jority overruled the 1958 decision permitting expatriation for voting in a foreign election and announced a constitutional rule against all but purely voluntary renunciation of United States citizenship. The majority ruled that the first sentence of § 1 of the Fourteenth Amendment constitutionally vested citizenship in every person "born or naturalized in the United States" and that Congress was powerless to take that citizenship away.[1262] The continuing vitality of this decision was called into question by another five-to-four decision in 1971, which technically distinguished *Afroyim* in upholding a congressionally prescribed loss of citizenship visited upon a person who was statutorily naturalized "outside" the United States, and held not within the protection of the first sentence of § 1 of the Fourteenth Amendment.[1263] Thus, although *Afroyim* was distinguished, the tenor of the majority opinion was hostile to its holding, and it may be that a future case will overrule it.

The issue, then, of the constitutionality of congressionally prescribed expatriation is unsettled.

ALIENS

Admission

The power of Congress "to exclude aliens from the United States and to prescribe the terms and conditions on which they come in" is absolute, being an attribute of the United States as a sovereign nation. "That the government of the United States, through the action of the legislative department, can exclude aliens from its territory is a proposition which we do not think open to controversy. Jurisdiction over its own territory to that extent is an incident of every independent nation. It is a part of its independence. If it could not exclude aliens, it would be to that extent subject to the control of another power. . . . The United States, in their relation to foreign countries and their subjects or citizens, are one nation, invested with powers which belong to independent nations, the exer-

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[1262] Justice Harlan, for himself and Justices Clark, Stewart, and White, argued in dissent that there was no evidence that the drafters of the Fourteenth Amendment had at all the intention ascribed to them by the majority. He would have found in Afroyim's voluntary act of voting in a foreign election a voluntary renunciation of United States citizenship. 387 U.S. at 268.

[1263] Rogers v. Bellei, 401 U.S. 815 (1971). The three remaining *Afroyim* dissenters plus Chief Justice Burger and Justice Blackmun made up the majority, the three remaining Justices of the *Afroyim* majority plus Justice Marshall made up the dissenters. The continuing vitality of *Afroyim* was assumed in Vance v. Terrazas, 444 U.S. 252 (1980), in which a divided Court upheld a congressionally imposed standard of proof, preponderance of evidence, by which to determine whether one had by his actions renounced his citizenship.