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# “A New Non-Entity”: Border Commuters, the Peyton Strike, and the Adverse Effect Standard in Immigration Law, 1958–1972

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*This article uses a 1958–1962 strike at the Peyton Packing Company in El Paso, Texas, to examine how labor unions in the U.S.–Mexico borderlands used racial stereotypes and Cold War paranoia to influence the adoption of a more rigorous labor certification standard for those applying for a visa to enter the United States. Ultimately, labor unions and Mexican American workers sought to end the practice of border commuting by adopting and advancing the language of immigration restriction deployed by many Mexican American civil rights leaders of the era. This rhetoric ignored pleas for improving the minimum wage laws and protections and overlooked the fact that many border commuters wanted to migrate to the United States, but were often prevented from doing so by existing immigration laws. This case study forces historians of immigration and labor to reassess the role that labor unions played in helping to make the 1965 Hart-Cellar Act more exclusionary than previously thought.*

In 1968 Fred Martinez, an agricultural labor organizer, expressed his concerns about what he called a new type of “non-entity” that existed in limbo between the United States and Mexico. Martinez told two officials from the Department of Labor that he tried to help several farm workers get workers’ compensation but was unsuccessful because the workers were classified as “border commuters” (Figure 1). These two men were authorized to live in the United States, but instead decided to live in Mexico and cross the border daily to reach their jobs. Since they did not reside in the United States, they were ineligible for many social welfare and labor protection programs. Since they did not work in Mexico, they were also excluded from that country’s social safety net. A troubled Martinez suggested that the Department of Labor enact reforms that allowed border commuters to obtain protections and rights from the United States.<sup>1</sup>

The controversy over border commuters forms a remarkable and forgotten chapter in the history of labor and immigration in the U.S.–Mexico borderlands. Martinez’s testimony took place in a set of month-long hearings about border commuting convened by Senator Ted Kennedy. These hearings were the culmination of a decade-long conflict over the legal status of border commuters. Border commuting had a long history in borderlands cities, and many workers argued that these commuting workers decreased wages and undermined unionization efforts. To end the practice, labor unions initiated legal challenges that ended up in the United States Supreme Court. Even though these lawsuits did not end the practice of border commuting, labor unions were able to win concessions that made it much more difficult for Mexican workers to obtain the authorization to move back and forth between Mexico and the United

<sup>1</sup>Select Commission on Western Hemisphere Immigration, *The Impact of Commuter Aliens along the Mexican and Canadian Borders; Hearings Before the Select Commission on Western Hemisphere Immigration: Part II, San Diego, California, February 9–10, 1968* (Washington DC, 1968), 123.



**Figure 1.** Peyton strikers dubbed this the “commuter express.” Workers claimed that this bus transported strikebreakers that resided in Juárez. These workers held green cards and were legally authorized to work and reside in the United States. “Peyton Heat,” *Texas Labor Advocate*, March 10, 1961.

States. Ultimately, this article argues that labor unions adopted a restrictionist stance against border commuters that resulted in the creation of tougher standards for those applying to immigrate to the United States. These new immigration regulations were meant to target border commuters from Mexico but became applicable to all immigrants who sought to enter the United States. These new stringent regulations targeted nonwhite immigrants and reinforced a racial hierarchy within the United States’ immigration policy.

Border commuting has a long history. The informal act of crossing the boundary line daily to work, shop, or attend school is an old practice, but in 1927 the Immigration and Naturalization Service (INS) began to regulate temporary border crossing by issuing permits and cards.<sup>2</sup> While always controversial in border cities, green card commuting became a volatile political issue in the 1950s when a unionization drive ignited the controversy amidst the back-drop of the Bracero Program and increased temporary and circular migration from Mexico.

This article uses the history of a strike at a meatpacking plant in El Paso, Texas, to understand how border commuting was an important facet in the debate over immigration in the 1950s and 1960s.<sup>3</sup> Workers at the Peyton Packing Plant went on strike in 1959 after the company’s managers refused to negotiate with the Amalgamated Meatcutters and Butcher Workmen of North America (AMC). When Peyton’s managers hired border commuters to replace the striking workers, the AMC successfully protested the employment of what they called “alien strikebreakers” to the INS and Department of Labor (DOL). This initial victory spurred a wider legal challenge to the practice and produced a new INS standard for determining the admission of nonresident immigrants. This strengthened rule was known as the

<sup>2</sup>S. Debbie Kang, *The INS on the Line: Making Immigration Law on the US–Mexico Border, 1917–1954* (New York, 2017).

<sup>3</sup>INS officials recognized and regulated border-commuting by granting Mexican nationals an I-151 form. This document was both a registration card and entry document that granted the bearer the official status of “nonresident alien.” Throughout this article I use the term “border commuter,” “green-card commuter,” “daily border crosser,” and “nonresident immigrant” interchangeably. Labor leaders of the time used the term “alien commuter” and “alien strikebreaker,” and those terms are used only when quoting those sources.

“adverse effect standard,” and required visa applicants to prove that their employment in the United States would not lead to a decrease in the wage rate for laborers in similar occupations. According to Raymond Farrell—the INS Commissioner and close friend of many labor leaders—surveys and research demonstrated that this this new test was so effective that it should be incorporated into the 1965 Immigration and Nationality Act as the new standard for determining a worker’s eligibility to immigrate to the United States.<sup>4</sup>

The revelation that many of the Peyton strikers were themselves border commuters complicated the union’s legal campaign. The question of whether or not to unionize border commuters or to end the practice was a key problem among workers and labor leaders across the borderlands during this time. Rank-and-file workers and El Paso labor leaders alike suggested that more rigorous wage laws and regulations were the answer to poor working conditions in border cities. The Texas AFL-CIO’s response was to challenge the practice, and this had important consequences for American and Mexican workers. Leaders of the Peyton Strike, such as Sam Twedell, pushed this action not because he was anti-Mexican, per se, but because he thought that full-time residence in the U.S. and the rights of citizenship were the only paths toward social equality.

Even though the Peyton Strike is less well known than other postwar strikes, its significance has far-reaching implications for borderlands, immigration, and labor history. Recent works have detailed how the INS and Border Patrol were law-making bodies as well as law enforcement agencies. This essay, unlike previous works that focus on growers, places labor unions front and center. From this case study, it becomes clear that labor unions forced the INS to enforce immigration restriction much more stringently because of the controversy surrounding border commuters. The Peyton Strike is a key example of how the Department of Labor often thwarted and contested the INS and Department of State’s impetus to cater to growers and other employers. Labor Department officials consistently interpreted the law surrounding border commuters in favor of labor unions. This episode may be the exception that proves the rule. After all, INS officials tended to ally themselves with growers, but this particular exception still led to dramatic consequences for American immigration policy.<sup>5</sup>

The Peyton strike suggests that liberal labor unions played a key role in augmenting immigration policy. Recently, historians of social movements and migration have suggested that labor unions softened their stance toward immigration in the 1970s. Other works have highlighted the Texas AFL-CIO as the sparkplug for a liberal coalition in Texas that united laborites, liberals, Mexican Americans, and African Americans. But the organization of this Texas liberal coalition depended upon who they excluded as much as who they included. And border commuters, despite their legal rights as workers, remained beyond the pale for the Texas AFL-CIO. For other liberals like Sam Twedell—the AMC organizer who led the Peyton Strike—opposition to border commuting was based on a misguided assumption about the magnanimity of U.S. immigration policy. Twedell and others thought that abolishing the legal category of border commuting would cause nonresident immigrants to move to the United States and enjoy the fruits of full citizenship and belonging. Such a notion ignored the harsh realities of an

<sup>4</sup>Raymond F. Farrell to Richard M. Scammon, Jan. 12, 1968, folder 39: Mexico, 1968–1979, box 68, Office of the President Files, George Meany, 1947–1960, RG1.02, Meany Labor Archives, University of Maryland at College Park, College Park, MD.

<sup>5</sup>Kitty Calavita, *Inside the State: The Bracero Program, Immigration and the I.N.S.* (New York, 1992), 153–4; Kang, *The INS on the Line*; Kelly Lytle-Hernández, *Migra! A History of the U.S. Border Patrol* (Berkeley, CA, 2010); Julian Lim, *Porous Borders: Multiracial Migrations and the Law in the U.S.–Mexico Borderlands* (Chapel Hill, NC, 2017); Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton, NJ, 2014); Zaragosa Vargas, *Labor Rights Are Civil Rights: Mexican American Workers in Twentieth-Century America* (Princeton, NJ, 2005); Vicki Ruiz, *From Out of the Shadows: Mexican Women in Twentieth Century America* (New York, 2008); and Frank Bardacke, *Trampling Out the Vintage: Cesar Chavez and the Two Souls of the United Farm Workers* (New York, 2011).

immigration system that disfavored people whose origins rested in Mexico and Latin America. Even if the new standard curtailed the number of new migrants, the number of unsanctioned border crossers continued to grow.<sup>6</sup>

It is important to note that it was not just Anglo workers and labor leaders who deployed anti-foreigner, red-baiting rhetoric. Many Mexican American civil rights leaders aimed to restrict the immigration of Mexican nationals. In fact, the termination of the border commuter status was so popular that labor leaders across Texas and the U.S. Southwest hoped to recruit more Mexican American union members by advertising their legal campaign to end green card commuting. Unlike previous works, this case study highlights how Mexican Americans viewed the struggle for labor rights and civil rights in the U.S. Southwest and U.S.–Mexico borderlands during the 1950s and 1960s as being wedded directly to the status of citizenship. Such a formulation left border commuters and undocumented migrants outside of the realm of political possibility for many Mexican Americans. Mexican Americans' conceptions of rights left little room for noncitizens.<sup>7</sup>

