The Phyllis Schlafly Report

VOL. 44, NO. 12 | P.O. BOX 618, ALTON, ILLINOIS 62002 | JULY 2011

States Confront Illegal Alien Problems

E-Verify, a computer process that makes it fast and easy for employers to check the validity of employees' Social Security numbers to ascertain if they are legal, was created by Congress as a voluntary system. It demonstrates its utility by verifying individuals within a few seconds with 99.5% accuracy, but only about 2% of businesses actually use it.

Arizona passed the Legal Arizona Workers Act in 2007 to require the use of E-Verify for new hires by businesses in that state and to allow the state to revoke the business license of any company that knowingly employed illegal aliens. That law was signed by then-Arizona Governor Janet Napolitano, a Democrat, who is now director of the Department of Homeland Security.

On May 26, 2011, the U.S. Supreme Court, in a 5-to-3 decision (*Chamber of Commerce v. Whiting*) upheld the Arizona law. The Court rejected the pro-amnesty claque's argument that immigration enforcement is exclusively the federal government's responsibility. A similar case from Hazleton, Pennsylvania was remanded by the High Court to the Third Circuit to be reconsidered in light of the Arizona decision. Hazleton's ordinance to protect itself against employers hiring illegal aliens was so popular with voters that they reelected its sponsor, Mayor Lou Barletta, and then elected him to Congress in 2010.

The Alabama State Legislature, by large margins, passed a bill, HB56, which covers most areas of abuses by illegal aliens. Like the Arizona law upheld by the Supreme Court, Alabama's HB56 requires employers to verify the legal status of their employees by using the federal government's E-Verify program. The employer doesn't commit a crime if he fails to use E-Verify, but he could lose his business license, which the state government has the authority to revoke.

HB56 requires proof of citizenship or residency before voting, a giant protection against vote fraud. It prohibits aliens not lawfully present in the United States from receiving state or local financial benefits.

HB56 requires public schools in Alabama to ascertain students' immigration status, giving parents of foreign-born children the opportunity to confirm lawful status by providing a sworn statement. It also compels Alabama's public schools to inform taxpayers, who are footing the costs, of the total cost of educating illegal aliens in the schools.

HB56 bars businesses from taking state tax deductions on wages paid to illegal aliens, and makes it an offense to knowingly rent living quarters to an illegal alien. HB56 bars illegal aliens from enrolling in any state-funded, public college in Alabama. The law's sponsors, Sen. Scott Beason and Rep. Micky Hammon, properly related the illegal alien problem to the unemployment problem. Hammon said, "This is a jobs-creation bill for Americans."

Since Arizona's law went into effect, 80,000 illegal aliens have already left that state. Their voluntary departure is without cost to the taxpayers.

The Supreme Court decision in the Arizona E-Verify case was a tremendous victory for the right of the states to have a greater say about immigration issues. Three other states also make E-Verify mandatory. A half-dozen others require the use of E-Verify for state employees or contractors. Kansas Secretary of State Kris Kobach, a national authority on immigration issues, said the Supreme Court's decision signaled that it will set a high threshold before ruling that a state law conflicts with federal law.

We Need a Good E-Verify Law

The pro-amnesty U.S. Chamber of Commerce, which was the loser in the Arizona case, conspired with House Judiciary Committee chairman Rep. Lamar Smith (R-TX) to introduce H.R. 2164 that, unless amended, will reverse Arizona's significant victory. This bill sounds helpful because it pretends to make E-Verify mandatory nationwide, but it actually ties the hands of the states. H.R. 2164 preempts the states from requiring use of E-Verify unless employees work for state or local governments.

H.R. 2164 forbids the states from using their constitutional power to revoke licenses from businesses that hire illegal aliens *unless* there has been "a showing by the Secretary of Homeland Security, by clear and convincing evidence, that the employer had knowledge that an employee is an unauthorized

alien." There is no likelihood that the Obama Administration will prosecute employers who go through the motions of using E-Verify but fail to fire the illegals, or who contract out part of their workforce to circumvent the system.

The arguments for Lamar Smith's H.R. 2164 are fallacious. We are told that only the federal government can do anything about the immigration issue, but the recent Supreme Court decision provides the definitive rebuttal to that.

