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Madame Chairwoman, members of the subcommittee, thank you for inviting me to provide historical perspective on contemporary immigration reform. America's rich immigration history illuminates not only our national heritage but also the origins and development of contemporary policy challenges. As Shakespeare so memorably put it, "what's past is prologue." It is especially stirring to testify on our immigration history at Ellis Island, a setting that poignantly captures the sacrifices, controversies, and hopes associated with each generation of newcomers over time.

This afternoon, I would like to describe briefly the competing traditions that long have informed our immigration debate, as well as the uneasy, often hostile, reception that has greeted each wave of immigrants who helped build this nation. I will then turn to the history of illegal immigration since the early twentieth-century, one replete with official compromises that supplied cheap labor while creating an exploited subclass and sacrificing the rule of law.

America's Immigration Debate: Four Ideological Traditions

Poll after poll demonstrates that Americans are deeply frustrated by the polarization that characterizes much of our political life these days. Our conflicts over immigration reform defy the familiar partisan and liberal-conservative divides of U.S. politics, but are no less contentious than other emotional issues on the public agenda. Amidst this conflict, we would do well to take a step back and recall that the founders of our republic also disagreed about how to govern immigrant admissions and rights for different patriotic reasons. Indeed, we can identify four distinctive ideological traditions that have emerged in America's enduring debate over immigrant and immigration policies, as highlighted by Table 1 (top of page 2). Let us briefly consider these traditions in turn, focusing on the arguments raised by proponents of each view for why their approach best serves our national interests and ideals.

One tradition is captured well by Thomas Paine, who urged the new nation to adopt the cosmopolitan individualism of Pennsylvania, where the equal membership of English, Dutch, Germans, and Swedes showed that "we surmount the force of local prejudices as we enlarge our acquaintance with the world." James Madison endorsed these sentiments when he scored restrictions that would "give a tincture of illiberality to the Constitution," reminding delegates that states which embraced immigrants were the most advanced in wealth, territory, and the arts. Those who support broad immigrant rights and admissions celebrate the universality of our republican experiment, and believe that large-scale immigration is beneficial and that the country's assimilative capacities are vast.

Table 1. Immigration and Four Ideological Traditions
Immigrant admissions and Rights (A Two-Dimensional Model)

	<i>Favors Robust Immigration</i> (Expansive Admissions)	<i>Favors Restricted Immigration</i> (Reduced Admissions)
<i>Favors Broader Immigrant Rights</i> (Expansive Civil, Political and Social Rights)	<p>Thomas Paine, <i>Common Sense</i></p> <p>James Wilson Ralph Waldo Emerson Jane Addams John F. Kennedy</p> <p>German American Alliance American Jewish Committee National Immigration Forum</p>	<p>Thomas Jefferson, <i>Notes on the State of Virginia</i></p> <p>Frederick Douglass Samuel Gompers John Rawls Barbara Jordan</p> <p>Knights of Labor AFL (1900-1956) 1970s Env.& Pop. Control Grps</p>
<i>Favors Narrower Immigrant Rights</i> (Restricted Civil, Political and Social Rights)	<p>Alexander Hamilton, <i>Report on Manufactures</i></p> <p>Andrew Carnegie William Howard Taft Ronald Reagan</p> <p>National Assn of Manufacturers Steamship companies American Farm Bureau Fedn</p>	<p>Agrippa (Antifederalist), <i>Letters in the Mass. Gazette</i></p> <p>Gouverneur Morris Henry Cabot Lodge Patrick McCarren</p> <p>Anti-Masons Immigration Restriction League Patriotic Societies (1900-1965)</p>

In contrast to Paine and Madison, a second tradition was best expressed by founders who worried profoundly about the potential dangers posed by new immigrants to the United States. The Antifederalist writer Agrippa warned during the ratification debates that new settlers might not share our political values, that their interests and attachments could be divided between two countries, and that their different languages and cultures may not blend harmoniously into American life. Worse still, restrictionists like Henry Cabot Lodge contended, our open gates make us vulnerable to outsiders who intend to do us harm. This tradition also favors extending membership rights to immigrants very slowly and guardedly, contingent upon demonstrated loyalty. While nearly all participants in our immigration debate have sought to exclude dangerous outsiders, those who advocate restricted immigrant admissions and rights have been particularly defensive of national unity, sovereignty, and security.

A third tradition, exemplified by Alexander Hamilton and free market and pro-business champions to follow, asserts that expansive immigrant admissions were critical to meet labor needs and to promote national prosperity. In his *Report on Manufactures*, Hamilton praised robust immigration as “an important resource, not only for extending the population, and with the useful and productive labor of the country, but likewise for the

prosecution of manufactures.” Andrew Carnegie later celebrated mass immigration as “a golden stream which flows into the country each year.” At the same time, these defenders of robust immigration numbers tend to idealize newcomers who are entrepreneurial and economically self-sufficient, and thereby support denial of social welfare and other public benefits to non-citizens. “Immigration yes, welfare no!” was the slogan of this camp during the mid-1990s. Free market champions who favor broad immigrant admissions but more limited immigrant rights underscore the reality of our economy’s enormous appetite for immigrant labor while emphasizing the social and economic responsibilities of individual newcomers.

