Although the study of citizenship has garnered significant scholarly attention in the past several decades, disabled persons have been largely overlooked. But as this volume demonstrates, disability is central to understanding citizenship. In the United States, most of the work on disability and citizenship has happened on the ground—through the blood and sweat of disability activists—or in the courts, where legislation is interpreted into fact. A major category of the modern welfare state, disability has been fundamental to twentieth-century policy formation, health-care delivery, and, more recently, antidiscrimination laws. Disability has also, by turns, served as justification for eugenic sterilization and for exclusion from the workplace and the nation-state as a whole, a prime mover for technological invention, and an occasion for ever-greater inclusion in America's educational system.

The ubiquity and importance of disability to the development of civil society in the past two centuries seems clear. In the United States, one can trace the beginning of disability legislation to the concomitant mid-nineteenth-century rise of industrialization and state reliance on a conscripted army. Disabled bodies could not conform to the needs of the productive, capitalistic, imperialistic state. Therefore, welfare measures were put in place but were rarely given priority, and the disabled quickly came to be seen as a burden rather than an asset, an unsightly rift in the fabric of humanity. The U.S. disability rights movement (DRM)—from the 1973 Rehabilitation Act to the 1990 Americans with Disabilities Act (ADA)
and the 2008 ADA Amendments Act—made great strides in resisting the devaluation of disabled persons by insisting on legislation that protected them against discrimination, secured equal opportunities in housing and employment, and mandated a built environment that would be conducive to freedom of movement for all kinds of physical impairments.

This narrative is one to which both scholars and activists themselves turn in order to understand the history and theory of disability and citizenship in the United States. It is an important narrative, but it often and somewhat oddly takes the meaning of citizenship—particularly as it pertains to disability—for granted. This may be because while most citizenship scholarship focuses on overtly political issues, such as rights to voting, due process, and equal protection of the law, citizenship for disabled persons has meant something both more basic and much larger. In the United States, for instance, it is undisputed that disabled persons born here and over the age of eighteen can vote—if they can get to the polling station, and if that polling station is accessible. Disabled persons can work—if they can overcome employer attitudes, and if the space in which they want to work is accessible, and so forth. Those ifs are the heart of the matter, and they are about the distribution of power, regardless of whether that power is described in overtly political terms of “who gets what, where, when, and how,” economic terms of “distribution to the least well-off,” or humanistic terms of citizenship as “the signifying subject of the state.” The distance between legal significance and the lived reality of citizenship for disabled persons is often quite vast and leads us to conclude that legal categories of disability often pose not just practical problems for disabled persons but also ones of social standing.

This distance between law and lived reality, between ideal and practice, helped inspire us to publish this volume: the reiteration of exclusion of disabled persons from all aspects of the polity, social, economic, biological, cultural, epistemological, metaphysical, and political. This observation is found in disability scholarship from every discipline. As important as the hard-fought battles won by the DRM are, some scholars within the disability studies community still find the citizenship status of disabled people wanting, and rightly so. It is one thing to have a law on the books; it is quite another to see how that law becomes operationalized and interpreted in the courts. For instance, despite the intent to bring greater justice (and less discrimination) to the disability community, the ADA has been interpreted rather narrowly in the courts, and employers have won over 95 percent of the suits brought about under the act. Furthermore, the difficulty of applying for and obtaining benefits from Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI), particularly when compared with the relative ease of applying for things like Social Security retirement benefits, give us reason to be suspicious whether the question of disabled citizenship is settled by law. Richard Devlin and Dianne Pothier call this situation “dis-citizenship ... a form of citizenship minus, a disabling citizenship” in which “many persons with disabilities are denied formal and/or substantive citizenship.” But in the process, disabled persons are also denied the informal hallmarks of citizenship; they are told that they do not belong. As disability historian Allison Carey puts it, they are “on the margins of citizenship.”

As feminists and critical race theorists have maintained, “citizenship” is a concept frequently designated for economically privileged white men. The concept revolves, too, around cultural perceptions and definitions of physical intactness. Citizenship has historically assumed “able-bodiness.” This volume scrutinizes such an assumption by denaturalizing and problematizing both disability and citizenship simultaneously and examining the assumptions, fears, and prejudices that inform discriminating practices in the first place. Drawing from a variety of disciplinary and interdisciplinary approaches, this collection of essays takes up an expanded notion of citizenship in order to better understand disability as an academic category of analysis, a lived experience, and a signifier of how membership and belonging are understood in societies invariably built on an imagined constituency of nondisabled persons.

Accordingly, for the most part, the chapters in this volume do not empirically explore various political practices of citizenship, such as voting, naturalization, or jury or military service, but rather examine the symbolic representations of what it means to “belong” as a disabled person within a political society in the Western context. In this introductory essay, we aim to flesh out an enlarged notion of disability citizenship and provide readers with a guide to the essays that follow. To borrow from Mary Helen Washington’s question about placing disability at the center of African American studies discourse, we ask: what does putting citizenship at the heart of disability studies—and the disabled subject at the heart of the concept of citizenship—say about who is allowed to speak, who becomes representative,
what is silenced or repressed, and finally who and what become the site of political resistance and value?26

Meanings of Disability, Meanings of Citizenship

To begin with, it is always important to note that neither citizenship nor disability is a static or universal concept. Readers new to disability will find a variety of definitions in any number of texts, ranging from the United Nations Convention on the Rights of Persons with Disabilities to activist websites to articles and books in a wide variety of academic disciplines. The authors of the essays in the present volume consider different specific instances of physical and intellectual disability, such as mobility impairment, blindness, deafness, tuberculosis, and cognitive and psychological impairment. So offering one overarching understanding of the concept may not be appropriate, and most of the essays here do not define what they mean by the term “disability.” But all the authors—and indeed most disability scholars—subscribe to at least some form of the “social model of disability.”27

For readers new to disability studies, this model holds that disability is not a physical condition pertaining to a “defective” or “inferior” or “abnormal” body but rather a social condition brought about by social norms, practices, and beliefs; it is both socially produced and socially experienced. What makes something a disability is thus not bodily difference per se—not my impaired vision, or my deafness, or my weak or missing limbs, or my autism—but rather the social contexts in which they exist; disability is constituted by the interaction between environmental factors and the particularities of specific bodies. The fact that I have difficulty walking and use a wheelchair, for instance, does not in itself constitute a “disability”: rather, the fact that most buildings have stairs rather than ramps and lack elevators and automatic doors is what disables my body from gaining access to the building. Because of the ways in which social relations, the built environment, laws, customs, and practices are structured and organized, certain bodies are disabled by those environments, while other bodies are facilitated and supported. “Impairment” is a term that refers to a natural part of biological life rather than an “abnormal” part and is generally incorporated into a person’s sense of self. “Disability,” by contrast, refers to what society, social conditions, prejudices, biases, and the built environment have produced by treating certain impairments as marks of inferiority. As Devlin and Pothier put it, “Disability is not just an individual impairment but a systematically enforced pattern of exclusion.”28 “Disability” does not describe the body per se, but the body in a hostile social environment.

Among disability studies scholars, the social model has been an important corrective to the more dominant way of understanding disability, dubbed the “medical model,” which views disability as a pathology found in a particular individual body that must be fixed or cured. Disability in this model is seen as both intrinsic to the body that “suffers” from it, which must be made to adapt to the preexisting environment; and simultaneously alien to the body, a hostile force that undermines the individual’s true preferences. “The body” that is held up as the standard against which it is measured is what feminist disability scholar Rosemarie Garland-Thomson calls the “normate”—male, white, perfect in health and physical attributes, a standard that almost everyone fails to meet but nevertheless informs our assumptions about the body and how it should function in the world.29

The terms “social” and “medical” models are referred to throughout these essays, so the reader who is new to disability studies will want to keep this distinction in mind. For most disability scholars today, the social model is largely accepted as the preferred way of understanding disability, whereas the medical model tends to be disparaged. There are good historical reasons for this, particularly the poor treatment that persons with disabilities have often received at the hands of the medical community. The history of disability is one in which people with all sorts of impairments were institutionalized under deplorable conditions. Michel Foucault, for instance, tells us of “the great confinement” of the insane, a category that often included individuals with only physical impairments, starting in the seventeenth century in continental Europe.30 Susan Schweik writes about nineteenth- and early twentieth-century U.S. “ugly laws” that prohibited disabled individuals from appearing in public, in part because of the belief that the well-to-do could not cope with the “horrors” of seeing “deformed” people on the street.31 Many readers are familiar with twentieth-century horror stories like Willowbrook, the Staten Island institution for cognitively disabled children that kept them in such atrocious conditions that Senator Robert Kennedy called it a “snake pit.”32 Atrocities have continued in the twenty-first century; as recently as 2011, attendants at the Oswald D. Heck Developmental Center in New York regularly abused developmentally disabled residents and eventually killed a thirteen-year-old boy.33
Thus the medical model has not served disabled persons well. Increasing numbers of scholars, including some in this volume, believe that the medical model has something to offer; increasing numbers of scholars are now leaning toward a "hybrid" model. But all disability scholars understand that the body's location in particular contexts of culture, language, law, politics, architecture, and custom always ensures that disability is socially constructed to a significant degree. The social model helps us recognize that the way society is organized and structured—its architecture, its values, its norms—helps turn the impairments some bodies experience into disabling conditions. But since society and social structures are always changing, disability must always change accordingly. In past times, moderate myopia could be severely disabling; now, eyeglasses are commonplace and even a fashion statement. Prosthetics and wheelchairs give amputees far greater mobility than in the past, and indeed in some cases, such as athletic competitions, such devices are seen as advantageous. The variability of the physical conditions of disability, moreover, produces variability in how disability is seen, understood, and treated. Disability as a concept is something that has developed over time and continues to do so.

Similar variability characterizes the concept of citizenship. This might seem counterintuitive, for the concept of citizenship might seem to many, particularly from the United States and Western Europe, a fairly straightforward matter of deciding who is and who is not one. Many of us think of citizenship as individual rights conferred on us by a certain nation-state. Or, as sociologist T. H. Marshall put it, citizenship is "composed of the rights necessary for individual freedom—liberty of the person, freedom of speech, thought and faith, the right to own property and to conclude valid contracts, and the right to justice." Because we often take citizenship to be defined by a circumscribed nation-state, the notion becomes almost indistinguishable from national identity.

