

# The American Conservative

## Restrictionism's Last Stand

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July 2, 2021

May 1990 appears to have been a bad month for minority race relations in the City of Angels. “Gunfire, fistfights and racial tension erupted almost simultaneously at three Los Angeles-area high schools Tuesday morning,” the *Los Angeles Times* reported on May 2. A squad of police officers backed by a helicopter descended upon Jordan High School as a large crowd of black and Latino students exchanged insults and threats. “Blacks feel like they are second-class citizens now that they are outsiders,” said a black junior at Jordan. “Some blacks think we ought to remind a few people this was once our campus.” At Inglewood High School, black students walked out of a Cinco de Mayo assembly in retaliation for a Latino student walkout during a Black History Month assembly in February. A brawl erupted that was soon joined by local gang members.

Incidents like these, spurred by California’s rapid demographic change, provide a different light in which to view Proposition 187. This ill-fated measure would have denied state social services, including education and non-emergency health care, to illegal aliens.

When it was proposed in 1994, the bill was conceived as a way to neutralize some of the incentives for illegal immigration. Today, Prop 187 is a byword for political folly that supposedly sealed the GOP’s fate in the state. “The California Republican Party’s decision to represent the anti-immigration wing of the American electorate in the early 1990s destroyed that state’s GOP for at least a generation in exchange for winning one election in 1994 and a symbolic victory on Proposition 187 that didn’t actually change policy,” writes Alex Nowrasteh, an analyst at the Cato Institute.

Nowrasteh reduces Prop 187 to white xenophobia, as many commentators do. But this argument is simplistic and misleading. Nowrasteh claims, for example, that the “Texas GOP courted Hispanics and opposed Proposition 187-style laws” and connects that to George W. Bush’s success in the state. However, he doesn’t differentiate between Tejanos in Texas and Mexicans in California—Latinos are not a monolith. Moreover, as *Time* reported in 1994, Prop 187-style proposals were promoted in Texas, Florida, Illinois, and New York. Nor does Nowrasteh give much thought to the not insignificant note, as journalist Gustavo Arellano admits, that early “polling on Proposition 187 found a majority of Latino voters actually supported the measure.”

Understanding Prop 187 in 1994 requires seeing it as a symptom of the 1986 Immigration Reform and Control Act's failure. Indeed, California's troubles owe far more to IRCA than Prop 187—specifically, to the politicians, activists, and special interest groups that ensured IRCA's failure. Pulitzer Prize-winning investigative reporter Jerry Kammer provides an overview of IRCA in his latest book, *Losing Control*.

IRCA sprang from the forehead of the Select Commission on Immigration and Refugee Policy, established in 1978 under President Jimmy Carter. According to Kammer, the committee arose, in part, because few wanted to seriously tackle or in good faith discuss the issue of mass immigration. In 1993, columnist Richard DeUriarte observed, "Hispanics have learned to manipulate the alternatively insensitive [and] guilt-ridden media." He pointed to Alfredo Gutierrez, a former Arizona state senator who bragged about the tactic as a political consultant. "We call things racism just to get attention," Gutierrez said. "We reduce complicated problems to racism, not because it is racism, but because it works."

Lawrence Fuchs, a renowned Brandeis University professor, made a similar observation about Mexican-American leaders and their influence over congressional Democrats. Fuchs saw a divide, Kammer recalls, "between the Mexican-American political class, which resisted limits as it sought political influence, and the concerns of ordinary Mexican-Americans, many of whom were unhappy about illegal immigration." Democrats wanted a way out of addressing the issue while saving face, so, Kammer writes, the "aim was accomplished through the time-honored Washington tactic of appointing a committee to study a problem." SCIRP, as the committee became known, was born.

In 1981, shortly after Ronald Reagan's inauguration, SCIRP chairman Theodore Hesburgh submitted the committee's report to Congress. "As important as immigration has been and remains to our country, it is no longer possible to say as George Washington did that we welcome all of the oppressed of the world, or as did the poet, Emma Lazarus, that we should take all of the huddled masses yearning to be free," he said. Hesburgh had received the Presidential Medal of Freedom award from President Johnson in 1964 for his civil rights work. Now, fearing for the future, he issued a call for reasonable immigration restrictionism. "This nation has a responsibility to its people—citizens and resident aliens—and failure to enforce immigration law means not living up to that responsibility," Hesburgh concluded.

