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Abstract

Public testimony by Prof. Briggs given at the Hearing before the Subcommittee on Immigration, Border Security, and Claims of the Committee on the Judiciary, House of Representatives, October 30, 2003.

Keywords

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Testimony before the Subcommittee on Immigration, Border Security and International Claims of the Judiciary Committee of the U.S. House of Representatives, October 30, 2003, Washington D.C.

Immigration Policy and Low Wage Workers: The Influence of American Unionism

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Immigration policy is a form of human resource development which is the sole responsibility of the federal government. As such, it has economic consequences on the nation's labor market. Depending on its provisions and its enforcement, immigration policy can influence both the quantitative size and the qualitative skill level of the labor force. As immigrants have never been equally distributed across the country, there are differential scale effects on local and regional labor markets. The manifestations of these effects are employment and wage outcomes. Depending on the historical setting when specific policies are implemented the outcomes may vary but they will always be there.

What has happened?

Within a year after the U.S. Supreme Court established that the federal government has the sole responsibility for the formation and enforcement of the nation's immigration policies (in 1892), "the labor movement was among the first organizations" to urge that limits be set and subsequent policy enactments be accountable for their economic consequences.¹ It was in this context that Samuel Gompers – the President of The American Federation of Labor and an immigrant himself- said "we immediately realized that immigration is, in its fundamental aspects, a labor problem."² All immigrants have to work or be supported by those who do. In most instances, so do their spouses and children eventually.

Indeed, every significant piece of immigration legislation enacted by Congress from the time that it initiated efforts to influence immigration flows in 1864 until the late 1980s bears the stamp of organized labor in its support for passage or was caused to be repealed as the result of labor opposition.³ Moreover, the ebbs and flows of membership in American unions since 1860 have over time generally been the inverse of immigration trends. When immigration levels decline union membership rises; when immigration levels rise, union membership falls (see Figure 1 at the end of this statement).

During the 1980s, the AFL-CIO strongly supported the passage of the Immigration Reform and Control Act (IRCA). At its 1985 convention, resolutions were passed that supported the adoption of sanctions against employers who hire illegal immigrants; favored the creation of "an eligibility verification system that is secure and non-forgable;" created an amnesty program for illegal already in the United States; and opposed "any new 'guestworker' or 'bracero' program."⁴ After IRCA was passed, the AFL-CIO adopted a resolution in 1987 that called the new legislation "the most important and far reaching immigration legislation in 30 years" and, it noted that in particular "the AFL-CIO applauds the inclusion in that law of employer sanctions and of a far-reaching legalization [i.e., amnesty] program."⁵

But in the late 1980s the leadership of the AFL-CIO began to waffle on its historic policy position of protecting the interests of American workers from the adverse economic effects of mass immigration. The AFL-CIO did not take a prominent role in the political posturing preceding the ultimate passage of the Immigration Act of 1990. It did not clearly articulate what it favored; it did not specify what it was against.⁶ At its 1989 Convention, a resolution was adopted that stated that it “opposes any reduction in the number of family-based visas or any erosion in the definition of the family.” Furthermore, it opposed increasing the number of employment-based immigrants because they represented “a brain drain” of other nations and the AFL-CIO preferred to expand domestic policies “to increase our investment in education and job training in this country.”

The Immigration Act of 1990 passed. It significantly raised the prevailing legal immigration levels by about 35 percent -- to 700,000 visas a year from 1991 through 1994 and to 675,000 visas a year thereafter. It did not reduce the number of family-based visas (in fact, it increased them) nor did it change the definition of what constitutes a family. The number of employment-based visas was significantly increased from 54,000 to 140,000 a year. It added a new “diversity” admission category (originally with 40,000 visas a year but increasing to 55,000 visas a year in 1995); and it expanded the ease by which employers could get access to a variety of foreign workers on a temporary basis.

