

IMPLEMENTATION:

How the Borderlands Redefined Federal Immigration Law and Policy in California, Arizona, and Texas, 1917–1924

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Implementation is worth studying precisely because it is a struggle over the realizing of ideas. It is the analytical equivalent of original sin; there is no escape from implementation and its attendant responsibilities. What has policy wrought? Having tasted of the fruit of the tree of knowledge, the implementer can only answer, and with conviction, it depends . . .

— Jeffrey L. Pressman and Aaron Wildavsky¹

In their classic study, *Implementation: How Great Expectations in Washington are Dashed in Oakland*, political scientists Jeffrey L. Pressman

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¹ Jeffrey L. Pressman and Aaron Wildavsky, *Implementation: How Great Expectations in Washington are Dashed in Oakland; or, Why It’s Amazing that Federal Programs Work at All, This Being a Saga of the Economic Development Administration as Told By Two Sympathetic Observers Who Seek to Build Morals on a Foundation of Ruined Hopes*, 3rd ed. (Berkeley: University of California Press, 1984), 180.

and Aaron Wildavsky stress that we cannot understand public policies without examining their implementation. Pressman and Wildavsky's own focused exploration of one federal agency — the Oakland office of the Economic Development Administration (EDA) — not only reveals the weaknesses of the policy-making process (as suggested by the subtitle of the book, "Why It's Amazing that Federal Programs Work at All") — but also provides important insights into policy formation itself. Implementation, its failures, successes, and everything in-between, informs the shaping and reshaping of public policy; as Pressman and Wildavsky observe, implementation "reformulate[s] as well as [carries] out policy."²

While Pressman and Wildavsky focus specifically on EDA implementation of public works and small business projects during the 1960s, their findings provide a powerful analytical framework for understanding implementation in a variety of policy arenas. Since the late nineteenth century, American immigration policy, I will argue, was very much a product of its implementation by the Bureau of Immigration on the U.S.–Mexico border. This article will focus on the policy innovations that developed as a result of the Bureau's efforts to enforce the Immigration Act of 1917 and the Passport Act of 1918 on the nation's southern boundary. As southwestern immigration officials began administering these new laws, their efforts were hampered by a lack of money, manpower, and materiel as well as enormous opposition from border residents (whether Asian, European, Mexican, or American) who were accustomed to crossing the international boundary without restriction.³

In response to these enforcement challenges, southwestern immigration officials often waived the rules or created new ones that made their lives and the lives of border residents much easier. The most prominent of these was the wartime labor importation program, initiated to overcome the objections of southwestern industries to the restrictive provisions of the Immigration Act of 1917 and the Passport Act of 1918.⁴ In addition, the agency

² Ibid., 180.

³ George J. Harris, Acting Supervising Inspector, El Paso, to Commissioner General, November 28, 1917, file 54152/1E, RG 85, National Archives. See also Dr. Cleofas Calleros, interview by Oscar J. Martínez, September 14, 1952, interview 157, transcript, Institute of Oral History, University of Texas at El Paso.

⁴ Mark Reisler, *By the Sweat of Their Brow: Mexican Immigrant Labor in the United States, 1900–1940* (Westport: Greenwood Press, 1976).

modified the new regulations for ordinary border residents as well as the rich and powerful. When thousands of locals complained about the literacy test provisions of the Immigration Act of 1917, the Bureau created what I will refer to as “border waivers” for illiterate Mexican nationals who lived on both sides of the border. As the administrators of the Passport Act of 1918, southwestern immigration officials devised additional exemptions, specifically a border crossing card program for local residents. Although the border crossing card primarily assisted Mexican nationals and Mexican Americans, it also benefited Americans and Europeans, as well as Asian, Asian-American, and Asian-Mexican merchants. Together, these policy innovations — to the chagrin of anti-immigration advocates — sustained the transnational character of the borderlands.

All of this is not to deny the Bureau’s vigorous efforts to bar Mexican, Asian, and European nationals from admission for permanent residence or to expel unwanted illegal immigrants in this period. Instead, this study demonstrates that, during World War I and well into the 1920s, the Bureau was concerned not only with the restriction of immigrants but also with the regulation of the local border population. While immigration historians have provided extensive accounts of those migrants seeking entry for permanent residence (formally referred to as “immigrants” by the Bureau of Immigration), this paper shifts the focus of attention from immigrants to border crossers (categorized as “non-immigrants”). This population typically included laborers, tourists, local residents, dignitaries, and businessmen who crossed and re-crossed the border on a regular basis for short periods of time. In a stunning departure from the exclusionary intent underlying the Immigration Act of 1917 and the Passport Act of 1918, Bureau of Immigration officials effectively nullified provisions of these laws in order to craft a series of border crossing policies for these border residents and businesses.

This examination of the Bureau’s policy innovations challenges a major scholarly and popular conception that the normative function of the nation’s immigration policy (and, in turn, the Bureau of Immigration) was to maintain the dividing lines between desirable and undesirable peoples, legal and illegal immigrants, and Americans and non-Americans. Proceeding from this notion, scholars have produced two competing interpretations of the agency’s history. On the one hand, some scholars emphasize the

ways in which the Bureau of Immigration and the Border Patrol, during the Progressive Era, succeeded in implementing the nation's restrictive immigration laws, thereby closing the nation's borders to the entry of unwanted immigrants.⁵ On the other hand, some studies highlight the contingencies and weaknesses of border enforcement. In his recent study of the Bureau of Immigration, Patrick Ettinger argues that Asian and European immigrants routinely evaded the immigration laws and confounded the Bureau's enforcement efforts between 1891 and 1930.⁶ While both sets of scholars have enriched our understanding of the Bureau of Immigration, they describe immigration law enforcement in bipolar terms — as “strong” or “weak,” or as “hard” or “contingent.” In so doing, they neglect to consider whether the Bureau's operations might be described in more complex and dynamic terms. On this latter point, Pressman and Wildavsky's study is significant because it demonstrates that agencies don't simply succeed or fail; instead, agencies, as I will argue, create new ideas, new policies, and new laws.

This study further departs from the current literature by demonstrating how local, transnational, and even global concerns frequently overrode national imperatives in shaping immigration laws and policies for the borderlands. Thus, whereas current accounts of immigration policy history assume an alignment between Bureau officials in the Southwest, their supervisors in Washington, D.C., and nativist forces in Congress,⁷ this essay reveals the conflicts between local and federal agency officials, and the competing demands faced by immigration inspectors in the borderlands. More specifically, this article focuses on agency officials stationed in California, Arizona, and Texas — a region long distinguished by its cultural diversity, transnational infrastructure, global trading partners, world-

⁵ See for example, Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2004); Kelly Lytle-Hernandez, *Migra! A History of the U.S. Border Patrol* (Berkeley: University of California Press, 2010).

⁶ Patrick Ettinger, *Imaginary Lines: Border Enforcement and the Origins of Undocumented Immigration, 1882–1930* (Austin: University of Texas Press, 2010). See also, Daniel Tichenor, *Dividing Lines: The Politics of Immigration Control in America* (Princeton: Princeton University Press, 2002); Keith Fitzgerald, *The Face of the Nation: Immigration, the State, and the National Identity* (Stanford: Stanford University Press, 1996).

⁷ See for example, Ngai, *Impossible Subjects*; Lytle-Hernandez, *Migra!*; and Ettinger, *Imaginary Lines*.

renowned tourist industries, and multinational labor force — who recognized the dissonance between the neat dividing lines delineated by the federal immigration laws and the global realities on the ground. Despite their own attempts to defend the nation-building enterprise of immigration restrictionists, southwestern agency officials quickly realized that they were unevenly matched against the sheer volume of migrants who sought to cross the line each day and the global economic and social forces that brought them to the nation's borders in the first place.⁸ In this context, the agency constructed an immigration policy for the borderlands, a policy that departed from the restrictionist tenets of the federal immigration and passport laws but met the needs of border residents.

The first part of this article offers a snapshot of the U.S.–Mexico borderlands. It describes the major demographic, economic, and social trends that created an intricate network of transnational relationships along the U.S.–Mexico border from approximately 1900 until 1920. Yet, as the second section argues, the creation of these very links became a cause for concern among federal, state, and local officials during World War I. Due to wartime xenophobia and fears about an enemy invasion through Mexico, Congress and the Bureau of Immigration adopted a more restrictive approach to border control. Through the passage of the Immigration Act of 1917 and the Passport Act of 1918, the Bureau of Immigration sought to bar the entry of unwanted immigrants and enemy aliens. The passage of legislation in Congress, however, did not guarantee its seamless or effective implementation on the ground. As the final sections reveal, the realities of the borderlands — the thousands of migrants seeking to cross and recross the border each day, the ceaseless demand for migrant labor, and the constant protests of border residents — eroded the restrictive intent underlying Progressive Era immigration legislation. As a result, Bureau of Immigration officials in the Southwest exercised their administrative discretion, waived provisions of the Immigration Act of 1917 and the Passport Act of 1918, and fashioned policies that opened the line to the border crossers.

⁸ For an account of the nativist attitudes of early Bureau of Immigration officials see, Erika Lee, *At America's Gates: Chinese Immigration During the Exclusion Era, 1882–1943* (Chapel Hill: University of North Carolina Press, 2003), 47–74.

Until World War I, the economic and social needs of the borderlands, rather than immigration regulations, served as the forces driving migration between Mexico and the United States. As historian Mario T. García explains, Mexican immigration was “inextricably linked with the growth of American industrial capitalism.”⁹ The primary southwestern industries — railroads, mining, ranching, and agriculture — met their labor needs with migrant workers.¹⁰ As these industries triggered the growth of border towns, immigrants, once again, met the burgeoning demand for workers in both the primary (the rail, mining, and ranching industries) and secondary economic sectors (including manufacturing, wholesale and retail trade, and construction).¹¹ Given the proximity of Mexico, the passage of the Chinese Exclusion Acts (which barred the entry of Chinese laborers in the late nineteenth century), and political upheavals in early twentieth-century Mexico (including the redistributive land policies of the Díaz regime and the Mexican Revolution), Mexican nationals constituted the bulk of the immigrant work force.¹²

Recognizing the importance of immigration to the border economy, federal officials took a highly uneven approach to border enforcement at

⁹ Mario T. García, *Desert Immigrants: The Mexicans of El Paso, 1880–1920* (New Haven: Yale University Press, 1981), 1.

¹⁰ *Ibid.*, 3.

¹¹ *Ibid.*

¹² The Chinese Exclusion Act of 1882 suspended the immigration of Chinese laborers for ten years. An 1884 amendment required all Chinese non-laborers to present certificates from the Chinese government and endorsed by the American consul in order to re-enter the country. The Scott Act of 1888 prohibited the return of a laborer once he had left the United States. The Geary Act of 1892 extended the original exclusion act for another ten years; required Chinese immigrants to apply for a certificate of residence; and created the first internal passport system. Finally, the 1904 amendment to the Chinese Exclusion Act permanently barred the admission of Chinese laborers. See Lucy Salyer, *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law* (Chapel Hill: University of North Carolina Press, 1995); Charles McClain, *In Search of Equality: The Chinese Struggle Against Discrimination in Nineteenth-Century America* (Berkeley: University of California Press, 1994); John Wunder, “The Chinese and the Courts in the Pacific Northwest: Justice Denied?” *Pacific Historical Review* 52:2 (May, 1983): 191–211; Alexander Saxton, *The Indispensable Enemy: Labor and the Anti-Chinese Movement in California* (Berkeley: University of California Press, 1971). On the turn to Mexican immigrant labor after the passage of the Chinese Exclusion Acts, see García, *Desert Immigrants*, 2, 33.

the turn of the last century.¹³ While immigration inspectors were vigilant in the application of the Chinese exclusion laws, they simultaneously adopted a *laissez-faire* stance toward Mexican migration across the line.¹⁴ Indeed, at the urging of corporations such as the Southern Pacific Railroad, Congress exempted Mexican immigrants from the head taxes stipulated under the Immigration Acts of 1903 and 1907.¹⁵ While southwestern officials possessed other statutory means to restrict Mexican immigration, they chose not to exercise this authority on a regular basis.¹⁶ Instead, they allowed most Mexican immigrants to cross the international line without inspection.¹⁷ Some immigration officials, according to historian George Sánchez, even recruited migrant workers for southwestern industries in exchange for bribes.¹⁸ As a result of its lax approach to immigration law enforcement, the Bureau of Immigration itself sustained the transnational character of the borderlands.