The committee set forth what was essentially a compromise: amnesty for some illegal aliens in exchange for measures to disincentivize further unauthorized immigration by imposing employer sanctions and fraud-proof worker identification. The year before those recommendations were submitted, a Gallup poll showed 90 percent of Americans wanted the federal government to go "all out" to stop illegal immigration. "The massive flow of illegal aliens across the Mexican border and successive flotillas of 'boat people' have produced in the public a sharp sense that the United States has lost control over this vital and sensitive area of its national life," the *Washington Post* reported on December 16, 1980. "The more the system spins out of control, the more Americans lose patience with Government—and perhaps with any immigration at all," Jack Rosenthal warned in the *New York Times* on March 1, 1981, echoing Hesburgh.

Even with Reagan's landslide victory and Republican control of the Senate, what followed the SCIRP report was a bloody battle over nearly five years rife with outrageous slander from characters like Edward Roybal, a Mexican-American congressman from Los Angeles. Roybal convinced all the leading presidential candidates at the Democratic National Convention to condemn the bill as discriminatory. He claimed that if a law based on SCIRP's recommendations saw the light of day, immigrants would wear identifying tags around their necks and that the next step would be totalitarianism. "We may face the danger of ending up like Nazi Germany," he warned. The *Washington Post* condemned Roybal's "ugly misrepresentations." The *New York Times* similarly denounced bad faith critics for "pandering to Hispanic leaders."

Republicans would also allow the debate that preceded the enactment of IRCA to be influenced by agribusiness demanding a limitless supply of cheap labor. Again, even the *Washington Post* at the time condemned concessions to the farm lobby as egregious. "By giving agricultural lobbyists all they could possibly have dreamed of and by offering incredibly generous benefits to illegal agricultural workers, the congressmen have won the support of these groups."

As the debate rolled on, so did illegal immigration. In 1984, a survey on Mexican-Americans' attitudes toward issues relating to immigration policy showed they generally considered it a problem, too. "Virtually all respondent groups oppose an increased rate of immigration, consider illegal immigration as an important problem," and "support stricter enforcement of immigration laws," the authors found. Further, the survey revealed a divide between Mexican-American leadership, which was overwhelmingly opposed to Simpson-Mazzoli—the precursor to IRCA, named after the congressmen who sponsored the initial legislation—and the views of the everyday Mexican-Americans. On the question of employer sanctions penalizing the hiring of unauthorized workers, the two groups split, with everyday Mexican-Americans in favor and Mexican-American elites opposed. One explanation, the authors postulated, is because they "hold the kinds of jobs for which undocumented workers are unlikely to compete, the leadership may not feel threatened by the presence of undocumented workers and thus feel there is nothing to gain from this provision."

The findings seemed to vindicate Lawrence Fuchs' thesis of a dichotomy between activists and normal people. The authors wrote that the Mexican-American elite was effectively advocating "positions which are not supported by its constituents." In other words, they were telling others how to think about issues so that the outcome aligned with their interests most of all.

Finally, after years of jockeying, concessions, and multiple instances when negotiations collapsed, Reagan signed IRCA into law on November 6, 1986. Underscoring the urgency, Border Patrol reported 1.8 million arrests on the border for the 1986 fiscal year.

Despite Reagan's optimism, IRCA was doomed before it became law. In short, Kammer's postmortem goes, Congress and successive administrations were never committed to fixing its flaws or even enforcing its mandates. "The strange bedfellows coalition for loose borders" ensured that. Reagan himself was completely unserious about IRCA. His administration requested far less money for the Immigration and Naturalization Service than Congress had authorized to administer and enforce the law, although he would significantly increase public expenditures, primarily for the Department of Defense. Then Rep. Charles Schumer, who played

a key role in brokering IRCA, complained that Reagan's administration was "killing the law by starving it." Worse than mere death, the law incentivized illegal immigration. Schumer's contribution, the Special Agricultural Worker (SAW) program, gave rise to what the *New York Times* blasted as "one of the most extensive immigration frauds ever perpetrated in the United States." SAW provided a path to citizenship for illegal aliens who could prove they had worked in the fields for just 90 days in 1985 or 1986. "The result was a new industry in which farmers and labor contractors collected \$1,000 for one-page letters of attestation," wrote Kammer.

With the failure of IRCA, farm wages fell, illegal immigration soared, while schools like Jordan and Inglewood High swelled with newcomers. In the decade after 1980, the *Los Angeles Times* reported on May 6, 1990, Latinos grew to more than a third of Inglewood's population and 43 percent of the student body at Inglewood High. The student riots at those schools were essentially growing pains of rapid demographic change. By 1990, Latinos accounted for 68 percent of Jordan's enrollment. In the aftermath of a February 1990 brawl at Inglewood, students and teachers said school principal Lawrence Freeman had aggravated black students by showing favoritism to Latinos. Other community members blamed demographic change, which "forced blacks to make room for Latino immigrants." That sentiment of overcrowding was shared by many Californians—including Latinos.