In terms of its prospective long term impact on the U.S. population and labor force, the Immigration Act of 1990 is the most significant domestic legislation enacted by Congress since that time. Given its provisions, the U.S. Bureau of the Census projects that two-thirds of the expected population increase of the United States to the year 2050 of 131 million people (or about 80 million people) will be the consequence of the presence of the immigrants themselves and of their children.⁷ Speaking to this point the National Research Council (NRC) has stated that, “immigration, then, will obviously play the dominant role in the future population growth of the United States.”⁸

At its 1993 convention, the AFL-CIO reversed course entirely. The convention adopted a resolution that praised the role that immigrants have played in building the nation. Furthermore, it demonized unidentified advocates of immigration reform for launching “a new hate campaign cynically designed to exploit public anxiety by making immigrants and refugees the scapegoats for economic and social problems.”⁹ It concluded that “immigrants are not the cause of our nation’s problems.”¹⁰ The resolution also encouraged affiliated unions “to develop programs to address the special needs of immigrant members and potential members” and called for member unions to work with “immigrant advocacy groups and service organizations” to protect the interests of new immigrants. Clearly, a new immigration attitude was emerging within the leadership of the AFL-CIO.

Meanwhile, the U.S. Commission on Immigration Reform (CIR), which was created to study the efforts of the Immigration Act of 1990, was reporting its interim findings. Chaired by Barbara Jordan throughout most of its years of its operation, CIR concluded that “our current immigration system must undergo major reform” and requires “a significant redefinition of priorities.”¹¹ It recommended a 35 percent reduction of legal admissions back to the pre-1990 levels; the elimination of the extended family preferences for admission; the elimination of the

employment-based provision that permits unskilled workers to be admitted; a return to the policy of including refugees within the total number of immigrants that are admitted each year; no new foreign guestworker programs; and a crack down on illegal immigration.¹² Against this backdrop, the AFL-CIO entered the fray in 1995 by opposing all the proposed changes. Despite extensive research and findings to the contrary, it adopted a policy resolution was adopted at its convention that year that asserted that, “the notion that immigrants are the blame for the deteriorating living standards of America’s low-wage workers must be clearly rejected.”¹³ Rather than immigration reform, it proposed increasing the minimum wage, adopting universal health care and enacting labor law reform as the remedies for the widening income disparity in the nation.

Aware of the findings of CIR by this time, Congress took up the issue of immigration reform in the in the Spring of 1996. During its debates, the AFL-CIO allied itself with other anti-reform groups to oppose most of the proposed changes. Together, they succeeded in having Congress separate all the legal reform measures from the pending bill and then killing them, stripping form the remaining bill the key proposals for verifications of the authenticity of the social security numbers as a way to reduce illegal immigration; and dropping efforts to limit refugee admissions. By joining with a coalition of some of the most anti-union organizations in the country, labor leaders succeeded in blocking immigration reform design primarily to protect the economic well-being of low skilled workers. Devoid of any legal immigration reform and containing watered-down steps to reduce illegal immigration, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 was passed.

At its October 1999 membership convention held in Los Angeles, the pro-immigrant element within the AFL-IO made its next move. Gaining support from unions representing janitors, garment workers, restaurant workers and hotel housekeepers, they argued that unions needed to overtly embrace immigrants if the movement is to survive. They buttressed their case by citing incidents whereby employers used immigration law to intimidate or to dismiss immigrant workers who were involved in trying to form unions. In particular, these advocates sought to end the employer sanctions provision created by the IRCA in 1986 (which organized labor had strongly supported) and to enact yet another general amnesty for those illegal immigrants now in the country. Support for this effort was far from unanimous.

To avoid a public confrontation, AFL-CIO officials agreed that the motion would be briefly debated and then referred to a committee for study. It was done. When the AFL-CIO Executive Committee met in New Orleans in February 2000, it consummated its break from the past.¹⁴ It would now support expanded immigration, lenient enforcement of immigration laws, and the legislative agenda of immigrants (which include repeal of sanctions against employers who hire illegal immigrants; generous amnesties for the six illegal immigrants already in the United States at the time and liberalizing restrictions on foreign guest workers who seek to work in the United States). Thus, the one societal body that had for over a century faithfully and consistently supported reasonable and enforceable immigration policies to protect the nation’s working people was poised to betray their trust.