Citizenship thus usually entails an attachment to a specific locality; we are citizens of something, generally a nation, but alternatively (or at the same time) of states, cities, towns, or even organizations. But as Willem Maas observes, we live in a "multilevel citizenship" on "nested and overlapping geographical levels: citizenship not only of the state but also of substate, suprastate, or nonstate political communities." Indeed, citizenship is often applied to communities that are arguably apolitical. People who are considered "good citizens" include colleagues who are conscientious about service on university committees, neighbors involved in civic boosterism and civic pride in our local town or borough, and parents who help out in the local public schools and coach local sports teams. Citizenship implies belonging to a group, society, and culture: our neighbors, the parents of our children's classmates, the congregants of our churches, or the residents of our towns, our counties, our states, and our nation.

Such varieties of belonging already suggest that citizenship is not as simple and straightforward as some might think. And even the mainstream definition is complicated by the fact that people can be citizens of more than one state at a time, or of states and federations, such as the European Union or, indeed, the United States, where we are citizens of states and of the nation. Legal theorist Linda Bosniak calls citizenship "multivalent," containing "a basic ethical ambiguity" between aspirations of inclusion and realities of exclusion. Lauren Berlant maintains that "citizenship is a status whose definitions are always in process." Legal theorists Linda McClain and Joanna Grossman similarly view "citizenship as a non-unitary and evolving concept." This can lead to a great deal of vagueness in how the term is used—sometimes as a synonym for "human being," sometimes as a stand-in for "local resident," and sometimes as a more specific legal category. Disability scholars Marcia Rioux and Fraser Valentine note that citizenship is "a messy concept" that "constructs a system of inclusion and exclusion, defining boundaries between who belongs and who does not, who enjoys the privileges (and duties) associated with membership and who is denied such privileges." Hence "citizenship" as a term in both everyday language and scholarly discourse often holds a much broader meaning than the narrow confines of voting, military service, paying taxes, or even jury service. As philosopher Marilyn Friedman notes, "Citizenship is multiple and various. It can be an identity; a set of rights, privileges, and duties; an elevated and exclusionary political status; a relationship between individuals and their states; a set of practices that can unify—or divide—the members of a political community; and an ideal of political agency." Supreme Court justice Ruth Bader Ginsburg noted in United States v. Virginia that "full citizenship stature" for all people entails "equal opportunity to aspire, achieve, participate in and contribute to society based on their individual talents and capacities." These views are echoed by disability scholar Michael Prince, who maintains that "citizenship goes well beyond legal and governmental
conceptions to embrace economic and sociological notions of participation, reciprocity, and autonomy”; it is constituted by “full membership in communities.” Indeed, community is vitally important to citizenship, particularly from a disability perspective. As T. H. Marshall notes, “There is a kind of basic human equality associated with the concept of full membership of a community—or...citizenship...Citizenship requires...a direct sense of community membership based on loyalty to a civilization which is a common possession.”

But citizenship can also be a force that marginalizes some members and thus damages a genuine sense of community, setting up a dichotomy between a privileged class that grants citizenship and a subservient class on which this status may or may not be conferred. In the United States, as in many Western nations, white, Anglo-Saxon, property-owning men have often considered themselves the ones in charge of granting such status. Men bearing full rights of citizenship have been generally nondisabled as well, with the ambiguous exception of disabled war veterans, who are at once lauded as heroes and simultaneously pushed aside by an unaccommodating society.  

Even under a purely legalistic definition of citizenship, however, many of these de facto exclusions are not legitimate. Consider, for instance, that under the Fourteenth Amendment of the U.S. Constitution, “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.” Yet as the history of women’s citizenship and the citizenship of racial minorities in the United States and Europe have shown, the legal doctrine of citizenship is often not enough to secure rights, and being “born” within certain geographic boundaries also is often not enough. (We set aside the naturalization clause because certain racial minorities were often excluded from naturalization, and disabled persons have been denied the right even to enter the United States, much less naturalize, as Douglas Baynton’s essay in this volume shows.) Scholars in women’s and African American studies have demonstrated that the technical designation “citizen” has done little to protect minority groups from having certain privileges inherent in their citizenship status denied. For instance, the Fourteenth Amendment legally designated women citizens as long as they were born in the United States, but it was another sixty-one years before they could vote, and even longer before they could universally serve on juries or in the military. They could even lose their citizenship by marrying non-American men, although men marrying foreign women did not lose theirs. Similarly, although the Thirteenth and Fifteenth Amendments ended slavery and granted black men the franchise, gross discrimination continued under Reconstruction, and “separate but equal” became the law of the land in 1896, along with various pragmatic restrictions on black suffrage, such as “literacy tests,” which began in the 1890s and continued through the 1960s, given disproportionately to blacks. Recent voter-identification laws in various states similarly may hinder racial minorities from voting.

Scholars who study the history and theory of citizenship among these minority groups often refer to their status as that of “second-class citizenship,” a term that refers to the discrepancy between theory and practice, as well as law and right. Women and African Americans had long been citizens “on the books,” but for over a century they were not really treated as such. Their citizenship was—and arguably still is—infectual, for their political power and action always paled in comparison with those of the ideal Anglo-Saxon, male citizen.

Throughout most of Western history, disabled people have also been treated as second-class citizens. Going further, we might suggest that disabled persons are perhaps even third-class citizens, for disability has historically served as a justification to deny the privileges of citizenship to both African Americans and women. Helen Meekesha and Leanne Dowse maintain that “the concept of a disabled citizen could be described as a contradiction in terms” because, as historian Douglas Baynton writes, “the concept of disability has been used to justify discrimination against other groups by attributing disability to them.” For example, antisufragists prohibited women from voting because of the supposed innate “defects” of the female mind. Similarly, from slavery to Jim Crow laws to Herrnstein and Murray’s infamous book The Bell Curve, which was taken to suggest a possible genetic racial difference in intelligence, people have insisted that African Americans were inferior to whites, and that by virtue of their race, blacks were intellectually and morally disabled. But suffragists and abolitionists rarely “challenged the notion that disability justified political inequality.” Instead, they put most of their political effort into disassociating themselves from the disabled, those they termed “defective,” and “crippled.” For much of American history, both the socially advantaged and the socially disadvantaged ostracized disabled people, making them the most marginalized of all minority groups.
This may be why disability was not covered in the 1964 Civil Rights Act: as Michael Bérubé reminds us, disability rights were seen as a “dilution of civil rights, on the grounds that people with disabilities were constitutively incompetent, whereas women and [racial] minorities faced discrimination merely on the basis of social prejudice.” Anita Silvers explains it the following way: “To make disability a category that activates a heightened legal shield against exclusion, it was argued, would alter the purpose of legal protection for civil rights by transforming the goal from protecting opportunity for socially exploited people to providing assistance to naturally unfit people.”

This history of exclusion has meant that disability has had a complicated and ambiguous status within the concept of citizenship. We seek an enlarged conception of citizenship to address this. Citizenship is a matter of entitlement, obligation, and belonging. Domenico Losurdo argues that the struggle to enlarge the notion of citizenship in the modern era has been tied up with the struggle to recognize the humanity of propertyless men, women, and racial minorities. We share that aspiration for disabled persons and believe that this enlarged notion of citizenship intertwines the political and the social, legal status and human status. A citizen is someone who belongs to a particular group—whether a nation or other polity, organization, or community—and has certain entitlements and obligations thereby. The entitlements, though, are both a function and a means of the belonging. Thus denying those entitlements does more than take away an immediate good that the entitlement provides, such as income, education, or suffrage; it also takes away the belonging itself. Such denial is a signal of exclusion, an indication that you are not just different from others but an outsider, inferior, less than a citizen, even less than human. It is this denial and exclusion that disability scholars and activists seek to reject. We believe that this rejection entails an enlarged understanding of citizenship.

Civil Disabilities: Membership and Belonging

The aspiration for an enlarged understanding of citizenship is central to the title of our book, Civil Disabilities. The term “civil” has multiple layers of meaning, ranging from those pertaining explicitly to legal categories of citizenship (particularly civil rights and civic association) to notions of politeness and consideration (civility, keeping a civil tongue in your head) and to colonisation discourses that disparage colonized cultures (as “barbaric” rather than “civilized”). It is one of those words in the English lexicon that evades a simple meaning, and that ambiguity pervades this volume in what we believe is a productive way. It signals that the legal conception of citizenship is insufficient for key purposes, albeit an important part of the disability story.

But “civil disobedience” is the phrase that our title most calls to mind, and Martin Luther King, Jr.’s famous “Letter from Birmingham City Jail” perhaps best captures the sense of the term we intend. For the reasons we expressed earlier, and that Silvers and others have pointed out, we are not suggesting that a direct analogy be made between black civil rights and that of disability rights—the former movement rejected images of disability and thus further stigmatized disabled citizens in its own struggle for citizenship status. But King’s essay offers a particular formulation of civil society and citizenship that we believe is useful for disability and is at least tacitly employed by the essays in this volume. (From a disability perspective, it may be particularly significant that for King, civil disobedience entails using “our very bodies as a means of laying our case before the conscience of the local and national community,” because that is an inescapable part of disability claims for citizenship and membership. It is precisely the “differences” our bodies present that seem to make the struggle necessary in the first place.)

King shares with other theories of civil disobedience a challenge to state power and state authority at specific sites: the standard civil disobedience view is that the disobedience pertains to an unjust law, but not necessarily to an unjust regime. Indeed, part of the logic of civil disobedience entails a tacit recognition of the state’s authority to punish one for one’s transgression, “to arouse the conscience of the community over its injustice,” as King put it. In this sense, civil disobedience pertains to citizenship in the legal meaning.

But it also goes well beyond that aspect, particularly expressed by King, for acts of civil disobedience are also rebukes to the injustice of social relations. For instance, African Americans sitting at a “whites-only” lunch counter were claiming that they were entitled to equal protection of the law, that public establishments were not justified in having “whites-only” seating. But they were also making claims for humanity; they were saying that blacks were people, too, entitled to the same basic courtesies and
recognition as white persons. As King noted, the actions of civil disobedience were meant to point out the ways in which the “I-thou” relationship was unsettled. By this he meant that the claim for recognition is a claim not just for legal rights of citizenship but also for humanity, for the recognition that I am here, that I belong, and you must recognize me as such. “We are caught in an inescapable network of mutuality, tied in a single garment of destiny,” King noted. Indeed, at one point he even seemed to overturn the traditional notion of citizenship altogether when he said that “anyone who lives inside the United States”—thereby (perhaps unintentionally) including immigrants and others legally designated noncitizens—“can never be considered an outsider anywhere in this country.” Rejecting “anything less than brotherhood,” King centrally deployed notions of care for others, relationship, and community in the struggle for rights of citizenship.