A final tradition was elucidated by Thomas Jefferson in his *Notes on the State of Virginia*, which endorsed broad rights for immigrants already residing in the U.S. but suggested that the quality and durability of republican government required restraints on future admissions. He gave early expression to an ideological tradition principally concerned with protecting the common interests of those already here before extending opportunities to new arrivals. More than a century ago, Frederick Douglass championed immigration limits, lamenting that “every hour sees the black man elbowed out of employment by some newly arrived immigrant.” But he also vigorously denounced the persecution of Chinese on the West Coast, insisting that anyone settled within our borders deserved equal membership. A later generation of labor leaders like Terence Powderly of the Knights of Labor and Samuel Gompers of the AFL called for immigration restrictions because they believed immigrants undercut the wages, working conditions, and job security of U.S. workers. A decade ago, Barbara Jordan, Chair of the U.S. Commission on Immigration Reform, urged Congress to reduce legal immigration but also “to retain for legal immigrants eligibility for our safety net programs” lest “individuals whom we have invited to enter become vulnerable.” For those who favor reduced immigrant admissions but extensive rights, the American “social contract” calls on us to advance social, economic, and political justice among citizens before welcoming new arrivals.

In today’s combative political environment, it is useful to recognize the well-meaning and patriotic reasons for many of our disagreements over immigration. This is not to say that leaders and activists from these respective camps over the course of our history have all been saints – indeed, each tradition has featured its share of rogues and special interests. But at a time when opposing viewpoints are too easily denounced and vilified, we might benefit from acknowledging how each of the ideological traditions informing our immigration debate since the founding is driven by a distinctive portrait of the national interest.

Fearing the Latest Newcomers: Immigrants and American Nativism

One of the most prominent patterns of our history is a tendency to celebrate the nation’s sojourner past while dreading its immigrant present and future. Over the course of our history, these anxieties about “new” immigration repeatedly crystallized into anti-immigrant or nativist movements. They have been fueled by the economic stresses of working-class Americans, ethnic and racial animosities, and national security jitters.

Anti-Catholic Nativism

The first eruption came in reaction to unprecedented rates of Catholic immigration, especially from Ireland, from the 1830s through the 1850s. Anglo-American angst over the Irish Catholic influx, which soared during the Irish potato famine of the 1840s, was exacerbated by competition for jobs and housing in Northeastern cities. Anti-Catholic publications flourished, offering lurid accounts of sinister Roman Catholic crimes and plots that fed Protestant antipathy.

These dark tales spurred mob violence, from the 1834 burning of the Ursuline convent near Boston to the 1844 Bible Riots in Philadelphia, which led to twenty deaths and the destruction of more than 100 Catholic churches, schools and homes. As the ranks of anti-Catholic associations swelled in Seaboard cities, nativist leader Samuel Morse, newspaper editor and future inventor of the telegraph, organized an anti-immigrant party and ran strongly for New York City mayor in 1836. Morse also fed anti-Catholic venom through incendiary writings such as *Foreign Conspiracy* (1835), warning readers that "the evil of immigration brings to these shores illiterate Roman Catholics...the obedient instruments of their more knowing priestly leaders."

Because of the nation's insatiable appetite for immigrant labor--and the clout of Irish voters--nativists made little political headway until the 1850s. In 1849 secret nativist societies formed the Order of the Star Spangled Banner to furtively organize electoral support for an anti-Catholic and anti-immigrant agenda in cities around the country. The movement's rank and file included Anglo-American workers, artisans and small entrepreneurs. Their secrecy led Horace Greeley to mock their members in the *New York Tribune* as "know-nothings"--a label that stuck.

The Know-Nothing movement formed the American Party in the 1850s, devoted to strict limits on immigrant admissions, twenty-one-year waiting periods for citizenship and restrictions on voting rights and officeholding. The party benefited enormously from a political vacuum created by the gradual demise of the Whig Party and balkanization of the Democrats over slavery. In the 1854 and 1855 elections the American Party elected seven Know-Nothing governors, gained control of eight state legislatures and established a strong presence in Congress. In 1856 the Know-Nothings tapped former President Millard Fillmore for the top of their ticket, and he won 22 percent of the popular vote.

The movement's meteoric rise transcended the ballot box. Know-Nothing candy, tea and other merchandise was successfully marketed. Buses, stagecoaches and clipper ships bore the popular name. But the decline of the American Party was as swift and dramatic as its ascent. Ironically, the same slavery controversy that helped elevate anti-Catholic xenophobia in antebellum America was the driving force behind its rapid demise. The new Republican Party siphoned away nativist voters more devoted to excluding slavery from the territories than to the Know-Nothings' "war to the hilt, on political Romanism." By 1860 the movement had collapsed. To the chagrin of nativists, immigration from Northern and Western Europe flourished in subsequent decades, fueled by federal recruitment efforts, the Homestead Act of 1862 and spreading industrialization.

