FOUNDATION PRESS

STATUTORY INTERPRETATION STORIES

Edited By

WILLIAM N. ESKRIDGE, JR.
John A. Garver Professor of Jurisprudence
Yale Law School

PHILIP P. FRICKEY
Alexander F. & May T. Morrison Professor
University of California-Berkeley School of Law

ELIZABETH GARRETT
Frances R. and John J. Duggan Professor of Law,
Political Science and Public Policy
University of Southern California

FOUNDATION PRESS
2011

THOMSON REUTERS™

searching for legislative intent.[44] There is much more to the history of the enactment of the Alien Contract Labor Act than the brief excerpt in the court decision, however. Before making judgments about the true intent of Congress (or whether one can fathom what its true intent was) and the efficacy of consulting legislative history, we should explore more of that history.

Introduction and Passage in the House

The aim of the Alien Contract Labor Act, as described in the House Report accompanying it, was "to restrain and prohibit the immigration or importion [sic] of laborers who would have never seen our shores but for the inducements and allurements of men whose only object is to obtain labor at the lowest possible rate, regardless of the social and material well-being of our own citizens and regardless of the evil consequences which result to American laborers from such immigration." The report goes on to describe the "great numbers of immigrants ... who are owned by capitalists," the "large gangs of laborers" who arrive, all bound for the same place. It quotes Mr. John Swinton of New York City writing about "firms engaged in trafficking in human flesh," with 14,000 Italians being brought to this country under contract. There is much talk, too, of the terrible conditions under which many of these contract laborers lived and worked, particularly in the glass manufacturing industry, silk manufacturing establishments, railroads, and coke manufacturing plants.[45]

In contrast to immigrants who came to the United States voluntarily, for their own betterment, with a commitment to their new country and an intention to become American citizens, these paid laborers are described as ignorant about the United States. Their sponsors isolated them from other Americans and sent them back home when their contracts expired. Other employers—those who "from inability or from patriotic motives employ only American workingmen"—are described as "unable to compete in the markets with the corporations who employ the cheap imported labor."[46]

The effort in Congress to limit the importation of cheap labor had begun as early as 1869.[47] As with the law enacted in 1885, earlier

---

44. *See* Vermeule, *Judging Under Uncertainty*, *supra* note 10; Adrian Vermeule, *Legislative History and the Limits of Judicial Competence: The Untold Story of* Holy Trinity Church, 50 Stan. L. Rev. 1833 (1998).

45. S. Rep. No. 48–820, at 2–4, 7–12 (1884) (reprinting H.R. Rep. No. 48–444 (1884)) (*quoting* Count Esterhazy, Austrian consul to the United States, and Superintendent Jackson of Castle Garden).

46. 15 Cong. Rec. 5359 (1884).

47. *See* Andrew Gyory, *Closing the Gate: Race, Politics, and the Chinese Exclusion Act* 37 (1998).

congressional action was motivated in part by pressure from American workers and the American labor movement, which from the end of the Civil War had as one of its major goals prohibiting the importation of contract laborers.[48] The Chinese Exclusion Act of 1882, the first major exclusionary immigration legislation, was at least in part a response to the contract labor issue. Although American workers initially opposed the frequently racist calls to exclude Chinese "coolies" from America's shores, they ultimately supported the Chinese Exclusion Act's ban on the entry of Chinese laborers to the United States because it appeared that no other action on the contract labor problem was politically feasible at the time.[49]

The increasing waves of immigration beginning in 1880, and the consequent ability of employers to hire immigrants as strikebreakers and wage levelers, led to agitation for further exclusion of foreign and particularly contract laborers, those brought to American shores already under contract to undermine American workers and labor organizing. The Knights of Labor—initially a secret fraternal organization, but by the early 1880s an increasingly powerful labor union representing a large number of unskilled workers—led the charge. Of the twenty individuals who testified before the House Committee in favor of the Alien Contract Labor Act, all but two or three belonged to the Knights of Labor, including national leaders as well as representatives of the window-glass workers, bituminous coal and coke miners, cotton-mill operatives, and telegraphers. The trade unions, representing skilled laborers, gave little active support.[50]

The contract labor bill was thus part of an already lengthy history of concern with employers' importation of laborers and its tendency to undermine American labor conditions. It was also part of an equally

---

48. *See id.* at 12, 39–59, 256; Michael C. LeMay, *From Open Door to Dutch Door: An Analysis of U.S. Immigration Policy Since 1820*, at 55 (1987).