The porousness of the border not only facilitated the migration of Mexicans north to the United States; it also allowed them to return home or engage in an ongoing pattern of circular migration. Indeed, while many of the 1.5 million Mexican nationals who entered the United States

¹³ Ettinger, *Imaginary Lines*, 123–144.

¹⁴ Prior to 1917, the Bureau of Immigration focused its enforcement efforts on the Chinese. For an account of the agency's operations on the U.S.–Mexico border in the early twentieth century, see Smith, "Early Immigrant Inspection along the U.S.–Mexican Border," 2; Ettinger, *Imaginary Lines*. But see Grace Peña Delgado, *Making the Chinese Mexican: Global Migration, Localism, and Exclusion in the U.S.–Mexico Borderlands* (Stanford: Stanford University Press, 2012), 82–84, for a discussion of the contingencies in the enforcement of the Chinese exclusion laws.

¹⁵ The Immigration Acts of 1903 and 1907 respectively charged a head tax of \$2.00 and \$4.00. Lawrence A. Cardoso, *Mexican Emigration to the United States, 1897–1931: Socio-economic Patterns* (Tucson: University of Arizona Press, 1980), 34; David E. Lorey, *The U.S.–Mexican Border in the Twentieth Century: A History of Economic and Social Transformation* (Wilmington: SR Books, 1999), 69–71.

¹⁶ Cardoso, *Mexican Emigration to the United States*, 34.

¹⁷ Benjamin Heber Johnson, *Revolution in Texas: How a Forgotten Rebellion and Its Bloody Suppression Turned Mexicans into Americans* (New Haven: Yale University Press), 72.

¹⁸ George J. Sánchez, *Becoming Mexican American: Ethnicity, Culture, and Identity in Chicano Los Angeles, 1900–1945* (New York: Oxford University Press, 1995), 51–53. See also, Mario Barrera, *Race and Class in the Southwest: A Theory of Racial Inequality* (Notre Dame: University of Notre Dame Press, 1979), 71–72.

between 1910 and 1920¹⁹ settled permanently,²⁰ demographers and historians agree that hundreds of thousands more entered on a temporary basis, crossing and re-crossing the border as laborers, merchants, or casual visitors. This category of migrants, referred to by the Bureau of Immigration as non-immigrants or non-statistical entrants, outnumbered immigrants (or those entering for permanent residence) by a factor of three to one.²¹ These massive demographic shifts attested to the openness of the border in this period and, more broadly, played a pivotal role in the formation of transnational communities all along the international line.

While Mexican nationals constituted the largest group of migrants crossing and re-crossing the border each day, Anglo-Americans, Asian Americans, Europeans, Japanese and Chinese nationals, and Japanese and Chinese Mexicans, among others, also took advantage of the border's permeability. In the late nineteenth century, many of these migrants traveled back and forth across the border to work for the mining, rail, and agriculture industries that had developed, sometimes in tandem, on both sides of the line.²² Given the racial segmentation of the workforce, these industries

¹⁹ This massive migration was one of the most important events on the U.S.–Mexico border in the early twentieth century. Linda B. Hall and Don M. Coerver, *Revolution on the Border: The United States and Mexico, 1910–1920* (Albuquerque: University of New Mexico Press, 1988), 126. Lorey estimates that, between 1910 and 1930, “almost 10 percent of Mexico’s population migrated north to the United States.” Lorey, *The U.S.–Mexico Border*, 69. On the causes of the migration, see García, *Desert Immigrants*, 33; Rodolfo Acuña, *Occupied America: A History of Chicanos* (New York: Harper and Row, 1988), 145; Barrera, *Race and Class in the Southwest*, 68–69.

²⁰ This settlement resulted in a dramatic increase in the Mexican-born population from 110,393 in 1900 to 700,541 in 1920. Cardoso, *Mexican Emigration to the United States*, 35. García, *Desert Immigrants*, 35.

²¹ Indeed, Hall and Coerver assert that those entering for permanent residence “formed by far the smallest category of migrants.” Hall and Coerver, *Revolution on the Border*, 130. See also García, *Desert Immigrants*, 35. Lorey estimates that, from 1910 to 1920, 206,000 Mexican nationals entered as legal immigrants while 628,000 arrived as temporary workers. Lorey, *The U.S.–Mexico Border*, 70.

²² Along the Arizona–Sonora border, for example, the major industries — mining, ranching, and agriculture — grew in tandem. American capital funded the construction of mining facilities on both sides of the line; irrigation projects in Mexico that supported farms in the United States; and ranching ventures that participated in transnational grazing arrangements. In Tijuana, American entrepreneurs and Mexican politicians worked together to develop the town’s entertainment industry, constructing gambling halls, race tracks, theaters and spas. Hall and Coerver, *Revolution on the Border*, 29, 41;

sought Anglo-American workers to fill skilled and managerial posts north and south of the border.²³ And while Mexican nationals composed the bulk of the industrial workforce north of the border, European, Chinese, and Japanese laborers supplemented the pool of unskilled workers in the United States and Mexico.²⁴

As Asian, European, and Mexican nationals settled in border communities, they often lived transnational lives. Mexican nationals regularly crossed the line to shop for subsistence items in the United States; indeed, these crossings were an absolute necessity, as one State Department official observed: “If they [Mexicans] are refused entry into the United States the Mexican population along the border would starve and the greater number of the shop keepers on the American side would be bankrupted.”²⁵ At the same time, Mexican immigrants and Mexican Americans in El Paso

Rachel St. John, *Line in the Sand: A History of the Western U.S.–Mexico Border* (Princeton: Princeton University Press, 2011), 148–173; Samuel Truett, “Transnational Warrior: Emilio Kosterlitzky and the Transformation of the U.S.–Mexico Borderlands,” in Samuel Truett and Elliott Young, eds., *Continental Crossroads: Remapping U.S.–Mexico Borderlands History* (Durham: Duke University Press, 2004), 249; Paul J. Vanderwood, *Juan Soldado: Rapist, Murderer, Martyr, Saint* (Durham: Duke University Press, 2004), 83, 87; Paul J. Vanderwood, *Satan’s Playground: Mobsters and Movie Stars at America’s Greatest Gaming Resort* (Durham: Duke University Press, 2010).

²³ Hall and Coerver, *Revolution on the Border*, 93–101; García, *Desert Immigrants*, 5; Thomas E. Sheridan, *Los Tucsonenses: The Mexican Community in Tucson, 1854–1941* (Tucson: University of Arizona Press, 1986), 6.

²⁴ For more information about Chinese and Japanese border crossers and border residents, see the following: Donald H. Estes, “Before the War: The Japanese in San Diego,” *Journal of San Diego History* 24:4 (1978): 425–455; Katherine Benton-Cohen, *Borderline Americans: Racial Division and Labor War in the Arizona Borderlands* (Cambridge: Harvard University Press, 2009); Robert Chao Romero, *The Chinese in Mexico, 1882–1940* (Tucson: University of Arizona Press, 2010); Julia Maria Shiovone Camacho, *Chinese Mexicans: Transpacific Migration and the Search for a Homeland, 1910–1960* (Chapel Hill: University of North Carolina Press, 2012); Delgado, *Making the Chinese Mexican*; Eric Walz, “The Issei Community in Maricopa County: Development and Persistence in the Valley of the Sun, 1900–1940,” *The Journal of Arizona History* 38 (1997): 1–22; Lawrence Michael Fong, “Sojourners and Settlers: The Chinese Experience in Arizona,” *The Journal of Arizona History* 21 (1980): 1–30; Evelyn Du-Hart, “Immigrants to a Developing Society: The Chinese in Northern Mexico, 1874–1932,” *The Journal of Arizona History* 21 (1980): 49–86.

²⁵ Ralph J. Totten, Consul General at Large, El Paso, Texas, “Report on Conditions on the Mexican Border,” January 20, 1918, file 54152/11, RG 85, National Archives, 15; see also, Bureau of Immigration, *Annual Report, fiscal year ended June 30, 1918*, 317–319.

retained their ties to Mexico thanks to Spanish-language newspapers that provided news coverage about Mexican politics and advertisements from Mexican business establishments.²⁶

As Chinese and Japanese migrants established their own businesses (including laundries, restaurants, grocery stores, pool halls, barber shops, boarding houses, farms, and ranches, among others) on both sides of the border, regular border crossings became essential to the success of their enterprises.²⁷ Merchants in Mexico, for example, sought to replenish inventories through large purchases north of the line.²⁸ Meanwhile, Chinese business owners, in an effort to evade the American prohibition against the admission of Chinese laborers, frequently transported their Chinese employees north from Mexico. Finally, the very financing of many border businesses was dependent upon the pooling of resources between relatives and friends in the United States, Canada, Mexico, and Asia.²⁹ Perhaps most important for the purposes of this essay, the social status of Chinese and Japanese merchants widened the possibilities for their physical mobility across the nation's borders. While the Chinese

²⁶ Romo notes that over forty Spanish-language newspapers were published in El Paso between 1890 and 1924. David Dorado Romo, *Ringside Seat to a Revolution: An Underground Cultural History of El Paso and Juárez* (El Paso; Cinco Puntos Press, 2005), 18–20.

²⁷ For an account of these mercantile establishments see, Romo, *Ringside Seat to a Revolution*, 198–200. See also, Delgado, *Making the Chinese Mexican*; Walz, “The Issei Community in Maricopa County”; Fong, “Sojourners and Settlers”; Du-Hart, “Immigrants to a Developing Society”; Delgado, “In the Age of Exclusion”; Estes, “Before the War”; Romero, *The Chinese in Mexico*. For an account of Japanese-owned farms in the outskirts of El Paso and San Diego County, see Estes, “Before the War”; Romo, *Ringside Seat to a Revolution*, 201–202. See also Bureau of Immigration, *Annual Report, fiscal year ended June 30, 1917*, 230; and Bureau of Immigration, *Annual Report, fiscal year ended June 30, 1919*, 408 (explaining that in Southern California, American-born children of Japanese nationals typically held title to the land as a result of California's alien land laws.) On Chinese businesses established in Mexico, see Camacho, *Chinese Mexicans*, 23–25; A. E. Burnett, Inspector in Charge, to Supervising Inspector, El Paso, April 8, 1920, file 54820/455, RG 85, National Archives.

²⁸ On the history of Chinese immigrants in Mexico, see Romero, *The Chinese in Mexico*; Delgado, *Making the Chinese Mexican*; and Camacho, *Chinese Mexicans*.

