diversity immigrants" and, traveling full circle from 1965, the law reserved a minimum of 40% of the 120,000 visas issued over the 3-year period for Irish natives.[80]

The law succeeded. In 1994, for example, Poland (17,495), Ireland (16,344), and the United Kingdom (3,050) grabbed the lion's share of the new diversity visas. Equally important, these immigrants could soon bring in their relatives, assuring the never-ending replenishment of the old seed heritage. As David Martin summed it up for the House of Representatives, "the Irish Immigration Reform Movement sees dealing with the issues of diversity as an additive process. In other words, we don't seek to attack in any way the family preference system. Our grievance… is that we are not in it and won't be without the Congress helping us."[81]

Full, Full Circle

Congress soon reversed its reversal of the national origin prejudices. The permanent diversity program established in 1995 eliminated the specific 40% preference for Ireland and mandated instead 50,000 additional visas for the entire world. Any specific country received a maximum of 3,850 visas. In addition, big senders like Poland, the United Kingdom, and South Korea did not qualify for any of the new diversity visas. Overall, Africa got 43% of the diversity openings, Europe's share equaled 46%, and Oceania got .017% of the new diversity visas.[82]

To an outsider Congress seemed to be drinking. In reality Senators and Representatives remained, as in 1965, prisoners of the professed ideals of the American people.

- "Diversity" preferences based on place of birth clashed with our supposed belief in equal opportunity for any and all individuals.

- Affirmative action might make some sense when it helped groups like women, the handicapped and African-Americans. However, affirmative action for Northern Europeans made no sense to Asians who, deliberately excluded for a good part of the 20th Century, still represented less than 4% of the American people in 1998.

- If all people are created equal, how exclude Africa from the list of world regions providing the immigrant diversity, which the United States supposedly required?

Congress answered these questions by trying, as in 1965, to bring the immigration laws into line with our professed ideals. While the result will undoubtedly be a more colorful America than ever before, instead of a consensus about our immigration ideals, Congress – reflecting the nation – is as

confused today as it was in 1965. With one hand it deliberately invites new immigrants from nations like Nigeria and Ethiopia, as it substantially increases (in the 1990's) the number of close relatives permitted to come to America. On the other hand, Congress removes (in 1996 legislation) many of the social benefits to which legal immigrants have long been entitled. As a result of these policies, Congress helps create a negative atmosphere against the people it is simultaneously inviting to California or New York.

Even though roughly 50% of all illegal immigrants first enter the United States legally (e.g., with a student or work-related visa), Congress demanded that the INS focus its efforts on Mexico. The number of Border Patrol agents tripled (from 2,100 in 1982 to 6,900 as of late 1997), with 92% of the agents stationed along the Southwest border. As of December 1997, the GAO says there is no evidence that this small army of agents reduced the illegal immigrant flow from Mexico, not to mention the rest of the world.[83]

What shall we do with our America? One contemporary answer is to close the nation's doors and restrict even further the rights of people who are not part of the "white ethnic core." Another is to postpone an answer and first try to understand, besides the policies of Congress, the economic and political factors which propel millions of people to the same place: the United States of America.

Endnotes

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4. See, for example, *Rural Migration News*, Volume 4, No.2, April, 1998, 11; see also *Migratory Labor*, Hearings Before the Subcommittee on Labor and Labor Management Relations, Senate, 82nd Congress, 1952, especially 244-45, and for the acceptance of illegal immigrants see 70-71.
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18. See, for example, *Ibid*., pp. 285-315. This was the highly critical testimony of Attorney Louis Marshall; also Dr. Alvin Johnson, Director of the New School For Social Research, pp. 519-523.
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30. JFK Presidential Library, see the Papers of W. Willard Wirtz, Box 92, document is from the Democratic National Committee, "The Gates Must Be Left Open," p. 2.
31. JFK Presidential Library, Oral History Interview with Norbert A. Schlei, 1968, see especially pp. 38-39. Schlei was an important figure in guiding the legislation through Congress. His influence is also apparent from documents at the President Johnson Library. Finally, his oral history interview matches what he told Congress in the public hearings.
32. *Ibid*., pp. 38-39.
33. *Ibid*., page 39.
34. *Ibid*.,p. 39.
35. *Kansas City Star*, July 29, 1963; the clipping appears at the Kennedy Library, Papers of Abba Schwartz, Box 6.
36. *Ibid*, *Bayonne Times*, July 27, 1963.
37. *Ibid*, Papers of Abba Schwartz, Box 6.
38. *Ibid*. Box 6. The files contain roughly 100 editorials and stories about reaction to the President's immigration ideas.
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48. *Immigration*, House, 1965, op./cit., p. 23.
49. *Ibid*. p. 40.
50. Schlei, Oral Interview, op.cit. p. 40.
51. *Immigration*, Senate, 1965, op.cit. p. 258.
52. *Ibid*. p. 267.
53. *Ibid*. p. 279.
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64. *Ibid*. p. 43.
65. Johnson Library, "White House Central Files, "Box 184, this is from page 1 of a memo to the President dated May 8, 1965.
66. *Ibid*. Schlei's memo to the President, dated May 7, 1965, p. 2.
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