

# DID MULTICULTURAL AMERICA RESULT FROM A MISTAKE? THE 1965 IMMIGRATION ACT AND EVIDENCE FROM ROLL CALL VOTES

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*Between July 1964 and October 1965, Congress enacted the three most important civil rights laws since Reconstruction: The Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Immigration and Nationality Act Amendments of 1965. As we approach the 50th anniversary of these laws, it is clear that all three have fundamentally remade the United States; education, employment, housing, politics, and the population itself have irreversibly changed.*

*Arguably the least celebrated yet most consequential of these laws was the 1965 Immigration Act, which set the United States on the path to become a “majority minority” nation. In 1960, because U.S. law restricted immigration by race, eighty-five percent of the population was non-Hispanic white. Since the enactment of the Immigration Act, the Hispanic and Asian American share of the population has more than quintupled, and by 2043 the Census Bureau projects that African Americans, Latinos, and Asian Americans together will comprise a majority of the population.*

*Based on the legislative history, statements by government officials, and media reports, many scholars argue that Congress did not intend to change the racial demographics of the immigrant stream. Instead, these scholars argue that the diversification of the U.S. population was an enormous unintended consequence, one which Congress, had it appreciated what it was doing, might have thought better of. This Article introduces novel evidence to evaluate that claim: the roll call votes of the House and Senate on these laws. The votes show that nearly identical coalitions of civil rights advocates supported all three laws while the same group of racially intolerant legislators opposed all three. This pattern suggests that all three laws had similar motivations and goals. We argue that the laws were inspired by sincere anti-*

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*racism and not cosmetic responses intended to have little practical effect.*

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#### I. INTRODUCTION

In a remarkable span of fifteen months between July 1964 and October 1965, Congress passed and President Lyndon B. Johnson signed three landmark civil rights bills: the Civil Rights Act of 1964 (“CRA”),<sup>1</sup> the Voting Rights Act of 1965 (“VRA”),<sup>2</sup> and the Immigration and Nationality Act (“INA”) Amendments of 1965.<sup>3</sup> These laws unquestionably marked a turning point in American history and dramatically changed American society.

Of the three, the last may be the least celebrated and the most consequential.<sup>4</sup> Half a century after the CRA, African Americans still experience dramatic disparities in wealth, income, education, employment, and access to health care as compared to whites.<sup>5</sup> The VRA revolutionized access to the ballot in many parts of the United States, but racial disparities persist in voter registration and participation.<sup>6</sup> The Supreme Court has invalidated one critical provision of the VRA<sup>7</sup> and expressed doubts about another.<sup>8</sup> The Act also has been partially outflanked by

1. Civil Rights Act of 1964, Pub. L. 88-352, 78 Stat. 241 (1964).

2. Voting Rights Act of 1965, Pub. L. 89-110, 79 Stat. 437 (1965).

3. Immigration and Nationality Act Amendments of 1965, Pub. L. 89-236, 79 Stat. 437 (1965).

4. Cf. Nicholas Pedriana & Robin Stryker, ‘Effects-Based’ Civil Rights Law: Comparing U.S. Voting Rights, Equal Employment Opportunity and Fair Housing Legislation 15–22 (Nov. 2, 2012) (unpublished manuscript) (on file with the University of Illinois Law Review) (discussing relative successes of the Civil Rights Act of 1965, the Voting Rights Act of 1965, and the Fair Housing Act of 1968).

5. See, e.g., ALGERNON AUSTIN, ECON. POL’Y INST., THE UNFINISHED MARCH: AN OVERVIEW 10–11 (2013); PEW RES. CTR., KING’S DREAM REMAINS AN ELUSIVE GOAL; MANY AMERICANS SEE RACIAL DISPARITIES 3 (2013), available at [http://www.pewsocialtrends.org/files/2013/08/final\\_full\\_report\\_racial\\_disparities.pdf](http://www.pewsocialtrends.org/files/2013/08/final_full_report_racial_disparities.pdf).

6. See, e.g., THOM FILE, U.S. CENSUS BUREAU, THE DIVERSIFYING ELECTORATE—VOTING RATES BY RACE AND HISPANIC ORIGIN IN 2012 (AND OTHER RECENT ELECTIONS) 4 (2013), available at <http://www.census.gov/prod/2013pubs/p20-568.pdf>.

7. See generally Christopher S. Elmendorf & Douglas M. Spencer, *The Geography of Racial Stereotyping: Evidence and Implications for VRA “Preclearance” After Shelby County*, 102 CAL. L. REV. 1123 (2014) (discussing *Shelby County v. Holder*, 133 S. Ct. 2612 (2013), invalidating § 5 of the Voting Rights Act, which required some jurisdictions with histories of voting discrimination to pre-clear changes to election procedures).

8. Christopher S. Elmendorf, *Making Sense of Section 2: Of Biased Votes, Unconstitutional Elections, and Common Law Statutes*, 160 U. PA. L. REV. 377, 379–80 (2012) (discussing constitutional

creative methods and techniques that effectively suppress the vote of African Americans and other minorities without technically violating its terms.<sup>9</sup>

By contrast, the INA completely succeeded in bringing race neutrality to the immigration stream. Before 1965, the vast majority of immigrants were Caucasians from Europe.<sup>10</sup> As a result, the U.S. population in 1960 was eighty-five percent non-Hispanic white and eleven percent the descendants of enslaved Africans.<sup>11</sup> The almost total absence of immigrants of color was no accident; the United States had a Jim Crow immigration policy pursuant to which limiting immigration of nonpreferred races was perhaps the single most important goal.<sup>12</sup>

Under the National Origins Quota System, in effect until 1965, visas were allocated preferentially to Northern and Western European countries.<sup>13</sup> Because of their Jewish and Catholic populations, the countries of Southern and Eastern Europe were given fewer visas.<sup>14</sup> African immigration was restricted and discouraged.<sup>15</sup> Beginning with the Chinese Exclusion Act, immigration of those of Asian racial ancestry was almost entirely prohibited.<sup>16</sup> In addition, from 1790 to 1952, Congress restricted the privilege of naturalization by race.<sup>17</sup>

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challenges to § 2 of the Voting Rights Act); Luis Fuentes-Rohwer, *The Future of Section 2 of the Voting Rights Act in the Hands of a Conservative Court*, 5 DUKE J. CONST. L. & PUB. POL'Y 125, 127 (2010).

9. See, e.g., SPENCER OVERTON, *STEALING DEMOCRACY: THE NEW POLITICS OF VOTER SUPPRESSION* 14 (2006). See generally Gilda R. Daniels, *A Vote Delayed Is a Vote Denied: A Preemptive Approach to Eliminating Election Administration Legislation that Disenfranchises Unwanted Voters*, 47 U. LOUISVILLE L. REV. 57 (2008); Atiba R. Ellis, *The Cost of the Vote: Poll Taxes, Voter Identification Laws, and the Price of Democracy*, 86 DENV. U. L. REV. 1023 (2009); Janai S. Nelson, *The Causal Context of Disparate Vote Denial*, 54 B.C. L. REV. 579 (2013); Spencer Overton, *Voter Identification*, 105 MICH. L. REV. 631 (2007); Terry Smith, *Disappearing Districts: Minority Vote Dilution Doctrine as Politics*, 93 MINN. L. REV. 1680 (2009); Daniel P. Tokaji, *The New Vote Denial: Where Election Reform Meets the Voting Rights Act*, 57 S.C. L. REV. 689 (2006).

