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David P. Doyle

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THE LEGAL ASPECT OF IMMIGRATION

DAVID P. DOYLE*

THE PRINCIPAL DIFFICULTY attending any discussion of this particular topic stems from the suspicion that already too much has been said and written about it. The proposition that a moratorium on arguments over immigration policy, or the lack of one, would be beneficial can be easily defended. However, those who man our present ramparts against the encroachment of foreigners who would find a home here insist upon keeping up a vocal, if not rational, defense of their position; those who seek a change in the present official attitude on the subject realize they must strive for at least equality in the vocal area while they aim at injecting calmness and reason into the consideration of a problem which, from the very founding of the nation, has been a volatile one.

A recent article, frankly labeled, "A Defense of the McCarran-Walter Act,"¹ written by one who was most intimately associated with actual drafting of our present immigration law, states that there are two fundamental principles of basic policy from which to choose in controlling immigration into any country. The first is that every alien shall be admitted unless there is some law or other authority which, in an individual case, requires that he be excluded. The second is that no alien shall be admitted unless there is some law or authority which permits such entry. The writer then asserts: "The United States has always followed the first principle, while most of the other countries of the world have predicated their control of immigration on the second." Now, in the realm of dialectics, this distinction might take on substantial significance. But it would not go far in satisfying the yearnings of a European or Asiatic who sought to come to the United States where, he has been told over and over again, there is ample opportunity for all

*Member of the Legal Department, National Catholic Welfare Conference.

¹ Alexander, *A Defense of the McCarran-Walter Act*, 21 *LAW & CONTEMP. PROB.* 382 (1956).

men to enjoy peace, prosperity and freedom. Indeed, if this is the best case which can be made out by one of the McCarran-Walter Act's chief architects, then it is high time for us all to take a good look at the Act and chiefly at the attitudes which caused it to come into being. However, while criticizing the present law we should admit no good can be accomplished merely by screaming denunciations of those principally responsible for its enactment. In fact it would be extremely difficult, probably impossible, to point to a name, a group or an event which could honestly be saddled with the responsibility for what we now call our Immigration and Nationality Law.

In the earliest days of our country, there was considerable confusion over the attitude one should adopt in dealing with would-be immigrants. The Puritans themselves met with some resistance while endeavoring to "found" a new world on the western edge of the North Atlantic. When these self-styled seekers after religious freedom landed in Shawmut — now Boston — and prepared to set up a permanent settlement, they brought dismay to the hermit Blackstone who had emigrated to Boston earlier. History tells us that Blackstone, lacking adequate authority with which to call for the deportation of these foreigners, quietly decamped and headed west.

While the early leaders in the colonies denounced the King of Great Britain because he obstructed the laws "for naturalization of foreigners" and refused to pass others "to encourage their migration hither," it would appear that their real complaint was over the King's interference with the sovereignty of the new states. It is a well-documented fact that the colonists had hardly set foot in America when they sought to prevent the admission of certain

types of additional immigrants. Policies varied with respect to the selection of immigrants on the basis of religion and the physical, moral and economic state of those who sought entry. As early as 1798, the Alien Act² authorized the President to order the deportation from the United States of any alien whom he deemed dangerous to the welfare of the country.

Aside from the enactment of the first so-called "steerage law" in 1819,³ little if any attention was given to immigration during the first half of the nineteenth century. Yet during those years, and continuing almost without interruption since, there have been legislative enactments which have developed into a vast and tremendously intricate mass. Interest in immigration and naturalization has sometimes reached high levels. At other times, no one seemed to take any interest in the subject at all. During all this time, there had been some who believed that with each succeeding legislative enactment all our problems in the field had been solved. Side by side with this restful attitude was the feeling of many that the problem had not been solved and probably defied satisfactory solution. Somewhere in the middle ground have been those earnest Americans who worked for the adoption of an honorable immigration policy. This never-ending debate has been affected to some degree by every major movement in recent American history for the simple reason that immigration impinges on all aspects of American civilization. For that reason, at least in part, every congressional action has involved the sort of turmoil which is produced only when very strong emotional appeals are brought into play. Always there has been evident

² Alien Act, 1798, c. 58, 1 STAT. 570.

