Regional Interests and the Development of Migration Policy in the American Republic, 1776-1798

A thesis submitted for the degree of Doctor of Philosophy

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November 2023

Word Count: 98,792
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Acknowledgements

This thesis has benefitted from the financial support of several institutions over the past four years. I would like to thank the QMUL School of History and Doctoral College, the British American Nineteenth Century Historians (BrANCH), the British Association of American Studies, and the US Immigration and Ethnic History Society for funding my research trip to the United States. Though I was only able to visit once due to border restrictions, their generous support meant I could make it count when it mattered most. In particular, I would like to thank the Leverhulme Trust for funding my PhD studies. Beyond their financial support, the community of the QMUL ‘Mobile People’ project has been invaluable during the development of this thesis, as has the leadership and guidance of Kim Hutchings and Engin Isin.

It is no exaggeration to say this thesis would not have been possible without the support of my supervisors, Valsamis Mitsilegas, Joanna Cohen, and Daniel Peart. Thank you to Valsamis for adding a much-needed legal perspective to the project and encouraging me to think outside of the box. Jo has been an invaluable mentor, helping me grapple with the big questions and decisions the project has thrown my way. I will always appreciate her cheering me on every step of the way. I am especially thankful to Dan for his endless support and guidance throughout this process. His generosity knows no bounds, from reading my work at lightning speed to providing words of encouragement and humour when I needed it most. Most of all, his intellectual insight and thoughtful feedback have always pushed me to be a better historian.

The School of History PGR community has also provided a haven of support and advice. From online work sessions during the pandemic to lunch in the Senior Common Room, their camaraderie and intellectual guidance has been invaluable. I would especially like to thank Sam Amos, Eliot Benbow, Ed Caddy, Amanda Langley, Cathleen Mair, Atlanta Neudorf, Gaby Schwarzmann, and Caitlin Williams. I would also like to acknowledge the countless phenomenal women I have met and discussed my work with through the QMUL Women in History Forum. Through them, I have discovered not only the importance of fostering diverse communities in academia, but the power of my own voice as a woman writing history.
I have been fortunate to share work from this thesis at a number of conferences and seminar series, including BrANCH, the Scottish Association for the Study of the Americas, the Oxford Early American Republic Seminar, and the Colonial Society of Massachusetts Graduate Forum. Thank you to the organisers and audience members for giving me the opportunity to discuss my work in a supportive and constructive environment. I am especially grateful to the QMUL American History Research Group who not only provided invaluable advice to develop this project and others, but support and a welcoming space during the endless Covid lockdowns.

Like many history doctoral candidates, my love for the subject first blossomed with the encouragement of fantastic teachers at secondary school that cannot go unnoticed. Thank you to Tim Dargan not only for his eventful lessons, but for pushing me to go to QMUL when I doubted myself more than ever. I am also indebted to Jo Ewan, whose boundless enthusiasm for history and teaching has remained ever-present in my own. Her encouragement and constructive comments - even in the face of endless practice essays! - have undoubtedly made me the historian I am today.

I have also benefitted from the unwavering support of so many friends. Despite our shared interest in history, my undergraduate friends, Nat Goodsir, Matt Barker, and Lauren Carpenter, constantly remind me that life exists outside of the PhD. Nat, in particular, has been a lifeline over the past few years. From finishing our undergraduate degrees together to writing the thesis, she has always been on the bus with me (both figuratively and quite literally at times), armed with a coffee and a biriyani. I would also like to thank Becca Cousins; though we met in a seminar on the French Revolution at university, I am so grateful that it still provides a welcome distraction from work through our love of Les Mis, and countless other West End shows. My oldest friends, Tasha Johnson and Voirrey Quilliam, have always followed my work with curiosity and enthusiasm. Whether it be on a weekend away or by WhatsApp message, their uplifting words (and inability to get bored by objectively boring history) have been an immeasurable support.

Several unexpected moves back to the Isle of Man meant I was lucky enough to be surrounded by family while working on the thesis. My sisters Beth, Meggie, and Hattie have been endlessly encouraging over the past few years. Though none of them profess to care much about early American history, they have continually been willing to listen to (or at least tolerate) my ramblings over a coffee in Noa. I would also like to thank my nieces Bea, Betty, and Effie, and my nephew Orry for being my tiny supervisors, telling me to ‘work hard’ and
‘no work’ at all the right moments. The majority of this thesis was written and edited in my childhood home, where my amazing parents, Louise and Julian, were generous enough to welcome me with open arms amid a pandemic and cost of living crisis. My dad has always been my favourite sparring partner, teaching me the art of making a convincing argument and to think critically about the world around me - even though we may not always agree! Alongside her exceptional thesaurus skills, my mum has always been the first to celebrate every victory over the past few years. At every step of the way, she pushes me to not only keep going, but aim higher. I am forever thankful for their love and support; this truly would not have been possible without them.

The highlight of this degree has been meeting endlessly brilliant women. Nora Lessersohn, one of the many things I am indebted to BrANCH for, has been a fantastic interlocutor over the PhD and an even better friend. Her insight improves everything I think and write about. Beyond their invaluable academic advice, Aisha Djelid and Erin Shearer have provided much-needed levity and friendship over the last few years. I cannot overstate how much I have enjoyed our limitless WhatsApp chats, history-themed movie nights, and (very) competitive card games. I would especially like to thank my academic work-wives, Emily Hull and Sophie Wilson. Their lockdown facetimes, notes of encouragement, and work sessions in all the coffee shops London has to offer have made this process so much easier. If there is anything I am glad of about the Covid pandemic, it is that it brought the three of us closer together. More than anything, I will be eternally grateful to have had such a supportive ensemble of women by my side throughout the PhD, helping me keep the imposter syndrome at bay and reminding me to have fun along the way. This work is dedicated to them.
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Abstract

Migration policy in the early American republic was heavily conditioned by the regional variations among its constituent states. Far from the popular characterisation of the United States as an ‘asylum for mankind,’ early political debates on migration were complicated by competing, and often conflicting, notions of citizenship, partisanship, and popular participation. This thesis sheds light on this tumultuous period, analysing the influence of state legislation, regional interest, and local experiences of migration on national policymaking. It considers the constitutional balance of power between states and the federal government in determining the jurisdiction of migration policy, exploring how competing regional ideologies on migration expanded into national political conflict on a range of issues, from foreign policy to slavery. The thesis also considers how migration policy contributed to, and was shaped by, divisions on US citizenship. When policymakers argued for a particular approach to migration on the national stage, they were equally asserting their own regional conceptions of American identity. The rise of partisanship during the 1790s exacerbated this conflict. Nascent parties not only adopted regional ideologies on migration; they actively assimilated them into distinct policy agendas, reflecting a particular vision of American society and who that ought to include. Lastly, the thesis considers how the public reinforced regional interests on migration by actively engaging with state and national debates. The emergence of the press and local societies saw political discourse thrive in the public sphere, giving significant lobbying power to those outside of the halls of political office, including un-naturalised migrants. Altogether, the dissertation examines how varying approaches to migration shaped these themes in different ways across the Union, and, in doing so, brings to light the profound impact of regional interest on the development of policymaking within the United States’ unique federal framework.
Abbreviations

Archives
MHS - Massachusetts Historical Society, Boston, Massachusetts

Source Collections
Evans - Early American Imprints, Series I: Evans, 1639-1800, America's Historical Imprints, Readex e-database
PBF - The Papers of Benjamin Franklin, ed. Ellen R. Cohn et al. (43 vols., New Haven, CT: Yale University Press, 1959-)
—— - The Papers of George Washington: Revolutionary War Series, ed. Philander D. Chase et al. (29 vols., Charlottesville, VA: University of Virginia Press, 1985-)
PJJ - The Selected Papers of John Jay, ed. Elizabeth M. Nuxoll (7 vols., Charlottesville, VA: University of Virginia Press, 2010-)
In August 1776, John Adams, Benjamin Franklin, and Thomas Jefferson formed a committee to create a national seal and motto for the newly independent United States. After much deliberation, they agreed on the Latin motto *E Pluribus Unum* - Out of Many, One. Meanwhile, a national seal was proposed: a portrait of the goddesses Justice and Liberty holding the “Shield of States,” and the “Arms of the several nations from whence America has been peopled… English, Scotch, Irish, Dutch, German each in a shield.” Though the seal was later replaced with the famous eagle, the motto and its many connotations have long endured in the popular imagination. In particular, it evokes two distinct ideas about the premise of the American founding. First, that the many state interests were subsumed into a single federal Union, with a national government that served to protect and represent those interests. Second, that a homogenous American identity was created at the founding, forged from the melting pot of...
mass migration. In a popular myth that has since been reproduced within historiographical works and popular culture more generally, these two ideas in combination suggest an approach to migration in the early republic that was both uniform and open. This thesis fundamentally challenges both of these ideas. By interrogating the formation of early state and national migration policies in the United States, it reveals that historic regional ideas about both the nature and jurisdiction of policymaking on migration ignited ferocious debates between policymakers, and the state and federal governments. What emerged was an intransigent and increasingly partisan divide not only on migration, but what it meant to be American.

By exploring the development of migration policymaking through the lens of regionalism, the thesis traces how debates on migration intersected with several key themes of the period: federalism, citizenship, partisanship, and public engagement. It considers the constitutional balance of power between state sovereignty and the federal government in determining the jurisdiction of migration policy, exploring how competing regional ideologies on migration expanded into national political conflict on a broader range of issues, such as foreign policy and slavery. The thesis also considers how migration policy contributed to, and was ultimately shaped by, divisions on the nature of US citizenship. When policymakers argued for a particular approach to migration on the national stage, they were equally asserting their own regional conceptions of American identity, often explicitly. The expansion of partisanship during the 1790s further exacerbated the conflict derived from this. Nascent parties not only adopted regional ideologies on migration; they actively assimilated them into distinct policy agendas which reflected a particular vision of American society and who that ought to include. Lastly, the thesis considers how the public reinforced regional interests on migration by actively engaging with state and national debates on migration. The emergence of the press and local societies saw political discourse thrive in the public sphere during the late 1790s, giving significant lobbying power to those outside of the halls of political office, including migrants themselves.

The thesis brings to light the profound impact of regional interest on the development of migration policymaking within the United States’ unique federal framework. It demonstrates that, while policymakers hoped to cement their regional approaches to migration in law during the founding era, they further sought to craft a new, national American identity in their own image. Within this process, migration law was employed not as a tool of inclusion in the early republic, but exclusion. As Americans, and later parties, fought to define their own identity, they shared a common idea; it ought to be defined not only by who belonged, but crucially, who did not.

Scope and Method
This thesis examines migration policymaking, including all policies that dictated the entry, rights, and access to citizenship available to migrants and naturalised citizens throughout the founding era. The initial entry of migrants into the United States was widely debated and legislated, but that was not the only way that migration was policed during the founding decades. Some early colonial policies further controlled the movement of migrants both into and within their own respective borders. Even once migrants gained permanent settlement in the United States, they were often still subject to a variety of economic and political restrictions for a considerable length of time. Though scholars often deem discussions of naturalisation - the means through which migrants attained citizenship - outside of the scope of migration policy, the two were inextricably linked during the period. Naturalisation debates were driven by the same regional arguments that shaped other forms of policy, with legislators often referring explicitly to migration. Moreover, as James E. Pfander and Theresa R. Wardon argue, the transatlantic journey to the United States was so arduous that migrants often considered policies governing both their entry and access to citizenship as synonymous. With the exception of some refugee groups, the vast majority of migrants arrived in the United States with every intention to stay and join the national community of American citizens. Thus, “without the promise of naturalized citizenship, in short, America could not attract immigrants to the new world.”

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6 Notably, Law considers naturalisation policy to have a “different developmental path” to other forms of migration policy, and thus contends it should be considered independently. Anna O. Law, ‘Lunatics, Idiots, Paupers, and Negro Seamen - Immigration Federalism and the Early American State,’ *Studies in American Political Development*, 28/2 (2014), 107-28.


8 ibid., 368.
Some historians, such as Roger Daniels and Aaron Fogelman, argue that the mobility of enslaved people into the United States constitutes an act of migration, albeit one that is forced or involuntary.9 Daniels contends that “the slave trade was one of the major means of bringing immigrants to the New World in general, and the United States in particular,” and thus ought to feature in any study on founding migration policy.10 However, the involuntary mobility of enslaved people occupied a different space in moral, legal, and political thought than other forms of ‘free’ migration. ‘Free’ migration and the slave trade were not one and the same, particularly as the mobility of enslaved people was legally reduced to the movement of chattel in the United States, with no prospect of citizenship. “As long as slaves could be viewed in some sense as property,” James Kettner contends, policymakers “could avoid fitting them into established categories of membership or non-membership.”11 As such, the involuntary mobility of enslaved people sits at the periphery of the key themes of this thesis. However, that is not to disregard the significant role of race, and indeed slavery, in shaping migration policy during the founding era. Political discourse on migration regularly intersected with debates on the slave trade and the institution of slavery more broadly. At the same time, the mobility of free Black men and women, particularly from revolutionary Saint Domingue, became equally instrumental in the development of early migration law, which will be explored over the course of the thesis.

This thesis builds upon scholarship of regionalism during the early American republic. As Edward L. Ayers and Peter S. Onuf demonstrate, regional identity at the founding was neither static nor characterized by any single defining trait. Instead, American regions were “complex and unstable constructions, generated by constantly evolving systems of government, economy, migration, event, and culture.”12 Moreover, as Michael Zuckerman argues, amid the nation-building process, different regions were not only self-aware of one another, “New Englanders and southerners alike felt threatened” by the subsuming influence

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10 Daniels, *Coming to America*, 54.
of national identity and governance. This produced not only social or cultural divisions in the early republic, David T. Konig contends, but distinct legal practices. Indeed, “as Americans of different regions resisted the superimposing of a new national identity that threatened to efface local legal and political structures, they took refuge in a constitutional counter-narrative that sharply accentuated regional diversity.” This thesis applies this framework to migration law specifically, demonstrating that different regional approaches to policymaking were produced by divergent economic and cultural conditions that changed over time. Moreover, this regionalism did not exist in isolation, but in conjunction with a growing national government.

This thesis conceptualises ‘regions’ as groupings of states that existed and operated independently but nonetheless shared ideological bonds and policy characteristics in relation to migration. Although regional identities were predominantly dictated by colonial cultural and economic development, as Chapter One explores in more detail, the actual policies espoused from these emerged separately and varied at times, even within the same region. Nonetheless, states within the same region exhibited a shared overarching approach to migration that pervaded policymaking. Only once migration was first debated extensively at the national level in the 1787 Constitutional Convention and subsequent congressional debates did policymakers from the same region coalesce in a meaningful way. By the 1790s, voting blocs, and later parties, emerged at the national level, uniting members from various states in pursuit of common legislative goals for their respective regions. This thesis posits the existence of three distinct regional identities on migration during the period: restrictive, liberal, and exclusive.

For much of the period, the restrictive region comprised the north-eastern states of Connecticut, Massachusetts, New Hampshire, New Jersey, New York, and Rhode Island. Policymakers from the region both legislated and lobbied for significant limitations on the entry, rights, and access to citizenship of migrants. This arose from a colonial impulse to maintain regional cultural hegemony, later transformed into a broader desire to protect a homogenous and exceptional vision of American identity. Yet, this restrictionism was not all-encompassing. Though wary of the cultural and political influence of migrants, restrictive policymakers also sought to reap the economic benefits of migration, especially from wealthy

15 Delaware was liberal initially but became restrictive following the Federalist sweep in the 1796 state and national elections. See Chapter Five for more detail.
individuals. Moreover, political restrictions often operated in tandem with relatively broad land rights for migrants and naturalised citizens. By the mid-1790s, the restrictive approach to migration became integrated into the pro-Administration and later Federalist Party platforms. With this came the impulse to frame migration policymaking as an expansive federal power. Thus, while always visible in national migration debates, the restrictive ideology gained particular prominence in cornerstone Federalist policies by the end of the 1790s, such as the Alien and Sedition Acts.

Conversely, liberal states advocated a far more open approach to migration. The region was composed of states predominantly from the Mid-Atlantic and South, including Delaware, Kentucky, Maryland, North Carolina, Pennsylvania, Tennessee, and Virginia, but also Vermont. Formed out of colonial labour demands in large, unsettled areas of British North America, the liberal approach later translated into a broader pro-migration sentiment in the post-revolutionary period. Much like the restrictive approach, this had cultural and economic tenets. With the belief that American identity was characterised by adherence to shared revolutionary values, such as civic participation, liberal policymakers placed less emphasis on cultural homogeneity as their restrictive counterparts. However, this thesis disputes the common historiographical assumption that pro-migration rhetoric was primarily universalist in nature, resting on the belief that the United States ought to serve as an ‘asylum for mankind.’ Instead, liberal policymakers were equally conditional in their perception of a ‘desirable’ migrant. Much like the restrictive region, the liberal approach was motivated by economic interest, encouraging migration and settlement policies that were conditional on wealth. However, these were focussed on excluding impoverished individuals, rather than including the ultra-wealthy. At the same time, indicative of their cultural flexibility, policymakers supported reasonably open access to rights and citizenship for migrants. Liberal policymakers primarily found their home in the Democratic-Republican Party, where they not only opposed the increasingly restrictive nature of national migration policies, but also the extension of federal power on the issue.

A third exclusive region, made up of slave states Georgia and South Carolina, emerged following the Revolution. During the colonial period, both states exhibited liberal characteristics, offering encouragements for migrants and relatively low barriers to naturalisation. However, the increasing role of the national government first in the Articles of Confederation and then the US Constitution presented a threat in the eyes of policymakers, particularly to the institution of slavery. Thus, their approach was not only concerned with the
content of migration policy, but its jurisdiction too. Above all, the exclusive region sought to maintain state sovereignty on all matters of migration and reduce the political influence of outsiders, believing that any kind of federal or foreign encroachment on state policymaking could potentially damage the institution of slavery. Though liberal states emphasised the importance of sovereignty at times, this was far less determinative in policymaking than in exclusive states. Thus, while legislators maintained reasonably liberal settlement laws and land rights for migrants, they narrowed access to citizenship and political rights. This splintered approach situated the exclusive region in a unique position in the partisan conflict on migration throughout the 1790s. Though policymakers from the region were associated with the Democratic-Republican Party in the late 1790s as proponents of limited government and slavery, they often voted alongside Federalists in support of greater restrictions on political rights, complicating what has otherwise been considered a binary partisan divide on migration over the founding decades.

While these regions had a geographic quality, there were occasional outliers. Policymakers from Vermont, for example, did not share the regional identity of neighbouring states and instead adopted a liberal approach to migration, as Chapter Three explores. Meanwhile, as Chapter One demonstrates, New York’s restrictive approach to migration did not reflect the state’s diverse demography during the period. The terminology employed here is intended to illustrate how the three approaches relate to one another, rather than to invoke modern or theoretical conceptions of migration policy. For example, liberal states did increasingly limit the rights of migrants over the founding era, in line with nationwide trends, but crucially these policies remained less obstructive than those adopted by their restrictive counterparts. Though states in each region were broadly able to pursue their regional interests through state legislation, they equally hoped to secure and expand these interests in national policymaking over the course of the 1790s. Consequently, as migration discourse grew increasingly prominent on the national stage, so too did regional conflict on the issue.

This thesis employs a variety of source material to determine how people across the United States were thinking about migration in ways that were distinct to their respective region. The US Constitution plays a central role, both as a product of national debates on migration and as a framework shaping subsequent legislation. In recent decades, political and legal studies have increasingly contested how the Constitution ought to be interpreted in the founding era and beyond. In particular, historians have grappled with the question of how much we should rely on the original intent of the founders to interpret the document’s
meaning, an argument Paul Brest has termed ‘originalism.’ Though originalism overlooks how the Constitution has been constructed in different ways over time through amendments and judicial interpretation, it further presupposes that the founders drafted the document with a unified approach; an idea which this thesis disproves. Meanwhile, textualists place too much emphasis on the verbatim text of the Constitution to elucidate its meaning, overlooking how clauses were, and continue to be, contested and imbued with multiple meanings. Recent works instead posit a ‘living Constitution.’ This contends that the document and its constituent clauses were devoid of meaning until interpreted by the executive, judicial, and legislative branches in the founding decades. Only “by breathing life into certain norms and practices of constitutional justification,” Jonathan Gienapp argues, did legislators give “an uncertain governing instrument shape and [invest] it with distinct kinds of authority.”

In isolation, these approaches are insufficient to fully comprehend how the Constitution was understood during the founding decades. The document’s ambiguity did not reflect an ambivalence among its founders, nor the belief that it lacked any kind of legislative meaning in and of itself. Instead, as Chapter Two reveals, clauses on migration were consciously debated and moderated by the various regional interests of its framers. Thus, this thesis synthesises these existing approaches, analysing the Constitution in three ways: first, as the product of ideological debates on migration and citizenship amongst its founders; second, as a written document which designates seemingly absolute limitations on both the content and jurisdiction of migration policy; and third, as a living document whose interpretation reflects the ongoing regional interests of contemporary policymakers. To examine the lengthy drafting process, including debates and proposed constitutional clauses, the thesis uses James Madison’s recollection of the 1787 Philadelphia Constitutional Convention through Farrand’s Records. Using newspapers, speeches, correspondence, and convention records available in the Documentary History of the Ratification of the Constitution, Elliot’s Debates, and private papers, the thesis further explores how regional ideologies transcended ratification debates on migration, both at a state and national level.

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Once the Constitution was ratified these debates only further intensified. As Chapters Three, Four, and Five explore, in trying to codify their own regional approaches in law, policymakers imbued particular meanings into the constitutional framework on migration. While some arguments hinged on the interpretation of one particular clause, others devolved into broader debates on the nature of federalism. As such, the thesis maps the development of constitutional provisions on and legislative approaches to migration. The policymaking process was inherently dynamic, indicative of the political makeup and ideologies of state and federal governments and their respective legislators. This thesis considers every stage of the policymaking process: analysing legislative debates, the content of policies, and how that policy was later interpreted. As Kunal Parker argues, early state and federal legislation was the equivalent of a “blank canvas,” gaining meaning through contemporary legal and judicial interpretation. In some cases, this means looking at bills or amendments that never came to fruition, but whose drafting debates were indicative of ideas about migration in and of themselves. In others, the thesis considers how particular pieces of legislation were amended or repealed following their adoption.

For national policymaking, the thesis uses congressional debates extensively, considering both the arguments and voting patterns of individual legislators. In doing so, it explores the *Journals of the Continental Congress, House Journal, Senate Journal,* and *Annals of Congress.* Compiled at the request of the federal government in the nineteenth century, these comprise the minutes of congressional debate, legislative journals, and contemporary newspaper accounts. Though records for both chambers of Congress are available here, Senate debates were only briefly recorded until 1797, and thus feature less than debates in the House of Representatives. Though individual positions on policies and amendments in the chamber can be ascertained through voting records, the absence of debate occasionally obscures the arguments made in the process. To supplement the gaps this presents, the thesis uses additional records from *Maclay’s Journal* and the *Documentary History of the First Federal Congress,* as well as legislative coverage in newspapers; all of which give greater detail on the nature of Senate debates. The breadth of state-level policymaking on migration meant it was not always possible to consider individual debates in the same level of detail. However, where possible, the thesis uses published journals of legislative proceedings in each state. Additionally, the thesis examines the private papers of several policymakers, exploring how they wrote about

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migration in diaries, speeches, and correspondence. The widely published papers of key founding figures such as John Adams, Thomas Jefferson, and John Jay are supplemented by the archival papers of lesser-known national policymakers, such as Albert Gallatin and Theodore Sedgwick. Altogether, this approach sheds light not only on the legislative process on migration, but also the respective regional interests of policymakers.

In addition to the legislative process, the thesis considers the content of state and federal migration policies once passed. It examines legislation from the colonial period to the end of the Federalist era that governs any aspect of free migration into the United States, including entry, settlement, naturalisation, and the political, social, and economic rights of migrants and naturalised citizens. Although national policies did not exist in the conventional sense prior to independence, the thesis examines colonial resolutions which applied across British North America. For the post-revolutionary period, it explores national policymaking on migration through legislation, resolutions, and treaties accessed through the *Journals of the Continental Congress*, *US Statutes at Large*, and *Bills and Resolutions*. To chart policymaking at a state level, the thesis also explores public and private legislation for all sixteen states in existence by 1798, alongside state constitutions. As a more “democratically responsive” means of legislating than federal policymaking, according to Robinson Woodward-Burns, this provides a unique window into state-level political discourse and identity. When collated, a survey of state and federal policies on migration reveals how attitudes to migration varied across the United States and, crucially, how the political landscape on migration changed over the course of the founding era.

While the legislative branch was the primary site for policymaking on migration, other branches of the federal government played a significant role. The thesis considers how both executive and judicial opinion on migration law offers a window into different interpretations on migration, and their underlying regional interests. At both a state and federal level, judicial interpretation was often the product of legal challenges to established migration policies presented in local, district, and national court cases. This thesis considers instances where judicial opinion fundamentally reshaped existing policies, such as the court case *Collet v. Collet*. Executive opinion also played a significant role in the interpretation of migration policies, particularly during the Adams administration in the late 1790s. To consider how this intersected with the rest of the policymaking process, the thesis explores the widely published

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papers of Presidents Washington, Adams, and Jefferson, their official correspondence with Congress, alongside those of key cabinet members.

The thesis also considers how political debates on migration were both viewed and conducted beyond the halls of state and national government. In doing so, it analyses various forms of popular engagement, such as newspapers, pamphlets, and political activism, to gauge how representative state and federal debates on migration were of public discourse in particular states and regions. Though public commentaries on migration were circulated throughout the founding era, and thus feature throughout the thesis, the controversial nature of the Alien and Sedition Acts prompted an outburst of popular activism on the issue. For the first time, Shira Lurie contends, “the politics of assent and dissent clashed repeatedly as grassroots Republicans and Federalists developed their ideas and actions” on national politics through local public activism.22 Thus, as Chapter Five demonstrates, the thesis places greater focus on the intersection of popular politics and national policymaking during the late 1790s specifically. The thesis builds upon Benedict Anderson and David Waldstreicher’s analyses on the importance of the printing press in the development of ideologies on American nationalism.23 Moreover, it adopts Waldstreicher’s outlook that newspapers not only served as “mere documentary windows” into contemporary events, but also “constituted a popular political culture” in and of themselves.24 Thus, through digital archives such as America’s Historical Newspapers, Early American Imprints, and the Library of Congress, the thesis further sheds light on the ways in which the public, including migrants themselves, engaged with political discourse on migration through petitioning, meetings, and protests. In doing so, it demonstrates how regional interests on migration were actively pursued in local, state, and national debates across the Union.

**Historiography**

The development of American migration policy during the founding era is well established in the historiography. However, the long-term role of regionalism in this process is relatively overlooked. The few historians that do consider the relationship between regional identity and policymaking confine their analyses predominantly to the colonial and confederation periods,

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disregarding how closely the two were linked in the Federalist era and beyond. Kettner’s account of the development of US citizenship was one of the first works to explore how migration policy was contested in different ways at both a state and national level during the founding era. Though he does not explicitly assert the existence of ‘regions,’ Kettner demonstrates that states shared policy characteristics, reflecting “certain shared assumptions” on migration during the colonial and confederation periods. To Kettner, nowhere was this more visible than in the Constitutional Convention. At a national level, ideological conflict on migration guaranteed that “constitutional provisions involving citizenship contained profound ambiguities that would become apparent only long after the new government went into operation.” This had profound consequences on the function of citizenship, forcing policymakers to confront “new problems of practical policy and political principle in the decades after 1789.” However, with the assumption that shared state policy characteristics fell away after the Constitutional Convention, Kettner overlooks how entrenched distinct approaches to migration remained in the 1790s and, crucially, how these connected to regional identities throughout the period.

Building upon this, Marilyn C. Baseler contends that migration policy in the early republic was shaped by three ideological positions: idealists who promoted a universalist approach to migration; xenophobes who cautioned that migrants did not possess “true republican values”; and moderates who sought to both encourage migration and maintain a degree of assimilation. These three ideas, she argues, remained in tension throughout the early national period, forging “a long and often acrimonious debate over the proper definition of the American republic and people” in the policymaking process. However, Baseler ultimately concludes that a moderated universalist approach to migration prevailed in the early republic. “Although the dream of creating a nation without boundaries had become illusory” by the late 1790s, she contends that “the commitment to serving as an ‘asylum for mankind’ became an integral part of American republicanism” during the founding era. While Baseler correctly identifies the long-standing influence of pro-migration sentiment, she overestimates the degree

27 ibid., 218-47, esp. 232.
29 ibid., 324.
to which policymakers justified this position through universalism. Instead, the liberal position was more conditional in nature. Moreover, Baseler overlooks the equally prominent role restrictionism continued to play in policymaking in the early 1790s and beyond.

Lawrence Fuchs traces the long-term development of migration policy throughout US history, exploring the influence of civic culture and ethnicity in creating a pluralistic American identity. Like Baseler, Fuchs identifies three distinct ideologies on migration that governed this process, though he frames these with greater regional specificity. Forged during the colonial period, he argues that these approaches - the ‘Massachusetts,’ the ‘Pennsylvania,’ and the ‘Virginia,’ approaches - emerged in response to regional economic and cultural interests. While the ‘Massachusetts’ model promoted religious purity, the ‘Virginia’ model aimed to fill an insatiable demand for labour in the South, and the ‘Pennsylvania’ model encouraged diverse and broad migration. Yet, like Baseler, Fuchs argues that these ideologies were superseded by the universal concern that migration policies ought to be crafted to ensure that “newcomers could be as devoted to the well-being of a republic as anyone born in the United States” by the Revolution. In pursuit of this aim in national policymaking, Fuchs contends that the ‘Pennsylvania’ approach prevailed with the 1790 Naturalization Act, a watershed moment that created “a swift and unobstructed single path to what amounted to virtually full citizenship.” Reiterating Baseler, Fuchs agrees that the restrictionist policies that would later emerge under the Federalist era were a mere aberration from this period. Thus, he too overlooks the crucial role of restrictionism in mediating state and national policymaking in the early 1790s. Moreover, by overestimating the universalist nature of the ‘Pennsylvania’ approach, he misses how closely aligned its economic motivations were with the ‘Virginia’ approach.

Embracing Fuchs’ three ‘models’ of migration policy, Susan F. Martin refutes histories which structure policymaking as a “a contest between pro- and anti-immigration forces,” indicating that “the reality is much more complex.” Yet, in a departure from Baseler and Fuchs, Martin disputes that a consistent, unilateral approach emerged from any one model. Instead, she insists that the “strength of each model [varied historically] in accord with broader currents of thought and events.” While the “Pennsylvania approach prevailed” at the beginning of the early 1790s, she further argues that the Alien and Sedition Acts marked “a

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31 ibid., 15-6.
33 ibid., 4.
full return to the Massachusetts model’ in 1798. However, in adopting the same three ‘models,’ Martin retains the same issues as Fuchs in her characterisation of the Pennsylvania approach as both overwhelmingly universalist in nature, and distinct from much of the South. Moreover, as this thesis reveals, the notion that regional approaches to migration were adopted wholesale oversimplifies the nuanced and contested nature of debate throughout the founding period.

Aristide R. Zolberg highlights the crucial role of nation-building in the development of policymaking on migration. “From the moment they managed their own affairs,” he argues, Americans adopted different approaches to migration as a means to carefully construct national borders and “select who might join them.” Like Fuchs and Martin, Zolberg identifies colonial regional interests as the key driver of this distinction, though he contends that two approaches to migration emerged: the New England ‘family farm’ and Mid-Atlantic ‘land labour’ approaches. Yet, he too claims that the pursuit of regional interest fell away after the Constitution was ratified, at which point “acquisitive immigrationism,” a two-pronged approach which sought to attract labour while deterring ‘undesirables,’ became the political consensus. Not only does Zolberg’s omission of the South overlook a vital component of regional thought driving national migration policy, like Martin, his analysis again truncates the role of regionalism in the 1790s and beyond.

The thesis concurs with the collective assumption underlying all of these works: that regional interest was a key determinant of early legislation and constitution-making on migration. However, it differs from existing analyses in three distinct ways. First, the thesis demonstrates that regional identity was forged through a synthesis of cultural and economic factors. Though Fuchs, Martin, and Zolberg all conclude that colonial regional division was produced by a desire for cultural homogeneity in the North and labour demands in the South, these factors did not exist in isolation. Indeed, as Chapter One explores, policymakers across all three regions constantly weighed up the economic and cultural capital of potential migrants. Meanwhile, amid the insatiable demand for labour in the South, slavery also proved a crucial factor in the development of migration policy. Second, the thesis further disproves that post-revolutionary pro-migration thought was defined primarily by universalism. Instead, with economic and cultural assumptions about what made a migrant ‘desirable,’ liberal policymakers

34 ibid., 60-83, esp. 79.
36 ibid., 53-8.
maintained a conditional approach throughout the founding period. At any time and place in the young republic, the idea of the ‘asylum for mankind’ was little more than an empty promise. Third, the thesis disputes the notion that regionalism collapsed into a unitary national approach to migration at any point during the national period. Instead, restrictive, liberal, and exclusive approaches to migration remained in tension from the founding to the end of the Federalist era. Thus, early migration policies were not unprecedently liberal, nor were the Alien and Sedition Acts inexplicably restrictive. Instead, alongside all migration policymaking during the period, both were the product of long-standing regional conflict and mediation.

The thesis also intersects with scholarship on ‘immigration federalism’ in the early republic. Until recently, most historical and legal studies on US migration policymaking rooted the first restrictions in the late-nineteenth century, most commonly the Chinese Exclusion Cases in the 1880s. Consequently, the double-sided fallacy that the republic maintained open borders prior to this time and that state migration policy was unimportant has held prominence in both the literature and broader popular imagination of the founding. Benjamin J. Klebaner was one of the first historians to challenge this myth, contending that “the absence of significant federal regulation in the area of immigration legislation until 1882,” as he saw it, did not equate to disinterest on the matter among policymakers. Instead, “Congress had left the task of regulating the immigrant stream to the states and localities.” Extending this idea, Gerald Neuman argues that the open borders myth was designed to preserve the popular historical narrative of the United States as ‘a nation of immigrants.’ Through an excavation of the “lost century of immigration law,” he demonstrates that a multitude of state policies governing slavery, settlement, public health, and the importation of convicts were used to


restrict mobility long before the Chinese Exclusion Cases. Hidetaka Hirota builds on this trend, demonstrating that antebellum state policymaking across the Atlantic seaboard preempted the economic and racialised national restrictions of the 1880s. Collectively, these works have been foundational in highlighting the crucial role of state policymaking prior to the Chinese Exclusion Cases, emphasising “the complicated relationship between states and the federal government” at the end of the nineteenth century. This thesis applies these insights to the founding era, demonstrating that states used expansive policymaking to regulate mobility in line with their regional interests.

Some legal scholars have taken this argument even further, writing in response to heightening restrictions on migration since the millennium. Though in agreement that state legislatures remained the locus of policymaking on migration during this period, the group instead argue that this was because the US Constitution placed no authority with the federal government on migration. Thus, with the assumption that national migration law was unconstitutional, early policymakers avoided it altogether. In her broad-range study on the modern implications of founding policy, Anna O. Law contends that “the framers could not have bestowed immigration authority on the national government given the politics of the time.” Moreover, given the only relevant laws passed on the subject, the Alien and Sedition Acts, were both “highly partisan and repealed,” she concludes that “the states drove and implemented migration policy - not the national government.” Ilya Somin reiterates this construction. “For the first hundred years of American history, this was actually the dominant interpretation of the Constitution,” he argues, adding that “the founders knew that no less than we do,” and thus did not legislate on the issue accordingly. While this literature recovers the crucial role of state policymaking during the founding period, it equally perpetuates the assumption that national legislation was either non-existent or inconsequential during the period. Yet, this was far from the case.

This state-centric trend has since been critiqued by historians who instead contend that an array of national laws, alongside the US Constitution, regulated migration throughout the

late eighteenth and early nineteenth centuries. Pfander and Wardon demonstrate that “the constitutional law of the early republic recognized that Congress was to have broad substantive power to fashion immigration policy.” Moreover, they continue, this national power was not only mandated in the US Constitution, but also exercised several times through naturalisation legislation in the 1790s. Douglas Bradburn expressly criticises state-centric discussions on migration law for relying on modern assumptions about what constituted legal membership. This “anachronistic presentism,” as he terms it, overly formalises how citizenship was both understood and defined legally, and thus obscures its roots in national policymaking. Instead, through reciprocal bonds of allegiance established in naturalisation policy, Bradburn argues, “the notion of a national citizenry, a national people, existed in law and beyond the legal control of the states from the very beginning.” However, this approach overstates the power of the federal government relative to the states to regulate migration in the founding period. As this thesis demonstrates, amid an ambiguous constitutional mandate on migration, state and national policymaking operated in tandem during the national period, producing legislation that overlapped, and at times clashed, on a range of migration issues.

Drawing upon this trend, recent scholarship has integrated this approach with analyses of state policymaking, showing how the jurisdiction of the national and state governments intersected during the founding period. This is particularly prominent in works on citizenship. In her seminal work interrogating citizenship and gender, Linda Kerber contends that early American citizenship was defined through the pairing of rights and obligations, creating a ‘braided citizenship’ anchored both in state and national law. Although she asserts


that citizenship was a single status, Kerber likens it to a braid “made of several strands that twist around each other, and each strand (as in the braids we make of hair or rope) may itself be composed of many threads gathered together.”50 Through the lens of American political development, Allan Colbern and S. Karthick Ramakrishnan show that state policymaking both sat alongside and actively eroded national policies, creating a “regressive state citizenship” during the antebellum period.51 However, while their study considers the US Constitution at length, it does not consider the implications of this overlap before the nineteenth century, nor its regional underpinnings.

Kunal Parker expands this conversation to explicitly consider migration too. He demonstrates that, through a combination of state and national policymaking, “the United States has never welcomed all possible immigrants.”52 While the national government prioritised legislating on naturalisation, Parker argues, “the states continued to regulate access to and presence within their territories” simultaneously.53 However, like many state-centric works, Parker’s analysis is largely confined to the colonial era and mid-nineteenth century, skipping over the federal period. In his work on early naturalisation policymaking, John O’Keefe concurs with this characterisation, arguing that early migration was governed by the “discontinuous… interplay between the nation-state, migration, and citizenship” at both a state and federal level.54 Yet, he confines his analysis to the Federalist era and early-nineteenth century. As a result, these works overlook the extent to which state and national policies not only overlapped, but actively intersected during the founding era. As this thesis reveals, both levels of government legislated on migration concurrently during the period, often in direct relation to one another.

In considering how regional interest drew together state and national policymaking, this thesis draws upon scholarship on federalism more generally.55 Notably, works on federalism in other areas of policy have long considered how state and national governments interacted with one another during policymaking processes. Though early scholars such as Edward Corwin characterise this as an antagonistic relationship, recent works by Gregory

51 Colbern & Ramakrishnan, Citizenship Reimagined, 71-91, 137-56.
53 ibid., 80.
54 O’Keefe, Stranger Citizens, 8.
Ablavsky and Max M. Edling indicate that state governments continued to wield significant power amidst an increasingly centralised federal system. As a result, Edling argues, early national politics reflected “a constant balancing act between the need for union, on the one hand, and the interests of the states.” Grace Mallon further echoes the importance of state interest in early federal policymaking in her analysis of intergovernmental relations. In a variety of policy areas, she demonstrates “the centrality of state governments as agents that not only modified their own behaviour in response to federal actions but also worked constantly, and with some success, to alter the behaviour of the federal government in accordance with their particular policy interests.” This thesis builds upon this strand of scholarship, demonstrating that state governments and legislators often pursued their own interests on migration in national politics and policymaking. In doing so, state policymakers not only sought to protect their interests from federal intervention, they also hoped to expand them onto the national stage.

By exploring the various ways in which Americans understood migration in conjunction with their own regional and national identities, this thesis draws upon scholarship on early American citizenship. Rogers M. Smith underscores the tension between “rival civic ideologies,” liberalism and republicanism, in the development of American citizenship. Though he concludes that national identity was ultimately structured “in terms of illiberal and undemocratic racial, ethnic and gender hierarchies,” both in the founding era and beyond, he maintains that this was the product of “the divided heart of civic identity” in federal governance. Noah Pickus builds on this work, though through a more optimistic lens. Writing with the assumption that the founders held the universal belief that “civic freedom depended on a shared sense of belonging,” Pickus disputes the common narrative that early migration debates were a battle between pro-migration idealists and repressive nationalists. Instead, he contends that “questions of political ideology, civic capacity, and national

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belonging” sat at the forefront of debate, as policymakers grappled with the need to balance protecting revolutionary ideals with the fostering of a national community.\textsuperscript{62} Using a similarly unifying approach, Carrie Hyde and Stephanie DeGooyer consider how, in the absence of a secure legal definition, debates on naturalisation and citizenship were shaped by common religious and literary understandings.\textsuperscript{63} Meanwhile, Michael D. Hattem demonstrates how popular historical readings of the American Revolution fed into debates on identity. Americans forged a shared sense of nationalism and citizenship, he argues, through “the cultural malleability and political memory of the historical past” forged during the Revolution.\textsuperscript{64} Though these works frame the development of citizenship in ideological traditions and debate, they overlook how these ideas were forged in connection with regional interests. Moreover, they understate the charged international context within which early American citizenship was contested.

In contrast to these ideological debates, Matthew Rainbow Hale and Robbie J. Totten contend that early debates on American citizenship and identity, and by extension on migration, were framed by national security concerns posed by Great Britain and France.\textsuperscript{65} Amid worsening foreign relations over the course of the late-eighteenth century, Hale argues, “perceptions of geopolitics played a critical role in shaping Americans’ opinions about their nationality.”\textsuperscript{66} In agreement, Totten suggests that debates over “security components underlying state immigration policy: ethnic assimilation, economic strength, espionage, border security, population, manpower for the armed forces, and terrorism,” were far more integral to the policymaking process than romantic arguments about American identity and belonging.\textsuperscript{67} Writing in response to Trump-era migration policies, Julia Rose Kraut follows this framing in her recent work on the ideological exclusion and deportation of ‘dissenters’ both inside and out of the United States throughout its history. She contends that founding migration restrictions, particularly during the Federalist era, were no more than “politically

\textsuperscript{62} ibid., 25.
motivated tools to suppress dissent and internal subversion” by casting the opposition as foreign.

This thesis also builds upon scholarship exploring the intersection of citizenship and gender during the early republic. Though the Fourteenth Amendment’s designation of the “male citizen” marked the first explicit exclusion of women from US citizenship, several historians explore how many women lacked the status from the moment of independence. Indeed, as Barbara Young Welke demonstrates, the process of codifying American identity and citizenship “rested from the outset on the legally structured dependence and subjection of others,” including women. In particular, married women’s citizenship was often both subordinate to and derived from her husband’s under the legal strictures of coverture. To Kunal Parker, this essentially rendered women “politically and legally invisible,” equating “the feme covert [the married woman] with the alien.” One consequence of this, Linda Kerber agrees, is that the laws governing citizenship were not only restrictive to migrants in the early republic, but “were bent by gender” too. However, several historians have resisted this legal reading of gendered citizenship, instead contending that women made claims to citizenship through civic culture and political activism. Much like migrants, women “excluded from the privileges of full citizenship did not passively accept their limited status,” Susan Stanfield argues, but instead capitalised on the emergence of print culture “to reimagine their civic participation.” This was not only cultural in nature, but deeply political too. Indeed, as Rosemarie Zagarri adds, through acts of lobbying and petitioning, women directly engaged with the political process, believing “that the government was, in some real sense, their own and accountable to them.” This thesis draws upon both components of this scholarship,

71 Parker, Making Foreigners, 63.
showing that while debates on migration were inherently gendered in nature, women actively participated in the policymaking process to make their own opinions on the issue heard.

A new strand of citizenship scholarship focuses on the role of racial exclusion in congressional debates and subsequent legislation. Samantha Seeley argues that racially exclusive policies “informed critical conversations about the formation of the United States at the highest levels of government,” and the very nature of American identity. As a result, she reveals, early migration policies sought to not only define who should welcomed into the republic, but they also “urged the removal of both Native Americans and African Americans from the states and the nation.” Similarly, Kate Masur explores how early migration policies were adopted “in a struggle to govern a mobile and diverse population,” regulating the movement and rights of ‘undesirables,’ including free Black Americans. Though enslaved people were largely ignored in contemporary debates about American citizenship, Kevin Kenny and Anna O. Law demonstrate the crucial role that slavery played in the development of migration policy. Though framing this debate predominantly in the antebellum period and beyond, they argue that policymakers defined both the content and jurisdiction of migration restrictions in response to slavery and the movement of free Black Americans.

The thesis draws upon this vast array of literature on citizenship, revealing that division on the nature of American identity both produced and was produced by regional conflict. In formulating their own approaches to migration policy, states and regions asserted particular understandings about the nature of American citizenship and, crucially, how migrants fit into that status. Produced by colonial conceptions of settlement and identity, regional interest on migration was informed by cultural, ideological, gendered, racial, and national security arguments on the nature of citizenship. The expanding national debates on migration during the late-eighteenth century brought these ideas to the fore of policymaking, highlighting the variety of ways Americans across the nation understood their own status as citizens.

Building upon this, historians have also considered how national migration policies were shaped by partisanship, highlighting how parties adopted distinct ideas about American

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76 Benjamin B. Ringer, ‘We, the People’ and Others: Duality and America’s Treatment of its Racial Minorities (London: Tavistock Publications, 1983); Fogelman, ‘From Slaves, Convicts, and Servants to Free Passengers,’ 43-76.
78 Masur, ‘State Sovereignty and Migration before Reconstruction,’ 588.
identity throughout the 1790s. In their respective works on the long-term relationship between political identity and migration policy throughout US history, Daniel J. Tichenor and Daniel Kanstroom both centre partisan conflict as the definitive force driving founding policies. Though Tichenor deems migration restrictionism in the late 1790s as an aberration in an otherwise liberal national policy agenda, he concludes that policies were driven by the Federalist desire to “forestall its imminent loss of political power.” In agreement, Kanstroom reiterates the belief that Federalist legislation arose at a moment when “political fear had reached a crisis,” though he again frames the resulting policymaking as the product of a two-sided partisan conflict. However, these works often diminish the role of migration as a key tenet of partisan identity. In doing so, they relegate policymaking on the issue to a form of political posturing, ignoring the genuine ideological differences driving political debate.

Though Douglas Bradburn concurs with Tichenor and Kanstroom’s assumption that early policymaking on migration was shaped by partisan conflict, he characterises this as a meaningful partisan disagreement over the nature of American identity, rather than mere political posturing. His foundational work, The Citizenship Revolution, demonstrates that the Federalist and Democratic-Republican approaches to migration were shaped by “different ideological commitments to the American nation, and American citizenship in general.” Thus, the flurry of migration restrictions during the Federalist era was not just self-serving political posturing, but an assertion of partisan identity. Through the Alien and Sedition Acts, in particular, the Federalists “moved decisively to create in law their idealised vision for the American nation.” While Bradburn examines migration policy as a product of partisan conflict, Scot J. Zentner and Michael C. LeMay instead consider how divergent ideas about migration and citizenship produced partisan division. In doing so, they interrogate not only the role of migration in partisan ideology, but also “the manner in which immigration as an issue and as a factor in coalition building played a role in national electoral competition.” By the

84 ibid., 140.
late 1790s, they conclude, migration policy was actively feeding into ‘regime politics’ which shaped both the political ideologies and voting base of individual parties.

Many of these works assert sectional differences in the development of distinct partisan identities, often labelling the nascent parties the ‘New England’ or ‘north-eastern’ Federalists and the ‘Virginian’ or ‘southern’ Democratic-Republicans. Over the course of the 1790s, Bradburn contends, migration debates increasingly reflected “the sectional nature of the political parties,” with each representing the interests of, and bearing an allegiance to, their respective region. However, the relationship between regional interest on migration and partisan identity is underdeveloped in the historiography. Drawing upon these works, this thesis reiterates the belief that distinct partisan ideologies on migration emerged in the mid-1790s, influencing both the development of policymaking and makeup of political parties. However, it further demonstrates that partisan identity formed part of a longer lineage of regional politics in the founding era. While the Federalist and Democratic-Republican parties only emerged towards the end of the period, their respective approaches to migration were espoused by restrictive and liberal regions decades earlier. Moreover, in contrast to interpretations of a united southern Democratic-Republican Party, the thesis shows that exclusive states Georgia and South Carolina often transcended partisanship. Concern with the potential for foreign encroachment on the institution of slavery meant policymakers from the region often supported Federalist restrictionism in partisan debates, even as they fretted with their fellow Democratic-Republicans about expanding the powers of the federal government.

Lastly, the thesis draws upon historiography on the intersection between public discourse and national policymaking on migration. The importance of popular political activism during the early founding period is well trodden ground in the literature, as is the relationship between the public (including specific migrant groups) and national politics on issues like the Alien and Sedition Acts during the late 1790s. Benedict Anderson demonstrates the significance of print culture in both cultivating and exhibiting popular forms of nationalism in the late-eighteenth century. David Waldstreicher frames this idea in an American context, demonstrating how the public engaged with national partisan debates

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88 Anderson, *Imagined Communities*. 
through popular rituals and activism. In doing so, “nationalist celebrations became a key locus of the continuing battle over the nature of political participation.” Waldstreicher adds, however, that an element of regional interest informed the development of public debates on nationalism during the Federalist era. As varying “regionalisms developed in dialogue with nationalist practices,” he argues that “the unavoidable reality of regional differences in early national America created problems and opportunities for people in both parties and in each section of the country.”

As this thesis shows, this was certainly true of debates on migration.

Simon P. Newman further contends that “most Americans experienced national politics” through broad displays of public activism in the founding era. Disputing the belief that popular politics only comprised passive acts, such as reading newspapers and pamphlets, he brings to light the “rich array of parades, festivals, civic feasts, badges, and songs” used by the public to advocate for their opinion on the politics of the day.

Meanwhile, amid the burgeoning political culture of the 1790s, Branson demonstrates that young American women actively engaged with political debates on the French Revolution despite their exclusion from the halls of office. Through street theatre, American women “expressed their opinions and asserted their rights as participants in public political culture.”

Expanding on these works, Ronald P. Formisano and Barbara Clark Smith argue that while the public used popular activism to opine on national politics, they also sought to actively influence the policymaking process. By the mid-1790s, partisan “writing in pamphlets and newspapers prompted a flood of information into the public sphere well beyond elite ranks, similarly flattering the political self-assurance of ordinary folk” on a wide range of political issues, including migration. In doing so, Smith contends, the public were actively encouraged to critique and lobby against unpopular policies. Before long, the public gathered “not merely to organize, petition, or protest,” but also “in immediate opposition to policies established by the people’s representatives in state government.”

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91 Branson, *These Fiery Frenchified Dames*, 1.
Historians have long-considered how migration policy shifted in response to both the presence and activism of particular diasporic groups across the United States. Ashli White’s research on migration from revolutionary Saint Domingue highlights the significant political and cultural impact of the group on American society. The makeup of refugees, the majority of which were white, French aristocrats accompanied by enslaved people, stoked contentious debates on the assimilation of migrants, and as a result often “straddled American party lines.” Meanwhile, Seth Cotlar and Michael Durey trace the import of transatlantic radicalism to the United States, with a particular focus on how migrants from revolutionary France and Ireland contributed to American political culture. The influence of radical exiles, Durey argues, “far outweighed their small numbers because of the strategically important positions they held within the media communications of the opposition.” In separate case studies of Irish migration to Philadelphia in the 1790s, Margaret McAleer and Maurice J. Bric further consider how Federalist migration restrictions were prompted by the oppositional political engagement of migrants. With “a lack of confidence that immigrants could be accommodated within, much less assimilated into, the mainstream of the American republic,” the Federalist government adopted a reactionary, nativist stance by the end of the 1790s. John O’Keefe develops this argument further, emphasising that migrant groups were not only subject to legislation, they were agents in the policymaking process too. Disputing the belief that migrants were passive victims of an increasingly restrictive system, O’Keefe argues that migrants actively “intervened to prevent the US government from forbidding them entry, countered hostile descriptions of...


themselves in the press, often refused to comply with compulsory alien registration, and attempted to influence the naturalization process.”

The thesis builds upon these works by exploring how the public actively engaged in state and national debates on migration during the late 1790s. Through an examination of popular discourse, it reveals that regional interest was both visible within and promoted by various forms of public activism, such as print culture, petitioning, and protests. Moreover, the thesis considers how the growth of popular activism during the mid-1790s shaped public discourse and, consequently, motivated policymaking in the Federalist era. Crucially, the thesis further demonstrates how closely correlated public discourse was with the ideologies of policymakers from the same region. Meanwhile, in the instances when public activism did not correlate with established regional interests, the same political conflict that raged in national politics also emerged at a local level. Though the thesis reiterates the historiographical consensus that the public were conscious actors in the national policymaking process, it further shows how consistent and entrenched regional conflict on migration was in every area of local, state, and national politics by the late 1790s.

Chapter Outline
This thesis employs a chronological approach, demonstrating the ways in which regional interest manifested and evolved in state and federal legislation over the founding period. It is divided into five chapters, each considering a significant moment of policymaking from the Revolution to the height of the Federalist era in the late 1790s. Indicative of the changing jurisdiction of migration over the course of the period, some chapters consider state or federal policymaking, while others explore how the two operated in tandem. Even so, all five chapters situate contemporary policymaking within their respective political, diplomatic, and national contexts, linking each to the development of regional identity throughout the early republic.

Chapter One excavates the colonial origins of regional approaches to migration and shows how both policies and attitudes became universally more, rather than less, restrictive and reactionary in response to the Revolution. Colonies initially developed either liberal or restrictive attitudes to migration in response to historic settlement patterns, labour demands, and cultural identities. However, following the outbreak of Revolution, the newly independent states deployed migration policy as a reactionary tool against British rule, prioritising policies

99 O’Keefe, Stranger Citizens, 16.
that punished and excluded loyalists. In doing so, state policymakers asserted a new form of American citizenship based on revolutionary values. Amid weak national provisions on migration during the confederation period, state legislators used policymaking to reaffirm established approaches to migration. While restrictive states capitalised on the anti-British revolutionary sentiment to maintain colonial policies, liberal states embraced revolutionary ideas of volitional allegiance to construct expansive migration policies. However, even in liberal states, the looming threat of loyalism coupled with a decreased demand for labour saw greater restrictions on migration policy arise. Meanwhile, amid the nation-building process, a third exclusive region emerged, concerned not only with the content of migration policymaking, but its jurisdiction too.

Chapter Two examines the federal framework on migration established in the US Constitution. It contends that the founding document was the product of regional compromise on both the nature and jurisdiction of migration policymaking. Through the naturalisation and slave trade clauses, delegates from all three regions compromised on the Constitution’s framing of migration policy, assuming that it would serve to both safeguard and expand their own respective state interests at a national level in future policymaking. The chapter further explores how delegates sought to codify their own understanding of American citizenship in the Constitution through the designation of rights such as political officeholding and broader judicial protections. Meanwhile, debates on the jurisdiction of migration policy extended into broader discussions on the nature of state sovereignty and federalism, implicating a variety of constitutional provisions from comity to general welfare. Designed as a means of appeasing the various regional interests of delegates at a national level, the Constitution’s remit on migration became so broad and ambiguous that it was largely unintelligible. Crucially, this established several sites that would become inevitable sources of future conflict on the issue.

Chapter Three considers how regional migration debates intersected with the first federal migration policy, the 1790 Naturalization Act. Though historians often emphasise the liberal nature of the act, its terms were significantly tempered by exclusionary arguments against ‘undesirable’ migrants throughout the drafting process in Congress. While this was most prevalent among legislators from restrictive and exclusive states, exclusionary ideas were also echoed by some liberal policymakers, revealing that even they did not fully engage with a universalist vision of citizenship. Though the Constitution had seemingly divided control over naturalisation and migration policy between the federal and state governments respectively,
this was not fully realised throughout the early 1790s. Instead, state legislatures remained the primary locus of policymaking, able to pursue their own regional interests unobstructed. Despite its characterisation as a consensus policy that effectively nationalised migration policy, the 1790 act was a hard-fought compromise between regional interests at the national level which did little to circumvent the crucial role of state governments in determining both migration and naturalisation policy.

Chapter Four explores the relationship between partisanship and migration policy in the mid-1790s. The emergence of the Federalist and Democratic-Republican parties at the national level saw regional attitudes to migration embed into broader partisan ideas about American citizenship. In response to diplomatic crises in revolutionary France and Saint Domingue, the Federalist and Democratic-Republican parties targeted particular migrant groups that, in their eyes, did not suit their respective conceptions of American citizenship. In doing so, policymakers not only affirmed their own regional interests, they also situated themselves in direct opposition to their counterparts. The drafting of the 1795 Naturalization Act only further exacerbated this divide. Meanwhile, focussed on how the new legislation could threaten the institution of slavery, exclusive policymakers complicated the debate, demonstrating that regional interest not only reinforced partisan identity, but also subverted it at times.

The final chapter explores the apex of migration restrictionism during the Federalist era, the Alien and Sedition Acts. In contrast to historiographical characterisations of this moment as exorbitantly partisan or xenophobic, political debates still reflected, and were moderated by, the same regional divides on migration. While an undeniable flashpoint in the founding era, debates on the Alien and Sedition Acts saw the repetition of ideas on migration, citizenship, and constitutionalism that were as old as the republic itself. Despite the seeming nationalisation of migration law, state policymakers affirmed their own regional interests on both the content and jurisdiction of migration in debate over the Alien and Sedition Acts, the subsequent Virginia and Kentucky Resolutions, and through autonomous policymaking. Meanwhile, amid the proliferation of popular political culture in the late 1790s, the public intersected in these debates through various forms of political activism and protest. In doing so, they not only sought to engage with partisan debates on the Alien and Sedition Acts, they also made claims to their own citizenship and participation within the political sphere in relation to their respective regional interests. As the chapter ultimately demonstrates, the Alien and Sedition Acts did not reflect a break in the relationship between regional interest and...
migration policymaking; they prove how intimately connected the two remained throughout the entire founding period.