The Chinese Exclusion Movement

Chinese immigration of the late nineteenth century was minuscule compared with European inflows--just 4 percent of all immigration at its zenith--but it inspired one of the most brutal and successful nativist movements in US history. From the 1850s through the 1870s, Chinese workers were recruited to California as cheap contract labor for mining, railroad construction, manufacturing and farming. They inspired hostility among white workers for allegedly lowering wages and exacerbating working conditions; meanwhile, newspapers and magazines portrayed the Chinese as a race of godless opium addicts, prostitutes and gamblers. California politicians also learned that anti-Chinese speeches and policies translated into votes. The state's first Republican governor, Leland Stanford, promised "to protect free white labor" from the "degraded" Chinese while at the same time his own farming and railroad enterprises employed them.

Economic distress inflamed the Sinophobic movement in the 1870s, when unproductive mines, the completion of the transcontinental railroad and a flood of new settlers to the Pacific Coast led to rampant unemployment. San Francisco union leaders initiated a grassroots network of Chinese Exclusion Leagues that spread across California and the Far West. From 1871 onward, California politicians raced to claim credit for a flood of reforms that included state-level barriers to Chinese entry, segregation laws and special taxes on Chinese businesses. One of the anti-Chinese movement's most effective firebrands was Denis Kearney, an Irish immigrant who blamed Chinese workers for his personal failure at mining. His demagogic campaign, which began with race-baiting speeches in the San Francisco sandlots of the late 1870s, drew white laborers into a new Workingmen's Party dedicated to the proposition that "the Chinese must go!" Kearney spurred an 1879 state referendum that endorsed Chinese exclusion by a remarkable margin: 150,000 to 900.

Fierce party competition in presidential elections of the Gilded Age transformed the anti-Chinese movement into a national political juggernaut. As the *New York Times* queried in 1880, "Which great political party is foolish enough to risk losing the votes of the Pacific States by undertaking to do justice to the Chinese?" Neither, as it turned out. Large bipartisan majorities in Congress suspended Chinese admissions for ten years with passage of the infamous Chinese Exclusion Act of 1882. Brutal anti-Chinese riots soon followed, as Sinophobes sought to purge Chinese communities altogether across the Far West. In the 1885 Rock Springs, Wyoming, massacre, twenty-eight Chinese were murdered and every Chinese-owned building, except one, was destroyed. Chinese residents of Tacoma and Seattle suffered looting, arson and violent riots until few remained. The Sinophobic fervor did not subside until the early 1900s; by then, a reduced Chinese population was concentrated in a few self-sufficient Chinatowns.

The Assault on Southern and Eastern European Immigration

As Westerners put their chilling final touches on Chinese exclusion, a new anti-Catholic movement emerged in the nation's heartland in the late 1880s: the American Protective Association. The APA drew its lifeblood from Midwestern and Rocky Mountain

communities where Catholics were gaining political and social clout. During the depression of 1893, the ranks of APA faithful surged to more than a half-million. APA rabble-rousers like William "Whiskey Bill" Traynor, a former saloon owner and nativist newspaper publisher, whipped up resentment with speeches blaming Irish Catholic immigrants for the economic crisis.

Although the APA had modest success in electing anti-Catholic Republicans, national party leaders eventually privileged immigrant labor and votes over their nativist agenda. By 1896 William McKinley's presidential campaign actively courted immigrant and Roman Catholic voters while purging the APA from Republican ranks.

As the APA crusade dissipated, a new anti-immigrant movement, led by the upper-class Immigration Restriction League (IRL), the American Federation of Labor and various patriotic societies, distanced itself from anti-Catholic nativism. Embracing the scientific racism of social Darwinism and the eugenics movement, these reformers argued that the real problem was Southern and Eastern Europeans arriving in record numbers from countries like Italy, Greece, Russia, Hungary and Poland--and hereditarily inferior to previous European immigrants. The IRL enjoyed a prominent champion in Massachusetts Senator Henry Cabot Lodge, who proclaimed that new European immigration posed "nothing less than the possibility of a great and perilous change in the very fabric of our race." Progressive Era nativists spurned party politics in favor of mass publicity campaigns, research and full-time Washington lobbying. Their efforts paid dividends when the 1911 Dillingham Commission, led by IRL allies including Lodge, produced forty-two volumes of findings that purportedly vindicated nativist claims about Southern and Eastern Europeans. But a countermobilization of immigration defenders--led by employer and ethnic groups--yielded a policy stalemate.