By examining the Peyton Strike and its effects, this article aims to integrate this study of border commuting into the history of U.S. immigration laws. Histories of both border commuting and the 1965 Hart-Celler Act have not reckoned with the legacy that border commuting has had for the current state of U.S. immigration laws. Historians of the U.S.–Canada border have plumbed debates over border commuters to understand the political, economic, labor, and racial effects of the practice in places like Detroit, but the controversy along the northern boundary fizzled out early in the twentieth century.<sup>8</sup> As it pertains to U.S.–Mexico border, the historical literature is replete with studies about Braceros as well as the larger history of migration, but there are very few studies of border commuters. Meanwhile, histories of the 1965 Immigration and Nationality Act have neglected to understand how border commuters influenced that legislation. Once lauded as a progressive reform to a racist immigration system, more recent histories take the law to task for the way it limits the number of non-white immigrants from Latin America, the Caribbean, Africa, and Asia. By integrating a history of border commuting along the U.S.–Mexico border into a broader history of post-1965 immigration, we see how the “adverse effect standard” both provides a link and rupture with previous immigration laws. The Peyton Strike and its aftermath allows us to understand how a timeworn practice in the U.S.–Mexico border gave legislators a tool to limit the migration of nonwhite people to the United States.<sup>9</sup>

<sup>6</sup>Ana Minian, *Undocumented Lives: The Untold Story of Mexican Migration* (Cambridge, MA, 2018); Max Krochmal, *Blue Texas: The Making of Multiracial Democratic Coalition in the Civil Rights Era* (Chapel Hill, NC, 2016) Vargas, *Labor Rights Are Civil Rights*; Vicki Ruiz, *From Out of the Shadows: Mexican Women in Twentieth Century America* (New York, 2008); David G. Gutiérrez, *Walls and Mirrors: Mexican Americans, Mexican Immigrants, and the Politics of Ethnicity* (Berkeley, CA, 1995).

<sup>7</sup>Carlos Kevin Blanton, “The Citizenship Sacrifice: Mexican Americans, the Saunders-Leonard Report, and the Politics of Immigration, 1951–1952,” *Western Historical Quarterly* 40 (Autumn 2009): 299–320; George J. Sánchez, *Becoming Mexican American: Ethnicity, Culture, and Identity in Chicago Los Angeles, 1900–1945* (New York, 1995); Gutiérrez, *Walls and Mirrors*.

<sup>8</sup>Thomas A. Klug, “Residents by Day, Visitors by Night: The Origins of the Alien Commuter on the U.S.–Canadian Border during the 1920s,” *Michigan Historical Review* 34, no. 2 (Fall 2008): 88–90; Ashley Johnson Bavery, “The Problem of Canadian Day Laborers,” chap. 3 in *Bootlegged Aliens: Immigration Politics on America's Northern Border*, unpublished manuscript in possession of author, 139–143. For recent work that examines the role of border commuters on the U.S.–Mexico border, see Alina R. Méndez, “Cheap for Whom? Migration, Farm Labor, and Social Reproduction in the Imperial Valley–Mexicali Borderlands, 1942–1969,” PhD diss. (University of California, San Diego, 2017); and Maria Gamboa, “Commuters, Green-Carders, and Semi-Legal Wetbacks: The History of a Border Immigration Practice 1927–1968,” unpublished manuscript in possession of author.

<sup>9</sup>Margaret Sands Orchowski, *The Law that Changed the Face of America: The Immigration and Nationality Act of 1965* (Lanham, MD, 2015); Gabriel J. Chin, ed., *The Immigration and National Act of 1965: Legislating a New America* (Cambridge, UK, 2018); Erika Lee, *America for Americans: A History of Xenophobia in the United*

## The Legal Origins of Border Commuting

The legal definition of the border commuter developed as a result of the 1924 Immigration Act. Previous INS regulations during World War I provided exceptions to limits on immigration, but the 1924 law created a loophole that allowed immigrants from quota countries to enter the United States from Canada or Mexico with a temporary visitor visa on a daily basis.<sup>10</sup> The AFL pressured the INS to close this loophole in 1927 by classifying daily border crossers from quota countries as immigrants subject to quota limitations upon their first entry.<sup>11</sup> This new regulation, however, did not apply to Mexican or Canadian nationals. After 1927, a Mexican or Canadian national needed to obtain a passport from a Mexican consul, fill out an application with the U.S. Immigration and Naturalization Service and pay a fee of \$50. If the applicant passed a physical exam, they were given an I-151 form, which acted as both a registration and entry document.<sup>12</sup>

The Detroit–Windsor borderlands was the center of the border commuter controversy in the 1920s, but the issue began to settle when more Canadian commuters joined unions. By the 1960s, border commuters along the U.S.–Canada border were so uncontroversial that when a UAW official testified at a congressional hearing on border commuters in Detroit, he did not talk about the northern border, but instead directed his attention toward the U.S.–Mexico border. “The U.S.–Canadian border ... poses no problems” with labor according to the AFL-CIO official, but he argued that the issue of “green carders” along the border of Mexico was “particularly disquieting.”<sup>13</sup>

Unlike the U.S.–Canada borderlands, many cities along the U.S.–Mexico border counted a large number of workers that moved back and forth between the two countries. Some of these commuters were employed on farms and fields, but the majority of these daily crossers were urban workers. As a result, many border commuters were clustered in the cities that straddled the U.S.–Mexico divide.<sup>14</sup>

Even though places like San Diego and Laredo claimed many daily border crossers, El Paso’s border commuter force was purported to be the largest. El Paso’s location on the boundary line, diverse economy, its relatively large size, and the large population of its sister city, Ciudad Juárez, made it the ideal locale for “green card commuters.” El Paso’s daily border crossers found employment in hotels, restaurants, department stores and shops, steel mills, factories, and meatpacking plants. And with bridges that led directly into neighboring Juárez, it was quite easy for many people to go back and forth between the two cities. Observers commented on the droves of shoppers and workers who crossed from Juárez into El Paso on foot, by car, or in a streetcar. El Paso and Juárez formed one large interlocking economic and cultural unit.<sup>15</sup>

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*States* (New York, 2019); Jia Lynn Yang, *A Mighty and Irresistible Tide: The Epic Struggle over American Immigration, 1924–1965* (New York, 2020); Minian, *Undocumented Lives*.

<sup>10</sup>Kang, *The INS on the Line*, 11–20; Monica Perales, *Smelertown: Making and Remembering a Southwest Border Community* (Chapel Hill, NC, 2005), 40–1.

<sup>11</sup>Lawrence A. Herzog, “Border Commuter Workers and Transfrontier Metropolitan Structure along the United States–Mexico Border,” *Journal of Borderland Studies* 5, no. 2 (1990): 4; Roger A. LaBrucherie, “Aliens in the Fields: The ‘Green Card Commuter’ under the Immigration and Naturalization Laws,” *Stanford Law Review* 21, no. 6 (June 1969): 1750–4; Klug, “Residents by Day,” 88–90; Johnson Bavery, “Canadian Day Laborers,” 139–43.

<sup>12</sup>Johnson Bavery, “Canadian Day Laborers,” 140, 150, 161–3.

<sup>13</sup>Hearings before the U.S. Select Commission on Western Hemisphere Immigration on the Impact of Commuter Aliens along the Mexican and Canadian Borders, Part 3: Brownsville, TX, March 1–2, 1968 and Part 4: Detroit, MI, March 8, 1968 (Washington, DC, 1969), 174.

<sup>14</sup>Bureau of Employment Security, Office of Farm Labor Service, “The ‘Commuter’ Problem and Low Wages and Unemployment in American Cities on the Mexican Border,” U.S. Department of Labor Report, Apr. 1967.

<sup>15</sup>Charles J. Morris to John Westburg, Mar. 2, 1960, folder 124.53.5. Peyton Packing Co. Correspondence, Mar. 1960, box 53, AR 124, Sam Twedell Papers, University of Texas at Arlington Special Collections, Arlington, TX [hereafter Twedell Papers]; Oscar J. Martínez, *Ciudad Juárez: Saga of a Legendary Border City* (Tucson, AZ, 2018), 120–1.

The closeness of El Paso and Juárez was also reflected in how Peyton Packing Company's facilities were located on land that was once in Mexico. Founded in 1915, the Peyton Company operated on a spit of land known as El Chamizal. This area was once part of Mexico but became attached to El Paso when a bend in the Rio Grande River shifted south during a storm in the 1860s.<sup>16</sup> The United States returned portions of the Chamizal to Mexico in 1964, but the questionable sovereignty of the area did not preclude people from living and working there prior to the exchange. By the 1960s, El Chamizal was home to hundreds of people and businesses. According to one historian, this area was a "liminal space in every sense." A city dump, railroad switching yards, and an iron works were located alongside the Peyton Packing Company's feed lots and slaughter operations.<sup>17</sup>

As a space that literally and figuratively straddled the U.S.–Mexico boundary, El Chamizal made many workers and employers quite nervous. In fact, the managers of Peyton suggested that the close supervision of their employees was necessary because they feared that the plant's proximity to Mexico allowed workers to smuggle meat and other products through tunnels.<sup>18</sup> But the nearness to Mexico did not just make Peyton executives nervous; many Mexican Americans in El Paso and along the border complained about how the availability of workers in Juárez undermined the job security of U.S. citizens.