10. DEP'T OF HOMELAND SECURITY OFF. OF IMMIGR. STATS., 2011 YEARBOOK OF IMMIGRATION STATISTICS, 6 tbl.2 [hereinafter 2011 YEARBOOK], available at [https://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2011/ois\\_yb\\_2011.pdf](https://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2011/ois_yb_2011.pdf).

11. Paul Taylor & D'Vera Cohn, *A Milestone En Route to a Majority Minority Nation*, PEW RES.: SOC. & DEV. TRENDS (Nov. 7, 2012), <http://www.pewsocialtrends.org/2012/11/07/a-milestone-en-route-to-a-majority-minority-nation/>.

12. See generally ROGER DANIELS, *GUARDING THE GOLDEN DOOR: AMERICAN IMMIGRATION POLICY AND IMMIGRANTS SINCE 1882* (2004); BILL ONG HING, *DEFINING AMERICA THROUGH IMMIGRATION POLICY* (2004); KEVIN R. JOHNSON, *THE "HUDDLED MASSES" MYTH: IMMIGRATION AND CIVIL RIGHTS* (2004). Indeed, in 1790, the first Congress passed, and President George Washington signed, a law restricting naturalization to "free white persons." Naturalization Act, ch. 3, § 1, 1 Stat. 103, 103-04 (1790) (repealed in 1790). In 1922, the Supreme Court unanimously called the racial restriction "a rule in force from the beginning of the government, a part of our history as well as our law, welded into the structure of our national polity by a century of legislative and administrative acts and judicial decisions . . ." *Ozawa v. United States*, 260 U.S. 178, 194 (1922).

13. See Gabriel J. Chin, *The Civil Rights Revolution Comes to Immigration Law: A New Look at the Immigration and Nationality Act of 1965*, 75 N.C. L. REV. 273, 279 (1996).

14. *Id.*

15. *Id.* at 280 n.21 (citing generally Bill Ong Hing, *Immigration Policies: Messages of Exclusion to African Americans*, 37 HOW. L.J. 237 (1994)).

16. *Id.* at 280-82.

17. IAN HANEY LÓPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE* 1 (N.Y.U. Press 2006).

Since 1965, the vast majority of immigrants have been from the Third World, particularly Latin America, South America, and Asia.<sup>18</sup> This is not the result of immigration “affirmative action” or racial/national preferences aimed at new populations or nations. Instead, immigrants are admitted based on job skills or connections to U.S. citizens or lawful permanent residents—so-called “green card” holders.<sup>19</sup> As of 2012, only sixty-three percent of the U.S. population is non-Hispanic white.<sup>20</sup> In California, Hawaii, New Mexico, Texas, and the District of Columbia, the minority population exceeded the white population as of 2012, and the Census Bureau projects that United States as a whole will become a “majority minority” nation by 2043.<sup>21</sup>

Many scholars contend that neither Congress nor the Administration welcomed or anticipated the demographic shift in the immigrant stream. Eithne Luibheid contended that the “surge [of Asians and other non-whites] was clearly an unintended consequence of the 1965 act and did not occur because lawmakers set out to right a wrong.”<sup>22</sup> Nor was the 1965 abolition of explicit preferences “ever intended to accomplish more than a primarily cosmetic change, one that would not actually open the United States to significant Asian, Latin American, African or Caribbean migration.”<sup>23</sup> Therefore, “passage of the 1965 INA did not represent a complete rupture with the long history of exercising racial and ethnic control through immigration.”<sup>24</sup>

Mae Ngai suggested that liberals in Congress believed that “opening Asiatic immigration in principle would not mean opening it in practice, at least not significantly.”<sup>25</sup> Hugh Davis Graham explained that officials believed that “far from threatening to ethnically transform the nation, the immigration reform bill would, as a practical matter, produce a national origins system of immigration, but without the offensive quotas.”<sup>26</sup> Erika Lee concluded:

The 1965 Act abolished the national origins quotas, but lawmakers still expressed a desire to facilitate immigration from Europe, and to limit—or at the very least, discourage—immigration from Asia, Latin America and Africa. Indeed, although a racial hierarchy was

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18. 2011 YEARBOOK, *supra* note 10, at 8–11.

19. 8 U.S.C. § 1153 (2012).

20. Press Release, U.S. Census Bureau, U.S. Census Bureau Projections Show a Slower Growing, Older, More Diverse Nation a Half Century from Now (Dec. 12, 2012), <https://www.census.gov/newsroom/releases/archives/population/cb12-243.html>.

21. *Id.*

22. Eithne Luibheid, *The 1965 Immigration and Nationality Act: An “End” to Exclusion?*, 5 POSITIONS no. 2, 501, 507 (1997).

23. *Id.* at 510.

24. *Id.*

25. MAE M. NGAI, IMPOSSIBLE SUBJECTS: ILLEGAL ALIENS AND THE MAKING OF MODERN AMERICA 246 (2004).

26. HUGH DAVIS GRAHAM, COLLISION COURSE: THE STRANGE CONVERGENCE OF AFFIRMATIVE ACTION AND IMMIGRATION POLICY IN AMERICA 61 (2002).

not explicitly written into the law as in 1924, it remained deeply embedded in the 1965 act's design and intent.<sup>27</sup>

Theodore H. White called the Immigration Act "noble, revolutionary-and probably the most thoughtless of the many acts of the Great Society."<sup>28</sup>

The claim is not merely that details of the Act's operation were unknown. Rather, it is that the effective preference for whites was a condition of enactment. David Reimers questions what "[Congress] would have done if this issue were clear in 1965,"<sup>29</sup> suggesting the possibility that the bill would not have passed, at least not without measures designed to minimize Asian and other non-white immigration.<sup>30</sup> Roger Daniels has no doubts: "[H]ad the Congress fully understood [the 1965 Act's] consequences, it almost certainly would not have passed."<sup>31</sup> Immigration restrictionists rely on the unanticipated consequences of the Act as a reason to repeal it.<sup>32</sup>

What, then, was the Immigration Act if not an attempt to integrate the immigration stream? Some scholars point to the foreign policy implications of the Act and the benefit of being "seen as the egalitarian champion of the 'free world.'"<sup>33</sup> How could Congress pass progressive domestic civil rights legislation and simultaneously maintain an immigration policy which operated with a racially discriminatory effect? Under this interpretation, the Immigration Act was less about racial integration and more a foreign policy fig leaf.

Others, including one of the authors,<sup>34</sup> have disagreed with these scholars.<sup>35</sup> They argue that statements in the legislative history and con-

27. Erika Lee, *A Nation of Immigrants and a Gatekeeping Nation: American Immigration Law and Policy*, in *A COMPANION TO AMERICAN IMMIGRATION* (Reed Ueda ed., 2006).

