RECENT DECISIONS

CONSTITUTIONAL LAW—RIGHTS OF ALIENS—CITIZENSHIP AS A REQUIREMENT FOR ADMISSION TO THE BAR IS A VIOLATION OF EQUAL PROTECTION.

After graduating from law school in 1970, the plaintiff applied for permission to take the Connecticut bar examination. Having found the plaintiff qualified in all other respects, the County Bar association rejected her application solely on the basis that she was not a citizen of the United States[1] as required by Rule 8(1) of the Connecticut Practice Book (1963).[2] The plaintiff's claim that the regulation was unconstitutional was rejected by both the Superior Court and the Supreme Court of Connecticut.[3] On appeal, *held*, reversed. A state court rule restricting admission to the bar to citizens of the United States is unconstitutional in that it denies equal protection of the law to resident aliens. *In Re Griffiths*, 93 S. Ct. 2851 (1973).

During the first half of the nineteenth century, the "friendly alien"[4] enjoyed substantially all the rights and protections of citizens.[5] As the nation became industrialized[6] in the latter half of the nineteenth century, the states began to restrict the employment opportunities of aliens.[7] As a consequence of such legislative restrictions aliens turned to the courts for redress of their grievances.[8] The courts first squarely confronted[9] the problem in *Yick Wo v. Hopkins* in 1889.[10] In this case, the Supreme Court overturned a fire prevention ordinance which restricted the operation of laundries in wooden buildings. On its face, the ordinance seemed a valid exercise of police power, but in fact was used to discriminate against Chinese. The Court declared that "[t]he Four-

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[1]The plaintiff first came to this country on a visit in 1965. In 1967, she married a citizen of the United States and settled in Connecticut. She is eligible for naturalization by reason of both her marriage and the duration of her residence in the United States, but she has no present intention of becoming a citizen.

[2]The requirements for the bar examination are fixed by the Superior Court, CONN. GEN. STAT. § 61-80 (1959).

[3]In Re Griffiths, 162 Conn. 249, 294 A.2d 281 (1972).

[4]"Friendly aliens" are citizens of a nation at peace with the United States. Johnson v. Eisentrager, 339 U.S. 763, 769 n.2 (1949).

[5]M. KONVITZ, THE ALIEN AND THE ASIATIC IN AMERICAN LAW 1 (1946).

[6]In addition to the rapid industrialization of this country, other explanations for use of restrictions on the employment of aliens include the disappearance of the frontier, the large increase in urban population, and the limited employment opportunities of the nineteenth century. Rok v. Legg, 27 F. Supp. 243, 245 (S.D. Cal. 1939).

[7]For example, the predecessor to Rule 8(1) of the Connecticut Practice Book (1963) was enacted in 1879. 1879 Practice Book §§ 4(3), 8.

[8]*See* M. KONVITZ, *supra* note 5, at 180.

[9]In Bradwell v. The State, 83 U.S. (16 Wall.) 130, 139 (1872), the Court noted that the practice of law "in no sense depends on citizenship of the United States," but this case did not concern an alien and held only that the practice of law is not a privilege under the Fourteenth Amendment.

[10]118 U.S. 356 (1886).

teenth Amendment to the Constitution is not confined to the protection of citizens,"[11] and that aliens are "persons" within the meaning of the Fourteenth Amendment's equal protection clause.[12] With one notable exception,[13] there followed a period of about thirty years in which the Supreme Court was far less generous in its treatment of aliens.[14] During this period of time, the courts used either the theory of the state's proprietary interest over the subject matter of the occupation[15] or the theory of the proprietary interest of the state over certain positions[16] to justify the denial of aliens' right to work. The former theory was used in *Patsone v. Pennsylvania*[17] in which the Supreme Court upheld a Pennsylvania statute barring aliens from hunting wild game. The latter theory was used in *Heim v. McCall*[18] and *Crane v. New York*[19] to uphold a statute which restricted employment on public works projects to United States citizens. In *Crane*,[20] Judge Cardozo reasoned that the tax money of a state is the property of its citizens and thus an alien has no right to object to its disposition. In *Heim*[21] the Court followed the view that no one has an absolute right to work for the state, and, quoting from *Atkins v. Kansas*,[22] declared "It cannot be deemed a part of the liberty of any contractor that he be allowed do do public work in any mode he may choose to adopt, without regard to the wishes of the state."

