

## Sec. 8—Powers of Congress

## Cl. 4—Naturalization and Bankruptcies

tion as to their deportability, is not unconstitutional.<sup>1297</sup> Nor was it unconstitutional to deport under the Alien Registration Act of 1940<sup>1298</sup> a legally resident alien because of membership in the Communist Party, although such membership ended before the enactment of the Act. Such application of the Act did not make it *ex post facto*, being but an exercise of the power of the United States to terminate its hospitality *ad libitum*.<sup>1299</sup> And a statutory provision<sup>1300</sup> making it a felony for an alien against whom a specified order of deportation is outstanding “to willfully fail or refuse to make timely application for travel or other documents necessary to his departure” was not on its face void for “vagueness.”<sup>1301</sup> An alien unlawfully in the country “has no constitutional right to assert selective enforcement as a defense against his deportation.”<sup>1302</sup>

## BANKRUPTCY

## Persons Who May Be Released From Debt

In an early case on circuit, Justice Livingston suggested that inasmuch as the English statutes on the subject of bankruptcy from the time of Henry VIII down had applied only to traders it might “well be doubted, whether an act of Congress subjecting to such a law every description of persons within the United States, would comport with the spirit of the powers vested in them in relation to this subject.”<sup>1303</sup> Neither Congress nor the Supreme Court has ever accepted this limited view. The first bankruptcy law, passed in 1800, departed from the English practice to the extent of including bankers, brokers, factors, and underwriters as well as traders.<sup>1304</sup> Asserting that the narrow scope of the English statutes was a mere matter of policy, which by no means entered into the nature of such laws, Justice Story defined bankruptcy legislation in the sense of the Constitution as a law making provisions for cases of persons failing to pay their debts.<sup>1305</sup>

<sup>1297</sup> *Carlson v. Landon*, 342 U.S. 524 (1952). In *Reno v. Flores*, 507 U.S. 292 (1993), the Court upheld an INS regulation providing for the ongoing detention of juveniles apprehended on suspicion of being deportable, unless parents, close relatives, or legal guardians were available to accept release, as against a substantive due process attack.

<sup>1298</sup> 54 Stat. 670. For existing statutory provisions as to deportation, see 8 U.S.C. §§ 1251 *et seq.*

<sup>1299</sup> *Carlson v. Landon*, 342 U.S. 524 (1952).

<sup>1300</sup> 8 U.S.C. § 1252(e).

<sup>1301</sup> *United States v. Spector*, 343 U.S. 169 (1952).

<sup>1302</sup> *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 488 (1999).

<sup>1303</sup> *Adams v. Storey*, 1 Fed. Cas. 141, 142 (No. 66) (C.C.D.N.Y. 1817).

<sup>1304</sup> 2 Stat. 19 (1800).

<sup>1305</sup> 2 J. STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES 1113 (1833).