This thesis demonstrates the crucial role of regional interest not only in the development of migration policymaking, but also in broader debates on American identity. In a bid to define who ought to be excluded from the new republic, Americans were fundamentally expressing ideas about how they envisioned themselves as a national community. In doing so, liberal, restrictive, and exclusive policymakers cast their respective regional experiences and interests onto the national stage. Amid the growth of partisanship, these ideas became only more controversial and baked into broader debates on a range of issues. Yet, policymakers, and ultimately the public, did not consider this an ideological or political debate, they sought to defend what they considered the one, true vision of American identity. Accordingly, they hoped to not only cement their own regional interests in their respective area of the country, they deemed it essential to the survival of the republic for their opposition to be extinguished. The implications of this cannot be overstated. In contrast to the ‘open-door’ myth, this thesis proves that the American border was inherently restrictive from the moment of independence. As Americans reckoned with the state-building process, they used their respective regional interests to not only craft a new national community in their own image, but to cast out those who did not conform.
Chapter One

Building Borders: State Policymaking at the Founding

“With regard to encouragements for strangers from government, they are really only what are derived from good laws and liberty. Strangers are welcome because there is room enough for them… But, if he does not bring a fortune with him, he must work and be industrious to live. One- or two-years’ residence gives him all the rights of a citizen; but the government does not at present, whatever it may have done in former times, hire people to become settlers, by paying their passages, giving land, negroes, utensils, stock, or any other kind of emolument whatsoever. In short, America is the Land of Labour.”¹

Benjamin Franklin, Information to Those Who Would Remove to America, 1784

Following the end of the Revolutionary War in 1783, politicians embarked upon the lengthy process of state building. In devising how the republic ought to function, they increasingly considered how to define the new concept of the ‘American citizen,’ and crucially, where migrants fit within that status. Traditional interpretations of the revolutionary and confederation periods assume that a universalist pro-migration ideology dominated contemporary politics, foregrounding the desire “to give freedom to the downtrodden of the earth.”² This idea continues to occupy modern scholarship. Aaron Fogelman, Robbie J. Totten, and Noah Pickus are just some who continue to emphasise the notion of an ‘open-door’ era in which migrants were welcomed overwhelmingly to the new republic.³ Yet, Benjamin Franklin’s characterisation of the United States as a ‘land of labour’ paints a different picture. By arguing that migrants were only welcome because there was “room enough” for them to be productive in the new nation, Franklin prioritised the economic value of migration over the seemingly natural right to mobility. Meanwhile, not all policymakers encouraged migration post-Revolution, with some actively supporting restrictions instead. Indeed, far from

² Wittke, We Who Built America, xi; Handlin, The Uprooted; Higham, Strangers in the Land.
the fabled notion of the universalist ‘open-door’ era, policymakers held nuanced opinions on migration based on their respective regional economic and cultural experiences. This was extrapolated across the thirteen states, each with its own government and policy agenda feeding into national discourse. Among the complex amalgam of liberal and restrictive policies that emerged, a pro-migration sentiment was neither all-encompassing nor exclusively motivated by universalism. Instead, the need for migrants to be perceived as both ‘desirable’ and productive, albeit in different ways, was of the utmost importance.

Of the entire founding era, the role of regionalism has received the most historiographical attention during the colonial and confederation periods, though scholars universally understate its long-term impact on migration policy. James Kettner and Marilyn C. Baseler observe emergent patterns in states’ approaches during the period, though neither overtly link this to broader discussions of regionalism, nor do they consider its long-term nature. While they differ in their observations of what restrictive policy looked like and in which states it was most prevalent, they agree that liberal policies were most pervasive, particularly among southern states. Yet, both conclude that this regional divide no longer existed by the late 1780s. Crucially, Baseler contends that a liberal approach prevailed in national policymaking, bolstered by universalism and mercantilist arguments that emphasised the economic opportunism of migration. Though both rightly conclude that the nature of regional interest had changed by the end of the period, they wrongly assume that it dissipated altogether.

David Hackett Fischer demonstrates the existence of four concrete regions during the colonial period, each produced by a different migrant group and “transit of culture” from seventeenth and eighteenth-century England: the Appalachian backcountry, the Delaware valley, Massachusetts, and Virginia. Through a process of cultural consolidation, the “dominant culture of each region was hardened into institutions which survived for many years,” reinforcing distinct attitudes to migration. Though Fischer further identifies broader cultural and economic distinctions between New England and southern colonies, he fails to situate this within his conception of regionalism. Moreover, while Fischer contends that regional conflict existed well into the twentieth century, he overlooks its crucial role on migration specifically in the founding decades. “In response to a common danger,” he argues,

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regions “forgot their differences and joined together in the movement that led to the American Revolution.” ⁶ Though there was undoubtedly a shift in the way migration was legislated both during and after the Revolution, as this chapter demonstrates, this was still intimately connected to entrenched regional interest.

Lawrence Fuchs discusses regional interest with greater specificity in his work, though similarly minimises its role beyond the confederation period. ⁷ Of the three distinct approaches to migration policy that he considers to have emerged during the colonial era - the restrictive ‘Massachusetts’ approach, the universalist ‘Pennsylvania’ approach, and the labour-hungry ‘Virginia’ approach - he concludes that a universalist agenda triumphed in national policymaking at the end of the confederation period. In doing so, he makes the same erroneous assumption as Baseler; underestimating how entrenched other regional interests remained beyond the Revolution. Though Susan F. Martin follows in Fuchs’ steps, she disputes that the liberal ‘Pennsylvania’ approach prevailed. Instead, she contends that all three approaches continued long beyond the founding, justifying both pro- and anti-migration policy. ⁸ Yet, like Fuchs, Martin overemphasises the role of universalism in motivating pro-migration policymaking. Instead, as Franklin indicates, economic opportunism dominated liberal migration policy. Very little, if any, legislation was passed out of universalism alone.

Similarly, Aristide R. Zolberg identifies distinct regional interests in his study of early national policy, but instead argues that two idiosyncratic approaches arose out of the “bifurcation between the ‘plantation’ and ‘family farm’ patterns of colonial development.” ⁹ New England states operating under a ‘family farm’ mode of development were typically restrictive, while middle colonies offered encouragement to fulfil the labour demands of plantations. However, Zolberg omits the South entirely, arguing that the region was solely concerned with the forced migration of enslaved people, and thus overlooks its critical role in fomenting division on free migration. Moreover, while the distinction he draws between the two regions is certainly visible, his demographic approach does not tell the whole story. Zolberg bases his categorisation of colonial regions on trends in the 1790 census, conflating contemporary migration policies with historic demography. For example, he considers New Jersey a ‘middle colony’ as the census records one-third of population as being foreign-born. However, this statistic is skewed by significant Dutch ancestry in the colony and does not

⁶ Fischer, Albion’s Seed, 826-7.
⁷ Fuchs, The American Kaleidoscope, 7-14.
⁸ Martin, A Nation of Immigrants, 11-60.
⁹ Zolberg, A Nation by Design, 52-7, esp. 53.
represent contemporary attitudes to migration. As this chapter demonstrates, only through a legal history of migration can the intentions of policymakers, and thus their regional interests, be fully understood. Altogether, this thesis concurs with the historiographical consensus that regional division emerged during the colonial period, though through a different configuration of regions. Moreover, it demonstrates the long-term influence of regional interest on policymaking into the confederation era and beyond.

As this chapter demonstrates, two distinct regional approaches to migration emerged during the colonial period: liberal and restrictive. Keen to attract cheap labour, large Mid-Atlantic and southern colonies legislated liberal policies, granting migrants relatively unobstructed access to settlement, naturalisation, and rights. Yet, this was not universal, with poor, ‘undesirable’ migrants often explicitly excluded. Meanwhile, north-eastern colonies sought to maintain cultural homogeneity, and thus favoured restrictive migration policies. Baked within this regional divergence was an implicit difference not only in how colonists perceived migrants, but their own cultural and economic identities. While this division remained consistent for much of the eighteenth century, the American Revolution spurred anti-British policymaking across both liberal and restrictive regions. This comprised the removal of rights among loyalists, the naturalisation of deserting British soldiers, and the introduction of oath-based residency requirements. Meanwhile, undermining British attempts to curb migration and naturalisation, states asserted their own sovereignty to legislate on migration. Though the immediate danger posed by loyalists fell away after the Revolution, a general concern of external influence saw new limits on migration emerge across the newly independent United States. Indeed, the revolutionary experience produced not only the universalist notion of the ‘asylum for mankind,’ but a shared desire to reduce the role of outsiders in new political institutions.

Both the nature and extent of these policies differed in liberal and restrictive states, reflecting historic regional interests on migration. Policymaking was especially stringent in the new exclusive region, comprising previously liberal Georgia and South Carolina, due to its particular reliance on slavery and distinctive experience of British occupation during the Revolutionary War. Before long, both states introduced significant political restrictions on all migrants, fundamentally diverging from other liberal states, even as they continued to encourage migration in other ways. These regional disparities were only further consolidated in the process of nation-building, as a flurry of new state legislation and constitution-making reasserted regional interests in the founding period. In short, the young republic was deeply
divided on migration from the outset. Within this process, Americans struggled to integrate not only their approaches to migration, but their own identities. While states adopted migration policies autonomously under the decentralised Articles of Confederation, attempts to consolidate treaties under a national government showed the potential for regional conflict on the issue for the first time. Not only did liberal and restrictive states take the opportunity to affirm their own regional identities on the content of migration policy, but exclusive states also asserted their sovereignty on migration jurisdiction too. It was inevitable that these divisions would only be aggravated by the negotiation of federal policies, and the drafting of the US Constitution in 1787.

Colonial Policymaking

Prior to the Revolution, individual colonies maintained relative autonomy in dictating their own migration policies. Though British common law outlined processes that dictated naturalisation and migrant rights, colonies were not bound to follow these and “effectively became their own gatekeepers,” according to Fischer. Colonial governments often considered anyone entering their particular province a migrant, regardless of whether they were arriving from neighbouring regions or across the Atlantic. As a result, a patchwork of policies emerged across British North America, creating a chain of internal borders constructed in response to local colonial development. While colonies did not operate collectively, as Joseph S. Tiedemann demonstrates in his study of the eighteenth century Mid-Atlantic, regions “had already become interconnected before the Revolution” through religious ties, ideological bonds, and shared economic priorities. Consequently, neighbouring colonies often adopted similar policies, produced by collective cultural and economic assumptions about particular migrant groups, and by extension, their own colonial identities.

Migration policies did more than just target the mobility of migrants; they actively managed every aspect of their lives. First, through settlement laws, colonial governments policed the movement of migrants both into and within their respective territories. As less emphasis was placed on naturalisation during the colonial period, this remained the primary locus of membership for migrants. Although settlement occasionally came with associated rights, such as land ownership, it often only protected migrants from removal. In some

10 Fischer, *Albion’s Seed*, 811.
instances, even that was not guaranteed. Second, colonies also legislated requirements for naturalisation, the means through which legally settled migrants attained citizenship. Though this primarily entailed membership within a particular colony, naturalised migrants also assumed the status of British subjects, a seemingly immutable allegiance to the Crown. Third, colonial governments managed the political and social rights of migrants, which were often granted independently of, and were typically more limited than, settlement and naturalisation policies. By managing every aspect of migrant life, colonial governments maintained hierarchical approaches to membership and rights, indicative of their own particular regional interests.

Across much of the South and Mid-Atlantic, colonies maintained a consistently liberal approach to migration. This included colonies with typically larger territories: the Carolinas, Georgia, Maryland, Pennsylvania, and Virginia. However, Delaware also shared similar policy characteristics. Due to the colony’s historic ties with Pennsylvania, the Delaware assembly managed migration with the same legislative approach, even once established as a separate colony. Altogether, the liberal region adopted a relatively pro-migration approach regarding settlement, naturalisation, and the rights accessible to migrants. In some cases, colonies even actively incentivised migration, though this was conditional. Rather than welcoming migrants without distinction, liberal colonies instead favoured economically ‘desirable’ migrants, encouraging free white labour while deterring the poor. Thus, liberal colonies actively managed their borders with particular types of migrants in mind, asserting a colonial identity that was both culturally diverse and oriented around productivity.

Economic opportunism was a key tenet of liberal ideology and policymaking. Compared to their restrictive counterparts, liberal colonies were typically larger, and thus had an insatiable demand for labour that could not be met using the natural-born population alone.12 In the mid-seventeenth century, the vast majority of migrants entering the region were white indentured servants, lured by the booming tobacco trade. However, amid the growing prominence of enslaved labour across the South and Mid-Atlantic, white European migrants shifted away from indentured servitude.13 Yet, their value as free migrants across the region

was still profound. As Erika Lee demonstrates, over the course of the eighteenth century, the “growing white population increased land values and provided much needed labor and capital, which in turn helped fuel territorial expansion and economic development.”

This not only benefitted the colonies, advocates argued, but the migrants themselves; establishing “the best poor man’s country.” In 1751, Franklin mused:

“So vast is the territory of North America, that it will require many ages to settle it fully; and till it is fully settled, labour will never be cheap here, where no man continues long a labourer for others, but gets a plantation of his own, no man continues long a journeyman to a trade, but goes among those new settlers, and sets up for himself. Hence labour is no cheaper now, in Pennsylvania, than it was thirty years ago, tho’ so many thousand labouring people have been imported.”

As Franklin suggested, the demand for labour was coupled with a desire to cultivate lands unsettled by white Americans, which were only amassing amidst territorial expansion and the widespread displacement of Native Americans. The result was a series of policies across the region that actively encouraged migration, offering an amalgam of benefits to prospective settlers with the hope of reaping the economic fruits of their labour.

From their establishment, liberal colonies across the Mid-Atlantic and South were renowned as diverse societies, free from religious and political persecution. In the ‘best poor man’s country,’ colonists not only welcomed European migrants, but “deliberately encouraged a diversity of national stocks.” The founder of Pennsylvania, William Penn, established the Frankfurt emigration society in Germany in 1677 to these ends, personally organising fifty ships to the colony for migrants over the late-seventeenth century. European migrants further contributed to cultural efforts to maximise white settlement in liberal colonies. Given the relatively low colonial population in the region, especially along the ever-expanding frontier, white migrants added to the racial capital of existing communities, offsetting the perceived threat of Native American nations. In doing so, migrants were used not only as


18 Fischer, *Albion’s Seed*, 811.

economic instruments, but to assist in the cultural and territorial removal of prominent Native nations in the region, including the Algonquian, Iroquois, and Muscogee nations.\textsuperscript{20} While this concern became less immediate over the course of the eighteenth century, the cultural distinction between “whites and African Americans and whites and Native Americans became increasingly important,” remaining a key determinant of membership and rights into the founding and beyond.\textsuperscript{21}

However, liberal policymakers remained equally cognisant of the negative cultural influence of migrants arriving at their borders. In particular, policymakers warned of the societal implications of welcoming poor, convict, or indentured workers. Amid its effort to become a ‘land of labour,’ one Virginian argued, the region had become a mere “sink to drain England of her filth and scum.”\textsuperscript{22} Moreover, the cultural and religious diversity produced by relatively open policies had also become cause for concern, even amongst migrants themselves. One Swiss migrant was horrified upon her arrival in colonial Pennsylvania to discover that “the religions and nations are innumerable, this land is an asylum house for all expelled sects, a refuge for all delinquents of Europe, a confused babel, a receptacle for all unclean spirits, a shelter of devils, a first world, a Sodom.”\textsuperscript{23} Alongside his writings supporting economic migration, Franklin wrote in disgust at the cultural influence of ‘undesirable’ migrants, namely “Palatine boors.” “Why should Pennsylvania,” he asked, “become a colony of aliens, who will shortly be so numerous as to Germanize us instead of our Anglifying them, and will never adopt our language or customs, any more than they can acquire our complexion?” To him, these migrants were not only seeking to “establish their language and manners” in American society, but at the intended “exclusion of ours.”\textsuperscript{24} The cultural caveat in Franklin’s rhetoric was common in liberal pro-migration ideology. Any desire to welcome labouring migrants and boost economic growth in the region was fiercely tempered by xenophobic warnings of their potential influence. Thus, the object of larger colonies “was not merely to solve a problem of

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\item Lee, \textit{America for Americans}, 19.
\item Nicholas Spencer to Lord Culpeper, Aug. 6, 1676, in Thomas S. Kidd, \textit{American Colonial History: Clashing Cultures and Faiths} (New Haven, CT: Yale University Press, 2010), 71.
\item Original emphasis. Franklin, ‘Observations Concerning the Increase of Mankind,’ \textit{PBF}, 4:233-4. After making these remarks, Franklin lost his seat in the 1764 Colonial Assembly election following an unprecedented turnout among German voters, with one claiming “see how these Palatine Boors herd together.” Lee, \textit{America for Americans}, 34-6.
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labor scarcity,” Fischer contends, “but to do so in a manner consistent with their hierarchical values” and cultural identities. Yet, despite cultural concerns, “the colonies’ bottom line, profit, took precedence.”

To manage the influence of migrants in the region, liberal colonies operated inclusionary and exclusionary policies in tandem. Nowhere was this more visible than in entry requirements. Indicative of the economic value of migration, liberal colonies actively incentivised mobility into the region, though with obvious cultural restrictions. The Virginia assembly passed numerous acts exempting migrants from public taxes throughout the eighteenth century, intending to “add to the strength and security of the colony” by encouraging migration. With a particular focus on settlements at the western and southern boundaries of Virginia, legislators hoped that migrants would equally help protect the colony from the threat of nearby Native Americans. The colonial legislature in Georgia followed suit, though placed greater emphasis on attracting white labour. One act promised a “convenient spot of residence” for any white Protestant migrants, alongside a tax exemption for ten years. The legislature argued, “encouraging settlers to come into the province will be of the greatest benefit and advantage thereunto, and as it appears that many families are inclined to remove with their effects into the same, provided any encouragement could be given them.”

In an unconventional attempt to encourage the migration of white tradesmen, a 1758 act established set wages for white labourers, and outlawed the employment of Black workers in certain trades. It noted that, “the employing of negroes and other slaves in handicraft trades in the American provinces… hath proved a great discouragement to white tradesmen becoming settlers therein.” A similar trade-off between enslaved and free white labour was deployed in South Carolina. In 1735, the colonial legislature redirected the duties paid on enslaved people to finance “tools, provisions and other necessaries for poor Protestants lately arrived in this province, or who shall come from Europe and settle in his majesty’s new townships.”

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25 Fischer, Albion’s Seed, 811; Horn, ‘To Parts Beyond the Seas,’ 117-8.
Alongside this, migrants were offered substantial land grants of up to four hundred acres.\textsuperscript{32} Through incentivised migration, liberal colonies showed a willingness to welcome migrants who would prove economically productive, though with clear cultural and racial caveats. Much like the restrictive region, this formed part of an effort to manage the types of migrants in the polity, though using inclusion as a method of achieving this, not exclusion.

Baked into these laws was the gendered assumption that only male migrants were productive. Indeed, as a South Carolinian act testified, pro-migration policies across the region were designed “for the encouragement of any such male persons” specifically.\textsuperscript{33} This not only played into regional conceptions of migration, but colonial assumptions about the value of women’s work more generally. As Jean Boydston argues, though women performed regular labour in the home, “the association of men with the symbols of economic activity profoundly weakened the ability of women to lay claim to the status of worker” by the mid-eighteenth century.\textsuperscript{34} Thus, the domestic labour of natural-born and migrant women, “was gradually set in opposition to ‘productive’ work,” and thus deemed outside of the scope of economic pro-migration policies.\textsuperscript{35} Instead, women migrants were only encouraged, and indeed referenced, as “wives” or within the confines of established families.\textsuperscript{36} Women migrating to British North America independently were vastly outnumbered by men, and often struggled to find work, facing poverty and regular sexual harassment. In 1766, a group of sixteen German women travelling through Virginia were met with “crowds of men gathered to watch, crack jokes, [and] make passes at them,” accompanied by shouts of “where did you leave all of your men?”\textsuperscript{37} In practice and in law, women were inherently deemed the companions of male migrants, rather than ‘productive’ migrants in and of themselves. Within the broad scope of pro-migration policymaking, Carol Berkin demonstrates, one fact remained abundantly clear; in the “male world” of British North America, “the ideal farmer laborer was young - and male.”\textsuperscript{38}

\textsuperscript{32} Ibid., 2:641-6.
\textsuperscript{33} Cooper et al., The Statutes at Large of South Carolina, 2:251-3, 642; Candler, The Colonial Records of the State of Georgia, 7:277-82; Archives of Maryland Online, Session Laws, 39:287-8.
\textsuperscript{35} Boydston, Home and Work, 46.
\textsuperscript{36} Cooper et al., The Statutes at Large of South Carolina, 2:131-3; Hening, The Statutes at Large… of Virginia, 5:57-8.
Moreover, liberal colonies followed the long-held British tradition of using poor laws to filter out economically and culturally ‘undesirable’ migrants. Georgia, the Carolinas, and Pennsylvania all operated variations of poor laws throughout the eighteenth century, all hoping to minimise the mobility of ‘idle’ or ‘disorderly’ persons. A Georgia act authorised the imprisonment or conscription of those “living idle without employment and having no visible means of subsistence, and all persons wandering about or lodging in private tippling houses, barns outhouses or in the open air not giving a good account of themselves and all persons who have no fixed settlement.” Within the text of each poor law, colonial legislators were resolute that the migration of such individuals would prove to be an economic burden on the local government. In North Carolina, one act was designed to combat the “idle and disorderly” who “neglect to labour; and either failing altogether to lift themselves as taxables, or by their idle and disorderly life, rendering themselves incapable of paying their levies.” Though originally a temporary measure, the act was extended several times during the colonial period. Legislation in Pennsylvania was particularly extensive, though its tone and emphasis was unusually altruistic compared to other poor laws. Beyond the characteristic restrictions set by other colonies, the law also established a system of poor relief. Remarkably, it also contained distinct settlement processes for previously enslaved people and indentured servants in the colony; a feature almost entirely absent elsewhere. Though liberal colonies instituted significant incentives for migration, this did not equate to an unfettered pro-migration sentiment across the region. Indeed, assemblies refused to take on the financial burden that undesirable migrants presented.

Crucially, liberal colonies offered relatively open access to citizenship, ignoring the British colonial method of naturalisation by legislative act. Assemblies instead performed naturalisation by enrolment, a relatively informal process that naturalised large groups together following a short residency period, and an oath of fidelity in front of the provincial governor or local authority. This originated in Virginia and the Carolinas in the mid-seventeenth century, granting membership to virtually anyone that met basic requirements. In 1665, the

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41 James Davis, ed., A Complete Revisal of all the Acts of Assembly, of the Province of North Carolina, now in force and use. Together with the titles of all such laws as are obsolete, expired, or repealed (Newbern, NC, 1773), 172-4.
42 ibid., 263, 358, 484.
44 Archives of Maryland Online, Session Laws, 39:287-8; 56:56-9; 203:52.
colonial governor of Carolina (then one unified territory) authorised the assembly to “give into all strangers as to them shall seeme meete a naturalization.” By the early eighteenth century, most liberal colonies followed suit, establishing independent naturalisation processes that were explicitly pro-migration. In Virginia, a 1705 act proclaimed that “all possible encouragement should be given to persons of different nations to transport themselves hither, with their families and stock, for to settle, plant, or reside, by investing them with all the rights and privileges of any of her majesty’s natural free-born subjects within this colony.” The process itself was simple; merely an oath of allegiance in front of the governor and a small fee of forty shillings. Pennsylvania and Delaware initially followed the same naturalisation act, which declared that any migrants already residing in either colony, or those arriving thereafter, were “fully and completely naturalized.” Soon after it was passed, the British government formally repealed the act, arguing that the colonial government lacked the authority to naturalise Dutch and Swedish migrants already settled in the provinces. Yet, the Delaware legislature ignored this and continued to operate naturalisation via the act, before repealing it of their own volition in 1788. Meanwhile, Pennsylvania also continued to naturalise hundreds of migrants independently through a similar act passed in 1742, while also legislating private acts under British common law concurrently. Following a similar partition of territory, North and South Carolina also processed naturalisation through the same act during the colonial period. Hoping to “encourage more such industrious men to settle among us,” the act naturalised all migrants who made an oath of allegiance to the monarchy and against Catholicism. While wary of unobstructed settlement in the region, liberal colonies proved willing to induct migrants as citizens.

Furthermore, migrants enjoyed expansive rights across the liberal region throughout the colonial period. In Maryland and the Carolinas, migrants with legal settlement were entitled to “all the rights, privileges, powers, and immunities whatsoever... as if they had been and were born of English parents within this Province,” for much of the eighteenth century. While such sweeping policies were later limited to naturalised subjects only, migrants still retained

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47 Hening, The Statutes at Large... of Virginia, 3:434-6.
49 ibid., 2:492; Laws of the State of Delaware (22 vols., Dover; Newcastle; Wilmington, DE, 1797-1901), 2:921.
50 Private acts of the legislature were passed at the same time, with most naturalising dozens of individuals at a time. Flanders & Mitchel, The Statutes at Large of Pennsylvania, 3:424; 4:57-58, 147, 219, 283, 327; 4:391-4.
51 Cooper et al., The Statutes at Large of South Carolina, 2:251-3.
mostly unobstructed land rights across the region. In conjunction with incentivised migration, these policies further encouraged migrants to both invest in American lands and be economically productive. This was especially important to the Virginian assembly, who believed that they would attract migrants “with their families and stock, to settle, plant, or reside, by investing them with all the rights and privileges of any of her majesty’s natural free-born subjects.” However, liberal colonies maintained greater barriers to political rights for all migrants, whether naturalised or otherwise. Demonstrating the need to restrict the influence of economically and culturally ‘undesirable’ migrants, policies often included a combination of wealth and assimilation requirements. In Pennsylvania, the franchise was limited to naturalised migrants with two years’ residency and either fifty acres of property or a net worth of fifty pounds. The Virginian policy was even more stringent, only granting the franchise to white naturalised men with one hundred acres of property. While less obstructive than the restrictive region, liberal colonies still demonstrated caution in granting migrants rights. In doing so, they prioritised both the inclusion of economically productive migrants and the exclusion of those considered ‘undesirable.’

While a liberal approach took precedence in the South and Mid-Atlantic, north-eastern colonies, including the New England colonies of Connecticut, Massachusetts, New Hampshire, Rhode Island, alongside New Jersey and New York, adopted particularly restrictive policies. Above all else, restrictive policymakers hoped to preserve the seemingly distinct cultural heritage of the region. In doing so, they operated a two-pronged approach to restrict the influence of culturally and economically ‘undesirable’ migrants. First, by preventing the initial migration of unwanted persons and then, second, by minimising their role in society upon arrival. Mobility restrictions took on various forms throughout the region, but unilaterally highlighted a concerted effort to minimise the migration of certain types of people: the poor, ‘vagrants,’ and convicts. This was achieved through a blend of harsh settlement, and by extension naturalisation, constraints, alongside restrictions on rights.

54 Hening, The Statutes at Large… of Virginia, 3:434-6.
55 Candler, The Colonial Records of the State of Georgia, 18:464-72; Cooper et al., The Statutes at Large of South Carolina, 3:656-8; Davis, A Complete Revival of all the Acts of Assembly, of the Province of North Carolina, 315-6.
57 Hening, The Statutes at Large… of Virginia, 4:475-8, 6:263-5.
Compared to the relative diversity of liberal colonies, a common desire for cultural homogeneity took precedence across the restrictive region. This was especially true of religion. Throughout the seventeenth century, restrictive colonies like Massachusetts and Rhode Island were settled predominantly by Puritan communities seeking to escape religious persecution in continental Europe. While early provincial councils discouraged migrants who failed to conform to locally dominant religious views, “newcomers who shared the Puritan vision were welcomed into the covenant, joining a community that shared a set of religious norms and agreed to adhere to the laws and customs of the colony.” 58 Within these culturally monolithic societies, colonists increasingly believed that the region had been divinely populated by a distinct, and inherently ‘pure’ people. God had seemingly “sifted, as it were, whole nations, to plant this land with a right seed.” 59 In doing so, Fischer contends, colonists sought to not only maintain religious orthodoxy, but to create “a culture which preserved something of the moment when it was born.” 60 Implicit within this was the growing belief that any kind of migrant, even Puritans, would degrade the region’s homogenous identity and cultural superiority. In 1723, the council of Watertown, Massachusetts petitioned nearby parishes to join forces in barring any foreign-born Puritans from “baptizing any of the New English pulpits.” 61 This rhetoric was equally used against individuals from liberal colonies, whose growing religious and cultural diversity was deemed “profane and exceedingly wicked” across New England. 62 The policy implications of this cultural homogeneity were profound. Not only did restrictive colonies target ‘undesirable,’ irreligious migrants in their policies, they equally sought to protect their exceptionalist vision of their respective populations from any and all migrants, including those from other colonies.

Alongside cultural concerns, restrictionist rhetoric was also economically motivated. North-eastern colonies were typically smaller and more densely settled than those in the liberal region, and thus had lesser land availability and labour demands. 63 Migrants occupying land or

59 Thomas Foxcroft, Grateful reflections on the signal appearances of divine providence for Great Britain and its colonies in America (Boston, MA, 1760), 26; William Douglas, A summary, historical and political, of the first planting, progressive improvements, and present state of the British settlements in North America (8 vols., Boston, MA, 1749), 1:207-10, Evans, 1:6307.
60 Fischer, Albion’s Seed, 803; Games, Migration and the Origins of the English Atlantic World, 134-6.
61 Original emphasis. Cotton Mather, A True and genuine account of the result of the council of fourteen churches met at Watertown, May 1, 1722 (Boston, MA, 1725), Evans, 1:2492, 16; Cyprian Strong, God’s Care of the New-England Colonies… A Sermon Preached in the First Society of Chatham (Hartford, CT, 1774).
62 A Specimen of the unrelenting cruelty of Papists in France, and the unshaken faith & patience of the Protestants of that kingdom (Boston, MA, 1756), Evans, 1:7795; Fischer, Albion’s Seed, 822-3; Fuchs, The American Kaleidoscope, 8-10; Martin, A Nation of Immigrants, 31-4.
profiteering from real estate were not considered drivers of the economy, but a drain on local resources and labour. Thus, incentivised migration was not only considered unnecessary, it was actively opposed. Meanwhile, much like their liberal counterparts, restrictive colonists remained wary of potential ‘vagrants.’ Only by “banishing indigent aliens,” Hidetaka Hirota demonstrates, did restrictive colonists believe they could minimise their financial burden on local communities. However, irrespective of cultural concerns, restrictive colonies still welcomed wealthier migrants, hoping to reap the economic rewards of foreign capital and investment. As Kettner argues, this reflected “not so much a desire to eliminate immigration as a wish to control its character and to regulate its flow” within restrictive colonies. Yet, this understates the broad cross-section of migrants that were targeted by culturally and economically motivated policies. As this chapter explores, with the only exception of wealthy migrants, restrictive colonies were relentless in their adoption of exclusionary policies, both in the colonial period and beyond.

Throughout the colonial period, restrictive policymakers primarily assuaged economic and cultural concerns by limiting the entry and settlement of ‘undesirable’ migrants. Reflecting the Puritan origins of the region, these were initially religious in nature. In Massachusetts, a series of early laws banned the migration of Quakers and Jesuits into the colony. Meanwhile, though ultimately prohibitive to all migrants, a 1743 Connecticut settlement act was designed to target Moravians (German missionaries), who had a strong presence in the colony attempting to evangelize Native Americans. However, poor laws and economic restrictions became far more prevalent across the region. In 1730, New Jersey imposed a duty on the importation of convicts, largely from Great Britain, to “prevent poor and impotent persons being imported into this province.” In New Hampshire, a series of laws attempted to supress “rogues, vagabonds, common beggars, and other lewd, idle, and disorderly persons,” while the Massachusetts government explicitly sought the removal of “poor persons” from the

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69 Quigley, ‘Reluctant Charity,’ 111-78.
70 Samuel Allinson, ed., Acts of the General Assembly of the Province of New-Jersey, from the surrender of the government to Queen Anne, on the 17th day of April, in the year of our Lord 1702, to the 14th day of January 1776 (Burlington, VT, 1776), 84-8.
province. Implicit within these restrictions was the cultural assumption that poor, ‘undesirable’ migrants were not only a financial burden, but a physical danger to the colonies. Throughout the eighteenth century, the Connecticut assembly passed a series of increasingly restrictive settlement acts, intended to defend against the “evil and dangerous designs of foreigners” and suspected criminals in the colony. By 1770, migrants could only gain settlement with the approval of the governor, local authorities, and residents, each attesting to their character. Meanwhile, town councils had the expansive authority to exile any person deemed “disorderly, ungoverned, or vicious” at a local level. However, illustrative of the belief that wealthy migrants were inherently more ‘desirable’ than others, both provisions could be circumvented with the purchase of real estate worth over one hundred pounds sterling. A similar New Jersey act allowed migrants to avoid residency requirements if they had “purchased or hired for at least five pounds yearly rent in such place.” The New York Assembly went one step further, predating settlement on wealth alone. Legislation required that any person migrating either into or within the colony with “any tenement under the yearly value of five pounds” ought to be deported. Meanwhile, the settlement of any migrant with property under the value of thirty pounds could be revoked at any time. Through wealth barriers and legislation against seemingly dangerous or undesirable migrants, restrictive colonies constructed membership based on prescribed economic and cultural characteristics.

Unlike the liberal region, restrictive colonies followed the British common law tradition of processing naturalisations by private act of the legislature throughout the colonial period. While these applied only to named individuals, not migrants in general, some bore a striking resemblance to British acts passed during the eighteenth century and naturalised dozens of individuals at a time. Crucially, private acts were typically passed infrequently as they were

71 Henry Harrison McTaff, ed., Laws of New Hampshire, including Public and Private Acts, Resolves, Votes etc (10 vols., Manchester, NH, 1904-22), 2:266-9, 312-3; Rawson, The General Laws and Liberties of the Massachusetts Colony, 123-4; The act was also extended several times throughout the late eighteenth century. Ellis Ames et al., ed., The Acts and Resolves, Public and Private, of the Province of Massachusetts Bay (21 vols., Boston, MA, 1869-1922), 4:911-2; 5:28, 89, 461, 1124; [Acts and Resolves] at the General Assembly of the Governor and Company of the English Colony of Rhode-Island and Providence Plantations; begun and held at Providence, within and for the said colony, on the last Wednesday of October, in the year of our Lord, one thousand seven hundred and fifty eight, and thirty-second of the reign of His Most Sacred Majesty George the Second, by the grace of God, king of Great-Britain, and so forth (18 vols., Newport, RI, 1755-84) (1762/3): 192-6.
first subject to lengthy debate and required a majority vote amongst assemblymen. Thus, most colonies in the region naturalised far fewer migrants than their liberal counterparts, and even less than Great Britain. Though this was in part due to the smaller size of restrictive colonies, it was likely also because far fewer migrants were able to achieve settlement, the precursor to naturalisation. Rhode Island, for example, naturalised just twenty-one people from 1740 to the Revolution, each through their own individual act. Migrants were also often subject to religious barriers, with Connecticut, Massachusetts, New Hampshire, and New Jersey all limiting naturalisation to Protestants alone. Despite the arduous process, the terms for naturalisation were relatively attainable for most migrants already residing in the region, often consisting of a simple oath of fidelity and a short residency period. In most cases, these were outlined in seventeenth-century colonial charters and remained unchanged until the Revolution. Yet, with such significant barriers to settlement in operation, naturalisation was inaccessible for most migrants regardless. As such, legislators used settlement as the primary locus of colonial membership, placing less emphasis on naturalisation restrictions.

Much like British North America as a whole, the political and property rights of migrants in restrictive colonies had no citizenship requirements. Instead, colonial governments moderated the rights of all inhabitants through wealth, religion, and settlement status, whether they were migrants or not. Thus, economic and cultural signifiers of ‘desirability’ were crucial in determining how involved a person could be in colonial society. Massachusetts organised political and economic rights primarily around religion, limiting access to freeholding and the franchise to those deemed “orthodox in their religion” by their local minister. Meanwhile, in Connecticut, New York, and Rhode Island, only white men with a freehold of forty pounds

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81 General Laws and Liberties of the Massachusetts Colony, 56.
in the colony, or those paying forty shillings of annual rent, were able to vote.\textsuperscript{82} However, indicative of the importance of religion, individuals “in full communion with the church” were later able to circumvent these requirements in Connecticut.\textsuperscript{83} In New York, these wealth barriers disenfranchised over half of the eligible population. For migrants, who typically had fewer financial resources than natural-born colonists, it no doubt excluded many more.\textsuperscript{84} According to Sara Chatfield, this was especially true for married women who, where not barred from voting explicitly, “fundamentally lost a major part of their civic and economic identity after marrying,” and thus could not overcome wealth barriers.\textsuperscript{85} Political rights were especially stringent in New Hampshire. While a 1728 act gave migrants the vote, given that they owned enough property in the relevant town, this was later reversed.\textsuperscript{86} In 1741, the colonial governor ordered that, “all places of trust in the courts of law, or in what relates to the treasury of the said province under your government be in the hands of his majesty’s native-born subjects of Great Britain or Ireland or the plantations.” By the eve of the Revolution, naturalised citizens needed a license to own land in the colony, while office-holding was restricted to natural-born subjects.\textsuperscript{87} The progressive nature of these restrictions evidenced a transformation from initial legislation against unwanted persons into concerns of the foreign-born writ large, irrespective of their citizenship status in British North America. As Gerald Neuman and Anna O. Law argue, colonies initially placed far greater emphasis on reducing the numbers of persons who would potentially become charges on the local government; “lunatics, idiots [and] paupers.”\textsuperscript{88}

If a migrant owned substantial wealth, their nationality was mostly irrelevant in determining their political and social rights in British North America. Yet, over the course of the period, and certainly in the years following the Revolution, desirability became increasingly associated with nationality and citizenship.

Historians often romanticise New York’s approach to migration. Zolberg argues that the colony’s diverse demography and relatively simple naturalisation process evidence a liberal stance towards migration throughout the colonial period. Particularly, he argues that, at

\textsuperscript{82} The Colonial Laws of New York, 1:452-4, 1405-8; At the General Assembly of the Governor and Company of the English Colony of Rhode-Island (1762/3): 192-6; Trumbull et al., The Public Records of the Colony of Connecticut, 1:579-81.

\textsuperscript{83} Trumbull et al., The Public Records of the Colony of Connecticut, 7:211-4.


\textsuperscript{86} Metcalf, Laws of New Hampshire, 2:403-4.

\textsuperscript{87} ibid., 3:281-303, 453-68.

\textsuperscript{88} Law, ‘Lunatics, Idiots, Paupers, and Negro Seamen’; Neuman, Strangers to the Constitution, 21-35.
twenty-five percent of the overall population, the proportion of migrants in New York was significantly higher than other areas of the region. Conversely, just thirteen percent of Connecticut’s population were non-citizens.\textsuperscript{89} Meanwhile, though New York naturalised migrants by private act during the colonial period, Zolberg notes that the colonial assembly naturalised considerably more migrants than conventionally restrictive colonies. Yet, in doing so he, much like other historians, mischaracterises the historic demography of New York and ignores the legal constraints faced by migrants in the colony. First, Zolberg assesses the colonial period based on anachronistic statistics from the 1790 census, at which point migration patterns were substantially different. More importantly though, he ignores the context of Dutch encounters that were so determinative in restricting migration policy. Originally ‘New Amsterdam’ as part of Dutch North America, New York had a significant Dutch and German population that was sustained throughout the colonial period. As Tyler Anbinder argues, the Dutch population was so ingrained in New York that British colonisers restricted migration and the rights of migrants as part of their mission to anglicize the colony in the eighteenth century.\textsuperscript{90}

Though New York was a demographically diverse state, this did not evidence a liberal approach to policy; conversely, it actively motivated the colonial government to favour a restrictive legislative approach. By 1740, New York had naturalised only 135 individuals by special act which, though sizable for the region, was not significant in relation to the population of the colony. Pennsylvania, which had a similar population size, naturalised over five hundred migrants in the same period.\textsuperscript{91} Seemingly out of step with fellow restrictive colonies, New York briefly performed group naturalisations for German Palatines in 1715.\textsuperscript{92} However, this policy was not as liberal as it first appears. Keen to be seen promoting Protestantism in light of the Reformation but not wanting to settle refugees in Great Britain, the British government sent 2,500 Palatines to New York in 1710.\textsuperscript{93} Upon their arrival, the refugees were met with universal disdain by the local population, but the colonial assembly was compelled by an act of Parliament to naturalise them regardless. The Palatines were not given lands promised to them.

\textsuperscript{89} Zolberg, \textit{A Nation by Design}, 52.
\textsuperscript{90} Tyler Anbinder, \textit{City of Dreams: The 400-Year Epic History of Immigrant New York} (Boston, MA: Houghton Mifflin Harcourt, 2016), 79-82.
\textsuperscript{91} Kettner, \textit{The Development of American Citizenship}, 99-100; Hoyt, ‘Naturalization Under the American Colonies,’ 248-50.
\textsuperscript{92} \textit{Laws of New York}, 2:112-5.
\textsuperscript{93} Anbinder, \textit{City of Dreams}, 87-90. This exemplified the long-held British tradition of transporting ‘undesirables’ to British North America from the metropole and beyond. Parker, \textit{Making Foreigners}, 23-5, 31-2, 42; Aaron Fogelman, ‘From Slaves, Convicts, and Servants to Free Passengers,’ 55-60.
in the act, and instead were bound on pine tar camps for five years to compensate for their passage. In contrast to the popular characterisation of New York as a pro-migration colony, it instead implemented migration policy in line with its restrictive neighbours. Though diverse in population historically, the colonial assembly showed no desire to maintain this going forward.

Though colonies legislated on migration independently during the colonial period, distinct regional attitudes to migration, and thus policy, emerged in response to shared experiences of settlement, culture, and political economy. This was not only defined by how colonists perceived outsiders, but how they understood themselves and their young, burgeoning societies. While liberal policymakers across the South and Mid-Atlantic primarily sought to attract new labour through broad settlement and naturalisation policies, they were acutely aware of the culturally pluralistic society these policies produced. As a result, alongside encouragements for productive migrants, policymakers equally used settlement barriers to insulate liberal colonies from those considered ‘undesirable.’ Meanwhile, across the North-East, migration policy was chiefly used as a tool to maintain cultural homogeneity. Policymakers used restrictions on settlement, naturalisation, and rights to not only limit the role of migrants, but also to preserve their seemingly ‘pure,’ exceptionalist identity. Thus, as the regional distinction between how liberal and restrictive policymakers understood their own identities endured into the Revolution and beyond, so too did their respective approaches to migration. As later chapters explore, the intersection of distinct regional identities and post-Revolutionary nation-building would consequently produce unparalleled conflict not only on migration policymaking, but what it meant to be an American.

**Revolutionary Policymaking**

The American Revolution triggered a shift in migration policy across the colonies. Amid British attempts to restrict the flow of migration to British North America, both liberal and restrictive colonists resisted infringements on their sovereignty to enact migration policy. Once the Continental Congress declared independence from Great Britain in 1776, transforming colonies into states, an outpouring of legislation imbued with anti-British sentiment emerged. In contrast to colonial policymaking, which was shaped predominantly by regional interest, this demonstrated new priorities: limiting British influence and asserting sovereignty over

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migration policy. Most notably, states across the country legislated new restrictions on property rights, the franchise, and even the ability to obtain settlement. Even liberal states withdrew the relatively unchecked approach they had maintained towards migrants. Crucially, these policies not only targeted loyalists, who actively supported or fought alongside the British in the Revolutionary War, but British subjects altogether, deeming them ‘aliens’ irrespective of their place of birth or stance on the Revolution. Meanwhile, state legislatures enacted oaths of allegiance to confirm the loyalty of all inhabitants to the American cause. In doing so, Kariann Akemi Yakota argues, attempts to define American nationality were “as much about its people’s struggles in ‘unbecoming’ what had made them British subjects before independence as it was about ‘becoming’ citizens of a new country.”

While the majority of colonial legislation, and thus the regional differences underpinning it, remained in operation during the Revolution, this marked a key difference in the way migration policymaking was generally understood. For the first time, legislators used migration policy not only as a mechanism to control the movement and rights of people, but to assert their sovereignty to produce legislation and determine the makeup of their citizens. Ultimately, the jurisdiction of migration policymaking became just as important as its content.

Though the British government held a non-interventionist approach for much of the seventeenth and eighteenth centuries, they increasingly opposed migration to the American colonies, particularly from Great Britain. As Bernard Bailyn demonstrates, from the creation of British North America, the primary purpose of the colonies had been to benefit “the kingdom through commerce and the production of goods closely related to commerce.” Yet, by the eve of the Revolution, the British Government believed that emigration from the metropole had become an “epidemick disease of wandering,” and an economic drain on their own population and resources. With the inherent belief that “population was power,” colonial administrators were concerned not only by the financial implications of emigration, they further believed that the growing colonies were becoming ungovernable. This was only exacerbated by mounting public unrest across the thirteen colonies in response to hugely unpopular British policies in the 1760s. “Since the confidence in the Americans in their ability

96 Bailyn, Voyagers to the West, 30, 37; Martin, A Nation of Immigrants, 62-3.
to fight English ‘oppression’ grew along with their population,” Baseler contends, it was inevitable that the British soon “came to oppose all emigration to its American colonies.”

Amid the onset of Revolution in the 1770s, the British Government abruptly ended their previously noninterventionist approach, limiting colonial legislative autonomy over migration through a series of unpopular laws. In 1772, the British government banned non-subjects from holding property across British North America, a right previously managed at a colonial level. As political rights were often predicated on property ownership, the ban likely also excluded migrants from participating in elections across the colonies. A year later, they further instructed colonial governments to “not under any pretense whatsoever give your assent to any bill or bills that may have been or shall hereafter be passed... for the naturalisation of aliens,” irrespective of process. To American leaders, these attempts to “thin their countries” were considered just another example of overwrought imperialism. Though the naturalisation ban had a greater impact on liberal colonies who naturalised significant numbers during the colonial period, it was equally unpopular in restrictive colonies. Notably, Connecticut and Rhode Island operated overwhelmingly restrictive policies that seemingly aligned with the new British act, though nevertheless continued to naturalise subjects after the ban in resentment of tightening British control. This evidenced the beginning of a crucial shift in the way colonial legislators implemented migration policy. Rather than a discrete legal category used to determine the rights of individuals, it also became a mechanism to assert greater autonomy in policymaking and resist imperial control. As such, legislators prioritised their sovereignty to enact policies over the content of the policies themselves; an approach that would once again emerge to resist the expanding federal government post-independence.

In the weeks after the British government banned naturalisation, rumours that a prohibition on emigration from Great Britain to the colonies would soon follow provoked outrage. In the early 1770s, the rate of emigration to British North America from Scotland and Ireland, particularly Ulster, increased rapidly in response to ongoing unemployment and

98 Baseler, _Asylum for Mankind_, 123.
100 The instruction also reasserted the 1772 ban on property ownership. _ibid._, 2:154-5.
economic uncertainty. This was criticised widely by British newspapers, arguing that the metropole was becoming “not only deprived of its men, but likewise of its wealth,” causing the “total decay” of the economy. This came to head in late 1773, when several correspondents in the London Public Advertiser lobbied parliament to ban emigration to North America altogether. Though the British government refused to comply, the rumour itself was enough to elicit a scathing response from Franklin, who deemed the measure an assault upon the rights of all British subjects. In a pamphlet circulated across the colonies, he reasoned “that every Briton who is made unhappy at home, has a right to remove from any part of his king’s dominion into those of any other prince where he can be happier... and this is the case with those who go to America.” While certainly fit for the revolutionary moment, Franklin’s rhetoric marked a substantial departure from his previous writings on economic migration. Crucially, by implying that colonists shared the general “rights of Englishmen,” he further asserted an explicit right to migration in British North America. Yet, Franklin was not only articulating a language of rights, but contemporary anti-British thought that emphasised colonial autonomy. This was further exemplified when Franklin later threw his support behind the naturalisation of deserting German soldiers from the British army; a group he had previously labelled “boors,” and expressed disgust at their migration.

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In a similar refutation of Great Britain, Alexander Hamilton echoed Franklin’s economic belief that “we should soon have a plenty of workmen, from Britain and Ireland. Numbers, who would be thrown out of employ there, would be glad to flock to us for subsistence. They would not stay at home and be miserable, while there was any prospect of

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104 Newcastle Courant, Sept. 25, 1773; Reading Mercury, Nov. 22, 1773.
107 As John Phillip Reid demonstrates, the historic ‘rights of Englishmen’ asserted that “migrants to the North American colonies had enjoyed certain, known, and well-defined rights in the mother country, and had not lost them by leaving the kingdom for another part of the realm.” John Phillip Reid, ‘The Authority of Rights at the American Founding’ in Barry Alan Shain, ed., The Nature of Rights at the American Founding and Beyond (Charlottesville: University of Virginia Press, 2007), 67-115, esp. 73; John Phillip Reid, Constitutional History of the American Revolution, Vol. 1: The Authority of Rights (Madison, WI: University of Wisconsin Press, 1986), 117-22.
encouragement here.”

Though seemingly pro-migration, Hamilton’s pamphlet was equally deeply anti-British. Just a few months later, he once again criticised the British Government’s handling of migration. Yet, this time, Hamilton complained that they were encouraging migration, particularly of Catholics. He argued that the Quebec Act, which extended British North American territory into Canada, would attract “droves of emigrants, from all the Roman Catholic states of Europe.”

John Jay agreed, equally couching his concerns of Catholic migration within broader arguments against British rule. An influx of migrants from Europe, he argued, would “be fit instruments in the hands of power.”

Though Franklin, Hamilton, and Jay had all previously taken distinct approaches both for and against migration within their respective colonial governments (and would continue to do so beyond the Revolution), they were unified here in their use of migration as an argument against tightening imperial control. This notion was immortalised in the 1776 Declaration of Independence, which excoriated King George III for preventing “the population of these states; for that purpose, obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migrations hither.”

This marked the beginning of many reactionary policy changes across the newly formed United States. With the sovereignty of colonial governance on the line, regional arguments over the content of migration policy were superseded by broader anti-British aims.

Anti-British arguments were used not only against the royalist government, but its loyalist supporters too. Deemed the “enemies of independence, as traitors, and as sycophants or puppets of empire,” Ruma Chopra demonstrates, loyalists were cast as fundamentally ‘un-American’ by revolutionaries and became liable to new legal restrictions.

Widespread across both liberal and restrictive states, these laws fundamentally reshaped the mobility, citizenship, and rights of all non-citizens in the United States. Though the content varied, new legislation broadly had two key aims; first, to neutralise the perceived threat of loyalism, and second, to confirm the allegiance of American citizens. Most policies comprised confiscation and banishment orders against specific individuals, though these often extended to include anyone in support of the British cause. Before long, loyalists were stripped of property and political rights across the United States. Restrictive states Massachusetts, New Jersey, and New York legislated a combination of property restrictions, banishment, and even execution in New York.

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112 ‘Declaration of Independence,’ 1776, LOC.
for loyalism.\textsuperscript{114} In New Hampshire, the same penalties extended to anyone who provided “aid, assistance, or comfort to the King of Great Britain, or his adherents.”\textsuperscript{115} Equally committed to banishing anyone considered to harbour loyalist sentiments, liberal states adopted similar legislation. A Georgia act named dozens of loyalists to be “banished from this state for ever” and confiscated the property of all British subjects in the state.\textsuperscript{116} Meanwhile, the North Carolina legislature disenfranchised loyalists, fearing their political influence would “be attended with the worst consequences to the safety of this state.”\textsuperscript{117} State governments in Pennsylvania, South Carolina, and Virginia all legislated equivalent restrictions.\textsuperscript{118} Irrespective of their established regional interests on migration, all states continued to foreground anti-British sentiment in revolutionary policymaking.

At the same time, state legislatures across the country introduced oaths of allegiance to confirm the loyalty of all inhabitants to the American cause. Though designed as “a crucial marker of difference between patriots and loyalists,” according to Maya Jasanoff, these were especially significant for migrants who, alongside other restrictions on settlement and rights, often faced deportation from any given state for refusing to recite an oath at the border.\textsuperscript{119} Like anti-loyalist legislation, these policies were equally prevalent in both liberal and restrictive states. Early in the Revolution, Massachusetts established that all residents unwilling to take an oath of fidelity and allegiance within mere hours would have their property confiscated and face banishment from the state forever.\textsuperscript{120} The North Carolina legislature went one step further, requiring loyalists refusing to take an oath to be deported from the country, “either to Europe or the West-Indies.”\textsuperscript{121} Both Pennsylvania and South Carolina required all white men above the age of eighteen to take an oath before a local court; though, in a more lenient policy, those in Pennsylvania who refused to do so only faced a removal of political and property


\textsuperscript{120} Ames et al., \textit{The Acts and Resolves, Public and Private, of the Province of Massachusetts Bay}, 5:770-2.

rights, not banishment. As Linda Kerber demonstrates, gender played a crucial role in this process too. Though policies varied across states, “oaths of allegiance seem almost always to have been selectively imposed on men.” Crucially, this often insulated natural-born and migrant women from the consequences of failing to take an oath, including their claim to property. Under the convention of ‘widow’s thirds,’ which reserved to married women a third of their husband’s property upon his death, women were still able to claim a portion of her husband’s estate even if it had been confiscated. In doing so, Barbara Young Welke contends, women’s allegiance “was subject to their husbands’ and defined not in terms of individual obligation to the nation (as was men’s), but in terms of obligation to one’s husband.” In the face of new conventions scrutinising the loyalty of citizens to the state, this testified to the continued gendered assumptions underlying revolutionary policymaking.

During the policymaking process, many legislators across liberal and restrictive states wrestled with how expansive anti-British policies ought to be. More often than not, legislatures cast suspicion on all British subjects, not just those who had explicitly allied themselves with the crown during the Revolution, and restricted their rights accordingly. In Maryland, an extensive confiscation act established that “every person born within the dominions or allegiance of the crown of Great Britain, and every person made a subject of that nation agreeable to its laws, shall be, and he is hereby declared and adjudged to be, a British subject,” and thus, liable to confiscation. Acts in New Hampshire, South Carolina, and Virginia, all used similarly sweeping criteria. Reflecting their especially restrictive approach to migration, Massachusetts also included ‘absentees’ in their confiscation acts, incorporating anyone who had left the state (though not necessarily the country) during the Revolution and not returned by 1778. The act stripped all loyalists, British subjects, and absentees of state citizenship, whether naturalised or natural-born, and “considered [them] an alien.” Displaying an uncommon degree of nuance on the issue, a Pennsylvania act enumerated two types of people who it considered to be against the British: the apathetic, and those faithful to the revolutionary cause. Yet, evoking a social contract, it concluded “allegiance and protection are reciprocal, and those who will not bear the former… ought not to be entitled to the benefits of the

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123 Kerber, *No Constitutional Right to be Ladies*, 16-19, esp. 17.
125 Archives of Maryland Online, Session Laws, 203:269-73.
latter.” Hence, they placed the onus on all inhabitants to prove they supported the American cause, rather than focusing legislation on those considered against it. The South Carolina legislature operated under the same assumption, punishing “any person refusing or neglecting to take the oath” in support of the state government. Though policies varied, oath requirements and loyalist restrictions embodied a universal commitment to not only entrench anti-British sentiment in migration law across the United States, but to assert state sovereignty in policymaking.

Before long, anti-British sentiment fed into mounting suspicion of migration writ large. In 1780, George Washington noted the success of the British stationed at Georgia and South Carolina recruiting recently arrived migrants who “have not been long enough transplanted to exchange their ancient habits and attachments, in favor of their new residence.” It was only to be expected, Washington contended, that unassimilated migrants would be predisposed to ‘un-American’ ideas. Equally suspicious of the inherent loyalism of migrants, a Georgia wartime naturalisation measure excluded Scottish migrants from becoming citizens, as they “have in general manifested a decided inimicality to the civil liberties of America.” Meanwhile, to prevent the movement of “spies and other disaffected persons,” New Jersey required all persons passing through the state to obtain a certificate proving their “good repute” from their local government. Loyalist or not, any person arriving in the state without this nascent ‘passport’ was denied entry. Even non-citizens who had proven their allegiance to the American cause often remained outsiders. A Spanish migrant who had resided in Connecticut for “many years,” and subsequently fought against the British was nonetheless denied citizenship. Despite his service, the state assembly firmly resolved that, “he is a foreigner, not naturalized, not capable of holding office of honor or profit, nor any real estate.” In both liberal and restrictive states, policy reflected a growing suspicion of the political character of migrants coupled with the belief that American identity was somehow distinct and unattainable for outsiders; a trend that would long endure beyond the Revolution.

Over the course of the revolutionary period, both the scope and content of migration policy fundamentally changed across the newly independent United States. While the regional underpinnings of legislation remained intact, policymakers became increasingly concerned by
external influence on the issue. As a result, migration law became less about safeguarding the nation’s borders from migrants coming from without, than reducing the influence of British subjects and loyalists living within the United States. While the implementation of anti-British legislation was a temporary change, it had a long-term impact on the ways in which policymakers coupled ideas about migration with sovereignty. Legislation was produced not only to safeguard distinct, regional ideas about migration, but also to assert the rights of states to legislate on the issue at all. Moreover, the period evidenced a growing belief that the revolutionary experience had forged a new, distinct American national identity. As later chapters show, this would only continue to influence exclusionary ideas about migration post-independence.

Confederation Era
The end of the Revolutionary War proved a watershed moment for the newly independent United States. Amidst a significant period of nation-building, Americans had the opportunity to craft a new society that reflected the ideals of the Revolution, including on migration and citizenship. Due to the decentralised nature of government under the Articles of Confederation, states continued to shape their own migration policies through independent legislation and constitution-building during the confederation period. As the immediate threat of British imperial control fell away, state governments reprioritised their regional approaches to migration policy, continuing colonial patterns of legislative development. Yet, the consequences of war had a noticeable hangover on policymaking across the nation. After the Revolution, both liberal and restrictive states placed further limits on migration, reflecting generalised concerns about external influence. Despite the apparent prevalence of revolutionary ideas like universalism and volitional allegiance, promoting the United States as an ‘asylum’ for migrants, even liberal states narrowed migration policies. However, reflecting historic regional division, both the nature and extent of new policies varied between liberal and restrictive states, and were most stringent in the new exclusive region, comprising Georgia and South Carolina. The region’s distinctive experience of British occupation during the Revolutionary War, which included significant threats to local slavery, produced an enduring suspicion of foreign influence. Though this initially manifested in anti-British policies, it rapidly collapsed into broader political restrictions on any outsider, including migrants and naturalised citizens. While the three regional approaches to migration continued largely without constraint during the confederation period, national treaties brought them into conversation with one
another for the first time. In doing so, policymakers faced a new predicament that would come to dominate migration politics during the founding era: how to navigate a national agenda that not only differed from their respective regional approaches to migration, but actively subverted them.

Under the Articles of Confederation, the new constitutional framework in effect from 1781, the national government had little to no power to legislate or enforce migration policy. The privileges and immunities clause enacted that “the free inhabitants of each of these states… shall be entitled to all privileges and immunities of free citizens in the several states,” implying a unilateral and nationalised framework of citizenship rights across the Union. Yet, the conflation between ‘inhabitants’ and ‘citizens’ essentially rendered the clause meaningless, allowing states to continue legislating on the issue independently. Consequently, a patchwork of distinct policies remained, with each state defining citizenship differently and legislating distinct modes of inclusion and exclusion to that end. To William Novak, this inconsistency demonstrated the relative unimportance of legal national citizenship as a way of defining membership during the period. Instead, he argues, Americans understood their status as citizens through their everyday experience of rights and privileges. However, as Douglas Bradburn retorts, this places too much emphasis on the national government in shaping citizenship. Indeed, amid the unclear Articles of Confederation, state legislatures continued to shape their own migration and citizenship law based on their colonial and revolutionary experiences. By extension, state policymaking also continued to exhibit the same regional interests and characteristics that had existed long before the Revolution. Despite the absence of a singular national citizenship, the continued influence of regional interest on migration during this sustained period of nation-building led to increasingly collective understandings of American citizenship.