In 1915, approximately one month prior to the decisions in *Crane* and *Heim*, the Supreme Court in *Truax v. Raich*[23] invalidated an Arizona statute providing that every employer of five or more persons must employ at least eighty percent qualified electors or native-born citizens. Since the Arizona statute in

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[11] *Id.* at 369.

[12] *Id.*

[13] In Fong Yue Ting v. United States, 149 U.S. 698 (1893), which concerned a Chinese laborer attempting to avoid being deported, the Court noted that as long as aliens are legally permitted to remain in this country, they are entitled to all the safeguards of the Constitution and to the protection of the laws in regard to their rights.

[14] *See, e.g.*, Patsone v. Pennsylvania, 232 U.S. 138 (1914); Heim v. McCall, 214 N.Y. 629, 108 N.E. 1106 (1915), *aff'd*, 239 U.S. 175 (1915); People v. Crane, 214 N.Y. 154, 108 N.E. 427 (1915), *aff'd*, 239 U.S. 195 (1915).

[15] The state's proprietary interest over the subject matter of the occupation has been expressed in two ways: 1) The government as a trustee exercises ownership for the people; 2) The people hold title in their collective capacity. Geer v. Connecticut, 161 U.S. 519, 530 (1896). *See also* Begay v. Sawtelle, 53 Ariz. 304, 88 P.2d 999 (1939); State v. Kofines, 33 R.I. 211, 80 A. 432 (1911).

[16] The courts have held that since the state has the absolute ownership of public property, the opportunity to be employed in public enterprises is a privilege which the state may grant or withhold as it sees fit. In following this line of reasoning, the courts have relied on dictum in Atkin v. Kansas, 191 U.S. 207, 223 (1903) to the effect that the state may "prescribe the conditions upon which it will permit work on its behalf, or on behalf of its municipalities."

[17] 232 U.S. 138, 146 (1914).

[18] 239 U.S. 175, 192 (1915).

[19] 239 U.S. 195, 198 (1915).

[20] People v. Crane, 214 N.Y. 154, 160, 108 N.E. 427, 429 (1915).

[21] 239 U.S. 175, 192 (1915).

[22] 191 U.S. 207, 222 (1903).

[23] 239 U.S. 33 (1915).

question applied to all occupations and not specifically to public works projects as did the statute in *Crane* and *Heim*, the *Truax* case did not realistically serve to break the pattern of *Patsone, Crane* and *Heim*.[24] In *Truax* the Court struck down another theory used to deny aliens the right to work by declaring that the state's police power to promote health, safety, morals, and welfare . . . "does not go so far as to make it possible for the State to deny to lawful inhabitants, because of their race or nationality, the ordinary means of earning a livelihood."[25] While the Court did make clear that the business or occupation of a person is property, protected by the Fourteenth Amendment,[26] the principal ground for its decision was that the Arizona statute had been preempted by federal immigration law.[27] Yet another theory which the courts have used to deny employment to aliens involves the state's police power to regulate or abolish occupations of a dangerous or antisocial nature.[28] In *Clarke v. Dekebach*,[29] the Supreme Court upheld an ordinance which prohibited aliens from operating a pool hall. The Court reasoned that the aliens' ignorance of our laws would further enhance the already dangerous tendencies of pool rooms,[30] thus establishing a logical connection between the classification of aliens and the valid state interest in regulating pool rooms. In 1938, Justice Stone laid the foundation for the future treatment of aliens in a footnote in *United States v. Carolene Products Co.*[31] when he declared, "Nor need we inquire . . . whether prejudice against discrete and insular minorities may be a special condition . . . and which may call for a correspondingly more searching judicial inquiry."[32] Ten years after the *Carolene Products* case, the Court in *Takahashi v. Fish & Game Commission*,[33] reflected Justice Stone's words by establishing that "the power of a state to apply its laws exclusively to its alien inhabitants as a class is confined within narrow limits."[34] As did the *Truax*[35] Court earlier, the Court in *Takahashi* used the dual grounds of equal protection[36] and the supremacy clause[37] in holding the statute unconstitu-

[24]Cases cited note 14 *supra*.

[25]239 U.S. 33, 41 (1915).

[26]*Id.*

[27]*Id.* at 42. In using the supremacy clause to strike down the Arizona statute, the Court declared:

> The assertion of an authority to deny to aliens the opportunity of earning a livelihood when lawfully admitted to the state would be tantamount to the assertion of the right to deny them entrance and abode, for in ordinary cases, they cannot live where they cannot work.

