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Journal

Chicana/o Latina/o Law Review, 8(0)

ISSN

1061-8899

Author

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Publication Date

1985

DOI

10.5070/C780020964

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ARTICLES

THE STRUGGLE AGAINST THE IMMIGRATION CONTROL ACT*

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The evolution of the United States into the richest and most powerful nation of the world has created our "immigration problem." Our immigration laws have and will continue to be enacted in response to the nation's economic conditions. In times of prosperity our immigration practices and policies have been complaisant while in periods of economic hardship they have been contemptible. Such oscillation explains why the United States' first immigration law was slavery in 1807 and the second, the prohibition of the African slave trade. Within this context, all Blacks, Europeans, Asians and Latinos, particularly Mexicans, have come or been brought to contribute their blood, sweat and tears to the development of this country. All have fed the industrialist's hunger for cheap labor.

As each new immigrant group arrived, it became the target of xenophobia. With the depression of the late 1800's gaining hold of the nation, the persecution of immigrants turned uglier and racist.

* This article is primarily a critique of the Simpson-Mazzoli Bill and the struggle to prevent its passage. The Bill is also known as the Immigration Reform and Control Act of 1983, S-2222, 97th Congress, 2d Sess. (1982); H.R. 5872, 97th Cong., 2d Sess. (1982). In 1983 the Congressional Bill became S-529 and H.R. 1510.

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We, Esteban and Gregorio, thank our wives Diane and Yolanda for being patient with us while we worked on this project. Antonio thanks Sandra Gutierrez for all her help from San Francisco. We thank the Chicano Law Review Editor, Francisca N. Araiza, for remaining confident in us. We also thank Donnalynn Rubiano, UCLA Law Student, for her hard work on this manuscript. Thanks to the untiring efforts of the Fighters For Immigrant and Refugee Rights.

Americans were manipulated into blaming the "foreigners" for the "crisis" and its effects on working people. Congress, leading the pack, enacted the Chinese Exclusion Act to bar the importation of Chinese labor.¹ Shortly thereafter, the United States turned against México, from which only decades earlier it had seized the Southwest by war.

In 1917, a period of economic crisis, the Literacy Law was enacted.² Its objective was to restrict immigration to the United States. It, however, did nothing to halt the influx of Mexicans crossing the border. Those unable to pass the Literacy Test found other ways to cross. Their crossing essentially constituted a steady supply of cheap labor for the growers, the big mines, the railroads, and other industries. This is perhaps when the numbers of undocumented³ crossing the border increased to mass proportions. It was here that the bond between the coyote (smuggler), the pollero (contractor), and the employer was sealed; a key element in undocumented immigration.⁴

During each economic crisis of the United States the working class has been divided. With unity lacking, the attacks by the employers and government against the workers have succeeded in making immigration their scapegoat.

At every crisis point of American history, immigration has been the scapegoat for economic crisis, unemployment. New immigration laws and policies against immigrants have been the measures and solutions offered by government to the demand for jobs. And each time there has remained the hunger for cheap labor, found one escape clause or another to satisfy their craving.⁵

The outcome has been a divided working class that temporarily overlooks the fact that it is not the workers (immigrants or non-immigrants), who close plants, execute layoffs, cut wages, force production speed ups, jack up prices and attack unions.

Due to historic and geographic factors, the primary economic scapegoat for the past sixty years has been the Mexican people, who are now the target of xenophobia. "Illegal Alien" means Mexican. In the infamous "Repatriation" of the 1930's immigration authorities deported close to one million persons.⁶ Approximately one third of those deported were Mexicans, and of these, large numbers

1. Chinese Exclusion Act of 1889, 22 Stat. 58.

2. Literacy Law of 1917, 39 Stat. 877.

3. The term "undocumented" refers to persons in the U.S. in violation of the Immigration and Nationality Act, 8 U.S.C. 1101 *et. seq.*

4. GAMIO, MANUEL, MEXICAN IMMIGRATION TO THE UNITED STATES 10 (1971).

5. G. LEWIS AND E. SASHA, SLAVE TRADE TODAY 15 (1979).

6. For an excellent and compassionate chronicle of the repatriation, see HOFFMAN, ABRAHAM, UNWANTED MEXICAN-AMERICANS DURING THE GREAT DEPRESSION, (1974).

were United States citizens of all ages. "Operation Wetback" was implemented during McCarthyism and it expelled an unbelievable 1,000,056 individuals in 1954 alone.⁷ One million probably constituted one fourth of the Mexican community in the United States at that time.⁸

Again in the early 1970's Mexican immigrants and the Latino community, were the target of xenophobia. President Richard M. Nixon and his administration targeted Mexican immigrants as their scapegoat for what was to become the longest crisis of capitalism in the United States and the world.⁹ It has become the community's longest battle against raids, deportations, and other attacks, authorized under the guise of creating jobs for United States citizens. As in other anti-immigrant campaigns, those who escape being apprehended (or return after deportation) are molded into a beleaguered, more vulnerable work force. This work force eventually becomes easier to be compelled to work for lower wages in unsafe conditions, and is more difficult to organize.

The United States economic influences on Latin America are the principal causes of immigration from this underdeveloped region. A case in point is México. United States' monopolies and U.S. transnational corporations have invested in México's natural resources and labor but only to extract immense fortunes.¹⁰ In the process, they have left behind little the native peoples can develop. In fact, Corporate America has made México such a client state that upwards of 70% of México's trade is with the U.S.¹¹ When the United States suffers an economic crisis, México, like the rest of Latin America, suffers it several fold.

Immigration laws and practices of the United States are inextricably linked to foreign policy considerations. With respect to Central America, its foreign policy of opposition to national liberation struggles and its support of right wing dictators has prolonged bloodshed. As a result, hundreds of thousands of Salvadoreans and Guatemalans have sought refuge from genocide and human rights violations at the hands of their governments.¹²

This is the historical, political and socioeconomic context in which we must look at the proposed Simpson-Mazzoli Immigration Bill and the battle the community has waged to prevent its passage.

7. A. RIOS-BUSTAMANTE, *IMMIGRATION AND PUBLIC POLICY, HUMAN RIGHTS OF NONDOCUMENTED WORKERS AND THEIR FAMILIES* 20 (1971). Available at U.C.L.A. Chicano Studies Center.

8. *Id.*

9. LEWIS, *supra* note 5, at 8.

10. *NORTH AMERICAN COMPANIES IN LATIN AMERICA*, N.A.C.L.A. September 1976, at 12-15.

11. *Id.*

12. Los Angeles Times, September 14, 1984, at 1A., col. 1.; La Opinion, September 10, 1984, at 6, col. 1.; La Opinion, November 2, 1984, at 2, col. 2.

HISTORICAL BACKGROUND TO THE SIMPSON-MAZZOLI BILL

The content of the Simpson-Mazzoli Bill underscores its true nature as a law of labor control and foreign policy. At the heart of this repressive piece of legislation is the misleading concept "employer sanctions" as a "jobs bill."¹³ Such a concept embodies the belief that the availability of jobs in the United States is what compels immigrants from México and other parts of Latin America to leave their families and country to journey to America. Thus, the way to stop this "massive flow" of human beings is to make it illegal for them to work here. The concept has been refined to prohibit "knowingly" employing persons "not authorized" to work in the United States.

Congressman Peter Rodino, author of the Rodino-Kennedy Bill of 1971, and a "pro-labor, liberal" democrat from New Jersey, is generally recognized as the "father of employer sanctions."¹⁴ The Rodino-Kennedy Bill is one of many "immigration reform" bills and plans that have preceded the Simpson-Mazzoli Bill since 1970. This list includes the Eastland Immigration Plan,¹⁵ the Carter Plan,¹⁶ and the Reagan Plan.¹⁷ These plans were all repressive, anti-labor, anti-Latino (particularly anti-Mexican), and all contained employer sanctions.