In the immediate post-revolutionary period, liberal attitudes to migration policy became increasingly tied to universalism, the belief that mobility was a natural right available to all. To Baseler, this marked a revolutionary shift through which Americans sought “to escalate their battle from a local defence of the ‘rights of Englishmen’ to a commitment to preserve liberty for the benefit of all mankind.” As one of many “unalienable and natural

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134 Emphasis added. Articles of Confederation, art. 4, sec. 2, cl. 1.
136 Bradburn, ‘The Great Field of Human Concerns,’ 78-9, 93.
137 Baseler, Asylum for Mankind, 138. This further contributes to intellectual histories of the American Revolution as an emergent moment for universal, natural rights. Barry Alan Shain, ed., The Nature of Rights at the American Founding
rights of the individual,” the right to migration would seemingly outlive the revolutionary moment. Thomas Jefferson was one of the earliest proponents of this idea. In a revolutionary pamphlet, he framed migration as a natural right, “which nature has given to all men, of departing from the country in which chance, not choice has placed them, of going in quest of new habitations.” This was popularised by Thomas Paine’s polemic *Common Sense*, which famously proclaimed the United States a universalist ‘asylum for mankind’ in 1776. Embracing the liberal sentiments of his home state, Pennsylvania, he declared “this new world hath been the asylum for the persecuted lovers of civil and religious liberty from every part of Europe.” While Paine embodied the revolutionary sentiment of the moment, more significantly, he seemed to enshrine a promise for future generations of migrants.

Yet, the promise of the American asylum remained unfulfilled for most migrants in the young republic, indicating that the “heightened talk of ‘the rights of man’ soon faded in the realities of war and national formation,” according to J.C.D. Clark. John St. Hector de Crèvecoeur, a French migrant also living in Pennsylvania, famously echoed Paine’s idealism in his essay, ‘What is an American?’ Beyond its role as an asylum, Crèvecoeur emphasised the transformative power of the United States for refugees: “he is naturalised, his name is enrolled with those of the other citizens of the province. Instead of being a vagrant, he has a place of residence; he is called the inhabitant of such a county, or of such a district, and for the first time in his life counts for something.” In doing so, he highlighted not only the universalist nature of migration, but of American citizenship writ large. Though Jefferson claimed the piece illustrated the “beautiful side” of the young republic, the essay was at best exceptionalist if not entirely delusional. During his time as French Consul, Crèvecoeur faced many xenophobic encounters which, even after gaining American citizenship, left him “under suspicion from...

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140 Thomas Paine, *Common Sense; Addressed to the Inhabitants of America, on the Following Interesting Subjects* (Philadelphia, PA, 1776), 22-3.
both sides: neither French enough for the one, nor sufficiently American for the other.”

Likely a consequence of his awful life, which included the kidnap of his children and murder of his wife, Crèveceur retreated from his tragic reality into literary idealism. Yet, his work exemplifies the inauthentic nature of universalism in liberal states. As this thesis explores, this would only continue to be used to bolster pro-migration arguments throughout the 1790s.

Liberal approaches to migration remained just as measured post-Revolution, if not more so, than during the colonial period. Indeed, universalism often collapsed into economic opportunism. As the US Minister to France and Sweden in the 1780s, Franklin was often the first point of contact for potential migrants and received hundreds of letters pleading for financial assistance and advice. In one letter, a pharmacist from Normandy wrote of his support for revolutionary ideals, heralding the maxim “ibi libertas, ibi patria”; where there is liberty, there is my country. Franklin was overwhelmed with the volume of letters he received and rarely responded, though his occasional replies rang a similar tone. While he frequently praised the “good climate, fertile soil, wholesome air, free governments, wise laws, liberty, a good people to live among, and a hearty welcome” awaiting migrants upon their arrival, he exercised caution to his correspondents and, at times, overtly discouraged migration. As “employments are not given in America but to persons known,” Franklin curtly wrote, anyone European living in a free country “would do well to stay where they are.”

Meanwhile, Franklin continued to privately chastise the “improper persons” who “pestered [him] continually with numbers of letters… such as I can by no means encourage.” “I dissuade all I can, those who have not some useful trade or art by which they may get a living,” he wrote to his daughter, “but fools will ruin themselves their own way.” In lieu of personal replies, Franklin published Information to those who would remove to America in 1784, a pamphlet

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147 Mademoiselle de Kalbe and Other Favor Seekers to Benjamin Franklin, Nov. 26, 1780, PBF, 34:62-71.
150 Benjamin Franklin to Charles Thomson, Mar. 9, 1784, PBF, 42:27-8.
circulated throughout Europe. Indicative of the correlation between ‘desirable’ migrants and productivity in the liberal imagination, Franklin emphasised the need for economically beneficial migrants and, by implication, rejected a universalist approach. When considering the entry of any given migrant, he resolved, the determinative factor ought not to be “What is he?,” but, “What can he do?”

Though Franklin’s notoriety made his work particularly influential, he was not alone in this approach. Towards the end of the Revolution, even George Washington considered the personal gains to be made of pro-migration policies. Keen to settle his lands on the Ohio and Kanawha rivers, he sought out productive migrants who would contribute financially to him as a freeholder while improving the lands they occupied. In stark contrast to common narratives of desperate migrants fleeing to the American asylum, Scottish entrepreneur Robert Adam instead warned Washington that migrants needed to be “fully acquainted with the encouragement you intend them [upon arrival]” to offset the otherwise “generall dissgust they have at comeing to thiscountrey.” After receiving little encouragement from his peers, Washington abandoned his plans altogether, but his protracted interest spoke volumes. He showed little to no interest in migration policy during the period, only participating in public discussions with habitual neutrality. However, on a personal level, he considered migration an economic device to be employed for personal gain. Jefferson went one step further in Notes on the State of Virginia, arguing that migration should only be encouraged when economically beneficial. Though arguing that the young republic should “spare no expence in obtaining” productive migrants, Jefferson equally warned of the potential dangers of unbridled migration in his home state Virginia and the United States as a whole. Rejecting the universalist rhetoric in his earlier writings, likely an indicator that the revolutionary moment had passed, he argued:

“They will bring with them the principles of the governments they leave, imbibed in their early youth; or, if able to throw them off, it will be in exchange for an unbounded licentiousness… These principles, with their language, they will transmit to their children. In proportion to their numbers, they will share with us

152 Original emphasis. Franklin, Information to Those Who Would Remove to America, 8.
the legislation. They will infuse into it their spirit, warp and bias its direction, and render it a heterogeneous, incoherent, distracted mass.”¹⁵⁶

Jefferson emphasised a concern growing ever prominent among liberal politicians, that an influx of the wrong type of migrant would inevitably infuse American society with ‘foreign values.’ In doing so, he exemplified the great contradiction underlying liberal attitudes to migrants post-Revolution. While pro-migration sentiment was undoubtably widespread, it was certainly not philanthropic. Instead, policymakers across the region exhibited a coordinated desire to curate the types of migrants welcome in liberal states.

Unsurprisingly, attracting ‘productive’ migrants remained the dominant trait of liberal policymaking. Much like the colonial period, liberal states offered relatively unconstrained entry to migrants at their borders. Meanwhile large, labour deprived states in the region continued to incentivise economic migration, though this was less prevalent after the Revolution. To encourage “tradesmen, artificers, and manufacturers, to come and settle in this state,” a Maryland act enacted that “no tax shall be imposed on any such foreigner coming into this state” for two years, and even longer for merchants and artisans. Above all, the act sought to “advance the wealth and strength” of the state.¹⁵⁷ The Virginia legislature granted similar tax exemptions for “the encouragement of useful artizans, mechanics, and the handycraft tradesmen, to migrate into this commonwealth.”¹⁵⁸ As Virginia would undoubtedly benefit from the “importation of useful artificers,” Jefferson reasoned, the state must “spare no expence in obtaining them.”¹⁵⁹ By contrast, restrictive New York adopted similar tax exemptions to settle lands on the western frontier of the state but instead reserved these “to the people of this state,” excluding migrants.¹⁶⁰ While liberal states continued to incentivise migration post-Revolution, albeit on a smaller scale, this did not reflect an embrace of universalist values among policymakers, but sustained economic opportunism instead.

Liberal states did however redefine the boundaries of state citizenship and naturalisation in line with revolutionary ideals of universalism and volitional allegiance. Compared to the relatively constrained nature of colonial subjectship, this expanded the scope of American citizenship in two ways. First, the new volitional nature of citizenship implied a social contract between state governments and their respective citizens, founded upon consent

and allegiance to the American cause. Consequently, instead of the wealth requirements previously required, Kettner notes, “the mere choice of the revolutionary cause proved the former subject’s qualification for republican citizenship” in the confederation period. Embracing this ideal, state constitutions in Maryland, North Carolina, and Pennsylvania emphasised securing the “the fidelity and allegiance of inhabitants” in their naturalisation processes through oath requirements. While both North Carolina and Pennsylvania maintained minor qualifications for naturalisation, Maryland removed residency altogether, allowing migrants to become citizens immediately upon an oath of allegiance. Second, and perhaps most crucially, volitional citizenship also situated rights and privileges under the protection of state governments. Across the liberal region, this resulted in lengthy declarations of rights which were explicitly linked to citizenship. Embodying the universalist sentiments and language of the Revolution, the Virginia Constitution declared that all citizens held “certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity.” The Delaware legislature went one step further, making no distinction between citizens and non-citizens in determining rights. It enacted that “no article of the declaration of rights and fundamental rules of this State… ought ever to be violated on any presence whatever.” Only voting rights were restricted to residents of two years. Pennsylvania followed the same policy, which it later extended to include loyalists previously barred from the rights of citizenship. Through their commitment to volitional citizenship, liberal states outwardly demonstrated their adherence to revolutionary values not only for natural-born Americans, but naturalised citizens and migrants too.

Yet, with the establishment of new laws came new constraints in the region. Though still far more accessible than in restrictive states, naturalisation and access to rights became increasingly predicated on residency periods, emphasising the need for migrants to assimilate in the polity. By extending the residency requirements for suffrage, the Delaware Constitution sought to ensure that all voters had “sufficient evidence of a permanent common interest with, and attachment to the community.” Though originally two years, this was more than

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165 Laws of the State of Delaware, 1:xxviii-xlvi.
doubled for office-holding in 1788.\textsuperscript{168} The Virginia Constitution used the same assimilationist language, but instead required migrants to own property for one year before obtaining political rights.\textsuperscript{169} Meanwhile, a series of later acts extended the residency requirement for both citizenship and the franchise to two years.\textsuperscript{170} Evoking assimilationist rhetoric, the act reasoned, “wisdom and safety suggest the propriety of guarding against the introduction of secret enemies, and of keeping the offices of government in the hands of citizens intimately acquainted with the spirit of the constitution and the genius of the people.”\textsuperscript{171} Using the same justification, the rights of naturalised citizens were narrowed further in 1786, stipulating five years of citizenship for office-holding.\textsuperscript{172} In Pennsylvania, the franchise was restricted to citizens alone to “prevent frauds” in elections.\textsuperscript{173} Though naturalisation was easily achieved in the state, the new measure excluded legally settled migrants who could previously vote. Compared to prior legislation, new policies emphasised the need for migrants to become accustomed to local politics and culture before gaining access to rights, highlighting a growing concern of foreign influence on political institutions in the region.

Impediments on the mobility and rights of British subjects remained in place across the country beyond the end of the Revolutionary War, including in liberal states. In the antithesis of the American asylum, sixty thousand loyalist refugees fled the United States in 1783, seeking safety in other British territories.\textsuperscript{174} One colonial governor claimed that loyalists had “suffered ignominious deaths, for their uniform attachment to government; many have been persecuted, imprisoned and banished from their estates and families, whilst others of us, after being treated with unparalleled cruelty and oppression, were stript of our property, and obliged to seek an asylum here and in Canada.”\textsuperscript{175} Though the immediate threat of loyalism fell away, as Emily Yankowitz contends, “the issue of incorporating loyalists” remained fundamental to debates on citizenship and migration.\textsuperscript{176} Thus, while de-prioritised, anti-loyalist policies remained across the Union, though became increasingly entrenched within established regional approaches to migration. Though some liberal states retained punishments for

\textsuperscript{168} ibid., 2:921.
\textsuperscript{169} Hening, \textit{The Statutes at Large... of Virginia}, 9:109-19.
\textsuperscript{170} ibid., 10:129-30.
\textsuperscript{171} ibid., 11:322-4.
\textsuperscript{172} ibid., 12:261-5.
\textsuperscript{173} Flanders & Mitchel, \textit{The Statutes at Large of Pennsylvania}, 12:25-52.
\textsuperscript{174} Jasanoff, \textit{Liberty’s Exiles}, 9-11.
\textsuperscript{175} New-York Gazette, and Weekly Mercury, June 3, 1782.
loyalists, restrictive state legislatures called not only for a revocation of rights and property, but complete excommunication from the polity. In liberal North Carolina, loyalists lost the franchise in 1781 but were later excluded from officeholding too.\textsuperscript{177} Meanwhile in restrictive Massachusetts, where loyalists and absentees were deemed “outlaws, exiles, aliens, and enemies,” the state governor recommended a state resolution to not “admit any British subject whatever.”\textsuperscript{178} In 1784, a proposed bill to allow loyalists to return to the state was met with extensive criticism. Though aware that “an act of amnesty and naturalization to the ill-fated body of men, the refugees,” would honour revolutionary values, one widely published commentator warned that “the antipathies nurtured in the war, have taken so deep a root, as will, we are apprehensive be very difficult to remove… every engine ought to be put in motion to prevent their return.”\textsuperscript{179} Another, equally emphasizing the security concerns presented by loyalists, shrewdly contended, “they are still in the same predicament and are no more subjects of these states than the inhabitants of Africa.”\textsuperscript{180} Though loyalists remained unwelcome across much of the United States, by playing into historic regional concerns of foreign influence, they faced especially harsh constraints in restrictive states.

As was the case during the Revolution, anti-loyalism increasingly transformed into a general distrust of foreign influence across the Union. In an extension of wartime legislation, the Massachusetts assembly retained the discretion to expel any migrant deemed to “possess dispositions or hold principles incompatible with the safety or sovereignty of this state.” An extraordinarily vast policy, the act treated migrants in the same manner as those who had fought for the British army.\textsuperscript{181} Though most prominent in the restrictive region, concern over foreign influence emerged in liberal states too. In Pennsylvania, the trial of French migrant Charles Julien de Longchamps provoked fierce debate about the rights of naturalised citizens. In 1784, Longchamps was arrested for attacking the French Consul to the United States, prompting demands for his extradition at the behest of the French government. Though Longchamps was naturalised as an American citizen the day before the attack, state and national officials condemned him as “a very worthless Frenchman” to be “viewed only as a


\textsuperscript{178} Original emphasis. \textit{Massachusetts Spy; or, The Worcester Gazette}, May 22, 1783; Original emphasis. \textit{Salem Gazette}, Nov. 29, 1782.

\textsuperscript{179} Though originally published in the Massachusetts Centinel, the article was circulated across the state in the following days. \textit{Massachusetts Centinel}, Aug. 21, 1784; \textit{Salem Gazette}, Aug. 24, 1784; \textit{Continental Journal, and Weekly Advertiser}, Aug. 26, 1784; \textit{New-Hampshire Gazette}, Aug. 28, 1784.

\textsuperscript{180} Original emphasis. \textit{Independent Chronicle}, Mar. 4, 1784.

\textsuperscript{181} \textit{Acts and Laws of the Commonwealth of Massachusetts}, 4:105-6.
stranger here,” and initially tried to comply with extradition demands.182 Secretary of the Continental Congress Charles Thomson even warned that Longchamps “either was or wished to be employed as a spy of the British general.” Making his general distrust of migrants clear, he added “it is strangers lately come among us, whom we know nothing of, joined with men, who, to say the least of them, were lukewarm in our cause and of doubtful characters, who are now most active in sowing jealousies of France” and “dissensions among the states.”183 Unsurprisingly, this rhetoric provoked outrage in the liberal state, with commentators considering the affair an existential “cause of liberty, virtue, and mankind.” 184 The Pennsylvanian government ultimately allowed Longchamps to remain in the United States, but refused to acknowledge his status as an American or Pennsylvanian citizen.185 In doing so, the liberal state’s policymakers not only prioritised their innate distrust of foreign influence, they further failed to protect the rights of migrants and American citizens alike. Though anti-loyalism was an expected overhang of the Revolutionary War, it equally transformed into thinly veiled xenophobia across both restrictive and liberal states.

The conflation between anti-British sentiment and concern over foreign influence proved particularly potent in exclusive Georgia and South Carolina. Though both states formed part of the liberal region during the colonial period, their distinct experience of British occupation during the Revolutionary War, especially on the issue of slavery, had lasting repercussions on migration policy in the region. In particular, British attempts to encourage rebellion and recruit enslaved people provoked fears during the war that, in captured Georgia and South Carolina especially, “they will all be sett free.”186 Consequently, during the confederation period, the state legislatures were keen to scrub any British influence from their policies, including those on migration. One assemblyman in South Carolina argued that a

185 Respublica v. De Longchamps, 1 U.S. 111 (1784); Connie Thomas, “‘If they send him off, I think I shall not long be safe myself’: Contesting Early American Citizenship in the Longchamps Affair, 1784–6,” *Journal of the Early Republic*, 43/3 (2023), 399-425.
continuation of colonial law would be “so odious a legacy of British despotism amongst us.” Much like the liberal region, both states enacted new legislation throughout the confederation period as a means of asserting their newfound sovereignty. Yet, this did little to assuage policymakers’ fears that their political and social institutions may come under threat from external influence once again, especially slavery. Thus, targeted anti-British policies soon gave way to restrictions on all foreign influence. In particular, the two previously liberal states significantly restricted the political rights of migrants and naturalised citizens, diverging from the rest of the region. In a 1785 act, the Georgia legislature maintained a relatively liberal naturalisation policy, requiring residency of just one year alongside an oath of allegiance. Yet, in a bid to prove that each naturalized citizen “hath demeaned himself as an honest man and friend to the government of the state,” a separate act of the legislature was required to access political rights. Though petitions for naturalisation continued to pass through the state legislature unobstructed, just eleven naturalised citizens were given political rights between 1785 and 1789. While migrants were certainly welcomed as citizens, the act marked a concerted effort to curtail their political influence in the polity.

The South Carolina legislature soon followed suit, passing the same political restrictions one year later. In the state House of Representatives, proponents of the legislation explicitly linked their contempt for the British with a general fear of foreign influence in their political institutions. One representative contended that, “such appeared to be the danger of this country being too much under British influence, that there was absolutely a necessity for checking by every politic and wise measure the further spreading of a foreign interest notoriously inimical to America.” Another conceded that migrants in the state who maintained “Whig principles” made for good citizens, but cautioned that “there was a far greater number whose minds were still bias’d by those monarchial principles which they had been regularly bred in.” While the act was intended to subvert loyalism specifically, it implicated all migrants and naturalised citizens in the state. This did not go unnoticed. Though the bill passed through the House easily, senators warned that it was incongruous with the state constitution’s designation of rights for naturalised citizens. This was echoed in the local press, which characterised the act as “no less absurd than unjust; for, after conferring the rights of citizenship

187 State Gazette of South-Carolina, Nov. 28, 1785.
190 Charleston Morning Post, Feb. 17, 1786; Charleston Evening Gazette, Feb. 21, 1786.
in their full extent, it immediately after, by a proviso, disqualifies such citizens” from the exercising some of those rights. Nevertheless, the act passed and continued to operate alongside the state constitution throughout the confederation period. The conscious decision to exclude naturalised citizens and migrants from political rights marked a key divergence in what was previously a cohesive liberal region. Though all liberal states capitalised on independence to legislate new, and often more restrictive policies, George and South Carolina placed a distinct emphasis on minimising the political role of all migrants in their respective states. As one Charleston commentator argued, if any naturalised citizen was “not content to submit to the laws of the country they live in, they had much better remove out of it.” In doing so, both states forged a new exclusive regional interest, built upon the commitment to protecting the sovereignty of their political institutions from any kind of external influence. As this thesis later explores, this regional interest would continue to be tested amid a growing politically active migrant population in the United States and, crucially, an expanding federal government in the 1790s.

Though a distinct shift in migration policymaking occurred in liberal and exclusive states post-Revolution, both the rhetoric and legislation in restrictive states were defined by relative continuity. The reasons for this were twofold. First, new measures prompted by anti-British sentiment that limited foreign influence in liberal states already existed across much of the restrictive region. Second, revolutionary ideas like volitional allegiance failed to permeate the exceptionalism and hardened xenophobia characterising restrictive attitudes to migration. Undermining Paine’s designation of the United States as an ‘asylum for mankind,’ commentators in the region demanded their respective state legislatures to “oblige [migrants] to return from whence they came.” One commentator, reporting on a family of migrants arriving into Massachusetts, argued that “the naturalization of these people must prove detrimental to this country, yet as has been the case with others, our better sort of folks, and even some of the commonality, endeavour to effect it.” What little pro-migration sentiment that did exist was predicated on mercantilism, emphasising the potential for migrants to “strengthen a nation in many ways,” namely population growth and economic prosperity. ‘Primitive Whig,’ widely published in New Jersey, was resolute that “the future glory and riches of these states will

191 Original emphasis. State Gazette of South-Carolina, Oct. 5, 1786.
192 Charleston Evening Gazette, Mar. 31, 1786.
193 Original emphasis. Massachusetts Centinel, June 18, 1785.
195 Baseler, Asylum for Mankind, 17-9.
eminently depend upon their population… we ought therefore for this purpose, to give the
greatest possible encouragement to the influx of foreigners.” In Connecticut, two cities were
temporarily made free ports in 1784, granting all incoming migrants “the same protection of
law in their persons and properties, which the citizens of this state are entitled to have and
receive.” Yet, this was not benevolence, but for “encouraging and promoting the commerce
of this state.” Though migrants were largely excluded from rights and citizenship altogether
in restrictive states, they were nonetheless the target of economic opportunism. In doing so,
restrictive policymakers maintained the double-edged approach to migration that had long
defined the region: capitalising on the financial potential of migrants while ostracising them
from society.

In a continuation of colonial policymaking, restrictive states enacted many similar, if
not the same, migration policies throughout the confederation period. Most retained barriers
to entry and settlement, with new legislation only serving to extend poor laws and existing
policies against loyalists. Meanwhile, subverting the concept of volitional allegiance,
naturalisation processes continued to require a special act of the legislature across the region.
In Massachusetts, the only change implemented required additional references for migrants
seeking citizenship in 1787. The New York legislature conversely made no changes to their
naturalisation process, but in a hangover of the Revolution instead emphasised the sovereignty
of the state to “naturalize all such persons, and in such manner, as they shall think proper.”
The remaining states in the region enacted no changes whatsoever on naturalisation until after
the US Constitution was ratified in 1788. As was the case prior to the Revolution, naturalisation
by act was harder to obtain, processed less frequently, and resulted in relatively fewer
naturalisations compared to liberal states. In Rhode Island, the naturalisation of just one
migrant, a Maltese merchant, took ten months to achieve approval in the state assembly.
Meanwhile, the New Jersey legislature naturalised only six people between 1780 and 1788.
In Massachusetts and New Hampshire, private acts often only naturalised one or two migrants
at a time, resulting in a significant drop in naturalisations compared to the colonial period.

196 New-Jersey Gazette, Feb. 6, 1786.
198 Quigley, ‘Reluctant Charity,’ 119-40; Acts and Laws of the Commonwealth of Massachusetts, 2:499-50, 661-4; Ames et
al., The Acts and Resolves, Public and Private, of the Province of Massachusetts Bay, 5:28, 89, 461, 1124.
201 At the General Assembly of the Governor and Company of the English Colony of Rhode-Island (1788/9): 4.
New York was seemingly an outlier in this regard, continuing to naturalise dozens of persons per act, though again the frequency of such acts decreased. This was exacerbated by the Revolutionary War, as the state assembly had little legislative capacity to process naturalisations when under British occupation. While hundreds of individuals were naturalised, just nine acts were passed from 1782 to 1788. Though this was substantially more than the rest of the region in raw numbers, the demand for legislative oversight on the process demonstrated an innate reticence to welcome migrants as citizens unguarded; a feature that dominated restrictive policymaking across the region.

Moreover, access to political and property rights in restrictive states continued to be predicated on legal settlement and wealth barriers. Crucially, the inability to own land was often the biggest obstacle to political rights for poorer migrants, preventing them from either purchasing a freehold or making enough income to overcome wealth barriers, irrespective of their citizenship status. Simply earning an income was often insufficient. For example, the Connecticut legislature prohibited the purchase, transfer, or inheritance of property to any “alien or foreigner,” naturalised or not, without a licence from the General Assembly. The 1780 Massachusetts Constitution instituted incremental financial requirements for the franchise and office holding, minimising the political role of migrants without substantial wealth. Access to the franchise required thirty pounds of property, whereas office-holding varied from one hundred to one thousand pounds depending on the role; figures that were progressively more unachievable for poorer inhabitants, which migrants predominantly were. The state constitutions of New York and New Hampshire followed suit, enacting similar financial and residency barriers for political rights. This illuminates the ongoing emphasis placed on wealth, as opposed to nationality, in defining the role of migrants within the polity. Rather than minimising migrant rights writ large, restrictive states instead focussed on particular types of economically ‘undesirable’ persons, regardless of whether they were natural-born, naturalised, or migrants. Much like the colonial period, this restrictionism was the product of state legislatures attempting to police not only migrants arriving into the region, but ‘undesirable’ people already residing there too.

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While states asserted their regional interests on migration predominantly at a state level, the establishment of the early national treaties brought these interests into conversation with one another for the first time. Though treaties did not regulate migration in the conventional sense, they often encompassed issues of naturalisation and migrant rights. Crucially, states were not obliged to comply with national treaties under the Articles of Confederation. If they did, it was entirely on their own terms and through their own legislation. Thus, the compliance of states, or lack thereof, is especially revealing of their interests on the constituent clauses of any given treaty on migration. This was first exemplified by the 1778 Treaty of Amity and Commerce between the United States and France. The treaty promised significant rights to French nationals living in the United States, including naturalisation, the franchise, and the right to own and inherit property; rights that the majority of states had consciously included or excluded migrants from, even if naturalised.\footnote{208 ‘Treaty of Amity and Commerce,’ May 4, 1778, \textit{JCC}, 10:421-55.} Though Congress explicitly recommended that states provide “like privileges and immunities [to] the subjects of his most Christian Majesty” responses predictably varied by region.\footnote{209 Jan. 14, 1780, \textit{ibid.}, 16:56-7.} The few states that did comply were predominantly liberal, including Delaware, Maryland, and Pennsylvania.\footnote{210 \textit{Laws of the State of Delaware}, 2:701-3; \textit{Maryland Archives}, Session Laws, 203:237-8; Flanders & Mitchel, \textit{The Statutes at Large of Pennsylvania}, 10:509-10. The only restrictive state to comply was Rhode Island. \textit{At the General Assembly of the Governor and Company of the English Colony of Rhode-Island} (1779-80): 21-2.} After Congress’ recommendation, the Massachusetts assembly also passed an act in support of the treaty, though stipulated that French subjects would only have access to “certain privileges,” namely tax and settlement exemptions. Yet, keen to preserve their restrictive approach, the state legislature remained resolute that political and property rights would not apply to French subjects.\footnote{211 \textit{Ames et al., The Acts and Resolves, Public and Private, of the Province of Massachusetts Bay}, 5:1197.} Likewise, New Jersey gave French subjects the right to inherit property in the state, though stopped short of granting the full rights associated with citizenship.\footnote{212 \textit{New-Jersey Gazette}, Aug. 22, 1781.} Every other state refused to pass any legislation on the subject. Though we cannot assume this means these states did not follow the terms of the Treaty of Amity, they were not doing so explicitly.

Following the end of the Revolutionary War, the Treaty of Peace was established with Great Britain in 1783. It enumerated that Congress ought to “provide for the restitution of all estates, rights, and properties, which have been confiscated belonging to British subjects.”\footnote{213 ‘Definitive Treaty of Peace between the United States and Great Britain,’ Sept. 3, 1783, \textit{PBF}, 40:566-75.} In other words, it called for a repeal of anti-loyalist legislation that had been passed throughout the Revolution. Unsurprisingly, this never fully materialised, with several states retaining
restrictions on all British subjects. Initially, New Hampshire was the only state to comply, prompting a letter of complaint from the British Foreign Secretary in 1786.\textsuperscript{214} In an explicit critique of the new federal system, he demanded that the Continental Congress enforce the treaty, and thus, “answer for the conduct of their respective members.”\textsuperscript{215} In response, Congress again demanded that all state legislatures issue a full repeal of any policies that contravened the treaty.\textsuperscript{216} Though most complied, governments in Georgia, South Carolina, and New York, the three states with the most aggressive British occupations during the war, ignored the repeated demands and continued to limit the rights of British subjects throughout the 1780s. For Georgia and South Carolina, this was especially significant. In failing to adhere to the treaty, both states demonstrated a commitment to reduce not only foreign influence on their political institutions, but federal interference too. Clearly aware of enforcement issues, in 1786 the Continental Congress resolved that in future treaties “no rights be stipulated for aliens to hold real estates within… states, this being utterly inadmissible by their several laws and policy.”\textsuperscript{217} Yet, the potential for federal interference on migration policy would only prove more influential in the development of an exclusive regional identity in Georgia and South Carolina. Treaties highlighted the regional disparities between states on the content of migration policy, foreshadowing conflict on the jurisdiction of policymaking that would come to define constitutional debates for decades to come.

During the confederation period, state migration policymaking reflected the unfulfilled promise of the Revolution on migration. Through new legislation that emphasised revolutionary ideas of volitional allegiance, liberal states increasingly linked citizenship with political and property rights. At the same time, novel naturalisation processes predicated on a simple oath requirement transformed American citizenship into a social contract between the government and citizens. Nevertheless, these measures were accompanied by a growing mistrust of foreign influence, and thus greater demands for the assimilation of migrants and naturalised citizens to access rights. Nowhere was this more visible than in Georgia and South Carolina. While migration policy became more restrictive across the liberal region, both states enacted unmatched barriers to political rights for migrants and naturalised citizens, diverging from the rest of the region. Meanwhile, restrictive states chiefly maintained colonial policies,

\textsuperscript{216} Oct. 13, 1786, \textit{JCC}, 31:869.
\textsuperscript{217} Apr. 2, 1784, confirmed by Congress on May 7, 1784, \textit{ibid.}, 26:180-5, 357-63.
preventing the mobility and naturalisation of migrants, whilst also minimising their rights. Across the republic, state governments ignored the obvious irony of promoting revolutionary ideals while simultaneously restricting the rights of migrants and naturalised citizens. Meanwhile, liberal, restrictive, and exclusive states continued to assert their respective regional interests in response to new national treaties, exercising sovereignty over the matter of migration. On the eve of the US Constitution and an ever-expanding federal government, these distinctions set out a new blueprint for regional conflict on migration, both in terms of its content and jurisdiction. Yet, only once delegates from all thirteen states confronted one another for the first time would the true extent of the issue become clear.

**Conclusion**

“Much had I heard, from men unus’d to feign,
Of this New World, and Freedom’s gentle reign…
Such were the hopes which once beguil’d my care,
Hopes form’d in dreams, and baseless as the air.”

Rev. Thomas Coombe, *The Peasant of Auburn* (1783)

In his poem, *The Peasant of Auburn*, Reverend Thomas Coombe offered a cautionary tale to “check the spirit of emigration to America.” A loyalist born in Philadelphia, Coombe subverted the idealism of revolutionary writers like Paine and Crèvecoeur, instead emphasising his stark reality as a person excluded from the rights promised in the new republic. His writing exemplified the great lie that sat at the heart of US migration policy: the ‘asylum for mankind’ was ultimately anything but. The truth was far more complex, with policymaking consistently being tempered by economic opportunism, cultural concerns, and regional interest.

Throughout the colonial period, distinct approaches to migration policy developed across liberal and restrictive regions in response to economic and cultural development. As the ‘land of labour,’ liberal colonies across the South and Mid-Atlantic capitalised on the productivity of migrants to meet an insatiable demand for economic opportunism. Not only were migrants welcomed in liberal colonies with relatively unobstructed rights and naturalisation, they were actively encouraged through tax exemptions and land grants. Yet, this pro-migration sentiment was not universalist in nature, with liberal colonies consciously

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excluding poor, unproductive migrants through settlement laws. In contrast, restrictive colonies across the North-East sought to limit all aspects of migration. With the exceptionalist belief that their colonies were populated by an inherently ‘pure’ people, policymakers sought to protect the cultural homogeneity of the region against foreign influence. Consequently, migrants, and indeed some natural-born Americans, faced significant barriers to settlement, naturalisation, and rights across the region. While liberal and restrictive policies had different characteristics, policymakers from both regions shared a common desire to regulate migration in response to their respective regional interests and, by extension, curate the cultural and economic characteristics of their own population; a feature that would long outlive the colonial period.

The American Revolution changed the focus of migration policy across the United States. American leaders resisted British interference in policymaking throughout the Revolution, asserting their sovereignty to control migration within their own borders. Though liberal and restrictive states retained many of the same colonial policies, an anti-British approach took precedence, eroding British subjects’ access to residency, citizenship, and rights across the Union. Loyalists born and raised in North America, like Thomas Coombes, faced excommunication from their lifelong local and regional communities. Before long, anti-British sentiment collapsed into a general suspicion of foreign influence, culminating in greater limits on the mobility, citizenship, and rights of migrants. Yet, these concerns were not confined to the Revolution alone. Despite the proliferation of revolutionary ideals such as universalism and volitional allegiance during the confederation period, concerns of foreign influence became only further entrenched across the new republic. Yet, the introduction of new restrictions on migration still varied considerably by region. Liberal states seemingly embraced volitional citizenship, prioritising consent and allegiance as precursors to membership and rights, not wealth. Moreover, in a continuation of colonial economic opportunism, larger states continued to incentivise mobility. However, states across the region narrowed migrant political rights, emphasising the need for assimilation to reduce foreign influence on new institutions. This was especially true in newly exclusive states Georgia and South Carolina, where policymakers sought to eliminate the political interference of all outsiders. Meanwhile, restrictive states reaffirmed colonial policies, confident that the Revolution had only confirmed the potential dangers presented by foreigners. Though new restrictions varied in severity across all three regions, they all embodied one fundamental truth about the American founding: the universalist notion of the ‘asylum for mankind’ was little more than an ideological mirage.
While the economic and cultural tenets of regional interest remained intact after the Revolution, state policymakers became generally more sceptical of migration. Indeed, the revolutionary sentiment driving new legislation was not universalist in nature, but instead reflected a deeply rooted distrust of loyalism and external influence. Thus, in their efforts to craft a new American identity in their own image, policymakers from different regions shared a common impulse; to exclude migrants and other ‘outsiders’ who seemingly did not conform. Meanwhile, a failure to consolidate state policies through early national treaties raised questions of sovereignty over migration policymaking for the first time. The implications of this were profound in setting the stage for political conflict in the drafting of the US Constitution, which demanded states negotiate their positions on migration to establish a framework for policymaking that would withstand the test of time.
Chapter Two

“The Interests of this State”: Migration in the US Constitution

“While under our Constitution and form of government the great mass of local matters is controlled by local authorities, the United States, in their relation to foreign countries and their subjects or citizens, are one nation, invested with powers which belong to independent nations...

The power of exclusion of foreigners being an incident of sovereignty belonging to the government of the United States as a part of those sovereign powers delegated by the Constitution, the right to its exercise at any time when, in the judgment of the government, the interests of the country require it, cannot be granted away or restrained.”

Chae Chan Ping v. United States, 130 U.S. 581 (1889)

In modern judicial interpretation, the US Constitution has legitimised expansive federal powers on migration. Particularly, following the 1889 Supreme Court case, Chae Chan Ping v. United States, every element of the migrant experience was considered within the remit of federal jurisdiction, from entry at the border to citizenship. However, before this landmark case, the powers allotted by the Constitution to control migration policy were far more ambiguous, both in terms of what shape policies should take and which branches of government should be responsible for their enforcement. This was not an oversight, but the product of unresolved regional conflict during the Constitutional Convention and ratification debates. For delegates from liberal, restrictive, and exclusive states, the Constitution presented a unique opportunity to cement their respective approaches to migration in national law, both preserving and expanding their regional interests across the Union. Yet, an imprecise constitutional framework on migration emerged, one that would only come to be defined through the political conflicts of the 1790s and beyond.

1 Chae Chan Ping v. United States (1889), 604, 609.
Since its inception in 1787, the Constitution has been studied extensively, both as a foundational text of American governance and within the context of its founding debates. Yet, the constitutional framework on migration has received comparatively little attention, only gaining prominence in response to modern political conflict at the turn of the twenty-first century. Early scholars often assumed that the Constitution overlooked migration entirely. To Maldwyn Jones, the document formed part of the ‘open-door’ era, indicative of the founders’ optimism that republican principles would be sufficient to regulate migration. Though this has largely been dispelled as a founding myth, it still features in recent historiography. In his study of late eighteenth century national security, Robbie J. Totten concludes that the Constitution left “the doors to the United States ajar because no national legislation was in place to close them.” Similarly, pro-migration advocate Ilya Somin contends that “there is no general power to restrict immigration” in the Constitution. Yet, these studies focus almost exclusively on the original intent of framers, ignoring the impact that ambiguous clauses within the Constitution have subsequently had on policymaking.

While the consensus remains that the Constitution failed to dictate an explicit approach to migration, recent historians place greater emphasis on the intricacies of its contingent clauses to illuminate contemporary ideas on migration. Works on citizenship have come to dominate this historiography, despite originating outside of migration studies conceptually. Rogers M. Smith’s genealogy of US citizenship roots its exclusionary nature in the Constitution. Though it “did not define or describe citizenship, discuss criteria for inclusion or exclusion, or address the sensitive relationship between state and national citizenship,” Smith argues, the Constitution’s ambiguities “long permitted ascriptive denials of rights not explicitly protected by its provisions,” including those for migrants. In agreement, gender historian Linda Kerber focusses on the restrictive nature of ‘incomplete’ citizenship for women in the Constitution and founding era more generally. In doing so, both Kerber and Smith adopt a dichotomous conceptualisation of citizenship, one which they argue was inherently obstructive to migrants. Though she employs the same framework, Annick Foucrier conversely argues that the Constitution was inherently *inclusive* to migrants. Particularly, that with the exception of eligibility criteria for the presidency, the Constitution did not

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differentiate the rights of citizenship for natural-born Americans and naturalised citizens. Yet, this binary approach to citizenship as a category that migrants were either included in or excluded from does not accurately convey the complex nature of membership during the founding era.

In the late eighteenth century, US citizenship was not a universal concept that distributed rights and duties uniformly. As post-colonialist Gurinder Bhambra argues, it is not possible to understand the relationship between migration and citizenship through abstract categories of membership and rights in the Constitution; the reality was far more intricate. The expectations of citizenship varied widely, both for those conferring naturalisation and those subject to it. Even today the boundary between citizen and migrant remains unclear. Rejecting this “simple on-off test of modern liberty,” William Novak concludes that citizenship did not exist as a legal concept prior to the Fourteenth Amendment in 1866. Instead, it was manufactured during this period through political and judicial conflict, most of which happened at a state level. Noah Pickus elucidates this further, arguing that while the Constitution did not define citizenship, it was indicative of the conflict between rival nationalist ideologies during founding debates. In a tension of political identity, delegates failed to mediate ideas of civic participation, republicanism, and national security. The Constitution was the embodiment of these unresolved debates, which would later be reinvigorated by partisan conflict in the 1790s and again in the Reconstruction era.

In her legal narrative of irregular migration throughout US history, Elizabeth F. Cohen instead argues that citizenship was formulated through “temporal algorithms,” combining jus temporis (calendrical time) and variable principles of jus soli (birth-right citizenship), through complex interactions between state and federal laws at the turn of the nineteenth century. These centred around the revolutionary concept of volitional allegiance, a social contract between the government and its people rooted in rights and duties. Carrie Hyde’s work also highlights the complex nature of early citizenship law, which she argues was cemented by “terminological prolixity and legal under-conceptualisation” in the Constitution. Unlike Cohen, she does not attribute this to a heterogenous body of state and federal laws, but to

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8 Foucrier, ‘Immigration et Citoyenneté Aux États-Unis,’ 4-21.  
9 Bhambra, ‘Citizens and Others,’ 102-14.  
10 Novak, ‘The Legal Transformation of Citizenship in Nineteenth Century America,’ 94; Parker, Making Foreigners, 11-12; Colbern & Ramakrishnan, Citizenship Reimagined, 132.  
11 Pickus, True Faith and Allegiance, 15-33.  
13 Hyde, Civic Longing, 3.
inconsistent linguistic uses of the term ‘citizen’ within the Constitution. Yet, this was not an oversight of the founders, Hyde contends, but a deliberate reticence to define citizenship, allowing future judicial interpretation on the subject. Through an analysis of citizenship debates during the Constitution’s drafting and ratification, this chapter excavates the regional roots of these conflicts.

The inconsistent designation of power between state governments and the federal government in the Constitution also significantly impacted migration policy. A growing body of mostly legal work emphasises this, though largely in isolation from other elements of the Constitution. In his sweeping overview of migration policy throughout US history, Gerald Neuman roots its contentious origins in the Constitution. Forged by fundamental disputes on membership, he contends, the Constitution was ambiguous in its language of rights and designation of power, leaving migration policy susceptible to judicial discretion and congressional manipulation.\textsuperscript{14} James E. Pfander and Theresa R. Wardon adopt a similar approach, but instead focus on the naturalisation clause. Repudiating Neuman’s claim of congressional manipulation, they suggest that the naturalisation clause was in fact designed with liberal intentions. To them, the Constitution showed a strong commitment to uniformity by displacing inconsistencies in state migration law, so that migrants could rely on dependable, prospective citizenship requirements.\textsuperscript{15}

In recent decades, historians have foregrounded the intersection of migration, federalism, and slavery in constitutional debates. In her study on ‘immigration federalism,’ Anna O. Law explores the tension between growing federal controls on migration and slave power in the Constitution. Through the policing of the slave trade clause in particular, “slaveholding states were interested in containing national power over any policies that implicated slavery,” irrespective of its influence on free migration.\textsuperscript{16} While Law focuses on how the clause was contested in the late 1790s, Kevin Kenny instead roots this debate in the Constitutional Convention. The slave trade clause, he argues, was one of many constitutional tools southern states promoted to resist growing federal controls on slavery. Yet, the conviction that the clause “gave Congress the power to regulate immigration, and not just the external slave trade, remained prominent in American jurisprudence for most of the nineteenth

\textsuperscript{15} Pfander & Wardon, ‘Reclaiming the Immigration Constitution of the Early Republic,’ 359-441.
\textsuperscript{16} Law, ‘The Historical Amnesia of Contemporary Immigration Federalism Debates,’ 308-11, esp. 309.
century.” Though equally emphasising the role of the South more broadly, Allan Colbern and S. Karthick Ramakrishnan note “the vast size differences among states and their different stages of economic development” across the region. In particular, Georgia and South Carolina’s reliance on the forced migration of enslaved people engendered a distinct regional concern over federal interference during the Constitutional Convention. Consequently, they argue, migration policy was not only influenced by southern interests on slavery, but also regional interests specific to Georgia and South Carolina on the slave trade. Building on this literature, this chapter examines how regional interests on the slave trade intersected with those on migration across the Union more broadly.

Though citizenship still occupies a substantial portion of the historiography, the specific clauses that inform both the jurisdiction and content of migration policy have gained greater attention. Yet, the regional influences that informed these processes have received little to no attention within the current literature. Though several historians have demonstrated the existence of regional distinctions in migration policymaking during the colonial and confederate periods, and in the later partisan conflicts of the 1790s, this has been comparatively ignored during the Constitution’s drafting. This chapter bridges this chronological gap, examining how the Constitution framed migration policy in three distinct ways. First, how it attempted to manage the act of migration into the United States through the naturalisation and slave trade clauses. Second, it considers the language of rights and obligations within the Constitution, analysing its impact on migrants and naturalised citizens residing in the United States. Lastly, it examines how the Constitution allotted legislative functions between the federal and state governments on migration. The Constitution illuminates more about migration debates in the founding era than is often concluded by scholarship of this period. Beyond its judicial and legislative capacity, it embodies the competing ideologies of its founders and their respective regional interests. Throughout the Constitution’s drafting, one commentator noted, the main consideration for any given framer on migration was not the interests of the states in general, but “the interests of this state.”

The tension between regional interests shaped an ambiguous Constitution with both inconsistent and under-developed clauses on migration. As a result, the regional variations that

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informed these debates were cemented in its constituent clauses, establishing sites for legal conflict that would come to dominate the founding decades.

**Constitutionalism**

Alongside being a historical text illustrative of its founding context, the Constitution is also a living, evolving part of governance in the United States. Since its ratification in 1788, amendments to the Constitution have substantially changed its form, while ongoing political debates and judicial review have given new legal meaning to its original terms. Accordingly, it is crucial to consider how the Constitution should be analysed, particularly during the founding era which saw both its creation and contestation in debates on migration policy. Early constitutional theory largely revolves around one key conceptual debate, how did the founders intend for the Constitution to be used: as a static document with a fixed judicial meaning, or as a changing set of axioms that would evolve throughout US history? This has morphed into a methodological debate between historians and legal scholars, disputing whether the Constitution should be analysed in isolation, or within the context of its creation. As a result, conceptually different visions of the Constitution have emerged, with scholars framing its constituent terms, and by extension, the perceived intent of its founders and subsequent capabilities in shaping legislation, in fundamentally different ways.

While constitutional interpretation has become increasingly contested over recent decades, originalism has long remained at the centre of scholarship. As termed by Paul Brest, this assumes that the Constitution was designed with a singular, static meaning that should be followed literally when enacting legislation. Following the appointment of Republican Justice Antonin Scalia to the Supreme Court under the Reagan Administration in 1986, originalism was formulated to resolve perceived liberal abuses of the Constitution, arguing that the beliefs and intentions of its founders were absolute. While originalism maintains an unrelenting gaze on the founding, it equally undermines historical study in constitutional analyses by focussing on a semantic interpretation. This prioritises morphological study of the Constitution’s language and its legal understanding in the founding era using contemporary dictionaries and

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21 Brest, ‘The Misconceived Quest for the Original Understanding,’ 204-38.
judicial orations, instead of framing historic context. Moreover, originalism assumes that the Constitution was written with unified intent, an argument which this thesis fundamentally disproves.

Unsurprisingly, historians have criticised originalism’s ignorance of founding debates which moulded the text of the Constitution, and early congressional debates which shaped its jurisdiction after ratification. Arguing that the meaning of the Constitution extends beyond the document itself, Bruce Ackerman, David P. Currie, and H. Jefferson Powell instead posit a ‘living’ Constitution. This contends that the original literal meaning of the Constitution was neither self-evident nor universally understood, and thus was reliant on contemporary judicial and political actors to resolve its ambiguities. Consequently, David A. Strauss argues, “one of the most fundamental facts about American constitutional law is that it changes.”

Jonathan Gienapp contends that this ambiguity formed part of the constitutional design, intended to mediate the ideological disputes of its founders. At its inception, the Constitution was “a script awaiting enactment,” but through the resolution of political conflicts in the 1790s, it became associated with particular constitutional imaginations. As a result, its constituent clauses only gained ‘fixity,’ and thus meaning, through political and judicial decisions.

Though Gienapp, and indeed many other constitutional theorists, does not explicitly consider how migration policy came to be defined in the Constitution, both his argument and methodology are useful here. As this chapter highlights, the Constitution was often vague and indeterminant in its framing of migration policy, reflecting the underdeveloped nature of federalism as a governing structure during the founding decades. Yet, its words were drafted with purpose, and the debates of the Constitutional Convention are crucial in illuminating the intentions of its terms, and by extension, its framers. Equally, as later chapters demonstrate, how the Constitution was subsequently understood in congressional debates gave it as much meaning as its original design. Read alone, the Constitution remains divorced from both its intentions and its impact. This chapter explores how the constitutional framework of migration policy was both conceived and debated in state and national ratifying conventions. It reveals

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26 Gienapp, The Second Creation, 7.
that the document was not created with a single, unified intent on migration, but was instead the product of competing regional interests.

Managing Mobility

In May 1787, delegates from across the United States met in Philadelphia to draft a new framework of government, debating the balance of power between the central government and the states. The ensuing Constitutional Convention rapidly descended into heated debates on all matters of governance, including on migration and citizenship. While the Constitution merely set out a framework for policymaking, the potential content of future migration legislation sat at the forefront of debates for two clauses in particular: the naturalisation and slave trade clauses. Though delegates from the liberal, restrictive, and exclusive regions ultimately compromised on both measures, their support was rooted in the assumption that any ensuing policy would align with their respective approaches to migration. Thus, delegates hoped to not only protect existing policies in their own states but extend them in future national legislation too. However, what emerged was an unfinished framework on migration and an unresolved ideological argument between regions.

From the outset of debates, convention delegates hoped that the new Constitution would address the faults of the Articles of Confederation on naturalisation. To Virginia delegate James Madison, an inconsistent naturalisation process across the United States was one of the many “defects which had been severely felt” under its terms.\(^\text{27}\) While the Articles enacted that “the free inhabitants of each of these states… shall be entitled to all privileges and immunities of free citizens in the several states,” as Chapter One discusses, the terms of naturalisation varied widely across different states.\(^\text{28}\) Under this fragmented system, migrants could theoretically circumvent stringent naturalisation requirements in a restrictive state by gaining citizenship in a liberal state through a simpler process. South Carolina delegate Charles Pinckney considered “it already productive of inconveniences” that “younger states [held] out every temptation to foreigners, by making [naturalization] less difficult in their governments than the older.”\(^\text{29}\) To resolve the Article’s “ineffectiveness, amounting in some cases to virtual

\(^{28}\) Articles of Confederation, art. 4, sec. 2, cl. 1.
Impotence,” according to James Kettner, the convention agreed to give Congress the power to ‘establish an uniform rule of naturalisation’ in the Constitution.\(^\text{30}\)

Unlike the lengthy debate and drafting process that accompanied most constitutional clauses, delegates agreed on the naturalisation clause early in the convention with little debate, while the final clause remained almost verbatim to the original draft. However, delegates from liberal and restrictive states fundamentally disagreed on what a ‘uniform’ policy ought to look like and conceived of its impact on migration very differently. Delegates from liberal states assumed that a uniform naturalisation policy would only serve to encourage migration, and thus supported the clause as an extension of their own regional policies on a national scale. Maryland delegate James McHenry believed a uniform policy would simply replicate the lenient policies of his own state, which actively promoted migration through tax subsidies and only required a simple oath of allegiance for naturalisation.\(^\text{31}\) To ensure unilateral enforcement of these policies, he argued it was in the country’s best interest that “naturalization cannot be adjusted.”\(^\text{32}\) Similarly, a commentator in the Pennsylvania Packet praised the naturalisation clause as evidence of the “the mildness of government,” believing that it would only further “open an asylum to all strangers who are dissatisfied with their own” government.\(^\text{33}\) In both cases, liberal support was contingent not on the terms of the naturalisation clause itself, but on the assumption that it would be utilised to enforce and extend a liberal approach to migration across the United States.\(^\text{34}\)

Yet, support for uniform naturalisation did not always reflect a liberal approach to migration. Conversely, delegates from restrictive states believed that the naturalisation clause would prevent citizenship from being accessed too easily, extending stringent state legislation across the republic. Writing under a pseudonym, Connecticut delegate Roger Sherman contended that “these powers appear to be necessary for the common benefit of the states and could not be effectually provided for by the particular states,” especially those espousing liberal policies.\(^\text{35}\) Sherman’s sentiments reflected the view of his own state’s restrictive naturalisation policy, which only allowed migrants access to citizenship by private act.\(^\text{36}\)

\(^{30}\) Kettner, The Development of American Citizenship, 224; US Constitution, art. 1, sec. 8, cl. 4.
\(^{31}\) Archives of Maryland Online, Session Laws, 203:211-2.
\(^{32}\) James McHenry (MD), May 29, 1787, Madison’s Notes, Farrand’s Records, 1:25.
\(^{33}\) Pennsylvania Packet, June 3, 1788, DHROC, 18:149-50.
\(^{34}\) As Chapter Three explores, the Supreme Court initially shared this view in 1792, ruling that a uniform naturalisation policy was intended to "guard against too narrow, instead of too liberal, a mode of conferring the rights of citizenship.” Collet v. Collet, 2 U.S. (2 Dallas) 294 (1792), 296.
convention, Sherman reiterated that the clause “was therefore meant to guard against an improper mode of naturalization, rather than foreigners should be received upon easier terms.”

In agreement with Sherman, William Paterson hoped to extend his own states’ restrictive naturalisation policy in the New Jersey Plan, his proposal for the new national government. In doing so, he not only believed that “the rule of naturalisation ought to be the same in every state,” but, like his liberal colleagues, that this uniformity would inevitably reflect his own regional interests on migration.

While support for the naturalisation clause was extensive among restrictive commentators, it was not unanimous. Yet, much like advocates of the clause, critics often cited the broader implications that a uniform naturalisation policy might have on their own regional interests. “Though most of the states may be willing for certain reasons to receive foreigners as citizens,” Massachusetts Jurist James Winthrop contended, “reasons of equal weight may induce other states, differently circumstanced, to keep their blood pure.” Echoing an exceptionalist vision of identity that was common among restrictive commentators, Winthrop’s critique was couched in the broader cultural concern that north-eastern states, including his own, would be compromised by “foreign mixtures” who would damage their “present greatness… their religion and morals” should a uniformly liberal policy be adopted.

‘Federal farmer,’ published in Massachusetts, highlighted similar concerns. While not overtly discussing migrants themselves, he warned that federal policymaking on naturalisation would obstruct his own states’ judicial process, which was founded on “better principles” and “administered justice better than the federal courts.” Though both Winthrop and ‘Federal farmer’ opposed a uniform naturalisation policy, the regional nature of their arguments was remarkably similar to their restrictive colleagues who argued in favour. While the clause offered the potential to extend a restrictive policy nationwide, it equally risked the expansion of a liberal agenda too.

Significantly, the broader impact of the clause on migration beyond the initial process of naturalisation received almost no consideration during both the Constitutional Convention and state ratification debates. The scope of citizenship it entailed, alongside the processes of

revocation and expatriation were only legally addressed as they arose for the first time in the Supreme Court during the nineteenth and twentieth centuries. Meanwhile, the question of how ensuing naturalisation policies would be enforced remained unanswered throughout debates. As the naturalisation clause only set the framework through which policy should be made, not its substance, it seems likely that these discussions were not considered pressing during the Constitutional Convention and ratification debates. As a congressman reflected in 1813, “the [naturalisation] rule only relates to the mode; it is only operative during the nascent state of the political conversion, and it ceases to have effect the moment after the process has been completed.” The clause only required that naturalisation law be ‘uniform,’ with its intricacies to be elaborated later when that law was first created. As this chapter later considers, the implications of the naturalisation clause on the division of power between the state and national governments received significantly more commentary during ratification debates, reigniting regional debates once again.

In their analysis of the Constitution, Pfander and Wardon argue that prospectivity constituted a key component of the naturalisation clause; that migrants could rely on their ability to become citizens based upon the rules of naturalisation remaining the same from when they first arrived in the United States. Yet, the ambivalent intent of the clause during drafting debates suggests the opposite. Unlike other elements of the Constitution, such as requirements to hold federal office, the terms of the naturalisation clause were not defined and thus, were inherently variable. While this built a degree of flexibility into the new federal system, allowing policies to adapt over time to contemporary concerns, it laid bare a potentially fatal flaw. Without set constitutional parameters, the substance of policy was also susceptible to political manipulation. As later chapters demonstrate, this culminated in a series of contested policies throughout the 1790s. During the Federalist era, naturalisation policy expanded beyond the matter of citizenship alone, and instead became a mechanism through which the federal government manipulated access to the franchise. By 1802, the process of naturalisation changed four times, with residency requirements ranging from two to fourteen years. By its very design, naturalisation policy would continue to be as inconsistent under the Constitution as it had under the Articles of Confederation. In doing so, it embodied a key structural flaw.

43 Adam Seybert, ‘Seamen’s Bill: For the Regulation of Seamen on Board the Public Vessels, and in the Merchant Service of the United States,’ Mar. 3, 1813, Elliot’s Debates, 4:460-1.
45 1 Stat. 103 (1790); 1 Stat. 414 (1795); 1 Stat. 566 (1798); 2 Stat. 153 (1802).
that sat at the heart of the new federal system; without clear legal parameters, the Constitution was not a “script awaiting enactment,” as Gienapp argues, but a fundamentally incomplete legislative framework.\footnote{Gienapp, The Second Creation, 8.}

Though the naturalisation clause was seemingly the central constitutional framework for migration policy, the slave trade clause inadvertently became entangled in debates too. As delegates struggled to form a consensus on how slavery should be managed by the new federal government more generally, the slave trade quickly became a fraught issue in the Constitutional Convention. The resulting clause stipulated that the “migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808.”\footnote{US Constitution, art. 1, sec. 9, cl. 1.} Though intended to act as a mediation between states on the slave trade specifically, the clause became equally implicated in migration debates due to its ambiguous language. However, David Waldstreicher contends, the issue remained “a matter of sections and economics” during the convention: though northern delegates hoped the Constitution would provide a legitimate legal pathway to ban the slave trade, southern delegates were divided on the issue.\footnote{Waldstreicher, Slavery’s Constitution, 92-102, esp. 94; Patrick S. Brady, ‘The Slave Trade and Sectionalism in South Carolina, 1787-1808,’ The Journal of Southern History, 38/4 (1972), 601-20; George Van Cleve, A Slaveholders’ Union: Slavery, Politics, and the Constitution in the Early American Republic (Chicago, IL: University of Chicago Press, 2010), 144-53; Gordon S. Wood, Power and Liberty: Constitutionalism in the American Revolution (New York City, NY: Oxford University Press, 2021), 100-25.} While exclusive states “Georgia and South Carolina [sought] to fuel their newly emerging plantations with slaves from the Caribbean and Africa,” as Colbern and Ramakrishnan note, the “older established states of Virginia and North Carolina, who already had a large slave population, sought to limit the forced migration” of enslaved people.\footnote{Colbern & Ramakrishnan, Citizenship Reimagined, 86-7; Kenny, The Problem of Immigration in a Slaveholding Republic, 27-30.} Thus, in a continuation of exclusive sentiment that had come to dominate founding policymaking on migration in Georgia and South Carolina, delegates from both states condemned federal regulation on any type of migration, whether free or enslaved, as interference in the states’ reliance on slavery.