This intertwining of one’s humanity and one’s citizenship in the notions of community, membership, and belonging that we find in King’s famous “Letter” are also central to one of the foundational texts in disability rights, Jacobus tenBroek’s landmark 1966 article “The Right to Live in the World: The Disabled and the Law of Torts.” One of America’s earliest disability activists and academics and a leading expert in constitutional law, tenBroek challenged policy makers and legal scholars to give precedence to the blind, disabled body when they were considering civil rights and liberties. Early in the essay he approvingly quoted a report from the U.S. House Judiciary Committee that “the badge of citizenship. . . demands that establishments that do public business for private profit not discriminate,” as well as an amendment to the Vocational Rehabilitation Act that was “to provide the physically and mentally disabled persons of this Nation an improved and expanded program of services which will result in greater opportunities for them to more fully enter into the life of our country as active participating citizens.” Central to his argument is a critique of the ways in which most conceptions of citizenship (wrongly) assumed a kind of able-bodiedness that a significant part of the population did not and does not possess. Disabled persons, he argued, were not seen as “belonging” to the polity; their membership was compromised, as “crippled” (his term) as their bodies.

TenBroek’s powerful and passionate challenge to the systematic marginalization of the blind entailed a claim not only for citizenship but also for full humanity for all disabled persons. Throughout the article, he intertwined his theory of citizenship with terms such as “human endeavor,” “human dignity,” and “human rights,” asking, “Are persons after all not to be persons if they are physically disabled?” Much as in the case of King, this was due to the context in which he wrote. Although the Social Security Act had been passed and various federal programs of vocational rehabilitation had been secured, tenBroek maintained that such laws were often ignored and, even when recognized, did not adequately address the needs of disabled persons. Thus despite some advances in disability employment, tenBroek pointed out that blind Americans subsisted in a chronic state of destitution. His focus on the “humanity” of disabled persons was thus an early recognition that for disabled persons, like all other excluded groups who have struggled to assert their membership and belonging in the American polity, such as African Americans and women, the call for recognition of our humanity is a call for “citizenship” in the enlarged sense.

Our invocation of the inspirational legacies of tenBroek and King does not lead us to be overly sanguine about what can be concretely achieved by the expanded notion of citizenship as membership and belonging that we are advocating here. Berkant argues that it is not simply a struggle for disabled persons to be included in an “us too” frame of mind. As she notes, citizenship has entered into a variety of areas that were heretofore not seen as public, with both good and bad results. Such cautionary notes are all too familiar to disabled citizens who apply for SSI or SSDI, which require burdensome applications and state surveillance (although it is arguable that the situation is considerably better in other parts of the world, such as Scandinavia). In the United States, at least, such benefits look less like what Marshall called a “social right” and much more like a charitable benefit administered by a suspicious and begrudging state. As Marshall noted about social rights in Europe as they emerged out of various poor laws, they were treated “not as an integral part of the rights of the citizen, but as an alternative to them—as claims which could be met only if the claimants ceased to be citizens in any true sense of the word.”

Disabled persons are in many ways what Iris Young calls “subordinate citizens” because “through the logic of protection, the state demotes members of a democracy to dependents.”

Yet what Grossman and McClain call an “aspirational conception of citizenship” is relevant to disability struggles, for it “includes the complete rights, benefits, duties, and obligations that members of any society expect to share and aspires to goals of inclusion, belonging, participation, and civic membership.” Thus our focus on belonging and humanity is never entirely removed from law and rights. The economic rights of subsistence income and health care, along with the rights to work and to access all built
environments (including polling stations), are what Marshall called social rights. These rights "range from the modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilized being according to the standards prevailing in the society"—an account remarkably similar to Jacobus tenBroek’s notion of "a right to live in the world." Marshall’s concept of "social citizenship" is "aspirational" in Grossman and McClain’s sense precisely because it seeks to expand the concept of citizenship beyond strictly political rights to a broader set of rights that recognize our mutual embeddedness in larger social relations, not to mention the intertwining of politics with ethics, economics, and social status. These social rights extend beyond the legal protections of due process to issues concerning economic welfare, such as employment legislation, social insurance, and health care, all of which have provided the foundation for various forms of disability accommodation, particularly those relating to subsistence income and the replacement of lost wages due to injury and disability. As Canadian disability scholar Michael Prince notes, such “income security programs and the tax system can be concrete expressions of social citizenship.”

Thus we maintain that the argument for citizenship and the argument for recognition of the full humanity of disabled persons—as workers, as members of families, as members of communities—are intimately related. The late feminist philosopher Iris Young contended that “repecting individuals as full citizens means granting and fostering in them liberties and capacities to be autonomous—to choose their own ends and develop their own opinions. It also means protecting them from the tyranny of those who might try to determine those choices and opinions because they control resources on which citizens depend for their living.” Similarly, feminist disability scholar and activist Jenny Morris argues:

Unless we have entitlements to action and resources to tackle these disabling barriers, we cannot achieve equality. . . . All of this is tied up with our right to exist. . . . If non-disabled people do accept our right to exist then they should also accept our common humanity and therefore our right to equality—as citizens and as human beings. We can’t get equality or a good quality of life unless we are given entitlements to different treatment—to changes and resources which enable us to get equal access—to jobs, to housing, to leisure and political activities, and so on.

For Morris and Young, the rights of citizenship are intrinsically tied up with one’s claim to humanity; they are connected to one’s status as a person, to one’s very right to exist.

Chapter Outline

It is this broader understanding of citizenship in terms of membership and belonging that we deploy in this book, and it is demonstrated, illustrated, drawn on, and referred to throughout the various essays in the volume. Some essays deploy obvious citizen tropes, such as the soldier disabled in the service of his or her country. Others talk about political mobilization, the representation of interests, officeholding, immigration, and identity politics. But most essays in this volume are concerned with the struggles of disabled persons to be recognized as members of their societies in the larger sense: entitled not just to the kinds of legal rights that tenBroek articulated in his expanded conception of civil rights, and not just the social and economic services that Marshall labeled "social rights," but to be accepted as members with a stake in our society, a right to claim that stake, and a right to be heard about their vision of what that stake entails—indeed, a right to be seen and treated as human beings.

The theme of citizenship must also be situated within the strong interdisciplinarity of this volume, which contains contributions from scholars of anthropology, English, history, history of science, music, philosophy, political science, and sociology. Part of the strength of the volume, we believe, is seeing how the issues and themes of disability and citizenship are developed differently by different disciplines and in different subject matters; the essays discuss archival research, biography, music, and film, as well as abstract theoretical texts. Thus structuring these essays in a particular order can take on a slightly random quality because any of the essays could go before any of the others with similar results. Readers should thus not feel bound by our ordering but should feel free to dip into whatever essay first captures their attention, knowing that whatever they choose next will deepen and complement the one preceding it.

Nevertheless, the job of editor requires us to order the essays, and we do so by following a narrative that moves from essays that highlight modes of exclusion and dehumanization to those that focus on strategies of inclusion and recognition. We start with Susan Schweik’s essay, "Homer’s Odyssey:
Multiple Disabilities and The Best Years of Our Lives," which digs below the surface of the highly acclaimed film to show how the double-amputee character Homer Parrish was made possible only through the "denial of politics," glossing over the reality that most disabled veterans deal with multiple disabilities. Focusing on the original book and screenplay on which the film was based, Schweik juxtaposes the "original" Homer with the filmic Homer. The original, textually based Homer sustained a traumatic brain injury and came home a "gargoyle of human form" who drooled, twitched uncontrollably, and demonstrated erratic behavior. Hollywood film producers and directors believed that American audiences could not bear such a sight, so they created the filmic Homer, a double amputee who could be easily "fixed" with a pair of prosthetic arms. Although often prized as a realistic film, Best Years in many ways denied the realities of wartime disability and, under the guise of inclusion and tropes of wartime heroism, excluded the realities of GI protests and rioting against housing conditions. Indeed, it may perhaps be a signature hallmark of disabled citizenship that the disabled soldier is simultaneously marked as a civil being and as the excluded other.

Ostensibly at the opposite pole from military veterans, one of the most obvious ways in which citizenship and inclusion have been regulated and surveilled is immigration. Douglas Baynton's essay, "Defect: A Selective Reinterpretation of American Immigration History," shows that disabled persons have been repeatedly denied entrance to the United States since the late nineteenth century. Immigration officials feared that blind, deaf, and "feebleminded" persons would be unemployable and thus likely to become economically dependent on the state. Baynton demonstrates, however, that many "defective" immigrants seeking to gain entrance to the United States enjoyed gainful employment in their home countries. Moreover, by taking disability as his primary analytic category for understanding immigration history, Baynton demonstrates a continuity in the history of immigration restrictions whereby physical and mental disability cuts across considerations of race, class, and gender and thereby becomes one of the most enduring and long-standing reasons for prohibiting entry into the United States. From this perspective, disability is a meta-analytic category by which to understand how citizenship is conferred and performed, as well as how civic exclusion is enacted.

In "The Disremembered Past," Susan Burch and Hannah Joyner revisit their previous work on the life of Junius Wilson, an African American man treated as a "lunatic" because of his deafness, wrongfully convicted of rape, and forcibly sterilized by castration at the age of twenty-three. The layers of exclusion in Wilson's life—from legal rights and protections, from intelligible communication with others, from bodily integrity—suggest the depth of the problems of citizenship within the history of disability, particularly when it is compounded by other categories of exclusion, such as race and class. Moreover, they suggest that "identifying" disability is itself an act of exclusion and show just how difficult it may be to establish a well-defined disability identity, so that certain individuals may be excluded from the political potential of disability identity altogether. More specifically, they point out that those who define identity in Deaf culture, for instance, have usually been European, white Americans.