Beginning in the 1920s, El Paso's Central Labor Union (CLU) pointed to the wide availability of labor in nearby Mexico as an obstacle for improved working conditions in the city. In 1919 the Laundry Workers' Union formed an affiliate at El Paso's Acme Laundry. When Acme refused to recognize the local, 200 employees struck. The stoppage spread to other facilities and involved nearly 600 workers. Rather than capitulate to workers' demands, employers hired 500 new workers, many from nearby Juárez.<sup>19</sup> El Paso employers deployed this tactic time and again, much to the consternation of workers and organizers.

After World War II, many Mexican Americans that lived along the U.S.–Mexico border linked the practice of temporary crossing to the Bracero Program (1942–1964). Officially known as the Farm Labor Agreement, this policy allowed U.S. employers to recruit and employ Mexican nationals. The Bracero Program initially sought to fill labor shortages caused by World War II, but agricultural interests in the U.S. Southwest pressured Congress to continue the program well into the 1960s. Many Mexican Americans grumbled about the fact that many Braceros became border commuters once their contracts ended. By the mid-1950s, workers in El Paso complained that a combination of Braceros, undocumented immigrants, and border commuters led to low wage rates throughout the U.S.–Mexico borderlands.

Mexican American civil rights leaders heightened the opposition toward permanent, temporary, and circular migrants. In the 1940s, the League of United Latin American Citizens opposed the Bracero Program. Hector Garcia, the founder of the American GI Forum, also raised concerns over the connection between undocumented immigration, Braceros, and the poverty and racial discrimination that Mexican Americans faced. In 1951, Garcia and his allies supported a controversial study called *The Wetback in the Lower Rio Grande Valley of Texas*, which, according to historian Carlos Kevin Blanton, was castigated as racist and anti-immigrant

<sup>16</sup>Jeffrey M. Schulze, "The Chamizal Blues: El Paso, the Wayward River, and the Peoples in Between," *Western Historical Quarterly* 43 (Autumn 2012): 301–2; Jerry E. Mueller, *Restless River: International Law and the Behavior of the Rio Grande* (El Paso, TX, 1975), 37–42.

<sup>17</sup>C. J. Alvarez, *Border Land, Border Water: A History of Construction on the U.S.–Mexico Divide* (Austin, TX, 2019), 147; Sam Twedell, "The Big Stink," folder 124-55-1, box 55, Twedell Papers.

<sup>18</sup>United States of America Before the National Labor Relations Board, Sixteenth Region, Case No. 33-CA-512, In the Matter of Peyton Packing Company, Inc. and Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO, Motion to Reopen Record, folder 124-5-3, box 55, Twedell Papers; "Rats' Must Take Lie Test at Peyton," (El Paso) *Texas Labor Advocate*, Apr. 28, 1961, 1.

<sup>19</sup>Garcia, *Desert Immigrants*, 97–9.

by a more established cadre of Mexican American activists.<sup>20</sup> In 1954 the GI Forum and the Texas State Federation of Labor released *What Price Wetbacks?* The authors of *What Price Wetbacks?*, Ed Idar, Jr. and Andrew McLellan, were associated with the Texas labor and Mexican American civil rights movements and used their pamphlet to demonstrate their claim that “undocumented migration from Mexico to the United States ... [was] the root cause of the foundering of Mexican Americans at the lower end of the economic ladder.” The GI Forum’s support of these publications and of the Border Patrol’s deportation drive of 1954 demonstrated that many Mexican Americans “emphasized citizenship over racial or cultural solidarity.”<sup>21</sup>

And even though this opposition was not overtly hostile to Mexican migrants, it isolated Mexican nationals in classist and racialized terms. The rhetoric directed at migrant workers and border commuters depicted these laborers as “aliens” and unreliable allies in the struggle for labor and civil rights. Labor leaders hoped to leverage the restrictionist sentiments among Mexican Americans to win unionization campaigns in places like El Paso, Texas.

### The Peyton Packing Strike and the Making of the “Alien Strikebreaker”

In August 1958, Peyton workers reached out to the AMC because they were upset about the company’s poor wages. Peyton’s workers labored at rates that were lower than employees in similar plants. Ham and beef boners at Peyton only earned \$1.15 an hour, but those knife workers commanded an hourly wage of \$1.90 at similar Armour and Wilson plants. Sam Twedell, an experienced AMC organizer, spearheaded the certification campaign. By September of the same year, the Peyton workers elected the AMC as their bargaining representative. Twedell began negotiations over a new labor contract in October and these meetings continued fruitlessly until February 1959. On March 2, 1959, the workers chose to strike until the owners recognized the union and negotiated a labor contract (see [Figure 2](#)).<sup>22</sup>

From the outset, Twedell trumpeted the importance of the organizing campaign for the AMC and the larger labor movement in the U.S. Southwest and South. Geographic transformation and technological changes threw the meatpacking industry into upheaval after World War II. The expansion of interstate highways in the 1950s allowed packers to build new plants in the countryside to cut down on transportation costs, but also to draw upon the large amounts of non-unionized labor in southern and western states. Machines that automated butchering and self-service meat departments in supermarkets led to job losses for meatcutters in the packing-house and retail settings. The migration of many northerners to southern and western cities meant that the demand shifted in those directions as well. For those reasons, the AMC saw its power in the meatpacking heartland of the Midwest and Great Plains decline. The AMC needed more dues-paying members and plant contracts in the South and West.<sup>23</sup> Twedell told the AMC’s main leadership in Chicago that “the importance of the Peyton Strike cannot be underestimated” because contract negotiations with many of the large meatpackers resumed

<sup>20</sup>Blanton, *Citizenship Sacrifice*, 299–320.

<sup>21</sup>Cristina Salinas, *Managed Migrations: Growers, Farmworkers, and Border Enforcement in the Twentieth Century* (Austin, TX, 2018), 177–82; Blanton, “The Citizenship Sacrifice,” 301, 304, 311, 308.

<sup>22</sup>Sam Twedell to Officers and Members of All Amalgamated Local Unions and Members of the International Organizing Staff, Jan. 1960, folder 124-53-3, box 53, Twedell Papers; David Brody, *The Butcher Workmen: A Study in Organization* (Cambridge, MA, 1964), 195; Interview with Marvin Shady by Virgilio H. Sánchez, Oscar J. Martínez, and Mario Galdos, 1979, “Interview no. 388,” Institute of Oral History, University of Texas at El Paso, El Paso, TX; “Peyton Company Attempts to Hide Real Strike Issues,” (El Paso) *Texas Labor Advocate*, May 22, 1959, 1.

<sup>23</sup>Roger Horowitz, *Negro and White: Unite and Fight! A Social History of Industrial Unionism in Meatpacking, 1939–90* (Urbana, IL, 1997), 247–9; Brody, *The Butcher Workmen*, 188–91; Rick Halpern, *Down on the Killing Floor: Black and White Workers in Chicago’s Packinghouses, 1904–54* (Urbana, IL, 1997), 247.



**Figure 2.** Unidentified Peyton employees take a break from picketing the plant's entrance. According to oral histories, strikers built this canopy after the management at Peyton cut down a copse of mesquite trees that the workers previously used as shade. Photo courtesy of the University of Texas at Arlington Special Collections.

in 1962. A victory in Peyton—which was the largest meat processor between Fort Worth, Texas, and Phoenix, Arizona—could pave the way for more members across the Sunbelt.<sup>24</sup>

Twedell was a seasoned organizer who used harsh anticommunist rhetoric as well as more conventional tactics to help convince people that border commuters harmed themselves and their coworkers by refusing to move to the United States. In order to win support for the strikers and make more people aware of the problems border commuters posed, Twedell deployed both conventional and more extraordinary legal tactics. The conventional tactics included boycotts and pickets. Workers stood outside local grocery stores and handed out buttons asking patrons to avoid buying Peyton products because the company used unfair tactics against the strikers. Picketers also told patrons about how the company was unjustly hiring “alien strikebreakers” (see [Figure 3](#)). More importantly, Twedell acted upon this rhetoric when he organized a lawsuit to bar border commuters from working in the U.S.