[28]This theory has been used to prohibit aliens from many occupations: *see, e.g.*, Tokaji v. State Bd. of Equalization, 20 Col. App. 2d 612, 67 P.2d 1082 (1937) (selling of intoxicating liquor); Gizzarelli v. Presbrey, 44 R.I. 333, 117 A. 359 (1922) (serving as a chauffeur).

[29]274 U.S. 392 (1927).

[30]*Id.* at 397.

[31]304 U.S. 144 (1938).

[32]*Id.* at 152-53 n.4.

[33]334 U.S. 410 (1948).

[34]*Id.* at 420.

[35]239 U.S. 33, 41-42 (1915).

[36]334 U.S. 410, 420 (1948).

[37]*Id.* at 416.

tional. The California statute involved in *Takahashi* prohibited aliens from commercial fishing within the three mile limit; by overturning this statute, the Court crushed the state's proprietary interest theory[38] which had been used in *Patsone*[39] to deny aliens the right to hunt wild game.

While it is undisputed that a state has a legitimate interest in determining whether or not applicants for certain positions possess the necessary qualification of character or general fitness,[40] state restrictions on the employment opportunities of aliens seem to have moved into the category of "suspect classifications" and thus must serve a "compelling" state interest to be upheld.[41] In *Purdy & Fitzpatrick v. State*,[42] the California Supreme Court overturned a statute which denied aliens employment in public works projects. The California court interpreted *Takahashi* as employing "a strict review of all state laws which classified persons on the basis of alienage" and as destroying the concept of the states proprietary interest over certain positions.[43] In *Graham v. Richardson*,[44] which involved a resident alien who had been denied welfare benefits because of a state residence requirement, the Court firmly settled the suspect classification issue by declaring that "classifications based on alienage like those based on nationality or race are inherently suspect and subject to close judicial scrutiny."[45] As in *Yick Wo*, the Court concluded that an alien is a person for the purposes of the Fourteenth Amendment and that the states concern for its "fiscal integrity" does not justify such a discriminatory classification.[46] Also, in 1971, the Supreme Court of Alaska[47] and of Washington[48] held that an alien could not be denied the opportunity to practice law solely on the basis of alienage. However, neither court considered the equal protection issue or the supremacy clause issue, but based their holdings primarily on the separation of powers doctrine.[49] Recently, in *Raffaelli v. Committee of Bar*

[38] *Id.* at 421.

[39] 232 U.S. 138, 146 (1914).

[40] Schware v. Bd. of Bar Examiners, 353 U.S. 232 (1957); Konigsberg v. State Bar, 353 U.S. 252 (1957). Both of these cases concerned a person seeking to enter the practice of law, and while the Court held the applicant's fitness as a legitimate state interest, it also held that the qualifications must be reasonably directed toward the applicant's ability and not invidiously discriminatory.

[41] Equal protection requirements in general include first, that the classification must be intended to serve a legitimate state interest, and second, that the classification must serve that interest in a logical way. However, certain classifications such as those based on race, nationality, or alienage have been labeled "suspect" and require a heavy burden of justification such as serving an "overriding" or "compelling" state interest. *See generally*, Graham v. Richardson, 403 U.S. 365 (1971); Shapiro v. Thompson, 394 U.S. 618 (1969); Loving v. Virginia, 388 U.S. 1 (1967); McLaughlin v. Florida, 379 U.S. 184 (1964).

[42] 71 Cal. 2d 566, 456 P.2d 645, 79 Cal. Rptr. 77 (1969).

[43] *Id.* at 584-85, 456 P.2d at 657-58, 79 Cal. Rptr. at 89-90.

[44] 403 U.S. 365 (1971).

[45] *Id.* at 372.

[46] *Id.* at 374.

[47] Application of Park, 484 P.2d 690 (Alaska 1971).

[48] In Re Chi-Dooh-Li, 79 Wash. 2d 561, 488 P.2d 259 (1971).