These insights from Burch and Joyner lead us to turn from the documentation of exclusion to the struggle for inclusion, a theme central to Beth Linker and Emily Abel's "Integrating Disability, Transforming Disease History: Tuberculosis and Its Past." They explore the history of tuberculosis, long considered solely a disease within the medical sciences and humanities, and provide an account of how tuberculosis was understood to be a disability. But although abundant primary source records show how tuberculosis was categorized as a disability and recognized as such by the U.S. social welfare state, researchers have not considered the condition in this light because in the economy of medical and other forms of academic research, disease studies have enjoyed a privileged status over disability studies. As a result, those disabled by tuberculosis have been written out of disability and science studies almost entirely. But tuberculars frequently suffered from the same discrimination that people with other disabilities experienced, such as employment discrimination and stigma. The failure to understand the disability status of tuberculosis within various realms of academic scholarship further signals the troubled relationship between illness and disability more broadly.

The effort to include tuberculosis and other illnesses within the category of disability signals the thematic challenge of including disabled persons within larger communities, a subject similarly taken up by Faye Ginsburg and Rayna Rapp. Their essay, "Screening Disabilities: Visual Fields, Public Culture, and the Atypical Mind in the Twenty-First Century," in particular echoes the theme we have stressed here that citizenship must be understood culturally and socially, not just politically or legally, and so we must look in nontraditional places, such as the media, for involvement of disabled persons as citizens. They maintain that despite advances in disability rights over the past half century, most media outlets still exclude the disabled from
public view. In their estimation, media representation is as vital as political representation to the fight for inclusion—and indeed is perhaps its foundation. They reveal the ways in which disability activists have attempted to scale up the media presence of the disabled in order not only to forge media-based kinship networks but also to challenge the ideas of normalcy on which notions of citizenship, personal value, and worth are based.

Alex Lubet moves us from film to music to demonstrate a different struggle for inclusion in “Social Confluence and Citizenship: A View from the Intersection of Music and Disability.” Describing music cultures as “governments” with norms and rules that govern performance and self-presentation, Lubet shows how disabled performers have been excluded from musical performance and have struggled creatively to include themselves. By operating within different “social confluences” of musical norms, combined with physical ability, along with gender and race, different individuals’ disabilities resulted in different relations to musical performance and different statuses of “musical citizenship.” Comparing the stories of performers in the established domain of classical music, where the norms of performance are given and strict, with other genres, like jazz, that are more open to improvisation, Lubet shows that the norms of different genres of music create different possibilities for participation. For instance, whereas guitarist Django Reinhardt could develop an entire style of music that accommodated his disability, adapting his musical performance to his body, pianist Leon Fleisher had to find piano pieces for one hand, adapting his disability and his body to the requirements of classical music. Adding other factors of bodily presentment, such as gender, creates both marked and subtle differences in the “privileges of participation and level of inclusion.”

The problems of and struggle for inclusion in these essays lead us to questions about the duality of inclusion and exclusion, a theme particularly prominent in essays by Catherine Kudlick and Allison Carey. Kudlick’s “Our Ancestors, the Sighted: Making Blind People French and French People Blind, 1750–1991” explores the ways in which national and disability identity have intertwined in French history. She compares a late twentieth-century book on architecture for vision-impaired persons with an eighteenth-century Enlightenment text to consider both the nationalizing, and possibly colonizing, effort “to make the French blind,” enabling them to appreciate the beauty of France’s monuments and architecture, and the reciprocal effort “to make the French blind,” to open up the understanding of sighted people to blind experience and to recognize their membership in French society. The former effort presumed an ideology of assimilation and sameness, following colonialist ideologies; like immigrants, blind persons needed to learn French culture in order to claim their status as citizens (or at least potential citizens). By contrast, the latter effort required attention to difference, celebrating the universal individualism, freedom, and equality of the Enlightenment. In uncovering the oppositional tensions in these seemingly parallel goals and placing blind people within the lexicon of nationalism and colonialism, Kudlick shows that efforts at inclusion are often accompanied by their political opposite, new forms of exclusion.

The dualism of inclusion and exclusion is further illustrated in Allison Carey’s “Citizenship and the Family: Parents of Children with Disabilities, the Pursuit of Rights, and Paternalism.” Focusing on parents of children with disabilities, Carey theorizes rights as relational and stresses the need to think of parental rights in relation to individual rights of disabled persons. Although able-bodied parents themselves—particularly if they are white, middle class, and heterosexual—do not usually have a contested relationship with citizenship, they must negotiate hostile laws, policies, and built environments on behalf of their children. Carey shows how parents negotiate this citizen/noncitizen tension by actively agitating for laws and social policies that secure rights for their children but also empower them as parents by further weakening their children’s independent status. She notes that parents’ claims for rights depend both on the citizenship status of their children, in claiming that society has obligations to help them care for these members of society, and on the denial of that status under the rubric of family privacy. The citizenship status of their children, accordingly, is constantly in flux, dependent on the strategies that their parents pursue.

These insights into the interrelationship of inclusion and exclusion lead us to the final essays in the volume, which take up different strategies for political and ethical inclusion of disabled subjects within the polity, within society, and within our understanding of “the human.” Whereas Carey, like Ginsburg and Rapp, considers disability rights, Lorella Terzi in “Cognitive Disability, Capability Equality, and Citizenship” considers the duties that society and the able-bodied have toward disabled persons. Duties and rights are complementary in ethical and political philosophy; if I have a right to x, you have a duty not to interfere with my x, and the state may have a duty to
foster x. Terzi considers this a “matter of justice.” Focusing on the capabilities approach developed by Amartya Sen as an ethical framework for fighting extreme poverty in India, Terzi explores the ways in which debates over resource allocation to disabled persons are distorted by focusing on outcome equality—often impossible to achieve, thereby making claims dismissible—instead of “capability equality.” Persons with cognitive disabilities pose a particular challenge because such persons are unable to participate in rational democratic deliberation. By seeing that disability is not just social but relational, constituted by the ways impairments are affected by contextual circumstances, the capabilities approach opens up participation to a more diverse realm that includes the use of surrogates and advocates. The use of “capabilities” to supplant and supplement “abilities” thereby has the potential to transform our understanding of “disability” as an ethical, linguistic, social, and political category of meaning and to enlarge our understanding and appreciation of the idea of “citizenship.”

Nancy Hirschmann also takes up such enlargement in “Invisible Disability: Seeing, Being, Power.” Hirschmann treats “invisible disability,” a term more commonly used in reference to disabilities that are “hidden,” such as dyslexia, as an interpretive device for understanding disability as a concept. She theorizes a variety of ways in which disabilities are made invisible, ranging from institutionalization to disbelief that a disability exists to the silencing of political voice. These various modes of invisibility affect the citizenship status of disabled persons in different ways, ranging from their literal exclusion from public debate and participation to the absence of disability perspectives in public and social policies. She considers whether invisibility can offer a subversive potential to reclaim citizenship. Recognizing the ambiguities and tensions of such a strategy, Hirschmann suggests that the civic status of the unseen and the unsettling ambiguity and anxiety that “passing” often generates can provide fruitful openings for shifting public discourse on and awareness of disability. When disability is invisible, the struggle for recognition takes on added complexity: on whose terms should the disabled be recognized?

Following up on Hirschmann’s call for subversive political action, Tobin Siebers makes his own call for a return to identity politics in “Disability Trouble.” Although “identity politics” is considered passé in some academic circles, Siebers’s analysis of various critiques of identity politics finds in them not just hostility to disabled persons but a more metaphysical understanding of the ways in which “disability” is deployed as a metaphor and symbol for any sort of socially defined inferiority, such as gender, race, or sexuality. The only way not to be considered disabled, Siebers suggests—and hence the only way to be considered a deserving member of the political community—is to adhere to supposed “truths” about the nature of man, equality, freedom, and justice. In highlighting the hypocrisy of the rejection of identity as a viable political category, Siebers suggests that hostility to disability not only underlies hostility to other minority categories but also is so profoundly normalized that even members of those groups do not recognize it but instead participate in the exclusion of disability and disabled persons. Noting that identity politics is not just about “appreciating diversity” but about “changing the material and social conditions,” Siebers argues that claims of citizenship go beyond the tokenism of passively “including” bodies and faces of different types to the active production of policies and laws that respond to the needs of individuals who are socially situated in positions of structural inequality.

These last three essays deploy theoretical categories, methodologies, and strategies most directly, but all the essays contribute to the theoretical project of contesting our understanding of disability and how it is and should be thought about in the context of an ablest world. The valuing or disvaluing of disabled bodies, the way such bodies are defined and classified, and the relationship of disabled bodies to rights and duties all contribute to our understanding of whether and how disabled persons are citizens, and how the concept of citizenship itself is affected when we make explicit acknowledgment of disability as a category for inclusion. The ways in which resources should be distributed, the physical landscape should be shaped, laws and policies should be written, court cases should be decided, moral philosophies should be developed, and theoretical categories should be imagined are all important contributors to a disability theory of citizenship based on the inclusion of bodily difference in the political, moral, and theoretical landscape. Although the present volume hardly develops a definitive view of disability citizenship, we hope that the essays presented here will spark ideas and suggestions in readers who will continue the project of fighting for a world in which disability is, after all, just another difference.
CHAPTER 2

Defect: A Selective Reinterpretation of American Immigration History

Douglas C. Baynton

“Selection” is a fraught word for people with disabilities. Such terms as “prenatal selection,” “selective reproduction,” and “genetic selection” raise the specter of disability deselection based on normative assumptions about what constitutes a “good life” or “a life worth living.” Reproductive selection today is generally framed as a matter of individual choice (although some ethicists maintain that it is largely an illusion that such choices could exist apart from social norms and pressures), but eugenicists in the late nineteenth and early twentieth centuries saw social selection as an unalloyed good. They frankly advocated coercive methods, advanced normative assumptions as scientific fact, and regarded the elimination of what they termed “defectives” as common sense.

The intentional improvement of animal stock, what today is usually referred to as “breeding,” in the nineteenth century was termed “selection.” It was because of the familiarity of the term that Charles Darwin settled on “natural selection” to describe the means by which evolutionary change occurred. Although he worried that the term was “in some respects a bad one, as it seems to imply conscious choice,” he believed that its utility as an explanatory device outweighed that disadvantage because “it brings into connection the production of domestic races by man’s power of selection, and the natural preservation of varieties and species in a state of nature.” Eugenists feared that natural selection, which worked to eliminate defects in nature, had become powerless under the conditions of modern civilization. Darwin himself made this point in The Descent of Man when he wrote that modern societies “check the process of elimination; we build asylums for the imbecile, the maimed, and the sick; we institute poor-laws,” and, as a result, “the weak members of civilised societies propagate their kind.” However, he hastened to add, this impulse arose from “the noblest part of our nature,” and “to neglect the weak and helpless” would gain merely “a contingent benefit, with a certain and great present evil.” He concluded that “we must bear without complaining… the weak surviving and propagating their kind.”