The framers’ reticence to explicitly use the word ‘slave’ in the Constitution unwittingly intertwined debates on migration and the slave trade clause. An early draft of the slave trade clause referred only to “the importation of \textit{slaves},” though this was later changed to the “migration or importation of \textit{such persons},” raising questions about its influence on free migration.\footnote{Emphasis added. US Constitution, art. 1, sec. 9, cl. 1.} Conscious of the ambiguity this created, Virginian delegate George Mason...
opposed the clause during the convention on the liberal economic argument that it would “prevent the immigration of whites, who really enrich and strengthen a country.”\(^{51}\) While convention records show that the redraft passed unanimously, they fail to include the debates that accompanied it.\(^{52}\) Yet, later accounts indicate that a fervent debate did occur, with the language changed to avoid “embarrassment.”\(^{53}\) Reflecting on the convention in 1804, John Parrish confirmed that the term slave had been omitted “as this would have been obviously repugnant to the bill of rights.”\(^{54}\) In a speech to the Maryland legislature, Luther Martin further similarly noted that framers “anxiously sought to avoid the admission of expressions which might be odious in the ears of Americans.” Yet, aware of the confusion this would inevitably create on migration policy, Martin recognised that “the clause is so worded, as really to authorise the general government to refer to every foreigner who comes into a state to become a citizen, whether he comes absolutely free, or... as a servant.”\(^{55}\) At the Pennsylvania Convention, delegate William Findley agreed that Congress now had the power to control both the slave trade and “prohibit the introduction of white people from Europe.”\(^{56}\) Though a lack of convention records obscures the framers’ intentions, migration evidently factored into early debates on the slave trade clause, even if only indirectly. While this ambiguity was in part accidental, Marilyn C. Baseler contends, it was also “a necessary consequence of the refusal to sanction slavery by naming it in the Constitution.”\(^{57}\) Nevertheless, the clause became implicated in constitutional debates on migration long after the convention, including on the 1798 Alien and Sedition Acts, as this thesis later explores.

Even once the terms of the slave trade clause expired in 1808, it was raised again during the accession of Missouri in 1820. Observing the clause’s apparent contradictions, Senator Walter Lowrie considered that while “one gentlemen tells us, it was intended to prevent slaves from being brought in by land; another gentleman says, it was intended to restrain Congress from interfering with emigration from Europe.”\(^{58}\) Meanwhile in the House, Charles Pinckney, who had been a delegate to the Constitutional Convention, argued that “the term, or word, migration, applies wholly to free whites; in its constitutional sense, as intended by the


\(^{52}\) Aug. 25, 1787, Madison’s Notes, *Farrand’s Records*, 2:409-16.


convention, it means ‘voluntary change of servitude,’ from one country to another.” Pinckney later inferred that the clause had been intended to allow federal regulation of all mobility within the Union, whether free or enslaved. The framers, including himself, allegedly believed that by 1808 “the Union would be so settled, and our population would be so much increased, we could proceed on our own stock, without the farther accession of foreigners.” Nevertheless, irrespective of whether the slave trade clause was designed with slavery or migration in mind, Pinckney considered it an essential protection against federal and foreign interference on the institution of slavery in his home state and the exclusive region as a whole. Without it, he believed, “the Eastern [states] would, whenever they could,” ban the forced migration of enslaved people “to the disadvantage of the southern states.” As Kenny notes, “if Congress had the power to control immigrant admissions, they feared, it could also control the movement of free black people and perhaps even the interstate slave trade.”

Though the slave trade clause was clearly designed to continue the forced mobility of enslaved people, its vague terminology would have marked implications on migration policy. As Parrish had rightly surmised, “ambiguous expressions [were] resorted to, and the supreme law of the land which should be in the most clear intelligible unequivocal language is left for constructions.” Within both the naturalisation and slave trade clauses, issues of migration were under-conceptualised, remaining secondary considerations to the potential impact on broader regional interests. A remarkable agreement between delegates from both liberal and restrictive states on the naturalisation clause shrouded the key ideological differences underlying debates. Though both groups supported notions of uniformity in naturalisation, they conceived of its impact on policy very differently. To restrictionists, the clause was praised for inhibiting access to citizenship, while liberal commentators assumed that uniformity would benefit a pro-migration ideology. Meanwhile, concerns over federal interference dominated deliberations of the slave trade clause. During the convention, objections from exclusive states Georgia and South Carolina actively threatened the Union so compromise on language was necessary, regardless of the impact other states feared this might have on migration policy. Ultimately, delegates crafted both clauses to control the influence that the federal government’s expanded role might have on regional interests and, in doing so, obfuscate difficult contemporary debates on slavery and federalism. Yet, the constitutional ambiguity this

60 Kenny, The Problem of Immigration in a Slaveholding Republic, 1.
61 John Parrish to Thomas Jefferson, Oct. 27, 1804, PTJ, 44:609-10.
produced had grave implications for future policymaking. Indeed, the clauses reflected not only the inherent flexibility that sat at the heart of the new federal system, but the potential for political manipulation too.

**Migrant Rights**

Alongside the naturalisation and slave trade clauses, the Constitution designated particular rights available to migrants residing in the United States. Above all else, the Constitution symbolised a social contract between the federal government and ‘the People’ which, while stopping short of a formalised national citizenship, set out a series of rights, privileges, and duties which US citizens could rely upon. Though these rights were neither exhaustive nor universal, contemporaries often lauded that naturalised citizens received equal protections with natural-born Americans. “Hence arises a greater equality than is to be found among the people of any other country,” Pinckney declared, heralding the seemingly universalist principles of the young republic.  

Historian Annick Foucrier echoes this optimistic sentiment, arguing that the Constitution bestowed the same rights on natural-born and naturalized citizens in all aspects, except eligibility for the presidency. Yet, the reality was far more complex. Through an amalgamation of political, social, and legal impediments, rights varied considerably between citizens and non-citizens, and natural-born and naturalized citizens. As Parker demonstrates, through constitutional “hierarchies of race, class, and gender,” not even “everyone in the native-born population was deemed a citizen or granted the rights of one,” let alone migrants. Despite promises of a universalist “darling Constitution,” one Scottish migrant concluded, it instead “laid newcomers under many legal disabilities.”

For non-citizens residing in the United States, the Constitution seemingly offered no legal rights or protections. While the vast majority of migrants arrived in the United States with every intention to stay and become American citizens, they often retained the legal status of non-citizen for several years while awaiting naturalisation, particularly in restrictive states. Meanwhile, a significant number of refugees hoped to return to their home countries, and thus had no intention of gaining citizenship. In 1868, the Fourteenth Amendment explicitly

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63 Foucrier, ‘Immigration et Citoyenneté Aux États-Unis,’ 4-21.
64 Smith, *Civic Ideals*, 1.
granted rights to “life, liberty, property,” and “equal protections of the law” to all people residing in the United States, yet the status of non-citizens was unclear prior to this point.\textsuperscript{68} Though not explicitly articulated in the original Constitution, Gerald Neuman contends that the famous preamble “We the People of the United States… secure the blessings of liberty to ourselves and our posterity,” implied that these protections had always applied to non-citizens.\textsuperscript{69} In a 1798 debate, Kentucky Representative George Nicholas suggested this to be true, arguing that the security of migrant rights had been a “great and primary consideration” of the preamble.\textsuperscript{70} Though doubtful of whether migrants did in fact constitute ‘the People,’ Madison’s recollection of the convention echoed Nicholas’ sentiments. “It does not follow,” he wrote, that “because aliens are not parties to the Constitution, as citizens are parties to it, that whilst they actually conform to it, they have no rights to its protection.”\textsuperscript{71} However, as Gurminder Bhambra contends, “the simple, seductive phrase, We the People, effaces a complex history” of citizenship and rights in the United States, particularly for migrants.\textsuperscript{72}

It seems more likely that during the Constitutional Convention, the social contract implied by the preamble was primarily between American citizens and the federal government. When the Committee of Detail inserted the famous phrase into the preamble, they emphasised that it did not refer to the rights of all people resident in the United States. Indicating the hollow nature of revolutionary rhetoric on natural rights, the committee report clarified, “we are not working on the natural rights of men not yet gathered into society, but upon those rights, modified by society, and interwoven with what we call the rights of states.”\textsuperscript{73} The assumption that non-citizens were consciously excluded from constitutional rights was echoed in a later commentary, which lamented its reticence to “complete the noble work” and “secure the blessings of liberty to ourselves, our posterity, and the emigrant, from tyranny who may fly to these hospitable shores.” Yet, this did not indicate a lack of universalist sentiment among the framers, the anonymous writer argued, but that it had been diluted to achieve consensus among more restrictive delegates. Although the framers “were influenced by the purest republican principles” when writing the Constitution, they equally “appear[ed] to have been solicitous to render it as popular as was consistent with the existence of government.”\textsuperscript{74}

\textsuperscript{68} US Constitution, Amend. 14, sec. 1 (1868).
\textsuperscript{69} US Constitution, preamble; Neuman, \textit{Strangers to the Constitution}, 5-10.
\textsuperscript{70} George Nicholas, \textit{A Letter from G. Nicholas, of Kentucky, to his friend in Virginia justifying the conduct of the citizens of Kentucky, as to some of the late measures of the general government} (Philadelphia, PA, 1798), \textit{Evans}, 1:342-35.
\textsuperscript{72} Bhambra, ‘Citizens and Others,’ 107.
\textsuperscript{73} ‘Committee of Detail IV, ’ Aug. 28, 1787, \textit{Farrand’s Records}, 2:137.
\textsuperscript{74} \textit{Boston Gazette}, Nov. 12, 1787, \textit{DHROC}, 4:221-2.
Though a lack of records obscure convention debates on the matter, contemporary state constitutions demonstrate that delegates from liberal and restrictive states enshrined migrant rights distinctively. While the 1776 Declaration of Rights in liberal Virginia declared that “all men are by nature equally free and independent, and have certain inherent rights,” the state constitution of restrictive New York sought only to “secure the rights, liberties and happiness of the good people of this colony.” Meanwhile, as Chapter One discusses, migrants received varying rights and protections across the Union, with liberal states offering greater access to property and political rights than their restrictive counterparts. Like much of the Constitution, the need to compromise between differing regional interests resulted in an ambiguous preamble. Almost a century later, whether “the framers of that instrument desired to include immigrants,” was still up for debate in the Michigan Constitutional Convention. As long as the question remained unsettled, so too did migrant rights, and the regional debates underlying them.

Even after gaining citizenship, naturalised migrants received unequal rights under the Constitution. The most obvious distinction between naturalised and natural-born citizens regarded federal office-holding requirements. Eligibility to the House of Representatives and the Senate required citizenship for at least seven and nine years, respectively. Yet, much like other constitutional debates on migration, delegates largely coalesced around the three distinct regional positions on migration. Throughout both the Constitutional Convention and ratification process, delegates from liberal states generally opposed restrictions on office-holding for naturalised citizens. When qualifications for members of the House of Representatives were first suggested early in the convention, Pennsylvania delegate James Wilson was reluctant to “abridge the rights of election in any shape.” Though delegates continued to propose increasingly lengthy residency periods throughout the convention, Wilson maintained stalwart opposition, citing the prosperity of his home state Pennsylvania, whose state legislature included naturalised migrants like himself. Similarly, Delaware delegate John Dickinson remained firmly “against any recital of qualifications in the

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77 US Constitution, art. 1, sec. 2, cl. 1; art. 1, sec. 3, cl. 3.
Constitution.” These sentiments were later echoed in liberal state conventions, who eagerly rejected the notion that Congress would be susceptible to foreign influence. During the Pennsylvania Convention, Benjamin Rush lamented exaggerated arguments “that this government was immediately to be administered by foreigners, strangers to our habits and opinions, and unconnected with our interests and prosperity.”

Reflecting the conditional nature of the liberal approach to migration, opposition to lengthy residency requirements did not always extend to support for universalist measures. Though James Madison agreed that the United States “was indebted to emigration for her settlement and prosperity,” he pragmatically added that he was not “averse to some restrictions on this subject” to guarantee the assimilation of naturalised citizens. Similarly, Pennsylvanian Tench Coxe vehemently opposed restrictions on political rights during ratification. Yet, instead of promoting a universalist approach to migrant rights, he instead argued that “a wholesome provision had been made against” foreign influence in the naturalisation clause. With the assumption that naturalised citizens would already be assimilated into American society through a prescribed residency period, a separate restriction on officeholding seemed unnecessary.

In contrast, restrictive delegates consistently supported lengthy residency periods for naturalised citizens to hold office. Fearing that naturalised citizens could be used as instruments through which “foreign powers will intermeddle in our affairs,” Massachusetts delegate Elbridge Gerry hoped that “eligibility might be confined to natives” alone.

Throughout the ratification process, these concerns were repeated by commentators across the North-East, reflecting the historic cultural concerns that migrants would somehow damage the exceptional character of American governance. Frustrated by the Constitution, James Warren, a Massachusetts politician, called for the exclusion of naturalised citizens from political office altogether. “What have you for a number of years been contending for?” he asked, “To what purpose have you expended so freely the blood and treasures of this country? To have a government with unlimited powers administered by foreigners?” In agreement, the New York Convention proposed a constitutional amendment to restrict all federal officeholding to natural-born citizens, though to no avail.

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80 John Dickinson (DE), July 26, 1787, ibid., 2:121.
81 Benjamin Rush, ‘Convention Debates,’ Nov. 30, 1787, DHROC, 2:434.
82 Madison (VA), Aug. 13, 1787, Madison’s Notes, Farrand’s Records, 2:267.
84 Elbridge Gerry (MA), Aug. 13, 1787, Madison’s Notes, Farrand’s Records, 2:267.
85 ‘The Republican Federalist VI,’ Massachusetts Centinel, Feb. 2, 1788, DHROC, 5:834-5.
remained amid cultural concerns. While commentators demanded that the political influence of migrants be limited, they equally hoped to attract “industrious labourers” to benefit the region financially. In doing so, they advocated for policies emblematic of the long-standing restrictive approach, characterising migrants as a commodified source of labour whose political influence ought to be curtailed.

However, delegates from restrictive states were relatively absent from debates on officeholding qualifications, and the majority of arguments for restriction were unexpectedly posed by delegates from Pennsylvania and Virginia instead. While delegates and commentators from these liberal states typically opposed harsh political restrictions, both had unexpectedly restrictive delegates at the Constitutional Convention, skewing debates. Gouverneur Morris and George Mason represented Pennsylvania and Virginia respectively but were ideologically opposed to other delegates from the states, and their own liberal state approaches to migration more broadly. Tabling a motion to extend residency qualifications for the House of Representatives, Mason explained that he “did not choose to let foreigners and adventurers make laws for us and govern us.” Morris quickly seconded the motion. Unsurprisingly, this provoked tension between delegates from Virginia and Pennsylvania during the convention, culminating in a heated debate on Senate qualifications. Arguing that they were more liable to foreign corruption and influence, Morris tabled a motion requiring senators have at least fourteen years’ citizenship to guard against the “danger of admitting strangers into our public Councils.” In agreement, Mason added that “were it not that many not natives of this Country had acquired great merit during the Revolution, he should be for restraining the eligibility into the Senate, to natives.”

Clearly frustrated by their colleagues’ unusually restrictive ideology, other delegates from liberal Virginia and Pennsylvania countered that long residency periods betrayed the republican ideals underlying the American Revolution. Benjamin Franklin was “very sorry to see anything like illiberality inserted in the Constitution,” particularly as “many strangers served us faithfully” during the Revolution. Invoking universalism, Virginia delegate Edmund Randolph “reminded the Convention of the language held by our patriots during the Revolution… many foreigners may have fixed their fortunes among us under the faith of these

88 Mason (VA), Aug. 8, 1787, Madison’s Notes, Farrand’s Records, 2:216.
89 Aug. 9, 1787, ibid., 2:235.
invitations.” A Scottish migrant, Wilson took personal offence to his colleagues’ remarks, and “rose with feelings which were perhaps peculiar” that “if the ideas of some gentlemen should be pursued, of his being incapacitated from holding a place under the very Constitution which he had shared in the trust of making.” In a sharp retort, Morris remarked, “we should be governed as much by our reason, and as little by our feelings as possible.” Though it received the backing of most restrictive delegates, Mason and Morris’ motion was eventually overruled by their liberal Virginia and Pennsylvanian colleagues on three separate occasions. While the debate was characterised by internal dissent, the potency of liberal arguments, and indeed regional interest, once again saw the measure succumb to compromise. As this thesis later explores, this not only engendered conflict on the nature of the Constitution, but also adherence to regional interests on migration too. Indeed, this marked one of many occurrences where policymakers sought to extinguish dissent coming from within the same region.

Demonstrative of their exclusive regional approach, delegates from Georgia and South Carolina also supported long assimilation periods for naturalised citizens to gain political rights, despite having relatively liberal state migration and naturalisation policies. Though migrants could be naturalised as citizens with “all the rights, privileges, and immunities, to that character belonging” in both states after just one year, they could neither elect nor be elected to political office without a special act of the general assembly. During the convention, exclusive states were the only two to consistently vote for increasing restrictions on political rights. Georgia delegate, Abraham Baldwin was bemused that “extending the disqualification to foreigners now citizens” would be an issue, as it “was not more objectionable than that of age which all had concurred in the propriety of.” Meanwhile, Pierce Butler of South Carolina was “strenuously against admitting foreigners into our public councils,” claiming “they bring with them, not only attachments to other countries; but ideas of [government] so distinct from ours that in every point of view they are dangerous.” An Irish migrant himself, he believed that “his foreign habits, opinions, and attachments would have rendered him an improper agent in public affairs” for several years after his arrival in the republic. Similar to debates on naturalisation and the slave trade clause, exclusive arguments demonstrated a shared fear of

90 ibid., 2:236-7.
91 Massachusetts and Connecticut were the only restrictive states to oppose the motions. Though delegates’ absence from the record obscures the reasons behind this, it seems likely from the restrictive nature of discourse that the measures were deemed still too liberal. ibid., 2:237-9.
92 Cooper et al., The Statutes at Large of South Carolina, 4:746-7; Candler, The Colonial Records of the State of Georgia, 19/2:375-8.
93 Abraham Baldwin (GA), Aug. 13, 1787, Madison’s Notes, Farrand’s Records, 2:267.
94 Pierce Butler (SC), Aug. 9, 1787, ibid., 2:235-6.
external influence on state politics, whether federal or foreign in nature. Concerned that the measure would subsume state sovereignty, ‘A Georgian’ further argued that “Congress should have no power over elections within the states.” John Rutledge of South Carolina instead proposed an in-state residency requirement, referring to the distinctive nature of his region. “An emigrant from New England to South Carolina or Georgia would know little of its affairs,” he argued, “and could not be supposed to acquire a thorough knowledge” without a degree of assimilation. Whether it be from naturalised citizens, other states, or the federal government, exclusive politicians and commentators prioritised maintaining control of their own policies, and by extension, their sovereignty as self-governing states.

Alongside residency qualifications to participate in the federal legislature, the Constitution restricted the presidency to natural-born citizens alone. While citizenship requirements for Congress were discussed at length during the Constitutional Convention, the presidency received comparatively little attention. First mentioned near the end of the convention, the original clause only stipulated a residency requirement of twenty-one years but did not necessitate natural-born citizenship. This was later revised and passed by committee in its final format without any recorded debate or vote; a notably swift process compared to the extensive debates on congressional qualifications. The committee comprised a delegate from each state (except Rhode Island and New York), so in theory should have contained the variety of regional interests that had characterised prior debates. However, Morris and Mason represented Pennsylvania and Virginia respectively, leaving their liberal-minded colleagues largely out of the debate. Uninhibited by the most vocal critics of restrictionism in the convention such as Wilson and Randolph, it seems likely that the clause passed committee with little resistance. It was further ignored both in state ratifying conventions and contemporary debates on the Constitution. Only commentators in Massachusetts critiqued the clause, hoping to secure even further cultural restrictions based on the religious background of candidates. While the role of particular states or regions on the clause remain unclear, the

97 John Rutledge Jr. (SC), Aug. 8, 1787, Madison’s Notes, Farrand’s Records, 2:216.
98 US Constitution, art. 2, sec. 1, cl. 5.
100 Sept. 4, 1787, ibid., 2:495.
101 ‘Preliminary Instructions,’ Massachusetts Ratifying Convention, Dec. 17, 1787; Agrippa XVI, Massachusetts Gazette, Feb. 5, 1787, DHROC, 5:868, 902.
relative absence of liberal ideas in the committee likely negated the need for the drawn-out
debate and compromise that characterised other clauses on migration.

The comity clause also constituted a new area of federal jurisdiction for the rights of
naturalised citizens. By ordaining that “the citizens of each state shall be entitled to all privileges
and immunities of citizens in the several states,” the clause theoretically standardised
citizenship across the republic. However, in her survey of antebellum state migration law,
Kate Masur contends that the clause was not as decisive in asserting federal rights as perhaps
intended. The similarly worded clause in the Articles of Confederation, which granted the
“free inhabitants of each of these states… all privileges and immunities of free citizens in the
several states,” conflated the rights of migrants and citizens. Madison criticised its
remarkable “confusion of language,” questioning “why the terms free inhabitants, are used in
one part of the article; free citizens in another.” As Chapter One discusses, this was further
complicated by the inconsistency of rights available to natural-born citizens, naturalised
citizens, and migrants across different states throughout the confederation period. Alongside
the naturalisation clause, historian Foucrier argues, the comity clause was designed to offset
these discrepancies. It received overwhelming support throughout the Constitutional
Convention, appearing in both the Hamilton and Pinckney plans in almost identical language,
and passed with a large majority. However, much like other clauses that sought to federalise
rights, the most significant opposition to the comity clause came from exclusive delegates.
While Georgia delegates remained divided on the clause, South Carolinian delegates outright
voted against it. Charles Cotesworth Pinckney was “not satisfied with it,” and instead hoped
that “some provision should be included in favor of property in slaves,” highlighting the clear
motives of the region. Once again, exclusive delegates remained preoccupied with the role
of slavery within their own states, opposing any element of the Constitution that posed a
potential threat to it.

Ultimately, the language of rights in the Constitution’s comity clause remained as
unclear as the Articles of Confederation. While framers were largely united in their support for
uniform “privileges and immunities,” at no point during either the convention or ratifying

103 Masur, ‘State Sovereignty and Migration before Reconstruction,’ 588-611.
104 Articles of Confederation, art. 4, sec. 2, cl. 1.
107 Charles Pinckney (SC), ‘The Pinckney Plan,’ May 29; Hamilton (NY), ‘The Hamilton Plan,’ June 18, 1787,
Farrand’s Records, 3:601; 617.
108 Charles Cotesworth Pinckney (SC), Aug. 28, 1787, Madison’s Notes, Farrand’s Records, 2:244.
debates did they discuss what this actually entailed, especially for naturalised citizens. Only with the 1857 Dred Scott case were the rights of naturalised citizens recognised within the comity clause, almost seventy years after the Constitution’s ratification.109 Prior to this, the clause’s remit was unclear and unenforceable. Moreover, the question of who held the authority to define these privileges - the federal or state governments - remained unanswered for much of the founding period. To Hamilton, the case (or controversy) clause remedied the issue by empowering the federal judiciary to oversee cases “between two or more states; between a state and citizens of another state; between citizens of different states... and between a state, or the citizens thereof, and foreign states, citizens, or subjects.”110 However, this theoretically allowed the federal government to intervene in conflicts between two or more states, each with distinctive policies defining the rights of naturalised citizens. Without a mutually agreed set of privileges and immunities for the judiciary to follow, delegates worried that the federal government would unfairly favour particular states and undermine state sovereignty. During the Virginia Convention, Madison considered the case clause “improper and inadmissible,” while Samuel Jones, a delegate to the New York Convention, lobbied to remove the clause altogether.111 While delegates overwhelmingly supported the idea of a comity clause, they remained hesitant to define it. As this thesis later explores, this ambiguity had profound implications for the rights of naturalised citizens and the contestation of US citizenship more generally throughout the 1790s.

Under the Constitution, the terms of citizenship were both unclear and inconsistent, creating a spectrum of rights that varied for migrants, naturalised citizens, and natural-born citizens. This was not a unique quality of migration policy, but of the identity crisis that occurred at the founding of the American republic. Delegates struggled to resolve fundamental conflicts between liberal and restrictive visions of US citizenship, leaving the content of several constitutional clauses undefined, and much like naturalisation, susceptible to future discretion and manipulation. Though an expansive preamble and comity clause received near-universal support, delegates stopped short of defining these in concrete terms, hoping that this would preserve their own regional policies, either at a state or federal level. Much like the decades preceding the Constitution, restrictive delegates welcomed migrants for economic

109 *Dred Scott v. Sandford* (1857), 403-11. The rights included in the comity clause were first articulated under the 1823 Supreme Court case *Corfield v. Coryell*, but this again overlooked naturalised citizens. *Corfield v. Coryell*, 6 Fed Cas. 546 (1823).


productivity, though with the proviso that they should have limited access to US citizenship and its associated rights. Conversely, liberal delegates promoted a more expansive vision of citizenship and rights for migrants, though one that was again conditional. Hindered by delegates that did not adhere to established regional interests, the liberal vision suffered most in compromises made during the convention. Meanwhile, believing their own sovereignty to be under siege, particularly regarding slavery, exclusive delegates from Georgia and South Carolina shared a uniquely restrictive position on political rights. What emerged was an unclear designation of rights and an unresolved regional debate on the nature of US citizenship which would inevitably rear its head once again.

**Migration Jurisdiction**

The Constitution divided jurisdiction on migration between the federal and state governments. While the naturalisation clause gave the federal government a seemingly clear mandate to shape access to citizenship, they were further empowered on migration during the founding era through other clauses, such as the commerce and general welfare clauses. Recent scholars critique this assumption of federal powers, arguing that constitutional clauses on commerce, general welfare, and common defence disregarded issues of migration. Accordingly, to Kunal Parker, “the Constitution did not - and still does not - explicitly vest an immigration power in the federal government.” However, though convention debates centred on commerce and national defence, commentators near-unanimously welcomed the prospect of a strong, regulated government to promote economic migration. Yet, what this involved in practice, both in terms of the scope of federal power and the content of policies, remained unclear. Meanwhile, with the Tenth Amendment reserving any powers that had not been explicitly enumerated to the federal government with state governments, the Constitution still emboldened state sovereignty on migration. Consequently, an ambiguous division of power emerged between states and the federal government, one that would come to define migration debates throughout the 1790s.

The most significant expansion of federal power on migration was rooted in the Constitution’s naturalisation clause, empowering Congress to create a unilateral policy. While


the policy had to be uniform, the clause did not stipulate requirements for naturalisation, leaving the matter open to congressional discretion. Throughout the convention, the issue raised little debate and most delegates agreed that “naturalization ought to be the same in every state.” However, delegates stopped short of granting Congress exclusive power over naturalisation, suggesting a reluctance to dismantle state policies. Once the Constitution entered the ratification process, this hesitancy was reflected in public commentaries. ‘Philadelphinesis’ feared that the unchecked power given to Congress would undermine the liberal policies of his own state. Appealing to the revolutionary notion of the American asylum, he argued that “nothing short of pure liberty is consistent with revolutionary principles; the temple of freedom that was raised in America, was intended by providence to be the asylum of the poor and the oppressed of every nation and every clime.” Yet, under the new naturalisation clause, Congress could autonomously “lop off one half of our sacred rights and privileges... and the remainder are generally left insecure, and therefore must eventually be lost too.” Meanwhile, commentators from north-eastern states were equally concerned that an undefined federal naturalisation power would undermine their states’ restrictive policies. To ‘Agrippa,’ naturalisation was a matter of “internal regulation,” an element of policy which the federal government should have no influence over. Similarly, New York Justice Robert Yates warned that the naturalisation clause violated the State Constitution and Declaration of Rights, leaving them “entirely nugatory.” An anti-federalist, he contended that this was just one of many areas in which “the new constitution will prove finally to dissolve all the powers of the several state legislatures.” Though unconcerned with Philadelphinesis’ invocation of the American asylum, both writers shared their broader fear that an expanded and undefined federal power over naturalisation would undermine their own states’ regional interests.

However, critiques were quickly stifled by federalist commentators in the North-East, who predictably supported the naturalisation clause as an appropriate function of the new federal government. “Is it not reasonable that these matters shou’d be done with uniformity thro’ ye states?” Justice of the Massachusetts Supreme Court, Nathaniel Peaslee Sargeant posed, “can these great objects ever be accomplished without making laws to bind all persons

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114 Paterson (NJ), Madison’s Notes, June 15; Committee of Detail IV, July 24; Committee of Detail VII, Madison’s Notes, July 26; Committee of Detail, Aug. 6, Madison’s Notes; Charles Pinckney, ‘Observations on the plan of Government submitted to the Federal Convention in Philadelphia,’ May 28; ‘The Draught of a Foederal Government to be Agreed Upon between the Free and Independent States of America,’ May 29, 1787, *Farrand’s Records*, 1:245; 2:144, 158, 182, 3:120, 609.


in ye Jurisdiction?" In a pamphlet published extensively across the North-East, ‘Federal Farmer’ agreed with ‘Agrippa’ that naturalisation was a matter of internal regulation, but instead argued that the “many powers that respect internal objects ought clearly to be lodged” in the federal government, not the states. To them, naturalisation was a function of citizenship that bound states together, and thus required federal arbitration. Similarly, Connecticut delegate Sherman refuted claims that a federal power over naturalisation would undermine state sovereignty. “The powers vested in the federal government are particularly defined, so that each state still retains its sovereignty,” he reasoned, adding that “these powers appear to be necessary for the common benefit of the states and could not be effectually provided for by the particular states.” Though delegates from restrictive states were confident that a uniform naturalisation policy would benefit their own approach to migration, as this chapter demonstrates, they equally framed the matter within broader concerns of federalism; another key regional interest.

Beyond naturalisation, the Constitution further empowered the federal government on migration through the general welfare and commerce clauses, albeit indirectly. Together, the clauses empowered Congress to “provide for the common defence and general welfare” of the United States, and “regulate commerce with foreign nations, and among several states.” While neither clause had an explicit remit on migration, delegates considered the influence of both on foreign relations and national security. Laying out his plan for commerce in the Constitution, Hamilton supported congressional intervention in “all matters relating to their revenues,” including “in which the citizens of foreign nations are concerned.” Though discussion of both clauses centred around issues of taxation and collectivising local militia at the national convention, they received unanimous praise for their potential to promote economic migration during state ratification debates. Indeed, while commentators from liberal, restrictive, and exclusive regions held distinct ideas about the potential dangers of migration, they were resolutely agreed on its financial benefits. In a typically liberal argument, Maryland Governor John Eager Howard praised the philanthropic benefits of the commerce clause, but

118 Nathaniel Peaslee Sargeant to Joseph Badger, 1788, DHROC, 5:567.
121 US Constitution, preamble; art. 1, sec. 8, cl. 1, 3.
also noted its potential to encourage productive workers. “Beside the common advantages of a well-regulated trade,” he argued, “the arts of Europe [will] cross the Atlantic and settle here. Thousands of industrious poor... will transplant themselves into this happy soil and enrich the United States.” George Washington echoed this sentiment, believing the clauses would promote a sense of “national respectability” on the global stage. “An energetic general Government” he argued, would undoubtedly “render this country the asylum of pacific and industrious characters from all parts of Europe, would encourage the cultivation of the Earth.” Though both Howard and Washington keenly invoked the idea of the American asylum, they equally made clear their desire for “industrious” migrants specifically.

In an unusual agreement, both restrictive and exclusive commentators concurred with their liberal colleagues. Though keen to minimise foreign influence on political institutions and American citizenship, politicians from both regions hoped to reap the financial gains of economic migration. In a speech to the South Carolina Convention, David Ramsay praised that “the public benefits which will flow from a constitutional ability to direct the commerce of these states on well-regulated permanent principles, will enable us once more to raise our heads and assume our proper rank among the nations,” attracting migrants from “old countries overstocked with inhabitants.” Not only would a well-regulated, cohesive federal government improve the reputation of the United States among ‘old’ nations, Ramsay argued, it would serve mercantilist aims, advancing the United States at the detriment of European countries. “Within one century,” he added, “the citizens of the United States will probably be five times as numerous as the inhabitants of Great Britain.” In agreement, a Massachusetts writer argued that a robust approach to commerce would see migrants “flocking to America” and in doing so, “this continent will soon become, under the new government, the delight and envy of the European world.” Though wary of integrating migrants into American society as expansively as their liberal counterparts, restrictive and exclusive commentators lauded the commerce and general welfare clauses for promoting their own regional interests. In conjunction with constitutional barriers to citizenship and rights, they remained confident that

123 John Howard to George Thatcher Smithtown, Feb. 27, 1788, DHROC, 16:229-30.
126 James Bowdoin to George Erving, Aug. 12, 1788, Charleston City Gazette, Apr. 15, 1788; ‘Dialogue between King Leo and His Servants,’ Columbian Herald, May 5, 1788, DHROC, 18:324; 27:260, 262.
both clauses would produce the economic benefits of migrations without “the unjust impositions of foreigners.”

Built into the naturalisation, general welfare, and commerce clauses was the potential for significant political discretion. While each clause empowered Congress in a distinct policy area, their terms were expansive, undefined, and could be legislated in a variety of ways. Consequently, ensuing policies were essentially subject to the whims of whomever held a congressional majority and, as Chapter Five explores, furnished the potential for partisan manipulation. A committee of detail report recommending the Constitution “insert essential principles only,” suggests that this had been intentional, “lest the operations of government should be clogged by rendering those provisions permanent and unalterable, which ought to be accomodated to times and events.” In short, the committee believed the Constitution should be flexible to contemporary issues. Though the clauses’ designation of congressional power on migration specifically remained unresolved throughout the convention, a retrospective account from Madison infers that it was not intended to be quite so expansive. “It was not the intention of the general or of the state conventions to express, by the use of the terms common defence and general welfare, a substantive and indefinite power,” he recounted, regretting that the phrase “conveys a distinct substantive power” to Congress. This did not go unnoticed in ratifying conventions. Former Virginia Governor Patrick Henry warned that such “unlimited authority” could “lead to despotism” in the federal government. Similar concerns were raised in the Massachusetts Convention, “whether the powers given to Congress are not too general… whether these words ‘and provide for the Common Defence and general welfare of the united States,’ may not be construed to extend to every matter of legislation?” Ultimately, one delegate concluded, the clauses were mere “ornament[s] to the page… too general to be understood as any kind of limitations of the power of Congress, and not very easy to be understood at all.” Though this had little impact on the Constitution’s ratification, the undefined nature of congressional power would have severe implications on the development of migration policy. Without any legal parameters,

130 Committee of Detail IV, July 24, 1787, Farrand’s Records, 2:137.
131 James Madison to Andrew Stevenson, Nov. 17, 1830, Farrand’s Records, 3:491.
133 Original emphasis. Silas Lee to George Thatcher Biddeford, Jan. 23, 1787, DHROC, 5:782.
Congress was empowered to create a broad range of policies on migration, no matter how controversial or partisan.

Despite expanded federal powers, state governments still retained significant control over migration during the founding period. Under the Tenth Amendment, set out in the Bill of Rights, the “powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively.”\textsuperscript{135} Thus, as Congress was granted limited constitutional powers on migration that were neither exclusive nor concretely defined, state governments could still enforce their own policies concurrently. Though this bifurcation of authority was seemingly one of many constitutional ‘checks and balances,’ it instead forged an ambiguous congressional remit on migration, especially on naturalisation. As the Constitution did not designate Congress an exclusive right to naturalise migrants, state governments could continue to enforce existing laws, even if on different terms. Thus, Aristide R. Zolberg demonstrates, while “the decision insured that the boundaries of the political community would henceforth be determined nationally, the Constitution also retained the distinction between citizenship in a state and in the United States, thereby allowing for some ambiguity.”\textsuperscript{136}

Even after the first national naturalisation act was passed, the Supreme Court ruled that “states, individually, still enjoy a concurrent authority upon this subject” in 1792.\textsuperscript{137} As the next chapter explores, state governments embraced this ruling, and continued to naturalise migrants in line with their own regional interests. Accordingly, until nearly a decade after ratification, delegates attained the naturalisation clause they intended; one that did not get in the way of their own regional norms on migration, but also had the further potential to furnish their interests in national policy. Meanwhile, the ill-defined legal boundaries of constitutional clauses on migration, namely the general welfare and commerce clauses, left the scope of congressional power unclear. Though, as historians like Somin and Parker contend, neither clause was designed on migration specifically, it was certainly a consideration throughout ratification debates. Crucially, the vague nature of the Constitution justified an ever-increasing federal mandate on migration throughout the founding period. As this thesis later demonstrates, these debates were unearthed once again with the controversial 1798 Alien and Sedition Acts, indicating the unclear scope of federal power and policymaking on

\textsuperscript{135} US Constitution, Amend. 10 (1791).
\textsuperscript{136} Zolberg, \textit{A Nation by Design}, 85.
\textsuperscript{137} \textit{Collet v. Collet} (1792), 296.
migration. Yet, the debate did not end here. Both clauses were invoked by Chief Justice Marshall in 1821 to argue that “the power of exclusion of foreigners [was] an incident of sovereignty belonging to the government of the United States.” By 1882, the Chinese Exclusion Act normalised an expansive federal power on migration, setting a constitutional precedent that has endured for well over a century. The unclear scope of federal power on migration foreshadowed its inevitable expansion throughout the founding era and beyond, creating fertile ground for political conflict on the issue.

Throughout convention debates, delegates promoted a dualist approach to policymaking that was common in the early republic, according to Gautham Rao, dividing control over migration between “a strong central administration and distant officeholders.” However, the vague framework of the Constitution left not only the remit of federal power unclear, but the content of migration policies too. Under the Tenth Amendment, state governments continued to enforce existing policies on mobility, naturalisation, and migrant rights, and thus pursue their own regional approaches. Meanwhile, delegates and commentators remained confident that any ensuing federal policies would benefit their respective liberal, restrictive, and exclusive interests. Among these was the shared belief that an energetic, well-regulated federal government would attract industrious migrants, bolstering the growing American economy. Yet, at the heart of this constitutional compromise rested an unresolved debate and a fundamentally unfinished federal framework. Without a clear mandate, policymakers inevitably continued to debate the scope of federal power with their own regional interests in mind. With “questions unseen or unattended to in the Philadelphia Convention,” Kettner contends, the “emergence of new problems of practical policy and political principle” were inevitable. Rather than allowing the federal and state governments to legislate in tandem, the Constitution paved the way for a series of conflicts on migration that would dominate policymaking throughout the 1790s.

Conclusion
The Constitution was, and remains, ambiguous on migration. From its inception, it was inherently vague, but equally furnished the potential for an expansive federal policy that spanned several seemingly unrelated clauses, such as the slave trade, commerce, and general

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138 Cohens v. Virginia, 6 Wheat. 264 (1821), 413.
139 22 Stat. 58 (1882); Chae Chan Ping v. United States (1889).
welfare clauses. Even when framers agreed upon defined elements of policy, such as uniform naturalisation, they failed to consider what this meant for the content and enforcement of legislation in real terms. Meanwhile, the jurisdiction of migration policymaking remained unclear, leaving potential for conflict with state governments throughout the founding period. This was no accident. Though debates were both brief and infrequent during the Constitutional Convention, politicians, writers, and commentators across the Union fervently argued for a migration framework that would reproduce their own existing state policies at a national level while safeguarding historic regional interests. Much like other areas of the Constitution, this unclear framework did not reflect a lack of imagination among the framers on the scope of migration regulation, but a hard-fought compromise produced by their competing interests and the regional variations that informed them.

Throughout the Constitutional Convention, politicians and commentators from north-eastern states consistently promoted an exceptionalist vision of American citizenship, reinvigorating the restrictionist colonial belief that the region had been populated with a distinctly ‘pure’ people in a national context. Though confident that migrants could prove economically beneficial as a labour force, restrictionists remained fearful of foreign influence on American identity and society. “It was one thing to welcome immigrants to labor,” Fuchs notes, but “quite another to welcome them as citizens.”142 With the belief that migrants could never truly be American, delegates from the region consistently argued for tighter controls on naturalisation, rejecting the idea that migrants should be able to share the rights and privileges enjoyed by natural-born citizens. This manifested in significant support for the naturalisation clause, and the broader expansion of federal power on migration and citizenship. Yet, restrictionists advocated for a uniform method of naturalisation with the assumption that it would limit foreign influence through greater restrictions on migrants, entrenching their own regional ideas into national policymaking. Meanwhile, delegates from the region sought to limit the constitutional rights of migrants and naturalised citizens, reducing their political footprint in the new nation. Through demands for extensive qualifications for political office, if not exclusion altogether, restrictionists hoped to sanitise the new national government from foreign influence, much like they had at a state level. Though this was a popular policy agenda throughout much of the region, it did not go unchallenged in national discourse.

142 Fuchs, The American Kaleidoscope, 12.
Conversely, delegates and commentaries from liberal states reiterated the importance of migration to their national vision. Invoking revolutionary ideals like volitional allegiance, they contended that American citizenship was inherently inclusive, forged not through nationality, but shared civic ideas. This prompted a remarkable agreement with restrictionists on several constitutional provisions, including naturalisation and the expansion of federal power on migration. However, liberal delegates held a vastly different understanding of what national policies would arise from this constitutional framework. Though they agreed that a well-regulated government would stimulate economic migration, they assumed that an expanded federal power on naturalisation would promote the integration of migrants into American citizenship and society more broadly. Yet, demonstrating the conditional nature of liberal ideology on migration, delegates did not advocate for a universalist approach. Instead, their expansive vision of rights for naturalised citizens remained contingent on the assumption that migrants would become acculturated into American society through the naturalisation process. Though this was not explicitly enumerated in the Constitution, much like their restrictive counterparts, liberal delegates assumed this ambiguity would promote their own approach to migration, expanding it on a national scale.

For delegates from exclusive states Georgia and South Carolina, migration debates hinged on a completely different issue: slavery. Reiterating concerns that had dominated the region since the Revolution, delegates hoped to safeguard the institution from both foreign and federal interference in the new system of government. Though many southern states hoped the Constitution would maintain the United States’ designation as a slaveholding republic, Georgia and South Carolina had a distinct vested interest in the forced migration of enslaved people. This intersected with migration debates in two crucial ways. First, in-keeping with established regional norms and policies, exclusive delegates sought to minimise the role of migrants and naturalised citizens in political institutions, fearing that foreign influence could threaten slavery in their states. Second, it established the slave trade clause as a site of conflict on the jurisdiction of migration. Despite assurances by convention delegates that the clause had not been intended to include free migration, its ambiguous language placed the scope of federal power on the issue in doubt. In doing so, exclusive delegates inextricably linked slavery and migration not only in constitutional debates, but in ensuing discourse on policymaking too.

Though these distinct regional approaches had existed long before the Constitution, convention debates brought them into conversation, and ultimately tension, with one another
for the first time. In some areas, such as political rights for naturalised citizens, the difference in regional ideologies prompted extensive debates. Meanwhile, the shared belief that the federal government ought to have an expansive remit on migration policymaking, even where delegates disagreed on what that policy should be, meant that other clauses received little to no discussion. Consequently, both the content and jurisdiction of key policy areas such as naturalisation and migrant rights remained unclear. Yet, this did not indicate apathy among framers, but a shared assumption that this ambiguity could be capitalised upon to uphold their own regional interests. This not only assured that the Constitution became an instrument for migration policymaking, but also a site of conflict among liberal, restrictive, and exclusive politicians going forward. Moreover, reflecting the incomplete nature of the new federal framework, the Constitution further guaranteed that migration policymaking would not only be flexible to the concerns of future governments, but liable to their political whims too. As different elements of the Constitution were employed for the first time, and as politicians sought to imbue the document with their own ideas about citizenship and identity, this conflict would continue to rear its head throughout the 1790s. In doing so, regional debates on migration were destined to become broader and more controversial than ever before.
Chapter Three

A ‘Uniform’ Policy? Regional Division & the 1790 Naturalization Act

“He did not recollect an instance wherein gentlemen’s ideas had been so various as on this occasion; motions and observations were piled on the back of each other, and the committee, from the want of understanding the subject, had involved themselves in a wilderness of matter, out of which he saw no way to extricate themselves.”

Theodore Sedgwick, Feb. 9, 1790, Annals of Congress

During the drafting of the 1790 Naturalization Act, Massachusetts Representative Theodore Sedgwick remarked on the unexpectedly lengthy and contentious nature of debate. Though the Constitution had set out a new framework for migration, its vague terms did little to assuage regional divisions over both the scope and jurisdiction of policymaking. Consequently, when the new naturalisation bill arrived on the floor of Congress mere months later, a ferocious debate ensued, leaving liberal, restrictive, and exclusive politicians fraught at the conflicting arguments of their colleagues. Several representatives complained that the debate had become “much controverted,” and “protracted beyond my expectations.” Another, dumbfounded by the heated discussion, admitted that he was “at a loss to conceive what was the prevailing opinion.” The controversial debates reflected the array of regional interests on migration, illustrating the importance politicians placed on both maintaining their own established state policies, while extending them on a national level. Yet, the 1790 act did not relieve ideological tensions on the issue, but only stoked them further. Before long, as Erik Mathisen notes, it “turned an opaque constitutional definition into a disquieting problem.”

For the few historians that consider the long-term influence of regional interest on policymaking, the 1790 Naturalization Act is often considered an epilogue. Marilyn C. Baseler

contends that there were three distinct positions on migration during the early 1790s, though does not connect them to their regional origins: idealists who sought to revive the American asylum through liberal migration policies; moderates who were satisfied with a short assimilation period for migrants; and xenophobes who would rather leave lands unoccupied than welcome migrants who lacked the “experience or principles necessary to uphold ‘true’ republicanism.” Yet, she concludes that the liberal terms of the 1790 Naturalization Act demonstrated that idealists dominated migration debates and proved successful in shaping policy. Despite her long-term analysis of regionalism in both the colonial period and late 1790s, Susan F. Martin adopts Baseler’s model of the 1790 act verbatim, leaving these ideological positions unconnected to historic regional interests. Lawrence Fuchs equally articulates the same three positions, but explicitly connects them to colonial regional interests: Pennsylvanian idealism; a Virginian ‘non-citizen labour force’; and New England cultural anti-migration. However, like Baseler and Martin, Fuchs embraces a liberal reading of the Naturalization Act, arguing that it proved “the Pennsylvania approach to procuring worker-citizens prevailed.” In making this assumption, all three historians overstate the liberal nature of the 1790 act while undermining the leverage of restrictive and exclusive interests in its drafting.

Though Aristide R. Zolberg largely dispenses with a regional approach in his analysis of the post-revolutionary period, he briefly considers the influence of colonial state characteristics on the 1790 Naturalization Act. Like Fuchs, Zolberg concludes that a liberal, pro-migration agenda was successfully spearheaded by politicians from Pennsylvania, New York, and other ‘western states.’ Meanwhile, he argues, the measure was opposed by a new coalition of representatives from New England and the South, a region omitted in his earlier analysis. However, by overlooking the historic exclusive ideology of Georgia and South Carolina, Zolberg incorrectly characterises this as a “coalition of unlikely bedfellows,” missing the overlapping interests of the two regions. In reality, as previous chapters demonstrate, representatives from both exclusive and restrictive states had long-standing, and largely independent, motivations to oppose the 1790 act. While restrictive politicians sought to limit access to citizenship for migrants, their exclusive colleagues opposed the expansion of federal power on the issue altogether. Though all four historians foreground regionalism in both the

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7 Fuchs, *The American Kaleidoscope*, 16.
colonial and confederate periods, they understate both its complex nature and entrenched influence in federal debates long after independence. In doing so, they not only miss the historic regional conflict underlying the 1790 Naturalization Act, but crucially, how it foreshadowed later partisan debates on migration.

In contrast to depictions of an overwhelmingly liberal law, the 1790 Naturalization Act would be better characterised as a hard-fought compromise, embodying the antagonistic interests of policymakers. A hangover of unresolved constitutional debates, the act amplified regional conflict over both the scope of migration policy and its jurisdiction. Much like the Constitutional Convention, representatives from liberal states continued to advocate for relatively easy access to citizenship, whilst their restrictive colleagues instead hoped to inhibit naturalisation. Meanwhile, exclusive politicians opposed the expansion of federal power on migration, concerned that it could eventually threaten the institution of slavery. Even after the 1790 act came into effect, states continued to legislate migration policy independently, but focussed primarily on the rights of citizenship, rather than mobility and naturalisation. In doing so, policymakers continued to assert established regional approaches to migration policy at a state level, while arguing for their implementation on the national stage, including those from new states Kentucky and Vermont. Meanwhile, politicians gradually coalesced into voting blocs in Congress, viewing their interests on migration as no longer confined to their own respective states, but their regions as a whole. Not only did this ensure the continuation of heated debates on both the content and jurisdiction of migration policy, but the increasingly partisan character they would soon inhabit.

The 1790 Naturalization Act

Among the many priorities laid out in his first annual message, President George Washington emphasised that a new federal naturalisation policy ought to be “speedily ascertained.” Congress agreed the matter “shall receive such early attention as [its] respective importance requires,” forming a committee just days later. The ensuing 1790 Naturalization Act, the first federal migration law in the United States, authorised the naturalisation of “any alien, being a free white person” following two years’ residency and an oath of allegiance before “any common law court of record.” The terms of the act were relatively generous, reflecting those

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11 1 Stat. 103 (1790).
of liberal states like Pennsylvania and Delaware. For many foundational historians, such as Maldwyn Jones, this demonstrated that pro-migration principles and “faith in the asylum ideal [were] shared by a majority of Congress.” Recent works are more sceptical about the role of universalism in pro-migration sentiment, but nonetheless agree that the act was “optimistic, extremely progressive,” and “unprecedentedly liberal.” However, by centring liberal migration politics, these works omit the important role of opposition during the drafting process. Baseler and Robbie J. Totten offer a more nuanced analysis of the 1790 act, deeming it the product of lengthy debate and compromise. To Baseler, it was ultimately a “compromise measure that fell short of the visionary goals of American idealists.” Yet, both historians overlook the crucial role of regionalism which not only fuelled opposition to the act, but also connected it to broader debates on migration and citizenship throughout the 1790s. Far from a liberal consensus, the 1790 Naturalization Act was forged by a clash of regional opinions on migration. Over the two-month drafting process, its liberal terms were significantly tempered, illustrative of the political weight of restrictive and exclusive interests. Meanwhile, liberal representatives were equally hesitant to embrace a universalist vision of migration, hoping to maximise the economic productivity of migrants while minimising their unchecked influence on political institutions.

Despite the seemingly liberal terms of the 1790 Naturalization Act, the original bill had been even more so. The first draft granted migrants “all the rights of citizenship” after just one year, and the ability to hold political office in both state and federal governments after a further two years. The generous terms reflected the regional makeup of the three committee members who authored the bill: Thomas Hartley of Pennsylvania, Andrew Moore of Virginia, and South Carolinian Thomas Tudor Tucker who staunchly supported pro-migration provisions as a Bermudan migrant. Unsurprisingly, liberal representatives were the most ardent defenders of the bill during initial House debates. If anything, Virginian Richard Bland Lee surmised, the residency period could be shortened even further, as this would only “tend [to] considerably encourage migration.”

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13 Jones, American Immigration, 81-2.
16 Baseler, Asylum for Mankind, 259.
asylum, fellow Virginian John Page agreed that “we shall be inconsistent with ourselves if, after boasting of having opened an asylum for the oppressed of all nations… we make the terms of admission to the full enjoyment of that asylum so hard.” In doing so, he promoted the liberal notion of volitional allegiance, arguing that American citizenship should be accessible to all migrants, irrespective of nationality. “It is nothing to us, whether Jews or Roman Catholics settle amongst us; whether subjects of Kings, or citizens of free States wish to reside in the United States,” Page concluded, “they will find it in their interests to be good citizens and neither their religious nor political opinions can injure us, if we have good laws, well executed.”

Though ostensibly pro-migration, Page’s speech equally implied the need for legal protections against ‘injurious’ foreign influence, reflecting the conditional nature of the liberal approach to migration. Though migrants should be welcomed into American society writ large, assimilation in American civic values and norms through a residency requirement, albeit a short one, was deemed essential.

Not all liberal representatives welcomed the prospect of unfettered political rights. An author of the bill, Pennsylvanian Hartley championed low residency requirements for prospective citizens. Yet, he opposed a motion to extend land rights to all migrants, fearing the impact it might have on political institutions. In most states, including his own, residency periods for political rights could be circumvented through property ownership, and thus, the ability to own land could give migrants access to political participation without any period of assimilation. Hartley argued that such a policy could encourage the temporary migration of foreign ‘infiltrators’ seeking to manipulate elections. “Will they not,” he argued, “be able to decide the fate of an election contrary to the wishes and inclinations of the real citizens?... Are gentlemen disposed to throw such an undue influence into the hands of foreigners?”

In agreement, Michael-Jenifer Stone of Maryland argued that “a foreigner who comes here is not desirous of interfering immediately with our politics; nor is it proper that he should.” Demanding stricter naturalisation requirements to protect political institutions, he feared the unrestrained “admission of a great number of foreigners to all the places of government may tincture the system with the dregs of their former habits, and corrupt what we believe the most pure of all human institutions.” Any migrant unable to benefit the country, he added, should “not come here at all.”

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20 John Page (VA), ibid., 1:1148.
21 Thomas Hartley (PA), ibid., 1:1151.
22 Michael-Jenifer Stone (MD), ibid., 1:1158.
23 Feb. 23, 1790, Lloyd’s Notes, DHFFCUS, 12:496.
mistrust of unassimilated migrants amongst representatives from liberal states. Far from universalist, liberal politicians remained wary of the unchecked influence migrants posed on political institutions.

Predictably, liberal representatives were equally motivated by economic interest. Though a strong proponent of short residency requirements, James Madison emphasised the need to “guard against abuses.” Much like liberal sentiments writ large, his pro-migration rhetoric was couched in terms of productivity, measuring the desirability of migrants through their economic value. He argued:

“It is no doubt very desirable that we should hold out as many inducements as possible for the worthy part of mankind to come and settle among us, and throw their fortunes into a common lot with ours. But why is this desirable? Not merely to swell the catalogue of people. No, sir, it is to increase the strength and wealth of the community; and those who acquire the rights of citizenship, without adding to the strength or wealth of the community are not the people we are in want of.”

Departing from the universalist idealism so often foregrounded by historians, Madison instead made explicit the need to prevent the admission of ‘unworthy’ migrants. In agreement, Pennsylvanian George Clymer added that economic productivity was “the great object of emigration,” while the “exercise of particular privileges was but a secondary consideration.”

Evoking liberal arguments that predated the Union itself, representatives prioritised migration as a tool to encourage labour in ‘unsettled’ lands.

Though they equally welcomed the prospect of economic migration, representatives from exclusive Georgia and South Carolina opposed the expansion of migrant rights in the original naturalisation bill. In both states, a surplus of land created an insatiable demand for labour, with politicians hoping to maximise the economic potential of mass migration. Yet, with a long-standing unease of foreign influence on political institutions, particularly on the issue of slavery, representatives remained hesitant to translate their pro-migration sentiment into support for the liberal naturalisation bill. Early in the debate, South Carolinian Tucker moved to remove any kind of residency requirements for land ownership, believing it was “the policy of America to enable foreigners to hold lands in their own right.” Yet, in the same breath, he made clear that he had no objection to extending limitations on political rights to “prevent

25 George Clymer (PA), ibid., 1:1159
the admission of bad men.” Emphasising the economic “importance [of filling] the country with useful men, such as farmers, mechanics, and manufacturers,” fellow South Carolinian Aedanus Burke vowed to “hold out every encouragement to them to emigrate to America.” At the same time though, he warned of “another class of men,” who “injure us more than they do us good.” Evoking an exceptionalist vision of US citizenship, he added: “I can compare them to nothing but leeches. They stick to us until they get their fill of our best blood, and then they fall off and leave us. I look upon the privilege of an American citizen to be an honourable one, and it ought not to be thrown away on such people.”

William Smith of South Carolina shared these concerns, though took his argument further. He agreed that migrants presented an overt danger to political institutions, posing “what could he know of the government the moment he landed? Little or nothing; how then could he ascertain who was a proper person to legislate or judge of the laws? Certainly gentlemen would not pretend to bestow a privilege upon a man which he is incapable of using?” Yet, unlike Tucker and Burke, Smith was willing to sacrifice migrants’ land rights to this cause. “If every emigrant who purchases a small lot… becomes in a moment qualified to mingle in their parish or corporation politics,” he surmised, “it may create great uneasiness in neighborhoods which have been long accustomed to live in peace and unity.”

Hoping to sever the link between property and political rights, he called upon the regional experiences of his state, justifying that “the naturalization laws of Carolina proceed upon this plan.” In agreement with Smith, Georgian James Jackson cited Pennsylvanian policy, which closely aligned with the terms of the bill. Using a regional argument, Jackson contended that the state exemplified liberal policy run amok, giving migrants a dangerous degree of political influence. “At a contested election in Philadelphia,” he recounted, “when parties ran very high, and no stone was left unturned, on either side, to carry the election, most of the ships in the harbor were cleared of their crews, who, ranged under the masters and owners, came before a magistrate, took the oath of allegiance… and decided the contest of the day.”

Jackson exemplified the regional division underlying the debate, opposing the bill not only by using the

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26 Thomas Tudor Tucker (SC), ibid., 1:1151, 1155.
27 Aedanus Burke (SC), ibid., 1:1156.
28 Smith (SC), ibid., 1:1151.
29 ibid., 1:1147.
30 ibid., 1:1151.
exclusive interests of his state, but by disparaging the policies of liberal states too. Moreover, like many areas of migration policy in the exclusive imagination, the issue of land ownership itself was of little concern to Smith and Jackson, it was instead the implications it could have on political institutions. Dispelling the ideological agreement between liberal and exclusive interests on economic migration and land rights, the threat of political influence placed Georgian and South Carolinian representatives in firm opposition to the bill’s expansive vision of rights.

Alongside exclusive opposition, representatives from restrictive states were the most ardent critics of the naturalisation bill. Above all, they believed the bill devalued American citizenship, making the terms of naturalisation “much too easy,” and by extension, “our citizenship too cheap.”32 Sedgwick of Massachusetts critiqued the “indiscriminate admission of foreigners to the highest rights of human nature, upon terms so incompetent to secure society from being overrun with the outcasts of Europe.” With the assumption that the distinct character of American citizenship needed protecting, he hoped “Congress might use their discretion, and admit none but reputable and worthy characters.”33 Exclusive Representative Jackson argued in concert with his restrictive colleagues, deeming the terms of naturalisation of “high importance to the respectability and character of the American name.” Accordingly, to Jackson, the terms of admission to citizenship needed to be proportionate to its exceptional nature. “Before a man is admitted to enjoy the high and inestimable privileges of a citizen of America... something more than a mere residence amongst us is necessary” he argued, adding, “if bad men should be dissatisfied on this account, and should decline to emigrate, the regulations will have a beneficial effect.”34 Samuel Huntington of Connecticut agreed, hoping to adopt the policy “in the state to which I belong,” whereby “no person could be naturalized, but by an act of the legislature,” at a national level.35 Underlying this restrictionist rhetoric was the assumption that it was not only prudent for the bill to reflect their own regional interests, but that it had been purposefully designed to do so. Reiterating arguments of the Constitutional Convention, representatives assumed that easy naturalisation requirements, and thus, “admitting persons to the rights of citizens, who are excluded by the state laws” would be tantamount to “interference with the state governments.”36 Clearly frustrated with his

32 Benjamin Goodhue (MA); Samuel Huntington (CT), Annals of Congress, 1:1157; 1159.
33 Sedgwick (MA), ibid., 1:1156.
34 Jackson (GA), ibid., 1:1153
35 Huntington (CT), ibid., 1:1159.
colleagues, Page retorted satirically, “we must add an inquisition, and as it will not be sufficient for our views of having immaculate citizens, we should add censors, and banish the immoral from amongst us.” Yet, he spoke with real concern of the nature that additional requirements might take. “If we go on as is proposed now, in the infancy of our republic,” he warned, “we shall, in time, require a test of faith and politics, of every person who shall come into these states.” Though exaggerated, Page’s remarks epitomized the nature of restrictive arguments on naturalisation; that only migrants befitting the exceptional character of American identity should be welcomed into society.