The onset of World War I broke the logjam. In 1917 immigration restrictionists seized upon wartime anxieties to win passage of a literacy test for admission into the country. While the IRL and its allies were closing the gates, an Americanization movement attacked any hint of divided loyalties among the foreign-born already here. Theodore Roosevelt led the charge for "100 % Americanism," denouncing "hyphenated" Americans as guilty of no less than "moral treason." Patriotic conformity was pursued by a government-sponsored network of local defense and patriotic associations, including 250,000 badge-wearing volunteers of the American Protective League (APL). German-Americans, celebrated for decades as the model ethnicity, endured the harshest treatment. They were targets of vandalism, mob violence, surveillance and harassment (by APL watchdogs), job discrimination and arrests for unpatriotic speech. By 1918 public burnings of German books were commonplace, dozens of German-American newspapers and organizations dissolved and some states prohibited speaking German or playing German-composed music in public.

After the war, the immigration restriction movement mobilized for new reforms when the literacy test failed to curb Southern and Eastern European inflows. In 1921 and 1924, during the country's first Red Scare, Congress passed draconian national-origins quotas that slowed Southern and Eastern European immigration to a trickle and barred nearly all

Asian admissions. "The day of unalloyed welcome to all peoples, the day of indiscriminate acceptance of all races, has definitely ended," proclaimed Representative Albert Johnson, a chief architect of the legislation.

The early twentieth century was the high-water mark of the American nativist tradition. Sweeping political successes eventually led the IRL to declare victory and disband. The national-origins quota regime they had built assured that few Jewish refugees would escape the Holocaust to the United States, while leaving the back door open to Mexican guestworkers described as "returnable," thanks to a contiguous border. Japanese internment after the attack on Pearl Harbor was an extension of the marriage of racist beliefs and national security imperatives during World War I and the Red Scare.

Fear and distrust of new immigrant groups is familiar pattern in our nation's history. As early as 1751, Benjamin Franklin aimed his unforgiving pen at Germans in colonial Pennsylvania. These newcomers, he fumed, "swarm" into our neighborhoods without regard for our laws, customs and shared values. Why, he asked, should we suffer outsiders who prefer ethnic enclaves where they "establish their Language and Manners to the Exclusion of ours?" The painful truth, he added, is that these newcomers are so culturally different from the rest of us that they will never assimilate like past immigrants, posing a grave threat to the society we cherish. Franklin was convinced that his home had become "a Colony of Aliens, who will shortly be so numerous as to Germanize us instead of our Anglifying them." Franklin later mellowed on the subject, recognizing the economic benefits of immigration, but we can hear echoes of his original animus toward immigrants in every age of the U.S. experience. Our nativist past should remind us that every major wave of immigrants in our history has inspired critics convinced that the latest newcomers lacked the virtues of earlier settlers and that they would never be fully integrated into American life. These anxieties, we have learned over time, have proven to be unfounded and overwrought.

Faustian Bargains: The Origins of America's Illegal Immigration Dilemma

America's illegal immigration dilemma did not appear overnight. Its origins and development have played out over the past century, yielding patterns and legacies that inform official efforts to address the problem today. It is a story of Faustian bargains among national officials and employers that encouraged porous borders and labor flows.

"Restrictions...with a bribe": Closing the Ports and Opening the Borders

Ironically perhaps, the origins of our illegal immigration dilemma can be traced to one of the most restrictionist periods in our nation's history, namely, the early twentieth-century. After the turn of the century, Mexican laborers were recruited in steady numbers to develop a budding Southwestern economy. But new impediments to this labor stream emerged with enactment of the Immigration Act of 1917. The new law made all alien admissions contingent upon payment of an \$8.00 head tax and passage of a literacy test. The new requirements slowed the flow of Mexican workers across the southern border, although many simply crossed without inspection. When the First World War began, the

supply of Mexican laborers was more dramatically dampened when rumors that they would be drafted into the U.S. armed forces spurred a mass exodus.

Against this backdrop, Southwestern growers, ranchers, miners, railroad companies, and supportive lawmakers pressured the Labor Department – then responsible for the Immigration Bureau and domestic enforcement – to facilitate the importation of thousands of Mexican workers. Bowing to this intense lobbying on the grounds that the war had produced labor shortages, Labor Secretary William Wilson ordered that the literacy test, head taxes, and contract labor restrictions be waived for Mexicans. Although Mexican contract labor was justified as an emergency wartime measure, an array of Southwestern employers of low-wage labor demanded extensions of the program after wartime hostilities ceased in 1918. The Labor Department again acceded to this pressure, as it did in subsequent years. Between 1917 and 1921, roughly 75,000 Mexicans worked as contract laborers in the United States under Wilson’s waiver plan, along with an indeterminate number of undocumented workers.