Eugenists did not entirely agree. Although allowing the weak to die was a line most eugenicists were disinclined to cross, allowing them to propagate was a different matter, and they believed that they had tools of selection that were both ethical and practical. Eugenics was primarily a nationalistic project. Although eugenicists spoke about the rights of individuals to be “well-born” and the advancement of the human race, most of their attention focused on the middle ground of the nation. American eugenicists carried on a decades-long debate over what methods of selection were best suited to creating “a superior national race.”

Eugenic selection of worthy citizens occurred along two main tracks. The one most often associated with the eugenics movement was the curtailment of reproduction by undesirable citizens through institutionalization, sterilization, and public education campaigns that included fitter-family contests, school and college curricula, and a steady stream of books, articles, and sermons. Although federal courts became involved from time to time, this aspect of the eugenics movement was carried out mostly at the state and local level. There was, however, another “field in which the federal government must cooperate,” wrote Harry Laughlin, the director of the Eugenics Record Office at Cold Spring Harbor, “if the human breeding stock in our population is to be purged of its defective parenthood.” That field, the second main track of eugenic selection, was the restriction of immigration.

Immigration restriction represented the most complete and unambiguous expression of eugenic nationalism. Advocates of institutionalization and sterilization could include among their professed motives altruistic ones: to shelter vulnerable individuals, relieve parents of terrible burdens, prevent lives of presumed misery, and foster human progress. The popular writer Albert Wiggam was certain that Jesus, were he to return, would update the golden rule in light of modern eugenic science: “Do unto both the born and the unborn as you would have both the born and the unborn do unto you.” A pamphlet from the American Eugenics Society asserted that eugenics did not mean “less sympathy for the unfortunate” but instead a
more concerted attempt to alleviate their suffering, by seeing to it that everything possible is done to have fewer hereditary defectives." The physician Harry Haiselden could even claim that he practiced euthanasia for disabled infants "because he loves them," and that death was "the kindest mercy." Immigration restriction, by contrast, was not plausibly defensible as beneficial either to the individuals it affected or to humanity at large. It promised only to keep defectives where they were: elsewhere. Moreover, institutionalization and sterilization affected mainly people who fell into the categories of mentally or morally defective, while immigration restriction eventually encompassed virtually all varieties of disability.

The concept of selection has an important but frequently misunderstood place in the history of immigration policy. Scholars have commonly divided the early regulation of European immigration into two broad categories, selective and restrictive, each with its own distinct rationale and purpose. Selective laws screened out undesirable individuals, mainly those with physical, mental, and moral defects, while restrictive laws placed limits on racial or ethnic groups, as well as reducing overall immigration. The periodization that has followed from this division posits a selective phase, starting with the Immigration Act of 1882 (the Chinese Exclusion Act of that same year is often cited as an exception), and a restrictive phase that began in 1917 with the passage of a literacy test or in 1921 with the first national quotas. The latter period has been treated as the more momentous and has been subjected to much greater critical inquiry. Most accounts describe selection as a reasonable effort to protect the nation from harm and restriction as objectionable because it was based on racism, nativism, and eugenics.

This interpretation is problematic in several ways. First, the term "selective" is generally treated as transparent and straightforward, and its charged significance in the rhetoric of eugenics is overlooked. Second, making a distinction between laws that screened out inferior individuals and laws that screened out inferior races misses the interconnected and mutually constitutive uses of the terms "defect" and "race" in eugenic thought. Eugenic thinking was at the heart of federal immigration law from at least the 1890s (although the term itself came into common use only after the turn of the century). Finally, with a few notable exceptions, most discussion of immigration policy at the time did not make this distinction. Rather, selection was seen as the means and restriction the end.

The laws during this period are better understood as forming a cohesive whole, a decades-long legislative effort to find an effective method of excluding immigrants seen as defective. Lawmakers at first tried to restrict immigration via increasingly stringent inspection procedures and standards for admission. They assumed that this would reduce the numbers not only of defective individuals but also of nationalities and races (often conflated in nineteenth-century usage) understood as disproportionately prone to defect: for example, Jews, who were liable to neurosis and poor physique; Slavs, to feeblemindedness; and Italians, to emotional instability and outbursts of violence. When inspection and exclusion for individual defects proved incapable of checking the flow of undesirable immigrants, legislators finally turned to quotas based on national origin. This was not a departure from but rather a complement to the previous acts. The earlier laws based on inspection were expected to limit immigration from races prone to defect; conversely, national quotas were intended to further reduce the number of defective individuals. The overarching goal did not change. In immigration law, as in other realms, the issues of race and defect were deeply intertwined.

The term "defect" in immigration debates corresponds in most instances to what today is termed "disability," but it was applied more broadly and with connotations specific to the time. It could signify any unwanted deviation from what was considered normal—mentally, morally, or physically. A defect might be a visible impairment or an ill-defined degeneracy that manifested itself in various ways, for example, in crime or poverty. Thus a writer in the North American Review in 1892 could refer to "paupers, criminals, or other defectives." Defects of body, mind, and morality were assumed to be interrelated. A professor of medicine and criminal anthropology in 1904, for example, maintained that "defective physique . . . has not received the attention it deserves in the causation of crime." Francis Galton, who coined the term "eugenics," advocated in 1905 the issuance of eugenic certificates for "goodness of constitution, of physique, and of mental capacity," stressing that these were not "independent variables." A medical officer in the Immigration Bureau warned in 1906 that "there is to be expected in the case of poor physique, as an accompaniment of signs of physical degeneracy, some abnormality in the individual's mental and moral make-up." Given the inchoate understanding of heredity, which into the 1930s included neo-Lamarckian ideas about the inheritance of acquired characteristics, defects were assumed to be heritable. Moreover, defects were mutable, manifesting themselves in varied forms and having far-reaching effects on succeeding generations. The term for this phenomenon was "degeneracy,"
the tendency of defects to persist across generations, to mutate, and to metastasize, such that a mild defect might within several generations become a thoroughly corrupted nature. What was termed “moral imbecility,” an “absence of the moral sense often as complete as is the absence of sight in the blind,” was routinely associated with other defects: “Its influence in heredity is far reaching, liable to reappear in its own or in another form of defect.” Imbecility in all its forms had a “permeating, penetrating, disintegrating power” and was “at once the most insidious and the most aggressive of degenerative forces; attacking alike the physical, mental and moral nature, enfeebling the judgment and will, while exaggerating the sexual impulses.” An editorial in the *Boston Medical and Surgical Journal* could state without fear of contradiction that “physical degeneracy is now known to go hand-in-hand with mental and moral degeneracy.”

This was the threat that immigration restriction was meant to counter. A great variety of immigrants were rejected as defective, among them people with curved spines, hernias, flat feet, missing limbs, short limbs, and impairments of vision, hearing, and mobility; the excessively short or tall; hermaphrodites (intersexes); men who suffered from “feminism” (a hormonal deficiency resulting in underdeveloped sexual organs); people with intellectual or psychiatric disabilities; freak show performers such as Zip the Pinhead (microcephaly), Juggernaut the (limbless) Human Cannonball, and the giant Delphi.

Historians have either overlooked or misconstrued the central place of “defect” and “selection” in the history of immigration policy. Philip Taylor, for example, explained that despite agitation against unrestricted immigration, “very little was done” until national quotas were instituted in the 1920s; before then, “the categories of undesirables to be excluded were gradually extended,” all of which “could reasonably be defended by arguments about anti-social behavior of a rather obvious kind, or physical and mental defects disqualifying the immigrant from any effective share in American life.” In *Silent Travelers*, Alan Kraut explained that inspectors “guarded their country against disease and debility” and “barred those found physically or mentally unprepared for life in the tough, competitive society that demanded fitness of body as well as of soul.” Given what we have learned about disability in recent years—the kinds of inexpensive, simple, and low-technology accommodations that make employment accessible, and the importance of social barriers and prejudicial attitudes in preventing accessibility—such assumptions are no longer tenable.

Historians have noted that restrictionists attributed impairments to particular races or nationalities—inhherited tendencies toward immorality, feeblemindedness, insanity, poor physique, alcoholism, emotional instability, and so on—but usually only to condemn these attributions as a kind of slander. Prejudicial attitudes concerning race and ethnicity have been closely examined, while similar attitudes toward disabled immigrants have gone largely unremarked. Even to those who, by training, are usually alert and attuned to stereotypes, the rich, complex, and powerful imagery associated with disabilities remains invisible.

So much greater significance has been attributed to the quota laws that in some instances, the preceding four decades of restrictive laws virtually disappear from view. Categorical statements such as the following are not difficult to find: “In May 1921 the era of open immigration to the United States came to an abrupt end”; it was “1924 when free and open immigration ended”; “Immigration policy was famously open until the 1920s, when eugenics arrived with a vengeance”; and “1924 marked both the end of one era, that of open immigration from Europe, and the beginning of a new one, the era of immigration restriction.” A chapter in a document collection on immigration is titled “Limited Naturalization, Unlimited Immigration—1880 to 1920.”

This period of ostensibly open and unlimited immigration began in 1882 (after passage of the Chinese Exclusion Act which, as historians of Asian immigration have often pointed out, was undoubtedly restrictive) with an immigration act that mandated the exclusion of any “lunatic, idiot, or any person unable to take care of himself or herself without becoming a public charge.” Lunatics and idiots were automatically excluded, while the capacity of immigrants to live independently was for immigration officials to judge. Their scope for judgment was narrowed in 1891 when “likely to become a public charge” became the criterion, and further still in 1907 when officials were directed to exclude anyone having a “mental or physical defect being of a nature which may affect the ability of such alien to earn a living.” The less rigorous standard of “likely to become a public charge” was retained, however, for nondisabled immigrants.