We're told we need a nationwide congressional law because states like California and New York will never pass an Arizona-style law. Now that states have the go-ahead from the Supreme Court to implement mandatory E-Verify and voluntary attrition is taking place, there's a better chance that many more states will imitate Arizona than that the Obama Administration will ever enforce E-Verify.

We are told that Arizona's law, and similar laws passed by other states including Alabama, Missouri and Georgia, were passed only to prod the federal government into taking action and H.R. 2164 is the appropriate result. In fact, those state laws were passed to protect their own citizens from the enormous costs of dealing with illegal aliens by schools, hospitals and various welfare programs, and to protect their citizens against unfair competition for jobs in our current period of high unemployment.

Illegal immigration is a vast unfunded mandate. Given that states are mandated by the Supreme Court's 5-to-4 decision in *Plyler v. Doe* in 1982 to admit illegal alien children into tax-supported schools, and mandated by Congress to give illegal aliens health care in hospital emergency rooms, the states should have the power to defend themselves.

The *Plyler v. Doe* decision struck down a Texas law and created the requirement that Texas must provide free public education to illegal-alien children. This gave foreigners a powerful incentive to sneak into our country, enroll their children in our public schools, and start demanding other benefits paid for by U.S. taxpayers.

An additional way to get employers to obey the law against employing illegal aliens would be to amend H.R. 2164 with Rep. Steve King's (R-IA) proposal to make E-Verify a condition for the employer to take a tax deduction for wages paid, a provision already adopted by Alabama. That would put the incentive on the employer where it belongs, and we would not need prosecutions or deportations.

Rep. Lou Barletta (R-PA) says about Lamar Smith's bill, "The Supreme Court says state and local laws can be enforced, and now the federal government wants to take that power away. We cannot allow this to happen." The bottom line is that Lamar Smith's H.R. 2164 must be amended to allow concurrent enforcement by the states, and to strike the sections that allow businesses to continue to employ illegal aliens *unless* the Obama Administration actually takes action against them.

Detach the Anchor from Anchor Babies

It's long overdue for Congress to stop the racket of bringing pregnant women into this country to give birth, receive free medical care, and then call their babies U.S. citizens entitled to all American rights and privileges plus generous handouts. Between 300,000 and 400,000 babies are born to illegal aliens in the United States every year, at least 10% of all births and about 40% of indigent births.

We have tolerated an entire industry called "birth tourism," offering "birth packages" costing thousands of dollars, to import pregnant women from all over the world, Korea to Turkey (12,000 U.S.-born Turkish babies have been arranged since 2003). An electronic billboard in Mexico, advertising the services of an American doctor, proclaims, "Do you want to have your baby in the U.S.?"

The advantages of birthright citizenship are immense. The babies get Medicaid (including birth costs), Temporary Assistance to Needy Families (TANF), and food stamps. Of course, the baby shares his goodies with his family. As soon as the child becomes an adult, he can legalize his parents, bring into the U.S. a foreign-born spouse and any foreign-born siblings. They all can then bring in their own extended families, a policy called chain migration.

The Citizenship Clause of the Fourteenth Amendment states that U.S. citizens are "all persons born or naturalized in the United States and subject to the jurisdiction thereof." Federal law uses almost identical language. "Subject to the jurisdiction thereof" is an essential part of the definition.

History emphatically confirms the importance and necessity of those five words. American Indians with allegiance to their tribes, despite being born on American soil, did not receive U.S. citizenship until it was conferred by congressional acts in 1887, 1901 and 1924. Babies born to diplomats or their wives who happen to be in the United States at the moment of birth are not U.S. citizens.

The purpose of the citizenship clause of the Fourteenth Amendment, ratified in 1868, was to assure that blacks are citizens, thus overturning the U.S. Supreme Court's infamous, supremacist *Dred Scott* ruling that blacks could not be citizens.

Babies born in the U.S. to illegal aliens are clearly citizens of their mother's country, so granting U.S. citizenship creates the possibility of dual citizenship, which the United States does not recognize as valid. If anchor babies have citizenship in their parents' country, they should not have U.S. citizenship.