[49] 484 P.2d 690, 691 (1971); 79 Wash. 2d 561, 565, 488 P.2d 259, 261 (1971). The courts in both

Examiners,[50] the California Supreme Court firmly and persuasively declared that restrictions on the practice of law based on alienage are unconstitutional. Seeming to draw on nearly every pro-alien precedent for support, the California Supreme Court balanced the state's interest in who practices law against the challenged classification and found no logical connection between alienage and the applicant's ability to practice law.[51] However, it is interesting to note that the *Raffaelli* court relied strictly on an equal protection analysis in order to discredit the alienage classification, in contrast to the dual grounds of equal protection and the supremacy clause as used in *Truax, Prudy* and to a lesser extent in *Graham*.

When first examining the issue of whether aliens should be allowed to practice law or pursue any one of a number of restricted occupations, it might appear that there should be some special occupational advantages to being a citizen of the United States. However understandable such an initial reaction might be, there are at least two broad policy reasons which rationally counteract it. First, occupational restrictions based on citizenship are not a part of the tradition of this country. In regard to the practice of law specifically, the American legal system is based on the English system. In Great Britain, aliens as a class have not been prohibited from the practice of law.[52] As pointed out by Justice Powell in *Griffiths*,[53] "our Nation welcomed and drew strength from the immigration of aliens. Their contributions to the social and economic life of the country were self-evident, especially during the periods when the demand for human resources greatly exceeded the native supply."[54] Indeed, it was only when the supply began to exceed the demand during the rapid industrialization of the last half of the nineteenth century that the states began to restrict the employment opportunities of aliens. Secondly, in the modern world the fate of the United States is irrevocably bound to the fate of all other nations both politically and economically. Chief Justice Burger in his dissent to *Griffiths*[55] concedes that American nationals are allowed to practice law in more than a dozen foreign countries; that an enlightened or sound policy would be to permit qualified aliens to practice law in the United States. In an era when American corporations transact business in foreign countries as commonly as they used to cross state lines, it seems entirely anachronistic for a state to require a person to be a citizen before he can practice law.

Even though Chief Justice Burger feels that the majority holding in *Griffiths* is an enlightened policy, nevertheless, he feels compelled to dissent on the basis

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these cases said in effect that the judiciary should determine the standards for lawyers and that a legislative effort in the area is invalid.

[50]7 Cal. 2d 288, 496 P.2d 1264, 101 Cal. Rptr. 896 (1972).

[51]*Id.* at 301, 496 P.2d at 1273, 101 Cal. Rptr. at 905.

[52]Solicitors Act of 1957, 5 & 6 Eliz. 2, c. 27 § 1.

[53]93 S. Ct. 2851 (1973).

[54]*Id.* at 2853.

[55]*Id.* at 2859.

of his interpretation of the Constitution.[56] Likewise, Justice Rehnquist's first point of attack in his dissent is that aliens are not subject to the protection of the Fourteenth Amendment, in other words, that an alien is not a "person" for purposes of the Fourteenth Amendment.[57] The majority in *Griffiths* answer this question primarily by the force of precedent which is admittedly substantial on this issue.[58] Justice Rehnquinst dismissed the previous decisions on the issue as "irrelevant to the question of whether that Amendment prohibits legislative classifications based upon this particular status," and went even further to advance the idea that the Fourteenth Amendment by its own terms defines those who are not citizens as a "lesser included class of all 'persons'," and thus that classifications based on alienage should not be forbidden.[59] Even though the Fourteenth Amendment does define the term "citizen" and forbids the passage of any act which would interfere with the privileges or immunities of a citizen, it is also very clear in its mandate that no state shall "deny to *any person* within its jurisdiction the equal protection of the laws."[60] Secondly, it seems clear that classifications based on alienage are not forbidden per se by the Fourteenth Amendment; such classifications are only forbidden if they deny equal protection, in other words, if they do not serve a compelling state interest or if they do not serve such a compelling interest in a logical manner.[61]

The validity of a state's inquiring into the fitness of an applicant to practice law is not disputed.[62] Therefore, it becomes clear that the real question of *Griffiths* is whether the state requirement of citizenship for the practice of law bears any logical relationship to the state interest. There are at least six separate reasons that have been advanced as to why non-citizens should be prohibited from practicing law. The majority in *Griffiths* considers some but not all of the reasons. First it has been said that the practice of law demands an appreciation of American institutions which the alien does not possess.[63] In *Keenan v. Board of Bar Examiners of North Carolina*,[64] it was declared that "[n]either legal competence nor ethical fitness depends upon cultural provincialism."[65] This statement seems as applicable to a non-citizen of the United States as it was to a non-citizen of North Carolina in the *Keenan* case, especially when considering the high degree of legal training and background it requires to not only be academically eligible to take the bar exam but to be able to pass it. Secondly, it has been advanced that an alien can not practice law because he cannot take the necessary oath to support the Constitution.[66]