³ Passenger Act, 1819, c. 46, 3 STAT. 488.

the pulling and hauling of special pressures, economic forces and those who sought political advantage in the outcome of the debate. Writings on the subject, whether put together by restrictionists or liberals, fail to produce much evidence of calm intelligent planning. Add to the mass of immigration legislation and the hundreds of thousands of words which attended its consideration, the ever-growing practice of congressional enactment of private Immigration Bills (whereby a Senator or Member of the House seeks an adjustment of status or right of permanent residence for some alien not properly in the United States), and it is evident that the situation approaches chaos.

Apart from the complexity of a problem enmeshed in so many different strands of American life, there is another, more basic reason for the confusion and discord which becomes evident in any move toward the formulation of a clear-cut policy. The restriction of immigration necessarily runs counter to some of the deepest American concepts. The belief that this is a land of opportunity for everyone, the conviction that American freedom has a universal relevance — these ideas are hard to square with general restrictions. Any restrictive policy, moreover, inevitably entails discriminations, and a system of discrimination that does not offend the democratic conscience is exceedingly difficult to define. Yet, while America's official values are hard to reconcile with the restriction of immigration, the actual conditions in the world in which we live make it absolutely essential that we continue to be alert in maintaining and defending against attack those features of our way of life which we love as good Americans. Restrictionists see only the latter problem and contend that they are

nothing but "realists." Anti-restrictionists, on the other hand, are prone to skip nimbly over the real and diverse problems inherent in immigration. Reluctant to admit that there is a problem, they fling the ancient ideals into their opponents' faces. The "realists" then, swayed by their own hysteria, create more, and the net result is impasse at best, or, at worst, a striving for more restriction by the group which, from the birth of the nation, appears to have been the dominant one, while many will argue that our immigration policy has never been restrictive.

The only legislation ever referred to as encouraging to immigrants are the so-called "steerage laws." These acts covered a period of some eighty years, and, it seems now safe to say, they were intended almost exclusively for the protection of the dollars invested in the transportation of cheap manual labor to our shores. The Secretary of State at the time the first steerage law was enacted, John Quincy Adams, said in that year, "The Government has never officially encouraged immigration from Europe." The immediate causes of these laws were the reports of sufferings and privations to which immigrants had been subjected aboard ship. In discussing the first bill,⁴ Representative Newton, of Virginia, said: "In consequence of the anxiety to emigrate from Europe to this country, the captains, sure of freight, were careless of taking the necessary quantity of provisions or of restricting the number of passengers to the convenience which their ships afforded. . . ." In the year 1817, 5,000 had sailed for this country from Antwerp, of whom 1,000 died on the voyage. In one instance, a captain had sailed from a European port with 1,267

⁴ 7 ANNALS OF CONG. (1818) 414, 15th CONG., 2d SESS.

passengers. On his voyage he put into the Texel; previous to doing this 400 had died. Before the vessel arrived at Philadelphia, 300 more had died. The remainder, when the vessel reached Newcastle, were in a very emaciated state from the want of water and food, and from which many of them afterward died. The first bill contained provisions intended to regulate the number of passengers to be carried on each vessel and to provide for the proper victualing of each vessel. The master of a ship was required to deliver to the Collector of Customs at the port of arrival a list or manifest of all passengers taken on board at a foreign port, showing the age, sex, occupation of the passengers, and the country of which they intended to become inhabitants. This marked the beginning of statistics on immigration to the United States.

It is true that there was an occasional gesture toward assisting the immigrants who had come here for the purpose of establishing permanent settlements. Such a case was the granting of land in Michigan and Illinois to Polish exiles providing they inhabited, cultivated and paid a minimum price per acre for it. But here again, restrictionists found reason for fear. The Senate proposed giving the land outright to the exiles, but the House objected, claiming that such action would amount to discrimination against the native born.

During the 1830's the restrictionists really developed a good head of steam as the fires of racial and religious intolerance were rekindled. The immediate objects of their hatred were the Irish who were migrating to the United States in great numbers. They possessed the strong backs which were needed to build the roads and canals the expanding nation sorely needed, but

they were foreigners. Even worse, they were Catholics and they would probably deteriorate the blood of the good old stock and bring about the wrecking of all America's sacred institutions. The Native American movement came into being, followed by the Know Nothing Party and the American Protective Association. These groups demanded legislation which would repeal the naturalization laws and would make birth in the United States a *sine qua non* for holding public office. Their representatives in Congress made nativism a national issue and in 1836 and 1838 the Congress adopted resolutions calling for an inquiry into the propriety of laws prohibiting the immigration of paupers and criminals. While there had been a lot of talk about immigration and naturalization, these resolutions probably resulted in the first congressional investigation of any phase of immigration matters.