While some union leaders cheered these actions as did some business lobbyists in the days that followed, *The New York Times* editorialized that the AFL-CIO’s proposal should be

rejected” as it would “undermine the integrity of the country’s immigration laws and would depress the wages of the lowest-paid native born workers.”¹⁵

The final step in this saga was taken at the December 2001 convention of AFL-CIO held in Las Vegas, Nevada. Seemingly oblivious to the horrendous terrorist events of September 11, 2001, the AFL-CIO at its membership adopted the aforementioned pro-immigration agenda put forth by its Executive Council.¹⁶ It is hard to imagine a worse-time to announce that the labor movement was abandoning its historic pro-worker stance on immigration in order to become an advocate for loose immigration enforcement. The fact that both the unemployment rate and poverty levels were rising sharply at the same time cast even more doubt on the wisdom of such an action.

Only three months later, the U.S. Supreme Court rendered a major finding that illegal immigrants are not protected by the National Labor Relations Act if they are dismissed for union-organizing activities.¹⁷ As Chief Justice William H. Rehnquist stated in the majority decision, “awarding back pay to illegal aliens runs counter to policies underlying federal immigration laws.”¹⁸ The national interest is to keep people who violate immigration laws out of the labor market; it is not in the national interest to afford legal rights to people who are not legally entitled to be working in the country in the first place.

Why the Change in Position?

There are multiple reasons why organized labor has changed its historic position on immigration. The first explanation is the obvious one. Namely, with the foreign born population in the United States now exceeding 33 million people (of whom over 20 million are in the civilian labor force), the AFL-CIO organizing campaigns in a number of large urban areas are encountering large concentrations of immigrant workers. Many are illegal immigrants. The leadership believes, therefore, it is pragmatic to adopt a more accommodating stance.

Secondly, there is the key self-defense issue. Some employers use the threat (or actual practice) of turning illegal immigrants into federal immigration authorities if they seek to vote (or do vote) in union certification elections. U.S. courts have upheld the right of “all employees - including those who may be subject to termination in the future...to vote on whether they want to be represented by a union.”¹⁹ Furthermore, the federal government announced in the Spring of 1999 that it was essentially abandoning enforcement of employer sanctions at the work site in favor of focusing on human smuggling activities, border management, and criminal deportations. This means that illegal immigrants have little to fear about government enforcement raids unless employers report them.²⁰ Thus, if illegal immigrants are at the work site, unions have to organize the workers that employers hire. If the government is not going to police worksites, unions must seek to enlist the illegal immigrants as members or abandon their organizing efforts with the enterprise in question. Should unions give up such organizing, employers will have an even greater incentive to hire more illegal immigrants than they already do. Thus, organizing and protecting illegal immigrants is not viewed as a matter of principle, it is seen as a matter of necessity.

Finally, there is the political posturing that has now captured the entire immigration reform movement. The leaders of both major political parties -- sometimes referred to as “elites” -- believe they can gain from pandering to pro-immigrant forces (i.e., racial, ethnic, and religious groups) who are seeking to increase their ranks in the belief that it will enhance the political influence of their particular group. Similarly, there is the ever present special interests of business lobbyists always looking for cheap labor and economic libertarians who believe in open borders as a matter of principle. As a consequence political scientists James Gimple and James Edwards have described the result: “The will of the people has had little impact on the tone or direction of the immigration debate in Washington.”²¹ Countless public opinion polls that have called for reduced immigration levels and strict enforcement (not accommodation) of existing law against illegal immigrants are simply ignored. Organized labor, it seems fears it will be left out if it adheres to its traditional posture of defending the interests of American workers. In other words, it has made a pragmatic decision “to throw in the towel” in favor of lax immigration polices rather than to go down fighting when the outcome of the political bout is already fixed.

The Sorry Fate of Unskilled Workers

Throughout the long academic history of assessing the impact of immigration on the American labor force, there is one constant theme: the immigration inflow has traditionally been dominated by low skilled and poorly educated persons. It remains so today.