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[56] *Id.*
[57] *Id.* at 2862.
[58] *Id.* at 2854.
[59] *Id.* at 2862-63.
[60] U.S. CONST. amend. xiv, § 1.
[61] Cases cited note 41 *supra*.
[62] Cases cited note 40 *supra*.
[63] Large v. State Bar of California, 218 Cal. 334, 23 P.2d 288 (1933).
[64] 317 F. Supp. 1350 (E.D.N.C. 1970).
[65] *Id.* at 1359.
[66] In Re Admission to the Bar, 61 Neb. 58, 84 N.W. 611, 612 (1900).

This reasoning seems invalid in view of the fact that permanent resident aliens are subject to military service and are required to take a similar oath. Also, as the majority in *Griffiths* states, there is nothing to prevent the state from conducting an investigation to determine if the applicant is only swearing to the oath pro forma while manifesting his indifference to it elsewhere.[67] Another reason cited for excluding aliens from the practice of law is that in the event of war the alien might be seized and his clients caused to suffer.[68] This reasoning is unsound when one considers that even citizen lawyers die, move away, or give up the practice of law. This reason is further eroded by the fact that the assignment of actions is provided for in Disciplinary Rule 2-110 (a)(2) of the American Bar Association's Code of Professional Responsibility. Aliens have also been denied the opportunity to practice law on the grounds that the practice of law is a privilege and not a right.[69] Of course, this piece of vague reasoning was specifically discredited in the *Graham* case.[70] Yet another reason suggested for the denial of an alien's right to practice law is the difficulty involved in educating civil law attorneys in the common law.[71] This obviously does not apply to aliens who receive their legal training in the United States. It also falls apart when one considers that members of the Louisiana Bar practice in other states and *vice versa* without apparent difficulty. A final reason for denying aliens the right to practice law which both Chief Justice Burger and Justice Rehnquinst stressed heavily in their dissents is the idea that a lawyer is an officer of the court,[72] and that in that role the lawyer has a responsibility and authority almost equal to that of an elected public official. The majority found this argument unconvincing and stated most persuasively that "[i]t in no way denigrates a lawyer's high responsibilities to observe that the powers 'to sign writs and subpoenas, to take recognizances [and] administer oaths' hardly involve matters of state policy or acts of such unique responsibility as to entrust them only to citizens."[73] Although the officer of the court theme should probably be stressed more by all law schools and bar associations, it is not realistic to believe that the attribute of citizenship will make a lawyer take his responsibility either to his clients or to the courts more seriously.

The Court in *Griffiths* has authoritatively and decisively crushed the notion that a resident alien should not be allowed to practice law. While the Court has made it clear that citizenship is no longer a valid state requirement for the practice of law, it has not clarified what it means by the term "resident," which is used repeatedly in the *Griffiths* opinion in conjunction with the term

[67]93 S. Ct. 2851, 2857 (1973).
[68]Ex Parte Thompson, 10 N.C. (3 Hawks) 355, 362 (1824).
[69]218 Cal. 334, 335, 23 P.2d 288, 289 (1933).
[70]403 U.S. 365, 374 (1971).
[71]*Refugees and the Professions*, 53 HARV. L. REV. 116 (1939).
[72]93 S. Ct. 2851, 2859, 2867 (1973).
[73]*Id.* at 2856.

"alien."[74] It seems unlikely that the term "resident" refers to state residency requirements. In *Keenan v. Board of Law Examiners*,[75] the court held that a North Carolina rule requiring twelve months residency before an applicant could take the bar examination was unconstitutional as imposing a burden on interstate travel without serving a compelling state interest. The *Keenan* court even denied the necessity of a short residency requirement for the constitutionally permissable purpose of investigating the applicants background.[76] In *Webster v. Wofford*,[77] the Georgia residency requirement was found to be unconstitutional, although, in the *Webster* case it was held that a reasonable period of residency for the purpose of investigation only is permissable.[78]

Perhaps, the majority in *Griffiths* contemplated a federal definition of residency. Presumably the most applicable body of federal law on this subject would be Federal Immigration law as embodied in Title 8 of the United States Code.[79] The basic definitions used in Title 8 are given in § 1101.[80] The term "residence" is defined in § 1101(a)(33).