Among the ranks of the automatically excluded, lunatics and idiots were joined in 1903 by epileptics and those who “have been insane within five years previous [or] have had two or more attacks of insanity at any time,” and in 1907 by “imbeciles” and “feeble-minded persons.” The commissioner of immigration reported that year that “the exclusion from this
country of the morally, mentally, and physically deficient is the principal object to be accomplished by the immigration laws. In 1917, Congress thought it prudent to consider one “attack” of insanity sufficient for exclusion and to add people of “constitutional psychopathic inferiority,” which meant the “various unstable individuals on the border line between sanity and insanity, such as moral imbeciles, pathological liars, many of the vagrants and cranks, and persons with abnormal sex instincts.” Immigration Bureau regulations distilled this into a clearer directive to exclude people with “any mental abnormality whatever” and all “aliens of a mentally inferiord . . . without being under the necessity, as formerly, of showing that they have a defect which may affect their ability to earn a living.”

Inspectors often spoke with pride of their ability to make “snapshot diagnoses” as immigrants filed past. Victor Safford maintained that it was “no more difficult to detect poorly built, defective or broken down human beings than to recognize a cheap or defective automobile”; indeed, the skilled examiner could often identify defects from “twenty-five feet away” by observing a “man’s posture, a movement of his head or the appearance of his ears, requiring only a fraction of a second.” S. B. Grubbs claimed that inspectors often “did not know just why they suspected at a glance a handicap which later might require a week to prove.” Under questioning before a House of Representatives committee, the assistant surgeon general of the Public Health Service conceded that the “curse” nature of inspection demanded that it be “mainly directed toward detection of the obvious physical defects, such as the lame, the blind, the deaf, or for the purpose of detecting mental defects.”

Under these circumstances, appearance mattered a great deal. Inspector Allan McLaughlin explained in 1905 that “the gait and general appearance suggest health or disease to the practised eye, and aliens who do not appear normal are turned aside, with those who are palpably defective, and more thoroughly examined later.” For most, a normal appearance ensured an uneventful passage through the station. Others less fortunate had the mark of their abnormality chalked in code on their clothing—L for lameness, K for hernia, S for senility, X for mental illness, and so on—and were taken aside for closer inspection, which might uncover problems that might or might not be related to the abnormality that prompted it. Discovery of a problem necessitated a hearing to determine on which side of the law an individual stood. Those on the wrong side were returned to their port of departure, often in the same ship that had brought them. In many cases, they had exhausted their resources, left jobs, and severed connections in preparation for the trip and had little to which to return.

The precise number of those turned back for defects is difficult to pin down from available records, largely because of assumptions that linked disability and dependency. Until 1908, exclusions based on physical defects were mixed with nondefectives in the category of “likely to become a public charge.” This was always the largest category of exclusion, but the criteria applied were never clear-cut. Lack of cash on hand by itself was not a primary factor, although it was taken into consideration. A 1911 congressional commission reported that “pauperism among newly admitted immigrants is relatively at a minimum, owing to the fact that the present immigration law provides for the admission only of the able-bodied,” which suggests that disability was seen as the major factor in producing public charges. After 1908, a rejected immigrant was counted in the category of “mental or physical defective” if he or she was deemed merely defective, but in the “public charge” category if he or she was both defective and a likely pauper. In any case, taken together, exclusions in both categories grew from 0.6 percent of all immigrants in 1895 to 1.6 percent in 1910. They reached nearly 5 percent in 1915, when war in Europe dramatically reduced migration and allowed more careful inspection. By 1920, when immigration had rebounded, exclusions in these categories had fallen again, to 1 percent.

These percentages seriously understate the impact of the laws, however. First, American immigration laws were widely advertised abroad, and many would not risk the journey knowing that they might be rejected. Second, not only were ship companies required after 1891 to return rejected immigrants to their port of embarkation at no charge and to pay a fine, but also the same provision applied if an immigrant was later discovered to have an excusable condition that initially passed unnoticed, up to a year after landing (increased to two years in 1903 and to three in 1907). Legislation in 1893 furthermore required a ship’s surgeon to examine passengers and the captain to certify that none were defective. Shipping companies had strong incentives to refuse passage to questionable passengers. Finally, ticket agents in Europe also became de facto inspectors because, as the superintendent of immigration noted approvingly in 1894, they were instructed to refuse tickets to “blind, deaf and dumb, and crippled persons” and fined for passengers subsequently rejected. A federal commission in 1911 conservatively
estimated that ten times as many were refused transportation as were barred at U.S. ports.39

Histories of immigration policy that posit a selective and a restrictive phase attribute to each a distinct rationale: the former to screen out (alternatively, to sift, filter, strain, weed out, or winnow) undesirable individuals and the latter to reduce numbers overall and more particularly those of disfavored races. John Higham's *Strangers in the Land*, for decades after its publication in 1955 the standard work on immigration policy, was structured along these lines. Higham wrote that during the 1880s Congress "put aside plans for reducing the absolute number of immigrants and concentrated instead on regulation and 'selection.'" When legislation mandating a literacy test was passed by Congress but vetoed in 1907, he labeled it "the failure of restriction," concluding that no restrictive legislation "of any consequence became law for a decade after the essentially anti-restrictive measure of 1907."40 This "anti-restrictive measure," in addition to prohibiting entry by idiots, imbeciles, feebleminded persons, epileptics, insane persons, and anyone with a history of insanity, also created the special provision for persons with any kind of "mental or physical defect," required that ship surgeons inspect passengers, and held ship captains responsible for affirming the absence of defective passengers.41

The first law that Higham considered restrictive in intent, because it mandated a literacy test, came in 1917. The distinction for Higham was that earlier laws were intended to screen individuals, while the literacy test was implicitly intended to target groups by race (which the quota laws later did explicitly).42 Others have followed the same template, if not always the precise dates or terminology. In 1963, Marion T. Bennett maintained that the years between 1880 and 1920 were "generally called the Selective Period of qualitative controls," following which lawmakers "turned to numerical or quantitative restriction."43 Edward Prince Hutchinson in 1981 agreed with Higham that the literacy test represented the "turning point in American immigration policy," when Congress made "a definite move from regulation to attempted restriction."44 Roger Daniels, in 1990, declared the literacy test "the first significant general restriction ever passed"—adding later in his narrative, however, that "by 1917 the immigration policy of the United States had been restricted in seven major ways." The distinction between "major" and "significant general" restriction is unclear, but certainly Daniels did not see the exclusion of defectives as either. The seven major restric-

tions that he listed were those placed on Asians, criminals, violators of moral standards, persons with diseases, paupers, radicals, and illiterates.45

A variation on this approach was taken by Kenneth Ludmerer, who, in 1972, maintained that until the 1920s "federal policy embodied an economic, not a biological, view of immigration." The terms he used were somewhat different, but his argument was based on the same grounds, that the earlier laws prohibited "the entry of individuals (but not races) deemed undesirable—criminals, polygamists, anarchists, and the feebleminded." Leaving aside the incompleteness of this list, which omits many of the defects that were cause for exclusion, this interpretation assumes that when "the chief threat was considered to be the influx of degenerate persons, not degenerate races," policies were based on rational economic considerations; when the chief threat was degenerate races, however, policies were based on irrational prejudice rooted in eugenic thinking.46

The "public charge" provisions were often represented at the time as a question of ability to work and to avoid dependence on public assistance, and historians have generally taken this representation at face value. However, immigration officials never sought evidence that particular disabilities made people more likely to become public charges, and if so, which ones. It was at heart not an empirical claim but a cultural assumption that disability meant inability to live independently.47 Women were similarly assumed to be home-bound nonworkers and dependents despite the legions of working women and families dependent on them and were often rejected on that basis by immigration officials when they were unaccompanied by a male provider.48

Although the possibilities for workplace accommodations may be better understood today, they were not unknown at the time. Professionals in the growing rehabilitation movement condemned the "social arrangement that virtually condemns the cripple to mendicancy."49 Henry Ford declared in 1914 that Americans "are too ready to assume without investigation that the full possession of faculties is a condition requisite to the best performance of all jobs,"50 announced a nondiscrimination policy for disabled workers, and promptly hired thousands. The Red Cross Institute for Crippled and Disabled Men in New York City reported great success in finding employment for disabled workers in 1918.51 Efficiency experts Frank and Lillian Gilbreth in 1920 advocated workplace reforms to "adapt the work to the man" by "rearranging the surroundings, equipment and tools... modifications of machinery, [or] changing the method by which the work is done." The chief obstacle, they argued, was the public's view "that the
thought of a cripple re-entering competitive industrial life is repellent, that these people should be provided for by pensions in their homes.”

The reasons for unemployment among people with particular disabilities at particular moments in history are questions to be argued and demonstrated, not simply assumed. The design of industrial jobs was not a natural but a social artifact. Furthermore, whether or not legislators should be faulted for failing to recognize disability as a social rather than merely an individual problem, historians should place immigration restriction in context as one element in a society with systemic obstacles to independence for disabled people. Buildings, streets, transportation, and workplaces were designed for certain ways of functioning and not for others.

Even if we leave these questions aside, the economic explanation of restrictive policies is inadequate. In many cases, the defect for which immigrants were excluded entailed no impairment of function. For example, Donabet Mouseakan, a photographer and Armenian refugee from Turkey, was rejected in 1905 for “feminism.” As he said, “It won’t do any harm to my working; what harm can I do to the U.S. by my being deprived of male organs?” Many had been self-supporting in their home countries; Adrianus Boer, a skilled leather worker and saddle maker from the Netherlands, was rejected in 1905 for deafness in spite of having “always worked and supported the family without any outside help at all.” In some cases, an immigrant received a job offer before being deported; in 1913, the ironworker Moische Fischmann had fled an ongoing pogrom in his native Russia, and his brother, also an ironworker, brought a job offer from his own employer to the hearing, but Fischmann was deaf and so was turned away. In many instances immigrants had family willing and able to support them if needed, as Helena Bartnikowska, who, in 1908, was refused entry because, the inspector noted, “this supposed woman” was a “hermaphrodite.” Economic concerns were clearly part of the debate, but the argument that a selective policy during the early years of immigration law arose simply from practical economic considerations does not fit the evidence.

