

The Immigration Restriction and the Quota Laws of the 1920s: Justification and Constitutionality; a Reinterpretation

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1. Introduction

The idea for this paper came as a result of my lack of understanding the reasoning, the justification of the restrictive and selective immigration laws enacted in the 1920s: what they contained, and what they fought against. As I began to look for the origins of these laws I found that much of the efforts for restriction were reactionary trends against an ever-growing foreign element in the United States at the turn of the twentieth century. However, I also found that many of the accounts and scholarly works surrounding the topic of immigration tended to be biased towards presenting these laws and regulations as discriminatory and un-American. It became my project to research these trends as well as those individuals involved in anti-immigration movements to understand their prejudices and fears, and determine whether there was any legal, Constitutional basis for the restrictionary actions of the 1920s.

My attempt at this project was not to provide a revisionist account of the early twentieth century, its prejudices, and the Quota Laws, but rather to place it in the context of its own time period. The present accounts of this history inject a certain amount of what I have understood as “presentism” into their work, meaning that they have interpreted and criticized this period based on the predominant liberal-immigrant policies of the present day which favor porous borders. I have maintained in the early part of my essay that this period of the 1920s became the end of an era, as it was followed by one with much more governmental intervention and bureaucratic structure than is the reality of today. As a result of these changes and the gradual shift towards social welfare and humanistic modes of thought, that previous era before the 1930s acted and reacted according to the socio-economic, “unenlightened” norms of the day. My work therefore is an attempt to dismantle the stigma that is projected onto this period due to now-accepted social and governmental-legislative standards. In this regard, my project falls into a category which is somewhat unresearched as it tries to explain something often very misunderstood.

2. Development

The methodology for this research was based first on finding current scholarship about the “story” of American immigration in order to understand the timeline, but also to determine the positions and possible biases of those more contemporary authors. This provided the historical background for my work on immigration. I was then able to pair this understanding of immigration and its trends alongside the timeline of what I understood about American history to recreate the scene, as it were. I then delved into some of the publications of the timeframe of 1890s – 1920s as a way to gain knowledge of those contemporary ideas, trends, perceptions, and ideologies. I found that many of the scientific and ideas of the day, such as Social Darwinism and its theories of natural selection and survival of the fittest, along with the Eugenics movement, were often used to classify peoples of different races, but also of different regions of the same landmasses, and assign to them certain stigmas and status. Some of the more prominent ideologues that I researched or came across were Dr. Harry Laughlin, a well-known eugenicist of the day, and John R. Commons and Madison Grant, authors, respectively, of the popular works on race and eugenics titled *Races and Immigrants in America* (1907), and *The Passing of the Great Race* (1916).

I lastly began the arduous task of locating and researching the Congressional Records for any mention of the various immigration laws so as to analyze their texts, as well as their introductory purposes. I found that the tilt towards immigration regulation was great, and that most legislators supported regulation of some sort, and still most, but fewer, favored restriction. Because of the fears that were seemingly playing out in American society these legislators were willing to support regulation, whether or not it was based on racial or eugenic justifications. Like many Americans these men in power understood that a “Great Wave” of immigrants were continually flowing into the United States and heavily populating its cities, seemingly not assimilating, driving native-born wages down, and generally were a poor and destitute people. The newer immigrants arriving after the 1890s brought with them their foreign cultures, customs, languages, and some even their radical political beliefs which were deemed threatening to the American way of life. These and other fears, coupled with racial and social ideologies, caused legislators to be motivated to action. Commissions were set up to determine the impact of these new immigrants on the US, and their findings helped to influence the emplacement of a literacy test in 1917, followed by the restrictionary Quota

Laws of 1921 and 1924 which were based on the presence of a ethnicity's population present in the US in 1910 and then changed to 1890, respectively. Ultimately, these laws culminated in the 1929 National Origins Quota which was based on population representation according to the 1920 census record.

After researching the debates, arguments, and justifications for these laws I determined to discover their legality against the framework of the US Constitution, as well as their adherence or opposition to American tradition. For the former I found that the US Constitution and subsequent precedent leaves the question of immigration and immigration policy to the determination of the Legislature. Therefore, the restrictionary laws that were enacted in the early twentieth century were wholly Constitutional based on this fact and that their reasoning was for the protection of American citizens and their wishes. For the latter, the question of whether these laws were against what the United States stood for or not, looking into precedent set by George Washington in his personal letters and writings seemed to be appropriate as Washington has been named the advocate of the global masses. I found that while he was a proponent of immigration he was also an advocate for immigration of certain people groups, such as the Dutch, who he knew to be hard-working, industrious, and moral Christian peoples who would contribute to the survival and prosperity of the republican experiment that he and the Founding Fathers had created.

3. Conclusion

My research led me to the conclusion that the actions taken in the early twentieth century regarding immigration quotas, while not fully justified by their reasoning, were justified by their method. The actions taken towards immigration were actually reaction to changes in society by a people who believed that the overwhelming foreign element could possibly disrupt and pollute the great American republican experiment and the thriving society it had produced. While it was and is often maintained that the American tradition was one of free and open immigration, the circumstances and fears of the 1890s-1920s dictated the application of another American tradition: self-government. It was and remains the right of the United States citizenry to make and enforce their own laws, and because of the absence of an immigration policy or law in the Constitution, there remains the right of those elected representatives to legislate a policy for or against peoples who are not citizens of the United States. Citizens or subjects of foreign nations were not, therefore, inherently entitled to US citizenship or favor, and the actions of the US government were legally sound and implemented during a time of great change, uncertainty, and fear.

Table 1: Results of the 1924 Quota, 1925-1927 **Source:** *Statistical Abstract of the United States* (Washington, D.C. GPO 1929), 100.

| <i>Northwest Europe and Scandinavia</i> | | <i>Eastern and Southern Europe</i> | | <i>Other Countries</i> | |
|--|---------|------------------------------------|--------|-------------------------------|-------|
| Country | Quota | Country | Quota | Country | Quota |
| Germany | 51,227 | Poland | 5,982 | Africa (other than Egypt) | 1,100 |
| Great Britain and Northern Ireland | 34,007 | Italy | 3,845 | Armenia | 124 |
| Irish Free State (Ireland) | 28,567 | Czechoslovakia | 3,073 | Australia | 121 |
| Sweden | 9,561 | Russia | 2,248 | Palestine | 100 |
| Norway | 6,453 | Yugoslavia | 671 | Syria | 100 |
| France | 3,954 | Romania | 603 | Turkey | 100 |
| Denmark | 2,789 | Portugal | 503 | Egypt | 100 |
| Switzerland | 2,081 | Hungary | 473 | New Zealand & Pacific Islands | 100 |
| Netherlands | 1,648 | Lithuania | 344 | All others | 1,900 |
| Austria | 785 | Latvia | 142 | | |
| Belgium | 512 | Spain | 131 | | |
| Finland | 471 | Estonia | 124 | | |
| Free City of Danzig | 228 | Albania | 100 | | |
| Iceland | 100 | Bulgaria | 100 | | |
| Luxembourg | 100 | Greece | 100 | | |
| | | | | | |
| Total (Number) | 142,483 | Total (Number) | 18,439 | Total (Number) | 3,745 |
| Total (%) | 86.5 | Total (%) | 11.2 | Total (%) | 2.3 |
| | | | | | |
| (Total Annual immigrant quota: 164,667) | | | | | |