The issue of Mexican migratory labor threatened the immigration restriction movement in the 1920s. The diverse nativist coalition that emerged from the Progressive Era was united in its hostility toward Asian and southern and eastern European immigration, as well as in its devotion to eugenicist principles of racial order and Anglo-Saxon superiority. But Mexican labor flows were another matter. The IRL, AFL, patriotic societies, and many northern lawmakers favored stringent limits on Latin and South American immigration. By contrast, lawmakers and groups from the South and West endorsed national origins quotas for overseas immigration but also extolled the virtues of a cheap and flexible Mexican labor force. Representative John Nance Garner (D-TX) explained that “the prices that [Mexicans] charge are much less than the same labor would be from either the negro or the white man.” He assured his House colleagues that Mexican laborers were by definition temporary, powerless, and easily expelled. The Grange and the American Farm Bureau Federation adamantly opposed a change in Mexico’s nonquota status. “We do not want to see the condition arise again when white men who are reared and educated in our schools have got to bend their backs and skin their fingers,” business interests like the Great Western Sugar Company explained to Congress. “You have got to give us a class of labor that will do...back-breaking work, and we have the brains and ability to supervise and handle the business part of it.”

The uneasy 1920s coalition of northern nativists, organized labor, and Southern and Western restrictionists were deeply divided over Mexican labor. The controversy seemed to place the national origins quota system begun in 1921 in jeopardy. Immigration defenders attempted to exploit these fractures within the nativist coalition during legislative debates of 1924, the year when the 1921 quotas were due to expire. Representatives Fiorello La Guardia (D-NY) and Adolph Sabath (D-IL) offered an amendment that placed strict quotas on Western Hemisphere countries. Their hope was to kill the 1924 quota legislation by sundering the disparate restrictionist camp. Faced with stalemate or defeat, restrictionists called for a compromise on the divisive Mexican labor question. As one closed-border advocate declared, “I want the Mexicans kept out,

but I do not want this bill killed by men who want these and all others admitted in unrestricted numbers.”

The Immigration Act of 1924 ultimately erected formidable barriers to southern and eastern Europeans and reinforced Asian exclusion, but was decidedly permissive on Canadian and Mexican admissions. Aliens with ten years continuous residence in a Western Hemisphere country could enter the U.S. as nonquota immigrants. “Restrictions of immigration and setting up of un-American racial tests has been enacted through a fusion of northern Republicans from urban districts with southern Democrats, with a bribe tossed to the latter by keeping Mexico open,” observed one pro-immigration lobbyist. As nativist reformers prepared new quota legislation in 1928, they agreed to treat Mexican inflows as a distinctive issue. “These two kinds of restriction are quite separate and independent,” New York restrictionist Demarest Lloyd declared in reference to overseas versus Western Hemisphere migration. “We all agree that unity of restrictionists is desirable.” Recalling the potential split in 1924, the IRL also urged coalitional comity on “the National Origins-Mexican Quota situation.” It even expressed sympathy for the dilemma faced by Southwestern nativists. “Although the West has become racially conscious and wants to be a white civilization, it also wants to develop and to develop rapidly. For this it needs unskilled labor of a mobile type, like the Mexicans, for it cannot get white labor to do its unskilled work.” The 1928 law codified this compromise, reaffirming a bifurcated system imposed draconian restrictions on European and Asian immigration while remaining open and flexible toward labor inflows from Mexico and other Western Hemisphere countries.

A Bedeviled Bureaucracy

During the first century of the U.S. republic, the federal government was mostly a reluctant regulator of immigration. Indeed, it was content to devolve responsibility for inspecting newcomers to the major receiving states and port cities. The development of national governmental capacities to enforce immigration law was initiated only after the federal courts invalidated the constitutionality of state-level controls. From the time the national government began directly regulating immigration in the late nineteenth-century, enforcement efforts focused almost exclusively on European and Asian inflows. Whereas federal inspection stations could be found at nearly every major American port of entry by the turn of the century, efforts to control the country’s land borders were negligible. This contrast was not lost on the nation’s first Commissioner General of Immigration. In the Immigration Bureau’s 1903 annual report, he warned that the Canadian and Mexican borders were largely unmonitored. Only a handful of inspection stations with skeletal staffs were scattered along national land borders. By 1906, Bureau managers lamented that the 75 inspectors patrolling the 1900-mile Mexican border on horseback were unable to curtail illegal immigration, which it described as “constantly on the increase.” They regularly complained in the early twentieth-century about a “lack of funds, men, and facilities” at the border.

Even as nativist political actors were building a strong legal foundation for restricting Asian and new European immigration during the First World War and the 1920s, they

had nagging fears that their policy aims would be compromised in the administrative realm. In particular, the IRL and other advocacy groups worried that lax enforcement by the Immigration Bureau may provide openings for European arrivals at immigration stations like Ellis Island. For these reasons, restrictionist groups pressed for innovations in bureaucratic structure and practices that were equal to their legislative breakthroughs in 1917, 1921, 1924 and 1928. What ultimately emerged in the years that followed was a two-tiered system of immigration law enforcement. One layer of immigration control was administered by new State Department agencies and consular officials who zealously employed broad exclusionary powers overseas to all but shut down European and Asian immigration. A second layer of administered by the Immigration Bureau (later INS) focused on Western Hemisphere immigration and was ultimately dominated by powerful Southern and Western business interests and congressional committee barons who promoted legal and illegal entry of low-wage Mexican workers. This bifurcated regulatory system governing immigration was at once draconian toward overseas immigrants (with fateful implications for Jewish refugees seeking to escape the Holocaust) and strikingly tolerant toward the flow of temporary workers across the nation's southern border.