²⁹ Romero, *The Chinese in Mexico*, 30–65, 97–145. On Anglo, Chinese, and Mexican economic and social relations in the Arizona–Sonora borderlands see, Delgado, *Making the Chinese Mexican*, 41–72.

exclusion acts and the Gentlemen's Agreement of 1907 barred the entry of Chinese and Japanese laborers, both laws contained exceptions for the entry of merchants.³⁰

Leisure, as well as labor, led primarily Americans and Mexicans to cross and re-cross the border each day. The entertainment industry drew Americans south of the line, particularly with the start of Prohibition in 1920; as historian David Romo writes of the port of entry at El Paso:

It was no longer arms smugglers, spies, soldiers of fortune, journalists and revolutionaries crossing the lines. Suddenly the ludic zone across the border became packed with American tourists. Between 1918 and 1919, about 14,000 tourists crossed the border into Mexico; a year later the official U.S. Customs tally was 418,700.³¹

While Ciudad Juárez drew thousands of casual visitors, Tijuana surpassed all other border towns, north or south of the line, as a tourist attraction.³² Indeed, given the volume of traffic flowing from north to south, Tijuana identified itself less with Mexico than with California.³³ Seeking to take advantage of the tourist trade in Tijuana, Americans, Mexicans, Armenians, Syrians, Japanese, Spaniards, Italians, and Chinese all launched

³⁰ Merchants were exempted from the exclusionary provisions applied to Japanese (the Gentleman's Agreement of 1907) and Chinese (the Chinese Exclusion Act of 1882) immigrants. The McCreary Amendment of 1893, however, placed strict evidentiary requirements upon Chinese merchants re-entering the United States. On Japanese exclusion, see Roger Daniels, *The Politics of Prejudice: The Anti-Japanese Movement in California and the Struggle for Japanese Exclusion* (Berkeley: University of California Press, 1962). On Chinese exclusion and the McCreary Amendment, see Salyer, *Laws Harsh as Tigers*. Delgado notes that Chinese Mexican merchants could use their citizenship status as well as their merchant status to gain entry into the United States. See Delgado, *Making the Chinese Mexicans*, 26–32; and Camacho, *Chinese Mexicans*, 10–11.

³¹ Romo, *Ringside Seat to a Revolution*, 145.

³² The growth of the tourist industry in Tijuana was due, in part, to the dry and mountainous landscape, which rendered it inhospitable to the development of the mining and agriculture industries. Robert R. Alvarez, *Familia: Migration and Adaptation in Baja and Alta California, 1800–1975* (Berkeley: University of California Press, 1987), 32. See also, Vanderwood, *Satan's Playground*.

³³ Vanderwood, *Juan Soldado*, 76–81.

successful businesses.³⁴ And as an acknowledgement of the increasingly multinational character of the borderlands, one Tijuana school opened its doors to the children of these tourists and traders.³⁵

Taken together, these cross-border demographic, economic, and social ties led local residents to construe the border as an “imaginary line.”³⁶ Yet, on the eve of World War I, these very ties generated concerns about border security among federal officials in the Southwest and Washington, D.C. In particular, the cross-border raids of Mexican revolutionaries exposed the weaknesses of federal authority and the strength of bi-national loyalties to the rebellion. In American border towns, revolutionary forces found a safe haven to retreat from advancing Mexican federal troops, moral support for their political cause, and even a supply of arms and basic necessities.³⁷ While these cross-border raids had been a feature of the Revolution from its inception, by 1913 a violent regime change intensified political rivalries and military hostilities within Mexico and along its northern frontier.³⁸ By 1916, the increase in border raiding drew the fixed attention of Washington officials as they sought to bring order to the region.³⁹ In pursuit of revolutionary leader Pancho Villa and his forces, President Wilson sent General John Pershing and ten thousand troops into Mexico in retaliation for the *Villistas* attacks on American citizens.⁴⁰ Yet, Pershing’s punitive

³⁴ *Ibid.*, 105.

³⁵ *Ibid.*, 113.

³⁶ Calexico Chamber of Commerce, “Regulations at Crossing of International Boundary at the Port of Calexico, California,” n.d., RG 85, file 54410/331G, RG 85, National Archives.

³⁷ García, *Desert Immigrants*, 7. For a discussion of the raiding activities of Mexican revolutionaries on mines and oil fields in Mexico and the United States, see Hall and Coerver, *Revolution on the Border*.

³⁸ In 1913, Victoriano Huerta, chief of staff to President Francisco Madero assumed office in a military coup and ordered Madero’s assassination. His military dictatorship galvanized revolutionary forces against him and he fled the country a year later. Huerta’s resignation, however, did not bring peace to Mexico as revolutionary forces splintered into rival factions, battling each other for control of the state well after revolutionary leader Venustiano Carranza assumed the presidency in 1917. St. John, “Line in the Sand: The Desert Border between the United States and Mexico, 1848–1934” (Ph.D. diss., Stanford University, 2005), 200.

³⁹ St. John, “Line in the Sand,” 200, 206, 216.

⁴⁰ Acting in retaliation against Wilson’s withdrawal of support for a Villa-led government in Mexico, Pancho Villa and his troops killed sixteen Americans traveling on

expedition failed to establish peace along the border and, instead, brought the nation to the brink of war with Mexico.

At the same time, national anxieties about border security were only exacerbated by World War I. Under pressure from German submarine warfare in the Atlantic, federal officials expressed concerns about enemy incursions through the nation's seaports and land borders.⁴¹ The Zimmerman Telegram lent credence to fears about a possible German invasion from Mexico.⁴² In addition, federal officials expressed concerns that Mexican revolutionaries, acting to avenge Villa's defeat, would assist Germany in this effort. Finally, the persistence of the overlapping geographical, social, and economic networks between border towns rendered them "logical haven[s]" for enemy aliens as well as revolutionary forces.⁴³ According to Romo, the Emporium Bar in El Paso served as a meeting place for Pancho Villa and a German spy who allegedly sought leasing rights to submarine bases in Baja California.⁴⁴

At the local level, the apprehension surrounding Villa's raids and the war increased public antagonism toward Mexican immigrants and, in turn, led to a tightening of border inspection procedures. In an atmosphere of paranoia, El Paso city officials alleged that the thousands of refugees fleeing the Revolution would trigger a public health crisis, specifically a

a train in northern Mexico in January 1916. Several months later, they crossed the border into New Mexico and killed another seventeen Americans. Johnson, *Revolution in Texas*, 138–142. On the complex relationship between the *Villistas* and the borderlands, see St. John, "Line in the Sand," 211–217; Romo, *Ringside Seat to a Revolution*.

⁴¹ Lawrence John Briggs, "For the Welfare of Wage Earners: Immigration Policy and the Labor Department, 1913–1921" (Ph.D. diss., Syracuse University, 1995), 164; St. John, "Line in the Sand," 231; Ralph J. Totten, Consul General at Large, El Paso, Texas, "Report on Conditions on the Mexican Border," January 20, 1918, file 54152/1I, RG 85, National Archives.

⁴² Capitalizing on anti-American sentiments in the aftermath of Pershing's expedition, the German foreign minister, Arthur Zimmerman, proposed an alliance that, in the event of a German victory, promised the restoration of Texas and much of the Southwest to Mexico. Along with Germany's declaration of unrestricted submarine warfare, the telegram fueled anti-German sentiment, garnered popular support for the war, and led President Wilson to abandon neutrality for war.

⁴³ García, *Desert Immigrants*, 7.

⁴⁴ Romo, *Ringside Seat to a Revolution*, 7.

typhus epidemic.⁴⁵ As a solution, they initially proposed a quarantine of all new arrivals.⁴⁶ But, in lieu of the quarantine, city officials ultimately conducted health inspections of all the homes in Chihuahuita (the largest Mexican neighborhood in El Paso) while El Paso Mayor Tom Lea proposed to destroy them altogether.⁴⁷ By 1917, local representatives of the United States Public Health Service adopted more austere measures, subjecting 127,173 Mexican entrants to a delousing and bathing procedure followed by a rigorous physical and mental examination.⁴⁸

Like their local counterparts, federal officials demonstrated a more enforcement-minded orientation toward the border during World War I, launching cavalry patrols and air surveillance teams in search of revolutionaries and German spies.⁴⁹ Congress also enacted statutory measures, specifically the Immigration Act of 1917 and the Passport Act of 1918, to secure the line against alien enemies and unwanted immigrants.⁵⁰ In this wartime context, southwestern Bureau of Immigration officials changed their lax orientation toward immigration law enforcement and, for the first time, took seriously their responsibility to enforce the new laws *vis-à-vis* Mexican nationals. In so doing, they attempted to impose a new web of regulations upon a population long accustomed to crossing the border without any restrictions.

In 1917, Congress passed the Immigration Act of 1917, an omnibus bill that consolidated immigration legislation from the prior three decades.⁵¹

⁴⁵ For a recent account of the refugee crisis, see Julian Lim, "Immigration, Asylum, and Citizenship: A More Holistic Approach," *Legal Studies Research Paper Series, Paper 12-08-03* (St. Louis: University of Washington, School of Law, 2012).

⁴⁶ Romo, *Ringside Seat to a Revolution*, 233.

⁴⁷ During this inspection, city officials found two cases of typhus, and one incidence each of measles, rheumatism, tuberculosis, and chicken pox. Those found ill were forced to take vinegar and kerosene baths, shave their heads, and burn all of their clothing. Romo, *Ringside Seat to a Revolution*, 231, 234, 235.

⁴⁸ Romo, *Ringside Seat to a Revolution*, 243.

⁴⁹ Metz, *Border*, 233.

⁵⁰ *Immigration Act of February 5, 1917*, 39 *Statutes-at-Large* 874 (1917). *Entry and Departures Control Act*, 40 *Statutes at Large* 559 (1918) (hereinafter referred to as the *Passport Act of 1918* or the *Act of May 22, 1918*).

⁵¹ As an omnibus bill, the Immigration Act of 1917 became the foundation of this nation's immigration law for the next thirty-five years. While the Immigration Acts of 1921 and 1924 added pivotal features to this nation's immigration law, the Immigration

Its passage marked an apex in Progressive Era efforts to restrict immigration from southern and eastern Europe and Asia. It accomplished the latter by excluding immigrants from a geographic area labeled the “Asiatic Barred Zone” that included all of Asia except for Japan and the Philippines. In order to limit admission from Europe, the Act created a literacy test for all individuals seeking admission into the United States.⁵² Despite President Woodrow Wilson’s veto of the new immigration act (Wilson was unwilling to reverse a campaign promise not to restrict European immigration⁵³), Congress overrode his veto and passed the bill on February 5, 1917.

While the Immigration Act of 1917 was not conceived as a wartime measure, policymakers later relied on its provisions to implement a domestic defense policy within the nation and at the borders. Indeed, once the country entered the war (one month after the passage of the Immigration Act of 1917), President Wilson’s concerns about the entry of radicals “dominate[d] the politics of immigration policy.”⁵⁴ As a result, federal officials relied upon the looser deportation standards created by the new act to expel suspected alien enemies and subversives throughout the country.⁵⁵ In the Southwest, the Bureau of Immigration began to reverse its longstanding practice of letting Mexican nationals freely cross the border, attempting to control and restrict their movement under the authority of the new immigration law. For the first time in its history, they enforced the head tax in conjunction with the new literacy test provisions of the Immigration Act of 1917 *vis-à-vis* Mexican immigrants.⁵⁶

Act of 1917 continued to serve as the basic outline or organizational structure. Fitzgerald, *The Face of the Nation*, 129, 132.

⁵² For a history of the literacy test see, John Higham, *Strangers in the Land, Patterns of American Nativism, 1860–1925* (New York, Atheneum, 1963).

⁵³ Higham, *Strangers in the Land*, 190–93. Robert A. Divine, *American Immigration Policy, 1942–1952* (New York: Da Capo Press, 1972), 5.

⁵⁴ Briggs, “For the Welfare of Wage Earners,” 164.

⁵⁵ William Preston, *Aliens and Dissenters: Federal Suppression of Radicals, 1903–1933* (Urbana: University of Illinois Press, 1994); Briggs, “For the Welfare of Wage Earners,” 164; Divine, *American Immigration Policy*, 8.

⁵⁶ Under the Immigration Act of 1917, Congress decided not to waive the head tax (increased to \$8.00) and the new literacy test for Mexican immigrants as it had in the Immigration Acts of 1903 and 1907. Cardoso, *Mexican Emigration*, 46.