28. THEODORE H. WHITE, *AMERICA IN SEARCH OF ITSELF: THE MAKING OF THE PRESIDENT, 1956-1980*, at 363 (1982).

29. DAVID M. REIMERS, *STILL THE GOLDEN DOOR: THE THIRD WORLD COMES TO AMERICA* 76 (2d ed. 1992).

30. Professor Reimers concluded: "The bill might have passed anyway, in the civil rights and generally liberal climate of 1965, but perhaps not so easily or without other changes." *Id.*

31. ROGER DANIELS, *COMING TO AMERICA: A HISTORY OF IMMIGRATION AND ETHNICITY IN AMERICAN LIFE* 338 (1990).

32. See, e.g., LAWRENCE AUSTER, *THE PATH TO NATIONAL SUICIDE: AN ESSAY ON IMMIGRATION AND MULTICULTURALISM* 10-26 (1990) (arguing that consequences of 1965 Act were unintended); S.L. Bachman, *As the Number of People Increases in Poor Nations, the Number of People at the Borders of Rich Countries Does, Too. The Human Tide Comes In*, SAN JOSE MERCURY NEWS, Mar. 20, 1994, at 7C ("The Law of Unintended Consequences upsets planning."); Otis Graham, Jr., *Tracing Liberal Woes to '65 Immigration Act*, CHRISTIAN SCI. MONITOR, Dec. 28, 1995, at 19, available at <http://cis.org/Liberalism%252665ImmigrationAct>.

33. BILL ONG HING, *MAKING AND REMAKING ASIAN AMERICA THROUGH IMMIGRATION POLICY, 1850-1990*, at 79 (1993); see also, e.g., NGAI, *supra* note 25, at 263 (noting that proponents of reform "leveraged Cold War foreign policy interests").

34. See Chin, *supra* note 13, at 300.

35. See, e.g., NATHAN GLAZER, *AFFIRMATIVE DISCRIMINATION: ETHNIC INEQUALITY AND PUBLIC POLICY* 4 (reprint ed. 1975) ("The passage of the Immigration Act of 1965 marked the disappearance from Federal law of crucial distinctions on the basis of race and national origin. The nation agreed with this act that there would be no effort to control the future ethnic and racial character of the American population and rejected the claim that some racial and ethnic groups were more suited to be Americans than others.").

temporary media accounts make clear that the Immigration Act was a genuine effort to eliminate the ugly history of racism from U.S. immigration law.<sup>36</sup>

It is important to understand the significance of the claim that the 1965 Immigration Act was a Cold War gesture not actually intended to eliminate racism root and branch. Immigration reform's centrality to the liberal project is exemplified by President John F. Kennedy's book *A Nation of Immigrants*, published posthumously in 1964 with an introduction written by Robert F. Kennedy.<sup>37</sup> Offering an understanding of race which modern progressives might well embrace, it includes illustrations—and thus implicit comparisons—of Ku Klux Klan rallies, Nazi book burnings, and a nineteenth century anti-Chinese riot in Denver.<sup>38</sup> The President's book calls the Japanese American internment “unreasoning discrimination” and notes that “[t]he same things are said today of Puerto Ricans and Mexicans that were once said of Irish, Italians, Germans, and Jews: ‘They’ll never adjust; they can’t learn the language; they won’t be absorbed.’”<sup>39</sup> Although not particularly academic, the book is remarkable, perhaps unique, because it was written by a sitting President who made and defended very specific policy reforms that ultimately became law.<sup>40</sup> The central idea was that U.S. law “should be modified” so that it admitted “those with the greatest ability to add to the national welfare, no matter where they are born.”<sup>41</sup> Of course, this nice language is perfectly consistent with the argument that no change was intended. Perhaps legislative antiracism was situational. For example, Presidents Kennedy, Johnson, and Congress might have understood immigration and domestic civil rights differently. Conceivably, they recognized that it had to offer fair treatment to African Americans who were already in the United States, but discriminating against Asians, Latinos, and Africans in foreign lands on the basis of their race was practically and morally different.

If the Immigration Act's race neutrality was hypocritical, there are potentially even more fundamental implications. At the moment, there seems to be little question among academics or the courts that the VRA<sup>42</sup> and CRA were intended to achieve actual equal opportunity.<sup>43</sup> But if the

36. See, e.g., *id.* at 3; see also, e.g., Chin, *supra* note 13, at 300–01.

37. JOHN F. KENNEDY, *A NATION OF IMMIGRANTS*, at ix–xi (rev. ed. 1964).

38. *Id.* at 71–76.

39. *Id.* at 63.

40. *Id.* at 77–83 (outlining proposal); see also *id.* at 102 (reprinting President Kennedy's July 23, 1963, address on immigration).

41. *Id.* at 103.

42. “Congress enacted the Voting Rights Act of 1965 for the broad remedial purpose of ‘rid[ding] the country of racial discrimination in voting.’” *Chisom v. Roemer*, 501 U.S. 380, 403 (1991) (quoting *South Carolina v. Katzenbach*, 383 U.S. 301, 315 (1966)); see also Laughlin McDonald, Holder v. Hall: *Blinking at Minority Voting Rights*, 3 D.C. L. REV. 61, 75 (1995).

43. “The primary purpose of Title VII [of the Civil Rights Act of 1964] was ‘to assure equality of employment opportunities and to eliminate those discriminatory practices and devices which have fostered racially stratified job environments to the disadvantage of minority citizens.’” *Int'l Bhd. of Teamsters v. United States*, 431 U.S. 324, 348 (1977) (quoting *McDonnell Douglas Corp. v. Green*, 411

Immigration Act was disguised Jim Crow legislation, that fact impeaches the “Second Reconstruction” as an enterprise. If Congress and the Administration intended the Immigration Act to result in no real change, perhaps the VRA and CRA were also intended to maintain a segregated status quo in more polite form.

This Article tests the claim that the 1965 Immigration Act did not intend to accomplish real reform. In Part II, we begin by briefly tracing the legislative history of the CRA, the VRA, and the INA. We note that President Johnson promoted moral ideals such as equality and fairness in justifying and promoting all three laws to the public. In Part III, we then present a new body of evidence based on Congressional roll call votes that challenges the claim that the Immigration Act had different motivations and expectations than the CRA and VRA. Specifically, we identify striking patterns of overlapping support and opposition for all three bills. In every case, nearly identical coalitions of civil rights advocates supported the bills while the same group of racially intolerant legislators opposed them.<sup>44</sup> At the same time, support for the Immigration Act shows no correlation with foreign policy bills.<sup>45</sup> We interpret these patterns as compelling evidence that all three laws had similar goals. To the extent that the three laws were passed with the same motivation, we argue that the most likely motivation was sincere antiracism and not cosmetic legislation intended to have little practical effect.

## II. LEGISLATIVE HISTORY

Exactly five months before he was assassinated, President Kennedy federalized the Alabama National Guard to usher two black students into the University of Alabama.<sup>46</sup> That same evening, Kennedy addressed the nation from the Oval Office and exhorted the country to examine their conscience with respect to racial equality:

We face, therefore, a moral crisis as a country and as a people . . . . It is time to act in the Congress, in your State and local legislative body and, above all, in all of the daily lives . . . . Next week I shall ask the Congress of the United States to act, to make a commitment it has not fully made in this century to the proposition that race has no place in American life or law.<sup>47</sup>

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U.S. 792, 800 (1973)); *see also, e.g.*, Robert Post, *Prejudicial Appearances: The Logic of American Antidiscrimination Law*, 88 CAL. L. REV. 1, 10 (2000) (examining judicial interpretations of Title VII).