The 2000 Census revealed that 58 percent (12.8 million) of the adult foreign born population have only a high school education or less. At a time when the nation has been trying to reduce the size of its low skilled labor pool, immigration policy is flooding that sector of the labor market with a additional flow of poorly educated immigrant workers. Furthermore, the United States still has a substantial number of native born adults in the population. In 2000, 47.7% of the native born adult population only had a high school diploma or less. That percentage translates into a staggering 72 million people. This is a substantial pool of adult native born workers who potentially compete with the preponderance of the adult foreign born population for jobs, income, and social services.

Research on the impact of mass immigration on the economic well-being of workers has consistently found that organized labor’s earlier support for restrictive measures was amply justified. In the post Civil-War era when the fledgling labor movement initially began to press immigration reforms, economists Timothy Hatton and Jeffrey Williamson have found that urban real wages would have been 14 percent higher in 1890 were it not for the high immigration levels of the preceding 20 years.²² Their findings supported the earlier conclusions of Stanley Lebergott that real wages in the 25 years following the Civil War tended to move inversely with the ebbs and flows of immigration levels over this timespan.²³

Likewise, studies of the more massive immigration that occurred between 1890 and 1914 were even more supportive of the AFL’s strenuous efforts to reduce immigration levels during this era. Hatton and Williamson found that, in the absence of the large-scale immigration that occurred after 1890, the urban real wage would have been 34 percent higher in 1910. Parenthetically, they observed that “with an impact that big, no wonder the Immigration Commission produced a massive report in 1911 which supported quotas!”²⁴ Likewise,

economists Harry Millis and Royal Montgomery wrote of this era that organized labor was correct in its assessment of adverse economic impact of immigration on American workers “as labor markets were flooded, the labor supply was made more redundant, and wages were undermined”.²⁵

Following the the enactment of the first ceilings on immigration in U.S. history, the economic gains to workers were found to be immediate. Indeed, labor historian Joseph Rayback called the Immigration Acts of 1921 and 1924 “the most significant pieces of “labor” legislation enacted during” the post-World War I era.”²⁶ Mills and Montgomery likewise observed “from the international viewpoint the morality of the postwar immigration policy of the United States may be questioned, but of its economic effect in raising real earnings there can be little question.”²⁷ Lebergott, who attributed this tripling of real wages for urban workers that occurred in the 1920s to the substantial immigration reductions that occurred in this period, observed that “political changes in the supply of labor can be more effective in determining wages than even explicit attempts to fix wages.”²⁸ What more powerful statement can be made about the significance of the adoption of reasonable immigration polices to the enhancement of worker welfare in the united States?

More recently, a special panel created by the National Research Council (NRC) issued in 1997 a report on the economic effects of the contemporary immigration experience of the United States.²⁹ The research had been contracted by the Commission on Immigration Reform to provide the analytical basis for the conduct of its six-year investigation of the impact of immigration on the people of the nation. The NRC report catalogued the fact that the educational attainment levels of post-1965 immigrants have steadily declined. Consequently, foreign-born workers on average, earn less than native-born workers and the earnings gap has widened over the years. Those from Latin America (including Mexico) presently account for over half of the entire foreign-born population of the nation, and they earn the lowest wages. Thus, the NRC, found no evidence of discriminatory wages being paid to immigrants. Rather, it found that immigrant workers are paid less than native-born workers because, in fact, they are less skilled and less educated. The relative declines in both skills and wages of the foreign-born population was attributed to the fact that most immigrants are coming from the poorer nations of the world, where the average wages, educational attainment, and skill levels are far below those in the United States. As a direct consequence, post-1965 immigrants are disproportionately increasing the segment of the nation’s labor supply that has the lowest human capital endowments. In the process, they are suppressing the wages of all workers in the low skilled sector of the labor market. More specifically, the study documented the fact that almost half of the decline in real wages for native-born high school dropouts (i.e., unskilled workers) from 1980-1994 could be attributed to the adverse competitive impact of unskilled foreign workers. It was for this very reason that Chair Barbara Jordan summarized CIR’s proposed recommendations on legal immigration reform by stating:

