

There have been many, including myself, who have expressed opposition to numerous aspects of the McCarran-Walter Immigration and Nationality Act. This Act was passed by Congress in 1952 over the veto of President Truman who said of it: "...this bill, taking all its provisions together, would be a step backward and not a step forward....it would perpetuate injustices of long standing... and intensify the repressive and inhumane aspects of our immigration procedures." Likewise, Mr. Eisenhower, in his first campaign for the presidency and shortly after the passage of the act, declared: "We should have had, and we must get, a better law than this McCarran Act." And, as President he also stated in his State of the Union Message that "this legislation contains injustices...I am therefore requesting the Congress to review this legislation and to enact a statute which will at one and the same time guard our legitimate national interests and be faithful to our basic ideas of ...fairness to all."

At the heart of the McCarran-Walter Act lies the National Origins Quota System which discriminates against many peoples on the basis of nationality and racial origin. This aspect of the Act has ~~attracted~~<sup>attracted</sup> the greatest amount of attention and drawn the heaviest criticism, and it is highlighted at the present moment in a somewhat ironical way as efforts are being made to bring in several thousand Hungarian refugees under an emergency refugee act which expires on December 31st. The irony of the situation resides in the fact that under the McCarran-Walter Act, with its National Origins Quota System, only a handful of

Hungarians or other east-central Europeans, would be allowed to enter this country. For some time now there have been proposals before Congress that would amend and revise <sup>and</sup> the McCarran-Walter Act, ~~and~~ <sup>they</sup> Among other things would replace the National Origins quota system with a quota, derived from a formula applied to the 1950 census, that would be open to qualified applicants throughout the world without regard to national origin, but would also contain priorities for fostering reunification of families, asylum for the persecuted, and haven for refugees and displaced persons. Under the impetus of current happenings, it is not inconceivable that such revisions will be made by the new Congress. If so, the replacing of the National Origins quota system will represent a substantial gain, even though there may be room for disagreement about some of the mixed motives that will have brought it about.

This side of the matter, having to do primarily with entry into the United States, I have discussed at length on other occasions. It is to the other related side of the matter, namely deportation, that I would like to give some consideration this morning. For this side, although it has received much less attention, is no less important, and there are numerous provisions in the McCarran-Walter Act relative to it that stand just as much in need of revision and replacement as do those in the Act that relate to entry. It would be unfortunate indeed, if under the impact of current events, revisions on the side of entry were carried out, while those on the side of deportation were neglected

or even deliberately by-passed.

Before looking at some of the revisions that are needed, it is ~~xxxxxxxx~~ <sup>helpful to</sup> understand and understanding to note the historical development of our current deportation policies. Some of the American colonies had deportation laws on their statute books almost from the date of <sup>their</sup> founding. Thus the Plymouth Colony provided in 1639 for the deportation of paupers to Europe, and the Massachusetts Bay Colony in 1647 banned the immigration of Roman Catholic priests and ordered the deportation of any found in the colony. The first federal government deportation statutes were enacted in 1798. These were political in reference, arising not as a means of dealing with paupers or criminals but as a method during troubled times with England and revolutionary France of ridding the country of foreign agitators. The President was authorized, without notice, hearing, or finding of facts, to order any alien to leave the country whom he judged "dangerous to the peace and safety of the United States." This Alien Act, as it was called, aroused a storm of indignation throughout the country. It was denounced by many statesmen, including Madison and Jefferson, and its earnest advocates defended it only as a war measure. The act, <sup>own</sup> by its terms expired in two years, and largely because of opposition from Madison and Jefferson was never applied and was never renewed. The federal government was without immigration restrictions for the next seventy-seven years.

When federal laws were finally adopted, the first ones were heavily on the side of exclusion rather than deportation. Thus in 1875 the law was adopted

which forbade the entry of prostitutes, convicts, and coolie labor, and in 1882 came the first Chinese Exclusion Act which forbade the entry of "Chinese laborers" for a ten year period, and in 1891, the classes of excludable aliens were broadened to include insane persons, paupers, felons, polygamists, and those suffering from "a loathsome or dangerous contagious disease." Some of those supposed to be excluded managed, however, to gain entry, and it was as a method of dealing with these that deportation legislation became more and more pronounced. The Chinese Exclusion Act of 1882 required the deportation of any Chinese person "found unlawfully within the United States". The law of 1891 required that aliens entering in violation of law were to be "returned within one year of entry". The law of 1903 not only broadened the classes of excludable aliens to include anarchists and those advocating the violent overthrow of the government, but it also extended the time from one to three years within which they might be found and were to be deported.