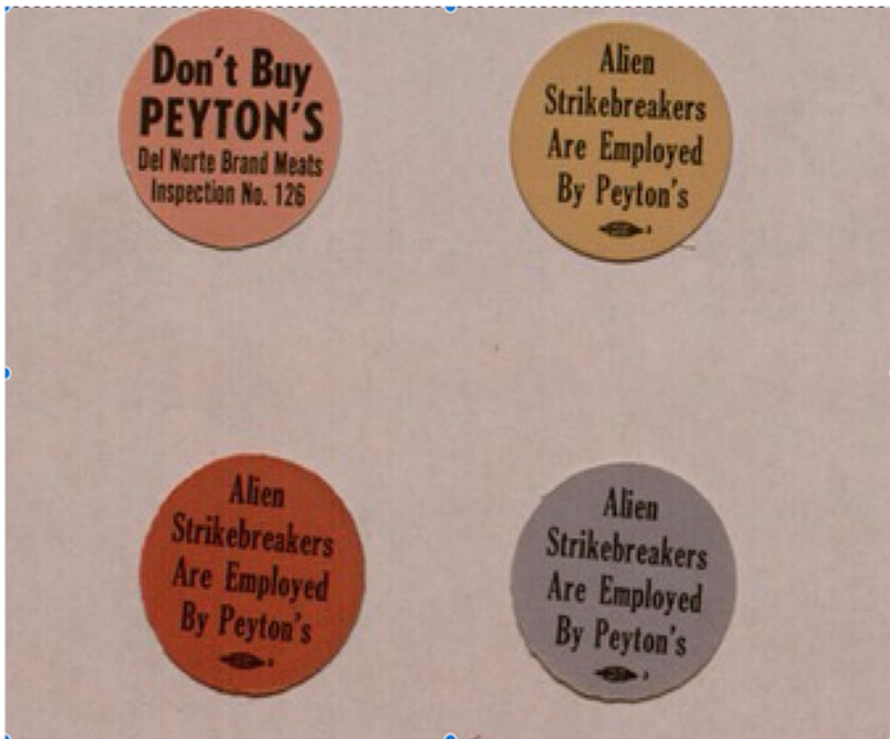
At first, Twedell's legal strategy aimed to deprive Peyton Packing Company with laborers who were willing to cross the picket line. On December 28, 1959, the AMC's legal team petitioned Attorney General William P. Rogers and Immigration and Naturalization Commissioner Joseph M. Swing to bar the entrance of “250 green card commuters” who were working at the struck plant. According to Twedell, Peyton hired these commuters after the Department of Labor had declared that a labor dispute existed at the Peyton Plant.<sup>25</sup>

On January 20, 1960, Secretary of Labor Jim Mitchell declared that the green card commuters who were working as strikebreakers at the Peyton Plant had an “adverse effect” on the wages and working conditions of American workers. INS officers in El Paso then notified sixty workers at the Peyton plant that they were illegally employed. According to Department of Labor

<sup>24</sup>Sam Twedell, Memo to the Officers and Members of All Amalgamated Local Unions and Members of the International Organizing Staff, January 1960, folder 124-53-3, box 53, Twedell Papers; “Meat Cutters Continue Battle Against Peyton,” (El Paso) *Texas Labor Advocate*, July 24, 1959, 1.

<sup>25</sup>Sam Twedell to Patrick E. Gorman, Dec. 1959; Sam Twedell to Patrick E. Gorman, Jan. 20, 1960; Ralph Sanders to Sam Twedell, Jan. 19, 1960, all in folder 124-53-3, box 53, Twedell Papers.





**Figure 3.** Buttons distributed by Peyton picketers in front of local grocery stores asked consumers to boycott the Peyton Packing Company's Del Norte-branded products because the company hired nonresident green card labor after many workers went on strike. What these buttons do not tell consumers is that many of the strikers resided in Mexico even though they were legally authorized to work and live in the United States. Photo courtesy of the Texas Labor Archives, University of Texas at Arlington Special Collections.

regulations, the hiring of nonresident immigrants after the emergence of a strike was considered an “unfair labor practice,” so any green card commuters hired before the strike could continue to work at the plant.<sup>26</sup>

Twedell, however, did not assent to the INS's distinction based on the date of employment and charged the immigration officials of willfully misreading the Department of Labor's order. According to Twedell, the 1952 McCarran-Walter Act allowed the Department of Labor to exclude any immigrants who were likely to lower the wages and working conditions of American laborers and did not draw distinctions based on the date of hire. Twedell pursued this argument in a series of *mandamus* lawsuits.

Twedell's partially successful bid to bar “alien strikebreakers” from working at Peyton put pressure on INS and local El Paso officials to crack down on green card commuters. The AMC received assurances that the Border Patrol would check Peyton every week to make sure that no new commuters were hired as strikebreakers. INS agents also intercepted commuters crossing the Santa Fe bridge. On one day in March of 1960, officers revoked fifty-four I-151 forms as commuters crossed the bridge.<sup>27</sup>

Local observers cheered the “heat” that was being applied to Peyton, but this increased scrutiny terrified many border commuters. Daily border crossers resorted to sleeping in El Paso hotels, Peyton's cafeteria, or even in their cars in parking lots around the city. Twedell and other elements within the labor movement in Texas were further emboldened when the

<sup>26</sup>Charles J. Morris to Sam Twedell, Jan. 26, 1960, folder 124-53-3, box 53, Twedell Papers.

<sup>27</sup>Patrick E. Gorman to the International Executive Board, Mar. 7, 1962, folder 124-54-9, box 53, Twedell Papers.

*Wall Street Journal* publicized many of the major concerns surrounding green card commuters.<sup>28</sup>

Many historians may be surprised that the INS cooperated so carefully with labor unions, but the red-baiting rhetoric about the dangers posed by border commuters may help explain this departure from other episodes in INS history. Since the opponents to border commuting castigated nonresident immigrants as national security threats, federal officials may have felt more pressure to act. Such a practice dated back to the early twentieth century. One historian has recounted how in 1919, the El Paso CLU protested when Fort Bliss hired a crew of laborers from Ciudad Juárez, claiming that they were “un-American” and “owed their allegiance to another country.” Anticommuter rhetoric began to paint nonresident immigrants as communists in the 1930s and 1940s. El Paso law enforcement argued that there was “hands across the border” policy between El Paso and Juárez communists. After 1947, noncitizen labor organizers such as Humberto Sílex and Luisa Moreno were targeted for deportation in a postwar climate that was increasingly hostile to foreigners and communist sympathizers.<sup>29</sup>

Twedell harnessed fears about communist conspiracies to motivate officials to stop issuing I-151 forms. The city’s reliance on border commuters could bring negative publicity because “Juarez, Mexico was a cesspool of Communist activity.” Officials risked border commuters causing a national security crisis because, according to Twedell, many daily crossers “work [ed] on military bases; others work as construction workers on missile launching sites.”<sup>30</sup>

The use of anticommunist rhetoric makes sense when we consider the AMC’s historic membership categories, which tended to skew toward more conservative members. Ever since the 1930s, the AMC had historically appealed to old-stock Irish immigrants who considered themselves “aristocrats of the yards.”<sup>31</sup> AMC butchers tended to be politically conservative and less apt to invite nonwhite or more recent immigrants to join their union. Throughout the 1930s and 1940s, Gorman consistently railed against “communistic elements” taking over the AMC and the packinghouse unions. By the time of the Peyton Strike, the AFL-CIO had disciplined its Leftist elements by expelling members and disaffiliating with unions. As a result, Twedell’s use of term “alien” to gin up anticommunist sentiment may seem a bit histrionic but it was not a significant departure from the rhetoric of the time.

During the summer of 1961, white labor leaders in El Paso and in the AMC’s national office in Chicago heightened their “alien” rhetoric when they asked Secretary of Labor Arthur Goldberg to close the bridges that connected Ciudad Juárez and El Paso, Texas. The treasurer of the AMC, Patrick E. Gorman, “urge[d] [the] immediate closing of border bridges to prevent the flood of alien commuters.”<sup>32</sup> The demand to close El Paso’s international bridges threw the conflict into stark relief. Mexican nationals stood arrayed against Anglos and Mexican Americans who claimed U.S. citizenship. Bridge closings drew hard and fast boundaries over who was entitled to work in the U.S.

After a few days, Goldberg reversed his decision after business and political leaders from the United States and Mexico forced him to consider the economic consequences of the bridge closings. Similarly, the Mexican ambassador to the United States told Goldberg that a bridge closure would cripple the economies of border cities like Juárez and Nuevo Laredo because residents would not have the wages necessary to pay rent and utility bills or to patronize local shops and businesses. The ambassador appealed to the United States’ Alliance for Progress

<sup>28</sup>Patrick E. Gorman to Twedell, July 31, 1961, folder 124-54-6, box 54, Twedell Papers; “U.S. Puts Heat on Peyton,” (El Paso) *Texas Labor Advocate*, Mar. 10, 1961, 1.

<sup>29</sup>García, *Desert Immigrants*, 104; Mario T. García, *Mexican Americans: Leadership, Ideology, and Identity, 1930–1960* (New Haven, CT, 1989), 184, 198.

<sup>30</sup>“Determination and Certification to Exclude Alien Strikebreakers from Peyton Packing Company Employment,” folder 124-55-7, box 55, Twedell Papers.

<sup>31</sup>Halpern, *Down on the Killing Floor*, 115

<sup>32</sup>George F. Webber to Arthur J. Goldberg, June 21, 1961, folder 124-54-5, box 53, Twedell Papers.

and Good Neighbor Policies to reinforce his appeal that “closure would be risky politically, economically, and diplomatically in El Paso.”<sup>33</sup> Instead of a labor relations problem, the situation became a diplomatic and economic problem. As a result, both local labor leaders and political observers from across the state of Texas grew uncertain about the effectiveness of painting the green card commuter as a dangerous and subversive “alien.”

As the strike continued, labor leaders became uneasy about the strategy of labeling green card commuters as “aliens.” In September 1962, Felix Nakovic, the head of El Paso’s Central Labor Union, stated that he did not “hate these poor Mexicans who are undercutting our jobs and keeping us from organizing.” Nakovic and others conceded that banning new green card commuters alone would not lead to increased wages or better working conditions because there were “very few instances where an employer will need to do more than advertise in the newspaper to recruit strikebreakers in Texas.” According to this labor leader, Peyton found it “easier and cheaper to obtain strikebreakers across the river.” Both workers and labor leaders recognized the fact that green card commuters were not the cause of low unionization rates, low wages, and poor working conditions in El Paso and other border cities, but instead were a symptom of the power of local businesses and employers.<sup>34</sup>

The discussions that Twedell and other strike leaders had about the potential to organize Mexicans living in Juárez reveals how Anglos racialized ethnic Mexicans regardless of their citizenship or immigration status. Even though union leaders continued to support the Peyton strikers, it was clear that many of the AMC officers did not trust the commuters who lived in Ciudad Juárez or Mexican Americans who claimed El Paso as their home. During one of the many conversations about the immigration status of the Peyton strikers, Gorman told Twedell that he was “disturbed” by “information that some of our own strikers still live in Old Mexico.” Gorman demanded that these strikers move to the United States, or the AMC would cut their strike assistance benefits in half, but Twedell resisted this suggestion.