44. *See infra* Part III.B.

45. *See infra* Part III.A.

46. For a detailed history of the events in Alabama, see E. CULPEPPER CLARK, *THE SCHOOLHOUSE DOOR: SEGREGATION'S LAST STAND AT THE UNIVERSITY OF ALABAMA* (1993) and GERALD N. ROSENBERG, *THE HOLLOW HOPE: CAN COURTS BRING ABOUT SOCIAL CHANGE?* (Benjamin L. Page 2d ed., 1991).

47. Radio and Television Report to the American People on Civil Rights, PUB. PAPERS: JOHN F. KENNEDY, 1963, at 468 (June 11, 1963), available at <http://quod.lib.umich.edu/p/ppotpus/4730928.1963.001/521?view=pdf>.

Kennedy did not live long enough to shepherd his proposed act through Congress. That task fell to Lyndon B. Johnson. Addressing a joint session of Congress in the wake of Kennedy's assassination, Johnson made his appeal:

First, no memorial oration or eulogy could more eloquently honor President Kennedy's memory than the earliest possible passage of the civil rights bill for which he fought so long. We have talked long enough in this country about equal rights. We have talked for 100 years or more. It is time now to write the next chapter—and to write it in the books of law.<sup>48</sup>

Within six weeks, the House of Representatives approved a new Civil Rights Act and sent it to the Senate.<sup>49</sup> After a record sixty days of debate and a filibuster,<sup>50</sup> the Senate enacted a revised version that was approved by the House on July 2, 1964, and signed by President Johnson the same day.<sup>51</sup>

Nine months later, on March 7, 1965, approximately 600 civil rights demonstrators began to march from Selma, Alabama toward the state capitol in Montgomery, fifty-four miles away, where they sought the Governor's protection of their voting rights, among other things.<sup>52</sup> Less than a mile into their journey, the marchers were violently attacked by police officers with tear gas and batons.<sup>53</sup> Photographs of the confrontation were broadcast on television and printed in newspapers across the country.<sup>54</sup> In an instant, this local conflict became a national story and prompted President Johnson to convene a joint session of Congress eight days later.<sup>55</sup> In his remarks, President Johnson referenced the brutal assault in Selma and urged Congress to pass a Voting Rights Act:

We cannot, we must not, refuse to protect the right of every American to vote in every election that he may desire to participate in. And we ought not and cannot and we must not wait another 8 months before we get a bill. We have already waited a hundred years and more, and the time for waiting is gone. So I ask you to

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48. Address Before a Joint Session of Congress, 1 PUB. PAPERS: LYNDON B. JOHNSON, 1963–1964, at 8, 9 (Nov. 27, 1963), available at <http://quod.lib.umich.edu/p/ppotpus/4730949.1964.001/90?view=image&size=100>.

49. See generally CHARLES WHALEN & BARBARA WHALEN, THE LONGEST DEBATE: A LEGISLATIVE HISTORY OF THE 1964 CIVIL RIGHTS ACT (1985).

50. See *id.*; 110 CONG. REC. 13,327 (1964) (detailing Roll Call No. 281, regarding a motion to invoke cloture).

51. 110 CONG. REC. 14,511 (1964) (regarding Roll Call No. 436, the Senate's roll call vote for the Civil Rights Act of 1964); 110 CONG. REC. 15,897 (1964) (concerning Roll Call No. 179, the House's roll call vote on the Senate's version of the Civil Rights Act of 1964).

52. *Selma-to-Montgomery March*, NPS.GOV, <http://www.nps.gov/nr/travel/civilrights/al4.htm> (last visited Feb. 8, 2015).

53. *Id.*

54. *Id.*

55. *Id.*



join me in working long hours—nights and weekends, if necessary—to pass this bill.<sup>56</sup>

The Senate immediately drafted a bill that survived twenty-eight roll call votes and a filibuster before being sent to the House.<sup>57</sup> By August, the House had approved a bill, and a conference version was adopted and signed by President Johnson on August 6, 1965.<sup>58</sup>

Congress built on its momentum by considering a proposal to reform the Immigration and Nationality Act on August 25, 1965.<sup>59</sup> Within two weeks, President Johnson stood at the foot of the Statue of Liberty to sign the new immigration law. Addressing the nation, President Johnson pointed to the new law's emphasis on fairness:

This is a simple test, and it is a fair test. Those who can contribute most to this country—to its growth, to its strength, to its spirit—will be the first that are admitted to this land. The fairness of this standard is so self-evident that we may well wonder that it has not always been applied.<sup>60</sup>

In just fifteen months, Congress had passed three historic civil rights bills. In Part III, we turn our attention to the members of Congress who voted for these three laws and ask, to what extent did support for the CRA and the VRA overlap support for the INA?

### III. ANALYSIS OF ROLL CALL VOTES

#### A. *Vote Totals and Overlapping Support*

If our hypothesis is correct that the INA was an intentional civil rights law, then we should observe a correlation between the coalitions in Congress that supported each of these bills. To the extent that these three laws were motivated by similar considerations, similar groups of legislators likely supported all three. If the INA was primarily motivated by racial equality, then we would expect the same members of Congress that voted for the CRA and VRA to also have voted for the INA. If the INA was simply a symbolic gesture of foreign policy aimed at repairing America's image overseas, then its supporting coalition is likely to be somewhat different than coalitions supporting the CRA and VRA.

We acknowledge at the outset two important limitations to any empirical analysis of roll call votes. First, roll call votes represent the end

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56. Special Message to the Congress: The American Promise, 1 PUB. PAPERS: LYNDON B. JOHNSON, 1965, at 281, 283–84 (Mar. 15, 1965), available at <http://quod.lib.umich.edu/p/ppotpus/4730960.1965.001/357?page=root;rgn=full+text;size=100;view=image>.

57. *August 4, 1965: The Senate Passes the Voting Rights Act*, U.S. SENATE, [https://www.senate.gov/artandhistory/history/minute/Senate\\_Passes\\_Voting\\_Rights\\_Act.htm](https://www.senate.gov/artandhistory/history/minute/Senate_Passes_Voting_Rights_Act.htm) (last visited Feb. 8, 2015).

58. *Id.*

59. See An Act to Amend the Immigration and Nationality Act, and for Other Purposes, Pub. L. No. 89-236, 79 Stat. 911 (1965).

60. Remarks at the Signing of the Immigration Bill, Liberty Island, New York 2 PUB. PAPERS: LYNDON B. JOHNSON, 1965, at 1037–38 (Oct. 3, 1965), available at <http://quod.lib.umich.edu/p/ppotpus/4730960.1965.002/509?rgn=full+text;view=image>.

product of a complex and strategic process. Some of the most important decisions about a bill are made during the legislative drafting process, the agenda setting protocol, and in back rooms where legislators trade votes and negotiate compromises.<sup>61</sup> Roll call votes do not capture these important events and therefore ignore crucial signals about the positions and priorities of legislators. Second, roll call votes represent a formal tally of a legislator's position but do not reveal anything about the legislator's intent. As a result, we cannot distinguish between genuine, symbolic, or strategic votes, but assume that all votes represent the true preferences of the legislator.