In order to restrict the entry and departure of suspected alien enemies, federal officials initially relied on the immigration statutes. They found, however, that the immigration laws failed to provide the regulatory authority necessary to restrict and supervise this category of foreign nationals. An assistant to the attorney general observed:

When we got into the war we were met, of course, immediately with the necessity of supervising exit from the country and entrance into the country of undesirable persons, and the only law on the subject that came anywhere near reaching them was the immigration law, which was not designed to fit a situation in which spies were moving to and from the country, because the tests prescribed by the immigration statutes for admittance to the country were, of course, simple and designed to meet certain requirements of intelligence, character, previous history, etc.⁵⁷

In response to this lack of authority, Congress passed the Passport Act to prevent the entry of alien enemies. The Act specifically required aliens and U.S. citizens to present passports for inspection at the nation's ports of entry for the duration of the war.⁵⁸ This Act constituted another new layer of restrictions that would have a serious impact on the movement of populations across the U.S.–Mexico border.⁵⁹

The administration of the passport law was divided among several federal agencies including Justice, Labor, Commerce, and State. While the State Department was responsible for the issuance of passports and visas, the Bureau of Immigration was responsible for the actual enforcement of the passport law. Thus, prior to conducting their usual immigration inspection, immigration officers would act as passport agents, inspecting

⁵⁷ U.S. Congress, House, Committee on Foreign Affairs, *Control of Travel From and Into the United States*, 65th Cong., 2nd sess., 13 February 1918, 4–5.

⁵⁸ *Entry and Departures Control Act*, 40 Statutes at Large, 559 (1918). Executive Order 2932, August 18, 1918 (implementing Act of May 22, 1918). Violators of the Passport Act were subject to criminal penalties, including a maximum fine of \$10,000 and a prison sentence of twenty years.

⁵⁹ For a history of the passport, see John C. Torpey, *The Invention of the Passport: Surveillance, Citizenship and the State* (New York: Cambridge University Press, 2000); Craig Robertson, *The Passport in America: The History of a Document* (New York: Oxford University Press, 2010).

passports and visas, collecting visa fees, and taking declarations of aliens and U.S. citizens entering and departing the country. The new responsibilities increased the workload of an agency lacking the resources to fulfill its own mandate to enforce the nation's immigration laws.⁶⁰ And this, in turn, would compound the problems faced by the Bureau of Immigration in expanding the presence of the federal government in a community long accustomed to its absence.

Initially, the new immigration restrictions had a significant impact on immigration, specifically those individuals seeking entry for permanent admission, across the U.S.–Mexico border. The literacy test plus the head tax created serious obstacles for Mexican immigrants, particularly agricultural workers who, for the most part, were poor and illiterate.⁶¹ For the first few months that the new law was in operation, Mexican immigration declined sharply from the same period the previous year. Historian Lawrence Cardoso reports that only 31,000 Mexicans emigrated to the U.S. in 1917 whereas 56,000 had entered the year before.⁶² By 1918, Cardoso notes, 1,771 Mexicans decided against emigrating to the U.S. due to the literacy test, and the Bureau rejected the applications of 5,745 for failure to pay the head tax.⁶³

While the new immigration and passport laws closed the border for some, other border residents refused to accept the new restrictions. Some expressed their discontent by crossing and re-crossing the line without an official inspection. As a result, the Bureau reported that the undocumented entry of Mexican nationals — an issue the agency had mostly ignored prior to 1917 — had become one of its greatest concerns; as the supervising inspector for the Mexican Border District wrote in his annual report, “The suppression of attempted illegal entry of countless aliens of the Mexican race, excluded or excludable, under what they deem to be the harsh provisions of the immigration act of 1917, has constituted one of the most difficult problems with which this district has had to contend in the past

⁶⁰ S. Deborah Kang, “The Legal Construction of the Borderlands: The INS, Immigration Law, and Immigrant Rights on the U.S.–Mexico Border, 1917–1954” (Ph.D. diss., University of California, Berkeley, 2005), 31–41.

⁶¹ Cardoso, *Mexican Emigration*, 46.

⁶² *Ibid.*

⁶³ Reisler, *By the Sweat of Their Brow*, 24.

year.”⁶⁴ At the same time, thousands of local residents, as both the State Department and Bureau of Immigration reported, protested repeatedly and vehemently about the ways in which the Immigration Act of 1917 and the Passport Act of 1918 disrupted the transnational character of their daily lives.

Locals complained about the new laws in a variety of ways: writing letters to state and federal politicians; sending telegrams, letters, and petitions to local and federal Bureau of Immigration and State Department officials; publishing editorials in opposition to the new regulations; and arguing with immigration inspectors at the gates. In the Southwest, those industries reliant on Mexican labor were the most vocal and politically powerful opponents of the restrictions imposed by the immigration and passport acts.⁶⁵ Southwestern farmers, for example, repeatedly called for exemptions to the new laws, knowing that they would bar the entry of Mexican workers.⁶⁶ In addition to southwestern industries, ordinary individuals — including those traveling from Mexico to shop, work, patronize entertainment venues, or socialize with friends and family — all protested, either in writing or in person.⁶⁷ Among the protesters were American citizens who lived in Mexico, but worked in the United States; and Asian nationals, Asian Mexicans, and Asian Americans, domiciled in Mexico, who sought a relaxation of the immigration and passport laws for business reasons.⁶⁸ Despite the authority possessed by Bureau

⁶⁴ Report of Supervising Inspector, Mexican Border District in Bureau of Immigration, *Annual Report, fiscal year ended June 30, 1918*, 317–319.

⁶⁵ On the supporters and opponents of immigration restriction in the Southwest, see David Montejano, *Anglos and Mexicans in the Making of Texas, 1836–1986* (Austin: University of Texas Press, 1987), 182–186.

⁶⁶ Totten, “Report on Conditions,” 17.

⁶⁷ See, for example, Blocker, American Consul, Eagle Pass to Secretary of State, December 6, 1917, file 54152/1E, RG 85, National Archives. Unsigned Memorandum, January 2, 1918, file 54152/1F, RG 85, National Archives. See also, Vicki Ruiz, *From Out of the Shadows: Mexican Women in Twentieth-Century America* (New York: Oxford University Press, 2008), 12.

⁶⁸ Alvey A. Adey, Second Assistant Secretary of State, to Anthony Caminetti, Commissioner General, April 11, 1918, file 54152/1J, RG 85, National Archives (on the American border crossers); Alvey A. Adey, Second Assistant Secretary of State to Anthony Caminetti, Commissioner General, January 24, 1918, file 54152/1G, RG 85, National Archives (regarding Japanese merchants living on Mexican side of border

officials, many border residents, as one inspector reported, did not hesitate to criticize the new laws and even verbally abuse immigrant inspectors at the gates.⁶⁹

The Bureau's detractors included not only locals who sought crossing privileges from Mexico to the United States but also those domiciled in the United States with business and personal interests in Mexico. In San Diego, American backers of a Tijuana racetrack were vehement opponents of the passport laws, arguing that these regulations would deter patrons from traveling south of the border and, instead, draw them north to competing entertainment venues in Los Angeles.⁷⁰ American tourists and border residents rallied to Tijuana's cause with their feet, defying Prohibitionists' warnings about the dangers of Mexican leisure and liquor, and overwhelming immigration inspectors at the gates with their demands to depart and re-enter the country.⁷¹ Representatives from the Imperial Irrigation District protested that the passport law would halt construction of a canal project in Mexico (by delaying the entry of American skilled laborers) and thereby hurt American farmers who

wishing to cross border to purchase goods.); F.W. Berkshire, Supervising Inspector, El Paso, to Chief, Division of Passport Control, September 9, 1918, file 54410/331B, RG 85, National Archives; A. E. Burnett, Inspector in Charge to Supervising Inspector, El Paso, April 8, 1920, file 54820/455, RG 85, National Archives (Chinese, with American support, seeking crossing privileges between Calexico and Mexicali).

⁶⁹ Grover C. Wilmoth, Acting in Charge of District, Mexican Border District to Commissioner General, March 31, 1923, file 55301/217, RG 85, National Archives.

⁷⁰ Telegram to Frank L. Polk, received December 10, 1917, file 54152/1E, RG 85, National Archives.

⁷¹ Prohibitionists opposed any relaxation of passport regulations for those desirous of crossing the border into Mexico, which they called "a moral plague spot menacing soldiers and civilians alike." Charles C. Selegman, President, Los Angeles Ministerial Alliance to Robert Lansing, Secretary of State, November 23, 1917, file 54152/1E, RG 85, National Archives; W. B. Wheeler, General Counsel, Anti-Saloon League of America to Raymond Fosdick, War Department, April 4, 1918, file 54152/1J, RG 85, National Archives; T.A. Storey, Executive Secretary, Interdepartmental Social Hygiene Board to Bureau of Immigration, March 6, 1920, file 54410/331F, RG 85, National Archives. For an account of how Prohibition impacted border closing times in three different border communities, see Robert Buffington, "Prohibition in the Borderlands: National Government—Border Community Relations," *Pacific Historical Review* 63:1 (February, 1994): 19–39.

relied on the water from the canal to irrigate their crops.⁷² Also engaged in bi-national ventures, an Arizona mining company requested exemptions for its Mexican workers who hauled ore mined north of the border to a processing facility south of the border.⁷³ Meanwhile, in Texas, the Bureau received complaints about the passport laws from American ranchers who grazed their stock in Mexico.⁷⁴ Finally, because it affected small and large businesses alike, the passport law elicited protests from an American dentist who saw many patients south of the border as well as a request for an exemption from an American doctor who also needed to care for his patients in Mexico.⁷⁵

In the borderlands, the new immigration and passport laws seemed to inconvenience everyone; as a State Department official explained, the passport law, “cause[d] a considerable amount of irritation on both sides of the Border. The Mexicans, in ignorance, feel that it is a measure directed especially against them, to cause them annoyance and prevent them from purchasing the food and supplies they greatly need. The American merchants are dissatisfied because of the loss of trade.”⁷⁶ In the face of this widespread opposition, Bureau officials began the work of enforcing the Immigration Act of 1917 and the Passport Act of 1918.

In 1918, Commissioner General Anthony Caminetti asked how the agency could create an immigration policy that closed the border to subversives and unwanted immigrants but, at the same time, kept it open for the benefit of local residents who had legitimate reasons for crossing and

⁷² C.K. Clarke, General Manager, Imperial Irrigation District, to Senator Hiram Johnson, November 19, 1917, file 54152/1E, RG 85, National Archives.

⁷³ Grosvenor Calkins, for Duquesne Mining and Reduction Company, to Louis F. Post, Assistant Secretary of Labor, January 17, 1918, file 54152/1G, RG 85, National Archives.

⁷⁴ F. W. Berkshire, Supervising Inspector, El Paso, to Commissioner General, January 1, 1918, file 54152/1F, RG 85, National Archives.

⁷⁵ George J. Harris, Acting Supervising Inspector, El Paso, to Commissioner General, January 10, 1918, file 54152/1G, RG 85, National Archives; Dr. J. A. Wallace to Department of State, Bureau of Citizenship, January 10, 1918, file 54152/1G, RG 85, National Archives.

⁷⁶ Totten, “Report on Conditions,” 17.

re-crossing the border each day.⁷⁷ In response, southwestern immigration officials developed new ways of managing the huge populations that crossed the border. Responding to the demands of local residents, border officials used their administrative discretion to waive or amend the rules set forth in the Immigration Act of 1917 and the Passport Act of 1918. In turn, they fashioned a series of policies, including the wartime agricultural labor program, the border crossing card, and a waiver to the literacy test that facilitated the movement of locals across the international boundary.