49. *See* Gyory, *supra* note 47, at 256–57.

50. John R. Commons, et al., II *History of Labour in the United States* 372–73 (1921); Philip S. Foner, II *History of the Labor Movement in the United States* 47–50 (1955). In contrast, Charlotte Erickson suggests that the original impetus behind the legislation (and labor's support for it) was to protect skilled (not unskilled) workers. Originally promoted by the glassworkers' union, she argues, the issue gathered support from other skilled craft unions and only later received support from the Knights of Labor, the organizing body for unskilled workers. Representative Martin Foran, who introduced the bill and was its chief sponsor, was past president of the Coopers International Union and most closely associated with the craft unions. *See* Charlotte Erickson, *American Industry and the European Immigrant 1860–1885,* at 139–66 (1957). Whatever the truth about the initial impetus for the bill, the position taken by speaker after speaker on the floor of the House and Senate was not to support skilled craft unions, but to voice concern for the common laborer. The Senate and House publicly justified their passage of the anti-contract labor provision by reference largely to the problems of unskilled labor, although their arguments—and the language of the act—encompassed both skilled and unskilled workers.

lengthy history of racism and discrimination in the nation's immigration laws.[51] These themes continued when the debate moved to the House floor. The chair of the Committee on Labor and introducer of the legislation, Martin Foran (D–Ohio), expressed the purpose of the bill as prohibiting "men whose love of self is above their love of country and humanity from importing into this country large bodies of foreign laborers to take the places of and crowd out American laborers."[52] The discussion on the House floor centered on problems caused by large-scale importation of labor from Hungary, Italy, and other southern European countries, for the glass-blowing, mining, and railroad industries. Much concern was expressed regarding how these immigrants would fit into American society (or even whether they wanted to) and about the effect of this kind of competition on domestic labor and wages.[53] Foran reinforced the distinction between desirable and undesirable immigrants:

> The foreigner who voluntarily and from choice leaves his native land and settles in this country with the intention of becoming an American citizen, a part of the American body-politic, has always been welcome to our shores . . . No one is injured by his coming, and he generally makes a good citizen, the State is benefited by the acquisition. These immigrants are generally of a higher class, socially, morally, and intellectually, and have aided largely in the development of our industries and the material progress of our people. With this class of immigrants this bill has no concern. Its object is to restrict and prohibit the immigration or rather the importation of an entirely different class of persons, the immigrant who does not come by "his own initiative, but by that of the capitalist."[54]

---

51. According to several immigration historians, the Alien Contract Labor Act was part of a wave of anti-immigrant nativist legislation passed in the late nineteenth and early twentieth centuries, but having much earlier roots in American history. While new immigrants were often needed to meet the labor needs of American employers, they were viewed as a threat not only to jobs for native-born Americans, but also to the nation's culture and institutions, especially the economic and political systems. *See* Joe R. Feagin, *Old Poison in New Bottles: The Deep Roots of Modern Nativism*, in *Immigrants Out!: The New Nativism and the Anti-Immigrant Impulse in the United States* 13, 14–21 (Juan F. Perea ed., 1997). In keeping with that history, the Senate Report on the Alien Contract Labor Act complains that "immigration from England, Ireland, Germany, and other European countries from which the better class of immigrants come, is steadily decreasing, while immigration from southern Europe [with special mention of Italians and Hungarians] is steadily increasing." S. Rep. No. 48–820, at 6 (1884). Racial stereotyping was displayed in descriptions of southern European immigrants, just as it was employed in the rhetoric surrounding passage of the Chinese Exclusion Act. *See* Kitty Calavita, *The Paradoxes of Race, Class, Identity, and "Passing": Enforcing the Chinese Exclusion Acts, 1882–1910,* 25 L. & Soc. Inquiry 1, 11–12 (2000).