What the Commission is concerned about are the unskilled workers in our society. In an age in which unskilled workers have far too few opportunities opened to them, and in which welfare reform will require thousands more to find jobs, the Commission sees no justification for the continued entry of unskilled foreign workers.³⁰

It was in the same macro context that the Council of Economic Advisers (CEA) to the President identified post-1965 mass immigration as being one of the contributing factors to the worsening income disparity that the nation experienced has since 1968. In 1994 the CEA explained that “immigration has increased the relative supply of less educated labor and appears to have contributed to the increasing inequality of income.”³¹

Since 1965, when policymakers inadvertently awakened the phenomenon of mass immigration from out of the nation’s distant past, the foreign-born population of the United States has increased by 282 percent, (from 8.5 million immigrants to 32.5 million immigrants); the civilian labor force has risen by 100 percent (from 74.4 million workers, to 148 million workers); but union membership has fallen by 11.5 percent (from 18.2 million members, to 16.1 million members) over this interval. Since 1968 (the year the Immigration Act of 1965 took full effect), the distribution of income within the nation has steadily become more unequal. The decline in union membership and the impact of mass immigration have been both identified by the CEA as contributing explanation for the worsening income inequality in the nation.³²

In this environment, mass immigration has once more done what it did in the past. It has lessened the effectiveness of unions and, accordingly, diminished their attractiveness to workers. To be sure, there are other factors involved in the membership decline of organized labor but mass immigration is one of the key factors.³³

The nation’s immigration laws need to be strengthened, not weakened or repealed. Employer sanctions set the moral tone for immigration policy at the workplace. The identification loopholes need to be plugged and worksite enforcement given priority, not neglected. There should not be more mass amnesties for persons who have brazenly violated the laws that, since 1986, clearly state that illegal immigrants should not be in the workplace in the first place. Such amnesties only encourage others to enter illegally and hope for another amnesty. The mass amnesty of persons who are overwhelmingly unskilled and poorly educated only adds to the competition for low wage jobs with the citizens and permanent resident aliens. Moreover, as noted earlier, mass amnesties since the onset of foreign terrorism endanger national security because they bypass meaningful background checks that are required of all legal immigrants.

Rather than pursue its past role as a careful monitor of the impact of the nation’s immigration policies on the economic well-being of working people, the AFL-CIO has chosen to become an advocate for the pro-immigrant political agenda. But his strategy comes with a heavy cost. First, it means that success in the organization of immigrants will not translate into any real ability to increase significantly the wages or benefits of such organized workers. As long as the labor market continues to be flooded with low-skilled immigrant job seekers, unions will not be able to defy the market forces that will suppress upward wage pressures. Secondly, the focus on the advancement of the interests of low-skilled immigrant workers can only cause the alienation of low-skilled native-born workers who must compete for these same jobs because they lack the human capital to qualify for better ones. How long can it be until these other workers recognize that their ambitions for higher wages and better living standards cannot be achieved as long as mass immigration is allowed to flood low wage labor markets?

The fundamental issue for labor has never been: should unions organize immigrants? Of course they must, as they have always done. Rather, it is should labor seek to organize workers specifically because they are immigrants, and in the process, become a proactive advocate for immigrant causes? Or should unions do as they have in the past: seek only to organize all workers purely on the grounds of the pursuit of their economic well-being?

If labor seeks to organize immigrants on the same basis as it does native-born workers (i.e., making no distinction between the nativity of workers), there is no reason to embrace the broad range of immigrant policy issues. Indeed, the hard reality of the lessons of labor history is that the more generous the immigration policy, the worse it is for all workers in their efforts to raise wages, to improve working conditions, and to secure employment opportunities. The wisdom of economist Melvin Reder, a pioneer in the analysis of the labor market impact of immigration, should always be kept in mind:

One immigration policy inevitably reflects a kind of national selfishness of which the major beneficiaries are the least fortunate among us. We could not completely abandon the policy, even if we so desired.³⁴

What is bad economics for working people cannot be good politics for unions or good public policy for the nation.

¹ Samuel Gompers, *Seventy Years of Life and Labor*. (New York: E.P. Dutton Company, 1925), Volume 2, p.154.

