

The Birth of Immigration Law in the United States

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Introduction

Some anthropologists believe humans first migrated to the western hemisphere from Siberia about 35,000 years ago via a land bridge; and some anthropologists suggest humans may have followed the northern Pacific coast by boat down to the Americas from Siberia. Regardless of how they got to the continent, it is believed that as these early humans trickled into the continent, and split into branches that spread south and east. By at least 4,200 years ago descendants of these early humans had migrated to populate the entire Western Hemisphere... but why did these early people (who, in the fifteenth century, Christopher Columbus misnamed "Indians") migrate in the first place? ... The answer is quite simple: some were fleeing perceived intolerable living conditions and others were in search of food. In reality, overall, they were evolving and surviving in an unforgiving world.

Fast-forward to the fifteenth century- why did the British, the French, and other Europeans take to sail across the Atlantic Ocean? Were they looking for adventure, or were they purely seeking to escape the ravages of nearly constant warfare in both Europe and Britain in the late 1400's? Well, it turns out it was both. It would not be an easy endeavor, however; the British, the French, and other European's saw promise and opportunity for a better life in a newly discovered land. The first few attempts at establishing settlements in America were

unsuccessful. Sadly, people eager to make a home in the New World- succumbed to the harsh untamed land. Although the actual fates of the earliest colonial settlers in America is not known, this did not deter thousands of others to follow in their footsteps; in fact, in some ways it made those who came later even more determined to succeed.

In the eighteenth century, after the defeat of Britain in the American Revolution (1775-1783), the First United States Congress passed an immigration law titled the "1790 Naturalization Act." This law established a set of rules (or principles) for immigrants to follow if they wanted to become a naturalized citizen of the United States of America. In 1795, the Third United States Congress repealed the 1790 Naturalization Act and replaced it with the 1795 Naturalization Act; this new law built upon the 1790 law; then in 1798 Congress passed the Alien and Sedition Act. Nevertheless, why did the United States of America's government feel compelled to establish any laws related to people coming to the United States of America in the first place? Were the laws an attempt to protect the country, or were they trying to keep certain people out of the country? Furthermore, why did the founders of the Constitution insist on having sovereign borders? To these questions, one must understand why and how the United States of America came to be, as well as understand the extreme hardships and suffering people endured in order to establish the United States of America.

Chapter 1: The Peopling of the New World

“Being now passed the vast ocean, and a sea of troubles before them in expectations, they had now no friends to welcome them, nor inns to entertain or refresh their weatherbeaten bodies, no houses, or much less town, to repair to, to seek for succor... if they looked behind them, there was a mighty ocean which they had passed, and was now as a main bar or gulf to separate them from all the civil parts of the world... What could now sustain them but the spirit of God and his grace?”¹

In essence, Colonial America was the result of a constant cycle of movement of peoples from England and Europe for resettling in a newly discovered land referred to in the fifteenth century as “The New World.” By 1610, hundreds of newcomers had endured harsh conditions in cramped sailing vessels to cross the Atlantic Ocean in search of a new life in a new land. Some of the first Jamestown, Virginia settlers were English farmers who had been driven from their homes in the old country- their desire was to procure land; others were unemployed laborers and tradesmen- they were willing to take a chance on a new life in a new world. Overtime, however, the majority of people coming to Jamestown came as indentured servants; they traded labor for ship passage.

Overall, life in the Jamestown colony was extremely difficult. By the end of its first year of establishment in 1607, two-thirds of its settlers had perished. In 1609,

¹ An excerpt from a narrative written by William Bradford, the man who led the pilgrim settlers when they arrived at Cape Cod in 1630. Retrieved from page 27 of Wilfred M. McClay’s book titled *Land of Hope: An Invitation to the Great American Story*. Published by Encounter Books in 2019.

six hundred settlers arrived to replenish the colony; and in 1610, four hundred more arrived; unfortunately, by the end of the 1610 winter only about sixty settlers had survived.² However difficult the trip across the ocean was, people continued to flee their old country. By 1619, Jamestown was firmly established; they had a legislative assembly and their own colonial government.³ By the early 1620's, Jamestown was self-supporting and traded regularly with England.

Another colony founded by the English was Plymouth, Massachusetts. Unlike the settlers of Jamestown who were motivated primarily by material considerations, this colony consisted of those who fled Britain because of religious persecution;⁴ the Plymouth settlement was founded in 1620. The main goal of the founders of this colony was to propagate and advance their religion in the new world. Initially, the hard working people of Plymouth did not fair well... in their inaugural year, only fifty out of about one hundred people lived to make it through the first winter. Population wise, Plymouth did not grow as large as Jamestown however; a small

² Dennis Wepman, *An Eyewitness History, Immigration: From the Founding of Virginia to the Closing of Ellis Island* (New York: Facts on File, Inc., 2002), 4.

³ Dennis Wepman, *An Eyewitness History, Immigration: From the Founding of Virginia to the Closing of Ellis Island* (New York: Facts on File, Inc., 2002), 5.