In November 1960, Gorman informed Twedell that the “the Mexican community of El Paso” thought that the “Peyton Strike was lost.” But these strikers also considered the AMC to be “very generous ... and very rich.” According to Gorman, Peyton workers’ “racial loyalties” were “greater than their union loyalties.” It seemed that the AMC’s secretary-treasurer thought that many of the Mexican Americans who resided in El Paso retained strong ties to Mexico and that this connection prevented them from committing to the trade union movement. Gorman confirmed his suspicions on a nighttime tour of Juárez in April 1961 when he suggested that his “American-born” taxi driver spoke with a “broken Mexican accent.”<sup>35</sup> Even though many Mexican Americans, like Ed Idar, Jr., valued U.S. citizenship above the cultural or ethnic ties they held with Mexican migrants, many Anglos such as Gorman viewed all ethnic Mexicans through a racialized lens.<sup>36</sup>

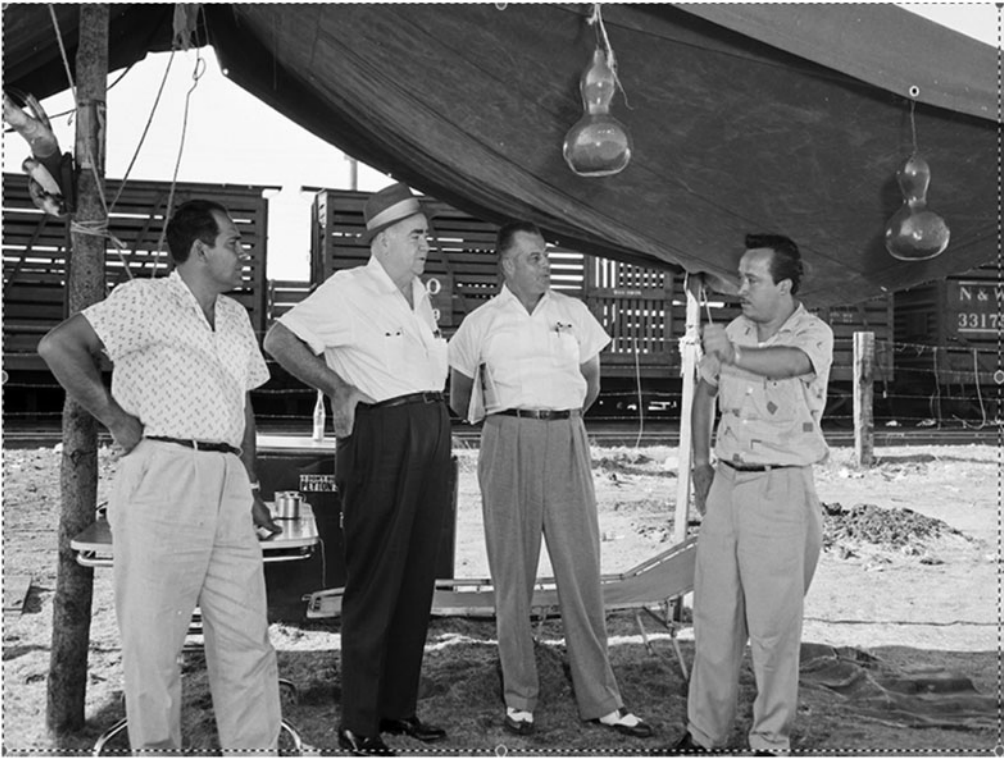
Twedell pushed back against Gorman’s broad generalizations even as he continued to deploy his caustic red-baiting rhetoric because he prioritized unionization and citizenship as the key to improving the conditions of El Paso’s laborers. Twedell balked when asked to cut the strike benefits of Peyton workers. Twedell also appeared on the picket line to build bonhomie among the workers. He felt so strongly about the importance of this strike that he reportedly provided money out of his own pocket so that some Peyton strikers would not default on car payments or mortgages (see [Figure 4](#)). When the INS suspended the I-151 status of two Peyton strikers

<sup>33</sup>Harwood, “Commuting Mexican Workers”; Chandler Davidson, “Commuters Only One Problem: Border Solution a Long Way Off,” *Texas Observer* 54, no. 27 (Oct. 5, 1962): 1.

<sup>34</sup>Chandler Davidson, “‘We’re Not Isolationist’: Labor Stake High in Alien Dispute,” *Texas Observer* 54, no. 26 (Sept. 28, 1962): 1; Charles Morris to Glen M. Larsen, July 17, 1961, folder 124-54-6, box 54, Twedell Papers.

<sup>35</sup>Sam Twedell to Patrick Gorman, Nov. 21, 1960, Folder 124-53-1; Gorman to Twedell, Dec. 8, 1960, Folder 124-53-1; Gorman to Twedell, Apr. 13, 1961, Folder 124-54-4, all in box 53, Twedell Papers.

<sup>36</sup>For more on the debates and conflicts between Mexican Americans and Mexican migrants, see Blanton, “The Citizenship Sacrifice,” 299–320.



**Figure 4.** Sam Twedell (second from left), international vice president of the Amalgamated Meatcutters and Butcher Workmen of North America (AMC) and one of the lead organizers of the Peyton Strike, visits with AMC organizer Ralph Sanders (third from left) and two Peyton Strikers named Alfreda Aguellar (far left) and Carlos Soto (far right). Photo courtesy of Texas Labor Archives, University of Texas at Arlington Special Collections.

who commuted between Juárez and El Paso, Twedell orchestrated the legal defense that reinstated the crossing privileges of the union activists. It was clear that Twedell considered the Peyton strikers to be the “core of the labor movement in El Paso” and represented the beginnings of a larger organization drive in Texas, the South, and Southwest.<sup>37</sup>

Ultimately, Twedell disagreed with his Anglo AMC colleagues because he, like many Mexican American leaders of the era, thought that the civil rights granted by U.S. citizenship to Mexican Americans provided the key tools for social progress and equality. Twedell and other organizers in Texas based these claims on the presumption that most of the commuters that worked for Peyton hoped to move to the United States permanently once they had saved enough money.<sup>38</sup> In Twedell’s mind, border commuters were temporarily delayed from moving to the United States because of low wages. Barring commuters and raising wages could fix this problem. Such claims proved to be naïve and unaware of U.S. immigration laws, but the belief that most commuters hoped to become actual residents of the El Paso inspired much of

<sup>37</sup>Interview with Marvin Shady by Virgilio H. Sánchez, Oscar J. Martínez, and Mario Galdos, 1979, “Interview no. 388,” Institute of Oral History, University of Texas at El Paso; United States Department of Justice, Immigration and Naturalization Service, El Paso, Texas, Before A. K. Moe, Special Inquiry Officer, Exclusion Proceedings for Gilberto Sanchez-Holcombe (File No. A7-993-612) and Pedro Ortega-Ortega (File No. A1-894-509), May 18, 1961, folder 124-5-3, box 55, Twedell Papers; Patrick E. Gorman to Sam Twedell, Mar. 20, 1961, folder 124-54-3, Peyton Packing Co. Correspondence, Mar. 1961, Twedell Papers.

<sup>38</sup>Sam Twedell to Patrick E. Gorman, Mar. 17, 1961, folder 124-54-3, box 54, Twedell Papers; Davidson, “We’re Not Isolationist.”

Twedell's devotion to the Peyton strike. Twedell's harsh rhetoric targeting "alien" strikebreakers made it difficult for green card commuters to find work.

The AMC's move to bar "alien strikebreakers" produced immediate and life-changing circumstances for dozens of commuters, who found that their main avenue of employment had been revoked. Non-unionized commuters, such as Ruben Nares, who had worked as a meat-grinder at the Peyton Packing Company for many years, stated that losing his I-151 status posed a great economic hardship for him and his family. Other workers found that they could not enter the "United States to work at any place, let alone the Peyton Packing Company." The economic and personal havoc caused by the sudden change in their work authorization status became permanent because the "present visas of these strikebreakers will expire" soon and were "unlikely to be renewed."<sup>39</sup> But this was just the beginning of the dramatic transformations in the lives of many border commuters because Twedell and his allies now sought to challenge the legality of green card commuters *in toto*.<sup>40</sup>

### The Texas AFL-CIO Commuter Lawsuit, Union Recruitment, and the Emergence of the Adverse Effect Standard

Emboldened by the INS's decision not to renew the I-151 status of "alien strikebreakers," leaders of the AMC decided to test a legal theory that most border commuters were not actual immigrants. In April 1960, the AMC asked the U.S. District Court in Washington, DC, to determine if daily border crossers could be classified as immigrants. This brief was built upon Twedell's claim that the INS did not enforce the law properly when it allowed green card commuters who began working at the plant before the strike began to continue their employment with Peyton.<sup>41</sup>

The judge's ruling in the Peyton Strike questioned the propriety of the border commuter practice and motivated the Texas labor movement to pursue a lawsuit that could end the commuter practice. In 1960 Judge Luther Youngdahl surmised that the status of the border commuter was an "amiable fiction." Youngdahl determined that Peyton's employment of any and all green card commuters was an unfair labor practice and ordered the INS to bar all the 250 border commuters that the AMC said were working at the striking plant. By ignoring the non-residential character of the border commuter, the INS made "a shambles of a provision ... which was newly designed ... to assure strong safeguards for American labor." The opinion's underlying logic assailed the practice of border commuting at its very core. Youngdahl contended that the 1952 Immigration and Nationality Act, which laid out the adverse effect standard, was intended to protect American workers from unfair competition. Allowing Juárez commuters with much lower costs of living to compete with American workers depressed both wages and working conditions and violated this law.<sup>42</sup>

In the meantime, the AMC's legal, boycott, and public relations strategies proved too much for the Peyton Packing Company's owners. In the spring of 1962, the owners sold the company to the John Morell Company. Based on its compact with the AMC, Morrell guaranteed substantial employee wage increases. This was a dramatic win for the AMC and Peyton strikers, who earned a contract that was comparable to the agreements found in the large meatpacking plants of major production centers such as Kansas City, Omaha, and Chicago.<sup>43</sup>

<sup>39</sup>Twedell to Gorman, Feb. 4, 1961, folder 154-54-2, box 54, Twedell Papers.