² *Ibid.*, p. 157.

³ For elaboration see Vernon M. Briggs, Jr., *Immigration and American Unionism*, (Ithaca: Cornell University Press, 2001).

⁴ "Immigration Reform," *AFL-CIO Policy Resolution Adopted October 1985 by the Sixteenth Constitutional Convention*, (Washington, D.C.: AFL-CIO, 1986) pp. 45-46.

⁵ "Immigration Reform," *AFL-CIO Policy Resolution Adopted November 1987*, (Washington, D.C.: AFL-CIO, 1988), p. 47-48.

⁶ "Immigration Reform," *AFL-CIO Policy Resolution Adopted November 1989*, (Washington, D.C.: AFL-CIO, 1990), p. 46.

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⁸ National Research Council, *The New Americans*, (Washington, D.C.: National Academy Press, 1997), p. 95.

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¹⁰ *Ibid*

¹¹ U.S. Commission on Immigration Reform, *Legal Immigration: Setting Priorities*, (Washington, D.C., U.S. Commission on Immigration Reform, 1996), see letter of transmittal, p. i.

¹² U.S. Commission on Immigration Reform, *Becoming an American: Immigration and Immigrant Policy*, (Washington, D.C.: U.S. Commission on Immigration Reform, 1997).

¹³ "Immigration Reform," *Policy Resolution Adopted October 1995 by the AFL-CIO Convention*, (Washington, D.C.: AFL-CIO, 1996), p. 68.

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¹⁵ "Hasty Call for Amnesty," *New York Times*, (February 22, 2000), p. A-22.

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¹⁷ *Hoffman Plastic Compounds v. National Labor Relations Board*, (2002).

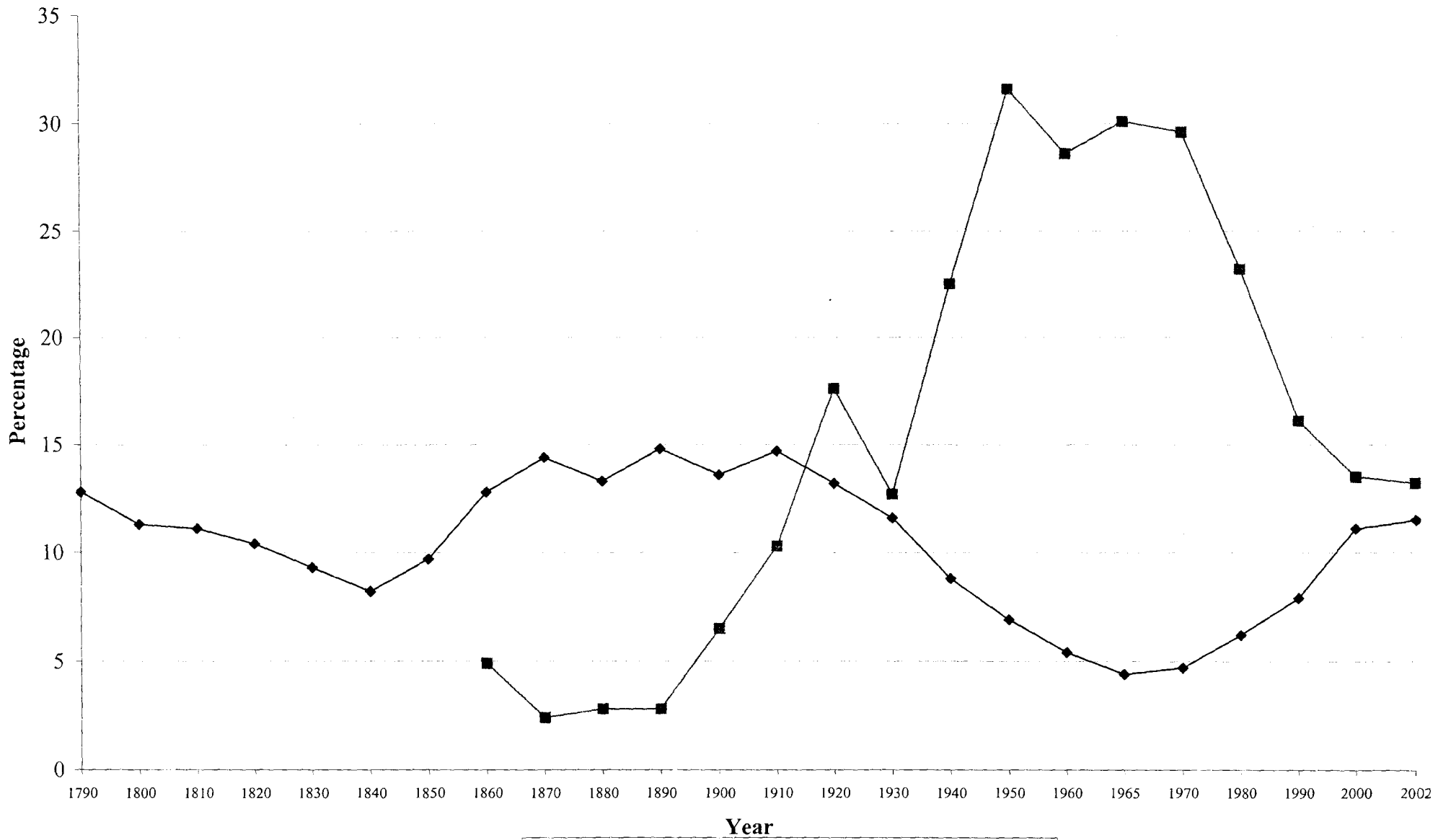
¹⁸ Gina Holland, "Politics: Court Decides Illegal Immigrants Not Entitled to Same Rights as U.S. Worker," *Associated Press Online*, (March 27, 2002) p. 1.