When Congress consolidated consular inspection procedures and visa requirements in 1924 to insure stringent enforcement of national origins quotas overseas, the Immigration Bureau continued to struggle for adequate resources to guard the Canadian and Mexican borders. "It must be conceded that the present law was enacted primarily for the purpose of providing for the closer inspection of aliens coming to the seaports of the United States," U.S. Immigration Commissioner John Clark stated plainly. "When we come to consider the dangers of unlawful invasion along the land boundaries, however, we find our law conspicuously weak, and almost totally inadequate to protect the interests of our Government." Congress later established the Border Patrol, but largely in response to Labor Department warnings that inadmissible Asians and Europeans were flocking to Mexico and Canada "to gain admission by stealth." The Border Patrol was significantly understaffed from the start, and by 1928 Immigration Bureau officials warned lawmakers that "we have simply got to have the men or else we cannot enforce the law." The plea for resources from overwhelmed Border Patrol and Immigration Bureau officers became a familiar refrain for one of our most bedeviled bureaucracies.

Mexican Braceros and Undocumented Aliens

During the first New Deal, AFL leaders campaigned for legislation that would place national origins quotas on Mexico and other Western Hemisphere countries. But the AFL faced insurmountable opposition from the House and Senate Immigration Committees, then dominated by Southern and Western legislators who favored European and Asian restrictions but welcomed Mexican labor migration. By 1938, the Immigration and Naturalization Service (INS) reported that illegal immigration from Mexico was soaring due to the construction of new highways and "automobile travel." At the start of the Second World War, Southwestern growers and other business interests, joined by their legislative champions, complained to executive branch officials that war-induced labor shortages necessitated a new Mexican temporary worker program. In response, an

interagency committee was formed to facilitate the importation of Mexican guestworkers. In 1942, the State Department negotiated a special agreement with Mexico establishing the Bracero Program that Congress swiftly approved. Under the bilateral agreement, the U.S. pledged that wages, living conditions, workplace safety, and medical services would be comparable to those of native workers. In turn, the Mexican government was to supervise the recruitment and contracting of braceros. Once the program began, neither employers nor federal administrators saw that the negotiated protections of Mexican laborers were honored. Mexican braceros routinely received much lower wages than native workers and endured substandard living and working conditions. Over the next two decades, 4.2 million Mexican workers were imported under the Bracero Program. During the decades that the Bracero Program was in full swing, INS officials were not encouraged to confront employers who recruited temporary workers at the border. Moreover, the INS also felt considerable congressional and interest-group pressure to accommodate illegal Mexican immigration in the 1940s and 1950s. The INS avoided search and deportation procedures against illegal aliens during harvest seasons because “it could likely result in a loss of crops.” One Texas farm group explained enforcement arrangements to Senator Thomas Connally (D-TX) this way:

For a number of years, citizens of Mexico entered the United States both legally and illegally, engaging in agricultural work....While from time to time they have been picked up by the Border Patrol, there has been a tendency on the part of the Border Patrol to concentrate their efforts on deporting only those who were bad...This arrangement, although it didn't have the stamp of legislative approval, has worked out very nicely for our farmers down here.

Strict enforcement was reserved principally for those Mexican workers who attempted to organize fellow laborers in pursuit of better wages, housing, or working conditions. The alliance of agricultural growers, Southern and Western committee barons, and INS officials permitted the easy flow of Mexican laborers for most of the postwar era.

The Texas “Proviso”

In the early 1950s, influential restrictionist legislators such as Senators Pat McCarran (R-NV) and James Eastland (D-MS) and Representative Francis Walter (D-PA) fervently guarded stringent limits on Asian, African, and southern and eastern European immigration. Yet they pursued a different approach regarding Mexican labor. In 1951, the AFL protested that tens of thousands of Mexican braceros coupled with an estimated 1.5 million undocumented aliens compromised the “security” of American workers. Their appeal had no impact on the policy process. McCarran and Eastland shepherded passage of Public Law 78 reauthorizing the Bracero Program in 1951, claiming that termination would be “unfair to the farmer and the Mexican involved.”

During floor action on the McCarran-Walter bill one year later, liberal Senator Paul Douglas (D-IL) proposed legal sanctions against those who illegally smuggled aliens into the country and on employers who intentionally hired illegal aliens. But McCarran and Eastland successfully defeated the amendment; the final legislation contained language

that made it unlawful to transport or harbor illegal aliens, but stipulated that “harboring” did not include employment of unauthorized migrants. This “Texas proviso,” as it became known, highlighted the lengths to which key congressional defenders of national origins quotas were willing to go to preserve Mexican labor flows, both legal and illegal.