Senator Allan K. Simpson, co-author of the bill, revealed the anti-Latino roots of the Simpson-Mazzoli Bill. On February 23, 1983, when he reintroduced the Bill on the Senate Floor, he openly appealed to the chauvinistic attitudes of his colleagues by telling them that passage of his bill was necessary to protect the morals, values, and political stability of the United States.¹⁸

13. The Immigration Reform and Control Act of 1983, S-529, 98th Cong., 2d Sess. (1983); H.R. 1510, 98th Cong., 2d Sess. (1983); which involved the Employer Sanctions provision under Title I, Part A, § 101.

14. Kennedy-Rodino Bill, H.R. 982, 93rd Cong., 1st Sess. (1973); *see also* Cong. Quarterly, Vol. XXIV, at pg. 854; Congressman Rodino also introduced similar bills in the House: H.R. 16188, 92nd Cong., 2nd Sess. (1972); H.R. 8713, 94th Cong., 1st Sess. (1975); Senator Kennedy did not introduce his version.

15. Eastland Immigration Plan, S-3074, 94th Cong., 2nd Sess. (1976).

16. This was President Carter's immigration package which included employer sanctions, a national I.D., a restrictive legalization plan which had a five year temporary status. His plan was similar to the proposed Simpson-Mazzoli Bill. The Carter Plan was introduced as, S-2252, 95th Cong., 1st Sess. (1977), H.R. 9531 95th Cong., 1st Sess. (1977); *see also* Cong. Quarterly, Vol. XXXIII, pg. 43E.

17. The Reagan Immigration Plan was introduced as, S-1765, 97th Cong., 1st Sess. (1981), H.R. 4832, 97th Cong. 1st Sess. (1981); *see also* Cong. Quarterly, Vol. XXXVII, pg. 422.

18. It is my judgement that *uncontrolled immigration is one of the greatest threats to the future of this country. Uncontrolled immigration portends much injury to our country, to American values, traditions, institutions, and to our way of life.* In contrast, controlled immigration has been one of the finest traditions of our remarkable heritage. We have no desire to terminate that.

Not only do we observe this high total of legal and illegal immigrants, out *only a small fraction of them are individually admitted for qualities which are likely to benefit*

MAJOR PROVISIONS OF THE SIMPSON-MAZZOLI BILL

The Simpson Bill is the Senate version and the Mazzoli bill is the House version.¹⁹ With some minor variations their content is essentially the same. Both bills pretend to be job bills, intended to control labor through means of employer sanctions. Close scrutiny reveals that such a notion is nothing more than an indirect attack on immigrants and Latinos, particularly Mexicans.

A. *Employer Sanctions and the National I.D. Card*

Both the Simpson and Mazzoli bills provide for civil penalties against employers and entities for hiring, recruiting and referring for employment persons not authorized to work in the United States.²⁰ Both bills require that the President develop a "secure" system of identification. In other words, a national identification card that must be presented to potential employers by all persons seeking employment in the United States.²¹

An equally threatening provision of both the Simpson and Mazzoli Bills, but which has been given little attention, is one that imposes imprisonment and fines against workers working without authorization, that is without the National I.D. Card or whatever interim method of identification required, e.g., passport, birth certificate, drivers license, etc. Under the Simpson Bill a maximum sentence of five years imprisonment and a five thousand dollar fine would be imposed.²² Under the Mazzoli Bill, a maximum two years imprisonment and a five thousand dollar fine would be imposed.²³

the Nation as a whole, and this is limited only to an analysis of job market impact. Less than 5 percent even of new legal immigrants are certified by the Labor Department as not causing unemployment or adversely affecting the wages and working conditions of U.S. workers.

Although population and job market impacts are of great significance, I think most would agree with me that the national interest of the American people also includes certain even more important and fundamental aspects such as *preservation of freedom, personal safety, and political stability, as well as the political institutions which are their foundation.*

If immigration is contained at a high level, but a substantial portion of these new persons and their descendants do not integrate fully into the society, they may well create in America some of the same social, political and economic problems which exist in the countries from which they have chosen to depart. Furthermore, if language and cultural separatism rise above a certain level, the unity and political stability of the Nation will—in time be seriously eroded. Pluralism within the united American nation has been our greatest strength. That unity comes from a common language and a core public culture of certain shared values, beliefs, customs which make us distinctly "Americans." 98 Cong. Rec. 529 (1983).

19. *Supra* at note 13.

20. *Id.*, S-529, Title I, Part A, § 101(a)(1); H.R. 1510, Title I, Part A, § 101(a)(1).

21. *Id.*

22. *Id.*, S-529, Title I, Part A, § 102(a).

23. *Supra*, H.R. 1510, Title I, Part A, § 102(a).

B. *The Guest Worker Program: The New Version of the Old Bracero Program*

With slight differences, the Simpson and Mazzoli Bills include a provision for the importation of temporary "guest workers" from México and the Caribbean under H-2 visas.²⁴ Under this provision growers and urban employers can import hundreds of thousands of workers to meet their labor needs. The workers, at the end of the proposed eight month period, would be returned to their countries, unless the employer requests the renewal of their contract. Additionally, the worker would have to come alone, without his/her family.²⁵

C. *Adjudication and Asylum: Elimination of Due Process Rights*

Both Bills would subject persons entering the United States without documents, a claim of asylum, or a "reasonable basis" for illegal entry, to summary exclusion without a hearing. The Bills would restrict the allowable time to apply for political asylum to fourteen days after arrest.²⁶ Thereafter, the completed application must be submitted within a specified period. The Bills also seek to eliminate the right to judicial review of a denial of asylum.²⁷

D. *Numerical Visa Limitations*

The Simpson Bill would restrict family reunification by imposing numerical residency limitations on immediate relatives and special immigrants by eliminating the eligibility of adult offspring of permanent residents and married siblings of adult citizens.²⁸ On the other hand, the Mazzoli Bill would not permit unused visa numbers

24. *Supra*, S-529, Title II, Part B, § 211(b); H.R. 1510, Title II, Part B, § 211(b).

25. *Id.* Additionally this section was amended to allow growers to apply to import foreign workers: (1) without attempting to recruit U.S. workers until after the application is approved; (2) without having to obtain certification from the Department of Labor (DOL) that there is a shortage of U.S. workers; (3) without DOL certification that there will be no adverse effect on U.S. working conditions; and (4) without guaranteeing U.S. workers terms comparable to those provided to foreign workers.

26. *Supra* at note 13; S-529, Title I, Part C, § 125-126, H.R. 1510, Title I, Part C, § 121-126; *See also*, Schey, Peter A., *Supply Side Immigration Theory: Analysis of the Simpson-Mazzoli Legislation*, 1 *La Raza Law Journal* 53 (1983). Schey, describes the attack on due process rights and the virtual dumping of The Refugee Act of 1980 (Pub. L. 96-212) 8 U.S.C. §§ 207-209, launched with the Simpson-Mazzoli Bill. The Bill would actually permit summary exclusion of refugees at ports of entry, at the hands of immigration agents and the elimination of judicial appeals from denials of political asylum by immigration agents.

27. S-529, Title I, Part C, § 125-126; H.R. 1510, Title I, Part C, § 121-126.

28. *Supra* at note 13; S-529, Title II, Part A, § 201-202. The Bill would create a worldwide annual ceiling of 425,000 immigrants; 350,000 for family reunification and 75,000 for independent immigrants. Unlike the Bills' authors' claims, the Bill actually restricts immigration by, for example, placing "immediate relatives" of U.S. citizens within the quota.

to be consumed by another country.²⁹ Neither the Simpson nor the Mazzoli Bill address the visa backlog problem, one forcing visa applicants to wait many years.