52. 15 Cong. Rec. 5349 (1884).

53. *See id.* at 5349–71.

54. *Id.* at 5358–59.

When Representative John Adams (D–N.Y.) questioned the breadth of the bill, asking whether "Arnold, Constable & Co., or Lord & Taylor, or any of the large retail dealers in the city of New York" would be prohibited from hiring from abroad "an efficient clerk they would like to transfer to this country," Representative John O'Neill (D–Mo.), a member of the sponsoring Labor Committee, replied that, if such businesses "go to Europe and import this labor for the purpose of breaking down men in their own employ," he hoped the bill would reach them. When pressed further about the precise language of the bill, O'Neill responded:

> Never mind about these hair-splitting technicalities with reference to the bill; but remedy any defects that you believe to exist in it. If we all had to run as constitutional lawyers, few of us would get elected [laughter], and remember that what the workingmen ask you to do for them is simply that this Congress shall give, so far as it can, protection to them against this infamous contract system.[55]

On page after page, the House debate reiterates that the bill was meant to address the "contract labor system"—the practice by industrialists of importing large numbers of workers from abroad to take the place of American laborers at reduced wages. The interpretational difficulty is that the language of the bill was far broader than the articulated rationale. The language of the bill as introduced, and ultimately as passed by both House and Senate, did not outlaw only mass importation of laborers. It prohibited assisting immigration by "any foreigner or foreigners" "under contract or agreement" "to perform labor or service of any kind." Representative William Kelley (R–Pa.) called the bill "crude" with "grave imperfections," and said the exceptions made to the prohibitory clauses were not "as broad as they ought to be." Nevertheless, Kelley supported the "spirit of the bill" because it addressed the need to protect the American "laboring classes" from "importation of cheap labor in the persons of the worst classes of the least enlightened states of Europe."[56]

Some of the problems caused by the expansive language were addressed by floor amendments. When one House member pointed out that the bill as worded would prohibit anyone from entering a contract with an alien once that alien had arrived in the United States, the bill was changed to avoid the problem.[57] Exceptions were added so that individuals could help members of their own families emigrate, and so that skilled workmen in foreign countries could be hired in new industries where domestic skilled labor could not be found.[58] The committee-

---

55. *Id.* at 5358.

56. *Id.* at 5354–55.

57. *See id.* at 5353, 5370.

58. At least one historian saw in this and other exceptions loopholes on behalf of "employer interests." Debra L. DeLaet, *U.S. Immigration Policy in an Age of Rights* 27 (2000).

endorsed amendment excepting "professional actors, lecturers, or singers" was added.[59] An amendment to restrict the scope of the prohibition to importation of workers "at a rate of wages less than the current rate of wages for the same class of labor in the locality in the United States where such labor is to be performed,"[60] consistent with the claimed purpose of avoiding the degradation of American labor, was defeated without discussion.

When the bill left the House floor on June 19, 1884, it retained the extremely broad language of the prohibition, despite the frequently repeated statements of a much narrower purpose. There were references to the difficulty posed by the bill's reference to "labor or service of any kind," but little direct attention to that difficulty, and no explanation for the failure to narrow the scope of the operative language.

Consideration and Passage by the Senate

In the Senate, the bill as it passed the House was presented on July 5, 1884, by Senator Henry Blair (R–N.H.), chair of the Committee on Education and Labor, who described the purpose of the bill in language similar to that used in the House discussions. The bill aimed to remove a "great and rapidly growing public evil," the practice of many employers

> of sending their agents abroad to England, France, Italy, Hungary, Germany, Austria, and in fact to all European countries with hardly an exception, for the purpose of contracting with bodies of working people, paying their expenses of transportation to this country, in order that their cheap labor may be brought in competition with that of our own citizens.[61]

The report from the Senate Committee on Education and Labor, upon which Justice Brewer relied in his opinion, indicated its preference to substitute "manual labor" and "manual service" for "labor and service" as "sufficiently broad to accomplish the purposes of the bill . . . [and to] remove objections which a sharp and perhaps unfriendly criticism may urge to the proposed legislation." But hoping to achieve final passage quickly, the committee did not recommend amendment, noting its belief "that the bill in its present form will be construed as including only those whose labor or service is manual in character."[62] Blair nonetheless indicated that he intended to move the modifications referenced in the committee report to restrict the scope to the "evil that exists, and it would be available for the protection of that class of our

---

59. 15 Cong. Rec. 5371 (1884).