A significant addition was made to the extension of such legislation in 1907 the succeeding years and still more in 1917 when deportation procedures were made to apply to some

who had entered legally, as well as to those who had entered in violation of the law. Legal entrants subject to deportation were, at first only prostitutes and

those who had become public charges from causes existing prior to their entry. From 1917 onwards, those who became public charges from pre-entry

When the list was extended to include drug addicts, anarchists, communists, and those convicted more than once of crimes involving moral turpitude. Thus, our

those convicted more than once of crimes involving moral turpitude. Thus, our deportation policy "was transformed from a method of enforcing the exclusion-

5

ary features of the immigration laws to a device for ridding the United States of any aliens whose presence in the country was deemed harmful". In the McCarran Walter Immigration and Nationality<sup>Act</sup> of 1952, it has been estimated by a commissioner of immigration that there are some 700 grounds for deportation. Or, in other terms, there are now some eighteen general classes of aliens who are subject to deportation. These, for purposes of **convenience**, may be divided into four broad groups: 1) Those who entered the United States illegally or, having been admitted for a temporary stay, remained longer than permitted or otherwise violated the conditions of their stay. 2) Those who were excludable at entry but nevertheless were permitted to enter the country, as in the case of many Mexicans who have been allowed to enter for the harvesting of crops. 3) Those who within five years of entry committed an act or assumed a condition that rendered them deportable. Among such acts or conditions are: conviction of a crime involving moral turpitude with a prison sentence for a term of a year or more; being institutionalized at public expense because of a mental disease existing prior to entry; becoming a public charge from causes not arising after entry; conviction of attempting to cause insubordination or disloyalty in the armed forces of the United States; assisting another alien for gain in an attempt to enter the United States illegally. And 4) those who at any time after entry: are convicted of two or more crimes involving moral turpitude; wilfully fail to comply with the registration requirements of the Alien Registration Act; become members of, or affiliated with, the Communist Party of the United States or any

other totalitarian party; become drug addicts or violate the narcotic acts; are connected with a house of prostitution or import aliens for immoral purposes; are convicted of a violation of the espionage, sabotage, selective service, or trading-with-the-enemy acts and are found to be undesirable residents.

Such a listing, brief as it is, indicates something of the extent of our deportation provisions. And it must further be said that the subject bristles with any number of complicated and controversial issues. We are aided, however, in seeing some of the issues involved by the comprehensive report of the President's Commission on Immigration and Naturalization and by a more recent excellent analysis presented by Will Maslow in the March issue of the Columbia Law Review. <sup>And</sup> In looking at some of the issues and the proposed revisions, we do well perhaps to move from the less to the more controversial.)

Consider first ~~of all~~ the issue of deportation on the ground of being a pauper or becoming a public charge. This has been one of the oldest grounds for deportation, ~~xxxix~~ <sup>and only</sup> not <sup>but also</sup> for deportation ~~then~~ for the removal of an individual from one town to another town or from one ~~country~~ to another ~~country~~ or from one state to another state. As a ground for deportation it was written into our immigration laws in 1891, and the provision required the deportation of any alien "who within five years after entry becomes a public charge from causes not affirmatively shown to have arisen subsequent to landing." In the McCarran-Walter Act of 1952 "public charge" is continued as a ground of deportability, but now in-

stead of requiring a finding of substantial evidence that an alien has become a public charge from pre-landing causes, it requires merely the opinion of the immigration officer or of the Attorney General that he has become such. The president's commission has criticized this as being an unjustified method of determining whether an alien is a public charge, and it recommends a return to judicial review and substantial evidence as the much fairer and more adequate method.

While one can readily agree that the commission's recommendation is far more preferable than making "public charge" dependent on the mere opinion of some administrative official, there is still the consideration whether there can be very much said for even that. For one thing it is not always possible to give substantial evidence that an alien has become a public charge from pre-landing causes. In the case of mental illness, where the public charge provision has many times been applied, the matter of becoming a public charge can be unmistakably clear but there is no such clarity in many of the instances in knowing when or how the illness began. And likewise with various organic illnesses, such as tuberculosis and cancer and heart trouble. An alien might become a public charge as the result of any one of these within five years of arrival, but it would be at best a somewhat arbitrary decision to order his deportation on the ground that he had brought such a cause for his becoming a public charge with him. and all the more so, insofar as to say's immigrant in particular, is

8

given a double inspection, first by the consular officers overseas and then by the immigration inspectors at our borders, before he is allowed to land.