Because of these limitations, we employ a mixed-method approach. We begin with an analysis of roll call votes that includes votes at different stages in the legislative process. By measuring votes for different versions of the bill, we can observe whether coalitions changed under different circumstances. We also estimate a scaled measure of ideology based on hundreds of roll call votes by each member of Congress. By pooling roll call votes, we more accurately capture the true position of each legislator and can therefore test whether our findings are driven by strategic votes or genuine preferences. All of our analyses utilize data from Keith Poole and Howard Rosenthal's Voteview project that has coded all roll call votes for every Congress in U.S. history.<sup>62</sup>

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61. See, e.g., GARY W. COX & MATHEW D. MCCUBBINS, *SETTING THE AGENDA: RESPONSIBLE PARTY GOVERNMENT IN THE U.S. HOUSE OF REPRESENTATIVES* 5 (2005); DANIEL A. FARBER & PHILIP P. FRICKEY, *LAW AND PUBLIC CHOICE: A CRITICAL INTRODUCTION* 3 (1991) (describing the conditions under which legislative ambiguity is a rational choice for lawmakers); ANN SEIDMAN ET AL., *LEGISLATIVE DRAFTING FOR SOCIAL CHANGE: A MANUAL FOR DRAFTERS* 5 (2001) (describing the inextricable link between a bill's form and its substance); MAXWELL J. STEARNS & TODD J. ZYWICKI, *PUBLIC CHOICE CONCEPTS AND APPLICATIONS IN LAW* 94, 105–07 (2009); Jack L. Walker, *Setting the Agenda in the U.S. Senate: A Theory of Problem Selection*, 7 *BRIT. J. POL. SCI.* 423, 427 (1977).

62. Keith Poole et al., *Roll Call Data*, VOTEVIEW, <http://voteview.com/downloads.asp#PARTYSPLITSDWNL> (last visited Feb 8, 2015).

No. 3]

WAS MULTICULTURALISM A MISTAKE?

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TABLE 1. OVERVIEW OF ROLL CALL VOTES

## (A) HOUSE OF REPRESENTATIVES

	<u>Democrats</u>		<u>Republicans</u>		<u>TOTAL</u>	
	Yea	Nay	Yea	Nay	Yea	Nay
Civil Rights Act (1964)	152	96	138	34	290	130
<i>Senate version</i>	153	91	136	35	289	126
Voting Rights Act (1965)	221	62	112	23	333	85
<i>Conference version</i>	218	54	110	20	328	74
Imm. & Nat'lity Act (1965)	209	71	109	24	318	95
<i>Senate version</i>	202	60	118	10	320	70

## (B) SENATE

	<u>Democrats</u>		<u>Republicans</u>		<u>TOTAL</u>	
	Yea	Nay	Yea	Nay	Yea	Nay
Civil Rights Act (1964)	41	17	26	0	67	17
<i>Cloture vote</i>	45	23	27	6	71	29
<i>Adopt substitute for HR 7152</i>	46	18	30	0	76	18
<i>Final version</i>	46	21	27	6	73	27
Voting Rights Act (1965)	47	17	31	1	78	18
<i>Cloture vote</i>	47	21	23	9	70	30
<i>Conference version</i>	49	17	30	1	79	18
Imm. & Nat'lity Act (1965)	52	15	24	3	76	18

In Table 1, we present the overall vote totals for the CRA, VRA, and INA in both legislative chambers. There were very few roll call votes in the House of Representatives for any of the bills. There are exactly three recorded roll call votes in the House on the CRA (H.R. 7152). The first vote is a motion on Saturday postponing consideration of the bill until the following Monday, the second vote supports passage of the bill, and the third vote adopts the Senate's version of the bill.<sup>63</sup>

The VRA (H.R. 6400) attracted four amendments, only one of which was adopted,<sup>64</sup> in addition to votes on initial passage and the con-

63. See Keith Poole et al., *88th House Codebook*, VOTEVIEW, <ftp://voteview.com/dtl/88.dtl> (last visited Feb. 8, 2015).

64. The successful amendment established criminal penalties against anyone giving false information on their voter registration application. The three failed amendments addressed illiterate voters, judicial review of the Act, and poll taxes.

ference version.<sup>65</sup> The INA (H.R. 2580) saw one failed amendment,<sup>66</sup> one vote on initial passage, and one vote adopting the conference version.<sup>67</sup>

The Senate was much more active in debating these bills. The CRA commanded the Senate's attention longer than any other bill in its history,<sup>68</sup> was subject to one of the longest filibusters in history,<sup>69</sup> and generated 108 roll call votes on various motions and amendments.<sup>70</sup> The VRA was also filibustered in the Senate and saw twenty-nine roll call votes.<sup>71</sup> Meanwhile, the INA sailed through with a single vote.<sup>72</sup>

We note two patterns in the data presented in Table 1. First, the CRA, VRA, and INA were all enacted with wide majorities of both parties in both chambers of Congress. Second, the vote totals and voting coalitions are nearly identical between early passage and final passage of each bill, with approximately sixty to seventy percent support across the board. Two deviations are worthy of attention, both from roll calls in the Senate. First, six Republicans voted against cloture and against final passage of the CRA but voted in favor of the bill at other stages.<sup>73</sup> Second, ten Republicans voted against cloture for the VRA but then supported its final passage.<sup>74</sup> We explore these deviations in more detail below.<sup>75</sup>

The overall similarity in numbers between the different versions of the bills suggests that there were few members of Congress that supported the bills in theory but not in practice. Regardless, strong support for all three laws does not speak directly to our hypothesis, which is that the underlying coalitions, not just the overall numbers, in support of the bills are similar.

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65. See Keith Poole et al., *89th House Codebook*, VOTEVIEW, <ftp://voteview.com/dtl/89.dtl> (last visited Feb. 8, 2015).

66. The failed amendment would have created a quota of 115,000 immigrations per year from countries in the Western hemisphere.

67. See *supra* note 64.

68. See *supra* note 56.

69. Associated Press, *The Longest U.S. Senate Filibusters*, AP: THE BIG STORY (Sept. 25, 2013, 12:47 PM), <http://bigstory.ap.org/article/longest-us-senate-filibusters>.

70. See Keith Poole et al., *88th Senate Codebook*, VOTEVIEW, <ftp://voteview.com/dtl/88s.dtl> (last visited Feb. 8, 2015).

71. See Keith Poole et al., *89th Senate Codebook*, VOTEVIEW, <ftp://voteview.com/dtl/89s.dtl> (last visited Feb. 8, 2015).

72. *Id.*

73. See *Major Features of the Civil Rights Act of 1964*, DIRKSEN CENTER, [http://www.dirksencenter.org/print\\_basics\\_histmats\\_civilrights64text.htm](http://www.dirksencenter.org/print_basics_histmats_civilrights64text.htm) (last visited Feb. 8, 2015).