The late 1840's brought another wave of immigration from Europe, and nativism again took the center of the stage. On the sole issue of cutting immigration and "cleaning up the naturalization laws," the secret party which grew out of this nativist movement sought to elect a President in 1856. The party's candidate carried only one state.

Just prior to 1860, several amendments to the Passenger Act of 1819 were approved (the steerage laws) and finally the Congress in 1864⁵ enacted a law which provided for the enforcement of contracts in which immigrants pledged the wages of their labor to repay the expenses of emigration. While this legislation is pointed out as a congressional attempt "to encourage immigration," its enactment was due to the fact, according to the House Committee

⁵ Act of July 4, 1864, c. 256, 13 STAT. 586.

recommending passage, “. . . that the vast number of laboring men, estimated at nearly 1.25 million . . . had left their peaceful pursuits and gone forth in defense of the Government, [thus creating] a vacuum which was becoming seriously felt in every portion of the country.”

About this time was seen the enactment of the Coolie Act,⁶ prohibiting Americans from carrying on trade in coolies between China and the West Indies.

Earlier, in 1807, the coerced immigration represented by the African slave trade had been prohibited. In 1868 the United States entered into a Treaty of Trade Consuls and Emigration with China whose peoples had been literally swarming into California since the gold rush days. A depression got under way a few years after the Chinese Treaty was signed, and a drive to get rid of the Chinese swept the country. Again it was the primitive race feelings ingrained in white America which caused a wave of hysteria against all of the yellow race. There had been serious troubles because of racial and religious hatred, but actually the transatlantic migration had not put to any severe test the cosmopolitan ideas of American nationality. Until the Chinese appeared in numbers — the rush fell off in the mid-sixties, but increased substantially in the seventies — immigration had brought to the United States only people of northern European background. The Chinese bore the stigma of color. As soon as it appeared that their presence was causing discomfort, it took no elaborate thinking process to rouse against them the imperatives of white supremacy. They were absolutely unassimilable with their strange, tightly-knit culture, with all the mysteriousness of Oriental vice

⁶ The Coolie Act, 12 STAT. 385 (1862), 8 U.S.C. §§ 331-34 (1952).

and disease. Furthermore, the Westerner's sense of pioneering actually helped him to believe he must put down this invasion. Californians saw themselves as guardians of the imperiled frontier of a white civilization in America. There were many riots and much disorder. Calm judgment was swept aside; cool heads were unable to prevail and, despite the treaty which had been attended by predictions of greatness for the West, a series of legislative enactments ultimately achieved their goal and the Chinese were permanently excluded.

In 1891, an act was passed⁷ which added to the list of excludables, idiots, insane persons, paupers or persons likely to become public charges, persons suffering from a loathsome or dangerous disease, felons, persons convicted of other infamous crimes or misdemeanors involving moral turpitude, polygamists, aliens assisted by others by payment of passage, and contract laborers who had been embraced by the act of February 26, 1885, which was aimed at the importation of cheap labor from abroad. This Act of 1891 is frequently referred to as the act which established the “Qualitative Exclusions.”

In 1888, 1889 and 1890 the Congress approved resolutions calling for investigation of the laws on immigration. Aside from the Act of 1891, nothing significant resulted from these inquiries except to pile on an already wobbly structure more and more resolutions and recommendations while the volume of immigration remained consistently high.

In 1903, another Congressional act was passed.⁸ It appears from the record that this started out as codification of existing laws, but it added some new restrictions of

⁷ Act of March 3, 1891, c. 551, 26 STAT. 1084.

⁸ Act of March 3, 1903, c. 1012, 32 STAT. 1213.

its own, such as an increase in the head tax, and added to the excludable classes, epileptics, persons who had been insane within five years of applying for admission, persons who had two or more attacks of insanity, professional beggars, anarchists, persons who believed in or advocated the overthrow by force or violence of our government or of all governments or the assassination of public officials, prostitutes and procurers.