Dual citizenship is also a problem because some immigrants have falsely been led to believe that they are or can be dual citizens. Mexico even named a cabinet minister whose mission is to encourage Mexicans (both illegals and naturalized U.S. citizens) to vote in Mexican elections and, as he said, to "think Mexico first."

To become a U.S. citizen, immigrants are required by our law not only to swear allegiance to the United States but also to absolutely renounce any and all allegiance to the nation from which they came. There is no ambiguity about the solemn oath that all naturalized Americans must take:

> I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; . . . and that I take this obligation freely without any mental reservation or purpose of evasion; so help me God.

Any naturalized U.S. citizen who claims dual citizenship with his native country betrays his solemn oath. We want immigrants to come to America and become Americans; we want patriotic assimilation. The peculiar notion that foreigners residing illegally in the United States should enjoy the same rights as American citizens is found nowhere in the U.S. Constitution or federal law.

Bills to limit birthright citizenship to children of U.S. citizens have been introduced in Congress every year since 1993, most recently by Rep. Steve King (R-IA). He is not trying to amend the Constitution. He is simply trying to get the Fourteenth Amendment enforced as it was written and not as the open-borders crowd wish it had been written. The Fourteenth Amendment's Section 5 gives Congress (not the judiciary, not the executive branch) the power to enforce the Citizenship Clause.

Why does the United States allow this racket to continue? Congress has failed to do its duty to protect American citizenship, sovereignty, and taxpayers. Terminating the anchor baby racket is very popular with the American people. The Rasmussen poll reports that 61% of likely voters oppose automatic U.S. citizenship, while only 28% favor it.

DREAM Act Is Backdoor Amnesty

The American people rose up out of their usual apathy in 2007 and soundly defeated the Bush-Kennedy-McCain-Kyl bill to give amnesty to illegal aliens. But the open-borders crowd keeps agitating to legalize more and more illegal aliens. They keep trying to pass a backdoor amnesty called the DREAM Act, which is really a nightmare for Americans. The cutesy title DREAM is meant to be a *double entendre*. It's an acronym for Development, Relief, and Education for Alien Minors.

Congressional and state versions of the DREAM Act vary slightly, but its essential revisions are these. The DREAM Act would allow any illegal alien of any age who entered the United States before age 16, and has a high school diploma or equivalent, to enroll in any of the state's universities and pay only the in-state tuition rate. Being illegal is the prerequisite to getting this preferential treatment, which is denied to U.S. citizens of other states and to legal aliens with valid student visas.

In-state tuition can amount to a taxpayer subsidy of up to $20,000 a year, depending on what the university charges students from the other 49 states. The illegal alien also becomes eligible for taxpayer-paid federal student loans and federal work-study programs, for which lawful foreign students are not eligible.

There is no upper age limit; any illegal is eligible for this preference by declaring he entered the U.S. illegally before his 16th birthday. The illegal alien doesn't have to prove when he entered the U.S.; he can simply make a sworn statement.

But that's not all. The illegal aliens would be rewarded with conditional lawful permanent resident (green card) status, which can be converted to a non-conditional green card. The alien can use his new legal status to seek green cards for the parents who illegally brought him into our country.

The alien has six years to convert his green card from conditional to non-conditional. He just needs to complete two years of study at a college or serve two years in the military, and if he has already had two years of college, he can convert his green card to non-conditional immediately.

The illegal alien who applies for this DREAM Act amnesty can count his years under conditional green card status toward the five years needed for citizenship. That's a fast track to citizenship that is not available to aliens who are lawfully present in our country. Once an alien files an application, the government cannot deport him.

In-state college tuition is very unpopular with the American people. Arizona's Proposition 300, which specifically bars Arizona universities from giving in-state tuition rates to illegal aliens, passed with a majority of 71.4%.

Support for in-state tuition rates for illegals was the number-one issue that caused the upset defeat of U.S. Rep. Tom Osborne (R-NE), the immensely popular former University of Nebraska football coach, in his campaign for Governor of Nebraska in 2006. He fumbled and endorsed in-state tuition for illegal aliens while his opponent, Governor Dave Heineman, vetoed it and ran campaign ads against it.

The DREAM Act would give amnesty not only to illegal aliens, but also give amnesty to ten states that have been flagrantly violating federal law. The 1996 Illegal Immigration Reform and Immigrant Responsibility Act expressly forbids a state to give in-state tuition rates to illegal aliens unless that subsidy is also granted to all U.S. citizens nationwide.