Amid cultural concerns, restrictive representatives also continued to measure the desirability of migrants through their productivity. In a regional argument, this distilled policy objectives into economic terms, echoing state legislation that traced back to the colonial period. Though wary of naturalisation, John Laurance of New York recognised the “reason of admitting foreigners to the rights of citizenship among us is the encouragement of emigration, as we have a large tract of country to people.” As long as there was enough unsettled land to stimulate labour scarcity, migration was a necessary tool for economic growth. Yet, the types of migrants supplying this labour was a key factor for Laurance. “Every person who comes among us must do one or the other,” he reasoned, “if he brings money, or other property with him, he evidently increases the general mass of wealth, and if he brings an able body, his labour will be productive of national wealth and an addition to our domestic strength.” In short, he reasoned “he would admit none, but such as would add to the wealth and strength of the nation.” In addition to labour, Laurance spoke to another potential economic benefit of migration: an injection of much-needed capital from wealthy migrants into the new nation. To Fisher Ames of Massachusetts, this was more important than the migration of ‘ordinary’ people. Only particularly wealthy migrants who “held great quantity of land would be beneficial,” he surmised. In a similar vein to arguments made by their liberal colleagues, restrictive policymakers equated naturalisation with considerations of economic productivity. Conversely though, they used this line of argument not to advocate for a more liberal approach to migration, but to justify exclusion.

As debates wore on, it became clear that the House would not agree on the bill. Despite the prevalence of liberal rhetoric, Smith surmised, exclusive and restrictive “gentlemen

38 John Laurance (NY), ibid., 1:1149.
39 ibid., 1:1154.
had suggested new ideas, which occasioned new difficulties.” With no compromise in sight, the House agreed to recommit the bill. Yet, much like the overwhelmingly liberal first committee had been, the second, larger committee was equally regionally imbalanced, though this time in favour of restrictive and exclusive representatives. Of the nine members, six were from restrictive and exclusive states, including some of the most ardent opponents of the original bill. Unsurprisingly, the committee significantly narrowed the original bill’s liberal terms. Embodying an exceptionalist vision of American citizenship, two elements of the naturalisation bill were changed to offset restrictive concerns: the residency requirement for naturalisation extended from one to two years, while only migrants “belonging to any state or nation in amity with these United States” could be naturalised. Meanwhile, indicative of the economic opportunism that accompanied restrictionist rhetoric, the new bill granted land rights to migrants with a testified “proof of a moral character,” three months residency, and an affirmation of intent to become citizens. Though still relatively liberal compared to state naturalisation policies, the bill’s alterations reflected the popularity of restrictive and exclusive interests amongst representatives. As such, the revised measures received vocal support once the bill was reintroduced into the House.

Among restrictive and exclusive politicians, lengthy residency periods were widely considered the biggest indicator of assimilation, ensuring that migrants were familiar and compliant with core American values. With the assumption that a migrants’ “sensations, impregnated with prejudices of education, acquired under monarchical and aristocratical governments, may deprive them of that zest for pure republicanism,” representatives contended that a significant residency period was essential prior to naturalisation. Moreover, as Roger Sherman of Connecticut understood it, the constitutional framework for naturalisation had been designed around the restrictive impulse to “prevent particular states receiving citizens, and forcing them upon others who would not have received them in any other manner.” Accordingly, from the outset of debates on the new bill, representatives from New Jersey, New York, and South Carolina all reaffirmed that the amended two-year

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42 This included Roger Sherman (Connecticut), James Jackson (Georgia), Theodore Sedgwick (Massachusetts), James Schureman (New Jersey), John Laurance (New York), and Thomas Tudor Tucker (South Carolina). Though representing exclusive South Carolina, Tucker likely disagreed with the restrictionist impulse guiding the committee in line with his previous pro-migration arguments. ‘HR-37 Calendar,’ *DHFFCUS*, 6:1515.
45 Sherman (CT), ibid., 1:1148.
requirement was the minimum they would accept. Yet, the new requirement did not satisfy all. Sedgwick instead thought only a minimum of “three years held time enough for a person who came here to settle” into American society. In line with his exclusive interests, South Carolinian Smith made clear his “wish to admit foreigners upon a liberal plan.” Yet, with the assumption that residency was the “only requirement” that guaranteed the assimilation of naturalised citizens, he added that he too would be “well satisfied with three years.” Though unclear in House debate records, Smith’s demand for higher residency requirements seemed to reflect the tenor of restrictionist committee members too, according to Samuel Livermore of New Jersey. “Amid the diversity of opinion,” he recounted, the committee agreed that the “the middle way” and presumably the median suggestion, “is best, two years is sufficient.” However, some restrictionists remained unhappy with these lenient terms. Reflecting on the bill later, George Thatcher of Massachusetts complained that it gave “too easy admission of aliens to some rights and privileges.” Instead, he promoted the regional approach of restrictive states New Jersey and New York, where there had “never been an law upon this subject prescribing an uniform law, but aliens, from time to time, have applied to the legislature and obtained an act of naturalization in [their] particular case.” Despite offering slightly different suggestions, restrictive and exclusive policymakers exhibited a shared belief that longer periods of residency equated to ‘better’ and more assimilated migrants, attuned to the high value of American citizenship.

Alongside prolonging the naturalisation process, exclusive and restrictive policymakers sought to exclude ‘undesirable’ migrants from citizenship altogether through the new bill. In a bid to minimise the perceived danger of foreign influence, a new clause restricted naturalisation to migrants from nations “in amity with these United States.” Sherman stressed the necessity of the measure, cautioning that “we may harbor spies who will be worse than Indians,” who would otherwise have access to American citizenship. The primary discussion on the clause regarded its terminology. Concerned that the language was ambiguous, restrictionists proposed amending the clause to instead prohibit the naturalisation of “an alien

46 Elias Boudinot (NJ), ibid., 1:1149; Smith (SC), Laurance (NY), Lloyd’s Notes, Feb. 23, 1790, DHFFCUS, 12:496.
47 The longest suggestion unexpectedly came from Stone of Maryland, who proposed a seven-year residency requirement to ensure that prospective citizens were of “good moral character.” However, liberal, restrictive, and exclusive representatives largely ignored this. Laurance (NY), Sedgwick (MA), Smith (SC), Feb. 23, 1790, Lloyd’s Notes, DHFFCUS, 12:496.
48 Samuel Livermore (NH), Feb. 23, 1790, Lloyd’s Notes, DHFFCUS, 12:496.
51 Sherman (CT), Feb. 23, 1790, Lloyd’s Notes, DHFFCUS, 12:498.
enemy,” reframing it in exclusionary terms. To Virginian Alexander White, this new language undermined the universalist nature of American citizenship and revolutionary ideals writ large. Accordingly, he argued, no “public advantages can arise from excluding” so-called enemies. Reflecting the mixed interests of the House, the motion was initially rejected, but was passed and included in the bill mere days later.52 Even so, the clause was imbued with the restrictionist instincts of its authors, presenting migration as something not to be welcomed, but guarded against.

After extensive debate, the amended naturalisation bill passed the House with no recorded vote and arrived on the floor of the Senate. Yet, its original liberal terms had been significantly tempered. The bill no longer included an expansive vision of rights, and the residency requirement for naturalisation had been doubled. Despite initial opposition, the new bill also excluded “alien enemies” from American citizenship. Throughout House debates, exclusive and restrictive representatives worked in concert to both oppose liberal measures and further their own. Yet, the resulting amendments to the bill did not go unchallenged in the Senate. Senator William Maclay, a staunch pro-migration advocate from Pennsylvania, was outraged by the changes made to the bill and moved to remove each one in turn.53 “It was a vile bill,” he complained, “illiberal and void of philanthropy and needed mending much. We complained that such an ungenerous bill should be sent [to] us.”54 First and foremost, the ‘alien enemies’ clause was quickly removed from the bill, overriding concerns aired in the House.55 Meanwhile, in his effort to insert broad land ownership rights into the bill, Maclay received the unusual backing of fellow Pennsylvanian Senator Robert Morris, who had advocated for restrictive rights in the Constitutional Convention. Wary of Morris’ economic intentions, Maclay noted, “tis said he has an Agent in Europe now, for selling lands. I am wrong to minute this circumstance… he is however very seldom with me.”56 Even so, the motion failed and the omission of land rights for migrants, and by extension political rights, remained in the bill.

In the Senate, the most controversial element of the bill was the increased two-year residency requirement for naturalisation, a change that Maclay sought to reverse through a

52 There are no records of the vote on either occasion, yet the absence of any further debate on the issue suggests that the final outcome might have resulted from a different makeup of representatives present, rather than a substantiative change of opinion. ‘Naturalization Bill [HR-40]; White (VA), DHFFCUS, 6:1520-2, 12:496-8.
54 Mar. 8, 1790, Maclay’s Notes, DHFFCUS, 9:214-5.
55 Journal of the Senate of the Unites States, Mar. 19, 1790, DHFFCUS, 1:264.
56 Mar. 8, 1790, Maclay’s Notes, DHFFCUS, 9:214-5.
recommitment.\textsuperscript{57} It was standard practice contemporarily for senators to “only appoint members [to select committees] who were sympathetic to the resolution,” according to David Canon.\textsuperscript{58} However, Maclay ran out of luck. Left to “wrangle with the New England men alone,” he and his liberal colleagues were outnumbered by restrictive senators on the night of recommitment who, in his opinion, did not represent the support for liberal measures in the Senate writ large.\textsuperscript{59} Although “numbers of gentlemen now declared their dislike of the two years and wished the bill to be committed for this purpose of having this part rejected,” he fumed, “we were very unlucky in our committee.”\textsuperscript{60} Unsurprisingly, the bill returned unchanged. Maclay took the defeat personally, noting that “there really seems a spirit of malevolence against Pennsylvania in this business, we have been very liberal on the subject of admitting strangers to citizenship, we have benefited by it, and still do benefit. Some characters seem disposed to deprive us of it.”\textsuperscript{61} He evidently saw the defeat as an attack not only on liberal principles, but his own state too. Though records of this debate are largely confined to Maclay’s perspective, he explicitly identified the regional roots of his restrictive opposition, illustrating the differing interests between their region and his own on migration.

“We Pennsylvanians act as if we believed that God made of one blood all families of the Earth, but the Eastern People seem to think that he made none but New England folks... In Pennsylvania used as we are to the reception and adoption of Strangers, we receive no class of men with such diffidence as the Eastern people. They really have the worst characters of any people who offer themselves for Citizens, yet these are the men who affect the greatest fear of being contaminated with foreign manners, customs, or vices. Perhaps it is with justice that they fear an adoption of any of the later, for they surely have enough already.”\textsuperscript{62}

Much like other representatives, Maclay used his own states’ experience of migration to advocate for a particular approach to policymaking at the national level. While doing so, he identified opposition not from individual representatives, but among the shared regional interests of many. Though Maclay overstates the influence of universalism in liberal interests,

\textsuperscript{57} ‘Naturalization Bill [HR-40],’ Mar. 4, 1790, DHFFCUS, 6:1520-2.
\textsuperscript{59} Of the five members, four of the committee represented restrictive states: Oliver Ellsworth (Connecticut), William S. Johnson (Connecticut), Caleb Strong (Massachusetts) and Rufus King (New York). Journal of the Senate of the Unites States, Mar. 9, 1790, DHFFCUS, 1:119.
\textsuperscript{60} Mar. 9, 1790, Maclay’s Notes, DHFFCUS, 9:215.
\textsuperscript{61} Mar. 12, 1790, ibid., 9:217.
\textsuperscript{62} Mar. 9, 1790, ibid., 9:215.
he correctly identifies the roots of regional conflict in divergent cultural visions of American identity, a feature that would only become more prominent in congressional debates on migration throughout the 1790s.

Beyond its role limiting citizenship for migrants, the Naturalization Act was further tainted by gendered and racialised terms of exclusion. Yet, in a rare moment of consensus in an otherwise heated drafting process, liberal, restrictive, and exclusive politicians all largely ignored this. For white migrants, the act provided a relatively open pathway to citizenship, but in doing so, it made clear the universal disdain of racialised ‘others’ living in the United States, including free Black people, Native Americans, and non-white migrants. As Barbara Young Welke asserts, the act “testified to the assumption that the United States was in fact and was determined to remain a white nation.” From the first draft of the bill, it stipulated that any naturalised citizen must be “a free white person,” and received almost no debate in either chamber of Congress, highlighting the shared assumption amongst policymakers that racialised persons had no place in their various conceptions of American identity. The only representative to question the clause was Stone of Maryland, who suggested removing the phrase ‘white’ as he “would rather have the black” migrants too, though his reasoning for this is unclear. Yet, his comments were ignored entirely and the measure went unchanged, confirming the near-universal agreement amongst policymakers to racially confine citizenship. “In this way,” Erika Lee concludes, “American citizenship and the power to vote was tied to whiteness” for centuries to come.

At the same time, the 1790 act imbued US citizenship with gendered limitations. The act cemented the principle of *jus sanguinis* into American law, that the citizenship of a person would be determined by the nationality of their parents, regardless of their birthplace. Thus, if American citizens were to relocate to a different country where they then had children, those children would automatically attain US citizenship. However, the act differentiated between the gender of parents in deriving nationality. Stipulating that “the right of citizenship shall not descend to persons whose fathers have never been resident in the United States,” it emphasised the imbalanced role of fatherhood in determining citizenship. Much like the clause confining

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64 1 Stat. 103 (1790).


67 1 Stat. 103 (1790).
naturalisation to white migrants, this also received little deliberation in Congress. Yet, the little
discussion that did occur highlighted the implied gender imbalances of citizenship. White of
Virginia was the only representative to query this element of the clause and moved in the House
for all children born of American citizens, be it their mother or father, to be legally “considered
as natural born” citizens. Yet, others saw the motion as entirely irrelevant. Livermore
explained that he did not “clearly understand the distinction.” With the assumption that
citizenship could only be “transmitted from father to son,” and thus the implication that only
men could every truly be American citizens, in his view, “the expression sets forth the children
of every citizen.” Smith reiterated that it was “not necessary that both [parents] would reside
here,” fathers alone would do. Though both testified to the clause’s gendered assumption,
Smith and Livermore claimed the distinction was immaterial as the descent of citizenship
primarily rested with men anyway. To historian Linda Kerber, the 1790 Naturalization Act
was the first of many to leave hereditary citizenship “skewing towards fathers,” and thus
explicitly gendered. While policymakers ferociously contested the scope of naturalisation and
migrant rights during debates, displaying competing visions of who ought to be included in
their vision of American citizenship, there was little doubt on these terms of exclusion. For
liberal, restrictive, and exclusive policymakers, the act’s implications for women and racialised
‘others’ were not only overlooked but considered irrelevant entirely.

By the time the 1790 Naturalization Act had passed into law, its original liberal terms
had been moderated significantly by restrictive and exclusive opposition. Disappointed with its
narrowed scope, one senator wrote that “the operation of this act cannot be very extensive.”
Though still markedly liberal compared to several state policies, the act showed the influence
of restrictive ideology in shaping federal policy; an effect that would only intensify over the
course of the 1790s. Furthermore, it exemplified the crucial role of regional conflict in shaping
the nature of the debate, both in how policymakers advocated for their own interests and
coalesced as regions either in support or opposition. As Senator Maclay so aptly illustrates,
politicians often used their own experiences of migration to justify their positions in national

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68 White (VA), Feb. 24, 1790, Lloyd’s Notes, DHFFCUS, 12:529.
69 Livermore (NH), ibid., 12:530.
70 Smith (SC), ibid.
71 Policymakers ignored the irony that this directly contrasted with the gendered assumptions underlying hereditary
enslavement. Under the historic legal code partus sequitur ventrem, a child’s enslavement descended primarily from the
status of their mother, not father. Jennifer L. Morgan, ‘Partus sequitur ventrem: Law, Race, and Reproduction in
72 Kerber, No Constitutional Right to be Ladies, 36.
debate, echoing many of the same arguments presented in the Constitutional Convention. Thus, the 1790 Naturalization Act was not the product of a liberal consensus but was instead forged by conflicting regional ideas about membership and identity. With little resolution, it was inevitable that these debates would only come to the fore once again.

**Division of Power**

Beyond forging regional conflict on the content of national policy, the 1790 Naturalization Act cast further doubt on the division of power between the federal and state governments. Though the Constitution empowered Congress to “establish an uniform rule of naturalization,” the scope of the clause remained unclear. For Carrie Hyde, the 1790 act marked a watershed moment where US citizenship was “fully federalised for the first time.” Yet, as James Kettner and Zolberg contend, the “vagueness of the Constitutions ‘uniform rule’ provision allowed diverse interpretations” in the actual drafting of policy. In a continuation of convention debates discussed in Chapter Two, policymakers disputed whether the naturalisation clause granted Congress jurisdiction over the rights of citizenship, or just the terms of naturalisation. Furthermore, it remained unclear whether Congress had an exclusive power to naturalise citizens, or if states still retained the ability concurrently. Yet, much like the Constitution itself, the 1790 act provided little clarity. While, like Kettner and Zolberg, Bradburn agrees that the jurisdiction of migration remained divided under the new policy, with Congress naturalising migrants and states determining the “character of belonging” through rights, they all ignore the influence of regional interest in forging this division. In an effort to retain long-established regional policies, policymakers resisted the expansion of federal power. While some representatives hoped, if not assumed, that an exclusive, federal naturalisation policy would both preserve and expand their interests on a national level, most preferred the security of concurrent naturalisation, retaining state policies. Meanwhile, alongside the Naturalization Act, states focussed on legislating the rights of citizenship to assert their regional interests while less able to rely on naturalisation policies to control migration. In doing so, policymakers sought to capitalise on their regional interests both at a state and national level amid the new federal system.


Throughout congressional debates, representatives from all three regions remained acutely aware of the precedent the Naturalization Act would set for the scope of federal power on migration. In particular, the question of whether Congress could enumerate the specific rights of migrants and citizens, alongside the process of naturalisation, “occasioned considerable debate.” 77 The question centred on competing interpretations of the Constitution’s naturalisation clause, which had been designed with conscious ambiguity. Advocating for an expanded federal remit on migration, some representatives insisted that the Constitution empowered Congress to exclusively define the rights of citizenship, superseding state policies. Referring to the privileges and immunities clause in the Articles of Confederation, one representative argued that the existing patchwork of differing rights across the Union meant that any attempt to define a national American citizenship was little more than a “[great] absurdity.” “It is therefore necessary” they concluded, “that Congress should determine upon a rule which should operate equally through all the States and go to effecting complete citizenship.” 78 This interpretation rested on two key assumptions. First, that the congressional power to enact a uniform rule of naturalisation extended beyond the act of admission, including the actual content and rights of citizenship. Second, and more crucially, this interpretation assumed that rights were innately connected to citizenship and thus, by virtue of being American citizens, individuals ought to have inalienable rights. In agreement, South Carolinian Smith assumed that “that an uniform rule of naturalization would extend to make a uniform rule of citizenship that [pervaded] the whole continent.” Thus, to leave the rights of citizenship undefined, he surmised, would be to leave it incomplete entirely. “What is to become of those inchoate rights of citizenship which are not completed?” Smith queried, “Can the Government, by an ex post facto law, deprive an alien of the advantage of such an inchoate right?” 79 For Smith, the issue was broader and more important than migration itself. Instead, he considered an expansive congressional power on naturalisation a crucial protection for the rights of citizenship.

However, most policymakers fundamentally disagreed with this interpretation of the naturalisation clause. Instead, they argued that the jurisdiction of citizenship was bifurcated by the Constitution and thus ought to be split between Congress and state governments accordingly. Though nobody disputed congressional authority over admission to citizenship,

77 Gazette of the United States, Mar. 6, 1790, DHFFCUs, 12:632.
78 ibid, 12:632-4.
several policymakers considered the content and rights of citizenship outside of the scope of the naturalisation clause. “After a person has once become a citizen,” White argued, “the power of Congress ceases to operate upon him; the rights and privileges of citizens in the several states belong to those states.” Thus, it was unconstitutional for Congress to legislate on any rights that contravened state policy, from land ownership to the franchise. To White, “all, therefore, that the House have to do on this subject, is to confine themselves to an uniform rule of naturalization, and not to a general definition of what constitutes the rights of citizenship.”80 However, as Abraham Baldwin of Georgia noted, this did not necessarily reflect opposition to any particular right, merely Congress’ ability to legislate on it. Recounting the congressional debate to a friend, he wrote “many of us were [of the] opinion that it was undoubtedly our policy to break down all bars to aliens holding landed estate, but our power is only to pass a uniform rule of naturalization but not to legislate about aliens holding lands.”81 Whether liberal, restrictive, or exclusive, policymakers’ opinions on what rights migrants and naturalised citizens ought to have were ultimately irrelevant; it was for state governments to enact, safeguarding regional interests.

Underlying these arguments was an assumption that the federalisation of citizenship rights would violate state sovereignty. Yet, this merely continued the same debate that had accompanied the drafting of the naturalisation clause during the Constitutional Convention, highlighting its failure to resolve the issue. Laurance of New York disputed the enumeration of rights in the original naturalisation bill on these grounds, arguing that “Congress had nothing more to do than point out the mode by which foreigners might become citizens,” and thus, by including rights, “this bill is not confined to the qualifications of the General Government only, it descends to those of the State Governments.” In doing so, Laurance made clear his hopes to retain the established policies and regional interest of his home state, whereby “no person in New York can be naturalized but by an act of the legislature; and when he is naturalized, there are certain rights which, perhaps, he cannot exercise because he is not qualified according to the terms of the [state] constitution.”82 In an almost verbatim repetition of his argument during the Convention, Sherman agreed that “the interests of the state where the emigrant intended to reside ought to be consulted.”83 Policymakers were not only making an abstract argument about state sovereignty, but were equally concerned about the disadvantage that

80 White (VA), ibid., 1:1153.
81 Abraham Baldwin to Joel Barlow, Feb. 17, 1790, DHFFCUS, 18:559-60.
82 Laurance (NY), Annals of Congress, 1:1149.
83 Sherman (CT), ibid., 1:1148.
federalising the rights of citizenship would inevitably present for particular states. Referring to the differing regional interests of the states, Pennsylvanian Clymer insisted that the policy could not “apply with equal advantage to all” states in any form. “In states newly formed, it might be useful to fix a short period,” he considered, “but in the old states, fully peopled, he did not think the longest which had been mentioned too great. For this reason, he thought the power of naturalizing should be referred to the States, to make such provision as they pleased.”

In short, antagonistic regional interests on migration would inevitably drive conflict on the issue. While policymakers held different legislative agendas in line with their own regional interests, a legal national citizenship would inevitably fail to meet the demands of every state, regardless of its content. Ultimately, this view took precedence in debates, and any clauses referring to citizenship rights were scrubbed from the bill. The House resolved that “the mode of admission to citizenship only, could be uniform; that Congress cannot interfere with the laws and regulations of the several states.”

This cemented a key division that would define the jurisdiction of migration policy throughout the founding period. While access to naturalisation was universally considered a matter of federal law, the content of citizenship remained within the remit of state governance. Meanwhile, as citizenship would be conferred in local courts under the 1790 act, the decentralised nature of naturalisation left the locus of enforcement firmly within the realms of local and state governance. Accordingly, the regional arguments that had proved so divisive in national debates continued to be articulated at a state level with little to no federal intervention. Thus the 1790 act reflected not only the constitutional ambiguity on migration specifically, but the undeveloped balance of power underlying the new federal system.

With the federal government remaining “mostly inactive with regard to providing rights to its populations,” as Colbern and Ramakrishnan argue, state governments continued to pursue their own regional approaches to migrant rights and settlement throughout the early 1790s. For most states, established policies remained largely unchanged, so the volume of new legislation on migration decreased significantly over the period. Yet, echoing contemporary debates around the Naturalization Act, several states reasserted their regional interests through new property laws. In liberal states, this largely manifested in a continuation

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84 Clymer (PA), ibid., 1:1163.
85 Original emphasis. Gazette of the United States, Mar. 6, 1790, DHFFCUS, 12:634.
86 Despite heated discussions over the scope of federal power in the new bill, the manner of enforcement received almost no consideration in congressional debates.
87 Colbern & Ramakrishnan, Citizenship Reimagined, 87.
of post-revolutionary policy, granting near-unobstructed land rights for migrants. This was reaffirmed in new legislation in Pennsylvania and Maryland, though the terms included remained unchanged. Linking the right to own property with ideas of assimilation, much like liberal representatives had, the Maryland legislature argued that “foreigners have always manifested a firm attachment to our government and laws, and it is conceived, that by securing their interests in our soil, their affections to this country will be more fully confirmed.” Conversely, land ownership remained obstructed for migrants in most restrictive states. New legislation in Connecticut and New York allowed migrants to hold property, but much like naturalisation, only through private acts of the legislature. Yet, both had limitations. Stipulating that only a small area of land on the western boundary of the state was eligible for migrants to purchase, the Connecticut act sought the economic benefits of settling less populated lands while retaining cultural control over the rest of the state. In New York, as had been the case for naturalisation, greater legislative oversight meant private acts granting land rights were passed infrequently, with only one act passed each year between 1789 to 1795. A total of 114 migrants were recorded to have gained land rights in the state over the period, though this included several married women who would have had limited capabilities to exercise this right under coverture laws, and their children. Thus, the number of migrants who would have been able to purchase property under the laws would likely have been far fewer. Though both cases were liberalisations of existing law, they had little meaningful impact for most migrants and still conformed to the economic interests of both states. Meanwhile, reflecting the tenor of congressional debate, exclusive states Georgia and South Carolina both reaffirmed expansive land rights and limited political rights for migrants in new state constitutions. Though both limited political rights to citizens for the first time, they still retained extensive land and wealth barriers for both officeholding and the franchise too. In doing so, state policymakers showed their shared commitment with national representatives to financially benefit from economic migrants while minimising their influence on political

89 Archives of Maryland Online, Session Laws, 204:389.
91 Greenleaf, Laws of the State of New York, 2318-9, 371, 455; 3:89, 145. Under the convention of dower’s rights, these rights may have proved more meaningful for married women upon the death of their husband later in life. Marylynn Salmon, Women and the Law of Property in Early America (Chapel Hill, NC: University of North Carolina Press, 1986).
institutions. Amid national debates on migration in the halls of Congress, state policymakers across the Union energetically upheld their regional interests legislatively at home.

This was equally true of new states Kentucky and Vermont, who continued to operate existing policies on migration after their accession into the Union in 1791. As newly acquired territories with a relatively low white population, both states resembled liberal colonies, including their approach to migration. Accordingly, as outlined in Chapter One, state policymakers hoped to attract labour and boost the economic productivity of both states through pro-migration policies. As a territory previously under the jurisdiction of Virginia, Kentucky replicated their colonial approach to populate vast territory with migrant workers, granting full property rights to all residents, migrant or otherwise. Meanwhile, the 1792 state constitution enacted a relatively liberal pathway to political rights. Access to the franchise required just two years’ residency, omitting the wealth and property requirements that had previously functioned in the territory under Virginian law. Political officeholding in the state equally disregarded wealth, requiring just two years’ citizenship for any position. In doing so, Kentucky policymakers showed a commitment to not only retain liberal policies established under Virginian jurisdiction, but further remove restrictions on migration in line with their own distinct state interests.

Policymakers in Vermont embraced this liberal approach to migrant rights even further. Migrants were qualified to vote after just one years’ residency and could hold political office after two years, regardless of their citizenship status. Meanwhile, all migrants acquired full property rights upon delivering an oath of allegiance to the state. The 1793 Vermont Constitution included a uniquely liberal clause on migration, enshrining that “all people have a natural and inherent right to emigrate from one state to another that will receive them.” The clause was symbolic in nature as Vermont could not enforce such a power without impressing upon the sovereignty of other states to regulate their own migration. Yet, it explicitly framed migration as an inherent right, drawing upon the revolutionary notion of universalism. Forged in response to territorial conflicts with New York prior to the Revolution, the clause was a long-standing element of Vermont law, existing even before the state’s accession into the Union. In a direct invocation of the Declaration of Independence’s critique against the British

94 ibid., 6:3749-51; Thomas Tolman, ed., The Laws of the State of Vermont, digested and compiled... coming down to, and including, the year 1807; with an appendix, containing titles of local acts, and an index of the laws in force (3 vols., Randolph, VT, 1808-17), 1:30-47.
95 Tolman, The Laws of the State of Vermont, 1:34.
96 Thorpe, The Federal and State Constitutions, 6:3741, 3754.
for “prevent[ing] the population of these states” and “obstructing the laws for naturalization of foreigners” in 1776, the Vermont legislature issued a similar statement against New York the following year.\(^7\) The 1777 Vermont Declaration of Independence blamed New York’s “unjust claims” to lands for “greatly retard[ing] emigration into, and the settlement of, this state.”\(^8\) Accordingly, the ‘emigration clause’ in the 1793 Constitution was designed to invite “emigration, and thus [lay] the foundation for a large and powerful state.”\(^9\) Its continued inclusion was likely intended by Vermont policymakers to reaffirm territorial claims, while also recognising the economic benefit of migration into the state, despite its small size. Though both Kentucky and Vermont joined the Union after the ratification of the Constitution, and thus its several enshrined clauses on migration and naturalisation, both still affirmed their own policies on migrant rights independently, highlighting the extent to which the issue was still determined at a state level. Despite a relatively clear congressional mandate on the issue, the same would prove to be true of naturalisation too.

The 1790 Naturalization Act seemingly ushered in a single, uniform federal process for acquiring citizenship, but even this was dubious. Much like the Constitutional Convention, legislative debates provided little clarity on whether the act was intended to operate exclusively, casting doubt on the role of state naturalisation. Yet, a petition brought before the Supreme Court seemingly clarified the issue in 1792. Though intended to resolve a financial dispute between brothers, the ensuing case - *Collet v. Collet* – ultimately hinged on a debate about the jurisdiction of naturalisation. Both brothers were immigrants from the Isle of Man, but while James Collet (the complainant) was a naturalised American citizen, his brother John Collet (the defendant) instead claimed to retain the status of a British subject. However, the constitutionality of the petition was disputed on the grounds that John had in fact also been naturalised in Pennsylvania, thus requiring the case to be heard before a state court as a dispute between two citizens from the same state.\(^10\) Yet, as the alleged naturalisation had taken place under Pennsylvanian law *after* the adoption of the federal 1790 Naturalization Act, its legitimacy was unclear in the eyes of the court. Consequently, in answering the petition, the case further

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\(^7\) Though also declaring independence from the British government, the then Vermont Republic expressly refuted territorial claims by the states of New York and New Hampshire too.

\(^8\) William Slade, ed., *Vermont State Papers, being a collection of records and documents, connected with ... the establishment of government by the people of Vermont; together with the Journal of the Council of Safety, the First Constitution, the early Journals of the General Assembly, and the Laws from 1779 to 1786, inclusive* (Middlebury, VT, 1823), 242.

\(^9\) Ibid., 141.

\(^10\) *Collet v. Collet*, 2 U.S. (2 Dallas) 294 (1792), 22-9, File 1, Reel 1, Appellate Case Files of the U.S. Supreme Court, 1792-1831 (NARA Microfilm Publication M214), RG-267: Records of the Supreme Court of the United States, National Archives and Records Administration, Washington, D.C.
addressed the unanswered constitutional question on naturalisation: did Congress hold an exclusive power to naturalise migrants, or one concurrent with state law? A circuit court ultimately confirmed that John Collet was an American citizen, and by extension, the constitutionality of existing Pennsylvanian naturalisation law. Without “express words of exclusion” in either the 1790 Naturalization Act or the Constitution, the court held that “states, individually, still enjoy a concurrent authority upon this subject.”

Extending beyond the citizenship of one individual, the case fundamentally challenged federal authority on naturalisation, authorising states to continue admitting migrants to US citizenship outside of national policy.

Collet v. Collet disrupted the division of power between the state and federal governments on migration which had been meticulously argued since the Constitutional Convention. While the case seemingly returned a crucial power to the states on naturalisation, it did not do so universally. Instead, the ruling favoured liberal states, specifying that concurrent state naturalisation law must have either the same or easier terms than existing federal policy. In doing so, the court embraced the liberal idea that the Constitution’s naturalisation clause had been designed “to guard against too narrow, instead of too liberal, a mode of conferring the rights of citizenship.”

Thus, while restrictive and exclusive states were confined to the terms of the 1790 Naturalization Act, several liberal legislatures, including Delaware, Georgia, North Carolina, Pennsylvania, and Virginia, continued to naturalise migrants independently. Meanwhile, new state Vermont enacted a liberal naturalisation policy under their 1793 state constitution. Despite the liberal nature of the ruling, restrictive states Massachusetts and New Jersey also continued to naturalise migrants independently through a technical loophole. Though both states processed naturalisation though private legislative acts, a more restrictive manner than the court intended to allow, neither required a period of residency, so could claim they were in fact operating naturalisation on easier terms than the 1790 act. Though the states’ role in determining naturalisation policy had lessened after the 1790 Naturalization Act, it had clearly not diminished entirely. Under Collet v. Collet, Collet v. Collet (1792), 294-6. As a case between two citizens, the final verdict was delivered by a state circuit court, and never reached the US Supreme Court as James Collet had originally intended.


Collet v. Collet (1792), 296.


Tolman, The Laws of the State of Vermont, 1:44-5.

both liberal and restrictive state governments asserted their regional interests through established state naturalisation policies. Reshaping the jurisdiction of the 1790 act and federal naturalisation writ large, the ruling demonstrated the continued influence of unresolved constitutional questions on federalism in migration policymaking throughout the 1790s.\(^\text{107}\)

While the 1790 Naturalization Act marked a seemingly clear transition to national policymaking on naturalisation, it only further complicated the division of power between the federal and state governments on migration. On its face, the Constitution situated naturalisation within federal jurisdiction, while all other elements on migration remained within the remit of state governments, bifurcating migration policy. Yet, in practice this was far from simple. While policymakers acknowledged congressional authority to admit migrants to American citizenship, they successfully sought to retain control over its character and enshrined rights at a state level. In doing so, liberal, restrictive, and exclusive representatives continued to assert state policies on migrant rights in line with their respective regional interests. This was also true for new states Vermont and Kentucky, whose legislatures sought to maintain a strong degree of control over migration despite their new integration into the Union. The unclear division of power on migration was only further complicated by the 1792 *Collet v. Collet* decision. By granting states a concurrent power over naturalisation, the case not only emboldened state policymaking on the issue, it further undermined the congressional authority codified in both the Constitution and 1790 Naturalization Act. Far from Hyde’s characterisation of a ‘fully federalised’ approach, naturalisation remained primarily within the remit of state governance, as did the majority of migration policy in the early 1790s. Unconfident in their ability to safeguard regional attitudes to migration at a national level, policymakers instead continued to do so through established state legislation. In doing so, representatives established a precedent for resisting the growth of federal power on migration while fervently legislating on the issue at home.

**Conclusion**

Historians have repeatedly characterised the early 1790s as a moment of national resolution on migration, effectively ending regional conflict on the issue. Accordingly, they concur, the 1790

\(^{107}\) The debate between concurrent and exclusive naturalisation was briefly raised again in *The United States v. Villato,* but the court ultimately deemed it “unnecessary to enquire into the relative jurisdictions of the state and federal governments” to determine the case. *The United States v. Villato* 2 U.S. 370 (1797), 373.
Naturalization Act demonstrated an embrace of pro-migration sentiment in federal debates, with a liberal approach to migration ultimately prevailing. Meanwhile, the establishment of a uniform naturalisation law seemingly marked the beginning of federal oversight on citizenship. Yet, both conclusions underestimate the persistent role of regionalism at both a state and national level. The few historians that consider the influence of regional interests on migration policy incorrectly characterise this period as an epilogue, when in reality it was marred by the same colonial regional arguments that would persist well into the late 1790s. Instead, the theoretical debates of the Constitutional Convention were brought to life in 1790, whereby liberal, restrictive, and exclusive politicians sought to not only retain their particular visions of migration at a state level, but codify them into federal law too.

The 1790 Naturalization Act was not “unprecedently liberal,” but the product of an unexpectedly heated debate in Congress. The original liberal terms of the bill, including property rights and easy naturalisation requirements, had been significantly tempered by restrictive and exclusive politicians arguing for greater protections against foreign influence in political institutions. Exclusive representatives sought to benefit from economic migration while limiting migrants’ membership in American society. Meanwhile, restrictive politicians espoused an ideology of American exceptionalism, a feature which would increasingly define debates over citizenship throughout the 1790s. Regional interest not only drove the debate ideologically, but also through the language in which it was argued. Representatives used the experiences and policies of their own states, or those in the same region, to justify expanding them onto the national stage, while equally referring to those in other regions to disparage opposing interests. As Senator Maclay wrote, representatives were not only aware of the fact that policymakers across the Union “should be so contrasted” in their opinions on migration, but they also capitalised on this division to promote their own regional interests.

The new Naturalization Act ostensibly bifurcated migration policy, placing naturalisation under federal jurisdiction while states retained control over mobility and the content of citizenship. Yet this was never realised in practice. Throughout the early 1790s, state governments remained the primary locus of migration policymaking. Though the scope of congressional power in the 1790 Naturalization Act had been reduced during drafting debates, with the rights of citizenship firmly placed within state governance, the act had still been

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intended to secure the promise of a unilateral naturalisation process. However, following the influential 1792 *Collet v. Collet* decision, even this was unfulfilled. Disputing the exclusive authority of Congress to dictate naturalisation policy, the ruling placed the issue once again within the jurisdiction of state governments. As a result, policymakers continued to assert their regional interests on migration relatively uninhibited at a state level, including new liberal states, Kentucky and Vermont. Thus, the 1790 act did little to answer constitutional questions on the division of power on migration, merely prolonging the debate.

During the early 1790s, regional interests remained just as entrenched in state policymaking as they had been for much of the eighteenth century. While liberal politicians committed to welcoming migrants into American society as rights-bearing citizens, albeit with varying motivations, restrictionists instead tried to limit foreign influence through obstructive policies. Meanwhile, exclusive policymakers welcomed economic migration under the proviso that the membership, and crucially political rights, of newcomers would be limited. Not only did these regional interests remain unchanged at a state level, they grew in prominence in federal discourse. Although the Constitutional Convention set the parameters for a divisive debate on both the content and jurisdiction of migration, this only came to life for the first time in congressional debates with the drafting of 1790 act. Theodore Sedgwick ought not to have been surprised at the “variance of opinions” on the matter; they were the result of deep divisions on migration that had existed since the colonial era.\(^\text{111}\) The need for national politicians to build coalitions to achieve their policy aims would only further intensify this conflict on the federal stage. Moreover, as the new nation was confronted by new domestic and international concerns over the course of the 1790s, migration became increasingly situated within broader and more contentious policy areas. In short, the 1790 Naturalization Act did little to resolve regional divisions on migration. Instead, it set the scene for a federal confrontation between regional ideologies and new partisan coalitions that would come to dominate much of the 1790s.

Chapter Four

“An Incurable Breach”: Partisan Identity & the 1795 Naturalization Act

On July 14, 1794, a group of French and American politicians gathered in Faneuil Hall, Boston, to celebrate the fifth anniversary of the fall of the Bastille and the ongoing French Revolution. In a symbol of transatlantic alliance, the flags of both nations were displayed in procession: “the French tricolor was supported by [William] Eaton, and the American flag by a French Gentleman.” At the end of the evening, a series of raucous toasts were made to the French cause, exalting “success to the soldiers of liberty; protection to the innocent; and the guillotine for traitors.” Heralding the Franco-American alliance, guests proclaimed “may the French citizens never forget that America was the cradle of freedom, and may that cradle rock the friends of aristocracy asleep, and cherish the children of equality.” The evening displayed a strong kinship between the two countries, built upon shared revolutionary sentiment. Yet it belied the state of affairs on two fronts. First, amid the increasingly radical rhetoric in revolutionary France, the once-close alliance among the two nations was more strained than ever before. Second, the display of seemingly universal support obscured the clear partisanship that informed both the celebration and Franco-American relations writ large in the mid-1790s. The American guests of honour, Governor Samuel Adams and Speaker of the Massachusetts House of Representatives, Edward Robbins, were both Democratic-Republican and ardent supporters of the ongoing French Revolution. To Federalist politicians, who characterised the revolutionaries as a reckless mob bent on anarchy, the evening demonstrated yet another example of Democratic-Republicans “swallowing toasts full of sedition and hostility to the [American] government.” In contrast, Federalists, and by extension the Washington Administration, were accused of backing the French aristocracy, their ‘old world’ ideals, and crucially, their migration to the United States. As the Franco-American alliance frayed, so too did congressional reconciliation on the issue of migration. Yet, these conflicting ideas were not new, but merely embodied the refashioning of regional interests in a partisan context.

1 ‘Boston, Friday, July 11, Anniversary of the Demolition of the Bastille,’ Massachusetts Mercury, July 15, 1794.
2 Original emphasis. Boston Gazette, July 21, 1794.
3 Impartial Herald, July 19, 1794.
The majority of studies exploring the development of migration policy during the
1790s either conclude their analysis with the 1790 Naturalization Act, before political parties
had taken root in Congress, or explicitly link it to the 1798 Alien and Sedition Acts. As such,
the partisan migration debates of the mid-1790s, including the 1795 Naturalization Act, are
often characterised as a mere prelude.5 To James Morton Smith, “the Federalist system of
political intolerance was inaugurated by the Naturalization Act of 1798,” and not before.6 This
trend remains true for the few studies that explore the long-term connection between regional
interest and federal migration policy. Marilyn C. Baseler acknowledges that the majority of the
1790s was defined by “internal strife” and international tension, resulting in a rise in anti-
migration sentiment by the end of the decade. Yet, she does not consider how these regional
tensions impacted policymaking in 1795.7 Similarly, both Aristide R. Zolberg’s and Susan F.
Martin’s regional analyses conclude in 1790, implying that little worthy of note occurred until
the Alien and Sedition Acts.8 Though Lawrence Fuchs similarly contends that the liberal,
‘Pennsylvanian’ approach to migration prevailed in 1790, he adds that a minority of politicians
still clung onto the ‘Massachusetts’ idea, promoting cultural hegemony. In the mid-1790s, “the
fear of foreigners remained strong, not just because they usually voted for the opposition
candidates but also because many looked, talked, and worshipped differently from the
Yankees.”9 However, he fails to explore how liberal and restrictive attitudes remained in
tension with one another throughout this period, particularly in relation to new legislation in
1795.

Placing greater emphasis on regional conflict, Douglas Bradburn argues that migration
debates “increasingly reflected sectional tensions that always simmered between the parties
and within the Congress.”10 During the 1790s, Virginian Democratic-Republicans and New
England Federalists were pitted against one another on the issues of slavery, citizenship, and
civic virtue. Though this comprises the most expansive analysis of regionalism during the
period, it is by no means comprehensive. First, the dichotomy between Virginia and New
England ignores, and by extension understates, the influence of politicians from other states.
In reality, the liberal, Democratic-Republican approach pervaded much of the South, while

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5 Tichenor, Dividing Lines, 52-4; Hale, ‘Many Who Wandered in Darkness,’ 127-75; Kanstroom, Deportation Nation,
50-2; Lee, America for Americans, 42-3; Zentner & LeMay, Party and Nation, 22-33; O’Keefe, Stranger Citizens, 9-11.
6 Smith, Freedom’s Fetters, 23.
7 Baseler, Asylum for Mankind, 264-71, esp. 264.
8 Zolberg, A Nation by Design, 87-8; Martin, A Nation of Immigrants, 73-6.
9 Fuchs, The American Kaleidoscope, 14-19, esp. 18.
restrictionism extended beyond New England into much of the Mid-Atlantic region. Second, Bradburn roots this regional debate in partisanship alone, without acknowledging the long-term regional interests through which partisanship itself developed. Each of these studies understate the importance of this crucial period in the relationship between regionalism and migration policy. By confining their analyses of regional conflict to either the early 1790s or in the origins of partisanship, historians underestimate the confluence of both elements in the development of migration policy throughout much of the late eighteenth century.

The 1795 Naturalization Act was a crucial moment of migration policymaking in its own right. The long-standing tension between liberal and restrictive ideologies came to a head amid growing partisanship and foreign conflict. Meanwhile, new partisan coalitions formalised existing regional division, with Federalist and Democratic-Republican parties coalescing around particular visions of American identity and migration. As a result, according to Rogers M. Smith, “increasingly the topic turned into a political football, with the Federalists on the offensive.” At the same time, unrest in Saint Domingue and France provoked bipartisan fears that foreign influence would create instability in American political institutions. Yet, as regional ideologies on migration were baked into partisan doctrine, each party raised concerns about different migrant groups. The 1795 Naturalization Act was the culmination of this conflict. Regional arguments were both articulated and defended through the lens of partisanship, culminating in a series of antagonistic debates where policy agenda was infused with political posturing. Far from an indistinct transition between the liberal and restrictive periods that bookended the 1790s, the mid-1790s saw a transformation of migration policy. As regional ideology became increasingly interwoven into political conflict, the two became inseparable. As one writer feared, the resulting conflict resembled “an incurable breach,” threatening to split the Union. With the Federalists gaining greater majorities in each branch of the federal government throughout the remainder of the decade, the effects of this would inevitably lead to a flashpoint on migration policy.

**Regional Interest and Partisan Identity**

For much of the early 1790s, national arguments on migration were primarily motivated by regional interest. Regardless of their disagreements over other issues, representatives typically aligned with their state legislative agenda on migration, be it liberal, restrictive, or exclusive.

11 Smith, *Civic Ideals*, 159.
12 *Columbian Centinel*, Jan. 28, 1795.
National debates on the 1790 Naturalization Act brought these divergent approaches to migration into conversation with one another for the first time, forging unexpectedly heated debates on the nature of American identity and citizenship. Yet, the new legislation did little to assuage the underlying conflict. Instead, the emergence of nascent political parties - the Federalists and Democratic-Republicans - provided a conduit for long-existing regional ideas about migration. Though the role of the federal government remained a key point of contention between both parties, their political ideologies were equally imbued with incompatible visions of American identity. These approaches were inherently oppositional, Bradburn contends, with each party arguing that the other presented a legitimate “danger to the survival of what they considered as the fruits of the American Revolution.” This threat, he argues, was rooted directly in migration. In the eyes of one another, “Republicans seemed more French and Federalists more British than any American should.”

Building on Bradburn, Scot J. Zentner and Michael C. LeMay agree that nascent parties “were not just proponents of different public policies” on migration, “they adhered to a different conception of citizenship.” To them, this “division over culture and creed” forged two distinct ‘partisan regimes’ on migration: Federalist nationalism versus Democratic-Republican civic republicanism.

Though Bradburn, Zentner, and LeMay consider the sectional framework of this partisan debate, they all overlook the extent to which this framework was structured, and at times disrupted, by entrenched regional interests. While Federalists typically adopted the restrictive tradition of north-eastern states, Democratic-Republican policymakers instead promoted a liberal approach to migration. Yet, as Bradburn notes, “not every political action [was] completely subsumed by the alliances of the parties.” Indeed, policymakers from exclusive Georgia and South-Carolina split between both parties, motivated by a variety of issues from slavery to federalism, but remained united in congressional debates on migration. Through the emergence of political parties, representatives not only forged strategic alliances to consolidate existing regional approaches in national policymaking, they made claims to the very nature of American identity and citizenship.

In the First Congress, political division over the role of the federal government marred congressional debates on almost every issue. Two contrasting positions emerged: pro-

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administration politicians who favoured a strong central government, and anti-administration politicians who instead argued for the autonomy of state governments in the new federal system. Though these positions initially reflected informal congressional alliances, as the 1790s wore on they became hardened partisan coalitions that extended out into the electorate. Yet, the substance of their arguments remained largely the same. Hamiltonian Federalists hoped for a fiscally expansive federal government, pursuing the creation of a national bank, developed manufacturing, and, most controversially, the assumption of state debts. Opposing each of these in turn, Democratic-Republicans instead sought to limit federal powers, believing that state governments were best positioned to govern their own territories. Underlying this debate was a further disagreement on who should exercise the powers of government. Federalists hoped to isolate political power to a small circle of elites, believing the rule of government should reside among “the wise, the good, and the rich.” Within this argument came the “persuasion that mankind are incapable of governing themselves,” James Madison surmised, and the concern that under Federalist rule, “the government itself may by degrees be narrowed into fewer hands, and approximated to an hereditary form,” seeing a return to monarchy. Conversely, Democratic-Republicans believed that the decentralisation of the federal government would make it inherently more democratic, benefitting “the mass of people in every part of the Union, in every state, and of every occupation.” Over the 1790s, an expanse of localised democratic societies cropped up across the United States in support of this vision. By 1795, more than thirty-five were in operation, with chapters in every state except Rhode Island and Georgia. In an embodiment of Democratic-Republican ideology, the societies personified “how political representation could be made more actual and authentic, how public opinion could play a larger role in the day-to-day decision making of politics, and how citizens could exert their sovereignty in-between elections.” The party not only represented the interests of the people, Democratic-Republicans argued, but the republican and anti-monarchical vision of American Revolution writ large.

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20 Cotlar, *Tom Paine’s America*, 164.
Before long, policymakers lamented that the growing tensions “between parties, in and out of congress, run so excessively high.” These were not only ideological disagreements, James Roger Sharp contends, they were existential. Under the precarious new government, partisans genuinely believed that they were not merely following a set of political principles, but defending the republican experiment altogether. “Convinced that their opponents were bent upon destroying the Constitution and subverting the federal government,” partisans envisaged “some climactic battle, during which each hoped that the enemy would be vanquished and driven from the field.” Yet, as Joanne Freeman argues, these partisan banners were complex, motivated by an amalgam of “regional interests, personal relationships, political principles, and practicalities.” Among these, this chapter demonstrates, were deep-seated regional ideas about migration. In a bid to define their own partisan ideologies, Federalist and Democratic-Republicans adopted particular visions of American identity and citizenship, based upon long-held cultural and economic assumptions about migrants. In doing so, parties not only used these ideas to forward new national migration policies throughout the 1790s, but also weaponised them against their political opposition.

Primarily rooted in north-eastern states, the Federalist Party adopted a restrictive approach to migration, reflecting the historic cultural and economic concerns of the region. This prioritised an exceptionalist vision of American citizenship, rooted in cultural homogeneity and the revolutionary experience. With the belief that their “countrymen [were] more wise and virtuous than any other people on earth,” Federalists argued for *jus sanguinis* citizenship, believing that the distinct nature of American identity could only be inherited. “If you will cultivate the plants which are to be reared from these seeds,” Theodore Sedgwick of Massachusetts reasoned, “you will gather an abundant harvest of long continued prosperity.”

Much like historic restrictionism, implicit in this argument was the idea that migrants would only ‘dilute’ the exceptional nature of American identity. Thus, while Federalists placed little emphasis on limiting the physical mobility of migrants in the early 1790s, much like state policies across the North-East, they instead sought to limit access to citizenship, minimising the role of migrants and naturalised citizens in American society. Believing that migrants carried ‘foreign ideas’ that endangered American institutions, Abigail Adams warned that

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21 Samuel Henshaw to Theodore Sedgwick, Feb 25, 1794, Box 3, Folder 18, Sedgwick Family Papers, MHS.
“every precaution should be taken to prevent foreigners from gaining too great an assendancy in our country or taking any share in our government.”

Much like restrictive politicians had argued during the drafting of the 1790 Naturalization Act, Federalists believed that assimilation was essential to offset these cultural concerns. This included advocating for longer residency periods for migrants to access citizenship, and also for political and social rights once they had been naturalised. In claiming to protect American institutions from foreign influence, Carol Berkin demonstrates, Federalists considered themselves “the exclusive guardians of the federal experiment, the Constitution’s true representatives and agents.”

However, Federalists were equally attuned to the economic value of migration and were more willing to accept the entry of ‘productive’ migrants, on the condition that they would have little access to citizenship and political rights. In his Report on the Subject of Manufactures, Alexander Hamilton concluded, “to benefit to ourselves by opening an asylum to those who suffer... is as justifiable as it is politic.”

Yet, while Federalists considered it beneficial to “not embarrass the trade of newcomers, or obstruct their holding any property,” they remained cautious of “investing them with power as representatives, senators, or magistrates.”

Despite the economic potential of migration, Federalists remained wary of their potential cultural influence on American society.

Conversely, Democratic-Republicans, located predominantly in liberal states, situated their vision of American identity within the idea of volitional allegiance. This disputed the seemingly ‘old world’ Federalist belief that American citizenship was derived from nationality, suggesting instead that any individual who was willing to politically participate in the American system should have relatively open access to naturalisation and its associated rights. Much like Federalists, this argument was rooted in revolutionary values, though of a different kind. Invoking the American asylum, Democratic-Republicans reasoned that migrants should be able to escape political persecution in the ‘old world,’ as Americans had during the Revolution. As such, assimilation did not necessarily equate to lengthy residency periods, but a dedication to republicanism and civic virtue. As Jedidiah Morse envisioned, “when language, manners and customs, political and religious sentiments of the mixed mass of people who inhabit the United States, shall have come to be assimilated... all nominal distinctions shall be lost in the

25 Abigail Adams to John Adams, Jan. 16, 1795, TAP, 10:350-1.
27 Alexander Hamilton, Report of the Secretary of Treasury on the subject of manufactures (Boston, MA, 1791), 296.
28 Original emphasis. Gazette of the United States, Dec. 12, 1794.
general and honourable name of AMERICAN.” However, much like the historic liberal approach to migration, this had caveats. Like Federalists, Democratic-Republicans were unwilling to allow unfettered migration and naturalisation in the United States. “If America is to be the asylum of the fugitives from Europe,” Virginian St. George Tucker surmised, migrants ought to “acquire an earlier acquaintance with the principles of our government, laws, manners, and language.” However, in contrast to Federalist apprehension of the ‘foreign mob,’ Democratic-Republican concerns lay primarily with aristocratic European migrants who were perceived to hold elitist, monarchical values that undermined American republicanism. Equally, their pro-migration ideology was not universalist in nature. Like Federalists, Democratic-Republicans emphasised the need for ‘productive’ migrants who would economically benefit the United States. To Virginian Alexander White, it ought to be “the policy of this country to encourage useful settlers amongst them.” This reflected an increasing wariness of migration amongst liberal politicians. White, who had ardently supported broad naturalisation in 1790, reflected that he “was once enthusiastic in the cause of emigration - but I confess some recent transactions have cooled me a little.” Taking this further, a Virginian senator advocated for the restriction of political rights for naturalised citizens. Embodying the conditional nature of the party’s ideology on migration, he supported “giving foreigners an easy access to marriage, to the acquisition and security of all species of property, to the participation of social ties and enjoyments, but the functions of government I would never concede to them.” The ‘easy’ admission of migrants into political life, he concluded, would only be “mischievous or ridiculous.” Thus, while Democratic-Republicans held a more expansive vision of American citizenship, it rested upon a conditional, liberal approach to migration.

While politicians from restrictive and liberal states typically allied with the Federalist and Democratic-Republican parties respectively, this did not entirely reflect the complex relationship between partisanship and regionalism during the mid-1790s. In particular, policymakers from exclusive Georgia and South Carolina held a more nuanced partisan position. Though exclusive politicians historically supported liberal migration policies at a state

31 St George Tucker, *Cautionary Hints to Congress Respecting the Sale of the Western Lands Belonging to the United States* (Philadelphia, PA, 1795), 9-10.
33 Alexander White to James Madison, Jan. 17, 1795, PJM, 15:448.
level, concerns over the potential for federal or foreign encroachment on the states’ dependence on slavery saw the region instead favour restrictionist policies at a national level. Thus, during debates for both the Constitutional Convention and the 1790 Naturalization Act, exclusive politicians advocated for more stringent naturalisation procedures. Meanwhile, with the belief that foreign influence brought “very great evils to this country,” exclusive politicians further advocated for barriers to political rights for migrants. Yet, the region’s reliance on enslaved labour also aligned with the Democratic-Republican pro-slavery platform that also advocated for a decentralised approach to migration policy. Consequently, exclusive policymakers straddled partisan lines for much of the 1790s. Much like previous national debates, migration remained a secondary concern to slavery for Georgians and South Carolinians, complicating regional discussions between liberal and restrictive policymakers on migration. As this chapter demonstrates, this would unexpectedly come to the fore in 1795, with naturalisation debates unexpectedly tying both issues together.

As nascent partisan alliances were primarily forged on federalism, this too occasionally subverted those based on migration. However, through the process of gradual realignment, regionalism became increasingly intertwined with partisanship over the 1790s. For example, indicative of the precarity of the federal experiment, Pennsylvania was represented by a pro-administration majority in the first Congress, including Speaker of the House Frederick Muhlenberg, a second-generation German migrant. However, Muhlenberg, like many of his colleagues from the state, continued to support a liberal approach to migration. As political alliances developed in relation to contemporary issues over the course of the 1790s, and as concerns that the federal project might imminently fail fell away, such alliances increasingly reflected regional positions. By the mid-1790s, Muhlenberg crossed the floor to join anti-administration, and later Democratic-Republican, politicians; a position that better reflected his opinions on migration, among other issues. At the same time, with the Federalist and Democratic-Republican parties growing in prominence, Congress split on partisan lines. By 1794, Democratic-Republicans held a majority in the House, while the Federalists held the Senate, though each with relatively narrow margins. This split was again representative of the regional division amongst the fifteen states. The majority of states were restrictive in character, while a higher proportion of the population, and thus representatives in the House, were from

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37 Frederick A. Muhlenberg to Tench Coxe, May 3, 1789; May 2, 1790, DHFFCUS, 15:444-5; 19:1412.
liberal states. Unsurprisingly, Federalists had strongholds in restrictive states, while Democratic-Republicans were concentrated amongst liberal states. The regional nature of nascent partisanship was also reflected in the diversity of representatives. In the First Congress, fifteen percent of all congressional representatives were first- or second-generation migrants, though this was not distributed equally among all states. One in every four representatives from liberal states were migrants, compared to just one in ten from restrictive states. This discrepancy is in part the result of higher migrant populations in liberal states, but also due to better access to political rights and office-holding for migrants themselves. In Pennsylvania, where half of all federal representatives were migrants, German and Irish diasporas engaged in political activism to ensure they were represented by individuals from their communities.

As the next chapter discusses, this activism would prove crucial in shaping national policymaking by the end of the decade. However, in a reflection of growing xenophobic sentiment, by 1795 the proportion of foreign-born representatives had halved across partisan and regional lines.

