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The Simpson-Mazzoli Bill in the Ninety-Eighth Congress

Linda Wong*

On February 17, 1983, Senator Alan K. Simpson of Wyoming resurrected his immigration proposal, the Immigration Reform and Control Act of 1983, better known as the Simpson-Mazzoli immigration bill. Before introducing it to Congress, however, Senator Simpson remarked that "... uncontrolled immigration is one of the greatest threats to the future of this country, ... portend[ing] much injury ... to American values, traditions, institutions, and to our way of life..."1 That statement has set the tone of debate this year for a highly complex and little understood subject.

Designed to "regain" control over our borders, the legislation is enforcement-oriented. It attempts to halt the flow of undocumented workers into the United States by creating a graduated system of penalties against persons or entities who knowingly hire, recruit or refer for employment "unauthorized" aliens. It proposesto allocate more resources to the Immigration and Naturalization Service for increased border patrol and other enforcement activities. It also seeks to streamline the adjudication and asylum procedures, as well as substantially curtail the availability of judicial review.

Aside from these enforcement features, S. 529 and H.R. 1510 would restrict future legal immigration to the United States. Both versions of the bill prohibit adjustment of status2 to aliens who violate the terms of their non-immigrant visas. Thus, an alien who is out of status would not be able to remain in the country to await the issuance of his permanent resident visa. Additionally, foreign students in the process of immigrating would have to return to their home countries for a period of two years before they could re-enter the United States as lawful residents. Only limited exceptions to this rule would be allowed. The Senate version attempts a more extensive reorganization of legal immigration by

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1. Congressional Record, February 17, 1983 at 1343.
2. See 8 U.S.C. § 1255(c)(1), (2) and (3); Section 245 of the Immigration and Nationality Act; 8 C.F.R. § 245.1. Current law permits eligible aliens to qualify for adjustment of status even though they are out of status at the time of filing.
imposing a world-wide cap on the total number of persons who can immigrate to this country annually. It also eliminates the ability of United States citizens to petition for their brothers and sisters.

Realizing that these enforcement measures will not pass without some countervailing concessions, the bill's sponsors have included a legalization proposal for certain classes of undocumented persons living in this country. The Senate version establishes a two-tier approach. Undocumented aliens who can prove entry into the United States before January 1, 1977 and continuous residence thereafter may qualify for permanent residence, while those who entered after 1977 but before January 1, 1980 may be eligible for temporary legal status. This later class of persons would retain the temporary status for two years and would then be allowed to apply for permanent residence, assuming they meet the eligibility criteria, which include English language competency.

Ironically, while the bill is restrictive in its terms, it also proposes a greatly expanded guest worker program. Current H-2 regulations in the Immigration and Nationality Act permit the importation of foreign workers. The present program admits about 30,000 temporary workers annually, 18,000 of which are agricultural employees. However, the Simpson-Mazzoli bill could increase the number of temporary farm laborers by as much as 500,000 to a million admissions per year.

With this package of recommendations in hand, the Immigration Subcommittees of the Senate and the House held hearings in late February and early March. Upon their completion, mark-up (that is, the process of introducing amendments) began the first week of April. The Senate bill was voted out of the subcommittee with only minor technical changes. The House version, on the other hand, went through some major alterations. For instance, the subcommittee voted to liberalize the legalization proposal by creating a one-tier process whereby undocumented persons could qualify for permanent residence if they entered the country before January 1, 1981, thus eliminating the temporary status category. Consequently, those failing to meet this cut-off date would be vulnerable to deportation. The newly legalized permanent residents would not receive any public benefits, except emergency medical care, for a period of four years, and those of draft age would have to register with the Selective Service.

The House Subcommittee also gave in to pressure from agricultural interests by passing an amendment that would allow growers presently dependent on undocumented labor to continue employing them after enactment of the legislation. They would be given a three-year transition period during which they could wean themselves from this dependency by gradually replacing their undocumented employees with domestic workers.

The Senate Judiciary Committee is expected to take up the bill on
April 19th,\(^3\) at which time additional amendments will be submitted. The entire Senate may vote on the legislation before the end of April. While the schedule for House debate has not yet been determined, observers note that if Congress is to act on the bill in 1983, it must come to a vote before both houses by August.

Early in the debate, it became apparent that immigration was no simple matter to be reckoned with. The political alliances which have developed do not follow party lines, nor do the minority communities agree among themselves. The legislation is bipartisan: Senator Simpson is a Republican and Congressman Mazzoli is a Democrat. The Senate, which is dominated by Republicans, voted overwhelmingly last year to support the bill. It is likely to do so again this year.

In the House of Representatives, Peter Rodino, a Democrat and Chair of the powerful Judiciary Committee, has also endorsed the legislation. A strong supporter of organized labor, he does not see his support for the bill as philosophically inconsistent. In fact, Rep. Rodino was the key congressional figure who first introduced the concept of employer sanctions well over ten years ago. The AFL-CIO has also endorsed the bill. Labor leadership firmly believes that undocumented workers take jobs away from citizens and other lawful residents, and consequently accepts the premise of employer sanctions. Major Black civil rights organizations, such as the NAACP and the Urban League, supported the Simpson-Mazzoli bill last year, primarily because of their belief that undocumented labor contributed to Black unemployment. However, toward the end of 1982, a Black/Hispanic alliance was forged, with the result that John Conyers, head of the Congressional Black Caucus, took a position against the bill in its entirety.

The religious community was divided over the issue last year. The United States Catholic Conference had originally supported the legislation, because it provided for legalization of the undocumented in the country, but it is uncertain whether that body will retain the same position this year. Many of the Protestant denominations also oppose the legislation and many chose to continue their opposition this year.

What was left to defeat the bill turned out to be a strange alliance, consisting of the Chambers of Commerce (due to their opposition to employer sanctions), the Hispanic Congressional Caucus, Latino civil rights organizations, such as LULAC and MALDEF, and civil liberties groups such as the ACLU. Only a handful of political representatives took public positions opposing the bill or fought to defeat it. In California, the key opponents were Senator Alan Cranston, and Congressman

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3. This issue of La Raza Law Journal went to press while Congress was considering the Simpson-Mazzoli bill. Subsequent amendment and passage of this bill may modify some of the information contained in this article.
Edward Roybal of Los Angeles and Don Edwards of San Jose. Further support is unexpected this year particularly in light of the fact that Senator Cranston is running for the presidency and is unlikely to advocate issues as controversial as immigration. However, Pete Wilson, the newly-elected Republican Senator, recently took a public position to oppose the bill.

There is no doubt that the battle this year will be even more intense. The sponsors realize that this is their last opportunity to pass major immigration reform. Once the campaigning begins for the 1984 elections, Congress will abandon any serious effort at grappling with controversial questions, including that of immigration.