Once admitted the whole benefit of any doubt should be on his side, and he should not be subject to the penalty of deportation if the winds of economic hardship and illness blow upon him. Moreover, as with all deportation, that which rests

on the ground of being a public charge can be cruel, forcing a painful choice in many instances upon the alien's spouse and children, who may be Americans by birth, either to go with the alien or to remain here. And still more when the

spouse and dependent children elect to remain here, the provision is very much self-defeating. For the community or society at large must bear the burden of

supporting the family and this in the end may very well constitute a larger cost than would have been involved in carrying ~~xxxxxxx~~ deported aliens through what in numerous instances might have been a relatively short public charge

stage. Thus, for example, testimony was given before the Senate Judiciary Sub-

committee on Immigration and Naturalization in 1955, that in one California

congressional district, 200 such families are on relief at a cost to the tax-

payer of more than \$300,000 a year. The Economic and Social Council of the

United Nations, back in 1951, recommended "that governments do not expel, deport

or otherwise remove from their territories aliens for the sole reason of their ~~incompetence~~ <sup>poverty</sup> or of their becoming public charges." Keeping with this recommenda-

tion, ~~xxxxxx~~ Maslow <sup>for instance</sup> is not content to rest with the revision as recommended by



the President's commission. The public charge provision for deportation is unnecessary, self-defeating, and ~~crue~~ and it should be eliminate<sup>d</sup> from our immigration laws. "No one should be deportable, he says, merely because he has become a public charge."

A second consideration centers around criminal behavior as a ground for deportation of aliens. There has been a long time popular impression that a disproportionate number of aliens are given to crime, and there has been an increased effort to use immigration laws as a supplemental means of enforcing criminal statutes. Even the Kefauver investigation committee followed along this line, recommending that "the immigration laws should be amended to facilitate deportation of criminal and other undesirable aliens." And across the years

authorization  
the ~~xxxxxxx~~ for deportation on grounds of misconduct and criminal violation has ~~xxxx~~ been considerably enlarged in our immigration legislation. Thus, prior to 1917 there was no statute authorizing deportation for conviction of crime in the United States. <sup>But</sup> <sub>under</sub> the provisions of the 1952 act there may be deportation for trivial offenses; for misbehavior many years after entry into the United States, without any limitation of time; and for wrongful conduct of the remote past, without any consideration as to whether there has been reformation or expiation. Take for example the matter of ~~matter~~ of the statute of limitations.

That it is wrong to keep the threat of punishment indefinitely over the head of one who breaks the law is a principle deeply rooted in the traditions of our

legal system. The law requires that criminal prosecutions, except for capital offenses, such as murder and treason, be brought within a fixed period of time or not at all. A similar dispensation governs the enforcement of civil liabilities. Let under the act of 1952, deportation proceedings for any cause specified in the statute can be brought at any time after entry and are not subject to any statute of limitations. As an alien who entered the United States 25 years ago, and whose entry involved a purely technical violation, is now subject to deportation. This represents a continuous overhanging threat to many aliens and their families, no matter how exemplary their conduct has been over a long period of years. The president's commission agrees that a person who enters or remains in the United States in violation of the immigration laws should be subject to deportation from the United States. But the consequences of such a violation, it holds, should be enforced against him within a reasonable time, and it recommends that a deportation proceeding may not be commenced against any alien more than 10 years after the violation occurred.

As for crime in its more pronounced forms there is no evidence that bears out the popular impression that a disproportionate share of it is provided by aliens. As a matter of fact numerous studies indicate the opposite, namely that foreign-born aliens commit fewer crimes than the native Americans. Be this as it may the international dumping of criminals is certainly no solution to the problem of crime. The roots of crime run deep in the social soil, and

they are not to be scapegoated out of existence through any amount of deportation of aliens. And other nations have quite rightly denounced this kind of thing as an effort "to throw our rubbish over the ~~xxxxx~~ fence into some other nation's backyard, as a form of international buck passing, and as an abandonment of possible efforts at reform or rehabilitation. Certainly, when an alien has come to the United States as a child and has been reared in this country, it is particularly unjust to ship him to some foreign land for a transgression that is in part the result of our environment and culture. Here, for example, is a case of an alien, a native of Canada, who was brought to the United States as an infant in 1913. In 1931, he was convicted of breaking and entering and stealing an automobile. He was placed on probation for 2 years. About a month later, he committed a robbery and was sentenced to a reformatory for 7 years. He was found deportable on the ground that he had been sentenced more than once for crimes involving moral turpitude. He was ordered deported in 1941. He left behind him a United States citizen wife and two citizen children, all of whom were dependent upon him. And likewise one other case of an alien who came to the United States in 1913, when he was three months old. In 1930, when 17 years of age, he was convicted of attempted larceny, and in 1932 was convicted of robbery. His three brothers and two sisters were born in the United States. An order for deportation was entered, and was challenged in court in 1935. The court observed: "His deportation will be tantamount to exile from a country in which he has always lived to a country in which he will be a stranger. These are

circumstances, however, which cannot be considered by this court." In such instances, the countries of origin cannot be held responsible for the criminal behavior. The behavior is an American, and not a foreign product. And we cannot expect other countries to take, and continue to take, such individuals who have no real tie with them.