60. *Id.* at 5370.

61. *Id.* at 6057.

62. *Id.* at 6059.

people who are suffering most from the evil."[63] Blair assured his colleagues that the House would agree with the changes, allowing the bill to pass during the current session, with language that would clarify that the statute "would apply only to those engaged in manual labor or service."[64]

But instead of entertaining any such amendment, the Senate turned to other matters needing attention and returned to consideration of the bill only the following February. Senator Blair once again described the purpose to be served by the bill: "to prevent substantially the cooly practices which have been initiated and carried on to a considerable extent between America and Europe."[65] The bill, Blair continued, "undertake[s] to prohibit the efforts of corporations and of individuals, of capitalists, ... to introduce into [the country] the cheap and servile labor of foreign lands" or "the skilled labor of other countries" when that skilled labor "is not necessary ... for the good of the American people and the promotion of American industries," all because "that labor, as we know, can be commanded at very greatly reduced wages as compared with what we pay to the working people of our own country."[66]

During the debate, several senators warned that the bill as drafted would not accomplish its stated purposes. Senator Joseph Hawley (R–Conn.) concurred in the effort to prevent "contracts that bring a body of poor laborers over here, paying their transportation under an agreement that they shall work not alone till they have paid their fare, but shall work for months and years for wages below those of the ordinary American laborer ..." but he feared that the bill as drafted would interfere as well with "honest immigration." In response, Blair reiterated that the bill was designed to assist "the American toiler, the American workman, the American laborer ... the man who is nearest the earth."[67]

Senator John Morgan (D–Ala.) criticized the bill as what he called "class legislation," prohibiting contracts with respect to certain kinds of labor but not as to others:

> It makes an express exception and provision for professional actors, lecturers, and singers, leaving out all the other classes of professional men ... but if he happens to be a lawyer, an artist, a painter, an engraver, a sculptor, a great author, or what not, and he comes under employment to write for a newspaper, or to write books, or to

---

63. *Id.*

64. *Id.*

65. 16 Cong. Rec. 1624 (1885).

66. *Id.* at 1624.

67. *Id.* at 1625–30.

> paint pictures, as we are informed that a recent Secretary of State sent abroad for an artist to paint his picture, he comes under the general provisions of the bill.[68]

Senator Morgan's examples of immigrants within the coverage of the bill include "brain toilers" not dissimilar to Warren, to whom the act would later be applied. Senator Blair responded to these concerns that "[i]f that class of people are liable to become the subject-matter of such importation, then the bill applies to them."[69] It was wholesale importation of workers, it seems, not the kind of workers who emigrated, that mattered in determining the scope of the statute, according to Blair. Senator John Sherman (R–Ohio) repeated this point: "What I intend to vote for when I vote for the bill is to prevent this organized corporate importation, not of laboring men, but of bought men, to come here and compete with our laboring men, with our mechanics and miners."[70]

The critical distinction, it appears, was not between manual laborers and "brain toilers," despite the language of the Senate report, but between those who were "bought" and "owned" by corporations importing "mostly" large numbers of workers to supplant domestic employees and those who came voluntarily and individually. A similar point was made by Senator John McPherson (D–N.J.), saying the bill was "intended to prevent the importation of foreign labor by contract, which means cheap labor, pauper labor, and I might add vicious labor, which when brought to this country enters into competition with our laborers here. . . ."[71]

Still, the language of the bill was too broad for that purpose, and Senator McPherson reiterated that point:

> Mr. McPHERSON. The phraseology of the bill is very liberal, it seems to me, and applies even to individual cases; it makes no difference for what reason they come. It does not apply to organized labor alone, but reaches a great many laborers who would naturally come here to better themselves, and who come here under a contract previously made for that purpose. . . .
>
> Mr. SHERMAN. I will tell you what kind of a case it interferes with. Take a railroad corporation in the State of New Jersey that is not willing to pay a dollar and a quarter a day for wages, and finds that on account of the great superabundance of labor in Italy and Hungary it can hire men by the thousand, through shysters that it sends there for the purpose of talking to them, at 50 or 60 cents a

---

68. *Id.* at 1632–33.