E. *The Legalization Program*

The Simpson version of the legalization program provides for a two-tiered approach.³⁰ Under the first tier, a cut-off date of January 1, 1977 would be imposed.³¹ Persons residing unlawfully and continuously in the United States prior to this date would be eligible to apply for permanent residence. If they qualify, they would be ineligible to receive federal assistance benefits.³² Nevertheless, they would still be responsible for all tax payments and young men would be required to register for the military draft.³³

Under the second tier or cut-off date, those persons who have resided in the United States unlawfully and continuously between January 1, 1977, and January 1, 1980, would be eligible to apply for a temporary status.³⁴ After three years of temporary status they would be eligible to apply for permanent residence.³⁵ Persons who qualify under this tier would not be eligible for any federal benefits for six years.³⁶

In comparison, the Mazzoli Bill proposes a one tier approach to legalization with a cut-off date of January 1, 1982.³⁷ However, it would restrict assistance benefits for five years, except for the aged, blind, disabled and medical emergencies.³⁸

Both Bills would restrict legalization to individuals of good moral character who have not been convicted of a felony or committed three or more misdemeanors in the United States.³⁹ In addition, both Bills include most of the exclusions applied by consular authorities for visa applicants. Experts estimate at least thirty different exclusions, including the widely feared "likely to become a public charge" exclusion under the Immigration and Naturalization

29. *Supra* at note 13; H.R. 1510, Title II, Part A, § 201.

30. *Supra* at note 13; S-529, Title III, § 301.

31. *Id.* Interestingly, under both versions of the bill, this provision would actually serve to deny legalization to persons who entered with a visa and have over stayed, but whose visa expired after the cut-off date. The numbers of such persons could be enormous. Moreover, both versions of the Bill restrict "continuous residence," which would exclude those who were outside of the United States for any period of over 30 days or over 180 days for the aggregate period of time.

32. *Id.*

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*

37. *Supra* at note 13; H.R. 1510, Title III, § 301.

38. *Id.*

39. *Supra* at note 31; *Supra* at note 38.

Act.⁴⁰

FORCES IN SUPPORT OF THE SIMPSON-MAZZOLI BILL

The economic, political and social forces supporting the Simpson-Mazzoli Bill are formidable, representing employers, unions, and the political establishment from the liberal to the conservative sectors.

The consensus obtained by Senator Simpson and Congressman Mazzoli in support of their Bill is, in great part, the result of the constant barrages of propaganda which blames the Mexican Immigrant for unemployment, low wages, increase in crime, and the overall deterioration of American society. Since the early 1970's public servants such as General Leonard Chapman, Commissioner of the Immigration and Naturalization Service (I.N.S.) under Nixon, have created fear and anti-immigrant sentiment. Commissioner Chapman and others have used inflammatory appeals to racism, presenting immigration as a silent invasion of undocumented immigrants, and inflating undocumented workers numbers to twelve million, without a scintilla of evidence.⁴¹ They claim that by deporting them there would be jobs for all Americans.⁴² Administrations beginning with Nixon's, have supported the anti-immigrant assault. Their Attorney Generals have usually been prominent advocates for employer sanctions.⁴³ Often the Secretary of Labor has also been one of its leading spokespersons, e.g., Ray Marshall, Secretary of Labor with the Carter Administration.⁴⁴

40. 8 U.S.C. 1251(a); Further commentary given at a presentation by Peter S. Schey, Director of National Center for Immigrant Rights, Inc., of Los Angeles, to Southern California Ecumenical Council, October 3, 1983. Schey and others estimate that the exceptions would actually serve to disqualify at least 7 out of 10 applicants for legalization, others go higher. The federal G.A.O. stated that only approximately 33 per cent would qualify. I.N.S. estimates are not much higher. See I.N.S.—Simple-mentation Plan. California Supreme Court Justice Cruz Reynoso, Select Commission on Immigration and Refugee Policy, Final Report, at 399, argues that only "2 percent" of the undocumented population will apply for the Program.

41. Chapman, Leonard F., Statement before the subcommittee on Immigration and Naturalization of the Committee of the Judiciary of the U.S. Senate, 94th Cong., 2nd Sess. (March 17, 1976); General Chapman is reputed to have been in charge of Operation Phoenix in Vietnam. He began the process of militarization of the U.S. border with México with the introduction of sophisticated detection equipment and helicopters, while leaving the Canadian border wide open.

42. *Id.*

43. See, e.g., William French Smith, President Reagan's Attorney General; *A.G. Defends New Approach to Controlling Immigration*, Daily Journal (Los Angeles), Aug. 5, 1981, at 3, col. 2.

44. United States Select Commission on Immigration and Refugee Policy. U.S. immigration policy and the national interest: the Final report and recommendations of the Select Commission on Immigration and Refugee Policy with supplemental views by commissioners, March 1, 1981—(Washington D.C.): The Select Commission; 1981, at 361-370; wherein Marshall argues for employer sanctions as the only deterrent to "illegal immigration."

The Reagan Administration would have liked an even more draconian bill. However, after several months of lobbying for their program they dropped it and announced their support for the Simpson-Mazzoli Bill. Reagan's Immigration Plan of 1981, not only requested the components of the Simpson-Mazzoli Bill, but also asked for additional Presidential powers. These powers would have enabled the President to declare a state of emergency on the grounds that large number of aliens were concentrating at ports of entry and ready to cross the border. He would have had the authority to seal harbors, airports, terrestrial ports of entry, until the emergency had disappeared and to allow the boarding of ships on the high seas and demand their return to place of origin. He would have also been empowered to construct detention camps to intern undocumented immigrants.⁴⁵

Support for Simpson-Mazzoli has also come from employer sectors, such as the National Association of Manufacturers and organized growers. Both groups support the Simpson-Mazzoli Bill, so long as the former is assured safety nets against employer sanctions, and the latter is assured a cheap pool of labor by means of a guest worker program.

Union leaders have also favored the Bill. The AFL-CIO national leadership has been an open and consistent advocate of employer sanctions. Faced with the greatest crisis the membership has ever confronted, the AFL-CIO leadership has taken the myopic view that immigrant workers are the cause of unemployment and of the union's failure to organize workers.⁴⁶ Its position ignores the effects the economic crisis and the vicious union busting tactics used by employers and the government have had on union organizing.⁴⁷ Their position ignores the fact that numerous jobs are being lost due

45. *Supra* at note 17; *See also, The INS Declares War on L.A. Illegal Aliens*, L.A. Herald Examiner, February 11, 1982, at 1A, col. 3.

46. AFL-CIO News, March 3, 1981, December 25, 1982, and February 24, 1983, generally endorsing employer sanctions and a national I.D. card, and calling for deportations to protect labor standards; *see also* statement of Jack Otero, AFL-CIO Representative in the Select Commission on Immigration and Refugee Policy, Final Report, at 399 arguing, among other things, in defense of the I.N.S. agents against charges of ineptitude and violations of civil rights.

47. *See, e.g.*, the Reagan Administration's busting of the Professional Air Traffic Controllers Organization (P.A.T.C.O.) (1981). *Flying the Emptier Skies (PATCO Union Status Revoked)*, Time Magazine, Vol. 118, November 2, 1981, at 29. It may be that some of the advocates of the rights of undocumented workers have slightly contributed to advance this position when they speak of organizing the undocumented with the tacit assumption that undocumented workers are the only unorganized sector of the Labor force. This is not a fact. Unions such as the United Farm Workers of America (UFWA), AFL-CIO, International Ladies Garment Workers Union (ILGWU) AFL-CIO, Hotel & Restaurant Workers AFL-CIO, United Furniture Workers, AFL-CIO, United Auto Workers (UAW) and United Electrical Radio and Machine Workers of America, among many others have large numbers of immigrant workers, documented and otherwise in their ranks.

to the structural reorganization of the economy. The shift to high technology has caused plant closures in the smokestack industries such as auto, steel and rubber. By singling out undocumented immigrants as the cause of unemployment the AFL-CIO leadership has consciously chosen to ignore the effects of plant closures and runaway shop. Instead they advocate for increased immigration enforcement and employer sanctions as the solution, to what they call the "immigration problem."