The combination of growing xenophobic sentiment and partisanship came to a climax with the contested election of Swiss-born Senator Albert Gallatin in 1793. This was not the first election to be disputed on the grounds of nationality. In 1789, William Smith of South Carolina was accused of failing to meet the residency requirements for American citizenship, rendering him ineligible for a seat in the House. Though born in Charleston, Smith had spent the duration of the Revolution in Europe which, according to his accuser, meant he technically had not resided in the independent United States long enough to attain citizenship. However, the majority of Congress disregarded the accusation, and the motion to unseat Smith failed spectacularly by thirty-six votes to one. Gallatin’s trial proved far more contentious. Despite his fourteen-year residency in the United States, Federalists argued for Gallatin’s removal based on a technicality in state naturalisation law, reasoning that his residency had not occurred in the same state and was consequently inadmissible. Although Gallatin’s citizenship itself was not under question, only its duration, the prosecutor ominously added that “one of the ancient
republics made it death for an alien to intermeddle in their politics.”

Equally, embodying the cultural concerns of Federalist ideology, Gallatin’s allegedly ‘foreign’ character seemed to take precedence during the trial. One witness deposed that he “was generally reputed to be a foreigner… and did not speak with facility,” while another defended him as a “well-bred” gentleman that “spoke good English.” Unsurprisingly, Gallatin saw the trial as an assault on his citizenship altogether, defaming his participation in the American Revolution. He thought it “a very serious situation for a person to be placed in, who had been so long in America, and who had mingled with the inhabitants in the common cause,” especially as “the manner of the counsel for the prosecutors was so personal, and went not only to deny him a seat in the Senate of the United States, but even to contest his citizenship, and denounce him as being yet an alien.”

Despite his protests, Gallatin was ultimately unseated. In an overtly partisan split, all bar one Democratic-Republican voted for acquittal, while all Federalists voted for Gallatin’s removal. Demonstrative of the mounting role of partisanship, several senators subverted their regional positions on migration to toe the party line. Continuing the anti-migration rhetoric he espoused during the Constitutional Convention, Pennsylvanian Robert Morris voted for Gallatin’s removal against the regional interests of his state. However, he was joined by Federalist Senators Richard Potts and John Vining from liberal Maryland and Delaware, respectively. Meanwhile, Democratic-Republican Aaron Burr and John Langdon instead voted to acquit Gallatin, despite representing restrictive states. A partisan vote first and foremost, Rogers M. Smith argues, “the incident strengthened Republican beliefs that the Federalists were conniving to use citizenship laws to deny their opponents access to office.” The case was not only determined by partisan divisions, but it also actively fed into them. Yet, the decision was not devoid of regionalism. By arguing against Gallatin, the Federalists employed a restrictive approach to American citizenship, imbuing their partisan identity with distinct, regional ideas about migration. Yet, unlike congressional debates in 1790 which were predominantly characterised by regionalism, the Gallatin decision showed that politicians were equally prioritising partisanship.

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42 ibid., 4:47-58.
45 Only Benjamin Hawkins, a Democratic-Republican representing North Carolina, broke with his party to vote against Gallatin. ibid., 4:57.
46 Smith, Civic Ideals, 161.
For much of the early 1790s, policymakers relentlessly pursued their own regional interests on migration at a federal level, be they liberal, restrictive, or exclusive. Yet, the development of partisanship shifted national discourse on migration. Under the new Federalist and Democratic-Republican banners, restrictive and liberal policymakers coalesced into distinct voting blocs in Congress, collectively pursuing shared policy aims on migration. In doing so, regional attitudes embedded into broader partisan ideas about American identity and citizenship. While Federalists followed in the restrictive tradition, Democratic-Republicans instead largely represented the liberal approach. Yet, the two did not always neatly align. While exclusive policymakers transcended partisan lines, their complex attitudes towards slavery and migration would prove highly controversial in the drafting of the 1795 Naturalization Act and beyond. Moreover, much like the Gallatin trial, partisanship at times subverted regionalism. Yet, even in the midst of the partisan vote, Federalist representatives espoused distinctly restrictive ideas about migration, explicitly linking their partisan identity with a regional one. Rather than dilute regional identity, partisanship only strengthened it on the national stage.

**Transatlantic Unrest**

Amidst the hardening partisanship in American politics, foreign conflict became increasingly intertwined in domestic affairs, including on migration. While the United States government initially had a strong diplomatic relationship with France following their support in the Revolutionary War, the outbreak of the French Revolution saw relations sour. In particular, the upheaval provoked widespread concern about the potential political influence of both aristocratic émigrés and ‘radical’ revolutionaries who sought refuge in the United States. Yet, in line with their regional ideas about migration, partisans disagreed on the dangers each group presented. To Democratic-Republicans, émigrés were monarchism personified, and threatened new American institutions with ‘old world’ ideals. In contrast, Federalists were sympathetic to the group, and instead focussed their ire on ‘radical’ refugees who were cast out from the moderating revolution. Alongside Irish republicans, the group seemed to threaten the stability of American democracy through political activism and, crucially, local Democratic-Republican backed societies. These fears were further fuelled by the Whiskey Rebellion, which, according to Federalist leaders, was started by foreign-born radicals. Meanwhile, the overthrow of the French colonial regime in Saint Domingue brought revolutionary fervour even closer to home. The migration of white colonists seeking refuge, the majority of whom were current or former enslavers, complicated partisan attitudes to migration. While Federalists championed
the wealth and elite reputation of the refugees, Democratic-Republicans remained wary of the migration of seemingly dangerous enslaved people accompanying them. While partisan disputes raged on the floor of the House and the Senate, attitudes towards migration became equally shaped by international conflict. By the mid-1790s, the influence of partisanship and foreign affairs were inextricable, culminating in an unavoidable political confrontation on the issue.

Following the American Revolution, strong diplomatic ties were established between the United States and its close ally France. The 1778 Treaty of Amity and Commerce heralded “a true and sincere friendship” between the two nations, inaugurating a series of reciprocal rights and privileges for French subjects and American citizens. Even the French Monarchy, a bastion of the ‘old world’ Ancien Régime, was celebrated by US officials. As the Revolutionary War drew to a close, John Adams made clear that the United States’ rejection of the British Monarchy would not extend to France, assuring that King Louis XVI was a “constant object of my admiration.” Yet, when unrest broke out in France in 1789, American politicians were overjoyed at the transatlantic spread of republicanism, which seemed to emulate both the ideals and the moderate nature of the American Revolution. George Washington celebrated the Revolution’s potential to transform France into the “most powerful and happy [nation] in Europe,” but feared that “though it has gone triumphantly through the first paroxysm, it is not the last it has to encounter before matters are finally settled.” Indeed, Thomas Tudor Tucker agreed that “France, I fear, is getting into confusion.” Their concerns were justified, as the Revolution was far from over. Following a series of constitutional reforms, the legislative body of France was in near-constant upheaval throughout the early 1790s, with radical revolutionaries growing in prominence and popularity. In a letter to Washington, the Marquis de Lafayette lamented the rise of “the most violent popular party, the Jacobin club, a Jesuitic institution, more fit to make deserters from, than converts to our cause.” By the mid-1790s, the fall of the monarchy and subsequent spiral into the ‘Terror’ engulfed revolutionary France in state-sanctioned violence. American newspapers watched

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51 Thomas Tudor Tucker to John Page, Jan. 27, 1791, Reel 1, Thomas Tudor Tucker Papers, LOC.
with morbid fascination, reporting that the “possessed” nation had become “infected with fanaticism.” In a speech widely circulated across the United States, Edmund Burke labelled French revolutionaries “the ablest architects of ruin that ever existed in the world.” Subsumed by radicals, he argued, the nation was left “lying in a sort of trance, an epileptic fit… impotent to every purpose but that of dashing out their brains against the pavement.” Before long though, this seemingly distant fear landed on American shores. Amid the radicalisation of the Revolution, French migrants and refugees fled to the United States, hoping to escape political persecution. Yet, the group was not homogenous. While the fall of the Ancien Régime triggered an exodus of aristocratic émigrés who feared retribution at the hands of French republicans, political infighting left even the most radical revolutionaries scrambling from the unfolding Terror too.

As political refugees, both groups triggered distinctly partisan responses. However, much like partisan ideas about migration in general, perceptions of French migrants were equally informed by underlying regional identity. Democratic-Republicans championed radical revolutionaries, arguing that they not only exemplified but also actively espoused the republican ideals the American Revolution had defended. In doing so, “republican citizens of America have regarded Frenchmen, contending for liberty,” not as migrants of a different nationality, but “as their brethren.” Thus, to support the French cause was considered a ringing endorsement of American values. Moreover, the participatory nature of radical French nationalism aligned with expansive Democratic-Republican, and thus liberal, conceptions of American identity. Before long, as Matthew Rainbow Hale demonstrates, local Democratic societies were modelled on the style of Jacobin clubs and societies in revolutionary France. “Whether expressed in the formation of Democratic-Republican Societies [or] use of terms like ‘brethren of France’ and ‘sister republic,’” he contends, “advocates of French and American interdependence testified to the revolutionary fervour with which they articulated a new version of American nationality.” This support did not extend to all French migrants, however. Concerned with the potential reintroduction of ‘old word’ monarchical values, Democratic-Republicans cautioned against the unrestricted mobility of French émigrés. The

prominent anti-Federalist *New York Journal* disparaged the migration of “aristocrats, loyalists, and Federalists” as that of “Jews, Turks, and infidels,” intent on causing “notorious injury” to Americans. Federalists instead posed the opposite view; that aristocratic émigrés were merely trying to escape the violence of “wild beasts” overtaking revolutionary France. To them, radical republicans presented the biggest danger to the United States, bringing the carnage and extreme ideals of the Revolution with them. In a series of letters to his family, John Adams wrote of his “disgust and horror” at the masses “banishing, confiscating, massacring, guillotining minorities.” Though “the spirit, principals and system of rational liberty to all nations is my toast,” he reasoned, “I see no tendency to any thing but anarchy, licentiousness and despotism” in the French cause. While, like other Federalists, he claimed to support their shared values of republicanism, democracy, and liberty, Adams maintained that radicals had gone too far, sullying their cause with violence and anarchy.

The same Federalist mistrust of French radicals often extended to Irish migrants too. Following British attempts to extinguish Irish republicanism in the 1790s, political refugees fled to the United States, hoping to find solidarity for their revolutionary values. Before long, one representative believed, “all [of] Ireland will be in America.” In a letter to his father, Charles Adams wrote of the influx of Irish migrants into New York City. Evoking cultural restrictionism, Adams claimed the Irish “swarmed to the city,” each “fostering national prejudices” that would prevent their assimilation into society. “By their close connection and mutual assistance many of them are among the richest people,” he added, “but far from a grateful sense of what they owe and without considering that were they again in their own countries they would fall from their self-opinionative importance. They constantly strive to depreciate the American character.” Moreover, as historian Martin contends, Federalists considered Irish migrants the “the backbone of support building for the Republican Party,” and thus connected them to the surge of democratic societies. This formed part of a broader concern that the societies would form a ‘mobocracy,’ unaccountable to both the government

60 Abigail Adams to John Adams, May 11, 1794, *TAP*, 10:172-3; Diary Entry, Oct. 23, 1797, Reel 1, Williams Vans Murray Papers, LOC.
63 Daniel Carroll to James Madison, Feb. 11, 1793, ibid., 14:449.
and the will of the people. Ultimately, “Federalists could conceive of no greater threat to republican order and government.”

The outbreak of the Whiskey Rebellion in the early 1790s seemed to confirm these fears. The insurrection, protesting the implementation of a federal excise on whiskey, culminated in sustained mass violence across western Pennsylvania. Federalists argued that the rebellion, driven by “a miserable though numerous rabble of Irish and Scotch emigrants and redemptioners,” exemplified the dangers presented by radical migrants. Moreover, in yet another example of partisan squabbling, Federalists claimed that Democratic-Republicans had played a significant role in organising the rebellion. According to Seth Cotlar, it fuelled Federalist paranoia “that these societies would create permanent oppositional groups that would seek to overthrow the standing government.” John Jay, the Chief Justice of the Supreme Court, believed that ‘foreign’ insurrectionists were driven simply by “the hate of our government,” adding:

“The institution and influence of such societies among us, had given much concern; and I was happy in perceiving that the suppression of the insurrection, together with the character and fall of similar ones in France, would probably operate the extinction of these mischievous associations in America.”

However, Jay soon realised that the democratic societies were there to stay. Explicitly connecting the political influence of these societies with radical exiles, he condemned them for “greatly injur[ing] the cause of rational liberty. The destestable masacres, impieties and abominations imputable to them, excited in the people here the most decided hatred and abhorrence.” Before long, the rebellion fed into broader arguments for a stronger federal authority, particularly on the issue of migration. On the eve of the 1795 Naturalization Act, Adams reported that “the members of Congress begin to see the danger of receiving foreigners with open arms and admitting them into our legislatures so easily as we have done. The western insurgents are almost all Irish white boys, and peep o’ day boys.”

While the French Revolution raged in Europe, the overthrow of the colonial regime in Saint Domingue in 1791 provoked similar concerns. The Haitian Revolution, as it came to be

68 Cotlar, Tom Paine’s America, 187.
70 John Jay to George Washington, Mar. 6, 1795, ibid., 17:618-27.
known, saw the self-liberation of enslaved Black people across Saint Domingue, and much like the French Revolution, triggered the mass movement of wealthy colonial émigrés, though this time most were plantation owners and enslavers. From 1791 to 1794, an estimated three to five thousand white refugees arrived in the United States, settling predominantly in Philadelphia and Baltimore. However, unlike their counterparts from France, white émigrés from Saint Domingue received near universal support in the United States, predominantly by politicians and newspapers ‘moved’ by their plight. Moreover, many did not arrive alone, and brought the people they had enslaved in Saint Domingue with them. Dependent on local charity for survival, several émigrés wrote directly to George Washington pleading for financial assistance. One elderly man wrote that he was “labouring under a fever, uncomfortably lodged, wanting linen, outer clothes, and other necessities for the approaching winter, and his passage to France in the Spring.” Yet, in a rare response, Washington made clear there was little he could do. “The truth is that my private purse is inadequate,” he lamented, “and there is no public money at my disposal.”

Before long, Congress was prompted to act more substantially on the issue. Following sustained petitioning from a group of émigrés in Baltimore, ‘An Act providing for the Relief of the inhabitants of Saint Domingo resident within the United States’ was passed in 1794, establishing a series of congressional grants. The act received impassioned and seemingly bipartisan support, though had initially been slow to progress through the House. Concerned that Congress was dragging their heels, twenty-two of Maryland’s most influential politicians, lawyers, and merchants sent a memorial directly to Washington demanding he intervene “to avert a calamity disgraceful to humanity.” Of the bipartisan group, six of the signatories were migrants, including future Associate Justice of the Supreme Court Samuel Chase, a prominent Federalist. Reminiscent of notions of the American asylum, they pleaded:

“There are now between four and five hundred of the distressed emigrants from St Domingo consisting of old men women and children, most of them a few

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72 Lundy, ‘Early Saint Domingan Migration to America,’ 76-94.
months since in the highest affluence who are destitute of every necessary of life, and who must in a very few days become the victims of cold and hunger unless aid can be had from the Congress or the executive: such scenes in a country overflowing with plenty appear to us too disgraceful to humanity, to Christian charity and to the national character to be permitted to be realized within the limits of the United States.”

The memorial appealed to both parties, asserting both the ‘affluent’ nature of émigrés, and the republican character of the United States as an asylum. Accordingly, the subsequent congressional report received overwhelming bipartisan support on the floor of the House, with Maryland Representatives Samuel Smith and William Vans Murray leading the debate. Claiming that “such a scene of distress had never before been seen in America,” Smith called for Congress to intervene, talking with such passion that he “apologised more than once for the warmth with which he spoke.” Even New Jersey’s Elias Boudinot, who had championed anti-migration rhetoric in the debates for the 1790 Naturalization Act, agreed. “Many of these people, since winter set in, must have perished of cold and want in the streets of Philadelphia,” he argued, urging Congress “to extend immediate and effectual relief.”

Despite bipartisan support, debates on the relief act still reflected the conflicting attitudes of each party and their underlying regional ideologies. Favouring a liberal, decentralised approach, several Democratic-Republicans remained wary of the authority of the federal government to intervene, though backed the bill anyway due to the severity of the situation. John Nicholas of Virginia “had not been able to discover upon what authority the House were to grant the proposed donation,” but still “resolved to give his voice in favor of the sufferers.” Even so, he added, “when he returned to his constituents, he would honestly tell them that he considered himself as having exceeded his powers, and so cast himself on their mercy.”

In his private writings, Thomas Jefferson was equally torn on the issue, not least due to the elite status of émigrés. The “fugitives (aristocrats as they are) call aloud for pity and charity. I deny the power of the general government to apply money to such a purpose, but I deny it with a bleeding heart. It belongs to the state governments,” he mused. Yet, indicative of Virginian regional interests, Jefferson added, “pray urge ours to be liberal.”

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80 Boudinot (NJ), *ibid.*, 4:350.
81 John Nicholas (VA), *ibid.*, 4:172.
newfound poverty émigrés faced, Federalists accused Democratic-Republicans of unfairly labelling them aristocrats to be “disowned altogether.” At the same time, Federalist support remained contingent on the assumption that any émigrés it supported would only be in the United States temporarily. With the belief that “refugees expected to return to their settlements,” Smith was confident that “they would then be very able and very willing to repay the money themselves.” Moreover, the majority of émigrés were enslavers, and actively tried (though often failed) to circumvent Federalist-backed manumission laws in free states like Pennsylvania. Thus, émigrés from Saint Domingue equally gained the sympathy of pro-slavery Democratic-Republicans, who believed that they ought to be allowed to retain enslaved people like any other piece of property. In doing so, as Ashli White contends, they “straddled party lines,” and were subject to the sympathy and suspicion of both parties.

Meanwhile, indicating the silent agreement that relief ought to have racial limitations, Congress unilaterally ignored the plight of Black people also arriving in the United States, irrespective of whether or not they had gained freedom. Instead, “fearful that an influx of free or enslaved Black migrants from the Caribbean would foment discontent or rebellion,” Kenny demonstrates, policymakers moved to introduce restrictions at a state level in response to the ongoing Revolution, particularly across the South. In the mid-1790s, legislation in Georgia, Maryland, and North Carolina banned the involuntary migration of enslaved people from the Caribbean, suspecting them to be “dangerous” to the institution in their respective territories. South Carolina and Virginia went one step further, banning all Black migrants from the states whether free or enslaved. “The negroes who have come here with the French

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84 Abraham Clark (NJ), ibid., 4:350.
87 White, Encountering Revolution, 114.
88 Lundy, ‘Early Saint Domingan Migration to America,’ 76-94; Taparata, ‘No Asylum for Mankind,’ 64-6.
91 Samuel Shepherd, ed., The Statutes at Large of Virginia; from October session 1792, to December session 1806, inclusive (3 vols., Richmond, VA, 1835-6), 1:122-30, 239; White, “A Flood of Impure Lava,” 229.
people, have said so much about the insurrections at St. Domingo,” one white South Carolinian suspected “that we have every reason to apprehend one here.” As Ashli White demonstrates, this feeling was not confined to the South. Indeed, “northerners also linked rebellious activity among local African American communities to the presence of ‘French negroes.’” Thus, while policymakers fiercely debated both the rights and relief available to white émigrés from Saint Domingue, there was little disagreement on the primary targets of exclusion: Black migrants.

Ultimately, Congress granted fifteen thousand dollars in debt relief under the 1794 act, though the entire amount was appropriated against American debt to France. Moreover, reflecting near-universal distrust among policymakers, Black migrants were excluded from relief efforts, often facing restrictionism instead. Though seemingly bipartisan, the act demonstrates the subtle ways that partisanship occupied conversations about migration, even in a humanitarian context. Alongside contemporary attitudes to French and Irish migrants, it illuminates the growing influence of foreign conflict on partisan identity, a feature that remained at the forefront of congressional debates on the 1795 Naturalization Act. Yet, at the centre of these conversations sat long-held regional ideas about migration. In their defence of aristocratic émigrés and fear of Irish and French ‘radicals,’ Federalists articulated restrictive cultural concerns of the ‘foreign mob’ and economic hopes for wealthy migrants. The Whiskey Rebellion appeared to only validate these fears, while equally confirming the link between violent exiles and the Democratic-Republican Party. At the same time, by accusing the Federalists of supporting aristocrats and their ‘old world’ monarchical values, Democratic-Republicans defended liberal ideas, associating American identity with political participation. In both cases, the emergence of foreign conflict seemingly confirmed partisan fears about migration, and the regional ideologies that long underpinned them. In doing so, foreign conflict provided policymakers with ammunition to not only pursue their own interests on the national stage, but to do so at the detriment of their partisan opposition.

The 1795 Naturalization Act

By the end of 1794, Congress was inundated with calls to amend the 1790 Naturalization Act amidst intensifying partisanship and transatlantic unrest. Policymakers from both sides of the

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92 Columbian Centinel, Oct. 19, 1793.
94 Childs, French Refugee Life in the United States, 86.
House warned that the existing “easy access to citizenship” was proving “dangerous to the welfare of society,” and hoped that greater restrictions might be imposed.\textsuperscript{95} As one newspaper argued, a new, harsher act appeared necessary to protect the United States against “the admission of improper characters, an object of no small importance to the peace and welfare of our country.”\textsuperscript{96} When the measure was first raised in the House, policymakers agreed the issue should not be delayed “for even a single day,” indicating its apparent imminent need.\textsuperscript{97} Yet, as had been the case in 1790, drafting the new law proved no easy task. Reflecting the antagonism of regional ideologies on the issue, debates were extensive and heated. Ultimately, calls for restrictionism triumphed, and the 1795 Naturalization Act further limited access to American citizenship for migrants. The act extended the residency qualification for citizenship from two to five years, and also required migrants to declare their intent to apply three years before being formally admitted. Migrants were also obliged to renounce any title or order of nobility when taking the oath of allegiance.\textsuperscript{98} Crucially, in a last-minute amendment adopted in the Senate, the 1795 act was established as the exclusive method of naturalisation in the United States, abolishing existing state policies. Consequently, the act not only enshrined the growing influence of restrictionism in national policymaking, it further evidenced the shift of power from the states to the federal government on migration.

As discussed in Chapter Three, historians often mischaracterise the 1790 Naturalization Act as “unprecedentedly liberal.” Though problematic for the act itself, this has also affected historiographical interpretations of debates in 1795 too. Compared to the ‘liberal’ provisions of its predecessor, the 1795 act has been painted as exceptionally restrictive, inexplicably so to some historians.\textsuperscript{99} Compared to the “brief” period of assimilation under the 1790 act, Kunal Parker contends, the new legislation “rapidly became a tool for deterring undesirable aliens, minimizing the role they could play in the polity.”\textsuperscript{100} While Parker’s characterisation is correct, he frames this as a new, and explicitly partisan, feature of migration policy. In reality, restrictionist ideology was a key component of migration debates long before 1795, entering national discourse at the Constitutional Convention, if not earlier. Similarly, Carrie Hyde concludes that the 1795 act foregrounded the anti-migration rhetoric that “often

\textsuperscript{95} Philadelphia Gazette, Dec. 23, 1794.
\textsuperscript{96} Worcester Intelligencer, Jan. 27, 1795.
\textsuperscript{97} American Daily Advertiser; Dec. 17, 1794; Smith (SC), Annals of Congress, 4:968.
\textsuperscript{98} 1 Stat. 414 (1795).
\textsuperscript{99} Fuchs, The American Kaleidoscope, 15; Baseler, Asylum for Mankind, 258-60; Foucrier, ‘Immigration et citoyenneté aux États-Unis,’ 8-10.
\textsuperscript{100} Parker, Making Foreigners, 67-8.
lurked, unstated, in the background of debates about citizenship.” Yet, this too underestimates the glaring role restrictionist ideology held in migration debates prior to 1795. The 1795 Naturalization Act did not exhibit new opinions on migration, it merely situated them within partisan agendas for the first time. Ultimately, it was the product of the same contested debates between liberal, restrictive, and exclusive politicians, merely inflamed by contemporary partisanship and international unrest.

In the House, Federalists and Democratic-Republicans agreed that the influx of new migration triggered by transatlantic unrest exposed issues with existing naturalisation law, justifying a more restrictive policy. Yet, this was essentially the only point of agreement throughout the drafting process. In line with their conflicting attitudes to the French Revolution, and their underlying regional interests, both parties fundamentally disagreed on which type of migrants the 1795 act ought to be targeting. “Mischievous” French radicals were the ire of Federalist policymakers. Samuel Dexter of Massachusetts sought to prevent the “inundation of such characters,” believing they would “bring with them all the violence of party, and endeavour to convulse our government in such a degree that we might lose our independence by them.”

Evoking historic cultural restrictionism, Federalists assumed that unfettered naturalisation would degrade their exceptionalist vision of American citizenship. “Shall we alone adopt the rash theory,” Sedgwick posed, “that the subjects of all governments, despotic, monarchical, and aristocratical, are, as soon as they set foot on American ground, qualified to participate in administering the sovereignty of our country?” Under existing policy, he argued, “the benefits of American citizenship so cheap as to invite, nay, almost bribe the discontented, the ambitious, and the avaricious of every country to accept them.”

Moreover, the political influence of ‘radical’ migrants on American institutions was of great concern. Emboldened by the example of the Whiskey Rebellion, Sedgwick contended that this was the single most important reason to limit access to citizenship in a lengthy diatribe to the House:

“Could any reasonable man believe that men who, accentuated by such passions… would here mingle in social affections with each other, or with us? That their passions and prejudices would subside as soon as they should set foot in America?

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103 Philadelphia Gazette, Dec. 23, 1794.
Or that, possessing these passions and prejudices, they were qualified to make or be made the governors of Americans?  

Though he had critiqued federal naturalisation policy since 1790, Sedgwick made clear that his opposition “had not been abated by reflection but increased by the existing state of things in Europe.” However, echoing the economic nuance of restrictionism, this xenophobic rhetoric did not extend to all French migrants. Though staunchly anti-migration, Dexter reasoned that he could tolerate the migrants who “brought large [commercial] capital into the country.” Even so, Federalists maintained that the political influence of migrants should be limited, even for those holding vast capital in the country. As such, Sedgwick hoped that “a method could be found of permitting aliens to possess and transmit property, without, at the same time, giving them a right to vote.” While migrants could be economically beneficial, Federalists constantly weighed this up against their potential threat to American political institutions.

Democratic-Republicans claimed that this sentiment revealed a Federalist disposition “not only against the Jacobins but against the principles of the [French] Revolution,” and by extension, the American Revolution too. Through a liberal interpretation of American identity which promoted ideas of universalism and civic participation, Democratic-Republicans claimed that the United States was duty-bound to support French citizens in their revolutionary plight. With this in mind, Page of Virginia appealed to his Federalist colleagues to “not lose sight of equality.” Instead, Democratic-Republicans warned that the political influence of aristocratic émigrés presented a greater danger to the United States. To Page, the normalisation of nobility amongst naturalised citizens would lead to its inevitable establishment and influence in society more broadly. It would only be a matter of time, he reasoned, until a “Duke [would] come here and contest an election for Congress with a citizen... and produce mischievous effects here as well as elsewhere.” To minimise this, William B. Giles, also representing Virginia, proposed an amendment that would require migrants to renounce all titles of nobility to gain citizenship. “If we did anything to prevent the improper mixture of foreigners with the Americans,” he contended, “this measure seemed...
to him one that might be useful.”

This argument was tied to the Democratic-Republican belief that the eradication of aristocratic titles had been a fundamental tenet of the Revolution in establishing equality among citizens. Thus, it followed that the Giles amendment, as it came to be known, was entirely justifiable for any new citizens too. It was entirely reasonable, James Madison argued, that any migrants arriving in the country “should be forced to renounce everything contrary to the spirit of the Constitution.” Yet, in making this argument, Democratic-Republicans made clear that they wanted to maintain liberal principles on migration writ large. Giles assured that “he meant no act of inhospitality to these emigrants. He would deprive them of no right, nor do anything unkind to them. But he was entitled by the spirit of the Constitution to withhold this right from them till they renounced all hereditary titles.”

The target in mind for Democratic-Republicans was aristocrats specifically.

The Giles amendment provoked a strong reaction amongst Federalists, who considered it the “childish” political posturing of “Democratic disorganisers.”

Accusations of partisanship were further exacerbated by a Democratic-Republican motion for a roll call vote on the amendment, through which the vote of each representative was formally logged in the congressional record and published in national newspapers. Democratic-Republicans considered the measure of great public interest and potential outrage, and thus believed it was the democratic duty of the House to publicise the vote. A vocal supporter of the roll call, Madison laid bare the regional foundations of the partisan move, both in the House and beyond. “The Eastern members were weak to oppose it,” he argued, “whether they will [be] able to throw the dust they have raised into the eyes of their Constituents I know not. It will not be easy I think to repair the blunder they have committed if it reaches the people.”

In particular, Madison accused Federalist Representative William Smith of diverging from the regional interests of his constituents in South Carolina on the amendment. “The minds of the Americans were universally disgusted with the institution [of nobility], and in particular, in South Carolina,” Madison argued, “yet a member from that state has told the House that his constituents were under no fears of aristocracy.” In doing so, Madison not only promoted his

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112 William B. Giles (VA), ibid., 4:1030.
113 Madison (VA), ibid., 4:1035.
114 Giles (VA), ibid., 4:1036.
115 Abigail Adams to Thomas Boylston Adams, Feb. 11, 1795, TAP, 10:376-9; Columbian Centinel, Mar. 11, 1795; Theodore Sedgwick to Pamela Dwight Sedgwick, Philadelphia, Dec. 19, 1794, Box 1, Folder 18, Sedgwick Family Papers, MHS.
own regional interests as a southerner, he further critiqued southern Federalists for failing to do the same.

Federalists fumed that both the Giles amendment and roll call vote had only been proposed “to spread an alarm - a false alarm - that Aristocracy was coming to swallow us up,” and in so doing, frame the party as monarchical and anti-democratic.117 Speaking once again with “some warmth,” Sedgwick assumed that the roll call was calculated “to fix a stigma upon gentlemen in the House as friends of nobility, when they were no such thing, and to raise a popular odium against them.”118 Highlighting the regional aspect of the debate, he continued, “it might be said that the Eastern states were represented by aristocrats… It will be said, ‘there go the Eastern aristocrats! They want to import nobility here when it can no longer exist in Europe!’”119 Sedgwick spoke to a key aspect underlying the debate: the Federalist agenda on migration was not purely partisan, it was also defined by north-eastern restrictionism. While the Democratic-Republicans rebutted Sedgwick’s claims, Giles curtly added that “if there is no such party a general vote for the amendment will prove this report is without foundation.”120 Enraged by the ostensibly partisan nature of the Giles amendment, Federalists in Congress called in vain for the addition of a similar clause obliging migrants “to make a renunciation of [their] connexions with the Jacobin club” too. “Why might there not be an interdiction against persons connected to the Jacobin club?” Smith of South Carolina posed, “Why not forbid the wearing of certain badges of distinction used by Jacobins?” Invoking the same argument that Giles had against nobility, Dexter proposed that “the one was fully as abhorrent to the Constitution as the other.”121 Ultimately, the Federalists claimed, if the amendment had not been designed with partisan intentions, it ought to be expanded to prevent the migration of all unwanted people.

In retaliation to the Giles amendment, Dexter proposed one of his own. Hoping to deliver an equivalent regional blow to the Democratic-Republican Party, the Dexter amendment required that “in case any such alien shall hold any person in slavery, he shall renounce it, and declare that he holds all men free and equal.”122 The amendment was praised by abolitionists in the press, who condemned the hypocrisy of “violent Democrats [who] stun mankind with the cry of liberty and equality, while they live in the habitual exercise of the most

118 Sedgwick (MA), ibid., 4:1040.
119 ibid., 4:1054.
120 Original emphasis. Philadelphia Gazette, Dec. 23, 1794.
121 Smith (SC), Dexter (MA), Annals of Congress, 4:1031.
122 Dexter (MA), ibid., 4:1041.
abominable tyranny over their injured and oppressed fellow creatures… at the expence of the labour, sufferings, agonies and death of their slaves.” However, there was no doubting the amendment’s explicitly partisan and regional motives in the House, targeting southern, pro-slavery Democratic-Republicans. Furious with the motion, Giles fumed that “so much cunning and precaution were never before in such a dilemma,” while other representatives deemed the Dexter amendment irrelevant and “highly improper.” Crucially, Democratic-Republicans believed that it was not only “intended as a hit against members from the southern states,” but also against the “thousands of the good citizens in the southern states, as it affects the property which they have acquired by their industry.” To North Carolinian Joseph McDowell, the Dexter amendment presented a legitimate danger to states with a high proportion of enslaved people, like his own, considering the ongoing revolution in Saint Domingue. He demanded:

“The gentleman to consider what might be the consequences of his motion, at this time, when the West indies are transformed into an immense scene of slaughter. When thousands of people have been massacred, and thousands had fled for refuge to this country, when the proprietors of slaves in this country could only keep them in peace with the utmost difficulty, was this a time for such inflammatory motions? He was amazed that a gentleman of whom he had so high an opinion, could, for a moment, embrace an idea, which was, in all points of view, so extremely improper and dangerous.”

Hoping to extinguish what had clearly descended into political posturing, McDowell called on the remainder of the House to “review the behaviour of its representatives.” Though exalted as a measure of liberty and emancipation, the Democratic-Republicans understood the Dexter amendment for exactly what it was; a partisan attempt to strongarm southern representatives into supporting the Federalist agenda on migration.

Moreover, Giles’ comments reflected a broader concern that Federalists were capitalising on the regional interests of southern Democratic-Republicans specifically to foster conflict in both the House and the United States writ large. The only purpose of the Dexter amendment, Democratic-Republicans reasoned, would be “to wound the feelings and alienate the affections of six or eight states in the Union.” In response, an anonymous writer in the *Columbian United States Chronicle*, Jan. 15, 1795.

124 Giles (VA); Joseph McDowell (NC), *Annals of Congress*, 4:1039; 1042.
125 McDowell (NC), ibid., 4:1042.
126 Robert Rutherford (VA), ibid.
Centinel conversely claimed that it was the Giles amendment that would “excite an incurable breach between the northern and southern states,” not Dexter’s.

“It is this that is said to be an insult on the Southern members - it is this, which relates wholly to aliens that is denounced as tending to divide the Union! This is the crime of a member from a state, the first article of whose constitution declares “ALL MEN TO BE BORN FREE AND EQUAL” … whose census has declared to the world, with exultation, that within its boundaries there was not a Slave! … If Mr Dexter’s amendment is an insult on the Southern Members, what is the Constitution of Massachusetts!”

Implicit within the debate was the pressing of regional interests into service for partisan ends. In doing so, policymakers alienated not only their partisan opposition, but also colleagues within their own party from different regions. While the Dexter amendment was intended as a blow to Democratic-Republicans, its regional basis proved equally unpopular amongst southern Federalists. Though he had toed the party line in opposition to the Giles amendment, Federalist Richard Bland Lee, a Virginian, was quick to defend his home state against the Dexter amendment too, prioritising his regional interest over party. “Though the members from the state of Virginia held persons in bondage,” Lee reassured the House that “their hearts glowed with a zeal as warm for the equal rights and happiness of men, as gentlemen from other parts of the Union where such degrading distinctions did not exist.” These protestations fell on deaf ears. Making his partisan intentions clear, Dexter maintained that if Democratic-Republicans “want to hold [Federalists] up to the public as aristocrats, I as a retaliation, will hold you up to the same public as dealers in slaves,” adding that “he would withdraw his amendment if [Giles] would withdraw his.” In a partisan vote, Dexter knew his amendment would never pass the Democratic-Republican held House. However, by employing a regional issue, not just a partisan one, he hoped to leverage the Dexter amendment in favour of the Federalist agenda.

Much like those in 1790, debates for the 1795 Naturalization Act became more convoluted than either side of the House had anticipated. For Federalists, this seemed out of step with the trivial nature of the Giles amendment, which they deemed “totally trifling,” and “below the dignity of the House… what would be the sense of America upon our spending

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128 Original emphasis. Columbian Centinel, Jan. 28, 1795.
130 Dexter (MA), ibid., 4:1039, 1042.
day after day in debating about such a frivolous thing.” These remarks were once again met with disdain from Democratic-Republicans, who accused their opponents of ignoring the importance of the matter. For Giles, his amendment “had something more serious in it, for this prohibition of nobility formed one of the pillars of the Constitution; so that to call a principle recognised and affirmed by the Constitution a trifle, or nothing, and so on, was a very unguarded proceeding.” Noting the regional division that was permeating the debate, Samuel Smith of Maryland lamented the stubborn attitude of his Federalist opponents:

“The gentlemen from the Eastern States, who knew the republican character of their constituents, and how independent every man there was, both in his temper and his circumstances, had slighted the amendment as unnecessary. Gentlemen from Southern States, on the other hand, say that they have some reason to be apprehensive. Why, will not the Eastern members indulge us in this trifle?... why not, for the sake of conciliation, grant it?”

Equally bemused by the partisan squabbling, Madison wrote of his frustration that the measure “should have been met with opposition,” and had become “a question of some heat.” After mere days, the House had fallen into complete disarray, with members struggling to make themselves heard over unrelenting insults and interruptions.

With debate getting out of hand, and clearly extending beyond the issue of naturalisation, both amendments were finally put to a vote. Twenty-three members, all Democratic-Republicans, seconded the motion for a roll call, passing the threshold needed for its adoption. Given the partisan nature of debates, most representatives predictably toed the party line on both issues. As Democratic-Republicans held a clear majority in the House, the Giles amendment passed, while the Dexter amendment failed. The majority of Federalists voted against the Giles amendment as expected, but ten representatives broke with the party to vote alongside the Democratic-Republicans. Though some likely feared retribution from their constituents, seven of the ten Federalists represented liberal states, suggesting that regionalism factored in the final vote. Meanwhile, the Dexter amendment vote was even less partisan in nature. Prioritising their regional interests on slavery over party, eight Federalists

131 Lee (VA); Ames (MA); Smith (SC); Tracey (CT), ibid., 4:1039; 1048-9; 1051.
132 Giles (VA), ibid., 4:1052.
133 Smith (MD), ibid., 4:1049.
136 The seven Federalists from liberal states comprised: Henry Latimer (DE), George Dent (MD), William Vans Murray (MD), William Barry Grove (NC), George Hancock (PA), Josiah Parker (PA), Thomas Scott (PA).
from the South voted against the Dexter amendment. Meanwhile, two northern Democratic-Republicans, both from ‘free’ Massachusetts, voted alongside Federalists in favour of the amendment.\footnote{Annals of Congress, 4:1056-8.} In both cases, the matter had clearly extended beyond mere partisanship. Instead, the clash between the Giles and Dexter amendments demonstrates how partisan identity was both reinforced, and at times disrupted by, incompatible regional interests on a range of issues, including slavery in this case. Crucially, as both Federalists and Democratic-Republicans attempted to weaponize regionalism to the detriment of their opposition, debates on migration would only become increasingly controversial and partisan.

After the lengthy drafting process, the naturalisation bill finally passed the House, including the Giles amendment, and moved to the Senate. Though the chamber had a small Federalist majority, its members had “the prudence not to touch the nobility clause,” and it remained in the bill verbatim.\footnote{James Madison to Thomas Jefferson, Jan. 26, 1795, PTJ, 28:539-41.} Though Senate records obscure exactly why this was the case, it seems probable that there was little appetite to reconsider the amendment after such a public and contentious debate in the House.\footnote{It is also likely that, as the recent Federalist losses in the 1794 elections were about to be implemented in both chambers, the Federalists were keen to get the bill passed while they were able to leverage a restrictionist influence.} Instead, Senate debates centred on the question of whether the federal or state governments ought to control naturalisation policy. Under the Constitution, Congress was empowered to establish a uniform rule of naturalisation but had not yet enforced this exclusively. While the 1790 Naturalization Act established a unilateral national policy, under Collet v. Collet, states retained a concurrent power to admit migrants to citizenship if their policy was equally as liberal, if not more so, than federal law.\footnote{1 Stat. 103 (1790); Collet v. Collet (1792).} The 1795 act finally put this debate to rest. Emboldened by their small majority, Federalists in the Senate successfully pursued an amendment granting Congress exclusive authority over naturalisation.\footnote{Jan. 12-16, 1795, Journal of the Senate of the United States of America (70 vols., Washington, D.C., 1820-74), 2:145-6.} A lack of Senate records obscures both the character and content of debate on the amendment, yet much like the Giles and Dexter amendments in the House, the motion for exclusive naturalisation was seemingly complicated by the coalescence of partisan and regional interests. While it is unclear on what grounds and by what margin, the amendment initially failed, as did a Federalist-backed motion to recommit the bill. The first draft of the measure read that “no alien shall hereafter become a citizen of the United States, or any of them, except in the manner prescribed by this act.” Though seemingly banal language, the draft crucially made no distinction on the grounds of race or nationality, a move which would
have certainly been opposed by several members from states with existing racial exclusions.\textsuperscript{142} As a result, the second, and ultimately final, Senate draft of the bill included an explicit racial qualifier limiting naturalisation to ‘free white person[s].’\textsuperscript{143} Moreover, when it finally did pass the Senate, the amendment only received a narrow majority of just two votes. Echoing the House, the vote reflected neither an exclusively partisan nor regional approach of its members, but a combination of the two. As proponents of a stronger, centralised government, the majority of Federalists backed the amendment, while Democratic-Republicans mostly opposed the amendment, hoping to retain state authority on the issue. However, there were outliers. Two New Jersey Federalists voted against the amendment, likely concerned that an exclusive federal power on naturalisation would undermine existing restrictive state policies.\textsuperscript{144} Meanwhile, two Democratic-Republicans from slave states North Carolina and Kentucky voted in favour of the amendment, likely won over by the racial exclusion measure. Though the measure was both debated and adopted behind closed doors, much like previous votes in the House, it was seemingly decided not only on the grounds of partisanship, but regionalism too.

Despite the relatively opaque nature of its adoption, exclusive federal naturalisation ended up being one of the most crucial components of the 1795 act. States could no longer naturalise migrants on their own terms, relinquishing a key element of migration policy to the federal government for the first time. As the 1798 Alien and Sedition Acts would soon demonstrate, the enforcement of this unwieldy and expansive congressional power proved controversial. Moreover, as House debates reveal, established regional approaches to migration were increasingly complicated by partisanship. While regional interest often reinforced partisan identity, the two did not always neatly align. Representatives often deferred to partisan coalitions in decision-making, yet this was both imbued with, and at times subverted by, regional interests on a range of issues, from federalism and slavery. As a result, debates became increasingly polarised, with political posturing and personal attacks taking a greater role than ever before. The growing influence of partisanship would become only further baked into migration policy over the course of the 1790s, amidst the newly expanded congressional

\textsuperscript{142} The 1790 Naturalization Act explicitly restricted citizenship to “white persons.” Moreover, Georgia, Delaware, South Carolina, and Virginia all explicitly enacted laws that restricted state citizenship on the grounds of race. Thorpe, \textit{The Federal and State Constitutions}, 1:568-81; Watkins & Watkins, \textit{A Digest of the Laws of the State of Georgia}, 364-5; Hening, \textit{The Statutes at Large… of Virginia}, 10:129-130; Cooper et al., \textit{The Statutes at Large of South Carolina}, 4:746-7.  
\textsuperscript{144} Despite the liberal nature of the \textit{Collet v. Collet} decision, the New Jersey legislature was able to continue their restrictive policy of processing naturalisations via private acts of the legislature. Collins, \textit{Acts of the General Assembly of the State of New Jersey}, 18:884.
powers to control naturalisation exclusively. It was inevitable that the already contentious policies would soon lead to a national political confrontation on migration.

Conclusion

The 1795 Naturalization Act was a crucial moment of transition for migration policy during the founding era. The growth of partisanship amid transatlantic unrest meant that debates were both more restrictive and contentious than ever before. While politicians had near-universal agreement that migration ought to be tightened, they fundamentally disagreed on how to enact that in policy, and crucially, who that policy ought to be targeting. What emerged was an unprecedented set of debates, demonstrating a universal shift towards restrictionism across party and regional lines. Meanwhile, in a watershed moment in migration jurisdiction, the power to naturalise migrants was restricted to the federal government exclusively. The 1795 Naturalization Act was neither an insignificant moment, nor one of inexplicable restrictionism, it was a period of political transformation, rooted in the same regional interests that had existed long before.

Through the emergence of the Federalist and Democratic-Republican parties, long-established cultural and economic regional interests became incorporated into, and at times subverted by, overarching party ideologies. Reminiscent of the restrictive approach to migration, Federalists placed significant emphasis on cultural homogeneity and the exceptional nature of American citizenship. Admitting ‘unworthy’ migrants as citizens, Federalists believed, both undermined the value of the status, and presented a legitimate threat to new political institutions. Conversely, invoking a liberal approach to migration, Democratic-Republicans argued that the embrace of revolutionary values like civic virtue and public participation made American citizenship unique. By the mid-1790s, regional interest and partisan identity were inseparable. Yet, they did not always neatly align. Though split across party lines on a range of issues, representatives from exclusive states continued to prioritise slavery in migration debates, hoping to protect the institution from foreign or federal interference. As political coalitions hardened and became more divisive, representatives were increasingly inclined to toe the party line on migration debates, even if it meant subverting their prior regional interests on migration. Yet, some regional issues, such as slavery, proved insurmountable within partisan debates.

These partisan divisions were exacerbated by transatlantic political unrest. Hypothetical arguments on American citizenship, and who it should exclude, were suddenly brought to life
as migrants from across the Atlantic world arrived en masse. Both Federalists and Democratic-Republicans feared political destabilisation, albeit from different migrant groups, culminating in a bipartisan appetite for greater policy restrictions. Yet, each partisan agenda was informed by existing regional attitudes to migration and American identity. Meanwhile, relief for refugees from Saint Domingue was equally shaped by subtle partisan and regional impulses, such as the Federalist assumption that Democratic-Republicans were unfairly disadvantaging aristocratic émigrés. The outbreak of revolution across France and Saint Domingue provided both parties with evidence and ammunition to justify their respective approaches to migration, while equally tarnishing that of their opponents. Yet, it equally captured the nuanced issues underlying partisan debates, such as slavery, setting the stage for a broader, and more controversial conflict on migration.

The 1795 Naturalization Act was the culmination of mounting restrictionist sentiment and partisanship in the face of ongoing foreign conflict. The emerging role of partisanship formalised what had previously been loose ideological, and largely regional, ties in Congress. As a result, debates were even more contentious and hard-fought than ever before, demonstrated by the clash between the Giles and Dexter amendments. For both amendments, issue-based discussion often became subverted by political posturing. Yet, the regional divisions underlying debates did not go unnoticed by representatives. One of the most widespread critiques of both the Giles and Dexter amendments was their potential to divide the country geographically, be it on the issue of slavery or federalism. However, the most significant addition to the bill came from the Senate. Passed using race as leverage, the new clause gave way to the most expansive federal power on migration thus far; the ability to naturalise exclusively. Not only would this diminish the role of state policymaking on migration, it also granted the federal government oversight, and the potential for manipulation, on broader areas of migration law too.

The entrenchment of partisan approaches to migration in the mid-1790s made policymaking increasingly contentious, while also liable to political posturing and obfuscation. Moreover, the deployment of partisan arguments about transatlantic unrest to either justify or oppose policymaking demonstrated a broader relationship between migration policy and foreign affairs in the political imagination. As the United States became more entangled in global affairs over the late 1790s, this would prove to be a decisive factor in policymaking. With a divided government in 1795, the need for compromise to pass legislation meant that debates on migration remained relatively restrained. However, the election of President John
Adams, and establishment of Federalist majorities in the House and Senate in 1796, guaranteed that this would soon change. Amid crises of government, partisanship, and international conflict, the 1798 Alien and Sedition Acts proved to be the most controversial migration policies of the founding era.
Chapter Five

“Genuine Americans”: Popular Politics & the Alien and Sedition Acts

“Citizens by birth or choice, of a common country, that country has a right to concentrate your affections. The name of AMERICAN, which belongs to you, in your national capacity, must always exalt the just pride of patriotism, more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles... Here every portion of our country finds the most commanding motives for carefully guarding and preserving the Union of the whole.”

George Washington, ‘Farewell Address,’ 1796

In his Farewell Address, President George Washington spoke to what he considered one of the greatest issues facing the United States in the late 1790s: political division. The election of his successor President John Adams in 1796 signalled the growing role of partisanship in federal politics, and crucially, its likelihood to endure. Despite this, Washington assured that all Americans, whether “by birth or choice,” could overcome such differences through a shared responsibility to the young nation. Yet, this optimistic outlook mischaracterised the turbulent political landscape. Before long, the “slight shades of difference” Washington had noted between both states and parties became deep chasms in national politics. This was particularly true of regional division on migration, which fed directly into partisan conflict at both a state and federal level. Following victories in the presidential and congressional elections in 1796, Federalists capitalised on this moment to legislate some of the most restrictive migration policies to date. Under the Alien Acts and a new Naturalization Act, migrants could no longer be guaranteed residency in the United States or access to citizenship. Meanwhile, the status and rights of naturalised citizens became progressively less secure.

The late 1790s is typically framed in the literature as an exceptional moment of policymaking on migration. New Federalist legislation, including the Alien and Sedition Acts,

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were spawned either from extreme xenophobia, partisan authoritarianism, or both. In the midst of a national security crisis, Julia Rose Kraut contends, the federal government sought to suppress the disruptive influence of foreign dissent, producing “the most despotic legislation in American history.” Conversely, James Kettner, among others, emphasises the role of partisanship, deeming the Alien and Sedition Acts “clearly Federalist measures.” As a result, historians often only discuss migration policy during the Federalist era as a momentary lapse in an otherwise long lineage of reasonably liberal policies, ignoring the entrenched conflict shaping politics and policy. In his analysis of the development of migration policy throughout the founding period, Lawrence Fuchs characterises this period as a fleeting moment of Federalist xenophobia, departing from the liberal norms of previous migration policy that would later be re-established in the Jeffersonian era. In agreement, Susan F. Martin also characterises the Alien and Sedition Acts as a temporary aberration from the liberal approach to national policymaking established in the mid-1790s; what she terms the ‘Pennsylvania model’. Though Martin concedes that the Federalists enacted “policies that restricted the rights of immigrants generally, leading them toward the Massachusetts model” of migration, she still frames this as an exception to contemporary ideas about migration. In reality the two approaches she describes - liberal and restrictive - remained equally prominent during this period.

Meanwhile, the historians that do emphasise the importance of regional conflict during this period often overlook how this connected to long-standing regional interests across the Union. Though Marilyn C. Baseler notes that the Alien and Sedition Acts “came under especially severe fire in the South,” she omits the reasons for this. Douglas Bradburn reaches a similar conclusion, though adds that individual states exhibited different characteristics and responses to national policy. Amid the polarisation of the political system, he argues, “the emerging parties developed two opposing worldviews which understood the other with reference to the debates and examples of international politics,” forging distinct ideas about American identity and migration. These generally fell into two geographic ‘camps’ - New England and the South - represented by the Federalist and Democratic-Republican ideologies, respectively. However, Bradburn considers this to be a relatively new phenomenon, shaped by

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2 Kraut, *Threat of Dissent*, 16.
5 Martin, *A Nation of Immigrants*, 80-3, esp. 80.
partisan disagreements on the nature of American citizenship during the period. As a result, he mistakenly concludes that regional division was the product of partisanship; in reality, it was the exact opposite.\(^8\)

This partisan framework has also been adopted by Kevin Kenny and Anna O. Law, though both further explore how contemporary discussions on slavery played into regional conflict on migration. In particular, Kenny contends, southern Democratic-Republicans opposed the Alien Acts under the assumption that “if the federal government was equipped with a general power over migration, it might interfere with slavery.”\(^9\) Adopting Bradburn’s conception of a sectional North-South partisan divide on migration, Law adds that “the expansive construction of national power frightened the slave states,” and thus fundamentally shaped this dynamic.\(^10\) However, by using slavery as the locus of division on migration, Law mischaracterises the nature of regional debates, framing the conflict as being between the anti-slavery, “north-eastern immigrant-receiving states” and the restrictive, pro-slavery South.\(^11\) As a result of this division, Law concludes, the Federalist era marked “the first full-blown conflict between the central government and the states with regard to the issue of immigration.”\(^12\) Though slavery certainly played a key role in shaping migration debates, it took root in more nuanced ways during this period and indeed much earlier. Rather than shaping partisan identity entirely, at least as far as migration was concerned, slavery complicated existing debates on foreign and federal influence on the issue, particularly amongst representatives from exclusive states who did not neatly align with either party.

This was neither a unique period of unbridled Federalist xenophobia, nor a moment of exceptionalist policymaking; it was historic regional division on migration pushed to its very limits. As had been the case for much of the 1790s, Federalist and Democratic-Republican policymakers continued to argue for restrictive and liberal policies, respectively, with the assumption that this would also benefit their own regional interests. Amidst the election of President Adams, a large Federalist majority in Congress, and worsening Franco-American diplomatic relations, it is unsurprising that a restrictive approach to policymaking flourished. Yet, once the Alien and Sedition Acts seemed inevitable, and even after they had passed into law, debates continued to rage in both chambers of Congress with no resolution in sight. The

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\(^8\) ibid., 141-4, 151-8.
\(^9\) Kenny, *The Problem of Immigration in a Slaveholding Republic*, 34.
\(^11\) ibid., 316.
\(^12\) ibid., 303.
same was true of state governments. The Virginia and Kentucky Resolutions saw national debates on the Alien and Sedition Acts spill into state legislatures, producing an array of responses across the Union that reflected the same regional division. At the same time, state policymakers continued to pursue their own regional interests on migration through new legislation on political rights and land ownership. Though political rights for migrants and naturalised citizens narrowed nationwide, indicative of growing distrust of foreign influence, legislators made sure to guarantee that the same migrants who could not vote were able to own lands, invest in local infrastructure, and be economically beneficial. While certainly still distinct, this shift highlights how liberal and restrictive ideologies grew ever closer during the period in practical policy terms. Meanwhile, for the first time, public engagement exerted a meaningful impact on the policymaking process on migration, articulating the same regional interests as state and national representatives. Amid the growing national political culture of the late 1790s, the public not only reflected regional attitudes to migration; they made claims to their own understanding of American identity, citizenship, and the Constitution. Altogether, this period shows how entrenched regional identity was in every layer of local, state, and national migration politics. The political clamour of the Alien and Sedition Acts extended ongoing debates and conflict on migration into the public arena, shaping how everyday Americans viewed their own status within the new nation.

The Alien and Sedition Acts
For much of the 1790s, a mix of political ideologies in all three branches of the national government meant migration policy was often hard-fought, compromising and, once agreement had been reached, relatively uncontroversial. The 1795 Naturalization Act had been the result of partisan and regional synergy; both parties concurred that strong, centralised restrictions on migration were necessary, despite disagreements on the types of migrants to target. Yet, after the 1796 elections, everything changed. The Federalist sweep of Congress marked a new and distinctively partisan order of business. Without any need to compromise, Federalist legislators held an unwavering gaze on what they considered to be the greatest threat to both themselves and the existence of the United States; “the demons of democracy, faction, and confusion,” French migrants and their Democratic-Republican allies.13 Moreover, while Adams remained confident in the electoral mandate both he and the Federalist Party had

13 Thomas Dwight to Theodore Sedgwick, Sept. 14, 1796, Box 3, Folder 14, Sedgwick Family Papers, MHS.
received, he was also acutely aware of the opposition they garnered, particularly in liberal regions. From the moment he arrived in office, he knew that “the rancour of the South and of Pensilvania against New England, and from French impudence, with that of a few Scotch and Irish firebrands” sat in direct opposition to his administration, indicative of the regional divides shaping local, state, and national politics.14 Ongoing diplomatic crises with France and Great Britain only heightened this tension. “The American nation has indeed arrived at that momentous crisis,” Adams claimed, “when it is necessary to convince France, as well as all nations, that we shall again [stand] united, and discountenance and discredit those unblushing falshoods that have divided us.”15

Though historians near-universally agree that the resulting Alien and Sedition Acts were distinctively restrictive, they have disputed the nature of Federalist policymaking. In his foundational work, James Morton Smith contends that the Alien and Sedition Acts were designed as a partisan “move directed against domestic dissension and disaffection,” both from Adams directly and the Federalist Party in general. With the assumption that Federalists “raised no weighty objections to speedy naturalisation” during debates for both the 1790 and 1795 Naturalization Acts, he concludes that the 1798 legislation could only be characterised as a political manoeuvre “designed to cut off an increasingly important source of Republican strength,” migrant voters.16 In agreement, Daniel J. Tichenor emphasises the crucial role of naturalised migrants in fielding Democratic-Republican opposition to the Adams administration. Accordingly, he argues, the Alien and Sedition Acts were a mere “effort by the Federalist Party to forestall its imminent loss of political power.”17 While Smith and Tichenor understate the importance of contemporary foreign conflict in shaping Federalist policymaking, they equally overlook the extent to which this restrictionism existed long before 1798. In doing so, they fail to uncover the ideological basis of Federalist policymaking, rooted in historic regional restrictionism.

Conversely, Aristide R. Zolberg and Noah Pickus contend that policymakers were guided by national security concerns amid a looming Franco-American war.18 New restrictive legislation, Zolberg argues, was only one means through which “internal mobilisation was

16 Smith, Freedom’s Fetters, 22-3.
17 Tichenor, Dividing Lines, 54; Gérard Hugues, ‘Norms for a Misuse of Authority,’ 93-102.
18 Pickus, True Faith and Allegiance, 34-44.
stepped up, and controlling the movement of goods, information, as well as people across international boundaries became a matter of great urgency." Indeed, while partisanship took on a growing role in domestic politics, worsening foreign relations between the United States, Great Britain, and France exacerbated existing political conflict on migration. The 1795 Jay Treaty, negotiated by Federalist John Jay on behalf of the Washington Administration, had become particularly controversial during the late 1790s. While the treaty sought to re-establish diplomatic and trade links following the Revolutionary War, its opponents, the majority of which were Democratic-Republican, condemned the government for negotiating with Great Britain and, thus, degrading “the American name throughout Europe.” Crucially though, the Jay Treaty inadvertently effected Franco-American diplomatic relations too. Notably, the agreement interfered in the ongoing Anglo-French war, allowing the British to intercept French trade ships crossing the North Atlantic.

Hoping to improve relations, President Adams prioritised the renegotiation of foreign policy and trade with France soon after his inauguration in 1797. However, this had disastrous consequences. The three French agents tasked with brokering a new agreement, known contemporarily as ‘X, Y, and Z,’ incited outrage after demanding a bribe to start discussions. Adding insult to injury, the French agents threatened to destabilise political institutions if ignored, capitalising on existing divisions and resident French migrants in the country. Though Democratic-Republican leaders assured Adams that the agents’ behaviour did not reflect the sentiments of the French government, Federalists were incensed at the “display of corruption and injustice,” believing that “the fate of our republick is at hand.” In a special message to Congress, Adams demanded “satisfaction for the insult and reparation for the injury,” prompting suggestions that greater security measures might be required to safeguard the United States from France. Though Democratic-Republicans considered this “insane” war mongering, the Federalist-majority in Congress set in motion. Among the several defence measures suggested, a reappraisal of the country’s migration policy was high on the agenda. However, much like Smith and Tichenor, Zolberg and Pickus underestimate how

20 Albert Gallatin to Hannah Gallatin, June 28, 1797, Reel 3, Albert Gallatin Papers, LOC.
existing regional interests shaped partisan responses to foreign conflict. Indeed, the ideologies underpinning Anglo- and Francophobic sentiments were not new in 1798, but were instead contingent on historic liberal and restrictive understandings of American citizenship and migration.