These administrative devices were significant because they effectively nullified the restrictions imposed on the U.S.–Mexico border by both Acts. The wartime agricultural labor program rendered inoperative the head tax, contract labor laws, and literacy test on the U.S.–Mexico border.⁷⁸ The border waiver to the literacy test further diluted the exclusionary intent underlying the Immigration Act of 1917. Meanwhile, the Section 13 certificate (and the subsequent exemptions to the Section 13 certificate itself) removed any incentive for individuals to procure passports. Yet, it is important to note that these exceptions to the new regulations did not generate a condition of lawlessness on the U.S.–Mexico border. Instead, as the following section will explain, immigration officials in the Southwest effectively created a set of immigration policies that were tailored to the needs of border residents and sustained the transnational character of the borderlands.

In shaping an immigration policy for the Mexican border, the Bureau of Immigration relied on the language of the Immigration Act of 1917, the Ninth Proviso of the third section of the Act. The Ninth Proviso specifically stated that the “Commissioner General of Immigration with the approval of the secretary of labor shall issue rules and prescribe conditions, including exaction of such bonds as may be necessary to control and regulate the admission and return of otherwise inadmissible aliens applying for temporary admission.”⁷⁹ In other words, the Ninth Proviso authorized

⁷⁷ Anthony Caminetti, Commissioner General to Supervising Inspector, Mexican Border District, August 31, 1918, file 54410/331A, RG 85, National Archives.

⁷⁸ Bureau of Immigration, *Annual Report, fiscal year ended June 30, 1919*.

⁷⁹ W. W. Husband, Commissioner General, Memorandum for the Second Assistant Secretary, May 17, 1923, RG 85, File 54275/Gen., Pt. I. (citing Act of February 5, 1917, ch. 29, § 3, 39 Stat. 874, 876 (1917))

the secretary of labor to waive the immigration laws for those migrants who would not pass an immigration inspection (and thereby qualify for permanent residence in the United States) but who demonstrated a need to be in the country for short periods of time. Thus, while nativism inspired its drafting and passage, the Immigration Act of 1917 afforded Bureau of Immigration officials the administrative discretion to unravel the restrictionist spirit of the law.

The most famous invocation of the Ninth Proviso occurred during World War I when the secretary of labor created the nation's first Mexican agricultural labor program. Due to enormous pressure from southwestern growers who claimed wartime labor shortages, the secretary of labor temporarily admitted Mexican farm workers, exempting them from a formal immigration inspection and, more specifically, waiving the literacy test, head tax, and contract labor clauses of the Immigration Act of 1917. Under this program, employers in need of agricultural labor applied to the Labor Department stating the number of workers required, the duration of the work period, and the wages and hours offered. They were also to maintain certain standards regarding living, housing, and working conditions, and wages.⁸⁰ In order to ensure that Mexican agricultural laborers returned to Mexico, wages were withheld from their monthly pay and distributed upon their departure from the country.⁸¹ As an additional precaution against the permanent settlement of these Mexican nationals, immigration inspectors also possessed the authority to deport those who quit their jobs or sought work with a non-approved employer.

Despite its efforts to maintain a restrictive immigration policy, the Department of Labor was under constant pressure to admit even more Mexican workers into the country. This was particularly the case during a 1917 draft scare, when thousands of workers hired under the wartime labor program left for Mexico.⁸² Growers capitalized on this scare

⁸⁰ Reisler, *By the Sweat of Their Brow*, 29.

⁸¹ *Ibid.*, 30.

⁸² Under the Selective Service Act of May 18, 1917, foreigners were exempted from the wartime draft. In order to prove their alien status, however, they were required to present proof of foreign citizenship (by means of a birth certificate or the affidavits of two reliable witnesses as to place of birth) to the local draft boards. Uninformed, unable, or unwilling to meet these requirements, thousands of Mexicans repatriated to Mexico. In the Southwest, many of the repatriations were motivated by fear and a deep

to ask the Department of Labor to alter the program in several ways: first, to loosen the provisions regarding the surveillance of workers; second, to allow Mexicans to work in non-agricultural occupations; and third, to extend the period of stay for Mexican laborers.⁸³ Growers also argued for the suspension of the head tax *vis-à-vis* Mexico altogether so as to facilitate the northward migration of farm workers. Finally, they proposed that the federal government take a more active role in providing them with laborers by stationing officials in border towns to direct Mexican immigrants to agricultural employers.

In response, President Wilson extended the stay of Mexican agricultural laborers for the duration of the war. He also permitted Mexican nationals to work in non-agricultural industries such as the railroads and the coal mines. Later they were authorized to work on other mining operations and construction jobs throughout the Southwest. Finally, Wilson approved the posting of additional immigration inspectors along the Mexican border to assist in the admission of Mexican immigrant workers.⁸⁴ At the war's end, Wilson ended the temporary admissions program. But, the protests of southwestern growers led to the extension of the program through June 30, 1919. Two more extensions were granted through January 1921 when the program finally ended and employers were instructed to return their workers to Mexico.⁸⁵

The temporary admissions program proved a boon to southwestern agriculture. It enabled growers to keep wages low despite an overall rise in agricultural wages during the course of the war. A representative from the Arizona Cotton Growers' Association estimated that the wartime labor importation program saved growers \$28 million in labor costs from 1919 through 1921.⁸⁶ Given these benefits, southwestern growers lobbied

distrust of the American government given the recent vigilante action undertaken by Anglo-Americans against Mexicans and Mexican Americans in retaliation for the raids of Mexican revolutionaries. Local and state draft board officials only aggravated this distrust by compelling ethnic Mexicans, regardless of their citizenship status, to register for the draft. Johnson, *Revolution in Texas*, 150–153. Cardoso, *Mexican Emigration to the United States*, 50–51.

⁸³ Reisler, *By the Sweat of Their Brow*, 30.

⁸⁴ *Ibid.*, 33.

⁸⁵ *Ibid.*, 34.

⁸⁶ *Ibid.*, 39.

for the permanent suspension of the immigration laws; on their behalf, Congressman Claude B. Hudspeth of Texas introduced a joint resolution exempting Mexican nationals from the literacy test and contract labor provisions of the Immigration Act of 1917. What growers wanted even more, however, was a return to the pre-1917 Immigration Act “policy of an open Mexican border.”⁸⁷ Assuaging the fears of nativists, supporters of this bill argued that those Mexicans admitted would not become permanent residents; instead, Congressman John Nance Garner of Texas “contended that 80 percent of the Mexicans admitted to the United States would eventually return to Mexico and that never more than 2 percent would leave Texas for other states.”⁸⁸ In the end, however, the House Committee on Immigration and Naturalization tabled Hudspeth’s resolution, adopting the views of the American Federation of Labor that a sufficient labor force was already present in the Southwest. Furthermore, under pressure from Hawaiian growers to admit Chinese immigrants as agricultural laborers, the Committee feared setting a precedent along the U.S.–Mexico border that would open the door to Chinese immigration in Hawaii.

As Bureau officials satisfied the wartime demands of one border constituency, they recognized that they also had to address the vehement demands of ordinary border residents for exemptions to the new literacy test. Indeed, immigration inspectors in the Southwest observed that, for the first year after the passage of the literacy test, the “pressure, protests and complaints” were “well-nigh irresistible.”⁸⁹ Thanks to the Bureau’s longstanding practice of excusing border residents from the head taxes and qualitative restrictions of the immigration laws, border residents had grown accustomed to crossing and re-crossing the international boundary without hindrance. F. W. Berkshire, supervising inspector for the Mexican Border District, was keenly aware that the agency itself had perpetuated this state of affairs — allowing border residents, in his words, to “go and come in the course of their social and business intercourse with the least possible interference and friction.” Thus, upon the passage of the 1917 immigration law, Berkshire expressed uncertainty as to whether the agency

⁸⁷ *Ibid.*, 40.

⁸⁸ *Ibid.*

⁸⁹ George J. Harris to Commissioner General of Immigration, May 24, 1923, RG 85, File 54275/Gen., Pt. I.

ought to maintain what he referred to as its “time honored custom” by excusing border residents from the literacy test.⁹⁰

Between 1917 and 1924, Berkshire and southwestern immigration inspectors addressed this question by again relying upon the discretionary authority afforded by the Ninth Proviso of the third section of the Immigration Act of 1917. As the commissioner general wrote in 1923, “There is no question under the Act and the Regulations as to the propriety of permitting entry of illiterates for purely temporary purposes.”⁹¹ Despite the authority provided by the Immigration Act of 1917, the Bureau did not create a holistic waiver, or a general exemption from the literacy test right away. Instead, southwestern agency officials began in a more limited and even tentative fashion, granting waivers to those illiterate migrants who lived in the United States but who, for personal or business reasons, crossed the border on a regular basis.⁹² Concerns that locals domiciled in Mexico would use any literacy test exemption to evade a formal immigration inspection and settle permanently in the United States led Bureau officials to prohibit the issuance of literacy test waivers to nonresident aliens. In addition, wartime fears about the entry of enemy aliens and longstanding concerns about illegal Chinese immigration also informed the Bureau’s decision to create a limited waiver in 1917.⁹³

Border residents, however, remained highly dissatisfied by this initial modification of the literacy test. Bureau officials reported that thousands of locals continued to lobby immigrant inspectors at the gates for a complete suspension of the test. In response, immigration inspectors temporarily

⁹⁰ F. W. Berkshire, Supervising Inspector, to Commissioner General of Immigration, March 9, 1917, RG 85, File 54275/Gen., Pt. I.

⁹¹ W. W. Husband, Commissioner General, “Memorandum for the Second Assistant Secretary,” May 17, 1923, RG 54275/Gen., Pt. I (discussing 1917 agency debates regarding use of Ninth Proviso to create an exemption to the literacy test)

⁹² On May 7, 1917, Washington, D.C. officials authorized this procedure in the following telegram: “Habitual crossing and recrossing boundary by illiterate aliens residing in United States is permitted by paragraph f, subdivision five, rule four, regarding transit of resident illiterates through contiguous foreign territory but illiterates residing outside the United States cannot be permitted habitual crossing privilege.” George J. Harris to Commissioner General of Immigration, May 24, 1923, file 54275/Gen., Pt. I, RG 85, National Archives.

⁹³ A. E. Burnett, Inspector in Charge, Los Angeles, to Commissioner General of Immigration, May 28, 1923, file 54275/Gen., Pt. I, RG 85, National Archives.

admitted thousands of illiterate Mexican nationals (domiciled south of the border) so that they could purchase a “loaf of bread, a cake of soap, a pound of starch, a quart of kerosene, a pound of sugar, a pound of flour, a pound of lard, etc.”⁹⁴ While some inspectors admitted border residents on an unofficial basis, others conducted full-fledged hearings by a Board of Special Inquiry (BSI) to formalize these literacy test waivers.⁹⁵ Because these hearings required the participation of southwestern immigration inspectors and their supervisors, the collection of character references from local citizens, and a formal review by Bureau officials in Washington, D.C., they consumed much time and many resources.⁹⁶ Given the overwhelming demand for more relaxed border crossing privileges and the burdens of BSI hearings, southwestern immigration officials themselves proposed changes to the exception to the literacy test. In a 1920 report titled, “Recommendations and Suggestions for the Betterment of the Service and for Remedial Legislation,” southwestern agency officials called for the admission of illiterate border residents who routinely crossed the line for business or personal reasons.⁹⁷ In addition, they proposed leniency for illiterate alien residents of the United States who lacked proof of their domicile in the United States.

By 1923, the ongoing protests of border residents led the Bureau to seek ways to broaden the exceptions to the literacy test on the U.S.–Mexico border. As the Bureau observed, “Various chambers of commerce and individual

⁹⁴ George J. Harris, Supervisor, to Commissioner General, May 24, 1923, file 54275/Gen., Pt. II, RG 85, National Archives.