After the 1960 election, the AFL-CIO lobbied hard for the Bracero Program’s termination. The Kennedy administration and Democratic leadership in Congress lent their support to the effort. Yet growers and other business interests exerted considerable pressure of their own on members of Congress. The American Farm Bureau Federation, the National Cotton Council, the United Fresh Fruit and Vegetable Association, the National Beet Growers, ranchers, and other business interests rallied to save the Bracero Program. In 1961, these pressure groups won a two-year extension of the Program but failed to win reauthorization in 1963 despite vigorous lobbying. Sweeping immigration reform in 1965 dismantled national origins quota in favor of a new preference system that emphasized family-based immigration, but it also placed a 120,000 annual ceiling on Western Hemisphere visas. Reformers did not anticipate that this new ceiling and the end of the Bracero Program would swell unauthorized Mexican inflows.

Illegal Immigration and Employer Sanctions: the 1970s Logjam

The issue of illegal immigration inspired more media attention, public concern, and remedial proposals by policymakers than did any other migratory issue of the 1970s. The dramatic rise in apprehensions and deportations of unauthorized migrants was unmistakable and troubling to decision-makers (see Table 2).

Table 2: Unauthorized Migrants Apprehended and Deported, 1961-1980

<i>YEAR</i>	<i>NUMBER</i>	<i>YEAR</i>	<i>NUMBER</i>
1961	88,823	1971	420,126
1962	95,758	1972	505,949
1963	88,712	1973	655,968
1964	86,597	1974	788,145
1965	110,371	1975	766,600
1966	138,520	1976	875,915
1967	161,608	1977	1,046,215
1968	212,057	1978	1,057,977
1969	283,557	1979	1,076,418
1970	345,353	1980	910,361
1961-1970	1,608,356	1971-1980	11,883,328

Source: Immigration and Naturalization Service, *Statistical Yearbook* (Washington, D.C.: Government Printing Office, 1990).

Liberal Democrats led the assault on illegal immigration. At Senate hearings on the problem in 1969, Senator Walter Mondale (D-MN) warned that if the federal government did not “stop that hemorrhaging...along the Texas border and along the California

border,” labor protections and antipoverty programs would be compromised. A year earlier, Cesar Chavez and his Farm Workers Association (FWA) desperately urged Senator Robert Kennedy (D-NY) to pressure INS officials “to remove Wetbacks... who are being recruited to break our strike.” In 1971, Representative Peter Rodino (D-NJ), chair of the House Judiciary Committee’s Subcommittee on Immigration, led pro-labor liberals in the pursuit of employer sanctions legislation to resolve the perceived illegal immigration crisis. Rodino’s employer sanctions legislation initially passed the House in 1972 but languished in the Senate where Eastland refused to allow the Judiciary Committee he chaired to take action. When Rodino reintroduced his bill a year later, new resistance emerged in the House from fellow Democrats who warned that the measure would lead to job discrimination against Latinos, Asians, and anyone who looked or sounded foreign.

Amidst the legislative impasse, President Gerald Ford established a Domestic Council Committee on Illegal Immigration that urged in 1976 that the administration “aggressively pursue legislation [imposing] penalties for employers who knowingly hire aliens not authorized to work.” Its report observed that little reliable, “quantified” evidence existed regarding the size of the unauthorized population or its impact on American society. But in explaining why illegal immigration must be discouraged, it appealed to values beyond traditional economic and cultural anxieties. Indeed, it placed special emphasis on the rule of law and equal rights: “People who are underground ... cannot be protected from abuse on the job or from landlords, discrimination, disease, or crime; they may avoid education for children, and they are unable or reluctant to assert political or legal rights.” This was not the familiar assault on illegal aliens who take American jobs, consume public benefits, and promote crime and disease. Illegal immigration’s dangers lay not only with its disregard for the rule of law, its fiscal burdens, or its economic impact on poor citizens, but also with its propensity to create “a substantial underclass” anathema to post-1960s notions of nondiscrimination and equal rights. The report also cautioned against a vigorous internal enforcement campaigns that targeted the unauthorized population for removal. “Mass deportation is both inhumane and impractical,” the Domestic Council concluded. Ford’s INS Director, Leonard Chapman, reiterated this view when he warned Congress that mass deportation campaigns might require “police state” tactics “abhorrent to the American conscience.” It remained silent, however, on how policymakers should deal with the large number of undocumented aliens residing in the country.

