

B418. "Aliens Are Not Part of the Club Yet" Los Angeles Times (May 4, 2003) p. M5.

Let me be blunt: Immigrants are not entitled to the same rights as citizens.

That doesn't mean we should mistreat them. We should certainly provide them with the benefit of the doubt -- and the presumption of innocence -- when we can. And of course there are some basic rights to which all people, immigrants included, are entitled, such as the right not to be tortured or summarily executed. But these basic rights do not include the right to be in someone else's country.

That's why it is perfectly reasonable to hold non-citizens without a hearing and deport them without a trial if they sneak into the country, or overstay their visas, or commit a crime, or even if we simply suspect they might be terrorists. The U.S. Supreme Court said almost as much last week when it ruled that immigrants who had committed serious crimes -- whether they entered the country legally or illegally -- may be detained and deported without the due process rights to which American citizens are automatically entitled.

The fact is that an immigrant, as I once was, is not a citizen but rather is a candidate for citizenship. A major reason we do not generally bestow citizenship on aliens on the first day they get off the boat is that we first seek to determine whether they are willing to be upstanding members of our community. For the same reason, we check their criminal record before we let them in.

Moreover, even after immigrants have been in the U.S. for a given number of years, we still do not automatically grant them citizenship. First we test their knowledge of the way our government works and their command of English. True, these citizenship tests have been made so easy that they no longer amount to much. But they are one more indication that citizenship is a privilege that immigrants have to earn. Surely committing a crime is a violation of the implicit deal we are making with immigrants. The deal is as follows: You show us for a period that you can behave, and we will make you a member of the club.

The Supreme Court's recent decision has upset civil libertarians, who see it as one more case in which rights are sacrificed for national security. But this rhetoric is profoundly misleading because it makes an erroneous presumption: that the turf belongs to rights, and any incursion to accomplish any other social good is a painful "sacrifice." But we might just as easily look at it the other way around: How much security should we sacrifice to protect our rights?

We face here two partly incompatible demands: to protect our lives and to protect our rights. Which should get precedence? When dealing with aliens who are convicted felons and may endanger our security, the answer is obvious. Their claim of a right to be here is minimal; their damage to the public good is already established. I say: Buy them one-way tickets.

Civil libertarians like to compare the recent detentions of non-citizens who are suspected of having links to terrorism to the shameful detention of the Japanese during World War II. But this is completely unfair. In that case, most of the detainees were citizens; in this case, most are not. In that case, more than 100,000 people were detained; this time, it's a few hundred.

Americans have long debated how to balance our rights against our security. Before the Church Commission hearings in the 1970s, the government, and especially J. Edgar Hoover's FBI, went way overboard in seeking to protect us from a vastly overblown threat of

communism -- violating the rights of Americans without rhyme or reason. After the Church Commission, numerous limitations were set on government powers, including a ban on the use of unsavory agents as overseas informants, tighter rules on passing CIA information to the FBI under most circumstances and an across-the-board halt to assassinations by the American government.

One reason the events of 9/11 were able to occur was because our security was neglected. The USA Patriot Act and several other post-9/11 measures are designed to correct the over corrections of the 1970s. We may well have overshot the mark again. Detaining American citizens as material witnesses for a long period, for instance, without bringing any charges against them should not be allowed.

To sort out where we have gone too far requires a careful and judicious evaluation of one measure at a time, not a wholesale claim that the Constitution is being shredded, and surely not that we must treat each and every alien as if he were one of us.