Although historians have distinguished selection from restriction, those engaged in the immigration debate at the time usually did not. Instead, they typically described immigration law as intended to accomplish restriction via selection. The 1882 act was understood as “restrictive” or “mildly restrictive.” Bureau of Immigration reports referred to “restrictive features” of the 1891 and 1893 laws, which were “framed to sift the incomers.” A brief surge in immigration early in 1893 was explained as immigrants rushing “to arrive before the restrictive measures” of the 1893 law took effect, while the bureau predicted in 1894 that the “volume of immigration will be restricted” and its quality “will continue to improve” as a result of the law. The prediction was vindicated the following year, the decline being steepest from “countries usually furnishing many of the most undesirable immigrants.”

The report of 1897 trumpeted a decrease since 1891 “for which credit, in large part, must be given to restrictive legislation.”

In short, the laws were functioning as designed—simultaneously selective and restrictive—to keep out defective individuals, nudge in a satisfactory direction the racial balance of immigration, and reduce total immigration. The bureau’s understanding of how the laws were working was not idiosyncratic; in 1892, the president of the New York Chamber of Commerce lauded the “restrictive laws” that excluded “lunatics, idiots,” and others before calling for a literacy test to further restrict the number of immigrants and “improve their quality.” In 1893, the chairman of the Senate Committee on Immigration recommended “further measures of restriction,” and a year later the commissioner of Ellis Island pronounced the “sifting” and “winnowing” under the recent law “a great success as a restrictive measure.” A writer in the Atlantic Monthly backed him up, affirming that the efficacy of the law in “limiting the number and determining the quality of immigrants” had been “conclusively proved.”

As it later turned out, the laws excluding the unfit did not live up to the hopes of the restrictionists; immigration began to increase again after the turn of the century, and the market for new ideas to address the problem continued to be lively. Among the proposals was the literacy test, which, after twenty years of failed attempts, was finally enacted in 1917. The interpretation that this represented a turning point toward a policy of restriction may come from the report of the Dillingham Commission of 1911, the first comprehensive study of immigration to the United States, which described existing laws as merely selective and recommended a literacy test to restrict total volume. The commission, however, was departing from common usage, which did not change after the report was issued. Moreover, in places the report blurred the distinction just as other writers and officials had typically done. For example, the report’s “Minority View” described the literacy test as “a selective test” and elsewhere quoted advocates who argued that it would weed out undesirables but “not permanently cut down the number of our immigrants to any considerable degree.” A Senate report described the test as likely to “tell most heavily against those classes of immigrants . . .
included by existing law, and is therefore a continuance of the present policy of the United States which has met with general acceptance." That is, it was not restrictive of numbers overall and did not represent a break from past practice.

Historians may also have included the literacy test with racial quotas under the mantle of restriction because of its association with the Immigration Restriction League, which had promoted it ever since its founding in Boston in 1894. League publications, however, promoted it as a more practical and effective method of restriction but still an extension of earlier methods, "far more selective than any other test proposed." Moreover, they argued that "it is certain to improve the quality of the aliens; but it is not certain to very largely diminish their numbers." Its constitution defined the goal as "further judicious restriction" and "further exclusion of elements undesirable for citizenship." The two principal founders of the league, Prescott Hall and Robert DeCourcy Ward, both described their support for the literacy test as a question of efficacy. Hall wrote in 1904 that current laws were theoretically sound but "practically" incapable of solving the "main problem of the proper selection of immigrants." Writing in that same year, Ward similarly favored the "further restriction of immigration" with a new method for "selecting" desirable immigrants, maintaining that "inspection of the incoming aliens on the dock" was inadequate to the task. The literacy test was the best solution chiefly "because the measure will be practical."

Historians have generally understood the literacy test as a proxy for race. That it was a proxy for other matters was widely conceded at the time. Rather than race, however, its advocates frequently and openly described it as an effective screen for individual fitness. When race was invoked, it was in the context of a tendency toward defect in certain races, for it was commonly said that "illiterate races are generally inferior in physique," as well as prone to insanity and violence. Hall insisted that although for the purposes of studying the effects of immigrants on society, "it is convenient to consider them by nationalities," nevertheless, in practice, "each individual must be judged on his own merits without race proscription or prejudice." Ward similarly argued that with appropriate policies "we can pick out the best specimens of each race to be our own fellow-citizens and to be the parents of our future citizens," and he took pains to stress that "it should be most emphatically stated that no one should object to the coming of the better classes of Italians, Austrians, and Russians, even in fairly large numbers."

Ward and other restrictionists did write a great deal about race. Ward stated in 1904, for example, "We have spent too much time studying the economic sides of the question," and "There is a racial side which is even more important than all the economic aspects put together." This seems to suggest that he would next advocate immigration restriction on the basis of race, but he did not, instead urging more effective methods of selection. When Ward wrote that the "question before us is a race question," he meant that inferior types were outbreeding superior types, that the "highest stratum" would eventually be "eliminated in the course of natural selection," and that this would "profoundly affect the character of the future American race." It was not a problem of foreign races per se so much as it was the decline of the American race due to an influx of inferior individuals. He believed that the debate had focused too much on the economic costs of defective immigrants in the present and that the important issue was the genetic future of the nation.

Evolutionary thinking of the time posited two levels of competition, one in which individuals competed for survival and another in which groups—families, communities, races, and nations—competed. Eugenics generally believed that within each race the fittest individuals would rise to the top. Thus if the best of other nations came to the United States, that would enhance its standing in the competition of nations. The problem was that the best of other races did not as a rule emigrate, but rather the worst. Charles Davenport, the founder of the Eugenics Records Office at Cold Spring Harbor in 1910, insisted that "no race per se... is dangerous and none undesirable." Instead, he advocated investigating the pedigree of prospective immigrants; those with family histories of "imbecile, epileptic, insane, criminalistic, alcoholic, and sexually immoral tendencies" should be refused entry.

One of the literacy requirement's early advocates, the chairman of the Senate Immigration Committee, William Chandler, believed that it would sift out more of the "degraded immigrants" but insisted that "no indiscriminate opposition to the admission of all foreigners of any particular races (except the Asiatic) is contemplated by any one." As late as 1920, just a year before Congress passed its first racial quotas, Harry Laughlin still insisted that regulation should take the form of nonracial, selective laws, although he conceded that since strict selective laws would disproportionately affect people from inferior nations, they would appear racist even if they were not. Advocates of the literacy test readily conceded that it was a blunt
instrument, that illiteracy did not in itself make an immigrant undesirable, and that the test would bar many desirable immigrants along with undesirable ones; nevertheless, they favored it as "the only immediate practicable means of reducing the immense volume of immigration as well as improving the average quality." 77

That the literacy test was intended as a proxy for screening out defective types of individuals is evidenced by the other proposal most advocated by restrictionists: the physical test. Support for a physical test was, like that for the literacy test, of long standing. The commissioner general in 1898, for example, had argued for a physical standard to provide "intelligent, discriminating restriction." 78 The issue gained prominence, however, when William Williams, commissioner of Ellis Island, took up the cause in 1903. Over the next several years, Williams used lectures to university and civic groups, newspaper articles, and annual reports to advocate a physical exam to exclude those "of low vitality, of poor physique... and unfitted mentally or morally for good citizenship." The problem was that excluding defectives still required finding that they were likely to become public charges, but "it is obviously impossible to exclude on this ground all persons whose physical condition is poor." Williams's concerns were not confined to the question of self-support. He granted that the laws already screened out "mere scum or refuse," but further measures were needed to eliminate those who, while not clearly "riff-raff," were far from desirable. He therefore urged legislation to make immigrants of "poor physique" excludable on that basis alone, without the necessity of claiming that capacity for self-support was impaired. This would significantly reduce immigration, especially by "undesirable and unintelligent people from Southern and Eastern Europe." However, like most restrictionists, he emphasized that it was not national origin or race per se that was the problem, but that too many people from certain parts of the world were defective. 79

Williams's proposal received widespread support. In a memorandum the following year, the commissioner general explained (with admirable syntax) that "a certificate of this nature implies that the alien concerned is afflicted with a body but ill adapted [sic]... to the work necessary to earn his bread... undersized, poorly developed [and] physically degenerate, and as such, not only unlikely to become a desirable citizen, but also very likely to transmit his undesirable qualities to his offspring, should he unfortunately for the country in which he is domiciled, have any." 80 Both Hall and Ward of the Immigration Restriction League wrote articles, as well as letters to Congress and the Immigration Bureau, to advocate legislation taking up Williams's proposals. Ward described poor physique as the greatest threat posed by immigration to the fitness of the American stock. Hall suggested that the physical and literacy tests were similar proxies that would tend to eliminate the same degenerate types of immigrants. 81 Williams's efforts were rewarded when the provision excluding persons with a mental or physical defect, regardless of any impact on capacity for self-support, was incorporated into the Immigration Act of 1907.

Although one of the attractive benefits of excluding the physically deficient was that it would apply especially to unwelcome races, the principal motive was to exclude individuals considered defective. The most undesirable were from "Greece, South Italy and Syria, as well as most Hebrews, Magyars, Armenians and Turks," according to one official, but "strict enforcement of the present medical laws will automatically exclude these races to a sufficient extent, admitting the few who are fit." 82 The commissioner general emphasized in 1910 that physical inspection was needed "to preserve and improve the American race" because the "strength of a nation is the combined strength of its individual members." 83

Race indeed mattered to restrictionists, but it was the "American race," the "American of tomorrow," that figured most conspicuously in their rhetoric. And although they thought that certain races contributed a disproportionate share of defective blood to American veins, the primary problem was defect rather than race. The popular writer Montaville Flowers maintained that "citizenship in our land is not primarily a question of race, but it is a question of individual fitness which may be determined by the national and racial inheritances of their fatherlands." 84 The biologist Edward M. East bluntly stated the essential equation for restrictionists: "If in the future the proportion of people of Grades A and B increases, the nation will prosper, while if the proportion of people of Grades D and E increases, the nation will decay." He concluded that the "eugenic ideals" of selective reproduction and immigration were "the sole and final means of keeping a nation from deterioration." 85

Many worried about the scale of immigration, but defect figured more prominently. If "hordes" of immigrants were a problem, the real catastrophe, according to the New York surgeon Arthur Fisk, was that "an ever increasing horde of degenerates from all nations is entering our fair land, who are debasing the physical, mental and moral being of the nation." 86 The economist Irving Fisher, founding president of the American Eugenics
Society in 1921, emphasized that population growth or decline was in itself neither good nor bad: "The eugenist is interested in the quality of human beings rather than their quantity." The main problem was that the United States was "a dumping ground for relieving Europe of its burden of defectives, delinquents and dependents." He argued that if "indiscriminate immigration is dysgenic, a discriminating exclusion must be eugenic," and he advocated "having aliens examined in their home countries for mental and other defects." The main eugenic demand was for a better means of selection, not reduced numbers.87

It became increasingly clear over the years that physical inspection could not accomplish the desired end in the face of ever-rising numbers of immigrants. The sheer scale of immigration overwhelmed the system. To adequately inspect the thousands of immigrants pouring into the country would be too difficult, time consuming, and expensive. The assistant surgeon general of the Public Health Service told the House of Representatives in 1920 that "a complete medical examination requires at least an hour [and] one examiner could not handle more than 20 immigrants a day." Given the several thousand immigrants landing at Ellis Island most days, the existing facilities were inadequate; instead of the forty medical examiners currently assigned there on any given day, one hundred fifty would be required.88

The literacy test has been interpreted as a deliberate but veiled attempt to exclude certain races, but the fact that it was considered a "blunt instrument" suggests otherwise. If it were aimed at racial groups, it would be a sharp instrument indeed, cutting out only selected individuals from within races. It was a blunt instrument because it was considered a less precise but also a less difficult, time-consuming, and expensive alternative to individual inspection. When it finally came in 1917, its advocates were again disappointed. It was efficient and practical, as promised, but in the twenty-some years since it had first been proposed, public education and literacy in Europe had improved markedly. The test had little effect.