The Alien and Sedition Acts were neither solely the product of ruthless partisanship nor the fear of an impending foreign crisis. Though Federalist policymakers undoubtedly pushed for greater migration restrictions under the banner of partisanship, they held the implicit belief that this would also serve to further reflect their own regional interests on the national stage. Meanwhile, as had been the case in congressional debates for the 1795 Naturalization Act, policymakers drew upon ongoing foreign crises to justify existing partisan, and by extension regional, approaches to migration. Though in 1795 these competing partisan interests were mediated by debate and compromise, the shifting balance of political power handed Federalists the advantage of applying their own approach to migration in national policymaking in 1798. What emerged in the Alien and Sedition Acts, predictably, was the wholesale adoption of restrictive policies. Even so, these were met with significant opposition throughout the drafting process. Much like previous national policymaking on migration, the Alien and Sedition Acts provoked debate not only on the content of migration policy, but also its jurisdiction. Invoking their respective regional interests, Federalists justified, and Democratic-Republicans rebutted, the new legislation using cultural and economic ideas about migration. Meanwhile, demonstrating the crucial role of migrants in the new political system, debates further considered the partisan scope of the Alien and Sedition Acts. Democratic-Republicans opposed the acts on the grounds of federalism, arguing that the Federalists were manipulating the Constitution to expand their restrictive interests on the national stage at the expense of their own. While their relatively weak political showing limited their leverage in Congress, Democratic-Republicans still employed regional interest in attempts to defend their own migration policies at a state level while resisting the expansion of restrictionism at a national level.

In Congress, Federalist legislators were acutely aware that “at a time when we may very shortly be involved in war, there are an immense number of French citizens in our country,” stoking fears that migrants might attempt to subvert American institutions at any time.25 Hoping to address this issue, an all-Federalist Senate committee was formed in early 1798 to

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25 Samuel Sitgreaves (PA), *Annals of Congress*, 8:1453; Theodore Sedgwick to Pamela Dwight Sedgwick, Apr. 28, 1798, Box 1, Folder 26, Sedgwick Family Papers, MHS.
revise the terms of the 1795 Naturalization Act. They reported that the existing “precautions against the promiscuous reception and residence of aliens, which may be thought at all times advisable, are at this time more apparently necessary and important, especially for the securing the removal of those who may be suspected of hostile intentions.”\(^{26}\) The only way to achieve this, they concluded, was to pass an entirely new act. “If something like this cannot be done,” Theodore Sedgwick added, “I shall not deem the public safety provided for.”\(^{27}\) Before long, the desire to amend the 1795 act expanded into calls for additional legislation to restrict the rights of migrants in new ways. By the end of the session, the infamously restrictive Alien and Sedition Acts had passed, three of which directly impacted migrants. The new Naturalization Act extended the period of residency required to obtain citizenship from five to fourteen years, while also increasing the notice to declare intent from three to five years.\(^{28}\) The Alien Enemies Act authorised the removal of all male migrants from any ‘enemy nation’ during a time of war; a measure that was considered reasonable by both parties considering contemporary diplomatic concerns.\(^{29}\) However, the Alien Friends Act, the brainchild of the all-Federalist Senate committee comprising four representatives from restrictive states and one from an exclusive state, proved far more controversial.\(^{30}\) The act enumerated a new power for the President to deport any non-citizen “he shall judge dangerous to the peace and safety of the United States, or shall have reasonable grounds to suspect are concerned in any treasonable or secret machinations against the government” during peacetime.\(^{31}\) Beyond granting significant power to the executive branch, the act entered uncharted territory on migration policy by instituting new surveillance mechanisms on migrants arriving into the United States. Much like previous migration policy, the new Naturalization Act and Alien Acts generated heated debates in Congress, drawing upon the same partisan and regional arguments on migration that had existed for decades. In doing so, both parties reasserted their own exceptionalist conceptions of American identity and citizenship, rooted in the Revolution.

Across both chambers of Congress, Federalist legislators constantly reiterated the “monster of Jacobinism” and potentially destabilising force of French migrants to justify greater restrictions on migration.\(^{32}\) In doing so, they articulated culturally restrictive arguments.

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\(^{27}\) Theodore Sedgwick to Rufus King, Apr. 9, 1798, Box 3, Folder 23, Sedgwick Family Papers, MHS.

\(^{28}\) 1 Stat. 566 (1798).

\(^{29}\) 1 Stat. 577 (1798).

\(^{30}\) Committee Members: James Hillhouse (CT), John Laurance (NY), Samuel Livermore (NH), Jacob Read (SC) and Theodore Sedgwick (MA). Apr. 25, 1798, *Journal of the Senate of the United States of America*, 2:480.

\(^{31}\) 1 Stat. 570 (1798).

\(^{32}\) Theodore Sedgwick to Ephraim Williams, Jan. 4, 1798, Box 5, Folder 25, Sedgwick Family Papers, MHS.
which framed migrants as an undesirable ‘other,’ seemingly incapable of assimilating into American society. French migrants, in particular, were labelled “cut-throat, frog-eating, treaty-breaking, great-fallen, god-defying devils,” hoping to spread “infernal mischiefs to all the rest of the world.” This was not mere hyperbole; Federalist policymakers genuinely believed in the existence of “a conspiracy, a faction leaged with a foreign power to effect a revolution or subjugation of this country.” “It is much to be lamented, that there exists no authority to restrain the evil,” Harrison Gray Otis contended, “therefore [it is] peculiarly incumbent on Congress to add to their other measures of defence, such powers as will protect the country against this evil.” In particular, Otis spoke to a concern that radical French migrants had “not only been extremely instrumental in fomenting hostilities against this country, but also in alienating the affections of our own citizens” against the American government too. Even Abigail Adams chimed in using her experience of living in Philadelphia, the national seat of government that also happened to be a particularly liberal and diverse city, to argue for new restrictions on migration. “We are in a very unpleasent situation in this city,” she wrote, “we have an influx of foreigners, from all nations, and very feeble authority to restrain them; or to punish them, in proportion to their crimes.” Though Adams sought a national solution, she argued that this was in part a regional issue too, noting that “poor Pensilvania keeps no gallows.”

To resolve the ‘migration issue,’ Federalist legislators suggested two solutions: to deport ‘seditious’ migrants, and significantly limit the political rights of migrants and naturalised citizens resident in the United States. Though designed to address contemporary concerns, Federalists equally sought to rectify what they considered a broader problem, the way national migration policy had been historically conducted in the United States. Robert Goodloe Harper of South Carolina believed that “it was high ti me we should recover from the mistake which this country fell into when it first began to form its constitutions, of admitting foreigners to citizenship.” Ultimately, he added, “nothing but birth should entitle a man to citizenship in this country.” Other Federalists agreed, declaring that the current crisis was the product of letting migrants access citizenship too easily. “The liberty which the United States

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33 Benjamin Rosseter to Theodore Sedgwick, Mar. 30, 1798, Box 7, Folder 5; Thomas Dwight to Theodore Sedgwick, Apr. 21, 1798, Box 3, Folder 14, Sedgwick Family Papers, MHS.
35 Harrison Gray Otis (MA), ibid., 8:1576-7.
have given in this respect heretofore has been unexampled,” Samuel Sewall argued, but added that “it was high time the evils which had arisen from this imprudent liberality should be remedied.” Federalists were not only proposing that their restrictive approach was necessary for this moment, but that it ought to be the preferred approach of the American government to migration writ large. Outside of Congress, President Adams’ nephew echoed this sentiment, adding “let us no longer pray, that America may be become an asylum to all nations, but let us encourage [our] own men and cultivate our simple manners.” In doing so, he not only emphasised a restrictive notion of American identity, he openly rejected the republican, liberal equivalent. Meanwhile, Federalist policymakers argued that previous access to citizenship had not been established as a right for migrants to claim, but a mere privilege that could be retracted at any time. As such, Sewall continued, “no alien has a right to complain, if these regulations should disappoint his expectations.” The restrictive belief that American citizenship was both exceptional and homogenous was implicit in this argument. Federalists concluded that citizenship was assigned at birth and could not be transferred, undermining the status of naturalised citizens altogether. As Otis claimed, “a Frenchman is a Frenchman; for though he [took] his naturalization oath in this country, it does not alter his character; he is still called, and known to be a Frenchman.” In shaping the content of the Alien and Sedition Acts, Federalist politicians not only asserted their restrictive regional interests, they made claims to the conception and very nature of American identity.

While Democratic-Republicans in part supported new limitations on migration, they equally critiqued Federalist cultural assumptions about migration, using an expansive and innately liberal understanding of American identity. The Alien Enemies Act, in particular, received bipartisan support and was widely considered a reasonable, if not necessary, war-time measure. Even the most ardent pro-migration Democratic-Republicans agreed that it would be beneficial to the United States to restrict the mobility of potentially dangerous migrants both contemporarily and beyond. However, they knew that this measure would not be enough to satisfy the “passionate purposes of the [Federalist] war-gentlemen” in Congress who instead pursued restrictions “worthy of the eighth or ninth century.” While Gallatin agreed “if any bill against aliens was necessary, it was certainly a bill against alien enemies,” he warned that

38 Samuel Sewall (MA), ibid., 8:1778.
40 Sewall (MA), Annals of Congress, 8:1780.
41 Otis (MA), ibid., 8:2063-6.
Federalists remained “more desirous of guarding against alien friends.”43 As debates wore on, Democratic-Republicans increasingly resisted the Federalist onslaught of restrictive policy. Crucially, they condemned the Alien and Sedition Acts for undermining the universalist nature of the American republic, namely its promise to become an ‘asylum for mankind’ at the founding. “How did we go through our Revolution?” Samuel Smith posed, “not by passing such laws as these, but by the united and determined spirit of the people… we know that there were then traitors; but we also know too, that they were more frequently found among native Americans than among foreigners.”44 Appealing to this idea, Edward Livingston agreed that the Federalists were ignoring the very basis of the American Revolution and its central aim to overcome political oppression:

> “An unfortunate stranger, disgusted with tyranny at home, thinks he shall find freedom here... But while he is patiently waiting the expiration of the period that is to crown the work, and entitle him to all the rights of a citizen, the tale of a domestic spy, or the calumny of a secret enemy, draws on him the suspicions of the President, and, unheard, he is ordered to quit the spot which he is selected for his retreat, the country which he had chosen for his own.”45

While highlighting the arbitrary nature of the Alien and Sedition Acts, Livingston also emphasised an expansive, liberal vision of American citizenship; that migrants were able to assimilate into American society by adhering to shared revolutionary values. Thus, it was not only an immoral policy to restrict the rights of migrants, he contended, it undermined the universal nature of American citizenship altogether. William Claiborne of Tennessee agreed, noting that “there are numbers [of migrants] who have given the strongest attachment to the country; they have fought and bled in the service of the United States as any man born on American soil,” and thus ought to share access to American citizenship.

However, the new Federalist restrictions were not only ideologically motivated, but partisan in nature too. While the threat migrants posed was in part existential - that they could destroy American institutions from the inside out - it was also deeply political, as foreign-born voters typically supported the Democratic-Republican Party. An inherently regional argument, this was particularly true in liberal states, which both had a higher proportion of migrants and easier access to voting rights. In a speech advocating for the Alien Friends Act, John Allen of

44 Smith (MD), ibid., 8:2023.
45 Edward Livingston (NY), ibid., 8:2012.
Connecticut pointed to Philadelphia as an example of the undue political influence migrants were having in favour of Democratic-Republicans. He argued that this was tantamount to electoral fraud, considering “the vast number of naturalisations which lately took place in this city to support a particular party in a particular election.” Moreover, Federalist policymakers were suspicious that the Democratic-Republican Party not only received the support of migrants, but was subject to the direct influence of the French government. Future President John Quincy Adams genuinely believed that the French government “fully depended upon their party in America, and especially upon the House of Representatives in Congress, not only to annihilate every exertion of our defence against them, but even to effect a Revolution, which should remove the President and the Senate from their stations.”

Though the new Naturalization Act limited the political activism of migrants by restricting access to citizenship, some Federalists argued that it did not go far enough. During the act’s drafting, several Federalists proposed an amendment that would limit all political office-holding to natural-born citizens. Though Democratic-Republicans warned the measure would fundamentally “modify the rights of citizenship,” it received widespread support. While John Jay thought it was important to grant migrants “a portion of our rights and privileges,” he thought it prudent that the new legislation should “declare explicitly, that the right and privilege of being elected or appointed to, or of holding and exercising any office or place of trust or power… shall not hereafter be granted to any foreigner.”

Supporting the measure, another Federalist again critiqued the relatively moderate policies introduced under the previous government. “We lament for our country,” he argued, “that aliens born, men exported from other climes have by insidious practices, and a departure from all political integrity, grasped at influence and crept into the window of office.” Under the moderate nature of previous policies, he contended, naturalised citizens “under the name of Americans essayed to prostitute our national character.” Taking this argument even further, Otis suggested that Congress could create a de-facto policy of political exclusion by inflating naturalisation requirements. “By extending the time of residence of aliens so far, as to prevent them from ever becoming citizens,” another Federalist explained, migrants “would be

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46 John Allen (CT), ibid., 8:1578.
48 Otis (MA), Annals of Congress, 8:1570.
49 Thomas Jefferson to Thomas Mann Randolph, Apr. 26, 1798, PTJ, 30:304-5.
52 Otis (MA), Annals of Congress, 8:1571.
effectually excluded from holding offices in the government.”

Though the measure was never adopted, it demonstrated the extreme lengths Federalists were willing to go to minimise the political influence of migrants, and by extension, their political opposition.

In the same breath that Federalists argued against the political rights of migrants, whether out of cultural restrictionism or partisanship, they insisted that migrants ought to have uninhibited access to property rights. Though Harper supported “giving foreigners every facility for acquiring property, or holding this property, or transferring their property to their families,” he caveated that “as to the rights of citizenship, he was not willing they should be enjoyed, except by persons born in this country.” Ultimately, migrants should serve only as “citizens for us.”

The exploitative nature of this view reflected the historically restrictionist desire for migrants to contribute economically to the United States while remaining politically redundant. After discussing the topic at length, leading Federalists Alexander Hamilton and Jonathan Dayton concluded, predictably, that the delineation of migrant rights ought to have been secured under the 1790 and 1795 Naturalization Acts. Instead of granting unobstructed access to citizenship, they agreed that both acts ought to have “distinguished between the right to hold property and political privileges” to secure the economic benefits of migration while reducing its influence on American politics.

Though specific provisions on rights did not come to fruition in the Alien and Sedition Acts either, their prevalence in debate demonstrates the continuity of restrictionism, both as an ideology and an approach across the North-East. Moreover, these debates reveal how Federalists drew upon previous experiences of national policymaking to further justify their own interests while discrediting their opposition; a method which had long been associated with the entrenchment of regional interest in policymaking since the Constitutional Convention.

Despite claiming to defend an expansive vision of American citizenship, Democratic-Republicans were equally cognisant of the economic ramifications of the Alien and Sedition Acts. Much like the liberal pro-migration approach, policymakers resisted restrictionism with the exception of ‘undesirable’ migrants. Speaking in opposition to the Federalist policies, Joseph McDowell of North Carolina argued that “when persons come here from foreign countries, it was our interest to attach them to us, and not always to look upon them as aliens and strangers.” As such, he continued “he did not wish to discourage an emigration to this

53 Sitgreaves (PA), ibid., 8:1572.
54 Original emphasis. Harper (SC), ibid., 8:1568.
country of respectable foreigners, by barring them from the rights of citizenship.”56 While McDowell was undoubtedly appealing to an expansive vision of citizenship, this coded language spoke to its conditional nature. Though, this in part reflected an innate distrust of British migrants among the Democratic-Republican Party, it was also financial in nature. From the creation of the republic, McDowell noted that “inducements had been held out to foreigners to come to this country, and many of them had come with a view of becoming citizens,” particularly across much of the South. “It had been said our population was now sufficient, and that the privileges heretofore allowed to foreigners might now be withdrawn. In some parts of the country this might, in some degree, be the case; but he knew there were other parts which wanted population.”57 This argument reiterated liberal ideas of migration from the colonial period; namely, as discussed in Chapter One, that a strong desire for settlement and labour justified reasonably open policies, albeit at a local level. If the Alien and Sedition Acts succeeded in suppressing migration, Democratic-Republicans warned that the United States would be subject to a “loss of wealth, of population, and of commerce.”58 Much like the Federalists had, Democratic-Republicans deployed both regional ideas and experiences of migration to justify their conception of American citizenship and political position against the Alien and Sedition Acts. In doing so, they were not only contesting the restrictive content of Federalist policy in economic terms, they contested the party’s framing of American identity and the founding altogether.

In a facsimile of the Constitutional Convention, cultural and economic debates on migration soon gave way to broader debates over federalism. Democratic-Republicans, using the same perspective that liberal delegates had, argued that the Constitution reserved power primarily to states on issues of migration. Thus, they primarily opposed the Alien and Sedition Acts on two grounds: that they superseded state jurisdiction on migration and granted the President “a very extraordinary” and excessive power on the matter.59 Before long, the debate shifted from a discussion on whether the acts were even necessary, to whether they adhered to constitutional principles. To Democratic-Republican floor leader Albert Gallatin, the expediency of the new legislation was somewhat irrelevant; the real question was “whether this government has any power, under the Constitution, to remove alien friends out of the United States, or whether the power over aliens does not belong exclusively to the individual states.”

57 ibid., 8:1573.
58 Edward Livingston (NY), ibid., 8:2012.
59 Nathaniel Macon (NC), ibid., 8:1786.
While the Constitution gave the federal government seemingly exclusive authority to naturalize migrants, even if only since 1795, the Tenth Amendment left remaining areas of migration policy under the authority of state governments.\textsuperscript{60} As “the Constitution provides that the powers not delegated by it to the United States are reserved to the states,” Democratic-Republicans assumed that it was “not contended in this instance that a power over aliens [was] specifically and positively given to the Union.”\textsuperscript{61} Crucially, they added, no circumstantial factors could alter this constitutional maxim. In any area of migration policymaking, in any given context, “if it be a subject which belongs to the states, however necessary it may be to be done, Congress cannot do it.”\textsuperscript{62}

Underwriting Democratic-Republican arguments was the belief that migration was an inherently regional issue that ought to be determined by individual state governments. They claimed that Federalist-majority (and thus restrictive) state policies were essentially being expanded into national legislation at the expense of larger states that benefitted from high levels of migration. In Pennsylvania alone, Gallatin noted, “there will be ten times the number of people under [the Alien and Sedition Acts], and the arbitrary power of the President in this State, than there will be in all the New England States put together.” By extending these restrictive policies across the country, “those States whose population is full, and to which few migrations take place” would only be serving “to check the population of other States, and to keep a preponderance in their hands, be an object with them.”\textsuperscript{63} In agreement, Samuel Smith of Maryland, remarked that “the legislature of his [liberal] state gave every encouragement to emigration,” and thus, “to do anything which should impede emigration would be illy received” by his constituents.\textsuperscript{64} In Gallatin’s view, liberal states had already compromised their regional interests on migration in national policymaking, but the Alien Acts were a step too far. Stressing the restrictive nature of the Federalist agenda, Gallatin believed that “a temporary sacrifice has already been made by [Pennsylvania], by the new naturalization law… When that bill was under consideration, the friends of it said, they wished to give security to the persons and property of aliens, but they did not wish them to have any political influence in the country.” However, by contrast, the Alien Acts moved into an entirely different realm of policymaking that disproportionately impacted liberal states. They “affected the civil rights, the

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\item[60] US Constitution, Amend. 10 (1791).
\item[62] Robert Williams (NC), ibid., 8:1995.
\item[63] Gallatin (PA), ibid., 8:1982-3.
\item[64] Smith (MD), ibid., 8:2022-3.
\end{footnotes}
personal liberty, the property of aliens… It was not only a refusal to encourage migrations, it was a bill to prevent migrations. And in such a bill, assuming a power belonging to herself and not to the United States, and affecting her population and prosperity to such an extent, Pennsylvania was immediately and deeply concerned.”65 As such, Democratic-Republicans not only opposed the restrictive content of Federalist legislation, but also disputed whether the federal government even held the authority required to legislate such a broad array of migration policies. Democratic-Republicans asserted that states had the right to enact differing approaches to migration policy, and “Congress has not the power to make them uniform,” except for naturalisation.66 Irrespective of any effort to nationalise migration policy, Congress was still answerable to “the discordant wills of sixteen states” on the issue.67

Much like Democratic-Republicans, Federalist policymakers sought to preserve their own regional interests, though conversely sought do so through an expansive national power on migration. Reminiscent of restrictive arguments during the Constitutional Convention, Federalists retorted that a lack of national restrictions on migration would be tantamount to having a liberal national policy, to the detriment of their own states. If Congress failed to pursue restrictions of migration, they believed:

“It would be in the power of an individual state to introduce such a number of aliens into this country, as might not only be dangerous, but as might be sufficient to overturn the Government and introduce the greatest confusion in the country… can the government be so deficient in power, as not to be able to provide against such a mischief? To suppose this would be to suppose that the very existence of the Union is in the power of a single state.”68

Democratic-Republicans assumed this argument was a façade to justify the overextension of congressional power, maintaining that the Federalists were using their platform unfairly to force their regional agenda into national policy. Yet, much like the Democratic-Republicans, Federalist policymakers were instead making a claim to the ideological design of the Constitution, which they considered to be inherently restrictive. As Chapter Two demonstrates, following a series of contentious and unsettled debates on migration during the Constitution’s drafting, particularly regarding the allocation of power, the document remained

65 Gallatin (PA), ibid., 8:1983.
66 Williams (NC), ibid., 8:1995.
67 Harper (SC), ibid., 8:1990.
68 William Gordon (NH), ibid., 8:1985.
inherently ambiguous on the issue. The compromise measures throughout the document had originally served to placate the competing regional interests of delegates, but only now did the ramifications of this become clear. With the belief that the Constitution had been intended to serve their own regional interests, Federalists genuinely believed that their restrictive impulse served as a corrective to moderate policies passed under the Washington administration. However, by forcing their restrictive regional interests into national policymaking, Democratic-Republicans argued, the Federalists were undermining the Constitution’s design, in their view, to promote a liberal approach to migration. Yet, turning to the Constitution itself failed to resolve the issue. Much like their predecessors had assumed, Federalist and Democratic-Republican politicians remained confident that the Constitution supported their own respective regional visions of migration policymaking, breathing life into unresolved constitutional debates from 1787.

Alongside issues of federalism, Democratic-Republicans argued that the Alien and Sedition Acts further disrupted the balance of power between the executive and legislative branches of federal government. To Democratic-Republicans, who based their interpretation of the Constitution on its written terms, the enumeration of powers on migration were split between the national legislature and state governments alone. Yet, under the Alien Friends Act, Adams was given a carte blanche to deport any migrants he deemed seditious, a move which Democratic-Republicans considered an “extraordinary” and unconstitutional overextension of executive power. As the “strongly marked [and] decisively pronounced” separation of powers on migration was a fundamental part of American government, it followed that “every act of one or all of the branches that tends to confound these powers, or alter this arrangement, must be destructive of the Constitution.” “The whole bill,” Gallatin argued, “might as well be, the President of the United States shall have the power to remove, restrict, or confine alien enemies and citizens whom he may consider as suspected persons.” Beyond the obvious constitutional issue, Democratic-Republicans also believed that situating this power with one person would inevitably lead to its abuse and inconsistent application. Livingston criticised that “the President alone is empowered to make the law, to fix in his mind what acts, what words, what thoughts or looks, shall constitute the crime... no man can tell what conduct will avoid that suspicion - a careless word, perhaps misrepresented, or never spoken, may be

69 Macon (NC), Annals of Congress, 8:1786.
70 Livingston (NY), ibid., 8:2007.
71 Gallatin (PA), ibid., 8:1789.
sufficient evidence.” In a bid to make the Alien Friends Act constitutionally sound and restore a degree of state sovereignty on the matter, Democratic-Republican senators universally supported a motion to vest the power to deport migrants during peacetime with state governments, rather than the presidency. Though the motion failed on partisan lines, it did receive support from Senator Humphrey Marshall, a Federalist from liberal Kentucky. Yet, in pushing for this change, the predominantly liberal senators condemned what they considered to be an abuse of power while also emphasising that state governments, and their respective regional interests, ought to determine this crucial area of migration policy.

Democratic-Republicans also tried to appeal directly to representatives from exclusive states, both Federalist and otherwise, claiming that the Alien and Sedition Acts would undermine the slave trade clause in the Constitution. The hotly contested clause, preventing Congress from intervening in “the migration or importation of such persons as any of the states now existing shall think proper to admit” until 1808, almost saw delegates from Georgia and South Carolina abandon the Union altogether during the Constitutional Convention. Though the clause was explicitly designed to protect the institution of slavery from federal interference, as Chapter Two demonstrates, it had been written with intentionally vague language to obscure the pro-slavery motives of its supporters. Yet, the ambiguity of the slave trade clause made it a site of conflict for migration too. Using a textual construction of the Constitution, Democratic-Republicans argued that the clause referred to any kind of migration. Though conceding that the provision “was chiefly intended to secure the importation of slaves,” they argued that “it must be taken as it now stands,” irrespective of the framers’ intentions. Accordingly, Democratic-Republicans reasoned that Congress was equally prohibited from legislating policies that prevented the migration of free persons too. “Whatever is not prohibited is permitted,” Gallatin added, “as no law of any state prohibits the admission of aliens, he supposed all are admitted.” It followed that, if unable to prevent the migration of individuals, Congress should equally be unable to deport them. There was ultimately no difference, Livingston argued, “between a power to prevent the arrival of aliens and a power to send them away.”

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72 Livingston (NY), ibid., 8:2007.
74 US Constitution, art. 1, sec. 9, cl. 1; Aug. 22, Nov. 29, 1787, Farrand’s Records, 2:370; 3:211.
77 Livingston (NY), ibid., 8:2009.
Yet, in another debate echoing the Constitutional Convention, this argument prompted a discussion over the clause’s intentions. Quoting convention delegate James Wilson, Gallatin argued that the clause “could by no means exclude free emigrants,” a fact which, according to him, even the drafters of the Constitution were well aware of. Yet, taking this argument further, Livingston suggested that the clause was intentionally ambiguous, designed as a compromise to placate the regional interests of several states at once. He surmised that, during the Constitutional Convention, while the “southern states did not like to be prohibited in their importation of slaves,” the “middle states wished to secure themselves against any laws that might impede the emigration of settlers” too. This prompted an unexpectedly heated exchange between Speaker of the House Jonathan Dayton and Georgia Representative Abraham Baldwin, both of whom had been convention delegates. Reinforcing Gallatin’s assumption, Baldwin recollected that several delegates assumed that “this expression would extend to other persons besides slaves, which was not denied”; an observation which Dayton disputed, accusing Baldwin of “absolute forgetfulness,” or “wilful misrepresentation.” Even so, Democratic-Republicans maintained that the clause’s intention was somewhat obsolete; its written form was conclusive. Ultimately, “the word migration as contradistinguished from the word importation, could only apply to a free act of will, and to the voluntary arrival of free persons coming to this country.” In any case, Livingston posed, “who ever heard of a migration of slaves?”

Federalists rebutted these concerns, reasoning that Democratic-Republicans were interpreting the Constitution too narrowly and ignoring several implied federal powers on migration. In particular, they disagreed with the literal, textual interpretation of the document. In an unusual intervention from the Speaker, Dayton “reprobated the idea of Congress being confined to the strict letter of the Constitution, in the nature, extent, and exercise of the authority vested in it... a construction so narrow would be absurd and would deprive the legislature of the power of making provisions upon the most common or most necessary cases, merely because they were not specified.” Federalists argued that the existential threat posed

78 Gallatin (PA), ibid., 8:1979.
79 Livingston (NY), ibid., 8:2009.
80 Baldwin (GA); Jonathan Dayton (NJ), ibid., 8:1968; 1993.
81 Original emphasis. Gallatin (PA), ibid., 8:1979.
82 Livingston (NY), ibid., 8:2009.
by ‘radical’ French migration justified both Congress and the President to draw upon the “power from that which every government has to preserve itself.” 84 Moreover, given contemporary national security concerns, Federalists argued that the federal government was sanctioned by the Constitution to impose new migration restrictions for the “common defence and general welfare” of the United States. 85 At a moment of international hostility, they contended, it was absurd that “the country is filled with the natives of the enemy-country, [and] that we do not possess power to send them out of the country.” 86 “If Congress had the right to defend the Union, it has certainly a right to prepare for defence,” Otis argued, “if we find men in this country endeavouring to spread sedition and discord… whose hands are reeking with blood, and whose hearts rankle with hatred towards us - have we not the power to shake off these firebrands?” Referring again to the regional nature of this issue, Otis spoke to Federalist concerns that states with high migrant populations and reasonably liberal policies presented the biggest threat to the country. “What will be our situation if any one of the States may retain a number of men, whose residence shall be proveably dangerous to the United States?,” he posed, arguing that the Constitution would be left redundant “if the individual states have the means of frustrating the views of the general government in the exercise of its powers.” 87 This was no time to argue the semantics of constitutional language, Otis concluded, “the times are full of danger, and it would be the height of madness not to take every precaution in our power.” 88

Demonstrating the strength of partisan and regional opposition, the Alien and Sedition Acts did not pass with total ease, despite the Federalists holding strong majorities in both chambers of Congress. Though the Alien Enemies Act received significant support, the same was not true of either the Alien Friends or Naturalization Acts. In the House, the new executive powers granted in the Alien Friends Act were just one vote away from being stripped from the bill entirely. Following a split vote to amend the clause, Speaker Jonathan Dayton was forced to cast a tiebreaking vote in favour of his party to save it. 89 In the Senate, the same motion failed by just three votes, with Federalist Senator Marshall of Kentucky again defying his party to vote in favour. 90 Meanwhile, on the same day the Naturalization bill passed the

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85 US Constitution, art. 1, sec. 8, cl. 1.
87 Otis (MA), ibid., 8:1986-7.
89 ibid., 8:1791.
Senate for the final time, the new residency requirement was almost reduced from fourteen to seven years in a narrow vote of just ten to eleven votes.\footnote{Among two other Federalists, Marshall once again voted alongside Democratic-Republicans. June 12, 1798, \textit{Journal of the Senate of the United States of America}, 2:506.} All the while, an array of amendments restricting the political rights of migrants and naturalised citizens were left out of the final legislation. Despite the radical ideas motivating Federalist policymaking, the Alien and Sedition Acts were significantly tempered by the end of the drafting process, removing some of the most restrictive elements. “So equally are parties divided in the House,” Sedgwick wrote to fellow Federalist Rufus King, “that measures, to be successful, must be graduated by the feelings and opinions of the most cool and feeble of our friends.”\footnote{Theodore Sedgwick to Rufus King, July 1, 1798, Box 3, Folder 23, Sedgwick Family Papers, MHS.} Though the acts were still “a most detestable thing,” Thomas Jefferson took solace in the fact that they had been “considerably mollified.”\footnote{Thomas Jefferson to James Madison, May 31, 1798, \textit{PJM}, 17:138-40.} As a result, a particularly restrictionist faction of the Federalist Party were frustrated that the legislation did not go far enough. Following contentious debates, the acts had been “curtailed and elipt untill [they were] made nearly useless,” and did not even “err on the side of severity.”\footnote{Alexander Hamilton from Timothy Pickering, June 9, 1798, \textit{PAH}, 21:501-6; Abigail Adams to Mary Smith Cranch, May 26, 1798, \textit{T-4P}, 13:55-8.} To Sedgwick, who had hoped “we might have hanged traitors, and exported Frenchmen” under new measures, the Alien and Sedition Acts were “not only feeble,” but also “showed a want of system, and of spirit and rigour.”\footnote{Theodore Sedgwick to Rufus King, Jan. 20, 1799, Box 3, Folder 23, Sedgwick Family Papers, MHS.} Yet, this did not reflect a change in the restrictive impulses of Federalist politicians, only their ability to pass such measures on a national platform.

The Alien and Sedition Acts were neither the product of hysterical partisanship nor unbridled fears of foreign influence, at least not exclusively so. Invoking a restrictive approach to migration, Federalist policymakers warned of the political influence of ‘radical’ migrants, and their potential to damage the exceptional nature of American citizenship. Yet, these fears did not extend to property or land rights, indicative of Federalist hopes to economically benefit from migrants while politically excluding them. In contrast, the Democratic-Republicans opposed the acts using an expansive vision of American citizenship, rooted in revolutionary values of civic participation. In a final attempt to block the acts, policymakers even invoked universalist ideas of the American asylum, despite showing no willingness to translate this into open policies themselves. Meanwhile, indicative of the unresolved constitutional mandate on migration, debates soon collapsed into broader arguments about federalism. Assuming a liberal
reading of the Constitution, Democratic-Republicans believed that the Federalists were exceeding federal powers on migration, particularly through the Alien Friends Act. Federalists appealed to a restrictive reading of the Constitution, investing broad powers to the federal government on migration. Ultimately, policymakers from both parties not only employed regional arguments about migration, they made claims to the very intent of the Constitution itself. In doing so, debates on the Alien and Sedition Acts extended beyond contemporary issues of migration, revealing the entrenched regional conflict underlying the very foundations of American identity.

State Policymaking in the Federalist Era
In scholarship of early US migration policy, the late 1790s has long been considered a moment when political discourse and legislation was located primarily at the national level. Where debates were conducted at a state level, they were often only in response to the Alien and Sedition Acts and partisan in nature. Meanwhile, even historians who concede that states retained powers over migration, such as Anna O. Law, neglect the development of state policymaking alongside the Alien and Sedition Acts. Yet, amidst an increasingly federalised framework of migration policy shaped by national parties, state governments sought to maintain pre-existing regional policies to a remarkable extent. While restrictive states consolidated new federal policies, liberal states dissociated from the surge of xenophobic legislation. This was visible in two ways: first, in the responses of state governments to the Alien and Sedition Acts, namely through the Virginia and Kentucky Resolutions. Second, and more crucially, in the continued state policymaking on other areas of migration, including political rights and land ownership. While the spread of partisan politics, and the Federalist Party in particular, impacted the makeup of some state governments, and thus their discourse on migration, most liberal states remained in lockstep with their historic approaches to migration, resisting the onslaught of national Federalist legislation at a state level.

In response to the Alien and Sedition Acts, the legislatures of Virginia and Kentucky passed dissenting resolutions at the end of 1798, condemning the acts as both unconstitutional and unnecessary. Secretly penned by James Madison and Thomas Jefferson, the resolutions appealed to a broad base of liberal state policymakers, reflecting their attitudes to both the

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content of migration and the limited scope of federal power on the issue. The Virginia Resolutions emphasised what they considered “palpable and alarming infractions of the Constitution,” calling for a repeal of the Alien and Sedition Acts. They critiqued the acts for subverting the reserved powers of state governments to legislate on migration, as implied by the Tenth Amendment. Fundamentally, they argued, the Alien and Sedition Acts exercised “a power nowhere delegated to the federal government.” This argument adopted the same textual, and crucially liberal, interpretation of the Constitution that Democratic-Republicans had employed in national debates. By consolidating the states “by degrees into one sovereignty,” the Alien and Sedition Acts undermined this vision, “transform[ing] the present republican system of the United States, into an absolute, or at best a mixed monarchy.” In doing so, Carol Berkin contends, leaders “considered it necessary to do more than reject or ignore particular legislation… they felt compelled to offer an interpretation of the Constitution itself.”

Crucially, the resolutions appealed to other state governments, emphasising the need for inter-state cooperation to safeguard against the dangers of the restrictive federal government. Virginia, the legislature claimed, felt “the most sincere affection for their brethren of the other states… and the most scrupulous fidelity to that Constitution which is the pledge of mutual friendship, and the instrument of mutual happiness.” Through the Virginia Resolutions, the state legislature not only asserted a liberal regional interest on the scope of federal power on migration, they sought to project that interest onto other states too.

Drafted by Jefferson, the Kentucky Resolutions adopted a similar constitutional argument. This asserted that the Alien and Sedition Acts violated the constitutional principle that “alien friends are under the jurisdiction and protection of the laws of the state wherein they are.” In particular, the resolutions expressed a concern that the acts would mark the beginning of a gradual decline in the rights of all Americans, claiming that “the friendless alien has indeed been selected as the safest subject of a first experiment: but the citizen will soon follow.”

Though absent from the final draft of the Virginia Resolutions, this concern had been echoed during the document’s drafting in the state legislature. “If Congress could infringe the rights of [migrants], they might infringe the rights of others,” one representative warned; “one usurpation begat another.” As William J. Watkins contends, this reflected the existential

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nature of debate underlying the Virginia and Kentucky Resolutions. Jefferson understood the Alien and Seditions Acts “not as mere growing pains” in the young republic, but threats to “the very survival of republican government.”102 Accordingly, the Kentucky Resolutions adopted a far less measured approach than those passed in Virginia. Alongside pledging the efforts of Kentucky representatives to “procure at the next session of Congress, a repeal of the aforesaid unconstitutional and obnoxious acts,” the resolutions further demanded non-compliance. As the Alien Acts assumed a “power over alien friends not delegated by the Constitution,” the Kentucky legislature declared that they were “altogether void and of no force.”103

The ideological and regional divisions between states on the Virginia and Kentucky Resolutions were remarkably similar, if not the same, as those driving contemporary conflict on migration. Many historians mistakenly report that the resolutions were rejected unanimously by other states, indicating their ‘extremist’ take on state sovereignty.104 But, as Wendell Bird has recently shown, the resolutions received significant, if somewhat inconsistent, support across several states. Crucially, as Bird notes, this “had a geographical and political pattern,” and was most consistently visible in southern, and thus typically liberal, states.105 In Virginia, both resolutions were adopted by a large majority, while they were ratified unanimously in Kentucky.106 Appealing to the importance of combatting the Alien and Sedition Acts in his own state specifically, Governor James Garrard of Kentucky argued that migration was “of the highest importance to those states whose population is not full and who have a strong interest in welcoming the industrious strangers from every part of the world.”107 Before long, the Tennessee legislature passed their own resolution in solidarity, denouncing the Alien and Sedition Acts as “impolitic, oppressive, and unnecessary,” and crucially, “in several points opposed to the Constitution.” 108 Meanwhile, in North Carolina and Pennsylvania, split state legislatures meant their responses to the Virginia and Kentucky

103 ‘Resolutions Adopted by the Kentucky General Assembly,’ PTJ, 30:550.
104 Berkin, A Sovereign People, 235-7, 242; Bradburn, The Citizenship Revolution, 168-70; Elkins & McKitrick, The Age of Federalism, 720; Kanstrum, Deportation Nation, 57-63; Neuman, Strangers to the Constitution, 53-60; Watkins Jr., Reclaiming the American Revolution, 75-7; Wood, Empire of Liberty, 269-71; Zentner & LeMay, Party and Nation, 64-5.
106 ‘Resolutions Adopted by the Kentucky General Assembly,’ PTJ, 30:550-6; Virginia General Assembly, Debates in the House of Delegates of Virginia upon Certain Resolutions, Evans, 1:34935.
107 Kentucky Gazette, Nov. 14, 1798; Stewart Kentucky Herald, Nov. 13, 1798.
Resolutions were inconsistent, but still exhibited signs of resistance. In the North Carolina legislature, a resolution condemning the Alien and Sedition Acts as a “violation of the principles of the Constitution,” passed the lower house with a large majority of 58 to 21, but was later tabled in the Federalist-controlled state senate.\textsuperscript{109} In an attempt to maintain a somewhat neutral position, they “agreed in the good old maxim: ‘united we stand and divided we fall.’”\textsuperscript{110} The Federalist-controlled Pennsylvania legislature, by contrast, drafted a resolution in support of the Alien and Sedition Acts, claiming their necessity to “remove foreigners, whose views and conduct are inimical to a government.” However, after the measure was “firmly” condemned by Democratic-Republicans in the Senate, resulting in a bitter argument, it was ultimately “thrown under the table” and abandoned.\textsuperscript{111}

Indicative of their exclusive regional interest, state policymakers in Georgia and South Carolina aligned with liberal states in their support of the Virginia and Kentucky Resolutions. During congressional debates on the Alien and Sedition Acts, representatives from the region voted in line with their respective parties on migration.\textsuperscript{112} Yet, demonstrating that the national policymakers were perhaps ideologically out of step with the region more generally, the state legislatures of both Georgia and South Carolina fervently opposed the expansion of federal power on migration in the acts. The Georgia legislature overwhelmingly agreed to a resolution against the Alien and Sedition Acts, stating that “to advise an approbation of those acts, as some states seem to have done, would be to speak a language foreign to their hearts.” Showing the severity with which the extension of federal power was viewed in the state, the Georgia legislature concluded by “hop[ing] that they will be repealed without a necessity for the legislature of Georgia to enter into violent resolutions against them.”\textsuperscript{113} Meanwhile, both chambers of the South Carolina legislature agreed to follow suit, but the session ended before

\textsuperscript{109} Dec. 21, 1798, \textit{Journal of the House of Commons. State of North-Carolina. In the House of Commons, At a General Assembly, begun and held at the city of Raleigh, on Monday the nineteenth of November, in the year of our Lord one thousand seven hundred and ninety-eight, and of the independence of the United States the twenty-third: it being the first session of this Assembly} (Wilmington, NC, 1799), Evans, 1:34244, 70; Dec. 22, 1798, \textit{Journal of the Senate. State of North-Carolina. In the Senate, At a General Assembly, begun and held in the city of Raleigh, on Monday the nineteenth day of November, in the year of our Lord one thousand seven hundred and ninety-eight, and of the independence of the United States of America the twenty-third: it being the first session of this Assembly} (Wilmington, NC, 1799), Evans, 1:34245, 75.

\textsuperscript{110} \textit{Gazette of the United States,} Jan 12, 1799.

\textsuperscript{111} Bird, ‘Reassessing Responses to the Virginia and Kentucky Resolutions,’ 546-7; \textit{Philadelphia Gazette,} Mar. 11, 1799; \textit{Gazette of the United States,} Mar. 12, 1799; \textit{Journal of the Senate of the Commonwealth of Pennsylvania, commencing on Tuesday, the fourth day of December, in the year of our Lord one thousand seven hundred and ninety-eight, and of the independence of the United States of America the twenty-third, vol. iv} (Philadelphia, PA, 1799), Evans, 1:36063, 88-9, 200.

\textsuperscript{112} In the fifth Congress, Georgia and South Carolina were represented by a combination of Federalist and Democratic-Republican policymakers across both houses, often splitting in national votes on migration. May 28, June 12, 1798, \textit{Journal of the Senate of the United States of America,} 2:495-6, 506; \textit{Annals of Congress,} 8:2028-9; 9:2454-5, 2905-6, 3002.

\textsuperscript{113} Dec. 4, 1799, \textit{Journal of the House of Representatives of the State of Georgia 1799} (Augusta, GA, 1800), Evans, 1:37507, 8.
a formal resolution could be passed in solidarity with Virginia and Kentucky. Thus, while the influence of exclusive interests were limited in congressional debates on the Alien and Sedition Acts, it did not reflect their absence at a state level.

Unsurprisingly, the Virginia and Kentucky Resolutions were not well-received across the entire Union. Federalists considered the resolutions little more than “seditious and wicked conduct.” Moreover, in their embodiment of both a liberal attitude to migration, and crucially, a liberal construction of the Constitution, the resolutions were at odds with the restrictionist zeal of state legislatures across much of the North-East. In New York and New Jersey, a simple vote in each state legislature proved they were overwhelmingly against the resolutions. Meanwhile, the Connecticut legislature condemned the Virginia and Kentucky Resolutions as “hostile to the existence of our national Union and opposed to the principles of the Constitution.” The measure passed with a near-universal majority, receiving opposition from just two legislators who were later branded “public dissenters.” A report written by the Massachusetts General Court agreed, endorsing the Alien and Sedition Acts as “not only constitutional, but expedient and necessary.” Repeating the same restrictive arguments as those made by Federalist policymakers in Congress, the report considered the United States “threatened with actual invasion… and had then, within the bosom of the country, thousands of Aliens, whom, we doubt not, were ready to cooperate in any external attack.” Much like the Virginia and Kentucky Resolutions had, the Massachusetts report appealed to other state governments, claiming to be representing the interests of the Union, though through a restrictive construction of the Constitution. “The several United States are connected by a common interest” on migration, it claimed, adding that “this state will always co-operate with its confederate states, in rendering that Union productive of mutual security, freedom and happiness.” Meanwhile, northern newspapers critiqued the resolutions directly, claiming that their proponents were “in love with aliens, sedition, and fraud.” In an overtly regional argument, they claimed:

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114 City Gazette, Dec. 11, 1799.
115 Theodore Sedgwick to Ephraim Williams, Feb. 18, 1799, Box 5, Folder 25, Sedgwick Family Papers, MHS.
116 Centinel of Freedom, Jan. 22, 1799; Journal of the Assembly of the state of New-York; at their twenty-second session, second meeting, began and held at the city of Albany, the second day of January 1799 (Albany, NY, 1799), Evans, 1:35924, 122-3; Gazette of the United States, Jan. 3, 1799.
117 A similar resolution was also adopted in Rhode Island. At the General Assembly of the governor and company of the English colony of Rhode-Island (1799): 17-8; Hoadly et al., The Public Records of the State of Connecticut, 9:357-8.
118 Massachusetts General Court, Report on the Virginia Resolutions (Boston, MA, 1790), Evans, 1:35795; Samuel Henshaw to Theodore Sedgwick, Jan. 26, 1799, Box 3, Folder 19, Sedgwick Family Papers, MHS.
“The different legislatures of our patriotic states have opposed the Virginia resolution… with great warmth. Whether this mode of procedure in the Legislature of the other states will have a tendency to allay the ferment of those bot-headed republicans or not, remains yet to be determined by the experiment. Should it operate unfavourably, a civil war will undoubtedly be the consequence.”

The Virginia legislature was outraged at these accusations, asserting that any claim that “there is a party in this commonwealth, under the influence of any foreign power, is unfounded and calumnious.”

Despite their inability to unanimously defend the Virginia and Kentucky Resolutions, or refute the Alien and Sedition Acts, liberal state governments were by no means quiet on the issue. Moreover, much like what was happening at a federal level, the legislative process showed how partisanship both served regional interests while complicating them; and this distinction did not go unnoticed. A pro-administration article in the Connecticut Courant not only identified the difference between state responses to the Alien and Sedition Laws, it also pinpointed the regional nature of division:

“Tennessee and Kentucky, under the influence of Genevan Gallatin… inveighing against the Alien and Sedition Laws, because they operate solely on Irish patriots, French reformers, and domestic traitors… The reverse of the medal: Massachusetts, Connecticut, and New Hampshire, unmasking the villainy of France, and searing away the vizie from our own hypocrites and apostates, purging their representation of every doubtful character, urging the exclusion of every foreigner from a seat in our national councils.”

At the heart of state responses to the Virginia and Kentucky Resolutions was a regional conflict not only on the content of migration policy, but over its jurisdiction too. For some, the divisive nature of this debate caused more alarm than the arguments made by either side. The Virginia and Kentucky Resolutions were not only contentious in declaring opposition to the government; they were ultimately making claims to its very nature too. To Federalists, they symbolised “a conspiracy to overturn the government” and “little short of a declaration of

120 Original emphasis. Political Repository, Feb. 12, 1799.
121 Shepherd, The Statutes at Large of Virginia, 2:193.
122 Original emphasis. Connecticut Courant, Nov. 26, 1798.
war.” With the resolutions serving as a legislative call to arms for liberal states up and down the country, one commentator feared, “I do not know how soon we may be involved in a civil war.”

Despite the increasingly nationalised framework of migration policy, policymakers continued to use state legislation to press for their own regional interests beyond the Virginia and Kentucky Resolutions. Amid national policymaking on naturalisation and citizenship, states continued legislate on a range of migration issues throughout the late 1790s, namely on residency, political, and property rights. In keeping with the national mood, state legislatures sought to limit the political influence of migrants, both by increasing voting requirements and limiting access to political office. As previous chapters demonstrate, Georgia had always maintained high barriers to officeholding as an exclusive state concerned with federal and foreign encroachment on the institution of slavery. Further cementing this approach at a state level, a series of new policies added state residency requirements for citizens to hold either state or federal office. Federal representatives now needed to prove state residency, alongside the general residency requirement which had more than tripled from two to seven years.

Meanwhile, a 1796 settlement law in New Hampshire, one of the most restrictive of its kind, limited the franchise to legal residents with either a four-year inhabitancy or significant property in the state. Soon after, New Jersey adopted an even narrower policy, requiring migrants to possess both significant property and residency to vote in state and federal elections.

While more obstructive in exclusive and restrictive states, stricter barriers to political rights were erected in liberal states too. Kentucky, Vermont, and Pennsylvania all instituted new stipulations for both voting and officeholding, manifested primarily in state residency clauses, implying a greater need for migrants to assimilate not just into the United States, but local society too. In Kentucky, the 1799 State Constitution enacted a new citizenship requirement for both the franchise and state office-holding. Similarly, Vermont enacted a

123 Alexander Hamilton to Theodore Sedgwick, Feb. 2, 1799, Box 7, Folder 9; Theodore Sedgwick to Rufus King, Jan. 20, 1799, Box 3, Folder 23; Samuel Henshaw to Theodore Sedgwick, Northampton, Jan. 26, 1799, Box 3, Folder 19, Sedgwick Family Papers, MHS.
124 Weekly Oracle, Feb 4, 1799.
125 Watkins & Watkins, A Digest of the Laws of the State of Georgia, 20-32; Howell Cobb, ed., Compilation of the General and Public Statutes of the State of Georgia: with the forms and precedents necessary to their practical use, and an appendix containing the naturalization laws, the constitutions of the United States and of Georgia, and the rules of practice (New York, NY, 1859), 460-1.
126 Metcalf, Laws of New Hampshire, 6:299-301.
127 Paterson, Laws of the State of New Jersey, 229-40.
residency requirement for the franchise for the first time in 1797, though this was incredibly liberal at just one year and still granted access to non-citizens.129 In Pennsylvania, the election of a Federalist-majority state government drove political restrictions even further. Hoping to reduce the influence of foreign-born actors on elections, the state legislature banned non-citizens from electioneering at polling places in 1799. Any non-citizen who “appear[ed] at any place of election, for the purpose of issuing tickets, or of influencing the citizens qualified to vote” would be liable to a thirty-dollar fine.130 As a state with a significant migrant population, the majority of which were vocal supporters of Democratic-Republicans and members of political organisations, the measure was likely designed with explicitly partisan motives. This policymaking reflected a shift in regional approaches to migration, fundamentally changing the difference between liberal and restrictive states. In contrast to the reasonably open policies of liberal states during the colonial period, their defining characteristic during the late 1790s was that they were merely less restrictive than their counterparts. As Chapter Four explores, this reflected an increasing Democratic-Republican distrust of elite, pro-monarchical migrants who seemingly undermined the republican values of the United States. In doing so, the liberal vision of what made a migrant ‘desirable’ was no longer determined solely on economic status, but political ideology too.

The toughest policies emerged in state legislatures across the restrictive North-East, who saw the Alien and Sedition Acts as an opportunity to double down on political restrictions. Hoping to minimise, if not eradicate entirely, the role of French ‘radicals’ in political institutions, Massachusetts, Connecticut, and New York banned naturalised citizens from any kind of state or federal office-holding in 1798.131 While the measure highlighted an overwhelming fear of foreign influence on political institutions, it also reflected the restrictionist belief that natural-born citizens were somehow distinct and more trustworthy than naturalised citizens. “Ever anxious, and long habituated, to take an early and decided part, in whatever relates to the safety and welfare of their country,” legislators in Massachusetts went one step further.132 In 1798, state policymakers proposed a federal constitutional amendment to restrict political office-holding nationwide to natural-born citizens. In doing so,

132 ‘Address of the Legislature to the President of the United States,’ June 7, 1798, Acts and Laws of the Commonwealth of Massachusetts, 10:164-5.
state policymakers were not only pressing for their regional interest nationwide, but they also hoped to secure it constitutionally to prevent the kind of legislative opposition that had emerged in response to the Alien and Sedition Acts. It would not be enough for states to legislate on the issue independently, they reasoned, “every constitutional barrier should be opposed to the introduction of foreign influence into our national councils.” The Connecticut legislature, one of the most restrictive of the region, pledged to ratify the amendment as “an object so important to our national independence.” The amendment never entered the formal ratifying process, but it further exemplifies, alongside the Alien Acts, the extreme lengths through which restrictive legislators tried to force their regional agenda into federal policymaking. Not only did they continue to legislate political restrictions at a state level, maintaining their own regional interest locally, they sought to safeguard institutions, and by extension American identity, nationwide. Furthermore, the measure also highlights the long-standing, and remarkably similar, nature of restrictionist rhetoric being espoused by north-eastern policymakers. Though historians deem the amendment evidence of an exceptionalist swing towards xenophobia in the late 1790s, a similar policy had been proposed and seriously considered by restrictive policymakers over a decade earlier. During the 1787 Constitutional Convention, Massachusetts Delegate Elbridge Gerry first suggested the policy, which was later seconded by the New York Convention. That this was being proposed by policymakers from the same states in both 1787 and 1798 was no coincidence, of course. Instead, it proved that the restrictionist fear that “foreign powers will intermeddle in our affairs,” as Gerry had claimed, were as old as the republic itself.

While policymakers across the Union became increasingly wary of foreign influence on political institutions, they continued to consider the economic value of migrants in determining their ‘desirability.’ Thus, amid the crackdown of political rights up and down the country, several states equally legislated greater access to land and property rights for migrants and naturalised citizens. In liberal states, this manifested primarily in the extension of long-established land rights. New laws passed in Kentucky and Pennsylvania at the end of the decade confirmed the right for migrants to own, transfer, and inherit lands in the respective

133 ibid., 10:211.
states, though with a timely proviso excluding “alien enemies.”\textsuperscript{138} Meanwhile, legislation in Maryland allowed non-citizens to inherit American lands, irrespective of where they lived.\textsuperscript{139} Yet, these liberal policies remained conditional on the productivity of migrants arriving. In 1797, the Vermont legislature passed a new settlement law to manage the types of migrants arriving in the state. Despite holding some of the most liberal policies on migration during the period, the state authorised the removal of any migrants who were deemed “to become chargeable” to the state. At the same time, settlement could only be granted to “healthy, able-bodied” men and women.\textsuperscript{140} Though still less limiting than their restrictive counterparts, liberal legislatures also reassessed the bounds of societal and political inclusion for migrants during the Federalist period. This indicated the increasingly narrowed and conditional nature of ‘desirable’ migration, even in some of the most liberal states in the Union.

Land rights were reassessed amongst restrictive states too, though often only to maximise the economic potential of wealthy migrants. In Delaware (now a predominantly restrictive, Federalist-controlled state) and New Jersey, new legislation confirmed any prior land purchases made by migrants, though with the stipulation that they had to become naturalised citizens first.\textsuperscript{141} While migrants could only own lands in New York through individual acts of the state legislature, which were few and far between, this too was loosened during the period. Throughout the late 1790s, several high-net-worth individuals were granted rolling land rights, allowing them to purchase significant property and, crucially, heavily invest in infrastructural projects in the state.\textsuperscript{142} In the same 1796 New Hampshire law used to restrict settlement, the state legislature also confirmed that all migrants could own lands in the state. Yet, those owning “real estate of [less than] the value of one hundred and fifty dollars, or personal estate of the value of two hundred and fifty dollars” still held no political rights in the state and were liable to removal at any time.\textsuperscript{143} While the belief that migrants should have little to no access to political institutions spread like wildfire, this did little to dampen the economic motives of state legislators. Mirroring the extensive settlement laws of the colonial period,

\textsuperscript{139} Archives of Maryland Online, Session Laws, 652:121-2.
\textsuperscript{140} Tolman, \textit{The Laws of the State of Vermont}, 1:384-98.
\textsuperscript{141} Though previously a liberal state, sweeping Federalist majorities in all branches of state government, alongside growing cultural ties with New England, saw the Delaware legislature lean into restrictive policymaking on migration from the late 1790s. \textit{Laws of the State of Delaware}, 7:32-3; Paterson, \textit{Laws of the State of New Jersey}, 452.
\textsuperscript{143} Metcalf, \textit{Laws of New Hampshire}, 6:299-301.
wealthy migrants were welcome to reside in and financially contribute to several states, given they presented no immediate danger to the political stability of the state or nation. Though the political influence of migrants sat at the forefront of debates across the Union in the late 1790s, narrowing the gap between liberal and restrictive policymaking, policymakers from both regions still fundamentally disagreed on what made a migrant ‘desirable,’ not only culturally, but economically too.

Despite the historiographical emphasis on national policymaking during the late 1790s, the Alien and Sedition Acts were accompanied by a flurry of new state legislation, fuelled by entrenched regional interests. Though the Virginia and Kentucky Resolutions were drafted in direct response to the Alien and Sedition Acts, they both produced, and were produced by, distinct regional ideologies on migration. Though mired in partisanship, the resolutions prompted other state governments to promote their own regional interests on the subject too, even, in the case of exclusive legislatures, when this conflicted with partisan interests at a national level. At the same time, legislatures exercised autonomous policymaking on migration, further asserting their own approaches to the political and economic rights of migrants. The fraught context of the late 1790s caused a general shift toward more restrictive migration policies at both a state and national level, but a clear distinction remained between the approaches adopted by liberal and restrictive states. Both in the political persuasion and socio-economic status of migrants arriving, policymakers from different regions continued to disagree on how they defined, and subsequently legislated, ‘desirable’ migration. Ultimately, amid the clamour of the Alien and Sedition Acts, state policymakers relentlessly pursued their own interests at home.

Public Activism

Unlike previous iterations of migration policy, the controversy over the Alien and Sedition Acts provoked a significant public response, both in support of and against the national government. However, this discourse did not exist in isolation ideologically or politically. To Bradburn, the public response to the Alien and Sedition Acts coalesced into a broader national movement “which wed opposition politics and ideology in a powerful combination, across sectional and class interests.” As a result, public activism held immense power, providing “the original momentum, organisation, and ideology that would strip Adams of the presidency, overturn the Federalist majorities in Congress and in numerous state legislatures,” and end
their national policymaking agenda.144 Yet, Bradburn contends that this was still regional in character. While public opposition “had strength in the Mid-Atlantic states,” and in particular areas of New Jersey and New York, it was all but non-existent across New England.145 Though Bradburn somewhat overstates the prevalence of oppositional politics in New Jersey and New York, he further overlooks how public support and resistance to the Alien and Sedition Acts connected to established regional ideas about migration and American identity.

Indeed, public activism exhibited the same liberal and restrictive ideologies that policymakers articulated at a state and national level in three distinct ways. First, national policymakers sought to disseminate regional ideas about migration to the public by distributing political documents and publishing through the partisan press. Though manufactured by a small circle of political leaders, partisan newspapers and pamphleteering were the primary means through which the public were hearing and thinking about contemporary migration debates. Second, and most crucially, the ideas expressed by the public themselves through written discourse, petitions, public meetings, and political activism articulated a sense of regional identity in and of themselves. In doing so, the public not only engaged with debates that had previously been restricted to the halls of high political office, but they also made claims to the historic regional interests of their respective states, even when their political representatives were failing to do so. Thirdly, the debate exhibited regional characteristics through a self-referential discussion on the extent to which the public, and migrants in particular, ought to be involved in political debates, and whether their opinion on state or national policymaking even mattered. This only further highlighted the distinction between liberal and restrictive ideas of American citizenship, particularly as it pertained to civic participation. Both the public discourse itself and discussions around its importance reveal how prominent regional ideas of migration were in every arena of early American politics, from the halls of Congress to small town meetings held in local taverns.