In 1992, a Latino National Political Survey found that more than 65 percent of American citizens or legal residents of Mexican, Puerto Rican, and Cuban descent thought there were "too many immigrants in this country." The following year, a *Los Angeles Times* poll reported that "an overwhelming majority of Californians say they are fed up with illegal immigration." Fully 86 percent said it was a major or moderate problem, while 75 percent were in favor of deploying the National Guard to the border, and nearly 60 percent supported requiring job seekers to present fraud-proof identification to verify their legal status. An idea put forth by Latino legislators and then-Assembly Speaker Willie Brown to seize the assets of businesses that repeatedly hire illegal aliens received the approval of 56 percent of Californians, including 43 percent of Latinos. Similarly, a *Newsweek* poll showed that when asked whether immigration was "a good thing or a bad thing for this country today," 60 percent of Americans said a bad thing and 29 percent a good thing.

The consensus of the American public, which included pluralities of minorities, was that immigration had spun out of control and something, once again, needed to be done. In 1993, American historian John Higham issued a scathing rebuke of anti-restrictionists for undermining reasonable and necessary efforts to stem the tide of illegal immigration. "Serious protective measures against unregulated (i.e., undocumented) immigration are called for, and desired by the general public at large, but influential groups do not wish to listen." As a chronicler of the backlashes against Irish, Italian, and Jewish immigrants, Higham viewed the uniparty business-activist coalition against immigration control as singularly blameworthy for this intransigence.

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By 1994, when Prop 187 attracted the necessary 385,000 signatures to qualify for the ballot, about 3 million illegal aliens became eligible for naturalization under IRCA. Of that number, some 800,000 would settle in Los Angeles County. Three-quarters lacked the Mexican

equivalent of a high school education. IRCA's amnesty had the additional effect of triggering chain migration, with family and friends joining those who received legal status, often by illegally crossing the border. The strain on schools and social services exponentially intensified as newcomers poured into California, swelling the state's unauthorized population to a conservatively estimated 1.6 million by 1994.

Prop 187, then, was a direct, popular reaction to an arrogant, irresponsible, and unresponsive ruling class far more concerned with self-dealing than everyday people's interests. When Gov. Pete Wilson took up the issue, California was facing a recession and he was facing a Democratic challenger for the governor's office in California treasurer Kathleen Brown. His advocacy was part populism, part self-interest, and argued convincingly.

"Today, the federal government forces the states to give health care, education, and other benefits to illegal aliens," Wilson wrote in the November 1993 issue of *Chronicles* magazine. "These mandated services cost California taxpayers nearly \$3 billion a year. That's \$3 billion we must cut from the services we provide legal residents of California." By Wilson's estimation, saving just the \$1 billion the state spent on educating illegal immigrants in public schools would have allowed California to put a new computer on every fifth grader's desk, provide preschool services to an additional 67,000 four-year-olds, expand Healthy Start Centers to an additional 750 sites, and provide 12.5 million tutorial and mentoring hours to at-risk youth.

So powerful was the movement behind the measure that although the usual suspects turned out to denounce Prop 187 as xenophobic, more honest critics couldn't deny its validity.

"Immigrant advocates over the last 25 years have pushed an agenda of multi-culturalism in the schools, of affirmative action not just for indigenous minorities but also for newcomers from other countries, and a host of various welfare entitlements for all persons who reside [here]," wrote Linda Chavez, then director of the Center for the New American Community of the Manhattan Institute. "And it is, I believe, that aggressive push for immigrant entitlements that has helped fuel the backlash in states like California," she added. "Unless we are willing to deal with the legitimate concerns that are aroused by this volatile issue, I think we may face a tide not just of anti-illegal immigration fervor in the United States, but also unwise proposals to begin to limit legal immigration." President Clinton, though he opposed Prop 187, told Californians "it is not wrong for you to want to reduce illegal immigration." Even Brown treaded lightly to not dismiss the public's frustration while still condemning Prop 187. Instead, she proposed improved worksite verification and a crackdown on the hiring of illegal aliens. "In other words," as Kammer put it, "she wanted IRCA's flaws to be fixed so the law could do what it was intended to do."