The AFL-CIO leadership's position is stripped naked of any honest political debate when the facts show that the highest estimate of undocumented workers would amount to a maximum of two million⁴⁸ and the total number of unorganized workers in the United States exceeds eighty million.⁴⁹

Examples of local Los Angeles politicians who have supported the Simpson-Mazzoli Bill are the three conservative Supervisors of Los Angeles County. Peter Schabarum, Dean Dana and Mike Antonovich have worked for the passage of resolutions calling for the denial of medical care to undocumented immigrants and have supported the Simpson-Mazzoli Bill.⁵⁰ The Supervisors have lobbied for the Bill on grounds that "undocumented immigrants" deplete County Social Service funds.⁵¹

Perhaps an even more formidable supporter of the Simpson-Mazzoli Bill has been the press. The electronic and printed media have generally described the Simpson-Mazzoli Bill in the same terms as its authors, describing it as a humanitarian measure that will benefit millions of undocumented immigrants.⁵²

THE FACTS VS. THE MYTHS

One anti-immigrant coalition has organized itself into the Federation for American Immigration Reform (FAIR). Its membership includes an array of liberal and conservative elements such as business, labor, environmentalists, academicians, and elected offi-

48. MULLER, THOMAS: *THE FOURTH WAVE*, (1984) at 25. See also, the U.S. Bureau of the Census, 1980, (estimated amount).

49. See, U.S. Bureau of Labor Statistics, 1983.

50. *County Seeks Change in Medi-Cal Form*, Los Angeles Times, October 28, 1981, at 1-II, col. 2.

51. Hufford, Harry C., Chief Administrative Officer of Los Angeles County, Report to the Los Angeles Board of Supervisors, *LOTS OF SERVICES TO UNDOCUMENTED ALIENS*, March 14, 1981; Despite the fact that their own studies of 1982 demonstrated that while undocumented immigrants may cost \$93 million dollars annually in health care, undocumented tax payers in Los Angeles County alone paid the huge amount of 253 million dollars annually in federal, state and local taxes.

52. See, e.g., *Two Million Aliens to Seek Legal Status if Bill is O.K.'d*, L.A. Times, May 20, 1983, at 1-I, col. 6; *Immigration Reform O.K.'s, Senate Votes to Grant Legal Status to Aliens*, Los Angeles Times, May 19, 1983, at 1-I, col. 5.

cials. FAIR constantly attacks the undocumented immigrant by disseminating false and misleading information;

1. Our border with México is virtually nonexistent. The United States is being flooded by undocumented Mexican immigrants.
2. Once here they take jobs from Americans.
3. They apply for and receive medical aid, public services and social security payments paid for by American taxpayers.⁵³

Reality, however, is far from what they contend. Professor Julian Simon of the University of Maryland, a fellow at the Heritage Foundation, recently published what is perhaps the most definitive response to the attacks against immigrants.⁵⁴ His study destroys the myths created by the anti-immigrant xenophobia.

Professor Simon concluded that:

1. The United States is *not* being flooded by undocumented Mexican immigrants. The figure of twelve million undocumented immigrants is grossly overblown. There are only about two million undocumented Mexican immigrants presently in the United States.

2. Immigrants do not cause unemployment. The economy does not have a fixed number of jobs. Immigrants as workers, consumers, entrepreneurs and taxpayers create jobs and invigorate the economy. In fact, by increasing the work force, they "help solve our social security problem." They come to the United States at the start of their productive life. Even if they collect social security, by then, their children are contributing to the System. Moreover, they take jobs most Americans do not want, in industries such as manufacturing, restaurant and hotel.

3. Immigrants do not abuse welfare or government services. Numerous studies demonstrate that small numbers of undocumented immigrants avail themselves of government services, including free medical care, 5%; unemployment insurance, 4%; food stamps, 1%; welfare payments, 1%; child schooling, 4%; practically none collect social security while 77% pay for it, and 73% have federal income taxes withheld.

In another study conducted by the Urban Institute of Washington, it was learned that Latino immigrants do not cause unemployment among black workers.⁵⁵ The facts, the study found, may be exactly the opposite in the Southwest. "Within California, income gains for blacks were greater in Los Angeles County than in metropolitan areas with few Hispanic immigrants, such as San Francisco."⁵⁶

53. The Federation of American Immigration Reform, Newsletter, 1984.

54. *Don't Close Our Borders*, Newsweek Magazine, February 27, 1984, at 11.

55. *Supra* at note 48.

56. *Id.*

THE BATTLE AGAINST SIMPSON-MAZZOLI

The intent of this article is not to chronicle the struggle against the Simpson-Mazzoli Bill or much less against immigration legislation. For over a decade opposition to repressive immigration laws and practices has been intensive and enlightening. It would take volumes to relate such struggles.⁵⁷ However repression cannot be discussed without speaking of the oppressed, especially, where the repressive measures have been defeated by the oppressed. When all the wheels seemed "greased" and "rolling to ram" the Simpson-Mazzoli Bill through the House of Representatives, the Latino community has managed to prevent its passage, if only temporarily. On the other hand, the Bill has passed the Senate by a overwhelming majority on several occasions.⁵⁸

During the past two years the struggle against the Simpson-Mazzoli Bill has been national in character. Demonstrations and conferences have taken place in cities such as Los Angeles, San Francisco, San Diego, San Antonio, Seattle, Chicago, New York and Washington, D.C. The battle has included mass demonstrations, public forums and hearings, conferences, mass letter writings, telegrams, petitions, and lobbying visits to key legislators.⁵⁹

The fight against the Simpson-Mazzoli Bill, like the struggle against its predecessors, has taken place within the economic crisis of the past fifteen years and the rising sentiment of conservatism. Opposition to the Bill has taken place under an administration whose policies and actions have brought it recognition as the enemy of peace, minorities, women, the aged, affirmative action, trade unions, education, health care, etc.

During this conflict the Latino community has had to fight back numerous attacks on immigrants, including the denial of medical/health care, social security, unemployment insurance, asylum to Salvadoran refugees, public schooling, and school lunches for the

57. *Supra* at note 4, 5, 6, 7, 41, and 49.

58. The House narrowly passed its version on June 20, 1984, by a vote of 216-211. The Senate had passed its version in May, 1983 by a vote of 76-18; For further discussion on this subject see, *La Opinion*, September 12, 1984, at 1, col. 1.

59. For example, Conference at East Los Angeles College, October 3, 1983; Sponsored by Coalición Pro-Visa y Derechos Para Indocumentados, an immigrant workers organization based in Los Angeles, California.

Organizers of LaCoalición Pro-Visas y Derechos, La Hermandad Nacional Mexicana, in connection with numerous Catholic Church parishes in Latino communities of Los Angeles state that they have gathered at least 400,000 letters against the Simpson-Mazzoli Bill in the last two years, which have been sent to Congressmen and Senators.

One of the methods most often employed by the movement against the Simpson-Mazzoli Bill is visits to key legislators to pressure them to vote against the Simpson-Mazzoli Bill.

For a description of the hearings see *Immigration Bill, Agent's Tactics Hit At Forum*, *Los Angeles Times*, (Orange County Edition) September 11, 1983, at 1-1, col. 1; One week earlier hearings were held at Placita Olvera Church in Los Angeles.

children of undocumented parents.⁶⁰

On several occasions organized communities have forced the temporary halt of community and factory raids.⁶¹ Organizations have managed to halt the efforts to prohibit medical care to those who cannot prove a legal right to reside in the United States and the denial of public education to children of undocumented immigrants. They have also succeeded in preventing efforts to make permanent residency a requirement for the parents of children receiving school breakfast and lunch programs.

