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IN THE

Supreme Court of the United States

OCTOBER TERM, 1972

No. 71-1336

In re Application of FRÉ LE POOLE GRIFFITHS,
FOR ADMISSION TO THE BAR,

Appellant.

ON APPEAL FROM THE SUPREME COURT OF CONNECTICUT

APPELLANT'S BRIEF

R. DAVID BROILES
HOOPER, KERRY, CHAPPELL & BROILES
200 Fort Worth Club Building
Fort Worth, Texas 76102

MELVIN L. WULF
JOEL M. GORA
American Civil Liberties Union
Foundation
156 Fifth Avenue
New York, New York 10010

Attorneys for Appellant

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APPELLANT'S BRIEF

Opinion Below

The Memorandum of Decision of the Superior Court, New Haven County, filed December 21, 1970, is not reported; it is set forth in the Appendix to the Jurisdictional Statement at pp. 17-20. The opinion of the Connecticut Supreme Court is reported at *Conn. Law Journal,* p. 1, February 15, 1972, —— Conn. ——; it is also set forth in the Appendix to the Jurisdictional Statement at pp. 22-39.

Jurisdiction

The judgment of the Connecticut Supreme Court was entered on February 15, 1972, and notice of appeal was filed in that court on February 22, 1972. The jurisdiction of the Supreme Court to review this decision by appeal is conferred by 28 U.S.C. Section 1257(2).

Questions Presented

1. Whether Connecticut Superior Court Rule 8(1), which requires that an applicant for admission to the bar be a citizen of the United States, denies to Appellant, a lawfully admitted resident alien, the equal protection of the laws.

2. Whether Rule 8(1) interferes with exclusive Federal power over immigration and naturalization, thus contravening the Supremacy Clause.

3. Whether Rule 8(1), as applied, unconstitutionally burdens Appellant's First Amendment right to determine her nationality, as guaranteed by international public policy.

Statutes Involved

CONNECTICUT PRACTICE BOOK, Section 8, Qualification for Admission:

"First, that he is a citizen of the United States."

(Relevant Constitutional provisions, statutes, court rules and treaties are set forth in the Appendix to the Jurisdictional Statement at pp. 43-49.)

Statement of the Case

Fré Le Poole Griffiths was born in the Netherlands on November 30, 1940. She received the equivalent of a Bachelor's degree from the University of Lyden and the

equivalent of an LL.B. degree from the University of Amsterdam (App. 33).* In January of 1965, she came to the United States as a visitor. She worked in New York City in 1965 and through August 1966. She then lived in the District of Columbia until she moved to Connecticut.

In July, 1967 Ms. LePoole Griffiths married John Griffiths, an American citizen, and moved to Connecticut when her husband received an appointment to teach at Yale Law School (App. 35). She attended Yale Law School and received her LL.B. on June 9, 1969 (App. 28). In October, 1969, Ms. LePoole Griffiths took a position as a law clerk at the New Haven Legal Aid Bureau.

On March 7, 1970, Appellant filed her Application for Admission as an attorney to the Bar of Connecticut. The Affidavit of Age and Citizenship filed with the Application indicated that the applicant was not a citizen of the United States (App. 19). On May 4, 1970 she appeared for an interview with the Committee on Recommendations of the New Haven Bar (App. 30-38). The Committee denied Ms. LePoole Griffiths' application, finding that in all respects she was qualified for admission to take the bar examinations, except that she was not a citizen of the United States (App. 38-39) (App. J.S. 22). Rule 8(1) of the CONNECTICUT PRACTICE BOOK requires that an applicant for admission to the Bar be a citizen of the United States.

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* "App. ....." refers to the Joint Appendix.
"App. J.S. ....." refers to the Appendix to the Jurisdictional Statement.
"App. S.B. ....." refers to the Appendix to the Appellant's Supplemental Brief.

Although she is eligible for citizenship by virtue of her marriage to an American citizen, the Appellant has elected to remain a citizen of the Netherlands and has not filed the declaration of intent to become an American citizen authorized by 8 U.S.C. Sections 1427(f), 1430(a) (App. J.S. 22). There has never been any question of Appellant's readiness to subscribe to an oath to uphold the Constitution and laws of the United States and of Connecticut or to take the Connecticut attorney's oath.

Following the bar Committee's rejection of her application because she was not a citizen, Appellant thereupon petitioned the Superior Court for New Haven County for a decree that she be permitted to take the examination as a candidate for the bar and that she be declared eligible for such admission (App. J.S. 23). Her petition was denied on the ground that she did not meet the necessary qualification of being a citizen of the United States, which is the first requirement provided by Section 8 of the rules of the Superior Court governing admission to the Connecticut bar. PRACTICE BOOK, Section 8(1) (App. J.S. 21, 23).