69. *Id.* at 1633.

70. *Id.* at 1634–35.

71. *Id.* at 1833.

> day upon an agreement to work three years, with a certain stipulated quantity of rice and other food of that kind, and they make such contracts and are brought over, men who can not speak our language, who are not acquainted with our institutions, and they are put to work on a railroad in New Jersey, thus driving out of employment 3,000 Americanized laborers, good honest Americans, native-born or ordinarily naturalized citizens. That is the kind of people I want to get at. If the Senator and I can only agree on the language of the bill, I have no doubt we shall vote together.
>
> Mr. McPHERSON. I quite agree with the Senator from Ohio, and probably will go as far as he will in any attempt to protect American labor, and I deplore as much as that Senator can the organizations that are gotten up for the purpose of depriving American labor of employment; but I want to do it by some measure of legislation that will be just and fair and proper, that will reach exactly that class of cases, and at the same time will not be so sweeping in its provisions as to deter honest and proper laborers from coming to this country seeking to better their condition.[72]

But despite such statements, and even Senator Blair's acknowledgement that "[p]erhaps the bill ought to be further amended,"[73] the Senate adjourned for the day, without considering any such changes to narrow the bill to focus on the identified evil.[74] When discussion resumed, four days later, there were more long speeches about the evils of importing large numbers of laborers to depress the domestic labor market. And there were more references to the drafting problems. Senator George Vest (D–Mo.) said he thought the bill was "immature and crude, but I shall vote for it on account of the salient principle which it announces, hoping that time and experience may perfect this legislation hereafter." Senator Orville Platt (R–Conn.) agreed that "this bill is crude, that it has not been drawn with proper care. I think it illustrates the folly of a class of men who suppose that bills can be better prepared for the consideration of Congress and passage by Congress by those who are not familiar with legal phraseology and with the legal profession."[75]

Several more times, senators rose to object to the breadth of the bill and to offer limiting amendments, some of which were adopted. Senator Elbridge Lapham (R–N.Y.) was concerned that the bill as drafted went beyond its stated objective of preventing "the evil of importing laborers here in groups, in colonies, in shiploads" and would prohibit individuals from paying for the passage of friends and relatives. Although assured

---

72. *Id.* at 1635–36.

73. *Id.* at 1633.

74. *See id.* at 1636.

75. *Id.* at 1778–86.

that such individuals would not be covered by the prohibition, the Senate agreed to an amendment to exempt "personal friends" from the prohibitions.[76] Senator Eli Saulsbury (D–Del.) spoke of the "sweeping . . . character" of the bill and unsuccessfully offered an amendment to exempt agricultural workers from the prohibitions because of the scarcity of such workers. Senator Morgan worried about the effect on state government efforts to encourage immigration, but his attempt to address this issue was rejected, perhaps based on an argument by Senator James George (D–Miss.) that such general efforts to promote immigration were not outlawed by the bill's provisions.[77]

In the midst of all this, Senator Morgan offered more testimony about the looseness of the language of the bill, calling it "cloudy and murky and muddy; to me it is ill-shaped, and it does not express any correct or clear idea. . . . Why shall the Senate of the United States send out a lumbering affair like this into the world for the criticism of the bar of the United States? Sir, they would laugh at you when you have done it."[78] Several relatively insignificant amendments were then offered and adopted, with virtually no discussion.[79] The bill was finally brought to a vote, passing 50–9.[80] The House concurred.[81]

The 1890 Amendment

Although the Alien Contract Labor Act as originally adopted in 1885 was still effective when the enforcement action was brought against Holy Trinity Church, an amendment enacted just five years later, while the *Holy Trinity* case was pending at the Supreme Court, casts considerable light on Congressional attitudes about contracts such as Dr. Warren's. In January 1889, a bill was considered in the House proposing to add to the act's exemptions "professors in universities or ministers of the gospel."[82] Representative James Buchanan (R–N.J.), who reported the bill on behalf of the Committee on Labor, referred specifically to *Holy Trinity* in

---

76. *Id.* at 1786–87.