⁹⁵ United States Department of Labor, Bureau of Immigration, *Immigration Laws, Rules of May 1, 1917*, Rule 4, Subdivision 6 (Washington, D.C.: Government Printing Office, 1917), 51. Boards of Special Inquiry provided immigrants with the opportunity to appeal the exclusion decisions of immigration inspectors. While they served as a kind of court of first resort, the Board was not bound by judicial procedures. See Salyer, *Laws Harsh as Tigers*, 141.

⁹⁶ Report of Supervising Inspector, District No. 23 in Bureau of Immigration, *Annual Report, fiscal year ended June 30, 1920*, 446. See also, Bureau of Immigration file regarding the Board of Special Inquiry hearing for Jesus Reyes, a Mexican citizen who failed the reading test but sought temporary admission for business purposes in 1922, file 55238/12, RG 85, National Archives.

⁹⁷ Recommendations and Suggestions for the Betterment of the Service and for Remedial Legislation,” in Bureau of Immigration, *Annual Report, fiscal year ended June 30, 1920*, 450. See also, J. E. Trout, Inspector in Charge, Laredo, Texas to Supervising Inspector, El Paso, February 12, 1919, file 54410/331D, RG 85, National Archives.

concerns along the Mexican Border are taking concerted action in petitioning both the Bureau direct and through Congressmen and Senators for modification of existing regulations that will permit temporary admission of illiterates for trading purposes.”⁹⁸ In defense of this proposal, the Bureau itself argued that any new exemption would not only benefit the economy of the border region but also promote American foreign relations with Mexico, as the Commissioner General wrote:

It is the opinion of the Bureau that in view of the close relations necessarily existing between the neighboring countries of Canada and Mexico and our own country, that some modification of existing practice along the Mexican Border is most desirable that will permit, under proper safeguards, the temporary entry of illiterate aliens for purposes of trade and other sound reasons.⁹⁹

Finally, an official literacy test waiver would allow the Bureau to standardize procedures on the Mexican and Canadian borders. Since the inception of the literacy test in 1917, Bureau of Immigration officials excused Canadian residents¹⁰⁰ seeking temporary entry to visit “sick friends, or relatives, by reason of death, or funerals, or weddings, or business or family affairs, etc.”¹⁰¹ After soliciting specific proposals from its southwestern offices, the Bureau, in 1923, authorized officers stationed on the Mexican and Canadian borders, to admit “illiterate citizens or subjects of Canada and Mexico”

⁹⁸ W. W. Husband, Commissioner General, Memorandum for the Second Assistant Secretary, May 17, 1923, file 54275/Gen., Pt. I, RG 85, National Archives.

⁹⁹ *Ibid.*

¹⁰⁰ As the U.S. commissioner of immigration, Montreal, Canada, wrote, “When the reading test became effective in 1917, it served to debar large numbers of aliens who patronized the above [railway] lines. Many of those excluded on account of the reading test were show to be substantial citizens of Canada, who were only desirous of visiting the United States as bona fide temporary visitors. . . . This situation was gone over with former Secretary W. B. Wilson in person, and while declining to modify the Regulations as then drawn, he nevertheless, gave me authority to admit temporarily, in my own discretion, illiterates whose exclusion could be shown to involve the serious hardships referred to above.” U.S. Commissioner of Immigration, Montreal, Canada to W. W. Husband, Commissioner General of Immigration, April 2, 1923, file 54275/Gen., Pt. I, RG 85, National Archives.

¹⁰¹ W. W. Husband, Commissioner General, Memorandum for the Second Assistant Secretary, May 17, 1923, file 54275/Gen., Pt. I, RG 85, National Archives.

who sought temporary entry for personal or business reasons.¹⁰² In sum, these amendments to the literacy test created what one Bureau official termed a “sectional” approach to immigration policy in the borderlands.¹⁰³

Bureau of Immigration officials not only eased the restrictive provisions of the Immigration Act of 1917 for the benefit of border residents; they, in conjunction with State Department officials, also addressed locals’ concerns regarding the Passport Act of 1918. While these two agencies would engage in bitter disagreements about the implementation of the Passport Act of 1918, they agreed to develop an exemption to the Act itself, specifically a border crossing card.¹⁰⁴ The border crossing card owed its origins to Rule 13 of the Immigration Laws and Rules, which provided that U.S. citizens and aliens who lived in close proximity to either side of the border and who frequently crossed the border for “legitimate pursuits” could receive a pass (a border crossing card), enabling them to cross the line without embarrassment or delay.¹⁰⁵ By 1918, State Department officials incorporated Immigration Rule 13 into their own regulations regarding the administration of the Passport Act.¹⁰⁶ Referred to as Section 13 certificates, they excused immigrants from paying the head tax,¹⁰⁷ and they were issued due to wartime exigencies, primarily for the

¹⁰² W. W. Husband, Commissioner General to U.S. Commissioners of Immigration, Montreal, Canada and Seattle, Washington; Inspectors in Charge, Immigration Service, Buffalo, N.Y., Detroit, Mich., Winnipeg, Can., Spokane, Wash., Los Angeles, California, and San Antonio, Texas; Supervisor, Immigration Service, El Paso, Texas, June 30, 1923, file 54275/Gen., Pt. I., RG 85, National Archives.

¹⁰³ “Recommendations and Suggestions for the Betterment of the Service and for Remedial Legislation,” in Bureau of Immigration, *Annual Report, fiscal year ended June 30, 1920*, 450.

¹⁰⁴ For an account of these interagency disputes see, Kang, “The Legal Construction of the Borderlands,” 44–45.

¹⁰⁵ Confidential Instructions for the Guidance of Officials Connected with the Administration of the Act of May 22, 1918, July 1918, file 54410/331, RG 85, National Archives.

¹⁰⁶ *Ibid.*

¹⁰⁷ Gerard D. Reilly, Acting Solicitor of Labor, Memorandum for the Acting Commissioner of Immigration and Naturalization, April 15, 1937, file 55883/600, RG 85, National Archives. Holders of section 13 certificates were exempted from the head tax because the Bureau realized that it would be unreasonable for them to pay the tax upon each entry.

benefit of Europeans who were unable to obtain passports from their home countries.¹⁰⁸

In the issuance of these cards, the State Department and Bureau of Immigration tried to balance the nation's security needs and the borderlands' economic and social interests.¹⁰⁹ Thus, State Department and Bureau of Immigration officials agreed that Section 13 certificates, particularly in the case of foreign nationals, were not intended to replace passports; as one State Department official wrote, aliens' identification cards, were only "valid for a sufficient period for them to procure passports of the country to which they owe allegiance."¹¹⁰ As a further security precaution, alien and citizen recipients of the Section 13 certificates were required to be residents of the border region where "residence on the border means residence at no greater distance than ten miles from border."¹¹¹ Moreover, these border crossing cards limited the radius of travel: U.S. citizens and aliens were restricted to a ten-mile radius north and south of the border.¹¹² Finally, border crossing cards were not issued to American citizens who made more frequent trips to non-border, or interior, regions of Mexico; these individuals were required to obtain passports.

Despite these wartime safeguards, the agency eventually relaxed the regulations and began issuing cards to those for whom they were not intended. As a Prohibition measure, the agency originally denied identification cards to "pleasure seekers[,] tourists[,] idlers[,] gamblers[,] race horse followers and the like."¹¹³ Yet, in 1919 after much protest from border residents and proprietors of the entertainment industry, the Bureau instituted

¹⁰⁸ These cards were also in use on the Canadian border, see Kang, "Crossing the Line," 181.

¹⁰⁹ Totten, "Report on Conditions," 15.

¹¹⁰ R. W. Flournoy, Acting Chief, Bureau of Citizenship, Department of State to A. W. Parker, Law Clerk, Immigration and Naturalization Service, November 30, 1917, file 54152/1E, RG 85, National Archives.

¹¹¹ A. Warner Parker, Law Officer, Department of State to Supervising Inspector, El Paso, December 6, 1917, file 54152/1E, RG 85, National Archives.

¹¹² J. E. Trout, Inspector in Charge, Laredo to Supervising Inspector, El Paso District, November 23, 1917, file 54152/1E, RG 85, National Archives.

¹¹³ George J. Harris, Acting Supervising Inspector, El Paso, to Commissioner General, November 27, 1917, file 54152/1E, RG 85, National Archives.

a tourist pass system for those wishing to travel south of the border.¹¹⁴ Tourist passes, initially good for a single day but later extended for ten-day use, allowed visits “in the border zone on either side of the Mexican border, whether such persons reside within or without the zone [the ten-mile limit], provided their identity, nationality and bona fides are established to the satisfaction of permit agents [immigration officials].” These permits were limited to American citizens, but immigration officials could, at their discretion, issue these permits to foreign nationals.¹¹⁵

The Bureau and Department of State also made exceptions to the passport law on an *ad hoc* basis, again to cater to the needs of local communities. In Nogales, Sonora, the local American consul issued 4,000 provisional passports to Mexican citizens so that they could cross the line into Nogales, Arizona in order to shop. Under pressure from local businessmen who complained that passport regulations caused a downturn in the local economy, local immigration and State Department officials agreed to repeated extensions of these provisional passports.¹¹⁶ In 1920 (when passport regulations had loosened somewhat, but still required non-border residents from Mexico to present visaed passports), the State Department authorized the issuance of identification cards to visitors from non-border (interior) regions of Mexico attending fairs in El Paso and Dallas.¹¹⁷

The Bureau also conferred border crossing privileges upon Japanese and Chinese merchants living on both sides of the line.¹¹⁸ While the

¹¹⁴ F. W. Berkshire, Supervising Inspector, Mexican Border District, to Chief, Division of Passport Control, State Department, September 22, 1920, file 54410/331H, RG 85, National Archives.

¹¹⁵ F. W. Berkshire to Secretary of State, November 6, 1919, file 54410/331F, RG 85, National Archives.

¹¹⁶ A. J. Milliken, Inspector in Charge, Nogales, Arizona, to Supervising Inspector, El Paso, January 3, 1918, file 54152/1F, RG 85, National Archives.

¹¹⁷ R. M. Cousar, Inspector in Charge, Nogales, Arizona, to Supervising Inspector, Mexican Border District, October 5, 1920, file 54410/331I, RG 85, National Archives.

¹¹⁸ For an account of the disparate procedures applied to Chinese-national, Chinese-American, and Chinese-Mexican merchants residing in the United States and in Mexico see, F. W. Berkshire to Inspector in Charge, May 16, 1922, file 51941/10A, RG 85, National Archives, in *Records of the Immigration and Naturalization Service, Series A: Subject Correspondence Files, Part 2: Mexican Immigration, 1906–1930*, ed. Alan Kraut (Bethesda: University Publications of America), text-fiche, reel 1, frame 947–949.

immigration laws had long permitted these merchants to cross and re-cross between Mexico and the United States to purchase subsistence items or to engage in trade, these laws imposed strict requirements on their entry and departure. To ensure the latter, the agency had to escort each Japanese entrant out of the country. For the Chinese, the regulations were even more stringent and required a tremendous amount of administrative work for the Bureau.¹¹⁹ For example, before approving the entry and departure of a Chinese transit, the Bureau needed to conduct medical and background investigations, verify residency in the U.S. if the entrant claimed to be a U.S. resident, complete in triplicate a description, with photo, of the Chinese transit upon entry, and arrange for an official escort upon departure.¹²⁰ The Passport Act, then, threatened to impose a new set of restrictions upon these merchants and, from the perspective of local residents, impede border trade.