The DREAM Act would retroactively repeal that law, thereby saving the ten states from punishment and equal-protection lawsuits filed by out-of-state Americans and law-abiding foreign students.

Libya and the War Powers Act

Cheers for House Speaker John A. Boehner (R-OH) who sent a letter to Obama reminding him that on June 19, 2011 he put himself in violation of the War Powers Act unless he receives authorization from Congress.

The Constitution gives Congress the power to declare war, and the War Powers Act gives the President the go-ahead if there is "(1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces." None of these conditions exists with Libya.

On June 16, the House passed a Boehner resolution by 268 to 145, including 45 Democrats and all but 10 Republicans, requesting a detailed outline of the cost and scope of the operation in Libya. A stronger resolution sponsored by Rep. Dennis Kucinich (D-OH), which would have required the U.S. to withdraw all its troops from Libya within 15 days, failed but was supported by 87 Republicans and 61 Democrats.

Obama is pursuing a go-it-alone involvement in Libya without knowing the allegiances of the people we are backing or what kind of regime they would institute if they win. Even the top lawyers in the Pentagon and the Justice Department told him that the war in Libya meets the definition of "hostilities" in the War Powers Act and therefore requires the President to stop unless he gets congressional authorization.

Obama prefers to take advice from Harold H. Koh, the State Department's transnationalist, *i.e.*, a person who advocates incorporating foreign law into U.S. domestic law. Koh is in the globalist tradition of Bill Clinton's Deputy Secretary of State Strobe Talbott, who in 1992 rejoiced in the coming "birth of the Global Nation" in which "all states will recognize a single, global authority."

Obama continues to equivocate about Libya, but Speaker Boehner says the White House position "doesn't pass the straight-face test." Some say the President should not have to comply with the War Powers Act, but it was passed in 1973 over President Richard Nixon's veto and is the law of the land.

The pro-war claque in the Republican Party has gone to the defense of Obama by using the tired smear word "isolationism." Like the left's favorite smear word "racist," and the feminists' favorite smear word "patriarchy," "isolationist" is argument by epithet to avoid dealing honestly with real issues. After the recent CNN New Hampshire debate, John McCain labeled statements by Republican presidential candidates "isolationism."

McCain has called for Republicans to be bipartisan about Obama's foreign policy, but let's remember what McCain means by bipartisan. His first choice for his vice presidential running mate in 2008 was Senator Joe Lieberman (Al Gore's running mate in 2000). In his 2000 presidential campaign, McCain told NBC's Tim Russert that he would appoint Joe Biden as his Secretary of State. Biden reciprocated by persuading John Kerry to invite McCain to be Kerry's running mate on the 2004 Democratic ticket against Bush-Cheney.

Obama has tried to justify his war in Libya by citing United Nations and NATO approval. But his Secretary of Defense, Robert Gates, just delivered a frank speech in Brussels to our NATO friends. Gates reminded them that America is getting fed up with providing three-fourths of the money for NATO's wars and defense spending, while most NATO countries have reneged on their promises.

All 28 NATO members voted for the operation in Libya, but fewer than a third have participated in the strike mission. All 28 NATO members agreed to spend 2% of their gross domestic product on military defense, but only France, Britain, and tiny Albania are meeting that minimum commitment, while the U.S. spends about 5%.

Gates said this is "unacceptable," and sooner or later Americans will stop financing NATO. Gates also said that NATO is risking "collective military irrelevance" since it can't defeat a two-bit dictator like Moammar Gadhafi after 11 weeks of military action. NATO has outlived its usefulness.

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PO Box 618, Alton, Illinois 62002

ISSN0556-0152

Published monthly by the Eagle Trust Fund, PO Box 618, Alton, Illinois 62002. Periodicals Postage Paid at Alton, Illinois. Postmaster: Address Corrections should be sent to the Phyllis Schlafly Report, PO Box 618, Alton, Illinois 62002. Phone: (618) 462-5415.

Subscription Price: $20 per year. Extra copies available: 50¢ each; 10 copies $4; 30 copies $8; 100 copies $15; 1,000 copies $100.

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