Several elements in the Latino community have played key roles in the temporary defeat of the Simpson-Mazzoli Bill.

Immigrant workers' organizations such as the Coalition for Visas and Rights for the Undocumented and the Hermandad Nacional Mexicana have played important roles in mobilizing mass community opposition against the Bill through means of letter writing campaigns, public forums, lobbying and large demonstrations.⁶²

The League of United Latin-American Citizens (LULAC) and the Mexican American Legal Defense and Education Fund (MALDEF) have carried out extensive lobbying against the Bill.⁶³

Organized parishes in the Latino community have in many instances mobilized their parishioners to oppose the Bill. These organizations have opened their doors to immigrant rights activities to carry out anti-Simpson-Mazzoli work. Youth organizations such as

60. Bustamante, et. al., Presentation at the 13th Annual National Association for Chicano Studies Meetings.

61. See, e.g., *Almeida Sanchez v. United States*, 413 U.S. 266 (1973); *Pyle v. Doe*, 457 U.S. 202 (1982); *Illinois Migrant Council v. Pilliod*, 398 F. Supp. 882 (N.D. Ill. 1975), *affm'd*, 540 F.2d 1062 (7th Cir.), *modified on rehearing en banc*, 548 F.2d 715 (1977); *International Ladies Garment Workers Union v. Sureck*, 681 F.2d 624 (9th Cir. 1982), *rev'd*, — U.S. —, 104 S. Ct. 1758 (1984). *LaDuke v. Nelson*, 560 F. Supp. 158 (E.D. Wash. 1982), *aff'd*, 762 F.2d 1318 (9th Cir. 1985). *Lopez-Mendoza & Sandoval-Sanchez v. INS*, 705 F.2d 1059 (9th Cir. 1983), *rev'd*, 104 S. Ct. 3479 (1984). *Marquez v. Kiley*, 436 F. Supp. 100 (S.D.N.Y. 1977); *Perez Funez v. District Director, INS*, No. C.V. 81-1457-ER, No. CV-81-1932-EBM (C.D. Cal. January 24, 1984); *Orantes Hernandez v. Smith*, 541 F. Supp. 351 (C.D. Cal. 1982); *Haitian Refugee Center v. Smith*, 672 F.2d 1023 (5th Cir. 1982).

62. Both organizations are primarily composed of immigrant workers. They were instrumental in the building of mass mobilizations of several thousand persons each in Los Angeles on March 14, 1982, September 25, 1982, November 20, 1982, and June 12, 1983. The Coalition was part of a larger coalition of immigrant rights organizations who planned a large demonstration against the Simpson-Mazzoli Bill on May 19, 1984.

63. League of United Latin-American Citizens (L.U.L.A.C.) is the oldest and largest Latino community political organization in the United States. This organization co-sponsored several conferences concerning the immigration issue. L.U.L.A.C. carried out extensive lobbying efforts in Washington D.C., and throughout the nation.

Mexican-American Legal Defense and Education Fund (M.A.L.D.E.F.) is a Latino Civil Rights organization that is based primarily in the Southwest. They have offices in Los Angeles, San Francisco, San Antonio, Chicago, and a national office in Washington, D.C. They have also co-sponsored several conferences concerning the immigration issue. M.A.L.D.E.F. also carries out extensive lobbying efforts within Congress, State, and local governments.

Acción Católica Juvenil and student groups have supported the immigrant workers' effort against the Bill.

The Congressional Hispanic Caucus has waged a strong battle in the House of Representatives against the Bill. Because the Hispanic Caucus, led by Congressman Edward Roybal, attacked the Bill with hundreds of amendments the Bill died on the House Floor on November 3, 1982. When the Speaker of the House, Tip O'Neill, froze the Bill on October 23, 1983, it was the Hispanic Caucus, again led by Roybal, that convinced O'Neill that passage of the Bill would have political repercussions in the 1984 Presidential elections and that President Reagan was planning to veto the Bill to appeal to the Latino vote.⁶⁴

Latino trade unionists' opposition to the Bill has been broad and national in scope. Despite the AFL-CIO's National Leadership support for the Bill, large numbers of Latino trade-union leaders and many locals have gone on record opposing the Bill.⁶⁵ Some independent unions, such as the United Electrical Radio and Machine Workers of America and the International Longshoremen and Warehousemen Union of America (ILWUA) have taken consistent stands against the Simpson-Mazzoli Bill and in particular, employer sanctions.

Of great importance is the strong lobbying work the United Farm Workers of America (UFW) had performed since Congressman Roybal introduced alternate legislation to the Simpson-Mazzoli Bill.⁶⁶ The UFW has been pressuring the AFL-CIO leadership to persuade Representative O'Neill to stop the movement of the Simpson-Mazzoli Bill and to order hearings for the Roybal Bill.

As can be surmised from the above, the anti-Simpson-Mazzoli forces include a broader base of support than the Latino community. Without the support of church elements,⁶⁷ civil liberties orga-

64. *Disputed Immigration Bill Dead For '83, O'Neill Says*, Los Angeles Times, October 5, 1983, at 1-1, col. 3.

65. That list has included locals or leaders from unions such as: The Southern California District Council of Laborers of the International Laborers Union of the AFL-CIO, the American-Federation of Federal, State, County and Municipal Employees, (AFSCME) AFL-CIO District 36, and the International Regional Office American-Federation of Government Employers (AFGE) AFL-CIO, International Brotherhood of Carpenters and Joiners, Local 25, AFL-CIO, UAW Region 67, Local 645, District 65, AFL-CIO, Culinary Workers and Bartenders, AFL-CIO, Screen Actors Guild, International Molders Union, Local 164, AFL-CIO, Hotel & Restaurant Workers Union, Local 2, AFL-CIO, United Furniture Workers, AFL-CIO, and the United Teachers of Los Angeles.

66. *Infra* at note 72, H.R. 4909, 98th Cong. 1st Sess., (1983).

67. *See, e.g.*, Letter of Daniel Haye, General Secretary of the United States Catholic Conference, Letters to Congressman, September 10, 1982; Resolution of California Conference of Catholic Charities on Simpson-Mazzoli, September 14, 1982; Church of the Brethren, Washington office; Memo of Raph Watkins, Chairman of the Immigration Group, Washington Interreligiones Council, March 25, 1982; Letter of Francis A. Quinn, Bishop of the Catholic Diocese of Sacramento to Senator Edward Kennedy,

nizations including the ACLU and the National Committee against Repressive Legislation (NCARL), the Bill would have probably passed through the 97th Congress in 1982.

Major Protestant denominations have gone on record opposing the Bill.⁶⁸ Important Protestant church organizations and prominent figures have strongly lobbied against it. On the other hand, the United States Catholic Conference and the Catholic Bishops' organization have wavered from tacit support for the Bill to neutrality, to lukewarm opposition. The Latino sectors of the church who have strongly opposed the Bill have criticized the Catholic Church national hierarchy for its lukewarm opposition of the Bill and for being out of touch with the Latino community.⁶⁹

The majority of the Congressional Black Caucus, and many white liberal legislators, have played a significant role in the temporary defeat of the Bill in 1982 and 1983. In fact, close to fifty members of Congress who sponsored the Roybal Bill include members of the Hispanic Caucus, the Black Caucus, and liberal members of Congress from California.