<sup>40</sup>"Unions Applaud County Alien Ban," *Texas Labor Advocate*, Mar. 17, 1961, 1.

<sup>41</sup>Press Release, Apr. 4, 1960, folder 124-53-5, box 53, Twedell Papers.

<sup>42</sup>*AFL-CIO vs. William P. Rogers and Joseph M. Swing*, Civil Action No. 3630-59, folder 124-5-3, box 55, Twedell Papers; "Peyton Strike Bolstered: Judge Bars Aliens as Strikebreakers," *Texas Labor Advocate*, July 22, 1960, 1; LaBrucherie, "Aliens in the Fields," 1757.

<sup>43</sup>Patrick E. Gorman to Sam Twedell, Apr. 13, 1962, folder 124-54-9, box 53, Twedell Papers; and "Strikers Return Monday," (El Paso) *Texas Labor Advocate*, Apr. 27, 1962, 1.

While this was a victory for the many ethnic Mexican workers that participated in pickets and boycotts, it is also important to consider how Twedell's pressure on the INS tipped the scales in favor of the strikers. The boycott cut into Peyton's sales, but the increased INS pressure on green card commuters made it hard for the plant's managers to "recruit a killing gang." The success of barring "alien strikebreakers" was not lost on Twedell, who hoped to orchestrate another lawsuit to strengthen the restrictions that targeted green card commuters.<sup>44</sup>

Despite the new publicity from the successful strike, leaders of the union were not eager to take up a costly lawsuit after such a long and expensive strike. The AMC withdrew from this legal action in order to focus on other organizing drives and major contract negotiations. But the Texas AFL-CIO picked up where the Meatcutters left off.

Feeling that Youngdahl's opinion was a strong precedent, the Texas AFL-CIO aimed to litigate the border commuter out of existence after the Peyton strike's end. The Texas AFL-CIO's lawsuit escalated the restrictionist rhetoric first deployed by the AMC. By claiming foreign citizens were "flooding" domestic markets, the federation took solutions such as more robust federal labor protections off the table and instead ensured that a diplomatic solution would be needed to resolve the crisis. And this exclusionary language forces a reappraisal of labor's role in a 1960s liberal coalition in Texas.

The lawsuit financed by the Texas AFL-CIO—known as *Texas AFL-CIO vs. Kennedy*—reveals the limits of labor-led civil rights outreach. In the early 1960s, the Texas AFL-CIO catalyzed a so-called "liberal" or "Democratic Coalition." Newspaper accounts referred to a dynamic new alliance between laborites, white liberals, Mexican Americans, and African American activists. But this lawsuit demonstrates that much of the Texas AFL-CIO's appeal among workers in South Texas came not from its quest for civil rights, but from the exclusion of noncitizen workers from Mexico.

The Texas AFL-CIO's lawsuit was a *mandamus* petition that sought to compel the Attorney General to enforce the 1952 Immigration and Nationality Act. The legal strategy aimed to circumscribe the INS's ability to grant residential visas to workers who did not have an intention of moving to the United States. Lawyers and labor leaders thought that Youngdahl's 1960 opinion provided a strong precedent for the claim. But the Texas AFL-CIO also thought that the lawsuit could prove to be an effective recruitment tool.<sup>45</sup>

The Texas AFL-CIO hoped to accomplish two things with its lawsuit. First, it hoped to end unfair labor competition and halt the downward pressure on wages that green card commuters caused. Second, it thought that the lawsuit could persuade more Mexican Americans to join unions. Leaders within the Texas AFL-CIO told each other that a "victory in the 'commuter' case" would "enhance the stature of the AFL-CIO in an area where enhancement is badly needed."<sup>46</sup> By stating its opposition to labor competition from Mexico, Texas labor leaders hoped to earn the trust and dues of Mexican Americans across the U.S.–Mexico borderlands.

Prominent Mexican American civil rights leaders lent credibility to labor's drive to end border commuting by supporting the Texas AFL-CIO's lawsuit. The American GI Forum national conference publicly called on the INS to work with the Texas AFL-CIO for a "solution" to the border commuter "problem."<sup>47</sup> Ed Idar, Jr., the author of *What Price Wetbacks?* and a prominent supporter of the GI Forum, publicized the border commuter issue and the Texas AFL-CIO's lawsuit.<sup>48</sup> After the GI Forum publicized the issue, Idar completed a speaking tour of South Texas to amplify the GI Forum's oppositional rhetoric to border

<sup>44</sup>Sam Twedell to Patrick E. Gorman, Mar. 10, 1961, folder 124-54-3, Twedell Papers.

<sup>45</sup>Krochmal, *Blue Texas*, 2.

<sup>46</sup>*Texas AFL-CIO vs. Atty. Gen. Robert Kennedy, the U.S. Immigration and Naturalization Service et al.*, folder 110-7-2-9, box 2, Mexican American Affairs Committee Records, University of Texas at Arlington Special Collections, Arlington, TX [hereafter Mexican American Affairs].

<sup>47</sup>Bob Sanchez, "The Commuter Problem," Apr. 1960, folder 110-7-1-4, box 1, Mexican American Affairs.

<sup>48</sup>Bob Sanchez to Hank Brown, July 31, 1961, folder 110-7-2-2 box 2, Mexican American Affairs.

commuting. In packed gymnasiums in border towns like Del Rio, Texas, Idar and his colleague Bob Sanchez addressed “heavily enthusiastic crowds” about the dangers of border commuters. Idar ended every speech by telling the audience about the “Texas State AFL-CIO’s sponsorship of the new commuter case,” which he thought “sold the organization well” to the Mexican Americans across the borderlands.<sup>49</sup>

Even though Mexican Americans may have supported the lawsuit, national, state, and local leaders thought that it was wrong to target border commuters. Members of the AFL-CIO’s national office suggested that focusing on border commuters made labor unions look “anti-Mexican.” Instead, national leaders and rank-and-file workers implored the Texas AFL-CIO to focus on more positive fixes like the minimum wage, which would benefit Mexican American workers. Mexican American leader Bert Corona criticized the AFL-CIO’s “regressive policies” toward *mexicanos*. One union member from Del Rio told the leaders of the state labor federation that the “‘green card’ holder” was “a legal worker” who needed “minimum wage coverage” and “stronger enforcement” of already existing employment regulations. A Texas state representative also told leaders of the Texas AFL-CIO that a “minimum wage law ... would help the commuter problem.” Criticisms of Twedell’s mode of organizing also dated back several years. In the late 1930s and 1940s, organizer Humberto Sílex encouraged Spanish-speaking Mexican American workers to visit Juárez to convince Mexican workers to join unions.<sup>50</sup>

Some border commuters, many of whom were members of the AWCA, filed a brief in opposition to the Texas AFL-CIO’s lawsuit. These nonresident immigrants described how the wages from commuting helped them support ill or elderly members of their families. Juárez commuters also demonstrated how difficult it would be for them to permanently move to the United States because members of their families could be classified as public charges. The brief filed by border commuters reveals the double-bind many nonresident workers found themselves in. Without a salary that immigration officials determined necessary to support their families, these nonresident workers were forced to commute between the two countries.<sup>51</sup> Border commuters, much like workers who were U.S. citizens, were also the victims of low wages, but the Texas AFL-CIO failed to recognize how immigration law compounded the difficulties facing border commuters.

The Texas commuter suit against the Kennedy administration was dismissed without a hearing on both judicial and diplomatic terms. The judge ruled that the Texas AFL-CIO lacked the standing to sue, since it was not directly damaged or injured by the defendants. But the court was also swayed by a brief filed by Secretary of State Dean Rusk. Much like in the case of the proposed bridge closure two years earlier, economic and political considerations weighed against the termination of the border commuter practice. Rusk advised that a ruling in favor of the Texas AFL-CIO would undermine the Alliance for Progress. As a result, the case was dismissed.<sup>52</sup> The Texas AFL-CIO did not win its lawsuit, but the publicity surrounding the case forced the Immigration and Naturalization Service to alter some of its rules for border commuting. These alterations would later serve as a template for regulating the admission of new immigrants in a landmark 1965 immigration bill.