⁴ Wilfred M. McClay, *Land of Hope: An Invitation to the Great American Story* (New York: Encounter Books, 2019), 25.

amount of immigrants did join it each year until eventually it was absorbed by another colony in the area in 1691.⁵

In 1630, the Massachusetts Bay Company of England sent seventeen ships filled with passengers that were fleeing war or religious persecution in their country to a harbor north of Plymouth. Similar to Jamestown, this settlement slowly grew in population of which many were laborers and indentured servants (unfortunately, those who arrived as indentured servants sometimes found themselves in conditions similar to that of chattel slavery). This settlement, primarily made up of English immigrants, resulted in the initiation of a massive migration. In the next ten years, approximately 21,000 people fled their old world in search of opportunity and prosperity in America.⁶

Over time, more communities formed and grew into what eventually became thirteen Colonies. The last of these colonies was Georgia; chiseled out of Carolina territory, it was founded in 1732. Although by the end of the third quarter of the eighteenth century a majority of people who populated the colonies was from England, there were immigrants from European countries. For example, the Swedish settled on the Delaware River near present day Wilmington; and the Dutch

⁵ Dennis Wepman, *An Eyewitness History, Immigration: From the Founding of Virginia to the Closing of Ellis Island* (New York: Facts on File, Inc., 2002), 9.

⁶ Dennis Wepman, *An Eyewitness History, Immigration: From the Founding of Virginia to the Closing of Ellis Island* (New York: Facts on File, Inc., 2002), 20.

established fur-trading posts and eventually purchased Manhattan Island from the Indians. Early on in the seventeenth century, conditions were so bad in Germany that thousands of people fled the country; most went to America and eventually established themselves in all of the colonies. Toward the end of the seventeenth century, due to religious persecution and political issues, thousands of people fled France as well; these people risk the sea voyage to start over in America; many of them settled in the areas of Carolina, New York, Massachusetts, and Pennsylvania. In addition, in 1699 the French established their own colonies in the region that is now Louisiana and Mississippi; they also established colonies in the Caribbean.⁷ Most importantly, by the end of the seventeenth century, America was no longer dependent upon England for its peopling.

⁷ Dennis Wepman, *An Eyewitness History, Immigration: From the Founding of Virginia to the Closing of Ellis Island* (New York: Facts on File, Inc., 2002), 22.

Chapter 2: Revolution in the Air

“Too long our patient country wears her chains,
 Too long our wealth all-grasping Britain drains:
 Why still a handmaid to that distant Land?
 Why still subservient to their proud command?”

Philip Freneau, a New York born son
 of a French immigrant.⁸

In general, many of the English immigrants came to America to escape political oppression, or religious intolerance, or economic hardship, or all three. Accordingly, they felt no loyalty to England. Regarding immigrants from other nations, this fact was especially so; in short, those who came to America from Scotland, Ireland, Wales, the Netherlands, Sweden, France, Germany, and other countries had absolutely no ties to the British government nor to England itself. Thus, in 1763 after the British government tried to impose laws and restrictions on America, the colonists reacted with strong animosity. Succinctly, the colonists knew very well that Britain depended on America for its raw materials and manufacturing; they also depended on America’s market for British goods; concisely, one-seventh of England’s trade was with the American colonies.⁹ Added

⁸ Quote retrieved from page 62 of Dennis Wepman’s *An Eyewitness History, Immigration: From the Founding of Virginia to the Closing of Ellis Island*. Published in 2002 by Facts on File, Inc., New York.

⁹ Dennis Wepman, *An Eyewitness History, Immigration: From the Founding of Virginia to the Closing of Ellis Island* (New York: Facts on File, Inc., 2002), 46, 47.

to this fact, there was a sense of national identity developing in America, which to a certain extent united the colonists.

Overall, in the early days of America most colonists identified more with England than they did with each other; however, over the years, as colonists settled, then established families and had children who were born in America their ties to England waned. Furthermore, as British rule became more oppressive, the colonists bound together in common interests on the land that gave them refuge. Fundamentally, the English approach to the colonization of America was decentralized and autonomous in ways that reflected their fondness of enterprise and commerce. Thus, what the colonists learned and acquired in the New World was the habit of self-rule.¹⁰ Therefore, once Britain became assertive and heavy-handed the colonists pushed back. In 1774 Patrick Henry declared: “The distinctions between Virginians, Pennsylvanians, New Yorkers, and New Englanders are no more, I am not a Virginian, but an American.” In 1775, the first open armed conflict between the English Army and the colonial militia took place at Lexington and Concord, Massachusetts. On July 4, 1776, the colonies finally declared their independence from England. Shortly thereafter England suspended immigration to America.

¹⁰ Wilfred M. McClay, *Land of Hope: An Invitation to the Great American Story* (New York: Encounter Books, 2019), 23.

