



Immigration Update

By H. Raymond Fasano

Commentary: Immigration Trapped in the Vortex of Politics as It Stalls in the House

“... all men might be free, if they had but virtue enough to be so.”¹

While I was in college, I was influenced by the writing of Gordon S. Wood and his instruction on the intellectual might that fueled the American Revolution. What struck me—and led me to pursue a career in law—were his thoughts on the concept of virtue, or as our nation’s Founding Fathers often referred to it as “virtus.”

“[W]hile the Romans, for example, maintained their love of virtue, their simplicity of manners, their recognition of true merit, they raised their state to the heights of glory,”² Wood writes.

Our nation was founded on this ideal of public virtue: Putting the public good before private interest. Wood explains that the United States was framed as a republic because “in theory no state was more beautiful than a republic, whose whole objective by definition was the good of the people.” However, now it seems the concept of virtue has been lost in the politics that have ensnared immigration reform.

Let me be clear, we are very confident that immigration reform, in one form or another will be a reality in the near future. Indeed, those that may benefit from immigration reform, the so called “provisional immigrants,”³ should do everything they can *now* to prepare for the reform registration, such as ensuring they have paid their taxes,⁴ collecting documentation that establishes they were present in the United States prior to Dec. 31, 2011, obtaining their immigration files if they ever had contact with immigration or border security in the United States, making sure they are not collecting public benefits, such as food stamps, and obtaining proof of income. Being prepared *now* for what will likely occur in the future is the best insurance for success.

Despite our optimism about immigration reform becoming a reality, the House of Representatives has demonstrated that politics as usual, the anathema of public virtue, is delaying what should be an expedient intellectual pursuit. The logic of immigration reform compels that the House act with deliberate speed to meet

the goals of the Senate’s Border Security, Economic Opportunity and Immigration Modernization Act of 2013 (*BSEOIMA*). It is disheartening to learn that Rep. Paul Labrador (R-Idaho) has dropped out of the House “Gang of Eight” after an impasse on whether provisional immigrants would be eligible for health care. *Politico.com* reported that the issue had recently become a “major sticking point between Democrats and Republicans, and the negotiations had teetered on the edge of collapse at least three times in the last several weeks before drawing closer to an agreement again.”⁵

The public good overrides any private interest that would be negatively affected by immigration reform. For instance, the National Pork Producer’s Council (NPPC) supports immigration reform. Its website endorses immigration reform as follows:

NPPC supports immigration reform legislation that secures the country’s borders in a way that is fair and just; allows access to a legal workforce but does not place undo burdens on employers; addresses the labor needs of specific industry sectors, including agriculture; and presents a “common sense” solution for the undocumented workers already in the United States. NPPC supports a temporary worker visa program.⁶

In addition to the agricultural marketplace supporting immigration reform, business and faith leaders support common-sense immigration reform. Michael O’Connor, director of state government affairs for Eli Lilly has said, “We are a nation of immigrants . . . Our strength is built on the fact that we brought diverse backgrounds” together and allowed them to work.” The bill, he said, could provide a “national solution to a broken system.”⁷

Those who oppose immigration reform should be reminded of the importance of public virtue. Clearly, our immigration system is broken. If the United States is to remain competitive in this century, it must embrace the fact that we live in a global era. Proponents of protectionism, border security, and law and order must confront

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the reality that the public's need commands immigration reform. To do nothing in the face of principle does nothing but reduce the Republican Party to the permanent party of opposition that has no direction or leadership to guide the country through the turbulent waters of our era. ☉

Endnotes

¹Gordon S. Wood, *THE CREATION OF THE AMERICAN REPUBLIC*, 34 (1776-1787)(quoting JOSEPH PERRY, A SERMON, PREACHED BEFORE THE GENERAL ASSEMBLY OF THE COLONY OF CONNECTICUT, AT HARTFORD ON THE DAY OF THEIR ANNIVERSARY ELECTION, May 11, 1775 (Hartford 1775) (other citations omitted)(Copyright 1969 by the University of North Carolina Press).

²*Id.* at 35.

³ *BSEOIMA*, Immigrant Visas, § 2101(b).

⁴Julia Preston, *Q. and A.: The Senate Immigration Bill*, N.Y. TIMES (April 22, 2013), www.nytimes.com/2013/04/23/us/politics/q-and-a-the-senate-immigration-bill.html?pagewanted=all&r=0.

“Under the Senate bill, the IRS would impose back-tax assessments based on a review of the information provided by undocumented immigrants applying for registered provisional status to U.S. Citizenship and Immigration Services, the agency that will handle those applications. The immigrants would have to pay all taxes they owe, but they would not be subject to prosecution for failing to pay them.

There are no good estimates of how many immigrants applying for provisional status would owe unpaid taxes or how much they would owe. Even though most undocumented immigrants do not have valid Social Security numbers, many file tax returns using individual taxpayer identification numbers they can obtain from the IRS.”

⁵Seung Min Kim, *Raul Labrador Exiting House Immigration Group*, POLITICO (June 5, 2013), www.politico.com/story/2013/06/house-immigration-group-trouble-92282.html#ixzz2VRpFfxHn.

⁶NATIONAL PORK PRODUCERS COUNCIL, *Immigration Reform*, www.nppc.org/issues/agriculture-industry/immigration-reform/.

⁷“Business, Faith Leaders Call for Senator Joe Donnelly to Support Immigration Reform,” www.indystar.com/article/20130604/NEWS/306040081/Business-faith-leaders-call-Senator-Joe-Donnelly-support-immigration-reform.

Editorial Policy

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The Federal Lawyer is edited by members of its Editorial Board, who are all members of the Federal Bar Association. Editorial and publication decisions are based on the board's judgement.

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judge. Seton Hall School of Law students Sean Kennedy and Amanda Leone came out on top as the overall champion team. New York Law School students Alexander Noble and Lily Ockert finished second.

The remaining winners of the competition are as follows:

2013 Moot Court Winners

First Place Team	Seton Hall
Second Place Team	New York Law School
Third Place Team	University of California Hastings College of Law
First Brief	Seton Hall
Second Brief	New York Law School
Third Brief	University of Miami
First Oralist (Prelim)	Jacqueline Hamer • Baylor Law School
Second Oralist (Prelim)	Stephen Bachran • St. Mary's University
Third Oralist (Prelim)	Benjamin Rigg • University of Dayton
Best Final Round Oralists	Sean Kennedy • Seton Hall

Competition directors Adine Momoh, YLD board member, and Kelly Scalise, chair of the YLD, thank all who volunteered their time to serve as judges and bailiffs during the two-day competition; the final panel judges; the YLD Thurgood A. Marshall Moot Court Committee, especially Joey Bowers, incoming co-director and YLD board member; the Superior Court of the District of Columbia, the U.S. Court of Federal Claims, and the U.S. Court of Appeals for the Armed Forces for hosting this year's competition; the participants and their coaches, who continue to impress us all with their oral advocacy skills, careful preparation, and ability to make this competition a rewarding experience for everyone involved; and of course, the dedicated FBA staff, without whose efforts the competition could not have been a success.

If you know of any law students eager to learn about federal practice, please encourage them to participate in the Thurgood A. Marshall Memorial Moot Court Competition. The YLD looks forward to 2014, when the bar will be raised even higher, as 50 teams are expected to compete. ☉