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Introduction

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Introduction

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The subject of immigration has received more attention than ever before. It has appeared on the front page of every major newspaper in the country, has been featured in the news magazines and on local and network television, and has been written and spoken about by numerous advocates of differing positions.

Still, it remains more of an emotional issue than one which is clearly understood. Facts about immigration—both legal and illegal—are too few, and too many policies have had to be made without adequate knowledge of their impact upon the people whom they affect.

The immigration laws themselves remain a murky maze of seemingly contradictory passages, granting a benefit in one section and taking it away in another. It has been said that of all the federal laws only the internal revenue code is more complex.

So it is refreshing and of great potential benefit, both to members of the legal profession and to the general public, for a publication such as the *San Diego Law Review* to devote attention to providing in-depth information on immigration law and various views and interpretations of it. The authors of the Articles in this edition are noted in their fields as among the most knowledgeable about immigration law, both in theory and in practice. The various Articles have much to offer anyone who will take the time to read them thoughtfully.

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Former Board of Immigration Appeals Chairman Maurice A. Roberts writes from experience of the unique nature of immigration cases which come before that appeals body, and he notes with regret that its position is so tenuous that it can be eliminated by the single stroke of a pen in the hands of an attorney general.¹ His Article helps us understand the emotional involvement of people in immigration law, stating that "our immigration laws directly and exclusively affect human beings. In constant opposition to the Government's restrictive and selective immigration policies are the interests of the men, women and children whose hopes for future happiness frequently depend on their ability to enter or remain in this country."²

In this age when refugees from war, natural disasters and economic conditions hopefully seek to relocate in a safe haven, Richard Plender writes knowledgeably about their plight.³ As a lawyer and adviser to the United Kingdom and Ireland on refugee situations, he notes that since World War II, the number of refugees in the world has not fallen below 5,000,000.⁴ He voices concern that only half of these are officially the concern of the United Nations High Commissioner for Refugees, the international community's principal functionary charged with their protection.

Former INS General Counsel Charles Gordon writes from the perspective of nearly a half century in immigration law about the substantial impact of judicial review upon those laws.⁵ He notes that the courts have imposed limits on the authority of Government officers, have increased their participation in the immigration administrative process to promote fairness, and have reacted to humanitarian concerns and profound hardships. Mr. Gordon also discusses how the courts have increased the economic protection of resident aliens against restrictive actions, demonstrated a willingness to confront constitutional challenges to deportation statutes, and displayed a vigilance in safeguarding citizenship rights and status.⁶

The Article by Elwin Griffith provides some new insights into relief for aliens whose violation of the immigration laws would ordinarily subject them to deportation or exclusion.⁷ The Article also

1. Roberts, *The Board of Immigration Appeals: A Critical Appraisal* 15 SAN DIEGO L. REV. 29, 30 (1977).

2. *Id.* at 30-31.

3. Plender, *Admission of Refugees: Draft Convention on Territorial Asylum*, 15 SAN DIEGO L. REV. 45 (1977).

4. *Id.*

5. Gordon, *Recent Developments in Judicial Review of Immigration Cases*, 15 SAN DIEGO L. REV. 9 (1977).

6. *Id.* at 24-28.

7. Griffith, *Exclusion and Deportation: Some Avenues of Relief for the Alien*, 15 SAN DIEGO L. REV. 79 (1977).

examines the judicial trend and questions whether Congress' intentions in providing statutory relief are in fact being honored.

In perhaps the most provocative Article, immigration scholar and researcher Walter Fogel discusses the impacts of unlawful immigration to the United States.⁸ The author covers five different kinds of impacts from illegal immigration: sociopolitical, population, labor standards, direct social welfare costs, and market. The Article also focuses upon two aspects of illegal immigration: the effects of undocumented aliens—particularly upon the labor market—and a policy for dealing with unlawful immigration.⁹

Stephen H. Legomsky, former student director of the University of San Diego Immigration Clinic, writes on sentencing considerations of the alien criminal defendant.¹⁰ In his Article he notes that

[i]t is an anomaly of American immigration law that the sentencing judge—in federal and state courts alike—frequently makes the real decision on whether an alien convict is to be deported. Because the anomaly is largely unrecognized, this decision is often made unwittingly, without regard to whether such a sanction is desirable in the individual case.¹¹

The Immigration Symposium also includes two student Comments. One of these deals with the current status of the law regarding resident aliens and federal civil service employment. Examining the history of aliens' constitutional rights and the sources of congressional and executive power over aliens, the author concludes that either an executive or a congressional denial of federal employment to resident aliens would violate the alien's due process guarantee under the fifth amendment.¹²

The other student Comment discusses the precarious constitutional status of the Indochinese refugees paroled into the United States since the end of the Vietnam War. Rejecting the contention of many legislators, writers and judges that the refugees have far fewer constitutional rights than do permanent resident aliens, the author presents a formidable array of arguments stressing the refugees' entitle-

8. Fogel, *Illegal Aliens: Economic Aspects and Public Policy Alternatives*, 15 SAN DIEGO L. REV. 63 (1977).

9. *Id.* at 64-68.

10. Legomsky, *The Alien Criminal Defendant: Sentencing Considerations*, 15 SAN DIEGO L. REV. 105 (1977).

11. *Id.* at 105, 106.

12. Comment, *Federal Civil Service Employment: Resident Aliens Need Not Apply*, 15 SAN DIEGO L. REV. 171 (1977).

ment to greater constitutional rights and outlines the role of Congress and the courts in expanding these rights.¹³

In his recent message to the Congress, President Carter stated that present immigration statutes are in need of a comprehensive review and directed the Secretary of State, the Attorney General, and the Secretary of Labor to begin a thorough interagency study of existing laws and policies. Mr. Eilberg, Chairman of the House Subcommittee on Immigration, Citizenship and International Law has also consistently cited this need for a comprehensive overhaul.

Articles such as these which appear in this edition of the *San Diego Law Review* can be of significant value in conducting such a review as well as holding importance for the practitioner or student of today's immigration law. I am confident that many will find this a valuable addition to the study and knowledge of immigration law and policy.

13. Comment, *Extending the Constitution to Refugee-Parolees*, 15 SAN DIEGO L. REV. 139 (1977).