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- ²¹ James G. Gimpel and James R. Edwards, “The Silent Majority,” *Journal of Commerce*, (June 23, 1998), p. 8A.
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- ²⁴ Timothy H. Hatton and Jeffrey G. Williamson, *Op. cit.* p. 30. [Emphasis is on the original]; See also Stanley Lebergott, *op. cit.*, p. 162
- ²⁵ Harry A. Mills and Royal E. Montgomery, *Labor’s Progress and Some Basic Labor Problems*, (New York: McGraw-Hill Book Company, 1938), p.31; see also pp. 239 and 244 for related discussions.
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- ²⁷ Mills and Montgomery, *op. cit.* p. 211.
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- ³² Council of Economic Advisers, *Economic Report of the President, 1995*, (Washington, D.C.: U.S. Government Printing Office, 1995), p. 182; and Council of Economic Advisers, *Economic Report...1994*, *op. cit.*, p. 120 See also Daniel H. Weinberg, “A Brief Look at Postwar U.S. Income Inequality,” *Current Population Report*, P60-191, (Washington, D.C.: U.S. Bureau of the Census, 1996), p. 1.
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- ³⁴ Melvin W. Reder, “The Economic Consequences of Increased Immigration,” *The Review of Economic and Statistics*, (August, 1963),p.31.

Sources for Figure 1 are:

- 1 Foreign Born Data:
1790-1850: Elizabeth W. Gilbey and Edgar Hoover, “Population and Immigration,” in *American Economic History*, Edited by Seymour Harris, (McGraw-Hill, 1961). Table 6; 1860-2002: U.S. Bureau of the Census (various reports).
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1870-1890: Lloyd Ulman “ The Development of Trade and Labor Unions,” in *American History*, Edited by Seymour Harris, (McGraw-Hill, 1961), p. 363.; 1890-1980: Leo Troy and Neil Sheflin, *U.S. Union Sourcebook*, (Industrial Relations and Information Sources, 1985). 1990-2002 U.S. Bureau of Labor Statistics (Note: The percentage is of unionized of wage and salaried employees for this latter data series).

**Figure 1. Comparisons of the Percentage of the Labor Force Who Belong to Unions
(Since 1860) with Percentage of Population that is Foreign Born (Since 1790)**



Sources: (See endnotes)