Chapter 3: War and Immigration

America's descent into full-blown revolution against England began with the Sugar Act-which introduced to the colonists, a trade tax. Next was the Stamp Act; this act introduced proposed duties on twelve items commonly used by the colonists. Then came the Quartering Act-which forced colonists to pay for British soldiers accommodations in America. Following the Quartering Act came an increasing number of British customs agents at American ports. Then the Currency Act, which restricted issuance of paper money in the colonies and forced American money to have the same value as the pound that circulated in England.¹¹ The Coercive Acts, which stripped Massachusetts of self-government following the Boston Tea Party, pushed the colonies even more, which in-turn caused them to organize an opposition which then lead to the key battles at Lexington and Concord Massachusetts in the spring of 1775.¹²

When the British Parliament enacted the Stamp Act of 1765, it was the first time Parliament had attempted to directly tax the colonists.¹³ Although many colonists questioned some of the other imposed taxes, "nothing in fact that the

¹¹ William Doyle, *The French Revolution: A Very Short Introduction* (Oxford: Oxford University Press, 2001), 77.

¹² William Doyle, *The French Revolution: A Very Short Introduction* (Oxford: Oxford University Press, 2001), 123-135.

¹³ William Doyle, *The French Revolution: A Very Short Introduction* (Oxford: Oxford University Press, 2001), 31.

parent state (England) had ever done in one hundred and fifty years provoked such widespread fury as the Stamp Act."¹⁴ Economically linked merchants and workers shared similar concerns about the new tax.¹⁵ They combined to adopt and enforce embargoes of British trade vessels; these embargoes were designed to force the British Parliament to repeal the Stamp Act.¹⁶

At their root, the American colonies originated independently from the British government; they were also physically separated by the vast Atlantic Ocean. Thus, they flourished in local self-determination.¹⁷ Overall, it was the British Parliament's desire to dominate the colonies and extract more taxes from them that lead to extreme actions, then war, in America.

Although the Revolutionary War ended the regular flow of English immigrants to America, it did attract foreign adventurers and dreamers from various countries who were keen on joining the war effort however; not all of them originally sided with the Americans. After France recognized American independence in late 1777, more than four thousand French volunteers came to

¹⁴ William Doyle, *The French Revolution: A Very Short Introduction* (Oxford: Oxford University Press, 2001), 31.

¹⁵ William Doyle, *The French Revolution: A Very Short Introduction* (Oxford: Oxford University Press, 2001), 35.

¹⁶ William Doyle, *The French Revolution: A Very Short Introduction* (Oxford: Oxford University Press, 2001), 35.

¹⁷ R. R. Palmer, *The Challenge: The Age of the Democratic Revolution* (Princeton: Princeton University Press, 1989), 190.

the aid of America; in 1781 the French fought alongside George Washington's troops in the Battle of Yorktown. In addition, a French naval fleet prevented the British from providing support to ground troops in this battle which aided in Washington's victory and ended the fighting. Very few, possibly none, of the Frenchmen who survived the battles of this war remained in the American colonies, however.

Two Germans and two Polish also came to the aid of America. The first German was Friedrich Wilhelm von Steuben. Von Steuben arrived in America in 1777; he was appointed as inspector general and was assigned to train the American troops that formed the early Continental army. Von Steuben fought with valor during the war; after the war, he became an American citizen and lived in New York until his death in 1794. The second German was Johann Kalb. Kalb fought with distinction and was killed in battle by the British in 1780. Thaddeus Kosciusk was an engineer from Poland; he built fortifications at West Point from 1778 to 1780; he died in Switzerland in 1817. Count Casimir Pulaski, also from Poland, joined the American army in 1777. He received a commission as a general in 1778, and was killed in battle in 1779.

As for the British army, they heavily recruited German troops to their side. Fortunately for the American colonies, although the Germans were well trained in classical military maneuvers, they were not overly interested in this war and thus

they did not fight with staunch fervor. Nevertheless, the huge number of Germans recruited and brought to America by the British army alarmed the Americans. To induce them to desert the British army, the 1776 American Congress passed a bill that offered free land to any member of the British army who chose to switch sides. Additionally, in December of 1776, after a short but victorious battle with German forces who were aiding the British, General George Washington captured the Germans who survived the battle. Many of these German prisoners chose to support America; and at the end of the war, they joined their fellow immigrants and blended into German communities in Virginia, Pennsylvania, and Maryland.

After the signing of the Treaty of Paris in 1783, the American Revolution officially ended and to a certain extent normal immigration to the United States of America resumed. However, by this point, not all Americans were thrilled about having open borders or allowing just anyone to become a United States citizen. Some Americans felt strongly about establishing guidance in the form of laws for immigrants who wanted to become a naturalized citizen.

By the time England had enacted new tax laws in the American colonies the colonies themselves had matured. They had grown into an entity of their own; and to such an extent, they had become self sufficient and wanted independence from the English Monarchy. So when Great Britain actively tried to collect the taxes, the colonies rebelled and pushed back; their defense- the authority by which the tax

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