It goes almost without saying that the alien comes under the penalties provided by the criminal laws. It is only right and proper that if he violates a law of the United States he should suffer the same penalty that a citizen who violated the same law would have to suffer. But it should be the same penalty for the same crime, and not in the case of the alien the visiting upon him of the additional penalty of deportation simply because he is an alien. As Judge Hand has observed, for an alien, however serious his crimes, deportation is to him exile, a dreadful punishment, abandoned by the common consent of all civilized people. Such, indeed, it would be to anyone." The president's commission says that there is no sound basis, especially after the lapse of many years, for adding deportation as punishment for an alien to the penalties provided by criminal laws. And it recommends that no alien shall be subject to deportation if he was lawfully admitted to the United States for permanent residence before reaching the age of 16 years, or if he was lawfully admitted for permanent residence and has resided in the United States for 20 years. Maslow, on the otherhand, while agreeing that this recommendation, if adopted, would ease the harshness of present deportation laws, is of the opinion that it does not

yet ~~come~~ <sup>1</sup>o full grip with the fundamental evil of our deportation policy; namely the insistence on distinguishing between offenses committed by citizens and those committed by aliens. We therefore recommend that no alien lawfully admitted for permanent residence should thereafter be deportable.

A third consideration centers around subversive activities as grounds for deportation of aliens. Since 1903 we have had immigration laws of this kind but they are now broadened to an extent such as we have never had before. Under the present law, an alien is deportable who is, or at any time after entry has been, an anarchist or a member of an anarchist organization, a member of, or affiliated with, the Communist Party of the United States or of any foreign state or of any affiliate thereof, has advocated the establishment of a totalitarian communist dictatorship in any country in the world, has been a member of an organization during the time it was required to register with the Subversive Activities Control Board, or has knowingly written, published, circulated, printed, distributed, or displayed any written or printed matter advocating the violent overthrow of the government or has been a member of an organization so engaged. And beyond all this is a blanket provision making deportable any alien who "at any time after entry has had a purpose to engage in "any of the above-described proscribed activities or in other "activities which would be prejudicial to the public interest, or endanger the welfare, safety, or security of the United States."

In close similarity with ~~xxxx~~ what has been said about ~~xxxxxxxxxxxx~~ criminal behavior being made a ground for deportation, there is the question first of all whether it is morally and democratically right to impose and added punishment for subversion of deportation upon the alien, which is not and cannot be imposed upon the citizen, for the same activity. The laws relative to subversion, whatever they may be, should apply to all alike and the penalties for violating such laws should not be compounded for those who happen to be aliens. And again, what about the subversives, who like ~~the~~ criminals, are thoroughly and wholly products of our own society. Are we justified in trying to duck the responsibility of living and dealing with them by exiling them elsewhere. Here, for example is part of a letter that appears <sup>R</sup> in the current issue of The Nation, written by a woman in Detroit, ~~Michigan~~, it says in part: "Although I have lived in the United States throughout my forty-four years, I am perilously close to being deported to Canada. The Immigration Service maintains that I was born there while my mother was on a visit, and that I was brought here as an infant. My older and younger brothers were both born in the United States. My two children -- David, sixteen, and Vickie, fourteen -- don't want to lose me, and yet they don't want to exile themselves from their country. Worst of all, their father -- my husband -- could not choose exile even if he wished to. He is at present appealing a four-year-eight-month prison sentence imposed on him under the Smith Act. He might never receive permission to leave here or to enter Canada; and

once I crossed the border, I would never be allowed to return." This woman, with her views and activities, is not the responsibility of Canada. She is a product of American environment, as much as anyone can be said to be a product of American environment. Up until now, and for virtually all her life, she has been accepted and allowed in ~~xxxx~~ the United States. To ship her off to Canada would ~~xxxxxxx~~ impose a cruelty upon her and her family that would add nothing to American strength and prestige ~~xxxx~~. And beyond that there is the question whether Canada would take her, or if taking her would be particularly happy with us about the matter. As Mr. Justice Jackson has pointedly said: "A deportation policy can be successful only to the extent that some other ~~xxxxx~~ country is willing to receive those we expel. But, except for selected individuals who can do us more harm abroad than here, what Communist power will cooperate with our deportation policy by receiving our expelled Communist aliens? And what non-Communist power feels such confidence in its own domestic security that it can risk taking in persons this powerful Republic finds dangerous to its security. World conditions....frustrate the policy of deportation of subversives... They are our problem and one that cannot be shipped off to some other part of the world." ~~xxxxxxx~~ For this reason, if no other, the president's commission believes that this country must accept as its own responsibility all those aliens who are the product of our own society.