> The term "residence" means the place of general abode; the place of general abode of a person means his principal, actual dwelling place in fact, without regard to intent.[81]

In the past the courts seem to have been reluctant to give more than a general meaning to the term "residence."[82] For instance in *Toy Teung Kwong v. Acheson*,[83] the court stated:

> It is a question of fact in each instance as to which is the "principal dwelling place". The court's use of "actual residence" must be viewed from that perspective. . . . "Actual residence" is not synonomous with physical presence, nor does the court hold that a sojourn abroad of any duration, however, transient, or whatever the purpose forfeits domestic residence.[84]

The vast majority of immigrants and special immigrants as defined in § 1101[85] would fit within the foregoing definitions of "residence;" but what would be the status of certain nonimmigrant aliens as defined in § 1101 (a)(15),[86] *e.g.*, the career diplomat[87] from a foreign government who lives in Washington on

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[74] *Id.* at 2854, 2855, 2856.
[75] 317 F. Supp. 1350, 1361 (E.D.N.C. 1970).
[76] *Id.* at 1360-61.
[77] 321 F. Supp. 1259 (N.D. Ga. 1970).
[78] *Id.* at 1262.
[79] Immigration and Nationality Act, 8 U.S.C (1952).
[80] *Id.* § 1101.
[81] *Id.* § 1101(a)(33).
[82] *See generally*, Savorgnan v. United States, 338 U.S. 491 (1950); In Re Olan, 257 F. Supp. 884 (S.D. Cal. 1966).
[83] 97 F. Supp. 745 (N.D. Cal. 1951).
[84] *Id.* at 747.
[85] Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15), 1101(a)(27) (1952).
[86] *Id.* § 1101 (a)(15).
[87] *Id.* § 1101(a)(15)(A)(i).

an apparently permanent basis? The majority in *Griffiths* presumably gives a clue to the preceding question when they state:

> Resident aliens, like citizens, pay taxes, support the economy, serve in the armed forces, and contribute in myriad other ways to our society.[88]

This statement implies that the *Griffiths* Court contemplated not only someone in the nature of a "permanent" resident alien but also one who would be in a position to integrate himself into our society. The term "permanent" is defined in § 1101(a)(31).

> The term "permanent" means a relationship of continuing or lasting nature, as distinguished from temporary, but a relationship may be permanent even though it is one that may be dissolved eventually at the instance either of the United States or of the individual, in accordance with law.[89]

Based on the preceding statements of the courts and the definitions in § 1101, it can be said with certainty that those aliens, who have at least established the beginnings of a lasting relationship with this country, shall reap the benefits of *Griffiths*.

It seems clear that a likely immediate result of the *Griffiths* decision could be that the state legislatures will soon abolish the state statutes that restrict the nonpolitical occupational opportunities of aliens.[90] The long-term result may be more noteworthy. The next challenge to restrictions on the rights of aliens should logically be in the area of voting rights. Based on the decision by the California Supreme Court in the *Raffaelli* case, it has been suggested that the arguments and counter arguments used in that case and the wealth of past pro-alien cases might also be used successfully in a voting right's case.[91] For example, the argument that voters must appreciate American institutions can hardly be very effective after *Raffaelli, Keenan* or *Griffiths*.[92] The argument that the state has a compelling interest in having an informed electorate would find a persuasive analogous counter argument in *Dunn v. Blumstein*,[93] where the court ruled that a voter cannot be persumed to be ignorant just because he recently moved to a state.[94] The decision in *Griffiths* can only add a great deal of strength to a voting rights challenge. However, the most compelling argument for the enfranchisement of aliens does not stem from legal reasoning or interpretation but from a simple recognition of reality. The resident alien in this country pays taxes, sends his children to public schools, serves in the armed forces, and in general is an integral part of the society. It seems inherent in a

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[88]93 S. Ct. 2851, 2855 (1973).

[89]Immigration and Nationality Act, 8 U.S.C. § 1101(a)(31) (1952).

[90]This prediction is based on the actions of the California Legislature following the *Raffaelli* case. 61 CAL. L. REV. 365 n.53 (1973).

[91]*Id.* at 374.

[92]*Id.*

[93]Dunn v. Blumstein, 405 U.S. 330 (1972).

[94]*Id.* at 358.

democratic form of government that the resident alien should have a voice in deciding who will guide the government and determine his future.

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