74. See *infra* note 98.

75. See *infra* note 98.

TABLE 2. MEMBERS OF CONGRESS THAT VOTED FOR MORE THAN ONE BILL

(A) HOUSE OF REPRESENTATIVES		(1)	(1a)	(2)	(3)
		CRA	(adj)	VRA	INA
Number of yea votes	CRA	289	239	--	--
	VRA	221	221	328	--
	INA	207	207	283	320
Percent	CRA	100	100	--	--
	VRA	76.5	92.5	100	--
	INA	71.6	86.6	86.3	100
(B) SENATE		(1)	(1a)	(2)	(3)
		CRA	(adj)	VRA	INA
Number of yea votes	CRA	73	68		
	VRA	66	66	77	
	INA	62	62	72	76
Percent	CRA	100	100		
	VRA	90.4	97.1	100	
	INA	84.9	91.2	93.5	100

In Table 2, we show how many members of Congress voted in favor of more than one bill.<sup>76</sup> We observe that members of Congress who voted for the CRA were slightly more likely to support the VRA than the INA. But we note that a high percentage of senators and representatives voted for at least two of the laws. Such strong correlations are particularly notable because there was an intervening midterm election between the CRA and the other two Acts.<sup>77</sup> Among supporters of the CRA, fifty members of the House and five members of the Senate were no longer in Congress in 1965.<sup>78</sup> Thus, the correlations in column (1) between legislators voting for the CRA and at least one of the other two bills is biased downwards. In reality, the baseline of *possible* overlapping CRA supporters was only 239 in the House (not 289) and sixty-eight in the Senate (not seventy-three). Against this adjusted baseline, the percent of overlapping support between the CRA and VRA grows to 92.5% in the House and 97.1% in the Senate.<sup>79</sup> The percent of overlapping support between the CRA and INA grows to 86.6% in the House and 91.2% in the Senate. These higher (and more accurate) numbers mirror the correla-

76. Vote totals reflect the roll call on final passage for each Act.

77. See STATISTICS OF THE PRESIDENTIAL AND CONGRESSIONAL ELECTION OF NOVEMBER 3, 1964, available at [http://clerk.house.gov/member\\_info/electionInfo/1964election.pdf](http://clerk.house.gov/member_info/electionInfo/1964election.pdf).

78. See *supra* Table 2, at column 1, 1(a).

79. See *supra* Table 2, at column 1(a).

tion between yeas votes for the VRA and INA. Nearly ninety percent of the yeas votes for the INA were by members of Congress that had supported the VRA just one month earlier. In all, 196 members of the House and sixty-one senators supported all three bills.<sup>80</sup>

As a point of comparison, we look at the correlation between votes for the INA and votes for the only other foreign policy bills that were enacted during the 89th Congress: the Foreign Assistance Act<sup>81</sup> and the Foreign Investors Tax Act.<sup>82</sup> The Foreign Assistance Act was a targeted grant of foreign aid aimed at promoting agricultural production and health in developing countries.<sup>83</sup> The Foreign Investors Tax Act was Congress' response to a Presidential task force charged with promoting increased foreign investment in U.S. corporations operating abroad.<sup>84</sup> To the extent that the INA was passed to improve the U.S. relationship with the world, we might expect support for the INA to correlate strongly with support for these two foreign policy bills explicitly aimed at enhancing the country's image abroad. As it turns out, the members of Congress supporting the Foreign Assistance Act and the Foreign Investors Tax Act were not strong supporters of the INA. Fifty-six percent of the INA's supporters in the House voted for the Foreign Assistance Act, and forty-two percent voted for the Foreign Investors Tax Act.<sup>85</sup> In the Senate, the overlap was just thirty-seven percent and twenty-nine percent, for each bill respectively. Contrast these numbers to the overlapping support with the VRA and the CRA (seventy to ninety percent) in Table 2.

To better gauge the relative strength of voting coalitions between these bills, we rank every roll call vote in the House and Senate during

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80. See *supra* Table 2.

81. Foreign Assistance Act of 1966, Pub. L. No. 89-583, 80 Stat. 795-3 (1966).

82. Foreign Investors Tax Act, Pub. L. No. 89-809, 80 Stat. 1539 (1966). With the exception of several general appropriations bills for the military and foreign aid, Congress did not consider any other foreign policy bills. The Senate debated and rejected a county-by-country quota amendment to the Sugar Act. The House passed amendments to the Foreign Service Buildings Act (limiting competition for construction or repair of American owned buildings abroad), but the Senate did not schedule a vote. Both Houses approved an amendment to the Foreign Agents Registration Act, but the amendment was not a foreign policy measure as it merely provided additional time for the payment of income taxes by those who under-withheld their 1964 wages. See *supra* notes 65 and 71.

83. See 22 U.S.C. § 2151(a) (2012) (“[T]he Congress declares that a principal objective of the foreign policy of the United States is the encouragement and sustained support of the people of developing countries in their efforts to acquire the knowledge and resources essential to development and to build the economic, political, and social institutions which will improve the quality of their lives.”).

84. S. REP. NO. 89-1707, at 9 (1966), available at <http://www.finance.senate.gov/library/reports/committee/download/?id=4ee7ee42-2874-4976-8161-00919c85e474> (“On October 2, 1963, the President appointed a task force on ‘Promoting Increased Foreign Investment in U.S. Corporate Securities and Increased Foreign Financing for U.S. Corporations Operating Abroad.’ On April 27, 1964, a report of this task force was released. Among the recommendations of the task force were a series of proposals designed to modify the U.S. taxation of foreign investors.”).

85. Compare *To Pass H.R. 15750, The Foreign Assistance Act of 1966*, GOVTRACK, <https://www.govtrack.us/congress/votes/89-1966/h285> (last visited Feb. 8, 2015), and *To Adopt the Conference Report on H.R. 13013, The Foreign Investors Tax Act of 1966*, GOVTRACK, <https://www.govtrack.us/congress/votes/89-1966/h392> (last visited Feb. 8, 2015), with *To Pass H.R. 2580, The Amended Immigration and Nationality Act*, GOVTRACK, <https://www.govtrack.us/congress/votes/89-1965/h125> (last visited Feb. 8, 2015).

the 89th Congress by its percent of overlapping support for final passage of the INA.<sup>86</sup> In order to generate a meaningful comparison of roll call votes, we drop several votes from our analysis where there was little or no opposition. A measure of overlapping support is meaningless for unanimous votes (where all votes overlap!) and also for votes where only a few legislators dissent.

We follow the convention to drop all votes where the “nays” do not exceed 2.5% of the overall vote total (about ten members of the House and two members of the Senate).<sup>87</sup> Of the 394 roll call votes in the House, we drop forty-five unanimous votes and forty-seven votes where less than 2.5% of the votes are nays.<sup>88</sup> Of the 499 roll call votes in the Senate, we drop forty-five unanimous votes and thirteen votes where two or fewer senators dissented.<sup>89</sup> The results are striking. In both the House and the Senate, the roll call vote that most strongly overlaps with the INA is related to the VRA. Of the nine roll call votes in the House most similar to the INA, one is for an amendment to the CRA, two are for the VRA, and one is for an amendment to the INA.<sup>90</sup> In the Senate, four of the six roll call votes with the most overlapping support for the INA are related to the VRA, including adoption of the Mansfield-Dirksen substitute (which turned out to be the final version), the cloture vote, and passage.<sup>91</sup>

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86. See *infra* Figure 1.

