

Sec. 8—Powers of Congress

Cl. 4—Naturalization and Bankruptcies

ing a fifteen-year durational residency period before an alien could be eligible for welfare assistance.¹²⁸⁵ Congress had provided, Justice Blackmun wrote for a unanimous Court, that persons who were likely to become public charges could not be admitted to the United States and that any alien who became a public charge within five years of his admission was to be deported unless he could show that the causes of his economic situation arose after his entry.¹²⁸⁶ Thus, in effect Congress had declared that lawfully admitted resident aliens who became public charges for causes arising after their entry were entitled to the full and equal benefit of all laws for the security of persons and property and the states were disabled from denying aliens these benefits.¹²⁸⁷

Deportation

Unlike the exclusion proceedings,¹²⁸⁸ deportation proceedings afford the alien a number of constitutional rights: a right against self-incrimination,¹²⁸⁹ protection against unreasonable searches and seizures,¹²⁹⁰ guarantees against *ex post facto* laws, bills of attainder, and cruel and unusual punishment,¹²⁹¹ a right to bail,¹²⁹² a right to procedural due process,¹²⁹³ a right to counsel,¹²⁹⁴ a right to notice of charges and hearing,¹²⁹⁵ and a right to cross-examine.¹²⁹⁶

Notwithstanding these guarantees, the Supreme Court has upheld a number of statutory deportation measures as not unconstitutional. The Internal Security Act of 1950, in authorizing the Attorney General to hold in custody, without bail, aliens who are members of the Communist Party of the United States, pending determina-

¹²⁸⁵ *Graham v. Richardson*, 403 U.S. 365 (1971). See also *Sugarman v. Dougall*, 413 U.S. 634 (1973); *In re Griffiths*, 413 U.S. 717 (1973); *Cabell v. Chavez-Salido*, 454 U.S. 432 (1982).

¹²⁸⁶ 8 U.S.C. §§ 1182(a)(8), 1182(a)(15), 1251(a)(8).

¹²⁸⁷ See 42 U.S.C. § 1981, applied in *Takahashi v. Fish & Game Comm'n*, 334 U.S. 410, 419 n.7 (1948).

¹²⁸⁸ See *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950), where the Court noted that “[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned.”

¹²⁸⁹ *Kimm v. Rosenberg*, 363 U.S. 405 (1960).

¹²⁹⁰ *Abel v. United States*, 362 U.S. 217, 229 (1960).

¹²⁹¹ *Marcello v. Bonds*, 349 U.S. 302 (1955).

¹²⁹² *Carlson v. Landon*, 342 U.S. 524, 540 (1952).

¹²⁹³ *Wong Yang Sung v. McGrath*, 339 U.S. 33, 49 (1950). See discussion of aliens’ due process rights under the Fifth Amendment, *Aliens: Entry and Deportation*.

¹²⁹⁴ 8 U.S.C. § 1252(b)(2).

¹²⁹⁵ 8 U.S.C. § 1252(b)(1).

¹²⁹⁶ 8 U.S.C. § 1252(b)(3).