But Wilson had struck a powerful chord that resonated broadly. In an October 1994 issue of the *Los Angeles Times* carrying letters arguing for and against Prop 187, a Latino immigrant penned a passionate defense for the measure. "One of the reasons I wanted to come here was to leave behind the lapsed law enforcement, the corruption, the impunity, the colonial mentality prevalent everywhere in Latin America," wrote Jose M. Waechter of Redondo Beach. America, he thought, was a nation of laws. "In reality, the laws in this case are not enforced," he went on. "I am convinced that legal Latino immigrants and citizens do not want to see this motherland of our

choice become a banana republic like the places we left, whatever the cultural ties we want to keep alive.”

On November 8, 1994, left to deal with a crisis the federal government helped create, Californians passed Prop 187 with 59 percent in favor. Some 52 percent of Asian and African American voters supported the measure, along with about a third of Latinos. Wilson subsequently secured reelection against Brown with 55 percent of the vote. Put another way, Prop 187 was more popular with Californians than the governor.

But as was the case with IRCA, Prop 187 would be ill-fated. The measure immediately encountered several lawsuits, and a lethal blow came when U.S. District Judge Mariana Pfaelzer issued a permanent injunction against the proposition, deeming it unconstitutional. “California is powerless to enact its own legislative scheme to regulate immigration,” Pfaelzer ruled. “It is likewise powerless to enact its own legislative scheme to regulate alien access to public benefits.”

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Prop 187 arose to solve a problem dropped in the laps of Californians. When they tried to help themselves, the ruling class nullified the will of 5 million California voters, activists went to work stoking racial panic, and everyone is worse off as a result.

Today, according to the Public School Review, the percentage of students achieving proficiency in math at now 84 percent Latino Jordan High School is 6-9 percent—lower than the California state average of 39 percent. The percentage of students achieving proficiency in reading and language arts is 40-44 percent, which is lower than the California state average of 50 percent. At 63 percent Latino Inglewood High School, those figures are 5 percent and 27 percent, respectively. Overall, Latino children and children with immigrant, young, or single parents are much more likely to be poor in the Golden State. A recent report by the Education Trust-West shows there is not a single county in California where the majority of Latino students are proficient in math or English language arts. Though they are the largest ethnic group in the state, California is among the worst for Latino economic inequality. Indeed, the state’s income inequality is worse than Mexico’s. Thus, the fecklessness of immigrant and ethnic activists, both political parties, and arrogant bureaucrats created a massive heap of misery and squalor—but at least they can say they never committed the sin of “racism.”

The combined failure of IRCA and Prop 187 did contribute to California’s left turn, just not in the way people think. The first problem with the popular narrative weighed in at 235 lbs, standing over 6 feet tall: Arnold Schwarzenegger. He supported Prop 187, and yet won the California recall election in 2003 with 48.6 percent of the vote, including 31 percent of Latino voters. Once in office, he immediately repealed a measure signed into law by Democratic governor Gray Davis that would have allowed an estimated 2 million illegal aliens to apply for driver’s licenses. When the Democratic-controlled California senate and assembly responded by approving bills that would have done the same, Schwarzenegger vetoed the legislation. Come 2006, the “Governator” secured reelection and received 39 percent of the state’s Latino vote, improving his margin with them.

In truth, an interrelated combination of the state’s politics, the tech industry, and mass immigration created “a deeply unequal demographic and economic state of play that is ideally suited to the Democratic Party,” as Jason Willick put it in *The American Interest*. Willick points to the combined effects of the working and middle-class exodus from California, the influx of impoverished immigrants who tend to support the Democratic Party for economic reasons, and a large and disproportionately white upper and upper-middle class concentrated in the metropolitan areas surrounding San Francisco and Los Angeles who tend to be more liberal. “This is especially true in the two industries California is known for—technology and entertainment,” Willick writes, noting that “the dramatic decline of Southern California’s Cold War-era defense and aerospace industry also deprived Republicans of a once-significant business-class constituency in the Golden State.”

Victor Davis Hanson, a historian at the Hoover Institution, paints a similar picture of the tripartite demographic revolution. “By the turn of the century, the California treasury was relying on the tech industry for an enormous share of the taxes to fund its massive expansion of state services—and politicians often bowed to Big Tech’s political wishes,” he writes. “As taxes climbed, schools eroded and funds for infrastructure were diverted elsewhere, millions of middle-class Californians fled.” That trend continues apace today. In 2020, 135,600 more people left California than moved there. According to CNBC, this marked only the 12th time since 1900 that the state has suffered a net migration loss and the third-largest ever on record.