87. See generally KEITH T. POOLE & HOWARD ROSENTHAL, CONGRESS: A POLITICAL-ECONOMIC HISTORY OF ROLL CALL VOTING (1997); Keith Poole et al., *Scaling Roll Call Votes with wnominate in R*, 42 J. STAT. SOFTWARE 1 (2011) (where the default value for the ‘lop’ argument is 0.025).

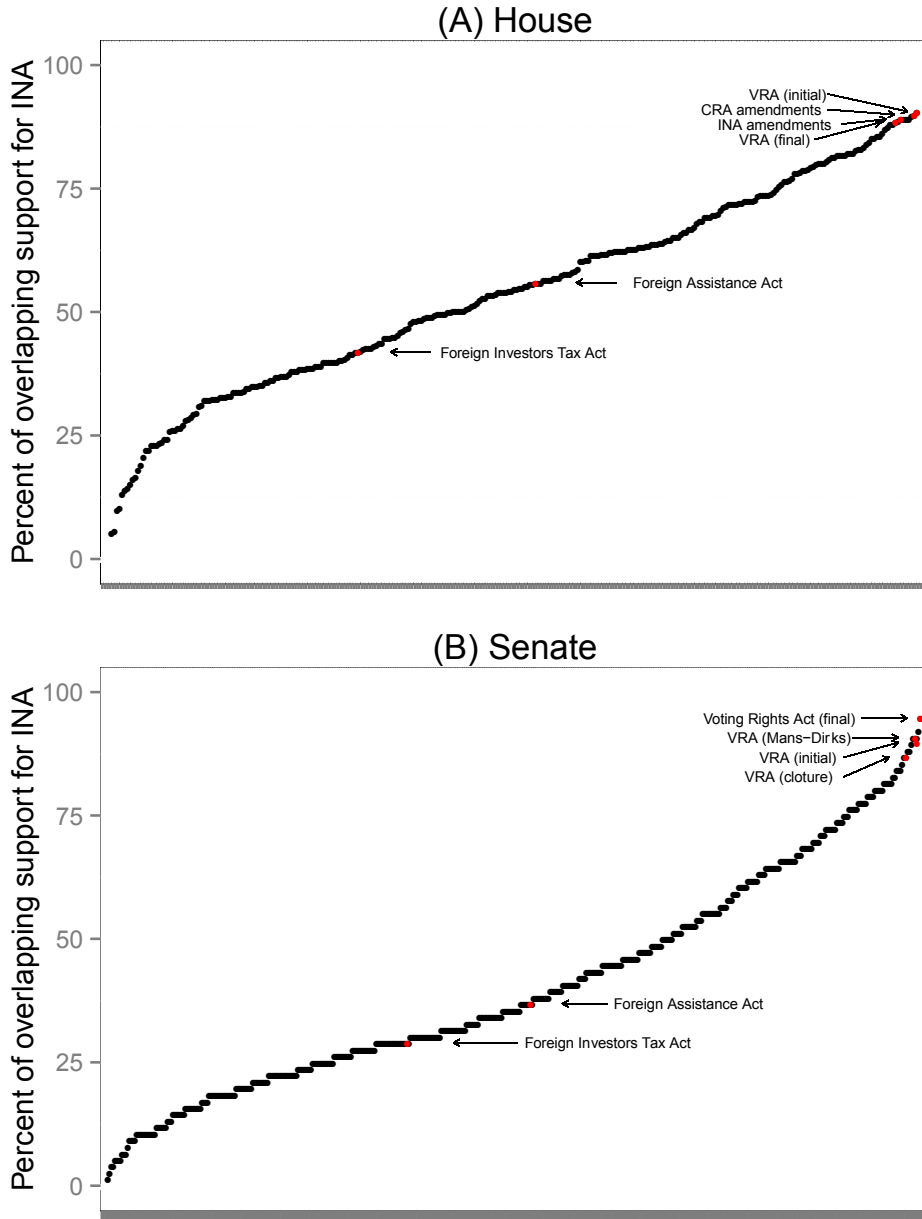
88. Our findings are not driven by the decision to drop unanimous and near-unanimous votes, even though these votes (by definition) have very high rates of overlap. For example, of the 394 roll call votes in the House, the INA was more similar to the Voting Rights Act than to 360 (or 91.4%) of all bills. By comparison, the Foreign Assistance Act was the 228th most similar bill (42.1%) and the Foreign Investors Tax Act was the 300th most similar (23.9%).

89. When all Senate roll call votes are included, the Voting Rights Act is the second most similar bill to the INA, more similar than 99.6% of all Senate roll call votes. By comparison, the Foreign Assistance Act was the 267th most similar bill (46.2%) and the Foreign Investors Tax Act was the 348th most similar (29.8%).

90. The other five bills addressed Presidential succession, NASA appropriations, the appointment of federal judges, Department of Interior appropriations, and unemployment insurance.

91. The other two bills addressed military appropriations and an excise tax reduction, which were opposed by five and three senators, respectively.

FIGURE 1. ROLL CALL VOTES IN THE 89TH CONGRESS, RANKED BY PERCENT OF OVERLAPPING SUPPORT FOR THE IMMIGRATION AND NATIONALITY ACT



Contrast this relationship with the VRA to the lack of overlapping support for the two foreign policy bills. Support for the Foreign Assistance Act was less similar to support for the INA than nearly half of



all roll call votes (46.2% in the House and 47.2% in the Senate). Overlapping support for the INA and the Foreign Investors Tax Act was even weaker. Only one-third of all roll call votes were less similar.<sup>92</sup> We interpret these findings to be compelling evidence that members of Congress who favored the INA were those who had supported the two racial equality laws of the mid-1960s. In Part III.B, we analyze the ideology of legislative supporters and opponents of these laws to identify whether the strong correlations we present above represent coalitions of like-minded civil rights advocates or something else.

### B. *Ideal Points and Coalitional Voting*

In our final analysis, we use ideal point estimation to confirm that the supporting coalitions of the CRA, VRA, and INA were actual ideological associates and not mere coincidental allies. Ideal point estimation is a technique that pools together roll call votes and legislators over multiple issues, and sometimes over multiple years.<sup>93</sup> Because voting data is pooled, legislators are characterized by their *patterns* of voting over time instead of by any one vote, which may be genuine, symbolic, or strategic.<sup>94</sup> Because legislators are pooled, ideal points measure the ideological position of members of Congress *relative* to each other.

In the simplest model, ideal points represent political preferences on a left-right scale. The model assumes that legislators vote in favor of motions or bills that move public policy closer to the legislator's most preferred outcome. This is a contestable assumption for any particular vote, but in the aggregate, the assumption reflects a rational choice theory of legislative voting. In more complicated models (which we use here), ideal points are estimated in two dimensions. The first dimension represents the conventional left-right divide along political and economic issues. The second dimension picks up variation in voting patterns with respect to racial politics. In early Congresses (pre-1870), the second dimension detects legislative conflicts over slavery, and throughout much of the 1900s, it picked up on conflicts about civil rights, particularly for African Americans.<sup>95</sup>

In Figure 2, we plot the ideal points of every legislator during the 88th and 89th Congresses (1963–1967).<sup>96</sup> Each data point represents one

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92. The Foreign Assistance Act was more similar than just 32.1% of all roll call votes in the House and 34.7% of all roll call votes in the Senate.