The Immigration Act of 1907⁹ appears to have been brought about chiefly through a desire to exclude Japanese, but it added another boost to the head tax and added another group to the list of excludables. The new group included imbeciles, persons afflicted with tuberculosis and women coming to the United States for immoral purposes. Two more acts passed in 1910 aimed at suppression of the white slave traffic and exclusion of idiots, prostitutes, polygamists, etc. Each one of these acts appears to have carried its own plans for adding to the administrative machinery already causing grief to prospective immigrants.

Congress, on February 5, 1917, passed the act¹⁰ which was the basic immigration law until enactment of the McCarran-Walter Act. It provided for codification of all previously enacted provisions excluding aliens; repealed all inconsistent prior acts and added to the inadmissible classes, aliens who are illiterate, persons of constitutional psychopathic inferiority, men, as well as women, entering for immoral purposes, chronic alcoholics, stowaways, vagrants, and persons who had a previous record of insanity. This act of 1917 also laid down further restrictions by declaring inadmissible natives of part of China, all

of India, Burma, Siam, the Malay States, a part of Russia, part of Arabia, part of Afghanistan, the Polynesian Islands and the East Indian Islands. There were two so-called war measures in 1918 and 1920, but nothing of real significance happened in this field until 1921 when the quota law was passed. The sixty-fifth Congress in December, 1918, saw the opening of discussions which eventually resulted in the famous quota law three years later. At the time original debate opened there were serious proposals to limit all immigration for a term of years. The House actually passed one bill which would have prohibited immigration for two years. It is worthy of note that blood relatives of citizens were exempted from this restriction.

In reporting the resolution which eventually became the Quota Law of 1921,¹¹ the House Committee on Immigration and Naturalization stated: "There is a limit to our power of assimilation." The act was approved on May 19, 1921. It limited the number of any nationality entering the United States to three per cent of foreign-born persons of that nationality who lived here in 1910. Under this law approximately 350,000 aliens were permitted to enter each year, mostly from northern and western Europe. Immediately after the enactment of this law, arguments for and against a radical curtailment of immigration were renewed in the Congress. The arguments came to a head as Congress debated the national origins provisions of the bill which became, upon enactment, the Quota Law of 1924.¹² It is this enactment which forms the basis for discussions of the merits or demerits of the present-day Immigration and Naturalization Law. The act of 1924

⁹ Immigration Act, 1907, c. 11, 34 STAT. 898.

¹⁰ Act of Feb. 5, 1917, c. 24, 39 STAT. 874.

¹¹ Quota Act, 1921, c. 8, 42 STAT., 42 STAT. 5.

¹² Immigration Act, 1924, c. 190, 43 STAT. 153.

proposed among other things a Japanese exclusion provision which produced bitter differences between the Congress and the Executive. However, while those differences no longer cause us concern, we continue to find difficulty in understanding the mental processes which resulted in enactment of the national origins provisions in the 1924 act. That it grew out of another wave of restrictionist sentiment there is no gainsaying. The national origins provision was voted down several times in the House of Representatives during the debate, and the bill went to the Senate without it. However, the Senate inserted the objectionable language, and it was returned in conference. The conference report was agreed to, and the bill, as amended, became law on May 26, 1924. The act provided that during any fiscal year thereafter, the quota of any nationality shall be a number which bears the same ratio to 150,000 as the number of inhabitants in continental United States in 1920 having that national origin bears to the number of inhabitants in continental United States in 1920, but the minimum quota of any nationality shall be 100.

Through the years there has been a steady drumbeat of criticism of United States' attitude toward immigration. There have been those who pleaded well the cause of severely limited immigration. There have been those who, using language we all understand, have pleaded for the "right" of other peoples to come to the United States to share in our admittedly abundant resources. Few, if any, of the discussions involving these conflicting opinions have been calm. Neither was there much calm in the discussions of amendment and codification of our existing immigration laws which began formally in 1947. There were protracted public hearings, many private

discussions with interested individuals, and many, many drafts of the proposed legislation. In its final version the act passed the House and the Senate and was vetoed. Members of the House and the Senate then, by substantial margins, voted to override the veto. The act became fully effective on Christmas Eve, 1952.¹³

The act is primarily a compilation and codification of our previous laws on immigration, deportation, nationality, and naturalization. These codifications, it is generally conceded, constitute a vast improvement over the old laws. The principal criticism of the law is that it does not go far enough in substantively revising some of the old laws. The chief point of attack is the national origins system it employs for the allocation of the annual immigration quotas. There is no need here to discuss the codification features of the present law. Suffice it to say that in the opinion of this writer they are good and long overdue. Attention here is directed almost exclusively to the national origins system, and particularly at the oft-repeated excuse that this formula is not discriminatory, but is simply a mathematical arrangement for dividing among all nationalities the numbers to be used in gaining admission here, which mathematical arrangement is used solely because it was adopted after patient study from 1920 to 1924 and again from 1947 to 1952.