For forty years, Congress, the press, and restrictionists grappled with the problem of how to allow desirables in while keeping undesirables out. For a decade before passage of the first quota bill in 1921, advocates built on the public consensus that had formed in favor of excluding defective individuals to advance laws restricting undesirable races. They quoted expert opinion that immigrants from southern and eastern Europe contributed a disproportionate share of hereditary feeblemindedness.89 A physician and specialist in "medical sociology" warned about "the slow-witted Slav," the "poor physique" and "neurotic condition of our Jewish immigrants," and the "degenerate and psychopathic types, which are so conspicuous and numerous among the immigrants."90 The sociologist Frederick Bushee maintained that the "immigration of southern Italians brings a large superfluous population of hot-headed men who are fit only for unskilled labor," and moreover that "the high rate of infant mortality among the Italians indicates small physical stability." Similarly, "the Irish have not that toughness, that power to resist disease, shown by some of the other nationalities," and their "physical instability is shown by the exceptionally large number of defectives among them."91 A Public Health Service physician and later professor of tropical medicine at the University of California, Alfred C. Reed, asserted that the "Greeks offer a sad contrast to their ancient progenitors, as poor physical development is the rule among those who reach Ellis Island, and they have above their share of other defects," while Jews have a "disposition to functional insanities," and "the proportion of defectives to total landed is greatest among the Syrians." In short, "no one can stand at Ellis Island and see the physical and mental wrecks who are stopped there . . . without becoming a firm believer in restriction."92

Public advocates echoed the experts. After observing immigrants disembarking at Ellis Island, one wrote that "the physiognomy of certain groups unmistakably proclaims inferiority of type." He could see that "in every face there was something wrong. . . . There were so many sugar-loaf heads, moon-faces, slit mouths, lantern-jaws, and goose-bill noses that one might imagine a malicious jinn had amused himself by casting human beings in a set of skew-molds discarded by the Creator." Their bodies were inferior to those of earlier immigrants: "South Europeans run to low stature. A gang of Italian navvies. . . . present, by their dwarfishness, a curious contrast to other people. The Portuguese, the Greeks, and the Syrians are, from our point of view, undersized. The Hebrew immigrants are very poor in physique. . . . the polar opposite of our pioneer breed."93 The issues of race and defect became inextricably intertwined. Undesirable races were made so by their heavy burden of defective heredity, and defective individuals, should they become sufficiently numerous, had the potential to drag down any race.

Beginning with the Emergency Quota Act of 1921 and continuing with the National Origins Act of 1924, immigration policy shifted emphasis. The 1921 act limited annual immigration from any country to 3 percent of the number identified to be of that nationality in the 1910 U.S. census. The 1924
Immigration Act reduced the number to 2 percent and substituted the 1890 census. As long hoped, an immigration law finally achieved severe reductions in immigration from southern and eastern Europe. It did not replace existing laws but complemented them—excluding defectives disproportionately affected immigrants from inferior nations, while quotas on those nations likewise reduced the numbers of defectives. Like the literacy and physical requirements, the quota laws were not a departure but a continuation of the search for an effective means of excluding defective people.

This "restrictive phase" was simultaneously a "selective phase." Most obviously, the earlier laws remained in place, and selection by physical inspection continued. More important, if Congress had intended quotas merely to restrict numbers, it would have based them on the populations of countries of origin or some other neutral formula or set an annual cap after which no immigrants would be accepted. Instead, it devised a system that selected immigrants of desirable nationality and race and deselected those of undesirable ones. Desirable nations had far more generous quotas than those considered undesirable (so high that they would rarely be filled). The quota laws were a continuation of selective policy by other means.

In 1925, Secretary of Labor James J. Davis looked back over the history of immigration policy and reflected on the present. The major reason, as he saw it, that Americans had chosen to gradually narrow their gates to immigrants over the preceding four decades was that they believed that their country had "become an asylum for the alien insane, defective, and degenerate." Inspection alone had proved unable to cope with the "great wholesale pressure of immigration which would completely swamp us." The best argument in favor of quotas, he believed, was that they slowed immigration to the point that careful and rigorous selection was possible. If that were possible to accomplish without quotas, the "retail method of selection" would be "the fairest test of fitness" and "the better way of selecting our guests and future citizens." He believed that "most civilized races contribute good, sound strains of family and individuals." Race had never been the central issue, he insisted, but it had to be acknowledged that "such races are spotted with defective, degenerate, and inferior lines and stocks."54

The advent of federal immigration laws reflected both the growing nationalism of the period and the expanded powers accorded the national government, but the content of those policies reflected particular and evolving notions of citizenship. Although immigration policy was shaped by varied and often conflicting interests and constituencies, it offers a valuable measure of how Americans defined the worthy citizen. Because citizens performed multiple roles, these policies were continually reshaped in ways intended to protect and enhance economic well-being, political order, cultural values, social cohesion, health, and safety. Thus the many categories of exclusion discussed in histories of American immigration law during this period: disfavored races and nationalities, criminals, violators of moral standards, the sick, the poor, political radicals, and illiterates. In recent years, studies on the roles of gender and sexuality have further complicated our understanding of the workings of immigration law.55 In short, the picture is complex.

The fundamental role of defect in the history of American immigration law has received far less critical inquiry than its prominence in the laws would seem to demand. Defects that today would fit comfortably in the category of disability were the most prominent issues in the restriction debate and in legislation before the 1920s. Furthermore, most of the other categories of exclusion were also understood as varieties of defect. An undesirable race was one in which defects proliferated; the diseased were often those whose degenerate constitutions made them susceptible; criminals and the otherwise immoral were feebleminded or "moral imbeciles"; deviant sexuality was a mark of degeneracy; political radicals were mentally unsound; poverty was symptomatic of inborn psychopathic inferiority. Even the capacities to adopt democratic norms and to assimilate in American society were frequently cast as qualities lacking in many immigrants and carried in the blood.56 All defects were potentially heritable and at odds with any notion of useful American citizenship.

The history of immigration policy has focused primarily on the analytic categories of race and ethnicity, followed by class and economic interest. To the extent that eugenics has been included in the story, it has been to decry its invidious application to ethnorracial groups. This may well be a result of its close ties to the larger field of immigration history, which has developed largely as the study of ethnic groups, an emphasis reflected in the title of the leading journal in the field, the Journal of American Ethnic History. It may also have to do with the fact that class, race, and ethnicity deal with recognized and politically salient groups. Although people with disabilities also formed groups, networks, and organizations built around shared values and common interests, these were neither large nor widely known and were typically organized around particular disabilities. There were no calls
for defectives of the world to unite, no pandisability associations. In his 1922 polemic against the eugenics movement, G. K. Chesterton lamented that “there is no trade union of defective children,” and that therefore opposition to eugenics amounted to “protests so ineffectual about wrongs so individual.” Chesterton feared that this same dynamic would make the injuries inflicted on disabled people less visible in history, “trivial tragedies that will fade faster and faster in the flux of time.”

Defectives did form a large and powerful group, however, in the thoughts of eugenically minded Americans, where the defective population assumed frightening and ever-growing proportions, even while uncounted others from abroad clamored to add to it. The exclusion of “the defective” was not merely a matter of rational economic choice but rather of the survival of the nation. As their fears increased, defect became a crucial element in defining the undesirability of others and making a compelling justification for their exclusion. Assumptions about the inheritance of acquired characteristics, the mutability of defects across generations, the threat of “degeneracy,” and the conviction that defective types were reproducing faster than anyone else meant that a great deal hung in the balance. This was the meaning and the import of “selective” immigration in a eugenic nation.

CHAPTER 3

The Disremembered Past

Susan Burch and Hannah Joyner

Historians remember. We try to “recapture the past” and hold those events “in mind for attention or consideration.” Remembering can be, according to the Oxford English Dictionary, “recall[ing] the memory of (a person) with some kind of feeling or intention.” It is through remembering that we as humans construct who we are and where we have come from. Historians have assisted that process by preserving and analyzing what is left of the past: the stories passed down to us in their entirety, as well as the fragments that help us rebuild what has been forgotten. The dictionary’s definition suggests that “remember” can also mean “mention favorably” or “commemorate.” Recent generations of scholars have drawn critical attention to the past, have mentioned marginalized groups favorably, and in so doing have provided subtle and complex ways to commemorate the past. As with all historical work, our scholarship benefits from and builds on our predecessors’ efforts.

With this in mind, we suggest that historians have not merely remembered; we also have misremembered, dismembered, and even disremembered the past. When we isolate specific identity vectors (such as race or gender) or specific social forces (such as oppression), the accounts produced are just as incomplete as if we had only considered one class of human being. This misremembers the past.

We have deconstructed, we have dismembered, the lives of people in the past, turning them into neat theoretical categories rather than trying to understand the messy complexity of their lived experiences. Historian Glenda Gilmore addresses this issue: “The subfields of the discipline [of history]—