93. See Poole et al., *supra* note 87, at 1–2.

94. Ideological preferences based on multiple measures are more reliable than preferences based on a single question, or small set of questions. See Stephen Ansolabehere et al., *The Strength of Issues: Using Multiple Measures to Gauge Preference Stability, Ideological Constraint, and Issue Voting*, 102 AM. POL. SCI. REV. 215, 217–19 (2008) (comparing unstable preferences among survey respondents that answer a single question relative to respondents that answer several related questions).

95. See generally NOLAN M. MCCARTY ET AL., *INCOME REDISTRIBUTION AND THE REALIGNMENT OF AMERICAN POLITICS* (1997); KEITH T. POOLE & HOWARD ROSENTHAL, *IDEOLOGY & CONGRESS* (2007).

96. The ideal points are generated using DW-NOMINATE. See Royce Carroll et al., *Measuring Bias and Uncertainty in DW-NOMINATE Ideal Point Estimates via the Parametric Bootstrap*, 17 POL.

legislator displayed in a “common space.” The x-axis measures the first dimension ideal point and, as the plot illustrates, there is a clear separation between Democrats (further to the left) and Republicans (further to the right). The y-axis measures the second dimension ideal point and shows clear patterns in voting coalitions for the CRA and the VRA. The least racially tolerant Democrats and Republicans—those with the most positive ideal points on the second dimension—were the most likely to vote against the two most expansive civil rights laws. Eighty-one percent of legislators with ideal points greater than 0.5 voted against the Civil Rights Act, compared to just ten percent of all other legislators.<sup>97</sup> Seventy-four percent of senators with ideal points greater than 0.5 voted against the Voting Rights Act, compared to just three percent of all other legislators. The divide in the House is fifty-six percent to seven percent.<sup>98</sup>

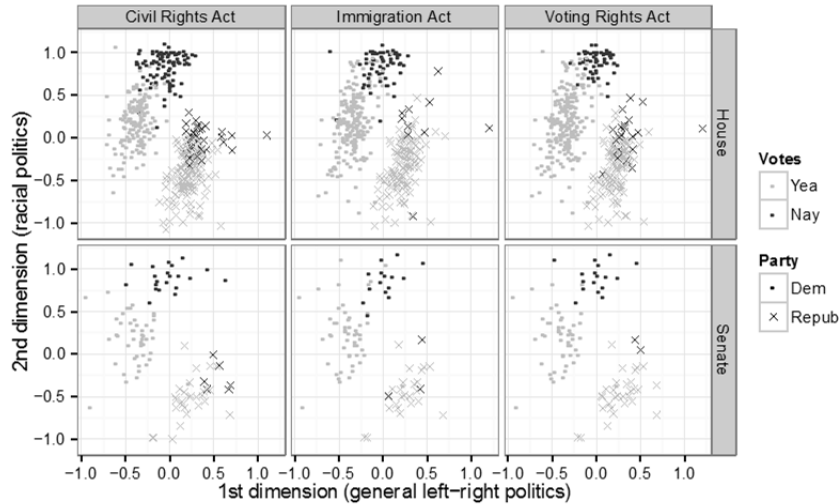
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ANAL. 261 (2009). For estimates for every Congress through 2012, see Royce Carroll et al., *DW-NOMINATE Scores with Bootstrapped Standard Errors*, VOTEVIEW (Feb. 17, 2013), <http://voteview.com/dwnomin.htm>. There are two general approaches for computing ideal points. The first method was pioneered by Keith Poole and Howard Rosenthal in the 1990s. See generally POOLE & ROSENTHAL, *supra* note 87. The second approach, developed in the early 2000s by Joshua Clinton, Simon Jackman, and Douglas Rivers, uses a Bayesian model. See generally Joshua Clinton et al., *The Statistical Analysis of Roll Call Data*, 98 AM. POL. SCI. REV. 355 (2004). Both methods produce nearly identical ideal points for large legislatures (greater than fifty members) and a large number of votes (greater than thirty). See Royce Carroll et al., *Comparing NOMINATE and IDEAL: Points of Difference and Monte Carlo Tests*, 34 LEGIS. STUD. Q. 555, 555 (2009); Joshua D. Clinton & Simon Jackman, *To Simulate or NOMINATE?*, 34 LEGIS. STUD. Q. 593, 593 (2009).

97. In the House, 12.9% of legislators with ideal points less than 0.5 voted against the Civil Rights Act. In the Senate the number is 8.1%.

98. The ideal points also provide some context to explain the behavior of those that voted for and against the same bills at different points during the process. For example, ten senators voted against cloture for the Voting Rights Act (i.e., they supported the filibuster) but then ultimately voted in favor of the Act's passage. The average second-dimension ideal points for these senators (-0.04) is more positive than the ideal points of senators that supported the bill (-0.07), but not quite as positive as those that voted against it (0.82). These ideal point estimates provide evidence that senators who voted differently during the process were in fact voting with genuine intent, rather than strategically.

FIGURE 2. TWO-DIMENSIONAL SCALED MEASURE OF IDEOLOGY FOR EACH LEGISLATOR IN THE 88TH AND 89TH CONGRESSES (1963-1967)



We draw the reader's attention to the middle panels of Figure 2 that show similar patterns for the Immigration and Nationality Act. Sixty-one percent of legislators with ideal points greater than 0.5 voted against the INA compared to five percent of all other legislators. In other words, the same racially intolerant Democrats and Republicans that voted against the CRA and the VRA also voted against the INA. We interpret these findings as evidence that the voting coalitions for these bills were not comprised of strategic bedfellows, but instead reflected a concerted effort at stalling civil rights measures aimed at racial integration, including the Immigration Act.

#### IV. CONCLUSION

The Immigration and Nationality Act Amendments of 1965 may be the most effective and consequential civil rights act of the 1960s. In half a century, the INA has radically transformed the underlying population of the United States, with nonwhites likely to outnumber whites within the next thirty years. Is this multiculturalism the product of a mistake? Was the law designed to eliminate racism in form, perhaps as a foreign policy gesture but not eliminate discrimination in practice? We do not think so. In this Article we have presented evidence that challenges the claim that members of Congress had a different motivation and expectations for the INA compared to other civil rights laws. We acknowledge that roll call votes do not necessarily capture the intent of any particular vote, but given the ideological makeup of the coalition supporting the INA, we think the evidence points more strongly toward a Congress that intended to end racial discrimination in the immigration stream just as it intended

to end racial discrimination in education, employment, and voting. The evidence is clear that the same civil rights coalitions that supported the CRA and VRA also supported the INA. Similarly, legislators opposed to civil rights opposed all three bills. To the extent that the three laws had similar goals, we think it is clear that the most likely motivation was sincere anti-racism and not cosmetic legislation intended to have little practical effect.