Those who defend that act with sweeping gestures as being something fair and honorable insist that the United States has a policy which is not based on the idea of exclusion, but on the notion that all men shall be admitted unless there is a specific prohibition against their type of person.

Consider, then, the language of the re-
¹³ 98 CONG. REC. 8214-253 (1952).

port of the House Committee on the Judiciary in reporting the McCarran-Walter bill.

The power of Congress to control immigration stems from the sovereign authority of the United States as a nation and from the Constitutional power of Congress to regulate commerce with foreign nations. Every sovereign nation has power, inherent in sovereignty and essential to self-preservation, to forbid entrance of foreigners within its dominions, or to admit them only in such cases and upon such conditions as it may see fit to prescribe. Congress may exclude aliens altogether or prescribe terms and conditions upon which they may come into or remain in this country.

The power and authority of the United States, as an attribute of sovereignty, either to prohibit or regulate immigration of aliens are plenary and Congress may choose such agencies as it pleases to carry out whatever policy or rule of exclusion it may adopt, and, so long as such agencies do not transcend limits of authority or abuse discretion reposed in them, their judgment is not open to challenge or review by courts.

It has been settled by repeated decision, that Congress has power to exclude any and all aliens from the United States, to prescribe the terms and conditions on which they may come in or on which they remain after having been admitted, to establish the regulations for deporting such aliens as have entered in violation of law or who are here in violation of law, and to commit the enforcing of such laws and regulations to executive officers.

It has been repeatedly held that the right to exclude or to expel all aliens or any class of aliens, absolutely or upon certain conditions, in war or in peace, is an inherent and inalienable right of every sovereign and independent nation, essential to its safety, its independence, and its welfare; that this power to exclude and to expel aliens. . . .

Admitting these contentions on the basis of right under the law, it still must be admitted that official policy is based on *exclusion* rather than freedom of entry.

In considering the question of who is to be excluded, and for what reason, consider the report of the House Committee on Immigration and Naturalization, accompanying H.R. 7995, destined to become the Quota Law of 1924, upon which law our present national origins system is admittedly based.

Since it is the axiom of political science that a government not imposed by external force is the visible expression of the ideals, standards, and social viewpoint of the people over which it rules, it is obvious that *a change in the character or composition of the population must inevitably result in the evolution of a form of government consonant with the base upon which its rests.* If, therefore, the principles of individual liberty, guarded by a constitutional government created on this continent nearly a century and a half ago, is to endure, *the basic strain of our population must be maintained* and our economic standards preserved.

With the full recognition of the material progress which we owe to the races from southern and eastern Europe, we are conscious that the continued arrival of great numbers tends to upset our balance of population, to depress our standard of living, and to unduly charge our institutions for the care of the socially inadequate.

If immigrants from southern and eastern Europe may enter the United States on *a basis of substantial equality with that admitted from the older sources of supply*, it is clear that if any appreciable number of immigrants are to be allowed to land upon our shores, the balance of racial preponderance must in time pass to those elements of the population who reproduce more rapidly on a lower standard of living than those possessing other ideals.

We owe impartial justice to all those who have established themselves in our midst. They are entitled to share in our prosperity. The contribution of their genius to the advancement of our national welfare is recognized. On the other hand, the American

people do not concede the right of any foreign group in the United States, or government abroad, to demand a participation in our possessions, tangible, or intangible, or to dictate the character of our legislation.

How can we frame a restrictive immigration law to meet these conditions?