<sup>49</sup>Bob Sanchez to Hank Brown, Oct. 30, 1961, folder 110-7-2-2, box 2, Mexican American Affairs.

<sup>50</sup>W. T. Toney, Jr. to Roy R Evans, Mar. 23, 1968, folder 278-11-1-5, box 1, AR 278, series 11, Texas AFL-CIO, University of Texas at Arlington Special Collections, Arlington, TX [hereafter Texas AFL-CIO Records]; “Commuter Report by Evans,” folder 110-7-1-1, box 1, Mexican American Affairs; Mario T. García, *Memories of Chicano History: The Life and Narrative of Bert Corona* (Berkeley, CA, 1994), 248; Mario T. García, *Mexican Americans: Leadership, Ideology, and Identity, 1930–1960* (New Haven, CT, 1989), 181.

<sup>51</sup>“14 Commuter Aliens Intervene against Labor in Law Suit,” *Texas Labor Advocate*, Mar. 2, 1962, 1; Interveners’ Motion to Dismiss, Nov. 5, 1962, folder 110-7-3-3, box 3, AR-100, Mexican American Affairs.

<sup>52</sup>John W. Bowser, “Aspects of the Operations of the United States Immigration and Naturalization Service which Have a Bearing on the Mexican-American Community,” Oct. 14, 1966, folder 278-11-1-1, box 1, Texas AFL-CIO Records; Affidavit of Honorable Dean Rusk, folder 278-11-1-5, box 1, Texas AFL-CIO Records; “Commuter Suit on Way to Appeals Court,” *Texas Labor Advocate*, June 7, 1963, 1.

### Adverse Effect Standard and the 1965 Immigration Act

Even though the Texas AFL-CIO's lawsuit failed to terminate the I-151 border commuter status, the rhetoric surrounding the case forced the INS and Department of Labor to alter some of their practices and procedures. All new applicants for the I-151 visa needed to pass a new legal test known as the "adverse effect standard," which would make its way into the 1965 Hart-Celler Immigration Act. Hart-Celler was famous for abolishing the racial quotas on immigration imposed by 1924's Johnson-Reed Act and instead implementing ceilings on migration that prioritized professional skills and family reunification. It has been praised as a progressive reform to immigration law, but scholars have criticized the act for its treatment of immigration from the western hemisphere.<sup>53</sup> The toughened adverse effect standard found in Hart-Celler served to dramatically curtail the immigration of nonwhite and nonprofessional people.

The adverse effect standard was based on previous immigration laws, but the Peyton strike strengthened its power to exclude new immigrants. The 1952 McCarran-Walter Act required some immigrants to obtain an employment clearance by the Secretary of Labor. The Department of Labor authorized an immigrant to work in the United States if it determined there were not sufficient workers for that job category and if the presence of that immigrant did not adversely affect the wages and working conditions of the workforce. The Hart-Celler Act, however, reversed this process and placed the burden of proof upon the immigrant. The wording of the latter statute stipulated that no worker could enter the United States unless the Department of Labor certified that there were not sufficient workers in that job category and that the addition of the immigrant to the U.S. workforce would not lead to lower wages and worse working conditions. Prior to the Peyton Strike, workers needed only to ask the DOL for a certification. After the Peyton Strike, workers needed to prove to the DOL that their presence would not lead to deteriorating working conditions.<sup>54</sup> Initially designed to limit the number of green card commuters at the southern border, a reinforced adverse effect standard would soon be applicable to all immigrants after 1965.

The widespread application of a more stringent labor certification standard resulted from the AMC's and, later, Texas AFL-CIO's pressure on the INS to limit the entrance of nonresident immigrant labor. Twedell and the AMC gradually forced the INS to tighten its definition of who posed an adverse effect. At first, the INS only barred nonresident immigrants who had been hired after the strike began from working at Peyton. A *mandamus* lawsuit, however, compelled the INS and DOL to deny entrance to all green card commuters who worked at the plant, regardless of the date of hire. The Texas AFL-CIO put pressure on the INS through its commuter lawsuit, but also used informal channels and lobbying to change the way that the INS thought about green card commuters. The head of the Texas AFL-CIO, Hank Brown, first met with the Secretary of Labor, Willard Wirtz, in Washington, DC, in 1962.<sup>55</sup> In 1963, Secretary of Labor Willard Wirtz informed Hank Brown about a new DOL certification designed to "control increases in the commuter or immigrant population on the Mexican border" that was successful in reducing the number of new immigrants. This new control was the newly toughened adverse effect standard, which assumed that immigrants were likely to depress wages and working conditions unless proved otherwise. Wirtz also required green card commuters to re-apply every six months to make sure that they were not adversely affecting wages or interfering with labor disputes.<sup>56</sup>

<sup>53</sup>Lee, *American for Americans*, 242.

<sup>54</sup>Charles Keely, "The Immigration Act of 1965: A Study of the Relationship of Social Science Theory to Group Interest and Legislation," PhD diss. (Fordham University, 1970), 75; Lee, *American for Americans*, 242.

<sup>55</sup>"U.S. Eyes Border Labor Problems," *El Paso Herald Post*, Sept. 28, 1962, folder 110-7-2-9, box 2, Mexican American Affairs.

<sup>56</sup>Bowser, "Aspects of the Operations of the United States Immigration and Naturalization Service"; Willard Wirtz to Hank Brown, May 21, 1964, folder 278-11-1-5, box 1, Texas AFL-CIO Records; Willard Wirtz to Ramsey Clark, Apr. 13, 1967, folder 278-11-1-1, Texas AFL-CIO Records.



A report commissioned by the Department of Labor in 1970 noted that adjustments to the INS's procedure for granting visas to nonresident immigrants had achieved its aim. The researchers suggested that the new adverse effect standard caused the number of new border commuters to drop by nearly 90 percent between 1963 and 1970. This reinforced standard soon drew the attention of congressional law makers working to overhaul the nation's immigration laws.

During the debate over the Hart-Celler Act, organizations like the AFL-CIO pressured congressional law makers to implement a strict labor certification to "protect American labor" by reducing the number of immigrants from the western hemisphere. Even though the AFL-CIO opposed quotas and advocated for repeal of the 1924 Act, organized labor feared that unmitigated immigration would lead to unemployment. Borderlands workers were also eager to see new immigration limits put in place. Since one INS official told Twedell that "there is no quota for Mexican aliens," Twedell urged the AFL-CIO to overturn the 1924 Act. Texas labor leaders, though, also wanted to implement a labor certification that was applicable to all immigrants. This certification proved to be a valuable tool for law makers hoping to stem nonwhite immigration.<sup>57</sup>

The adverse effect standard may have appeared to be racially neutral, but law makers included it in Hart-Celler to decrease the amount of nonwhite immigration from the western hemisphere. A cap of 170,000 entries was fixed for the eastern hemisphere at the law's moment of passage. Congress did not initially place an annual limit on immigration from the western hemisphere because of pressure from diplomats like Dean Rusk, who wanted to maintain the special relationship the United States had with Latin America. Since the western hemisphere had no cap, law makers hoped to avoid a "potential deluge" of new immigrants from countries like Mexico by requiring "new labor controls" that would maintain immigration "at the present level."<sup>58</sup>

The labor certification first implemented as a result of the Peyton strikers' demands was used to curb immigration from Latin America in the absence of an annual cap. And once Congress applied a cap of 120,000 immigrants to the western hemisphere, the test acted as an additional "qualitative control" on immigration that severely "depressed" the issuance of new visas to people from the western hemisphere, especially Mexico. According to one INS official, the toughened certification that resulted from the Peyton strike "proved so effective that when the Immigration and Nationality Act was amended by the Act of October 3, 1965 [Hart-Celler Act], the procedure was adopted for all immigrants entering the United States regardless of the country from whence they came."<sup>59</sup>

### Border Commuter Relocations, Wages, and Public Charges

After the passage of the Hart-Celler Act, border commuters continued to be a labor and immigration issue in the U.S.–Mexico borderlands. Three years after the United States Supreme Court declined to hear the Texas AFL-CIO's commuter lawsuit, a series of congressional hearings offered a variety of solutions to the problem. United Farm Workers' organizing drives in South Texas and California relaunched the border commuter controversy in 1967 and forced officials to act on the matter.<sup>60</sup>

<sup>57</sup>Lee, *America for Americans*, 241; Yang, *Mighty and Irresistible Tide*, 239–40; unknown author to Sam Twedell, Feb. 1964, folder 124-54-11, Twedell Papers.

<sup>58</sup>Lee, *American for Americans*, 222, 225, 240; Keely, "Immigration Act of 1965," 76.

<sup>59</sup>LaBrucherie, "Aliens in the Fields, 1750; Kunal M. Parker, *Making Foreigners: Immigration and Citizenship Law in America, 1600–2000* (Cambridge, UK, 2015); Bowser, "Aspects of the Operations of the United States Immigration and Naturalization Service," 14.

<sup>60</sup>Frank Bardacke, *Trampling Out the Vintage: Cesar Chavez and the Two Souls of the United Farm Workers* (New York, 2011), 272, 282.

The publicity generated by the UFW strikes forced Senator Edward Kennedy to investigate the controversy. Kennedy had followed in his family's footsteps when he took up immigration as one of his primary issues as a junior senator.<sup>61</sup> In 1967 Kennedy held hearings on border commuting in Washington, DC. After these hearings, Kennedy introduced legislation to strengthen the INS's ability to use the adverse effect standard when granting visa applications. For many Mexican Americans and labor leaders, however, this new bill did not go far enough. In order to determine what could be a more satisfactory regulation, Kennedy scheduled three weeks of hearings in four border cities—El Paso and Brownsville, Texas, San Diego, California, and Detroit, Michigan.