Indeed, both Japanese and Chinese merchants had strong advocates in border communities; thus, for example, the Bisbee Chamber of Commerce issued a complaint to Congressman Henry Ashurst about the inability of J. F. Hung, a Chinese-Mexican merchant, to cross the line to trade. While the Bisbee Chamber of Commerce made no mention of the racial discrimination encountered by Chinese immigrants on both sides of the line, it protested that “the merchants of Bisbee are being discriminated against.”¹²¹ Chambers of commerce in El Paso, Nogales, and Los Angeles, among others, made similar requests on behalf of Chinese merchants.¹²² In response

¹¹⁹ Because it was easier for Bureau officials to conduct extensive background examinations of merchants residing in the United States, Chinese-American and Chinese-national merchants residing in the United States faced more stringent inspections than Chinese-American, Chinese-Mexican, and Chinese-national merchants residing in Mexico. F. W. Berkshire to Inspector in Charge, May 16, 1922, file 51941/10A, RG 85, National Archives, in *Records of the Immigration and Naturalization Service*, text-fiche, reel 1, frame 947–949.

¹²⁰ F. W. Berkshire, Supervising Inspector, El Paso, to Chief, Division of Passport Control, September 9, 1918, file 54410/331B, RG 85, National Archives.

¹²¹ Robert Hamilton, Secretary, Bisbee Chamber of Commerce to Henry Ashurst, June 24, 1925, file 55301/217, RG 85, National Archives, in *Records of the Immigration and Naturalization Service*, text-fiche, reel 1, frame 925.

¹²² Letter and petition from the Nogales Chamber of Commerce to the Secretary of Labor, March 3, 1922, file 51941/10A, RG 85, National Archives, in *Records of the Immigration and Naturalization Service* text-fiche, reel 1, frame 976–983; El Paso Chamber

to these protests, the Bureau of Immigration, by 1924, had authorized the issuance of border crossing cards to Chinese merchants living on either side of the border and who agreed to enter and depart the country from specific ports in California, Arizona, and Texas.¹²³ Moreover, that Chinese merchants, in particular, were permitted to enter and depart from Laredo, Eagle Pass, El Paso, Nogales, Calexico, and Tijuana was the result of intense lobbying efforts by border chambers of commerce.¹²⁴

All of this is not to say that southwestern immigration officials suspended their concerns about the enforcement of the Chinese exclusion laws or their own anti-Asian sentiments. Instead, it is to say that southwestern border officials created class-based exceptions for a small group of Asian, Asian-American, and Asian-Mexican merchants and, in so doing, acknowledged the importance of creating an immigration policy that did not obstruct border trade. As the commissioner general himself explained in the case of a Chinese national who obtained border crossing privileges, “Wong J. Hong did not claim citizenship, but admitted, on the other hand, that he is an alien. So extensive were his business interests in Mexicali and the country lying below that city, and so necessary did it appear for him to enter and depart from the United States at will in connection with his business enterprises that the Department made his case an exception.” To underscore the highly limited nature of this exemption, the commissioner general noted that the case of Wong J. Hong was not publicized so that “it might not be regarded as a precedent by other Chinese.”¹²⁵

As a further reflection of the Bureau’s ongoing concerns about Chinese immigration, the border crossing privileges issued to merchants of Chinese descent (residing in the United States) differed from those granted to

of Commerce to the Secretary of Labor, December 5, 1921, file 51941/10A, RG 85, in *Records of the Immigration and Naturalization Service* text-fiche, reel 1, frame 1024; Los Angeles Chamber of Commerce to the Secretary of Labor, May 12, 1922, file 51941/10-13, RG 85, in *Records of the Immigration and Naturalization Service* text-fiche, reel 2, frame 216–218.

¹²³ Robe Carl White, Second Assistant Secretary, Department of Labor, to Carl Hayden, April 29, 1924, file 51941/10A, RG 85, National Archives, in *Records of the Immigration and Naturalization Service* text-fiche, reel 1, frame 1025–1026.

¹²⁴ See, for example, *supra*, note 123.

¹²⁵ Commissioner General, Memorandum for the Secretary, June 22, 1920, file 54820/727, RG 85, National Archives.

non-Chinese immigrants.¹²⁶ American, European, Mexican, and Japanese nationals obtained border crossing cards under Rule 13 of the Immigration Laws and Rules. While at least one Chinese-American merchant sought to obtain a Section 13 border crossing card,¹²⁷ the Bureau ultimately chose to issue these merchants “citizens’ return certificates” under the more stringent Chinese exclusion laws. Meanwhile, Chinese-national merchants domiciled in the United States received Section 6 certificates (or “exempt return certificates”), which also were stipulated by the Chinese exclusion acts.¹²⁸ Because both certificates were only valid for six months, Chinese merchants seeking additional crossing privileges would have to re-apply and undergo another extensive examination verifying their merchant status, U.S. resident status, and, if applicable, U.S. citizenship. Once in possession of these certificates, Chinese merchants were required to cross and re-cross the border at designated ports so that the Bureau of Immigration could continually verify the merchant status of these men.¹²⁹

While the agency relaxed border crossing regulations for their benefit, border residents continued to complain about the impositions of the law. Furthermore, despite wartime concerns about border security, local residents demanded fewer restrictions and even an open border. Writing on behalf of San Diego’s business community, William Kettner, congressman for the 11th district of California called for “discontinuing war time restrictions against American citizens going into Mexico” since San Diego

¹²⁶ It appears, however, that Chinese-Mexican merchants were able to obtain either a Section 6 or a Section 13 certificate. Some Bureau officials raised questions about the disparity between the border crossing privileges granted to Chinese Mexican and Chinese American merchants. F. W. Berkshire, Supervising Inspector, Mexican Border District to Inspector in Charge, Los Angeles, California, June 1, 1922, file 51941/10-13, RG 85, National Archives, in *Records of the Immigration and Naturalization Service*, text-fiche, reel 2, frame 211–212.

¹²⁷ W. G. Becktell, Attorney, to Commissioner General of Immigration, San Francisco, May 13, 1920, file 54820/727, RG 85, National Archives (attorney for Sam Poy).

¹²⁸ Commissioner General, Memorandum for the Secretary, June 22, 1920, file 54820/727, RG 85, National Archives; Memorandum for the Second Assistant Secretary, April 3, 1924, file 51941/10-13, RG 85, National Archives, in *Records of the Immigration and Naturalization Service* text-fiche, reel 2, frame 27–29.

¹²⁹ See, for example, Harry L. Blee, Immigrant Inspector to Inspector in Charge, Immigration Service, Los Angeles, April 7, 1920, file 54820/455, RG 85, National Archives (correspondence attaching transcript of examination of Lee Thing).

businessmen were “at peace with the people of Lower California.”¹³⁰ According to Kettner, “full ingress and egress” was essential to the San Diego tourist industry, especially since the town was losing business to Los Angeles under the wartime passport and immigration restrictions. Even San Diego labor unions encouraged a relaxation of passport restrictions as a stimulus to the local economy.¹³¹ Similarly B. Rojo, ad interim *chargé d'affaires* for the Mexican embassy, requested a loosening of border crossing regulations between Presidio, Texas and Ojinaga, Mexico for the benefit of Mexican business.¹³² As the Bureau itself realized, any reprieve from the law failed to quell the complaints of border residents and only led to more calls for leniency.

While southwestern immigration officials created new policies for the benefit of border communities, they were not beholden to local interests. They had their own administrative reasons for pursuing alternative policies. Section 13 certificates, the temporary admissions program, and the literacy test waivers were intended to make life easier for immigration inspectors. No longer would the agency have to deal with the daily press of people seeking entry without a passport or seeking the promise of work. No longer would Bureau officials have to hold BSI hearings for illiterate border residents requesting special permission to shop or visit family members across the line. But instead of making things easier, these exemptions only made things worse. Thus, for example, Supervising Inspector Berkshire observed that the relaxation of passport regulations perpetuated the very problem it purported to solve:

Paradoxical as it may seem, every modification in the [passport] regulations made with a view to facilitating travel across the Border merely adds to the difficulties encountered. The reason is very simple. Relax-

¹³⁰ William Kettner, Congressman, 11th District, California, to Commissioner General, October 22, 1919, file 54410/331F, RG 85, National Archives.

¹³¹ H. M. Hubbard, Secretary, Building Trades Council of San Diego, to William B. Wilson, Secretary of Labor, October 29, 1919, file 54410/331F, RG 85, National Archives.

¹³² Juan B. Rojo, *Chargé d’Affaires* ad interim, Mexican Embassy to Frank L. Polk, Acting Secretary of State, July 1, 1919, file 54261/276A, RG 85, National Archives. Fletcher, Under Secretary of State to Secretary of Labor, October 31, 1921, file 54410/331J, RG 85, National Archives.

ation inevitably increases the volume of travelers to be handled and there is a physical limit to the number of travelers who can be handled by a permit agent under the most favorable circumstances.¹³³

Along with the exemptions to the passport laws, the agricultural labor program and the literacy test waivers generated more work for the Bureau of Immigration in the Southwest.

While the Bureau undertook extensive efforts to implement the Immigration Act of 1917, the Passport Act of 1918, and the exemptions to both statutes, it conceded that those efforts could not succeed without more money, manpower, and materiel.¹³⁴ This is not to say, however, that southwestern immigration officials gave up. Instead, they called for an end to their responsibilities under the passport law, which, among all of their administrative duties, they blamed for diverting their attention and resources away from immigration law enforcement.¹³⁵ More important, it was the agency's experience with the border crossing card program, the agricultural labor program, and the literacy test waivers that led it to call for the formation of a roving police unit that became the immigration Border Patrol.¹³⁶

The wartime mandates increased the responsibilities of the immigration officials on the Mexican border. The border crossing card and temporary admissions program placed a huge new population under the administrative supervision of the Bureau of Immigration. Populations, including agricultural laborers, border crossers, and American citizens, among others, that the Bureau once ignored now had to be processed, surveyed, and policed. Under the temporary admissions program, 72,862 Mexican farmworkers were admitted.¹³⁷ Upon the inception of the Passport Act, one State Department official estimated that 100,000 to 200,000

¹³³ F. W. Berkshire to Philip Adams, Chief, Division of Passport Control, State Department, September 8, 1920, file 54410/331H, RG 85, National Archives.

¹³⁴ For an account of the Bureau of Immigration's efforts to enforce the Passport Act, see Kang, "The Legal Construction of the Borderlands," 35–38.

¹³⁵ *Ibid.*, 45.

¹³⁶ Report of Supervising Inspector, Mexican Border District, Bureau of Immigration, *Annual Report, fiscal year ended June 30, 1918*, 320.

¹³⁷ Reisler, *By the Sweat of Their Brow*, 38. The Bureau, however, doubted the accuracy of these figures. Lacking the force to keep track of agricultural admissions, the Bureau relied on the accounting of employers who were believed to be lax in their

border crossers would need to obtain appropriate border crossing identification (be it in the form of passports, identification papers, or alien declarations).¹³⁸ Bureau figures further attest to the heavy workload created by the Passport Act. Between September 15, 1918 and June 30, 1919, District 23 (the Mexican Border District) issued 12,917 border permits to alien residents of the United States; 22,693 border permits to residents of Mexico; 15,413 citizens' identity cards to those residing in the U.S.; 362 citizens' identity cards to those residing in Mexico; and 14,130 one-trip tourist passes. During the same period, the agency reviewed the passports of 6,663 U.S. citizens entering the U.S. and 7,526 U.S. citizens departing the country.¹³⁹

Successful fulfillment of these tremendous responsibilities required an administrative infrastructure that did not exist. In its enforcement of the passport laws, labor importation program, and the immigration laws, the Bureau, time and again, found itself underfunded and understaffed. Furthermore, the exemptions to the Passport Act and the Immigration Act of 1917 had a negative impact on the Bureau's budget. Dependent primarily on head tax revenue and administrative fines, the Section 13 certificates and temporary admissions programs left the Bureau strapped for cash by waiving the head tax. These fiscal shortfalls, along with federal budget cuts and the wartime draft, prevented the Bureau from hiring more inspectors. Thus, at many ports of entry, the agency had no more than two inspectors on duty at a time processing applications, renewals, or cancellations of passport documents, in addition to handling regular immigration work.¹⁴⁰ Some southwestern offices tried to ease their workloads by temporarily hiring Army and Customs personnel; but their lack of familiarity with the

administration of agricultural laborers. Bureau of Immigration, *Annual Report, fiscal year ended June 30, 1920*, 427.