The Black Caucus and the Black community have demanded humane treatment for the thousands of Haitian refugees. Members of the Black Caucus are conscious that Simpson-Mazzoli will deny asylum to Haitian refugees, many of whom, if deported, may be killed by Duvalier's Tou Tou Macoutes. Their support has added clout to the anti-Simpson Mazzoli forces.⁷⁰

The role of the Congressional Hispanic Caucus has been crucial in the fight. When Speaker of the House O'Neill froze the Bill in November of 1983, he told the Hispanic Caucus that if passage of the Simpson-Mazzoli was to be prevented, alternate legislation must be introduced. The Hispanic Caucus responded with the Roybal Bill, H.R. 4909.

AN ALTERNATIVE?

Introduction of alternative legislation by a Latino legislator is not something new in the struggle for fair immigration laws. Con-

May 6, 1982; Church World Service, Bulletin July 18, 1983; Letter of 13 Los Angeles church leaders to House Speaker Thomas P. O'Neill, September 16, 1983; Southern California Ecumenical Council, statement of April 6, 1983; Report of Meeting on Immigration Legislation, California Catholic Conference, March 4, 1983, condemning the Simpson-Mazzoli Bill; *Recess Splits with USCC On Bill Support.*, the Catholic Voice, November 8, 1982.

68. Immigration and Refugee Programs, Church World Service Memorandum, July 18, 1983; Clergy and Laity Report, C.A.L.A. Concerned, May-June 1983, Vol. IV, No. 4, at 3.

69. *Recess Splits with USCC on Bill Support.*, The Catholic Voice, November 8, 1982.

70. *Jackson Speaks Out Against Immigration Bill*, L.A. Herald Examiner, May 20, 1984 at 1-A, col. 2.

gressman Roybal on several occasions has introduced immigration legislation.⁷¹ The differences with H.R. 4909 of 1983 are that:

1. Unlike Roybal's previous bills, H.R. 4909 actually became part of the public debate.
2. The Latino community adopted it as its alternative legislative proposal to the Simpson-Mazzoli Bill.
3. The Roybal Bill picked up close to 50 sponsors, including the majority of the Hispanic Caucus, a significant segment of the Black Caucus and several white liberal members of Congress from California.

This does not mean that the Roybal Bill had the unanimous and unconditional support of the Latino community or the immigrant rights movement. The Bill was criticized for its provisions calling for increase funding for INS enforcement activities.⁷² Despite this shortcoming, the Roybal Bill offers important humanitarian legislation that makes it an alternative to the Simpson-Mazzoli Bill.

The Roybal Bill of 1983 included the following provisions:

1. Emphasis on stricter enforcement of the Fair Labor Standards Act, the Occupation Safety and Health Act (OSHA) and the National Labor Standards Act, against employers of undocumented workers.
2. Keeping intact the present adjudicatory procedures provided by the 1980 Refugee Act. Such procedures are consistent with international law.
3. Family reunification by temporarily increasing the worldwide ceiling to relieve the visa backlogs.
4. A one tiered approach to legalization, which has a cut-off date of January 1, 1982. It does not exclude the poor from the legalization program by limiting the circumstances under which the "public charge" provision can apply.

THE CONCEIVABLE EFFECTS OF THE SIMPSON-MAZZOLI BILL⁷³

Some commentators have characterized the grounds on which

71. See, e.g., H.R. 13136, 95th Cong., 2nd Sess., (1978); H.R. 582, 97th Cong., 1st Sess. (1981); H.R. 2361, 97th Cong., 2nd Sess. (1982); H.R. 4909, 98th Cong., 1st Sess., (1983); H.R. 30, 99th Cong., 1st Sess., (1985); H.R. 2180, 99th Cong., 1st Sess. (1985).

72. See *Teenager Deported by Mistake is Found*. New York Times, February 21, 1984, at A-16, col. 6; *Shaping Up at the INS*, L.A. Herald Examiner, March 8, 1982, at A-10, col. 1; *Violence, Often Unchecked, Pervades U.S. Border Patrol* New York Times, January 14, 1980, at A-1, col. 2.

73. For an excellent analysis see, del Olmo, F., *Simpson-Mazzoli: Implications for the Latino Community*, in AMERICA'S NEW IMMIGRATION LAW: ORIGINS, RATIONALES, AND POTENTIAL CONSEQUENCES, edited by Wayne A. Cornelius and Ricardo Anzalda Montoya, (1983); Calavita, K., *Employer Sanctions Legislation in the United States: Implications for Immigration Policy*. *Id.*

the Latino community opposes the Simpson-Mazzoli Bill as mere "emotional" complaints and reaction. Have they considered its real human effects?

Whatever the outcome, the human effects of this anti-worker and anti-immigration Bill would be catastrophic. Thousands of immigrant families would find themselves without any income to pay for their food, rent, utilities, medical care, clothing and transportation. These families would find themselves living in isolation, without any legal rights and pushed deeper into anonymity. Millions of workers without authorization or the national I.D. card will be placed at the mercy of employers who will possess the threatening power of reporting them to the INS or the FBI. Employers can use this power to force desperate employees to work for sub-minimum wages. Working conditions would worsen. The workers would be forced to stay away from union organizing drives, strikes, pickets, protests and forced to serve as company snitches. Thousands of immigrant women may be subjected to sexual abuse and harassment by management because of threats of being reported to the authorities. Thousands of children, both born outside or within the United States, may be deprived of their human and legal rights to a decent quality of life. Education of these children could depend on the legal status of their parents. Senior citizens who may not qualify for legalization will be deprived of social security benefits despite their contributions. Immigrant families may find themselves at the mercy of slum landlords who may also use the threat of reporting them to the authorities to extort gouging rents from them. Health care may become nearly unobtainable for immigrant families because of fear of detection. Employers will use "employer sanctions" to discriminate against Latinos and other minorities. Thousands of Salvadorean, Haitian and Guatemalan refugees may be rapidly deported back to their country, many to a certain death.

THE 1984 DEMOCRATIC CONVENTION: LATINOS DELIVERED A MESSAGE⁷⁴

The 1984 Democratic Convention in San Francisco may have been a turning point in the Latino community's struggle against the Simpson-Mazzoli Bill. Since then, both parties have made public promises that they will act against the Bill. Only time will tell whether they deliver or not.

During the primaries the pressure generated by the Latino

74. Much of what is described in this section is based on Mr. Rodriguez' own experiences at the Democratic Convention, plus commentary related to organizing efforts that took place in San Francisco. Much commentary, both spoken and written, have mentioned that the Democratic Convention marked a turning point in the struggle against the Simpson-Mazzoli Bill.

community and the Jackson campaign on House Speaker Tip O'Neill resulted in the tabling of the Bill until after the California Primary to insure that the vote got out for Mondale. Nevertheless, weeks after the Primary, the House passed the Simpson-Mazzoli Bill.

Mondale's promise to oppose the Simpson-Mazzoli was not an easy one to extract. The promise came after intense pressure by the Latino delegates who threatened to abstain on the first ballot as a protest against the Simpson-Mazzoli Bill. The Latino delegates demanded that Mondale, Tip O'Neill and Lane Kirkland publicly pledge that the Simpson-Mazzoli Bill would not become the law of the land.

The symbolism of the abstention movement must not be ignored by the Democrats. It was a clear message that unless Mondale and the Democrats took decisive action against the Bill, Latino voters would not vote in November. In fact, after Mario Obledo called for an abstention at the LULAC Convention,⁷⁵ the sentiment was so strong that at least 40 delegates at the Democratic Convention abstained on the first ballot, of these 27 were from California.

Leaders like Tony Anaya, governor of New Mexico, cannot remember anything galvanizing the Latino community like its opposition to the Simpson-Mazzoli Bill.⁷⁶ There is no doubt that passage or defeat of the Bill will determine the degree of respect and dignity with which Latinos will be treated for generations.