77. *Id.* at 1790–94.

78. *Id.* at 1795.

79. One amendment added artists to the list of workers exempt from the prohibition on importation, *see id.* at 1837, and changed "service or labor" in section 2 to "labor or service," *id.* at 1839 ("That would be altogether more poetic, while the other phrase savors rather of blank verse."). The senators rejected amendments to remove "singers" from the list of exempt workers (moved by a senator who complained about the treatment of Italian child street singers) and to add "artisans" to that list. *Id.* at 1837.

80. *See id.* at 1839–40.

81. *Id.* at 2007.

82. The change was part of a bill focused primarily on strengthening the enforcement of the Alien Contract Labor Act in the face of complaints that the collectors of customs were generally unable to detect violations. *See* H.R. Rep. No. 50–3792, at 4 (1889) (accompanying H.R. 12,291, 50th Cong. (1889)).

explaining the proposed amendment. No objections were made to exempting ministers in Warren's circumstances, although the floor debate does not indicate intent to change the result in *Holy Trinity* itself.[83] In the Senate, Senator John Carlisle (D–Ky.) moved to amend the bill by changing "regularly ordained ministers of the gospel" to "regularly ordained or constituted ministers of religion," so that contracts to hire non-Christian clergy would also be exempt.[84] It was evident that the senators recognized that America was not just a Christian nation, even though they seemed uncertain just how ecumenical they wanted to be:

> Mr. COCKRELL. I should like to ask the Senator from Kentucky whether this amendment would exclude the ministers of the Chinese religion, those who conduct joss services, or the Mormons, or the ministers of anything else called religion. It seems to me that the amendment of the Senator from Kentucky is entirely too broad; that a Chinese minister conducting the services in their temple, worshiping at the shrine of their joss [a figure of a Chinese god] could come in under this provision, and also a Brahman, or a Mormon—and a great many Mormons are coming in now—and Mussulmans, or anything of the kind. I think the amendment is entirely too broad.
>
> Mr. BLAIR. I expect that would be the effect of the amendment; but this is a free country, free in religion as in everything else. . . . This bill does not undertake to exclude or to interfere with religion or religious belief at all. It is designed to prevent the introduction of alien contract labor. It seems to me that the amendment which the Senator from Kentucky suggests can hardly be objected to.[85]

The amendment—along with one for "persons belonging to any recognized profession," which might also have been understood to allow Warren to be hired—was added to the bill with no further discussion, passing the Senate and House the following session.[86] Although the exemption was enacted almost a full year before the *Holy Trinity* case was argued at the Supreme Court, the Court did not mention it, and the parties' briefs do not refer to it.[87] Ironically, having overlooked the

---

83. 21 Cong. Rec. 9438–39 (1890).

84. *Id* at 10,466–67.

85. *Id.* At least one rather ill-informed senator expressed confusion over why "Jewish rabbis" would not be permitted entry if the amendment continued to refer to "ministers of the gospel" rather than "ministers of religion" but was convinced by others of the need for the change.

86. *Id.* at 10,559 (amendment added); 22 Cong. Rec. 2955, 3245, 3428 (1891) (amendment reintroduced to exempt "regularly ordained ministers of the Gospel," amended to "ministers of any religious denomination," and bill passed Congress).

87. Just a few years later, in United States v. Laws, 163 U.S. 258 (1896), the Court explained the failure to consider the amendment by noting that "review was had upon the record based upon the act as originally passed in 1885." This hardly explains the lapse.