The adoption of the 1890 census will accomplish an equitable apportionment between the emigration originating in northwestern Europe and in southern and eastern Europe, respectively. This principle has been embodied in the bill presented by your committee. *Late arrivals are in all fairness not entitled to special privilege over those who have arrived at an earlier date and thereby contributed more to the advancement of the Nation.*

As we said at the outset, a great deal has been said and written about this most complex of problems. What has been set down here is intended solely to present a background against which we can view the tomorrow of America's concern with the movement of populations across the oceans. From history we should be able to reach certain conclusions. Without those conclusions it is difficult if not actually silly to attempt to make plans for achieving whatever goal we should set for ourselves. If we plead the cause of restriction in immigration, it seems to this writer that we have history on our side, and we need only argue that there should be no change in the attitudes which to now have influenced what we like to call our immigration policy. If we are opposed to the concept of restriction, if we are genuine in profession of our love for all that America means to us and would dearly like to see a few more share in the wealth that is ours, then I think we have to admit that history is against us and we must do something to alter the present state of things. Immigration is a political issue, since it is decided within a political

orbit, the Congress of the United States. This is as it should be, since all such basic national issues are political in this sense. But today immigration seems no longer to be a partisan political issue, because attitudes on the subject obviously flow back and forth across political lines. There is real significance in this change from immigration as a partisan issue (as it was in the days of "Fillmore for President") to immigration as a non-partisan issue (witness the manifestos in the political platforms of the two major political parties). This significance can be made to redound to the advantage of those who seek to correct what is basically wrong with the McCarran-Walter Act.

What is basically wrong with that act? It seems to this writer that the wrong exists in a deliberate refusal to acknowledge the fact of discrimination. If we — Americans all, no one of whom can claim "pure stock" — are willing (I would underline the word, "willing") to permit (here again is a word worth emphasis, in the light of what has gone before) aliens to come to our fair land, why do we insist upon the right to select the fair-haired and deny entry to the dark-haired ones?

The obvious answer is prejudice. That prejudice can stem from a jealous desire to keep everything American exclusively the property of those who are here now. It can also stem from a deep-seated dislike for one group of nationals or the people who have grown up in a particular geographical area. Whatever is the reason for the prejudice, we must admit at the outset that it is present if we are to argue a good case.

Admitting this contention, one must move on to a decision as to what is to be done about it. Now, it seems we come to grips with the real problem. Historically,

neither political party has stood for a truly liberal immigration policy. Where the two parties stand today is impossible to state because there are restrictionists and anti-restrictionists on both sides of the aisle. The Congress, with the votes from both sides, passed the McCarran-Walter Act and then succeeded in overriding the President's veto. Someone, at the time, asked, "Does this represent the attitude of the American people?" From all the evidence put in thus far it must be stated as a fact that this action of the Congress does represent the attitude of the American people.

There is probably no legislative body in the world that is more responsive to the will, the wishes, the attitude, or whatever name might be given to the concept, of the voting public as is the House of Representatives of the United States.

There is an expression which is much abused — "informed public opinion." Many critics of the McCarran-Walter Act say that this great force, "informed public opinion," is opposed to the Immigration and Naturalization Law as it is embodied in the enactment which bears the title, "McCarran-Walter Act." It is the opinion of this writer that one of the saddest facts of the day is that, in this particular area — immigration — there is no such thing as an informed public opinion.

Candidates for public office — and the manifestos of the two great parties — will proclaim their determination to amend the McCarran-Walter Act in order to eliminate its restrictive and discriminatory provisions. However, for those who are genuinely concerned with the welfare of their fellow men who would like to come to the United States it would be well to ignore these political utterances.

A good case can be made out. A good

case should be made out. Its pleaders should promise a complete disregard of all partisan political considerations and pledge a concentration on the facts alone. In order to make that case certain, facts should be explained to the American people in the hope of creating an informed public opinion.

What are the facts? Number one, it seems to us, is the fact that no man can justify an immigration policy which by design makes it impossible for all members of a family to live together, just because some are unfortunate enough to be brothers and sisters, rather than husbands and wives. Number two, we would say is the fact that it is foolish for Americans in public life to plead for the expenditure of billions for the education and training of people in sorely needed technical skills and at the same time deny entry into the United States of the people who have grown up learning and developing those very same skills — denying entry to them merely because they can handily be labeled foreigners.

If there are members of Congress who can satisfy the pleader of a cause bottomed on these facts that he is right in his opposition to the admission of any more immigrants, then we shall have to be content with a restrictive and discriminatory immigration policy, based, in the final analysis on "Know-Nothingism" out of which it originally sprung. We hazard the opinion that few members of Congress, when confronted with the necessity of making a decision based solely on these two facts, will insist on the perpetuation of the attitude which was responsible for the McCarran-Walter Act. Admittedly, the lawyer who represents himself in court has a fool for a client, but it does seem from this

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