again, the provision that makes past membership in subversive organizations grounds for deportation does ~~violate~~ <sup>injustice</sup> to many Americans, citizens and alien.

alike, who ten and fifteen and twenty years ago joined in all good intent and purpose organizations that have since been declared subversive. They had all shades and degrees of association, and many were disillusioned and dropped their association long before the particular organizations were declared

subversive. Many of these individuals are more firmly tied to democratic be-

liefs than ever before, and in some instances much more so than ~~xxxxxxx~~ those

who never went through their particular experiences. All these cannot and should **NOT**

be brought under a blanket condemnation, and as aliens they should not have to live under the threat of deportation because of previous membership and associa-

tion. Maslow, therefore, once again goes beyond the president's commission with

his recommendation. "Membership in, association with or support of the Commu-

nist or any other totalitarian party should not be a ground for deportation. In

no event should an alien be deportable who can establish that he has in good

faith terminated all association with that party. At the very least, no alien

should be deportable whose past association was merely nominal or in ignorance

of the aims of that party."

There are a number of other more detailed aspects of the <sup>current</sup> deportation law and

its administration that I do not have time to touch upon. But there emerges

through all the discussion a central conviction that the deportation side of immi-

gration is no <sup>less</sup> a challenge than the entry side. If there is need, as there is

of a thoroughgoing amendment of the McCarran-Walter Act on the side of a quota



of humane flexibility and democratic equality so there is need of fair and democratic treatment of all who are legally accepted in o the country. There can be no second class citizenship for aliens ,no use of deportati n as a threat over the heads of many, no uprooting of even a handful through sweeping and bigoted rules. The blemish that has been put up on record of democratic achievement by ill-conceived and bigoted immigration laws is great and glaring. I, will take all that we have as a people in will and courage and imagination to remove that blemish and to bring so fundamental an area of human life as immigration deals with into accord with the best in our tradition and idealism.

**ORDER OF SERVICE**

SUNDAY, DECEMBER 9, 1956, at 11 A. M.

Preludes: Prayer in F Ceuppens  
 Prelude in G Minor Richter  
 The Old Refrain Kreisler  
 Invocation Salome

Opening Words

Hymn No. 27: America The Beautiful K. L. Bates

Reading: From "Freedom, Loyalty, Dissent"  
 by H. S. Commager

Response

Aspiration

Music: Jesu, Jesu du bist mein Bach  
 Total Eclipse Handel  
 Trombone Trio  
 (Wm. Stamm, Harry Adams, Mark Lammers)

Hymn No. 30: Once To Every Man and Nation  
 J. R. Lowell

Offertory: Ah, Let Me Weep Handel  
 Trombone Trio

SERMON: "THE ISSUE OF DEPORTATION" Mr. Storm

Hymn No. 31: When Courage Fails F. L. Hosmer

Closing Words

Postlude: March in G Henry Smart

\* \* \* \* \*

Organists: Annette and Judy Hughart

**ANNOUNCEMENTS**

<u>WEEK'S CALENDAR</u>	
* Sun. - 7:00 p.m. - Channing Club	
* Mon. - 7:30 p.m. - Board of Trustees	
* 7:45 p.m. - Parent's Meeting	
* Wed. - 9:30 a.m. - ALLIANCE Art Class	
* 10:00 a.m. - Holiday Cooking Demonstration	
* 10:00 a.m. - Bazaar Sewing	
* 7:30 p.m. - Chorus Rehearsal	
* Fri. - 8:00 p.m. - Square Dance	

SERMON SUBJECT: Sunday, December 16. - - - - -  
 "Existentialism Re-Examined" - - - - - Mr. Storm

\* \* \*

ADULT FORUM: Next Sunday. Topic: "Background To Modern Art". Speaker: Louis T. Safer, Assistant Professor, Art Department, Univ. of Minn.

The subject discussed this morning by Dr. Werner Levi was "The Challenge To The United Nations In The Current World Crisis".

\* \* \*

PARENT'S MEETING: The first Parent's Meeting of the season will be held on Monday evening at 7:45 o'clock in the lower auditorium. Agenda: Meet the teachers, visit your child's classroom, tour the building, hear report of building committee, coffee and dessert. All parents are urged to attend.