amendment, the attorney for the government suggested that the *failure* of Congress to change the law communicated congressional intent about its original meaning, saying it was "remarkable that Congress did not make the meaning of the law clearer" when it amended the law in 1888 "if the decision of Judge Wallace in this case . . . did such violence to the intention of Congress." The amending statute specified that pending cases should not be affected by it,[88] so it could not have been applied directly to the hiring of Warren, and, as the Supreme Court has noted, "the views of a subsequent Congress form a hazardous basis for inferring the intent of an earlier one."[89] Moreover, the act of amending the statute to exempt ministers is inherently ambiguous; it can be understood as suggesting either that the original statute was not meant to (and therefore did not) include ministers or instead that the original scope was broader and the amendment was necessary to narrow it. Still, the Supreme Court has cited the "venerable" principle that "subsequent legislation declaring the intent of an earlier statute is entitled to great weight in statutory construction."[90] The adoption of an exclusion for ministers just five years after the Alien Contract Labor Act was passed, with no apparent opposition, at least suggests that Justice Brewer applied the act in a manner consistent with congressional wishes, though it does not establish that the original legislation was properly drawn to effectuate those goals.

The Meaning of the History

So just what does the legislative history tell us about the intent of the Senate and the House when they enacted the Alien Contract Labor Act? Or, to ask a more relevant question, was it the intent of Congress to cast the net broadly, to exclude from American shores any person who arrived with a prearranged contract for labor or service of any kind, encompassing the circumstances of Dr. Warren? Although legislative history may often be inconclusive or ambiguous because it is constructed from statements made by individuals playing varying roles in the enactment process, the history surrounding enactment of the Alien Contract Labor Act provides a discernible and consistent picture. The message of an overwhelming number of comments from committee reports, sponsors, and floor supporters was that the aim of the bill—and, one may infer, the aim of those who voted for it—was to stop the wholesale importation of cheap labor to undermine American workers.

---

88. *See* Act of Mar. 3, 1891, ch. 551, § 12, 26 Stat. 1084, 1086.

89. Mackey v. Lanier Collection Agency & Serv., 486 U.S. 825 (1988) (quoting United States v. Price, 361 U.S. 304, 313 (1960)).

90. Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 380–81 & n.8 (1969).

Did Congress choose language that would limit its remedy to the problem it identified? Assuredly not. Why did neither the Senate nor the House amend the bill to narrow its scope, since the breadth of the proposed language was brought to the attention of Congress? The legislative history suggests that there was, at least at some stages in the consideration of the bill, insufficient time to make the necessary changes. It also makes clear that neither the drafters nor the supporters thought the bill was well-drafted to accomplish its purposes. The bill was repeatedly referred to as "crude," and at least one senator suggested that lawyers would laugh to see what had been written. The bill was amended several times to ensure exceptions for a small number of categories of immigrants—personal or domestic servants, personal friends or members of an individual's family, and artists. But the only broad amendment offered, to change "labor or service" to "manual labor or manual service," would not in any event have matched the language of the bill to the purposes expressed. Indeed, it was clear from the discussion that supporters were satisfied with language that reached all kinds of workers—if they were being imported in the fashion described. Perhaps one reason for the failure to amend is the difficulty of drafting language that would do what Congress intended: to draw a workable line between the problematic—workers brought in by employers, often in large numbers, to damage the position of American labor—and the acceptable—voluntary immigrants coming to America, with or without promise of employment, to better their own lives and incidentally to contribute to the society they were joining.

Justice Brewer was right when he said Congress did not intend the Alien Contract Labor Act to exclude Warren, although not simply because he was a "brain toiler" rather than a manual laborer, as Justice Brewer wrote.[91] There was no problem with mass importation of foreign ministers to undermine the positions and wages of American clerics, and when confronted with the question of whether the statute should cover circumstances such as Holy Trinity Church's arrangements with Warren, Congress without any dissenting voices determined it should not. If legislative intent as reflected in legislative history should be considered in construing the statutory words—admittedly a conclusion not universally shared—then the circumstances leading to passage of the Alien Contract Labor Act provide ample support for limiting, as Justice Brewer did, the extremely broad language of the act.

Jurisprudential Context for Holy Trinity

Holy Trinity is often maligned as the fountainhead for the idea that the "spirit" of a statute can trump even clear statutory language.

---

91. Reinforcing this point, Congress amended the act in 1913 to add "skilled or unskilled" to the prohibition on importing laborers. *See* Act of Mar. 3, 1903, ch. 1012, 32 Stat. 1213.