Though public opinion had little influence on migration policymaking until the late 1790s, popular politics had deep roots in the early republic. Amid the nation-building process, Waldstreicher contends, commemorative events and rituals forged a sense of nationalism and collective action among Americans “through reading, writing, and celebration.”146 In doing so, events such as the Fourth of July became a mechanism to not only celebrate independence,
but the “postcolonial unity” among the founding generation, as termed by Andrew Robertson. As the political character of the early republic shifted with the rise of partisanship in the mid-1790s, so too did the nature of public engagement in national politics. First and foremost, participation in the public sphere widened considerably, with political debates reaching more, and crucially different, groups of people than ever before. In particular, groups traditionally excluded from ‘high’ politics, such as illiterate Americans, women, and migrants, among others, found new and creative ways to become politically engaged. Through acts like pamphleteering, political theatre, and public meetings, political culture became both more accessible and localised in nature. As everyday Americans and migrants “came to regard the public sphere as less an elite space and as more open to ordinary people like themselves,” they increasingly held the government accountable to their own demands and political will.

Thus, the public no longer used political activism as a celebratory tool, at least not exclusively so, but to assert their own political identity. For the Democratic-Republican and Federalist parties, this presented a unique opportunity to both influence and capture the political will of the growing citizenry and, in doing so, mobilize the public to their advantage. Though civic allegiance comprised a key tenet of Democratic-Republican ideology, the Federalist Party also sought to harness public opinion to sanction the actions of the national government. During the Jay Treaty controversy, Todd Estes demonstrates, “Federalists proved quite proficient and effective at engaging, persuading, and mobilizing different segments of the public through essays, letters, rallies, speeches, and celebrations.” Yet, through democratic societies, protests, and their own partisan press, the Democratic-Republican Party proved equally capable of establishing oppositional street politics. By the late 1790s, these groups were inherently confrontational, reacting not only to national politics but each other. As Shira Lurie contends, “the resulting conflicts created a divisive spiral in which the politics of assent and dissent intensified each other and deepened partisan rifts,” transcending every arena of local, state, and national politics. Thus, by the apex of the Federalist era, public opinion was neither self-contained nor unimportant to policymakers. Instead, for a range of issues like the Alien and Sedition Acts, “local conflicts ballooned into

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147 Robertson, ‘Look on This Picture,’ 1268.
148 ibid., 1271-7; Scherr, ‘To Alarm the Publick Mind,’ 297-336.
149 Formisano, For the People, 43-63, esp. 44.
151 Lurie, The American Liberty Pole, 64-102, esp. 66.
national issues that hardened partisan identities, challenged elite leaders, and shaped electoral strategies and outcomes.\textsuperscript{152}

By the end of 1798, both Federalist and Democratic-Republican policymakers were acutely aware of the crucial role that public opinion would have in dictating the future of the Alien and Sedition Acts. As such, they took pains to control the dissemination of information in a bid to shape public opinion in line with their partisan and regional interests. There was great concern on both sides of Congress, particularly following the Virginia and Kentucky Resolutions, that the public were being fed false information about the Alien and Sedition Acts. The most effective remedy, many policymakers argued, would be to print and distribute the acts, “removing these errors and prejudices which had been created by false copies and gross misrepresentations.”\textsuperscript{153} Policymakers from both parties supported the measure as a means to awaken the public to the ‘true’ intentions of the acts, but fundamentally disagreed on what that meant. While Democratic-Republicans believed that the acts “agitated the public mind,” and that “a thorough knowledge of them would insure their repeal,” Federalists assumed the exact opposite.\textsuperscript{154} Harper of South Carolina argued that the “gross errors” in the Virginia and Kentucky Resolutions spread “unintentional misconceptions” amongst the public. The only way of “counteracting these designs, in his opinion, was to give the people correct information with respect to these laws.”\textsuperscript{155} Indicating the disproportionate public opposition to the Alien and Sedition Acts in liberal states, Harper emphasised that “he spoke of the southern states generally, and particularly of his own state [South Carolina]. He did, however, believe that these laws are as much misunderstood in Virginia, as anywhere.”\textsuperscript{156} Rutledge, also of South Carolina, agreed that it might be useful to disseminate copies of the laws in his own state to reduce fomenting opposition. It was not, however, to be confused as “an appeal to the people to know whether they deemed them constitutional.”\textsuperscript{157} As the matter had been settled by the national government, he added, public opinion was of little consequence.

As the debate continued, its core argument shifted. It was no longer a question of how to shape public opinion on the Alien and Sedition Acts, but whether that public opinion mattered at all. For Federalist policymakers, it was beneficial to have public support for the

\textsuperscript{152} ibid., 5.
\textsuperscript{154} Albert Gallatin, ‘Public Functions,’ N.D., Reel 1, Albert Gallatin Papers, LOC; John Dawson (VA), ibid., 9:2445.
\textsuperscript{155} Harper (SC), \textit{Annals of Congress}, 9:2430.
\textsuperscript{156} ibid., 9:2448.
\textsuperscript{157} Rutledge Jr. (SC), ibid., 9:2446.
Alien and Sedition Acts, but certainly not necessary. Wary of public engagement in political discourse, they warned that before long, “the vulgar opinion of common place minds” would be “brought together to decide this question.”¹⁵⁸ This demonstrated not only the Federalist belief that governance ought to be left outside of the public arena, but the restrictive regional idea that opposition to the acts did not reflect a mere political disposition, but resistance to American identity altogether. Ultimately, the people “could not be swayed by reprinting the laws,” another Federalist argued, as “it was not political information which these people were in want of, but moral information, correct habits and regular fixed characters.”¹⁵⁹ Gallatin attempted to assuage Federalist concerns that “it is the intention of some individuals… to produce an armed opposition to these laws.” Employing an expansive vision of popular politics, he reasoned that disseminating the acts would only generate “peaceable meetings of the people to state their grievances.”¹⁶⁰ Ultimately, the proposal to distribute the act failed on partisan lines. While Democratic-Republicans were keen to engage the public against the acts, Federalists determined that the conversation would be better kept outside of the public arena altogether. Yet, this did little to stop the impending tide of public discourse.

Though unsuccessful in Congress, policymakers from both parties sought to engineer public opinion through other means too. In particular, the partisan press provided an effective means for policymakers to disseminate political debates among the public, while controlling the narrative in line with their own interests. Though shaped by national debates, as Robertson demonstrates, the partisan press “actually enlisted concrete local affinities as well as imagined national allegiance,” both in terms of ideology and circulation.¹⁶¹ For Democratic-Republicans, newspapers were an indispensable arm of oppositional discourse against the Federalist administration in the late 1790s. The Philadelphia Aurora, edited by Benjamin Franklin Bache, grandson and namesake of founder Benjamin Franklin, was one of the most popular anti-administration newspapers in circulation. Bache’s disapproval of the government’s divisive rhetoric on migration was a recurrent theme in the publication, especially as it pertained to the Alien and Sedition Acts. Reporting on the legislation “with astonishment and regret,” the Aurora maintained that the Federalist’s modus operandi had been “calculated to excite jealousies, sow dissentions, lessen that unanimity so essentially necessary during our dangerous

¹⁵⁸ Rufus King to Theodore Sedgwick, Mar. 21, 1799, Box 3, Folder 21, Sedgwick Family Papers, MHS; Gordon (NH), Annals of Congress, 9:2449.
¹⁶⁰ Original emphasis. Gallatin (PA), ibid., 9:2433.
¹⁶¹ Robertson, ‘Look on This Picture,’ 1264.
present situation, and which till of late so happily existed among us.”162 Much like Democratic-
Republicans up and down the country, Bache labelled the acts “unconstitutional, oppressive, and derogatory to our general compact,” utilising the *Aurora* as a tool to further circulate this idea amongst the public and plead for their repeal.165 “We owe to ourselves and posterity,” the *Aurora* appealed, “to endeavour by constitutional means to procure a repeal of these obnoxious laws, and… instruct our delegates to use their utmost endeavours to prevail with our state legislatures.”164 Echoing the sentiments of Democratic-Republicans in the national and state governments, Bache claimed that the legislation undermined what he considered the inherently liberal approach to migration enshrined both in the Constitution and the values of the government itself. “The Constitution invites the Alien to our shores, by providing for his naturalisation, and yet when he arrives here, the same constitution disclaims him!” he posed. Implying the regionalism of the debate, Bache argued “there is a sort of Connecticut trick in this, which never could have been intended by the People of the United States.”165 In doing so, he not only critiqued the north-eastern approach to migration, but he also made clear his belief that the Alien and Sedition Acts reflected neither the constitutional framework for migration policy, nor the public’s preferred action on the issue.

In contrast, Federalist-backed newspapers wrote of their “cordial approbation of the measures adopted” under the Adams administration.166 At the same time, these newspapers, including the *Gazette of the United States*, Porcupine’s *Gazette*, and the Bostonian *Columbian Centinel*, among others, situated themselves in direct opposition to the Democratic-Republican Party, “meddling aliens,” and “the deluding demon of French Jacobinism.”167 Much like the national government, these newspapers accused ‘radical’ migrants of harbouring “perfidious designs in this country,” stoking fears amongst the public that migrants could destabilise, if not completely overthrow, the American government.168 William Cobbett, a deeply conservative Scottish migrant writing under the pseudonym ‘Peter Porcupine,’ often used his paper to spread restrictionist rhetoric. In addition to French migrants, Cobbett also targeted the American Society for United Irishmen, a wing of the Irish republican organisation. “It is not Irishmen alone who are eligible to this society,” Cobbett claimed, “every scoundrel of whatever

162 *Aurora General Advertiser*, Sept. 3, 1798.
163 ibid., Nov. 9, 1798.
164 ibid., Sept. 3, 1798.
165 Original emphasis. ibid. Mar. 4, 1799.
166 *Porcupine’s Gazette*, May 4, 1798.
nation is eligible, provided he has been manacled or transported, or has rendered himself worthy of the gibbet for some attempt at rebellion or some act of treason.”

Though the society was based in Philadelphia, the *Gazette* warned of its potential influence on American institutions across the Union. “Let not the inhabitants of other towns suppose that they are free from the machinations of United Irishmen,” it warned, “their poison runs in every artery of our political body - it is diffused over all the minutest fibres of our frame.”

While there was no mistaking the political machinations of partisan publishing, the same was true of the regional nature of arguments they produced. In this way, Jeffrey L. Pasley contends, newspapers “allowed parties and politicians to mediate the disjunctions among the national, state, and local political communities, to make national debates and candidates resonate with local concerns and interests.” Before long, this extended to the Virginia and Kentucky Resolutions. The *Gazette’s* claim that the resolutions were little more than a “concerted plan to embarrass the measures of the Government and dismember the Union” deepened fears that radical migration was already fuelling internal dissension. “At a time when all ought to unite in repelling every evidence of existence of division in the United States, in which division our enemy calculates and with her knowledge of which has had the presumption to upbraid us,” the paper claimed, “it cannot but inflict a deep wound in the American mind.”

Writing in *Porcupine’s Gazette*, Cobbett scorned the Virginia legislature in particular, arguing that “from the character of those who sit in the assembly of that infatuated state, there is every reason to suppose that the seditious party will prevail, and the ancient dominion will once more be exposed to the contempt of all the other states.” While Cobbett believed that Virginia “may drag her tow chickens, Kentucky and Tennessee, along with her,” he remained optimistic that regional politics on migration would insulate the risk of the resolutions spreading into restrictive states, hoping that “everywhere else she will meet with the same scornful reception.”

At the same time, James Thomson Callender, a Scottish-American pamphleteer, had no doubt that the Federalist press was “the political organ of the President Adams, and his majority of the Senate of Congress,” through which “New England and its representatives are incessantly praised; while the southern quarters of the Union afford endless

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169 *Porcupine’s Gazette*, May 8, 1798.
170 *Gazette of the United States*, Dec. 18, 1798.
172 *Gazette of the United States*, Jan 3, 1799.
173 ibid., Feb 5, 1799.
materials for contempt and abuse.” Though Federalist and Democratic-Republican newspapers were not indicative of public opinion in and of themselves, their content highlights the extent to which partisan and regional ideas of migration were intrinsically linked and disseminated amongst public readers across the Union.

Though political leaders sought to engineer public opinion on migration, the public engaged with state and national policymaking independently too, particularly through petitioning and public addresses. These were typically organised by local political leaders and organisations, addressed to specific national policymakers, and vocalised either the support or dissent of its authors and signatories. Most significantly, addresses and petitions often amassed hundreds, if not thousands, of signatures from local men and women. In doing so, Kenneth Owen demonstrates, petitioning enabled the public to engage with issues “fundamentally connected to state or federal politics,” such as migration in this case, and consequently, “linked citizens to a political system increasingly distant from their everyday experiences.”

Across restrictive states, local petitions were typically sent to President Adams, praising him for spearheading what they considered a necessary set of measures against dangerous migrants. An address written on behalf of eighty inhabitants in Hunterdon, New Jersey, praised the actions of the Adams administration against “the baseness and illiberality of the French republic towards our common country” through the Alien and Sedition Acts. In doing so, the group pledged solidarity to the government, believing it their duty “to risque our all… as the eventful occasion may require, in opposition to Frenchmen and all other enemies.” In a similar petition, the residents of Elizabethtown, New Jersey, agreed that Federalist legislation met the severity of the moment. Venerating the Naturalization Act in particular, the group praised the government for “repelling that deadliest bane of republics, foreign influence, from among us, and especially from our councils.” Though most prevalent in restrictive states, the local nature of this activism saw petitions and addresses in support of the government emerge from conservative counties in liberal states too. The ‘ladies of Pott’s Town,’ Pennsylvania, sent a petition to Adams to pass on their “spontaneous sentiments of our approbations and thanks,”

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177 ‘An Address to President Adams,’ 1798, Box 8, Folder 12; Pamela Dwight Sedgwick to Theodore Sedgwick, May 10, 1798, Box 1, Folder 26; Samuel Smith to Theodore Sedgwick, Princeton, Apr. 21, 1798, Box 7, Folder 5, Sedgwick Family Papers, MHS.
178 *Porcupine’s Gazette*, July 31, 1798.
emphasising their confidence in “sacred assurances of promptitude to defend our country, and to support and maintain its laws and Constitution.” Condemning their own state and federal Democratic-Republican representatives, these groups sincerely believed that “at this alarming crisis in our political existence,” only a Federalist government could preserve “the neutrality and peace in this country.” Adams rarely left these addresses unanswered and was quick to respond with his thanks. In contrast to the “rancorous” politicking of migrants or Democratic-Republicans, Adams rest assured that these addresses were “in the true spirit of men, of freemen and of Americans, and genuine republicans.”

However, a significant proportion of the public, predominantly from liberal states, used petitioning to express their disapproval at the Alien and Sedition Acts, and Federalist policymaking on migration more generally. Echoing the arguments made by state and federal Democratic-Republicans, these petitions typically emphasised the unconstitutionality of the acts, exalting the need for public action as a means of resistance. “It is the duty of the people,” a petition from the inhabitants of Powhatan County, Virginia, argued, “to remonstrate in a decent and constitutional manner, with firmness and decision against the existence of laws made in violation of the Constitution.” In doing so, they were not only writing in support of a liberal construction of the Constitution, much like their Democratic-Republican representatives, they made claims to a liberal understanding of American citizenship which prioritised civic participation. A petition from Washington, Pennsylvania - Albert Gallatin’s constituency - deemed “the ‘Alien bill’ unjust and unconstitutional; unjust, inasmuch as it will operate as a lure and trap to foreigners; and, unconstitutional, because it makes one man [Adams] the legislator.” While condemning the government, the group also made sure to praise Gallatin’s opposition as a feat of republican character. “We have at least one consolation,”
they wrote, “that the representative from this district never gave an approving voice to any of them... We have long looked upon you sire, as the vigilant watchman of our liberties - as the champion of republicanism.”  

A common feature among these petitions was a demand for state and national representatives to intervene on the issue in their respective legislatures.  

Petitioners from Hamilton, Tennessee, wrote not only in frustration at the Alien and Sedition acts; they actively called upon the state legislature to draw up a memorial “signifying our disapprobation,” to be sent to Congress too.  

Though like addresses in support of the government, these petitions emerged from all corners of the country, there was no denying their disproportionate concentration within liberal states. By the end of the 1798, petitions “of no small number” were circulating across the South, while “large bodies of the people” assembled across “Virginia, Maryland and some other of the southern States... to instruct their representatives for the ensuing Congress to exert themselves in order to obtain a repeal of the Alien and Sedition Acts.”  

A Massachusetts newspaper reported with “increasing alarm... the remonstrances and resolves of some Southern States.” Another remarked at the scale of petitions deriving from “every part of the Union, excepting New-England, signed by thousands of independent freemen against the Alien and Sedition bills.”  

As petitions from both sides of the political divide attest, regional attitudes to migration were not only confined to the halls of state of federal government, they pervaded public debate too.  

As debates on the Alien and Sedition Acts raged on, public participation transformed from relatively passive means of engagement like petitioning into more direct political activism. For those in favour of the acts, and the Adams administration more generally, the tone of this action was largely celebratory in nature. In particular, supporters of the government across the North-East capitalised on the anniversary of Independence Day to celebrate the perceived successes of Federalist policymaking, associating a restrictive approach to migration with the formation of American identity writ large. “As the very stuff of a new national political culture,” Waldstreicher contends, “celebrations made it possible for ordinary citizens to act politically between elections,” interjecting into broader debates on nationalism and American

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186 Original emphasis. *Herald of Liberty*, Oct 1, 1798. Gallatin also received several private letters of support: ‘A Citizen of New York’ to Albert Gallatin, June 9, 1798; Joseph G. Chambers to Albert Gallatin, Dec. 18, 1798; Salomon Myer to Albert Gallatin, Mar. 24, 1799, Reel 4, Albert Gallatin Papers, LOC.


188 *Aurora General Advertiser*, Nov. 9, 1798.

189 *Journal of the Times*, Nov. 28, 1798, Mar. 19, 1799.

190 *Columbian Minerva*, Feb 21, 1799.

identity.\textsuperscript{192} At one Independence Day celebration in Claremont, New Hampshire, a toast to “purge our country of all intermeddling foreigners” was met with several ringing cannons.\textsuperscript{193} In Huntington, Connecticut, a similar toast was made to the “Alien law...while it shields the peaceable and virtuous stranger, may it chastise the insolent and offensive.” Meanwhile, attendees praised the “patriotic minority” who supported the Alien and Sedition Acts in Virginia and Kentucky.\textsuperscript{194} With the shared hope that the new legislation would “purge the country,” attendees of these celebrations hoped to not only disseminate restrictionist ideas about migration across the Union, but also reverse the consequences of historic liberal policies across the nation too.\textsuperscript{195} Under the threat of foreign influence, future Congressman Theodore Dwight claimed, “the United States are in danger of being robbed of their Independence.”\textsuperscript{196} Similar declarations were made at events celebrating President Washington’s birthday in 1799 too. At a Harvard College celebration, rancorous speeches calling for “Jacobinism [to] still remain degraded to the very bottom class of American society,” and “fines, rustication, expulsion and suspension to every seditious citizen, or intriguing alien” received thunderous applause.\textsuperscript{197} Appealing to the regional nature of this discourse, another event in Albany, New York, attended by the state governor, legislators, and congressional representatives, toasted to the “reformation of the states of Kentucky and Virginia.”\textsuperscript{198} What tied these events together was the shared belief that citizens were stepping up in support of the Adams administration and the government’s ability to legislate on migration without public intervention, thus asserting a Federalist construction of American identity. “These persons who are neither ashamed nor afraid to speak out,” a speaker at a New Jersey event claimed, “have shown by their conduct, as well as avowed in their language, that they are not in the interests of any other nation, but real friends to their own, and GENUINE AMERICANS.”\textsuperscript{199}

While celebrations rang out across restrictive states, protests arose elsewhere. With the belief that the Alien and Sedition Acts were undermining the rights and values established at the Revolution, opponents also used Independence Day celebrations as venues to express their liberal regional interests on migration. A song written especially for Democratic-Republican

\textsuperscript{192} Waldstreicher, In the Midst of Perpetual Fetes, 108-73, esp. 112.
\textsuperscript{193} Farmer’s Weekly Museum, July 22, 1798.
\textsuperscript{194} Connecticut Journal, July 6, 1799.
\textsuperscript{195} Massachusetts Spy; or, The Worcester Gazette, July 10, 1799.
\textsuperscript{196} Theodore Dwight, An Oration Spoken at Hartford, in the State of Connecticut, on the Anniversary of American Independence (Hartford, CT, 1798), 4.
\textsuperscript{197} Russell’s Gazette, Feb. 25, 1799.
\textsuperscript{198} Albany Centinel, Feb. 26, 1799.
\textsuperscript{199} Original emphasis. New-Jersey Journal, Sept. 18, 1798.
celebrations highlights how intimately connected liberal conceptions of migration were to revolutionary ideals in the public imagination. It proclaimed:

“The Alien Law curtails that Freedom; For which our fathers bled so free,
Stand to your rights, ye hearts of oak; Preserve the Tree of Liberty,
Long Live the Constitution; Long Live the Rights of Man,
Long Live America; It was with you they first began.”

These lyrics not only asserted a liberal approach to migration, but further assumed that this idea was rooted in the very nature of American identity, comprising one of the many freedoms and rights gained at the founding. Yet, supporters of the Democratic-Republican cause took any and all opportunities to publicly oppose the Alien and Sedition Acts. Soon after the acts passed, a small, organised protest soon expanded into a crowd of at least five thousand people in Lexington, Kentucky, precursing the infamous resolutions that soon followed.

In a similar gathering in Springfield, Pennsylvania, attendees argued that it was necessary for “the next Congress bury into oblivion the Alien and Sedition Laws” for the very survival of the republic. Through this political activism, public actors in liberal states were not only opposing the Federalist legislation, they were asserting a fundamentally different understanding of their own rights as Americans.

Moreover, individuals who departed from the conventional regional interests of their particular state often faced harsh penalties or public vilification, indicative of the popular acceptance of liberal and restrictive ideas about migration. This was especially true of public resistance in established migrant communities in restrictive states, such as New York and New Jersey. A meeting in Essex County, New Jersey, was condemned in the local press after labelling the Alien and Sedition Acts “repugnant” and disparaging the Massachusetts constitutional amendment on office-holding. To roaring cheers, Scottish-born James Ogilvie declared the acts null and void, “a dead letter and an empty sound. The spirit of the people repels and repeals them.” However, insistent that the meeting did not reflect the opinions of the restrictive community, a local columnist later reported that the meeting was “fraught with a considerable degree of sophistry.” The resolution was only supported by a

200 Centinel of Freedom, July 16, 1799.
201 Daily Advertiser, Sept. 13, 1798.
202 Carlisle Gazette, Aug. 7, 1799.
203 Centinel of Freedom, Jan 22, 1799.
204 John Ogilvie, A Speech Delivered in Essex County in support of a Memorial presented to the Citizens of that County and now laid before the Assembly, on the subject of the Alien and Sedition Acts (Richmond, VA, 1798), Evans, 1:34269, 10.
small minority, it reported, while opponents were “hissed to silence.” A similar incident took place in Queens, New York, where a large public meeting against the Alien and Sedition Acts was later condemned as a misleading “electioneering trick.” “That this was a general meeting of the inhabitants of Queen’s County is false” the New York Gazette reported, “it consisted of a few Jacobins” only. Though most prominent in migrant-dense communities, similar incidents took place across other restrictive states too. In Norfolk, Massachusetts, a man was arrested under the Sedition Act for posting a satirical sign against the Alien and Sedition Acts in his garden calling for “downfall to the tyrants and peace and retirement to the President.” In a similar incident in Brookfield, Massachusetts, a group of protestors were condemned as “vile fomenters of riot” after burning copies of the Alien and Sedition Acts in public and erecting a liberty pole. Reports in the Federalist Columbian Centinel called for the government “to punish these Jacobins immediately,” though the protestors publicly apologised soon after, “and in the hour of repentance, published a recantation.” According to a commentator writing in the Connecticut Courant, this division was not indicative of a broader anti-government sentiment in the North-East, but mere pockets of resistance emerging across the Union. “There are many places in the country where a few people can be collected together, of the discontented, the growling, the disappointed and the bankrupt, to hear a seditious orator,” who they believed were “filling the country with falsehoods, slanders and factions.”

At times, public protests became physically confrontational too, reflecting the increasingly antagonistic nature of public debates on migration. As Lurie demonstrates, partisan political culture did not “run along parallel tracks,” but was instead inherently antagonistic, with the partisan public often “reacting to and rejecting their rivals’ popular politics.” In Newtown, New York, a public meeting attended by citizens and migrants voted against the Alien and Sedition Acts, sending circular letters into nearby towns for support. However, they received just one response. The inhabitants of Flushing scathingly replied, “as they were real Americans and honest, they were not afraid of those laws,” adding that it was this

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205 Centinel of Freedom, Jan. 29, 1799.
206 Original emphasis. Gazette of the United States, Mar. 22, 1799; Commercial Advertiser, Mar. 22, 1799.
207 Ber, Nov. 21, 1798.
208 Political Repository, Dec. 11, 1798.
209 Columbian Centinel, Dec. 5, 1798; The Vergennes Gazette, Jan. 31, 1799.
210 Connecticut Courant, July 29, 1799.
“unprincipled conduct of many citizens and foreigners made them necessary.”\textsuperscript{212} Another incident broke out in a Philadelphia churchyard where petitioners, including migrant activists William Duane and James Reynolds, were canvassing signatures against the Alien and Sedition Acts. Believing that “no Jacobin paper had a right to a place on the walls of that church,” several men tore down petitions, believing that a “seditious meeting” was taking place. In defence of the petitions, and once again highlighting the regional nature of public activism, Duane appealed that “in the Eastern states, meetings have been held in the churches to obtain complimentary addresses to the executive.” Before long, however, a fistfight broke out between the two groups, resulting in the arrest of Duane, Reynolds, and two other petitioners for provoking a riot.\textsuperscript{213} Moreover, a fight erupted on the streets of New York after a thousand-strong crowd “animated by the presence of our illustrious President” was met by Democratic-Republicans protestors “singing in opposition” in an attempt to drown out proceedings. “Both parties quickly met each other,” a Federalist newspaper later reported, “and it was not long before the alien crew… began the dastardly attack.” Unsurprisingly, the paper framed the fight as an attack of radical migrants on honourable, patriotic Americans. In a hyperbolic call to arms, it posited, “what are we to think of this, my young friends? Are the base assassins to murder us in our own streets and public walks?”\textsuperscript{214} Though certainly more confrontational than mere petitioning, these skirmishes embodied the theoretical debates on migration raging at both a state and national level. Through this kind of political activism, the public not only expressed their commitment to their own regional attitudes to migration, but also what they considered to be a critical debate on the very nature of American citizenship too.

In response to public engagement, and particularly disapproval of, the Alien and Sedition Acts, policymakers and commentators increasingly questioned the role of the public in migration discourse altogether. Indicating their partisan inclination to “[champion] the official over the popular,” according to Suzette Hemberger, Federalist policymakers overwhelmingly labelled public resistance to the national government as the meddling of seditious individuals “subverting all order and government itself.”\textsuperscript{215} As far as they were concerned, the acts of governance and legislating were confined to a small circle of leaders, of which the ‘uneducated’

\textsuperscript{212} Original emphasis. \textit{Massachusetts Mercury}, Jan 18, 1799.
\textsuperscript{213} William Duane, \textit{A Report of the Extraordinary Transactions which took Place at Philadelphia in February 1799, in Consequence of a Memorial from Certain Natives of Ireland to Congress, Praying a Repeal of the Alien Bill} (Philadelphia, PA, 1799), Evans, 1:35424.
\textsuperscript{214} \textit{American Daily Advertiser}, Aug. 1, 1798.
\textsuperscript{215} Henry Van Schaak to Theodore Sedgwick, Jan. 1, 1798, Box 4, Folder 22, Sedgwick Family Papers, MHS.
public had no place. In an address published in the *Gazette of the United States*, ‘a Federalist’ wrote of his disbelief that anyone might consider the Alien and Sedition Acts unconstitutional. “If you have been taught to read and have got the Constitution of the United States before you,” he argued, “ten minutes reading would destroy any such belief.” In agreement, another commentator concluded that the public “must be either mad or foolish to disapprove” of the Alien and Sedition Acts. With the belief that Democratic-Republicans “could not, or worse yet would not, control their constituents,” including migrants, Paul Douglas Newman contends, Federalists feared that the public would “overturn republican government and replace it with a ‘mobocracy.’”

The political activism of migrants only exacerbated this rhetoric. Referring to foreign-born publishers, one commentator writing in New Hampshire spoke specifically against migrant influence in public political debates, and “the officious alien who attempts to excite warring passions in the minds of citizens.” “A Callender, a Porcupine, a Burke and a Bache, first sow the seeds of animosity and factions,” he continued, “and then something like despotism is engrafted upon the most free government on earth.” Crucially, the author’s reference to ‘Porcupine,’ the pseudonym of Federalist publisher William Cobbett, demonstrates how this rhetoric was not necessarily even contingent on partisan interests. Instead, invoking restrictionist ideas rooted in the colonial period, the author opposed any and all migrant influence, irrespective of what political party that propped up. Another public commentator agreed, writing:

> “It is a serious calamity to the United States that they admit foreigners of all descriptions into the country. Irish patriots and criminals, French republicans and English royalists plant themselves here, work themselves into our councils, or direct our presses, labor assiduously in the work of distracting the public mind; and multitudes of people in the middle states, and some in the northern, are fools enough to be misled by their opinions.”

By critiquing the influence of “French republicans” and “English royalists” alike, this again reverted to the ultra-restrictionist belief that neither group presented a lesser danger to the

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217 *Gazette of the United States*, Feb 2, 1799.
220 *Courier of New Hampshire*, Sept 22, 1798.
221 *Spectator*, Jan 23, 1799.
republic by instead condemning both. Both authors sought not only a restrictive approach to migration as a political issue, but the very nature of public political engagement too. With the belief that “so much pains have been taken to misrepresent [the Alien and Sedition Acts] - to mislead the people as to their operation - to inflame their minds and stir them up to oppose them,” the issue became bigger than an intellectual debate on the merits of migration to Federalists; it instead expanded into a debate on the role of the public in state and national policymaking.222

Reflecting their vision of an expansive American citizenship that prioritised civic participation, Democratic-Republicans and liberal commentators believed the exact opposite. Writing in direct response to articles published in the Gazette of the United States, a commentator in the Aurora retorted, “does Mr. Fenno or his correspondent mean to deter us from exercising that privilege which we are still permitted to enjoy, of peaceably assembling and petitioning Government for a redress of grievances?”223 It was not the right of the public, this inferred, but their duty to intervene in matters of governance that appeared tyrannical or unconstitutional. Liberal commentators argued that this maxim was the very basis of independence, and thus the “right to assemble for the purposes in question, is undeniable.” Thus, protests against the Alien and Sedition Acts, one Philadelphia newspaper reported, proved that the public, “as freemen ought, have a lively interest in the general welfare of the community.” In particular, they argued, the vast number of protestors involved highlighted not only the importance of the issue, but that “the citizens of this county are determined to form their opinions independently; unbiased by the quirks of a pettifogging attorney, or the officious interference of muddy-headed babblers.”224 In an open letter addressed to Secretary of State Timothy Pickering, another commentator accused the government of placing undue blame on public opponents of the acts to obscure their own misgivings on the issue. “To reproach those who complain of any measures of our own government, with a preference for France, is a subtle and insidious artifice,” they argued, done only “for the purpose of detaching the public mind from the points of real alarm, and of fixing odium on all who dare to censure any act of the government.”225 Crucially, to Democratic-Republicans, this expansive vision of political participation applied to migrants too. With the belief that American citizenship was forged upon inherent rights, including freedom of speech and the right to protest, future

223 Aurora General Advertiser, Feb 11, 1799.
224 Original emphasis. Farmer’s Register, Jan 30, 1799.
Secretary of the Treasury Alexander J. Dallas dispelled accusations of ‘foreign meddling’ in popular protests. “Have aliens then no rights?” he posed, “we passed laws which deprive such men of the rights of freemen… must an additional cruelty be added to their injury, of denying them the right to remonstrate.”

By prioritising the right of the public, and migrants themselves, to intervene in political debates, commentators once again articulated a liberal conception of regional identity, both as it pertained to migration and American citizenship writ large. With the belief that Congress had “abandoned the interests of their people, and forgot their oaths to support the Constitution,” according to one Virginian, the public not only advocated for a broader political community in liberal states, they proved its very existence.

Amid the partisan clash overwhelming Congress, debates on the nature of migration policy raged in local communities across the Union. However, this did not diminish regional conflict; if anything, it did the opposite. Through the partisan press, policymakers sought to control the dissemination of information about the Alien and Sedition Acts, and by extension manipulate public opinion either for or against the legislation. Yet, the public intersected with these debates independently, expressing their own regional interests on migration through petitioning, commemorative events, and protests. Though more local in nature, this often produced the same conflict on migration that pervaded both state and national politics. The verbal and physical altercations between groups on the Alien and Sedition Acts merely extended the existing tension between liberal and restrictive ideologies on migration. With public engagement in debates on migration, foreign influence, and American identity, regional interest expanded not only in terms of participation, but in broadening the terms of the debate altogether. What emerged was a fundamental conflict not only on the nature of migration, but the role of the public, including migrants, in political discourse. Thus, amongst both policymakers and the public, liberal and restrictive interests on migration became something much bigger, and far more confrontational. It was not only a conflict on the role of migrants in the United States, but on the very nature of what it meant to be American.

Conclusion

Though undoubtedly a watershed moment in migration policymaking during the early republic, the Alien and Sedition Acts continued a long lineage of regional conflict. Capitalising on their new electoral gains, Federalist policymakers sought to enshrine and extend their

227 Bee, Dec. 12, 1798.
restrictive agenda on the national stage. Yet, this did not go unchallenged. Democratic-
Republicans resisted the expansion of restrictive interests at the expense of their own,
articulating a liberal vision of American identity. Moreover, much like earlier regional conflict,
this debate was not confined to national politics. Indeed, state policymakers asserted not only
their opinions on the new Federalist legislation through responses to the Virginia and
Kentucky Resolutions, but also their ability to legislate on migration concurrently through new
policymaking. Meanwhile, indicating the controversy of both state and national debates, the
public became equally engaged in migration debates through political activism. In doing so,
they both reiterated regional interests on American identity and migration, and, in the case of
the liberal public, proved their very existence. With regional conflict ricocheting across the
Union, policymakers and the public alike were partaking in foundational debates on the nature
of American identity. The issue was not merely who ought to be accepted as American citizens,
but ultimately what that citizenship entailed.

The Alien and Sedition Acts brought the restrictive agenda to life in full force. Employing the cultural and economic tenets of restrictionism, Federalists sought to minimise
the political influence of the foreign ‘mob’ on American institutions, while harnessing the
economic potential of migration. This was not only a partisan ploy to weaken their political
opposition, but the product of a legitimate fear that radical migrants would degrade the
exceptional character of US citizenship. As Albert Gallatin knew, this was not a hypothetical
argument, but an explicit attack on the rights of all migrants and an attempt “to exclude me.”

Yet, indicating the relative strength of liberal migration rhetoric among Democratic-
Republicans, the acts did not pass Congress with total ease. Much like their Federalist
counterparts, Democratic-Republicans reiterated historic cultural and economic arguments
about migration in pursuit of their own regional interests throughout congressional debates.
To them, a liberal approach not only embodied the ideals of the Revolution, but the economic
potential of productive migration. Echoing the Constitutional Convention, debates quickly
extended beyond the content of migration policy, considering its jurisdiction too. By
contesting the scope of federal power on migration, policymakers made claims to the
Constitution’s intent, imbuing it with either a liberal or restrictive approach in favour of their
own interests. In doing so, they were considering the Alien and Sedition Acts in historic,

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228 Original emphasis. Albert Gallatin to Hannah Gallatin, Dec. 21, 1798, Reel 3, Albert Gallatin Papers, LOC.
regional terms, connecting contemporary debates on migration to the nature of the founding itself.

Though historiography on the Alien and Sedition Acts focuses primarily on national political debate, state legislatures equally sought to capitalise on their respective regional interests during the late 1790s. Notably, the Virginia and Kentucky Resolutions, and state responses to them, demonstrate how national policymaking intersected with state-level debates. Though an inherently partisan conflict, state resolutions, petitions, and discourse were explicitly regional in nature too. While north-eastern, restrictive states praised their national Federalist policymakers, liberal Mid-Atlantic and southern states instead supported the Virginia and Kentucky Resolutions. In Georgia and South Carolina, despite the partisan split of national representatives, state policymakers prioritised their exclusive regional interests in opposition to the Alien and Sedition Acts. Meanwhile, amid the ongoing extension of federal powers on migration, state policymakers further asserted their regional interests through new legislation on political and property rights. Reflecting contemporary fears of foreign influence across the Union, liberal, restrictive, and exclusive legislatures all limited access to voting and office-holding for migrants and naturalised citizens. However, in-keeping with divergent cultural and economic ideas about migration, these were not applied evenly across regions. Hoping to capitalise on the Federalist moment, restrictive and exclusive states pushed for extreme limits on political rights, including a federal constitutional ban on office-holding for foreign-born citizens. Meanwhile, liberal legislatures prioritised longer periods of assimilation for migrants to prove their adherence to shared civic values. Thus, while policies became universally more restrictive across the Union, reflecting a general concern of foreign influence, policymakers continued to disagree on how best to achieve this.

The Alien and Sedition Acts provoked public debate on migration too. By disseminating copies of the acts and circulating partisan newspapers, national policymakers sought to engineer popular opinion in line with their respective interests. Through publications like the *Gazette of the United States* and *Aurora*, partisan ideas about migration, and by extension regional interests, diffused into public discourse. Yet, through petitions, celebrations, and protests, groups across the Union made their support for or outrage at the Alien and Sedition Acts clear, asserting restrictive or liberal notions about migration, independently. Accordingly, the same confrontations that plagued state and federal politics emerged in local communities, resulting in violent, physical altercations at times. Moreover, the public vilified individuals or politicians that diverged from established ideas about migration in their respective state. In
doing so, public activism proved that regional interest not only transcended local, state, and national politics, but that the public were proponents of regional interest in and of themselves. Meanwhile, popular engagement in migration debates provoked a self-referential debate on the role of the public in political discourse. What emerged was a debate that extended beyond the rights of migrants and naturalised citizens; it was a fundamental disagreement on the political rights of all Americans.

The controversial nature of the Alien and Sedition Acts was the product of unresolved debates from a decade earlier. By failing to institute a concrete approach to migration, the Constitution essentially left the matter open to interpretation, allowing liberal, restrictive, and exclusive policymakers to claim ownership of both its terms and original intent. As Chapters Three and Four demonstrate, this inevitably forged political conflict on the issue during the drafting of the 1790 and 1795 Naturalization Acts. However, with no partisan majority in Congress, both ultimately resolved in compromise. The drafting of the 1798 acts merely continued these same contentious debates, though in an entirely different context. With strong Federalist majorities and growing international tension, the demand for restrictionism in national policymaking was not only greater than ever, it was also far more achievable. Though Federalist policymakers hoped to resolve the contemporary migration ‘crisis’ with the Alien and Sedition Acts, most significantly, they sought to install their restrictive vision of American identity on the national stage permanently. In doing so, they not only reverted previous migration policies, they also fundamentally departed from a liberal understanding of migration and citizenship. Thus, the Alien and Sedition Acts were neither the result of temporary xenophobia nor partisanship gone awry, they marked the apex of a concerted effort to expand a restrictive approach to American identity on the national stage. Moreover, while the subsequent conflict on the issue at a local, state, and national level debated the role of migration in the young republic, it further marked a fundamental regional dispute on the very nature of what it meant to be an American.
Conclusion

“Among the good effects that will arise from a change of men in our executive department will be the sun of liberty will shine with brighter effulgence... The free sons of Columbia, from Maine to Georgia, will recognise each other as friends and brethren - no alien and sedition laws will disgrace our country, and European as well as American bards will Hail Columbia happy land.”

_The Constitutional Telegraph_, Dec. 31, 1800

Following a tumultuous four years under the Federalist Adams administration, the election of Thomas Jefferson to the presidency in 1800, accompanied by Democratic-Republican majorities in both chambers of Congress, seemed to mark a sea change in American governance. Among the many policies that would inevitably be amended were the Alien and Sedition Acts. This would not only reverse the restrictionism of Federalist policymaking, Democratic-Republicans argued, it would unite the country, bringing migrants, naturalised citizens, and natural-born Americans together as “friends and brethren.” In doing so, it seemingly signalled “republicanism triumphant,” and “the principles of the Revolution restored.” Jefferson set to work, pledging to restore a liberal approach to migration across “our legislatures, general and particular,” in his First Annual Message to Congress. In 1801, the controversial Alien Friends Act expired without congressional intervention, alongside the Sedition Act. Meanwhile, Congress repealed the 1798 Naturalization Act in 1802, restoring the terms of admission to citizenship to those under the 1795 act. This was not merely a partisan victory, but a regional one too. Though the acts had been “destroyed by the corps of republican patriots,” Democratic-Republicans praised that “the coup de grace was given to the enemy by the southern worthies” specifically.

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1 Original emphasis. _The Constitutional Telegraph_, Dec. 31, 1800.
2 ibid.
3 Original emphasis. Matthew L. Davis to Albert Gallatin, May 1, 1800, Reel 4, Albert Gallatin Papers, LOC; _Aurora General Advertiser_, Oct. 14, 1800.
5 Alongside other qualifications, this equated to a five-year residency requirement. 2 Stat. 153 (1802).
6 Original emphasis. _Bee_, Jan. 14, 1801.
While Democratic-Republicans revered that Jefferson had “saved the nation,” Federalists believed the change in administration would bring their worst fears on migration to life.\(^7\) To them, Jefferson’s election did not signal popular opposition to the Federalist agenda, but instead proved that the Alien and Sedition Acts had not been restrictive enough to remove the scourge of “foreign meddlers” in American politics.\(^8\) “The alien and native Jacobins of our country, having failed on every other point to ruin our country, assailed this,” they argued, “with all the art and address their party could administer.”\(^9\) In particular, Jefferson’s appointment of long-standing Federalist target, Swiss-American Albert Gallatin, to Secretary of the Treasury provoked outrage.\(^10\) “Who rules the councils of our own ill-fated, unhappy country?” Hamilton posed, “A foreigner?”\(^11\) Much like Democratic-Republicans had, Federalists considered not only the contemporary impact of the election on migration, but its potential ramifications on American identity more broadly too. Invoking a restrictive understanding of US citizenship, Hamilton feared that “the virtuous pride that once distinguished Americans” had been near-extinguished.\(^12\) Jefferson’s election not only undermined the restrictive agenda of the Federalist Party on migration, but seemingly their entire vision of American society. As Abigail Adams lamented, “alas poor country, thou are afraid to know thyself.”\(^13\)

Despite the rancour among both parties, the Jeffersonian approach to migration did not match the hyperbole of either. While some of the most controversial elements of the Alien and Sedition Acts had been reversed by 1802, this did not mark an embrace of broad, liberal policymaking. Instead, the Democratic-Republican majorities in Congress sought to maintain a degree of restrictionism, indicating the hardening of the liberal approach to migration over the course of the 1790s. In particular, the new 1802 Naturalization Act only reverted the residency requirement for admission to citizenship to that in the 1795 act which, as Chapter Four illustrates, was still stricter than its 1790 predecessor. Moreover, the act retained broad surveillance powers, requiring migrants to register their presence in the United States via an

\(^{7}\) William Adamson to Thomas Jefferson, June 29, 1801, PTJ, 34:472-5.


\(^{9}\) Original emphasis. Boston Commercial Gazette, Dec. 15, 1800.


\(^{12}\) Ibid.

\(^{13}\) Abigail Smith Adams to John Quincy Adams, May 30, 1801.
“alien report,” and gain court-issued documentation to prove their residency.\textsuperscript{14} Though the 1802 act received little recorded debate in Congress, its broadly partisan vote had distinct regional undertones. Six Federalist representatives, all from liberal states, voted alongside Democratic-Republicans, placing regional interest above partisan identity.\textsuperscript{15} Thus, despite Federalist fears and Democratic-Republican hopes, the Jeffersonian approach to migration seemed to continue the same blend of liberal and restrictive ideology that had characterised policymaking throughout the 1790s. The end of the Federalist era marked neither an end to the regional conflict underlying migration debates, nor its broader influence on American identity and citizenship.

The crucial role of regional identity in migration policymaking lingered well beyond the founding. As Susan F. Martin contends, the ideological tension between historic regional ‘models’ on migration produced varying responses to the influx of European migrants during the long nineteenth century.\textsuperscript{16} Though there was no denying the economic potential of mass migration amid industrialisation, much like founding debates on migration, the ability for migrants to assimilate into American society remained a key cornerstone of debate. Indeed, the rise of the nativist American, or Know-Nothing, Party once again saw the proliferation of restrictive policymaking in predominantly north-eastern states. Campaigning with the nativist belief that migration threatened the ‘purity’ of the white Anglo-Saxon Protestant American identity, the party controlled the state governments of historically restrictive Connecticut, Massachusetts, New Hampshire, New York, and Rhode Island by 1855. In Massachusetts, among the many social, religious, and political reforms adopted, foreign-born government employees were dismissed, and state office-holding was legally restricted to natural-born citizens.\textsuperscript{17} The Know-Nothings were not proposing radically new policies, at least not on migration, but a continuation of the restrictive philosophy that had occupied debates since the Constitutional Convention. Much like early partisan ideologies, this was fundamentally rooted

\textsuperscript{14} 2 Stat. 153 (1802). Prior to 1798, residency was merely attested to by oath. 1 Stat. 414 (1795). Alongside this, House Democratic-Republicans wholesale rejected a new naturalisation bill in 1803. Drafted in response to petitions claiming that migrants had not showed intent to naturalise due to fear of penalty under the Alien acts, the bill would have granted automatic naturalisation to all migrants who had resided in the United States since 1798. Annals of Congress, 12:569-80.
\textsuperscript{15} The bill passed 59-27, and thus did not require the support of the six congressmen to progress. Mar. 10, 1802, Journal of the House of Representatives of the United States, 4:129-30.
\textsuperscript{16} Martin, \textit{A Nation of Immigrants}, 83-104.
in an existential debate not only on American identity, but the republic itself. The stakes could
not be higher, one member argued, “if the American Party succeeds, the Union is safe.”18

Meanwhile, as Kate Masur and Kevin Kenny demonstrate, antebellum conflict on
migration continued to be characterised by intersecting regional debates on federalism and
slavery. In the Supreme Court cases New York v. Miln (1837), Prigg v. Pennsylvania (1842), and
the Passenger Cases (1849), northern policymakers fiercely defended “the power of the states to
regulate persons they considered potentially disruptive,” including “paupers and vagabonds,”
European migrants, free Black people, and fugitive slaves, albeit not always successfully.19 Yet,
much like founding policymaking, regional interests on federalism and slavery did not always
reinforce those on migration. Indeed, the fall of the Know-Nothing Party did not reflect a
diminishing public appetite for restrictionism, but the party’s failure to establish an
unequivocal federal position on slavery. Transcending the North-South divide, Kenny
contends, the party was “eventually torn asunder” by the issue, demonstrating that regional
interests on migration continued to be not only connected to broader political debates on
issues like slavery and federalism, but was also subverted by them at times.20

Moreover, the legacies of formative regional conflict during the founding period
remain in modern migration enforcement. In the post-9/11 era, national migration
policymaking has become significantly more restrictive in the United States, with federal
jurisdiction on the issue broader than ever before. Alongside increased barriers to entry and
harsher naturalisation requirements, migrants have equally faced a greater threat of deportation
in recent decades, particularly those without documentation. In particular, the founding of the
federal Immigration and Customs Enforcement (ICE) in 2003 framed the national ‘endgame’
on migration in stark terms: “the removal of all removable aliens.”21 While national restrictions
in pursuit of this aim have varied over the years, so too have state responses to them. As
Colbern and Ramakrishnan discuss, state governments have continued to legislate on the issue
largely independently, adopting either “progressive” or “regressive” approaches to migration.22
Indeed, echoing the founding era, state governments continue to subvert national
policymaking in pursuit of their own regional, and by extension partisan, interests. Though

19 Masur, ‘State Sovereignty and Migration before Reconstruction,’ 590.
20 Kenny, The Problem of Immigration in a Slaveholding Republic, 114-21, esp. 120.
21 US Immigration and Customs Enforcement, ‘ENDGAME: Office of Detention and Removal Strategic Plan,
22 Colbern & Ramakrishnan, Citizenship Reimagined, 2-5.
unable to reject national migration policies wholesale, Democrat-controlled cities and states across the Union have adopted ‘sanctuary’ policies, refusing to comply with the state-sanctioned deportation of undocumented migrants. In 2017, the California Values Act proscribed the use of local and state resources in federal immigration enforcement, with Governor Gavin Newsom since claiming, “as the nation’s most diverse state, we are stronger and more vibrant because of our immigrant communities.”23 Conversely, policymakers from Republican-majority states along the southern border claim that federal migration restrictions have proved inadequate in dealing with migration from Central and South America. Alongside banning ‘sanctuary cities’ within their borders, state officials in Arizona, Florida, and Texas have taken the controversial measure of transporting undocumented migrants to other, typically Democrat-held, states.24 In February 2023, the Republican-held Florida legislature enshrined the practice in law, declaring a state of emergency that “the federal government has failed to secure the nation’s borders and has allowed a surge of inspected unauthorized aliens to enter the United States.”25 Reminiscent of founding regional conflict on migration, Jessica Bulman-Pozen argues that distinct state responses to contemporary policymaking are produced by competing partisan identities, leading “state actors to make demands for autonomy, to enact laws rejected by the federal government,” and where necessary, “fight federal programs from within.”26

Though undoubtedly partisan, this conflict is equally regional in nature. Indeed, removal efforts across the South demonstrate a coordinated attempt to abandon migrants “on the doorstep of north-eastern Democrats who have resisted calls to clamp down on immigration,” targeting northern cities such as Chicago, New York, and Philadelphia. Moreover, in a bid to reinforce the mutual regional interests of his neighbouring states, Florida Governor Ron DeSantis continues to both fund and organise the removal of migrants from

Texas, alongside his own state.\textsuperscript{27} The impulse to circumvent national policies that subverted regional interests on migration was certainly not confined to founding-era state policymakers. Indeed, as modern conflict on the issue demonstrates, state policymakers continue to form partisan coalitions in pursuit of common policy goals on migration and, underlying that, a shared understanding of American identity. Despite the disagreement of Democrats across the country, DeSantis insists that Republican policies do not serve to merely resolve a “border crisis,” but “an American crisis.”\textsuperscript{28}

It is perhaps unsurprising that, in a nation with vast and unevenly divided territorial borders, state legislators develop distinct ideas about migration based on their particular regional experiences. Nevertheless, the crucial role of regional interest in early state and national migration policymaking has been overlooked. While scholars identify distinct regional approaches to migration during the colonial period, they largely conclude that these were subsumed into a unitary national approach to migration amid the nation-building process. Through the drafting of the Constitution and early congressional debates, early policymakers seemingly mediated their regional differences into one, typically liberal, understanding of American identity. However, as this thesis reveals, while distinct approaches to migration were forged by colonial cultural and economic interests explored in Chapter One, these persisted long after the Revolution. Indeed, restrictive legislators across the North-East continued to advocate for policies that minimised the cultural, and crucially political, role of migrants, while seeking out the economic potential of the ultra-wealthy. Meanwhile, in southern and Mid-Atlantic liberal states, policymakers supported a more expansive vision of migration and citizenship. Yet, this was not universalist in nature, but rooted in the belief that productive migrants were economically beneficial and could be assimilated into American society. These distinct ideas were not weakened by the nation-building process, but instead consolidated through state legislation and national debates. Throughout the 1790s, liberal and restrictive interests remained in tension, with legislators seeking to lever national policies in their favour. This fundamentally reframes how we understand both the drafting and content of early migration legislation. The 1790 Naturalization Act was not unprecedentedly liberal, nor were


the Alien and Sedition Acts unexpectedly restrictive; both were the product of hard-fought debate and compromise.

Regional interests shaped not only the content of migration policymaking, but also its jurisdiction. As the national government grew both in scope and power over the founding era, the issue of migration became increasingly wedded to wider debates on federalism. This was especially true in exclusive states, Georgia and South Carolina. Though both experienced similar historic labour demands to neighbouring liberal states, and thus pursued a similar approach to migration during the colonial period, this evolved into a distinct regional interest post-Revolution due to their particular reliance on the forced migration of enslaved people. While this had implications for the content of migration policy in the region, namely the political rights of migrants, it was predominantly manifest in arguments about state sovereignty. With the fear that an expanded federal power on free migration might soon impede forced migration, or worse, interfere with the institution of slavery altogether, exclusive policymakers sought autonomous control on migration above all else, from the drafting of the Constitution to the implementation of national policies throughout the 1790s. Though arguments about state sovereignty were most prominent among exclusive policymakers, liberal and restrictive legislators also used federalism as a tool to secure their own regional interests. This was most obvious in the drafting of the Constitution. As Chapter Two reveals, delegates from both regions near-universally agreed on a new federal power on naturalisation, with the assumption that it would only serve to expand their own regional interests on the national stage. Yet, as the policymaking processes of the 1790s made clear, this was not the case for either region. While the initial period of concurrent state and national naturalisation under the 1790 Naturalization Act benefitted liberal states, as shown in Chapter Three, the expansion of federal powers in the Alien and Sedition Acts instead promoted restrictive policymaking. As the character of national policymaking oscillated throughout the 1790s, so too did regional positions on federalism. When their respective interests were disadvantaged in national policies, both liberal and restrictive legislators capitalised on state policymaking to subvert Congress. Amid a liberal ruling on concurrent state naturalisation in Collet v. Collet in 1792, restrictive Massachusetts and New Jersey continued to naturalise migrants via private act. Similarly, in a bid to resist the 1798 Alien and Sedition Acts, the Virginia and Kentucky Resolutions emphasised the sovereignty of liberal states amid an extending restrictive presence in national policymaking. Throughout the founding era, policymakers articulated support for
state sovereignty and an expanded federal power on migration in tandem, seeking to both secure their regional interests at home while extending them across the Union.

Though colonies, and later states, pursued their regional interests in legislation independently, the development of national policymaking brought these into conversation with one another for the first time in the new republic. Though this resulted in unexpected conflict, as Chapters Four and Five demonstrate, it also fed into new political coalitions: the Federalist and Democratic-Republican parties. This was not merely tactical, but ideological too. Couched within these nascent partisan identities were established regional cultural and economic interests. While the Federalist Party inherited restrictive ideas about migration that prioritised homogeneity and American exceptionalism, Democratic-Republicans advocated for an assimilationist, liberal vision instead. Neither party understood their distinct vision of American identity as one of two viable options; they firmly believed that their ideas about citizenship and migration were absolute. Thus, policymakers used their historic regional experiences of migration to not only justify legislation, but to make claims to the ‘true’ nature of American identity at the founding. Partisanship was not only a vehicle for policymakers to pursue regional interests collectively, it further connected debates on migration to other political issues, such as federalism and slavery. Thus, throughout the 1790s, political discourse on migration became broader and more controversial. Yet, regional interest did not always reinforce partisan identity. Indeed, as Chapter Four reveals, southern Federalists and northern Democratic-Republicans broke partisan lines in the controversial Giles and Dexter amendments, placing regional interest above partisan identity. Moreover, exclusive policymakers transcended partisan lines. Thus, while regional interest produced partisan ideas about migration, and thus American identity, it continued to influence national policymaking independently of partisanship too.

Beyond expanding our understanding of the role of regionalism in the development of national policymaking on migration, this thesis further reveals how regional interest shaped how everyday Americans engaged with this debate during the late 1790s. As Chapter Five demonstrates, the Alien and Sedition Acts prompted popular political activism, such as newspapers, petitioning, and protests, through which the public asserted their respective regional interests on migration, including migrants themselves. In doing so, the public were not only receiving regional ideas about migration from policymakers and the partisan press, but actively espousing them too. Much like state- and national-level debates, this was inherently confrontational, resulting in physical altercations at times. Yet, this did not always manifest in
a disagreement between the public from different regions. Indeed, Americans were more inclined to criticise those from within the same region who departed from established attitudes and norms on migration. Moreover, much like state and national policymakers, in making regional arguments about migration, the public were equally asserting particular understandings of their own identity and citizenship. By criticising the Alien and Sedition Acts, migrants, naturalised citizens, and natural-born Americans in liberal states were fundamentally asserting their own membership to a broader community of citizens. In doing so, debates on migration were neither hypothetical nor confined to a small number of migrants in the United States, they came to define how Americans understood their own status as citizens in the new republic.

Regional interest shaped debates on migration in every area of national, state, and local politics during the founding era. Amid the nation-building process, liberal, restrictive, and exclusive policymakers employed their own historic regional experiences of migration to not only influence national policymaking in their favour, but to craft American citizenship in their own image. In the drafting of the US Constitution, delegates from across the Union tried, and ultimately failed, to secure their own regional interests on both the content and jurisdiction of migration in the new republic. Yet, the implications of this were profound. Plagued by constitutional indecision and ambiguity, state and national policymakers were caught in a battle not only on migration, but what it meant to be an American. This only grew more controversial with the birth of the Federalist and Democratic-Republican parties, associating approaches to migration with broader partisan issues like federalism and slavery. In doing so, debates on migration became existential. By implementing a particular approach to migration, policymakers hoped to not only assert their own vision of American identity, but believed it was necessary to extinguish that of their opposition. As a result, both parties, and ultimately both visions of American identity, grew increasingly restrictive in nature. Caught amid an oppositional system, and contrasting regional ideologies, migration policy became inherently controversial. Though historians often characterise the election of 1800 as the normative ‘end’ of this conflict, the legacies of this period continue to be seen. Amid an intransigent partisan divide on the nature of migration policymaking, and how that is experienced in distinct regional ways, the United States finds itself once again embroiled in a fundamental debate on the nature on American identity in the twenty-first century. Though the borders of the nation have grown considerably and the types of migrants arriving have shifted, a failure to resolve these early debates on migration have doomed the United States to embrace the founding myth ‘Out of
Many, One.’ Policymakers and historians continue to underestimate the prominence of restrictionism in early migration policymaking, while equally overlooking the regional variation that both shaped, and continues to shape, legislation. Indeed, the notion that US migration policy was both ‘uniform’ and ‘open’ remains as untrue today as it was during the founding. Yet, with partisan policymakers once again making claims not only to historic approaches on migration, but the very nature of American identity itself, it is unsurprising that migrants are once again caught in the midst of this political impasse.
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