Since the Convention, the Republicans have come forth with their own promises. Vice President Bush told the National Council of La Raza that President Reagan would never sign any bill that would discriminate against "Hispanics," an obvious reference to the Simpson-Mazzoli Bill.⁷⁷

AFTERMATH

The organized forces against the Simpson-Mazzoli Bill reached

75. The L.U.L.A.C. Convention took place on June 22, 1984, in El Paso, Texas.

76. Anaya: "Simpson-Mazzoli is symbolic. Hispanics will vary on why they're opposed to Simpson-Mazzoli, but there probably isn't any issue, short of war in Central America, that has helped unite Hispanics more than any other. You know, we've had very few rallying points in our history. The Vietnam war brought out droves of young people. Events in the sixties brought out the blacks and got them involved in the civil rights movement. Simpson-Mazzoli may be what drives the Hispanics. Passage of Simpson-Mazzoli will provide enough impetus for those who want to register Hispanics and involve them in politics. And as the atrocities of Simpson-Mazzoli begin to become public, then with each discriminatory act there would build up more and more momentum to the point where there would be an explosive—and I don't mean violent—civil rights movement on the path of Hispanics." *Pacific Southwest Airlines Magazine*, March 1985, at 22, paragraph 2.

77. National Council of La Raza Conference, 1984.

a turning point at the 1984 Democratic Convention in San Francisco. The national elections in November 1984 were effected by the events in San Francisco. The Democratic Party's failure to strongly oppose passage of the Simpson-Mazzoli Bill resulted in weak support from the Latino community. Ronald Reagan and his supporters are now prepared to wage a major effort to have the Simpson-Mazzoli Immigration Bill enacted.⁷⁸

The temporary defeat of the Bill in 1984 was caused by several factors. Perhaps the major reason the Bill had problems was Congress' inability to resolve the differences between the two versions.⁷⁹ The Republicans, namely Ronald Reagan, did not want a bill that would have increased the federal budget. Simpson-Mazzoli could have cost the taxpayers several million dollars. The Democrats did not want a finance cap on reimbursement to the states, (finances needed to process legalization and so forth). One of the important factors in passage of the Bill in the House was the amnesty provision: this provision could not be compromised. Important factors in the passage of the Bill in the Senate were employer sanctions and the increase of the INS budget. The Senate did not want to compromise increased financing to the INS for financing of the legalization process (Amnesty Provision). These disagreements, together with other factors culminated in the defeat of the Bill. Finally, a major factor which contributed to the Bill's defeat was the political parties' realization of the influence the Latino vote had on national elections.

Major forces outside Congress also played an active role in the temporary defeat of the Bill. One such force was the AFL-CIO's last minute opposition to the Bill, specifically the guest workers provision. Perhaps the major force that contributed to the Bill's defeat was the collaborated lobbying efforts by MALDEF, LULAC, HISPANIC CAUCUS, ACLU, Immigrant Rights groups, and organized Latino communities. The Rainbow Coalition strongly opposed the Bill. It also organized support from the communities to prevent its passage. Efforts included soliciting congressional district voters to pressure their representatives to oppose the Bill. The movement against Simpson-Mazzoli was both grass-roots and agency related.

Most groups realize that the defeat of the Bill is only temporary and passage is still possible. The occurrence of certain events in early 1985 led observers to believe that an Immigration Reform Bill will be passed by the end of the year. The I.N.S. has allegedly initiated a propaganda blitz to convince the American public that the illegal immigration flow is enormous.⁸⁰ They proposed to solve the

78. *New Immigration Bill Eyed*, Washington Post, January 10, 1985.

79. *Id.*

80. The following are dates in which news items appeared concerning illegal immi-

problem by lobbying the public and Congress into financing a larger force (Border Patrol), and adopting employer sanctions as provided in the Simpson-Mazzoli Bill.⁸¹ To counter this publicity, opponents of the Bill have initiated a series of national conferences intended to unify the movement against a re-introduced Simpson-Mazzoli Bill.⁸²

A. *Alternative Immigration Bills of 1985*

Since its defeat various alternative Immigration Bills have been introduced including the "Roybal Bills"⁸³ and the "Lungren Bill."⁸⁴ These Bills, with minor variations, are simplified versions of the Simpson-Mazzoli Bill. The new Bills continue to propose controversial provisions opposed by the Latino community. The Reagan administration has supported a simplified Immigration Bill that calls for employer sanctions against those who knowingly hire undocumented workers.⁸⁵

In January 1985 Congressman Roybal introduced a bill which proposed employer sanctions.⁸⁶ Roybal has opposed employer sanctions for the past few years but changed his position in the 1985 bill. Congressman Roybal, however, withdrew his 1985 bill and re-introduced a bill similar to his 1983 bill in May 1985, which does not call for employer sanctions.⁸⁷

Congressman Lungren has introduced a Bill that calls for employer sanctions⁸⁸ but also a return to a "Bracero program," a guest workers plan.⁸⁹ The following is a short summary of the Bills plus an explanation of the Latino community's opposition to them.

gration. On these dates the I.N.S. also commented on the problem and offered suggestions on how to resolve the situation.

KCBS, Los Angeles, May 18, 1985.

KNBC, Los Angeles, May 3, 1985.

KABC, Los Angeles, April 20, 1985.

81. *Id.*

82. One such conference was held in Los Angeles on April 26-27, 1985, and was sponsored by the Coalition Against Simpson-Mazzoli. Other conferences are being proposed to be held in San Antonio, San Francisco, Chicago, Washington D.C., and New York. These conferences are being sponsored by many church and lobbying organizations.

83. Congressman Edward Roybal first introduced the Immigration Act of 1985, H.R. 30, 99th Cong., 1st Sess., in January. This Bill included the controversial employer sanctions provision that is opposed by the Latino community. After mounted pressure from several lobbying groups Congressman Roybal replaced his January bill with the *Immigration Act of 1985*, H.R. 2180, 99th Cong., 1st Sess., which did not include such controversial provisions.

84. Congressman Dan Lungren introduced the Comprehensive Immigration and Reform Control Act of 1985, H.R. 1061, 99th Cong., 1st Sess.

85. *Supra* at note 78.

86. *Supra* at note 83, H.R. 30, Title I, § 101.

87. *Id.*

88. *Supra* at note 84.

89. *Id.*

Congress will either pass one of these alternatives, or these Bills will add support to the re-introduced Simpson-Mazzoli Bill.

1. *The Roybal Bill*

Congressman Edward Roybal's (D-California) 1985 Bill, H.R. 30, included provisions opposed by the Latino community, such as employer sanctions and increasing I.N.S. funding.⁹⁰ This Bill was drafted without input from the Hispanic Caucus, who helped draft the 1983 Bill, H.R. 4909.⁹¹ The employer sanctions provision is opposed by most Latinos. In a survey conducted by the Southwest Voter Registration Education Project (SVREP), more than 60% of Latino leaders contacted opposed employer sanctions.⁹² A 1982 survey of Latino business owners in Austin, Texas, found that over 60% opposed employer sanctions.⁹³ A Los Angeles Times poll conducted in March 1983, showed that the majority of Latinos in California opposed employer sanctions by close to 60%.⁹⁴

Opposition to the 1985 Bill was voiced to Congressman Roybal by many interest groups, including the Hispanic Caucus/Democratic Party of California. Cristina Perez, of the Hispanic Caucus, described the Bill as unsatisfactory and indicated that pressure was mounted toward him to withdraw his 1985 Bill.⁹⁵ Other interest groups and observers felt that by calling for employer sanctions the 1985 Roybal Bill would only have added support to passage of Simpson-Mazzoli. In May 1985 Congressman Roybal withdrew H.R. 30 and re-introduced a bill similar to his 1983 Bill as H.R. 2180, which does not call for employer sanctions. Roybal's H.R. 4909, now H.R. 2180, calls for a stricter enforcement of labor and anti-discrimination statutes. Congressman Roybal's decision to withdraw his controversial 1985 Bill can only enhance the opposition to repressive legislation such as the Simpson-Mazzoli Bill. The alliance built in opposition against Simpson-Mazzoli must again prepare itself to defeat its re-introduction.