¹³⁸ Totten, "Report on Conditions," 12.

¹³⁹ George J. Harris, Acting Supervising Inspector, Mexican Border District to Secretary of State, August 6, 1919, file 54410/331F, RG 85, National Archives. Letter from George J. Harris, Acting Supervising Inspector to Commissioner General, August 8, 1919, file 54410/331F, RG 85, National Archives.

¹⁴⁰ Berkshire to Supervising Inspector, El Paso, October 18, 1920. E.P. Reynolds, Inspector in Charge, Brownsville to Inspector in Charge, Hidalgo, April 25, 1921, file 54410/331J, RG 85, National Archives.

immigration and passport laws often created confusion for immigrants.¹⁴¹ The general weaknesses of the agency lowered morale within the force and, as a result, some officers took a lax approach to passport enforcement so as to complete their immigration duties.¹⁴² It also led to *ad hoc*, delayed, or inconsistent implementation of the ever-changing passport policies, immigration laws, and the exceptions to both at the border.¹⁴³

The lapses in the agency's approach to border enforcement along with the repeated modifications of the Immigration Act of 1917 and the Passport Act of 1918 rendered the agency the subject of harsh criticism. Some attacked the agency for failing to close the nation's borders to the entry of alien enemies, as one border resident observed:

The immigration officials here make an effort to be as lenient as possible in the interpretation of the laws and the terms of the treaty existing between Mexico and the United States. Liberal instructions are given the field men in this respect. Inspectors and patrol officers are urged to cooperate with the local Mexican emigration authorities. There seems to be a tendency to lean ever backwards in this — as for example, the waiving of literacy requirements, the recognition of identification cards, permits, and the like in the case of temporary entry of visitors and laborers.¹⁴⁴

¹⁴¹ F. W. Berkshire, Supervising Inspector, El Paso, to Commissioner General, August 9, 1918, file 54152/1L, RG 85, National Archives (describing the confused conditions at Calexico where the Bureau of Immigration, Customs and the U.S. military all helped to enforce the passport laws).

¹⁴² A. A. Musgrave, Inspector in Charge, Calexico to F.W. Berkshire, April 12, 1918, file 54152/1J, RG 85, National Archives.

¹⁴³ A. A. Musgrave, Inspector in Charge, Calexico to F.W. Berkshire, December 14, 1917, file 54410/331A, RG 85, National Archives. F.W. Berkshire to Supervising Inspector, El Paso, September 10, 1918, file 54152/1F, RG 85, National Archives. George J. Harris to Commissioner General, January 19, 1920, file 54951/5, RG 85, National Archives. Alvey A. Adee, Second Assistant Secretary, Department of State to Anthony Caminetti, Commissioner General, April 6, 1918, file 54152/1I, RG 85, National Archives. R.M. Cousar, Inspector in Charge, Nogales, Arizona to Supervising Inspector, Mexican Border District, October 5, 1920, file 54410/331I, RG 85, National Archives. F.W. Berkshire to Inspector in Charge, El Paso, September 10, 1918, file 54410/331A, RG 85, National Archives.

¹⁴⁴ Thomas R. Taylor to D. Bendeen, Foreign Trade Secretary, Chamber of Commerce, El Paso, Texas, February 4, 1927, file 150.126/163, RG 59, National Archives.

This approach to immigration and passport law enforcement deeply concerned military officials. A Navy officer crossing the border at Laredo was shocked to find himself summarily waved across the line without an inspection. Writing to his superiors in the War Department, he noted, “it is a dangerous way to run such a service during war times and particularly on a frontier such as that of Mexico, which country harbors within its borders many of our enemies.”¹⁴⁵

The Bureau itself was also fully cognizant of the ways in which its administration of the laws left the border open to unwanted immigrants and potential alien enemies.¹⁴⁶ The temporary agricultural labor program sparked an increase in legal and illegal Mexican immigration that, according to the 1920 Annual Report, placed a “severe tax” on the agency.¹⁴⁷ Similarly, southwestern immigration inspectors reported that both official and unofficial literacy test waivers had been used by immigrants to achieve permanent domicile in the United States; as George J. Harris wrote in 1923, upon the inception of the literacy test in 1917 “thousands of aliens pleaded for and secured admission on the pretext that they were coming merely temporarily to make small purchases or to visit friends or relatives and took advantage of the opportunity to remain permanently.”¹⁴⁸

Immigrants also used their border crossing cards to circumvent the laws. In California, the Bureau discovered that Hirochi Nagasaki, a Japanese national residing on the U.S. side of the border, used his border crossing card to recruit Japanese immigrant laborers in Mexico to work on a 360-acre Calexico ranch that spanned the U.S.–Mexico border. Nagasaki was only one of 100 Japanese agriculturalists to whom the Bureau had issued border

¹⁴⁵ Letter from R. H. Van Deman, Colonel, General Staff, Chief Military Intelligence Section, War Department to Commissioner General, January 8, 1918, enclosing correspondence from E. McCuley, Jr., Commander, U.S. Navy, Assistant Director of Naval Intelligence, December 27, 1917, file 54152/1F, RG 85, National Archives. See also, Walter H. Sholes, American Consul, Nuevo Laredo, Mexico to Secretary of State, February 20, 1918, file 54152/1H, RG 85, National Archives; F. W. Berkshire, Supervising Inspector, Mexican Border District, to Secretary of State, November 6, 1919, file 54410/331F, RG 85, National Archives.

¹⁴⁶ Anthony Caminetti, Commissioner General to the Secretary of Labor, July 9, 1918, file 54261/202B, RG 85, National Archives.

¹⁴⁷ Bureau of Immigration, *Annual Report, fiscal year ended June 30, 1920*, 24.

¹⁴⁸ George J. Harris, Supervisor, to Commissioner General, May 24, 1923, file 54275/Gen., Pt. II, RG 85, National Archives.

crossing cards for the purpose of traveling to Mexico to lease or purchase agricultural lands.¹⁴⁹ Alarmed immigration agents wrote that Nagasaki had initiated a “Japanese invasion” of undocumented workers. To redress the problem, these particular agents did not call for the revocation of border crossing cards. Instead, they called for the creation of a border patrol.¹⁵⁰

It is important to note that multiple calls for a border patrol were made by various immigration inspectors posted along the U.S.–Mexico border. Bureau officials who administered the Passport Laws and the border crossing cards, inspectors who issued literacy test waivers, and inspectors who tried to enforce the provisions of the agricultural labor program all concluded that a roving patrol force was necessary for effective border enforcement.¹⁵¹ And these inspectors independently reached the same conclusion because they all understood the obstacles and problems surrounding immigration law enforcement on the U.S.–Mexico border. Indeed, in calling for a border patrol, southwestern Bureau officials acknowledged that, taken literally, the task of closing the nation’s borders to unwanted immigrants was impossible. As a result, in the minds of these immigration officials, an effective border enforcement policy needed to take place at the border itself and beyond. A mobile patrol force, operating in the nation’s interior, would be able to monitor and apprehend those immigrants who

¹⁴⁹ W. A. Brazie, Inspector in Charge, to Inspector in Charge, Los Angeles, January 27, 1920, file 54750/36A, RG 85, National Archives.

¹⁵⁰ Bureau of Immigration, *Annual Report, fiscal year ended June 30, 1919*, 24. For an account of the Bureau’s enforcement efforts against illegal Japanese immigrants, see Report of Supervising Inspector, District No. 23 in Bureau of Immigration, *Annual Report, fiscal year ended June 30, 1919*, 408–409; Report of Supervising Inspector, District No. 23 in Bureau of Immigration, *Annual Report, fiscal year ended June 30, 1920*, 440.

¹⁵¹ Department of Labor, Bureau of Immigration, Departmental Order, June 12, 1918, file 54261/202B, RG 85, National Archives (reports need for more manpower to track farmworkers once they have been admitted to the United States); George J. Harris, Assistant Supervising Inspector, Mexican Border District to Commissioner General, August 27, 1918, file 54410/331, RG 85, National Archives (proposes a mobile immigration force in response to problems created by passport law enforcement); Report of Supervising Inspector, Mexican Border District, Bureau of Immigration, *Annual Report, fiscal year ended June 30, 1918*, 319 (general call for border patrol); Bureau of Immigration, *Annual Report, fiscal year ended June 30, 1919*, 26 (call for a “patrol service” in response to illegal Chinese and Japanese immigration); Bureau of Immigration, *Annual Report, fiscal year ended June 30, 1921*, 12 (call for a border patrol to assist in enforcement of the Act of May 19, 1921, popularly known as the Quota Act of 1921).

had not only violated the letter of the immigration laws but also benefited from the exemptions to the Immigration Act of 1917 and the Passport Act of 1918 — exemptions created by the Bureau of Immigration itself.

While the Immigration Act of 1917 sharply curbed the numbers of Mexican immigrants seeking admission for permanent residence, it did not diminish the number of border crossers. By the mid-1920s, the regulation of these non-immigrant border crossers, rather than restriction of immigrants, became the central concern of the Bureau of Immigration. In 1928, the commissioner general of immigration underscored this point when he observed that the nation's borders had surpassed Ellis Island as the major ports of entry. On the Mexican and Canadian borders, he continued, "a great change has been taking place . . . steadily are they approaching a place of first importance in the scheme of things from an immigration standpoint. The fiscal year just closed witnessed a movement back and forth across these frontiers made up of citizens and aliens aggregating 53,000,000 entrants. Many of these, of course, were commuters, visitors, excursionists, etc."¹⁵²

In response to these conditions, Bureau of Immigration officials, for the remainder of the twentieth century, exercised their administrative discretion and constructed distinctive immigration policies for the borderlands. By carving out exceptions to the nation-bound premises of federal immigration laws, these policies reflected the agency's own recognition that statutes alone could not halt the circulation of peoples at the border. Between 1917 and 1924, at least three policy innovations — the wartime agricultural labor program, the literacy test waivers, and the border crossing card, were devised to satisfy the immediate needs of border residents and border officials rather than the aspirations of immigration restrictionists.

Yet, these amendments to the immigration and passport laws only generated new quandaries, such as heavier workloads, and aggravated old ones, particularly illegal immigration. The Bureau's own policy innovations became, in Pressman and Wildavsky's words, the "analytical equivalent

¹⁵² U.S. Department of Labor, Bureau of Immigration, *Annual Report of the Commissioner General of Immigration to the Secretary of Labor, fiscal year ended June 30, 1928* (Washington, D.C.: GPO, 1917), 10.

of original sin.”¹⁵³ Put differently, the Bureau of Immigration created the very phenomenon — the so-called problem of illegal immigration — that it was mandated to resolve. By 1924, the Bureau formed the Border Patrol to shore up the weaknesses in its border enforcement strategy; in possession of sweeping powers, this mobile immigration force would have the ability to pursue and apprehend undocumented immigrants at the border, between the ports of entry, and within the nation’s interior. But, because immigration officials would continue to devise policies for border residents, the Border Patrol acted not only to remedy what nativists construed as the ethical and cultural shortcomings of illegal immigrants but also to absolve the administrative sins of the Bureau of Immigration itself.

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¹⁵³ Pressman and Wildavsky, *Implementation*, 180.