scrutiny.[1799] However, the "political function" standard is elastic, and so long as disqualifications are attached to specific occupations [1800] rather than to the civil service in general, as in *Sugarman*, the concept seems capable of encompassing the exclusion.

When confronted with a state statute that authorized local school boards to exclude from public schools alien children who were not legally admitted to the United States, the Court determined that an intermediate level of scrutiny was appropriate and found that the proffered justifications did not sustain the classification.[1801] Because it was clear that the undocumented status of the children was relevant to valid government goals, and because the Court had previously held that access to education was not a "fundamental interest" that triggered strict scrutiny of governmental distinctions relating to education,[1802] the Court's decision to accord intermediate review was based upon an amalgam of at least three factors. First, alienage was a characteristic that provokes special judicial protection when used as a basis for discrimination. Second, the children were innocent parties who were having a particular onus imposed on them because of the misconduct of their parents. Third, the total denial of an education to these children would stamp them with an "enduring disability" that would harm both them and the state all their lives.[1803] The Court evaluated each of the state's attempted justifications and found none of them satisfying the level of review demanded.[1804] It seems evident that *Plyler v. Doe* is a unique case

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[1799] 454 U.S. at 438–39.

[1800] Thus, the statute in *Chavez-Salido* applied to such positions as toll-service employees, cemetery sextons, fish and game wardens, and furniture and bedding inspectors, and yet the overall classification was deemed not so ill-fitting as to require its voiding.

[1801] Plyler v. Doe, 457 U.S. 432 (1982). Joining the opinion of the Court were Justices Brennan, Marshall, Blackmun, Powell, and Stevens. Dissenting were Chief Justice Burger and Justices White, Rehnquist, and O'Connor. Id. at 242.

[1802] In San Antonio School Dist. v. Rodriguez, 411 U.S. 1 (1973), while holding that education is not a fundamental interest, the Court expressly reserved the question whether a total denial of education to a class of children would infringe upon a fundamental interest. Id. at 18, 25 n.60, 37. The *Plyler* Court's emphasis upon the total denial of education and the generally suspect nature of alienage classifications left ambiguous whether the state discrimination would have been subjected to strict scrutiny if it had survived intermediate scrutiny. Justice Powell thought the Court had rejected strict scrutiny, 457 U.S. at 238 n.2 (concurring), while Justice Blackmun thought it had not reached the question, id. at 235 n.3 (concurring). Indeed, their concurring opinions seem directed more toward the disability visited upon innocent children than the broader complex of factors set out in the opinion of the Court. Id. at 231, 236.

[1803] 457 U.S. at 223–24.

[1804] Rejected state interests included preserving limited resources for its lawful residents, deterring an influx of illegal aliens, avoiding the special burden caused by these children, and serving children who were more likely to remain in the state and contribute to its welfare. 457 U.S. at 227–30.