In El Paso, Brownsville, and San Diego, labor representatives and local businesspeople rehashed their arguments over border commuters. Mexican American civil rights and labor leaders continued to emphasize the foreignness of border commuters. In contrast, employers and chambers of commerce emphasized how cities along the boundary line in both Mexico and the United States were economically and socially interdependent.<sup>62</sup>

Convinced that border commuters were both necessary to the economy of the borderlands and that employers exploited nonresident immigrants, the chairmen of the hearings—Richard Scammon and Stanley Ruttenberg—proposed a bill that required all border commuters to permanently relocate to the United States. And while many labor leaders and some businesspeople favored this plan, proponents of the proposal soon discovered that many border commuters wanted to move to the United States but could not do so because of existing immigration laws.

When Scammon and Ruttenberg asked witnesses about their proposal, the meeting chairs discovered that most commuters could not legally move to the United States because the U.S. government determined that they did not earn enough money to support their families. Joe Barrera, an AMC organizer from Brownsville, testified that half of his dues-paying members were commuters that would like to move permanently to the United States, but could not get visas for their family members. John Killea, U.S. Consulate in Tijuana, Mexico, explained that his office approved less than half of the 9,800 visa applications it received in 1967. Killea stated that many of these workers were likely to “become public charges” because they “did not make sufficient income to support [their] families.”<sup>63</sup>

The Scammon-Ruttenberg proposal shed light on what many considered to be the real problem: the lack of federal and state minimum wage protections. Witnesses repeatedly pointed out that border commuters tended to work in occupations without a federally mandated minimum wage.<sup>64</sup> And other witnesses emphasized how new minimum wage ordinances put in place by cities in California led to a drop in the number of border commuters. Expanded federal wage coverage could reduce the mistreatment of border commuters and stabilize the labor market for U.S. citizens and nonresident immigrants alike. For Kennedy and his colleagues, it became clear that green card commuters were the victims of avaricious employers and threadbare labor protections. These revelations made it much more difficult for Kennedy to act on his bill. In the meantime, the Supreme Court delivered a definitive verdict on the issue.

The final legal challenge to the commuter lawsuit cemented the legal right of commuters to reside in Mexico and work in the United States. A lawsuit originally filed by California Rural Legal Assistance on behalf of two farmworkers eventually made its way to the United States Supreme Court in 1974. In the ruling to *Gooch v. Clark*, the justices affirmed the INS's long-standing administration of the practice and stated that nonresident immigrants were free to

<sup>61</sup>Yang, *Mighty and Irresistible Tide*, 216–7.

<sup>62</sup>*The Impact of Commuter Aliens along the Mexican and Canadian Borders: Hearings Before the Select Commission on Western Hemisphere Immigration; Part III: Brownsville, Texas, March 1 and 2 1968 and Part IV: Detroit, Michigan, March 8, 1968* (Washington, DC, 1968), 27; *Impact of Commuter Aliens, Part II: San Diego*, 33.

<sup>63</sup>*Impact of Alien Commuters, Part III, Brownsville*, 8, 91.

<sup>64</sup>*Impact of Alien Commuters, Part III, Brownsville*, 19, 24, 39; *Impact of Alien Commuters, Part II: El Paso*, 62, 70, 95, 224.

work and live wherever they wanted.<sup>65</sup> This decision was not received well by many labor organizers. In 1974, the UFW began its infamous Campaign Against Illegals. This particular UFW action was notorious for its “wet line,” which was a group of UFW members who hounded and beat Mexican workers who traversed the Sonora-Arizona desert. Despite the animosity that labor organizers demonstrated toward Mexican migrants in initiatives such as the Campaign Against Illegals, it was impossible to stop the demographic shift toward more Mexican migrants working in the fields. Even with their failures though, the legal and political campaigns waged by labor unions along the U.S.–Mexico border produced important changes to the way that the INS administered border commuting. These alterations proved to have lasting consequences for American immigration policy.<sup>66</sup>

## Conclusion

Even if labor leaders failed to end border commuting, the Peyton strike initiated alterations to U.S. immigration policy that drastically reshaped immigration from the western hemisphere. After the Peyton strike, the Immigration and Naturalization Service revised its policies so that new visa applicants needed the Department of Labor to certify that their job offer met an unfulfilled labor need and did not adversely affect American workers employed in similar posts. Since most green card commuters were laborers and not professionals, this avenue for finding work or pursuing “stepwise migration” to the United States was largely cut-off. According to INS officials, the implementation of the toughened “adverse effect” standard led the number of new border commuters to drop by 90 percent in the years following the Peyton strike.<sup>67</sup>

This did not spell the end of border commuting in either its sanctioned or unsanctioned forms. The 1986 Immigration Reform and Control Act may have led to 500,000 Mexican workers acquiring U.S. citizenship and allowed many of these workers to move to border cities and commute to jobs in auto shops, factories, restaurants, and hotels in El Paso and other border cities. Additionally, U.S. consulates issue approximately one million new non-immigrant visas to Mexican citizens on a yearly basis. These non-immigrant visas include what are known as border crossing cards (BCCs), which allow Mexican citizens to cross into the United States to shop as long as they do not stay for more than 72 hours or travel more than 150 miles past the U.S.–Mexico border. These cards do not allow their holders to work within the United States. While numbers are difficult to acquire, some sociologists suggest that many Mexican nationals who work in American border cities use BCCs to cross the border and work without authorization within the United States. This wrinkle suggests that even if labor unions succeeded in limiting border commuting through administrative procedure, their efforts may have simply increased the amount of unsanctioned border commuters who cross the border to work in the United States.<sup>68</sup>

The end of border commuting was therefore a Pyrrhic victory for advocates of restriction because it hastened the magnification of both unsanctioned border crossing as well as undocumented migration of all varieties. Rather than eliminate border commuting, the 1963 revisions to the adverse effect standard hide the hardships and exploitation that nonresident immigrants experience from public view. Studies indicate that border commuters are far less likely to vote in elections in either the United States or Mexico. Border commuters also have less extensive social networks and economic safety nets than other citizens. This makes it difficult for

<sup>65</sup>Martinez, *Ciudad Juárez*, 135; Greene, “Federal Policy toward Non-Resident Alien Labor,” 447.

<sup>66</sup>Bardacke, *Tramplng Out the Vintage*, 488–506.

<sup>67</sup>For more on “stepwise migration,” see Sergio Chavez, *Border Lives: Fronterizos, Transnational Migrants, and Commuters in Tijuana* (New York, 2016).

<sup>68</sup>For more on how commuters use border-crossing cards to work in the United States, see Chavez, *Border Lives*, 61–72; and Herzog, “Border Commuter Workers,” 6.

many border commuters to find new work if they are fired from their job or lose their ability to cross the border. Border commuters also access needed social services at much lower rates or fail to qualify for many social programs. Since border commuters are not firmly integrated into the political or economic life of either country, they remain, in the words of one historian, “a people without a place, whose presence could be denied by those in power by both countries.” The “non-entity” condition first identified by Fred Martinez in 1968 remains to this day.<sup>69</sup>

The Peyton strike’s effects on border commuters allow us to understand the pernicious effects of 1965’s Hart Celler-Act. Initially cheered by progressives at the time, it has become clear how the act targeted immigration from the western hemisphere. The Peyton strike was not on the top of legislator’s minds when a strengthened adverse effect standard was codified into immigration law, but it is clear that legislators thought the more stringent labor certification test would cull the numbers of nonwhite immigrants from the Western Hemisphere. The Peyton strike simply gave congressional leaders the legal tools to exclude migrants.<sup>70</sup>

It also allows us to see how immigration restriction was favored by both labor unions and Mexican American civil rights groups in Texas. Historians have explored how postwar Mexican American leaders pursued political, social, and economic equality by emphasizing U.S. citizenship and diminishing racial or ethnic solidarity with new immigrants, and this case study demonstrates the real-world effects of Mexican Americans’ anti-immigration efforts in the 1950s and 1960s. By backing a lawsuit to eliminate the border commuter status, the Texas AFL-CIO hoped to unionize Mexican Americans in South and West Texas.<sup>71</sup> As a result, the Peyton strike sheds light on how an appeal to preserve the rights of citizenship for American workers can transform into a restrictionist plea to exclude workers. It also reminds us that it is employers who are responsible for low wages and not our colleagues or coworkers, no matter where they come from or where they reside.

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<sup>69</sup>David S. North, *The Border Crossers: People Who Live in Mexico and Work in the United States* (Washington, DC, 1970), 123; Chavez, *Border Lives*, 61–72; Minian, *Undocumented Lives*, 2; Select Commission on Western Hemisphere Immigration, *The Impact of Commuter Aliens along the Mexican and Canadian Borders; Hearings Before the Select Commission on Western Hemisphere Immigration: Part II, San Diego, California, February 9–10, 1968* (Washington DC, 1968), 123.

<sup>70</sup>Ngai, *Impossible Subjects*; Chin, ed., *The Immigration and National Act of 1965*; Lee, *America for Americans*; Yang, *Mighty and Irresistible Tide*.

<sup>71</sup>Blanton, “The Citizenship Sacrifice,” 299–320; Sánchez, *Becoming Mexican American*; Gutiérrez, *Walls and Mirrors*.