Rising gas prices, sales and income taxes, bad infrastructure, crime, and exorbitant housing costs all drive this exodus. “The GOP lost much of its base to other states. Many conservative voters left for small-government, low-tax alternatives,” Hanson adds. “Republican efforts to reduce taxes, limit some abortions and fund additional roads and dams had little appeal to the new gentry classes on the coast.”

Two academics conducted a study in 2017 that further undermines the popular “tipping point” narrative of Prop 187. Their goal was to definitively determine whether the loss in support for the Republican Party in California concretely connected to “racially divisive propositions in the mid-1990s, especially the anti-immigrant Proposition 187.”

“Using three separate data sources, we find no evidence of a ‘tipping point’ or abrupt realignment among Latino registered voters who made up the electorate,” Iris Hu and David O. Sears found. Hu is a senior researcher at the Bill Lane Center for the American West, Stanford University; Sears is distinguished professor of psychology and political science at the University of California, Los Angeles. “Latinos’ partisanship within California did not change significantly; it did not change much when compared to nearby states; nor did voter registration change materially. The loss of support for Republicans occurred primarily among unregistered Latino voters whom [*sic*] historically had never been strong supporters.” Historically, they concluded, the GOP had not been the party of choice among unregistered Latinos before Proposition 187, “so it seems not to have cost the GOP supporters it never had. Thus we raise doubts about the conclusion that the Republicans made a political miscalculation that cost [*sic*] it to lose support in the nation’s largest state.”

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Survey after survey shows Latinos themselves support what Hu and Sears consider “racially divisive propositions.” A 2013 push-poll developed by Mark Zuckerberg’s FWD.us group found 78 percent of Latino respondents supported “substantially increasing security along US-Mexican border,” while 77 percent backed rules requiring companies to check the employees’ work eligibility, and 76 percent approved of a rule to identify people who overstay their visa to take jobs. The election and loss of former President Donald Trump also cast doubt on the idea that hard lines on immigration reliably alienate Latinos. Despite campaigning with what many considered incendiary immigration rhetoric, Trump took 28 percent of Latino voters in 2016. In November 2018, a poll found 58.5 percent of Latinos said they “support Donald Trump’s immigration policies” even if they disliked him personally. Though he lost reelection, Trump improved with Latinos by about seven percentage points. “In 2016, Donald Trump lost all 18 Texas counties where Latinos make up at least 80% of the population,” the *Los Angeles Times* reported on November 12. “This time he won five of them and closed the gap considerably in the rest.” Ninety-four percent Latino Zapata County had not voted Republican in a presidential race since Warren G. Harding, but Trump won it.

None of this is surprising. Latino communities bear the brunt of mass immigration, and next to whites, register the most distaste with Black Lives Matter. “The recent decline in support for the Black Lives Matter movement is particularly notable among White and Hispanic adults,” the Pew Research Center noted in mid-September, after months of rioting. Political analyst Ryan Girdusky points to a CNN exit poll showing “47 percent of all Hispanic voters had a negative opinion of BLM. That number compares to just 35 percent of college educated whites and 48 percent of non-college educated whites.” Many Latinos gravitated toward Trump because they saw him as the law-and-order candidate.

The question of whether Prop 187 consigned the GOP in California to oblivion pits whites against nonwhites, which misses the issue’s heart. The same irresponsible ruling class and feckless elites that failed to enact reasonable immigration laws, then struck down California’s referendum to do what they wouldn’t, is also the one responsible for the proletarianization of the Golden State. It is the same one that increased the polarization between blacks and Latinos and whites, stood by while cities burned last year, and stands by again while a dehumanizing immigration crisis unfolds on the border.

The GOP can win Latinos going forward, and it can do so without pandering, without caving in on immigration. Across party lines, many Latinos understand immigration as an economic issue that affects them and support a more active role for the state. In this, they are not so different from working-class whites. A more serious, muscular, and articulate movement that combines populism and nationalism would likely entice even more Latinos to leave the Democratic Party. It would require the GOP, for as long as it is the only alternative, to fundamentally realign itself away from its outdated, even counterproductive identity as a pro-corporate outfit. Latinos would have to decide whether they want to be used as an instrument of displacement for the historic American nation, or aspire to something greater. On either side, what is missing is the vision and will to attain a better future for all Americans. The popular narrative about Prop 187, which serves no one more than interest groups, ideologues, and cynics, acts as an obstacle to that end.