2. *The Lungren Bill*

Congressman Dan Lungren (R-California) introduced a "stripped down" version of the Simpson-Mazzoli Bill.⁹⁶ This Bill includes many of the controversial provisions presented in Simpson-

90. *Supra* at note 83, H.R. 30, Title II, Part A, § 201.

91. Immigration Act of 1983, H.R. 2361, 98th Cong., 2nd Sess.

92. Recent Hispanic Polls: A Summary of Results, National Council of La Raza, published February 1984.

93. *Id.*

94. *Id.*

95. Interview with Cristina Perez, Secretary of the Hispanic Caucus of California, April 12, 1985, in Los Angeles, Cal.

96. The Lungren letter, released the week of February 17, 1985.

Mazzoli, such as a guest workers program, employer sanctions, and increased I.N.S. budget.⁹⁷ Lungren's interest in his bill is to "seal our borders"⁹⁸ by "bringing or regaining control of our borders." Perhaps his Bill was introduced to appease the conservative sector of the House of Representatives, and to develop support for Immigration reform directed at "controlling" the immigration flow through whatever direct means possible. The Bill is not concerned with the affect it would have on the Latino community in the U.S.

Because these Bills lack a power base within congress they have a slight chance at passing. If an immigration reform bill is passed, it would probably be one presented by Senator Simpson who is presently the Senate assistant majority leader or Mazzoli who is the Chairman of the House Judiciary Subcommittee on Immigration, Refugees, and International Law. Strategically these alternative Bills can only add or subtract support from a major bill such as Simpson-Mazzoli.

B. *Simpson's New Challenge*

Senator Simpson has stated that a modified version will be forthcoming within the next 18 months.⁹⁹ It will be a streamline version of his earlier comprehensive bill. To improve chances of passage Senator Simpson intends to introduce some major changes; changes that will make the proposed Bill even more controversial presenting a greater and more direct challenge to the Latino community.

The new Bill still calls for employer sanctions but with stiffer penalties.¹⁰⁰ The biggest change will occur in the amnesty provision, which will be contingent upon a showing of improved enforcement of immigration laws.¹⁰¹ The new amnesty provision will establish a presidential commission that will determine when amnesty procedures will start.¹⁰² Most critics express concern that this could delay legalization for many years. This new plan if implemented would prohibit legalization from taking place unless employer sanctions are effective.¹⁰³ Many observers believe that employer sanctions are not effective. Many states, such as California, already have such laws which are neither observed nor enforced.¹⁰⁴ The only real effect employer sanctions will have is to

97. *Id.*

98. *Id.*

99. *Bill on Immigration to be Reintroduced with Major Changes*, New York Times, Thursday, April 18, 1985, at 1, col. 6, and Interview on Cable Network News (CNN), May 27, 1985.

100. *Id.*

101. *Id.*

102. *Id.*

103. *Id.*

104. C. Schwarz, *Employer Sanctions Laws: The State Experience as Compared*

promote discrimination against Latinos in the workplace.¹⁰⁵

CONCLUSION

The following is a group of suggestions intended to help formulate a humane and just immigration policy for the United States. We hope the reader will see these as viable alternatives to the immigration policies promoted by the present administration.

For years immigrant rights groups and the Latino community have fought for a humane immigration reform plan. They have called for programs that would enhance a positive immigration policy. Proposals include:¹⁰⁶

A) Discussion of all international immigration policies with source countries. The immigration policies that effect Mexican Nationals should be discussed bilaterally with México. As long as the current economic relationships are one-sided, benefiting the United States more than México, México's economy will remain stagnant and immigration will continue. There is a need to aid México with "true" economic assistance in order to allow industrial diversification and economic stabilization.

B) Fair and just implementation of the Asylum and Refugee Act of 1980.¹⁰⁷ This policy should not prejudice petitioners from supposed "friendly nations," but should treat all petitioners with equal consideration. A more just policy would call for a non-politicalization of these asylum determinations. Petitioners should be granted asylum if they prove a well founded fear of persecution. Such determination should *not* be based on their country of origin's political/economic system. For example, refugees from El Salvador are not receiving many asylum determinations, despite the fact that petitioners are in fear of persecution from their government. Many of the petitioners are deported back to El Salvador and are never heard of again. (This has been a basic justification of the Sanctuary Movement for smuggling refugees into the United States.)

Furthermore, there should be a moratorium on all deportations, especially from those who are applying for asylum. This calls for support and passage of the Moakly-Deconcini Bill.¹⁰⁸ This Bill proposes fair deportation status for all Central American refugees.

with Federal Proposals, in *AMERICA'S NEW IMMIGRATION LAW: ORIGINS, RATIONALES AND POTENTIAL CONSEQUENCES* at 83-93 (1985).

105. *Id.*

106. These recommendations are based on what several organizations have called for in lobbying and community outreach efforts. These organizations include M.A.L.D.E.F., L.U.L.A.C., Hispanic Caucus, National Center for Immigrant Rights, Coalition for Visas and Rights for the Undocumented, and several church coalitions, and community organizations (partial list).

107. The Asylum and Refugee Act of 1980, 8 U.S.C. 1158.

108. S-377, 99th Cong., 1st Sess., H.R. 822, 99th Cong., 1st Sess., (1985).

Currently there is a quota system that gives México and Canada an X amount of visas. If México's quota is filled and Canada is only using a small percentage of its visas then México should be allowed to use the "unapplied for visas." There should be a policy to expedite visa petitions by never allowing a waiting list to extend over one year.¹⁰⁹

C) Allowing for a non-conditional amnesty-legalization program, with a reasonable, just, and humane cut-off date. Further, granting those who are in the process of legalization, a status to prohibit deportation.

D) Development of a program that would require a stricter enforcement of labor laws, such as the Fair Labor Standards Act,¹¹⁰ Occupational Safety and Health Act,¹¹¹ and the Anti-discrimination Acts.¹¹² This program would impose sanctions on employers who take advantage of workers status, such as those employers who pay immigrant workers substandard wages.

E) Refusal to implement a "Bracero program". "Guest worker" programs are only modern forms of slavery allowing employers to pay substandard wages. Programs should not be allowed to separate families, pay "peon" wages, and discriminate against a class of people. The "Guest Worker" program has been proposed to satisfy agri-business interest in procuring a steady flow of cheap manual labor.¹¹³

F) Finally, demanding that *all* legislation proposed be subject public hearings. Passage should be contingent on holding hearings in the communities that may be effected by the proposed legislation. Such hearing are necessary if Congress is to have "true" community input.¹¹⁴

109. See also Major Provisions of the Simpson Mazzoli Bill, Section D, titled: Numerical Visa Limitations, within this article.

110. Fair Labor Standards Act, 29 U.S.C. 201-219.

111. Occupational Safety and Health Act of 1970, 29 U.S.C. 651-678.

112. Civil Rights Act of 1866, 42 U.S.C. 1981. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d. Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e.

113. See also Major Provisions of the Simpson-Mazzoli Bill, Section B, titled: Guest Workers Program: The New Version of the old Bracero Program, within this article.

114. The immigration policies of the United States can change if collective and concerted efforts are made by lobbying groups, community organizations, and individuals. Concerns for improvement of immigration policies can be voiced in the public forum by writing to local newspapers and magazines, or writing to Senators and Congressional representatives, but most importantly, voting on election days. There are several organized efforts being developed by local community groups that individuals can join. We hope this article has sparked some interest and concern from the reader which will lead him/her to participate in the debate.