In 1977, the Carter White House wasted little time in proposing a comprehensive plan for addressing illegal immigration. The reform package included stiff civil and criminal penalties who engaged in a “pattern or practice” of hiring undocumented aliens; use of the Social Security card as an identification document for verifying employee eligibility; enhanced Border Patrol forces at the Mexican border; and an amnesty program that would confer legal resident alien status on all aliens living in the country before 1970. The White House proposal galvanized opposition from growers and other free market expansionists as unfair to employers, from the National Council of La Raza, Mexican-American Legal Defense and Education Fund (MALDEF) and other groups as detrimental to civil rights, and from law and order conservatives as rewarding law-

breakers with amnesty. With immigration reform mired in conflict, a bipartisan Select Commission on Immigration and Refugee Policy (SCIRP) was formed for the purpose of studying the illegal immigration problem and all other facets of U.S. immigration and refugee policy and issuing recommendations for future reform.

SCIRP and the Immigration Reform and Control Act of 1986

The SCIRP completed a sweeping final report in 1981 that portrayed “lawful immigration” as “a positive force in American life,” serving the national interest in terms of economic growth and productivity, reuniting families, and advancing key foreign policy imperatives. But it also concluded that illegal immigration was an urgent problem that needed to be controlled before legal immigration could be expanded. In language similar to Ford’s Domestic Council, the SCIRP noted that unauthorized entries created a vulnerable shadow population that had few incentives to report crimes, health problems, or exploitation by employers. The presence of large numbers of undocumented aliens “undercut the principle that all who live and work in the U.S., regardless of ethnicity, should have fundamental rights.” The SCIRP members also asserted that unrestrained illegal immigration encouraged a perilous disregard for the rule of law: “illegality erodes confidence in the law generally, and immigration law specifically.” To address the problem, the SCIRP endorsed the familiar scheme of enhanced Border Patrol resources and employer sanctions. But it also underscored the notion that the efficacy of sanctions hinged upon faithful enforcement and the development of a tamper-resistant national identification card as the linchpin of a security and universal system of employee eligibility. All sixteen commissioners also agreed on a generous legalization program for undocumented aliens already residing in the country.

Two young lawmakers – Senator Alan Simpson (R-WY), who served on the SCIRP, and Representative Romano Mazzoli, a moderate Kentucky Democrat with ties to the SCIRP chair Father Theodore Hesburgh – took the lead in pressing for immigration reform. Early in 1982, the pair introduced omnibus legislation on illegal and legal immigration. The measure met fierce resistance from a broad coalition of business interests (the U.S. Chamber of Commerce, National Association of Manufacturers, agribusinesses, the Business Roundtable), ethnic and civil rights groups such as NCLR and MALDEF, the ACLU, religious lobbies, and a new immigrant rights organization, the National Immigration Forum. Left-Right opposition to the Simpson-Mazzoli initiative was reflected in the resistance of both the Reagan administration, which saw employer sanctions and national identification cards working at cross-purposes with its regulatory relief agenda, and House Democrats led by the Hispanic and Black Caucuses, which raised familiar concerns about discriminatory impacts of sanctions and other provisions. Gridlock was overcome only after three more years of wrangling, and the resulting Immigration Reform and Control Act of 1986 (IRCA) depended upon a compromise package watered-down employer sanctions provisions, legalization for undocumented aliens living in the country since 1982, and a new Seasonal Agricultural Worker program to appease grower interests. The measure proved highly successful in granting legal status to nearly three million undocumented aliens, but employer sanctions proved to be a “toothless tiger.” This was largely by design: In the absence of a reliable identification

system for verifying employee eligibility that the SCIRP described as a linchpin for effective enforcement, the employer sanctions provisions lacked teeth. By the late 1980s, it was clear to national policymakers that the IRCA had done virtually nothing to discourage illegal immigration. But legislators were eager to shift their attention to the politically painless task of expanding legal immigration. The Immigration Act of 1990 unified pro-immigration forces of the Left and Right behind a 40% increase in annual visa allocations that benefited both family-based and employment-based immigration. The Faustian bargains of the 1980s, like their forbears, left the nettlesome problems posed by massive illegal immigration for a future generation to resolve.

Conclusion

One of our most gifted historians, David McCullough, aptly observed that “a nation that forgets its past can function no better than an individual with amnesia.” Our rich immigration history provides us with important lessons for contemporary immigration reform. First, we would do well to remember that the ideological traditions that have shaped our vibrant immigration debate since the nation’s founding are driven by well-meaning and distinctive conceptions of the national interest. Second, our past reveals that each wave of “new” immigrants has been scorned by critics as incapable of successfully joining our ranks, only later to distinguish themselves among our most loyal and accomplished citizens. Finally, the origins and development of our illegal immigration dilemma highlight a series of compromises over time that fed the nation’s appetite for cheap labor while creating a vulnerable shadow population and undermining the rule of law. The consequences of these compromises underscore why our generation must make tough choices to fix the system, recognizing the practical and ethical reasons for giving workplace enforcement real teeth and for giving undocumented immigrants an opportunity to earn legal status.

I would be pleased to answer any questions you have.