From that judgment the Appellant appealed to the Supreme Court of Connecticut. She argued that Rule 8(1) discriminates unreasonably against aliens, depriving them of their right to equal protection of the law; that all forms of discrimination against aliens are presumed invalid unless the state shows an overwhelming or compelling interest in maintaining the discrimination; that the Rule interferes with the federal power over immigration; and, as applied to the Appellant, violates international public policy and the First Amendment of the United States Constitution by burdening her right freely to determine her nationality (App. J.S. 23). She further contended that

Rule 8(1) creates an unreasonable and arbitrary classification without rational relation to the applicant's fitness or capacity to practice law; that it violates equal protection by infringing fundamental personal rights without satisfying the more stringent tests established for such regulations; that it does not promote a compelling governmental interest and imposes an impermissible burden upon interstate travel (App. J.S. 23-24).

The Supreme Court of Connecticut overruled the Appellant's assignment of errors and upheld the constitutionality of Rule 8(1). With regard to Appellant's equal protection claim, that court held:

> In our opinion, there is clearly a rational connection between a requirement of loyalty and allegiance to the state, with the concomitant adherence to its political and judicial system, and the exercise of those powers, participation in the state's judicial branch of government, and membership in what Mr. Justice Harlan of the United States Supreme Court has referred to as "a profession in whose hands so largely lies the safekeeping of this country's legal and political institutions." *Konigsberg* v. *State Bar of California,* 366 U.S. 36, 52, 81 S. Ct. 997, 6 L. Ed. 2d 105. We deem it entirely reasonable that the Superior Court as a constitutional court requires that persons, to be admitted to assist the court in the administration of justice and the laws of the state, be citizens and not owe their primary allegiance to a foreign power (App., J.S. 31).

In reaching this conclusion, the court also ruled that even though any discrimination against aliens is "inherently suspect," Rule 8(1) is justified because "the requirement

of citizenship is not simply reasonable but is basic to the maintenance of a viable system of dispensing justice under our form of government" (App. J.S., 33-34).

With regard to Appellant's claim that Rule 8(1) interfered with federal power over immigration, the court said:

> The intent of Section 8(1) is clearly neither to insure economic success for citizens as opposed to aliens nor to discourage aliens from settling within the jurisdiction. Rather, it was intended to serve a greater need than mere financial success for a selected class. We are persuaded that the rule is neither inconsistent with nor repugnant to the power over immigration conferred on Congress by article first Section 8 of the constitution of the United States (App. J.S., 37).

Finally, the court rejected the Appellant's claim that Rule 8(1) violated her First Amendment right, recognized in international law, freely to determine her own nationality.

SUMMARY OF ARGUMENT

I.

Connecticut Superior Court Rule 8(1), which excludes aliens from eligibility for admission to the practice of law, denies to Appellant, a lawful resident alien, the equal protection of the laws.

It is well settled that statutes or regulations which classify on the basis of alienage are inherently suspect and subject to the closest judicial scrutiny. *Graham* v. *Richardson*, 403 U.S. 365 (1971). Laws which affect important interests such as the right to pursue a profession are simi-

larly subject to close scrutiny. *Baird* v. *State Bar of Arizona,* 401 U.S. 1 (1971). These principles have recently been applied to strike down a variety of statutes which totally excluded aliens from public employment, educational benefits or professional status. Most recently, the California Supreme Court invalidated that State's requirement that members of the bar be American citizens. *Raffaelli* v. *Committee of Bar Examiners,* —— Cal. 3d ——, 496 P.2d 1264, 101 Cal. Rptr. 896 (1972) (App. S.B. 3-24).

Excluding aliens from the practice of law advances no compelling state interest and does not even bear a rational relationship to an applicant's fitness or capacity. The three reasons offered by the court below to justify the exclusion—(1) attorneys generally are "officers of the court" with special responsibilities, (2) in Connecticut, attorneys are given "extraordinary powers" as Commissioners of the Superior Court, and (3) aliens do not have the requisite loyalty and allegiance to the state—are all inadequate. See *Raffaelli* v. *Committee of Bar Examiners, supra.* The third set of reasons is particularly suspect because this Court has held that there is only a very narrow area of valid inquiry into a bar applicant's political beliefs and loyalties. *Law Students' Civil Rights Research Council* v. *Wadmond,* 401 U.S. 154 (1971). In any event, since aliens may serve in our armed forces and in the higher levels of government, there is no reason to presume that they cannot have the requisite allegiance to the state. Such absolute presumptions used to deny important rights are unconstitutional. *Reed* v. *Reed,* 404 U.S. 71 (1971).

II.

Rule 8(1) also infringes federal power over immigration, thus contravening the Supremacy Clause. *Graham* v. *Richardson, supra; Truax* v. *Raich,* 239 U.S. 33 (1915). As in *Graham,* the provision here burdens both the general congressional power to admit aliens to lawful residency and livelihood as well as a specific, comprehensive federal regulatory scheme, enacted in 1965. That arrangement, in 8 U.S.C. Sections 1151(a), *et seq.,* establishes categories of priorities for the preferential admission of aliens in the professions, including lawyers. Rule 8(1) interferes with this specific national policy of encouraging the immigration of persons like the Appellant. See *Dougall* v. *Sugarman,* 339 F. Supp. 906 (S.D.N.Y. 1971) (three-judge court), *prob. juris. noted,* —— U.S. ——, 40 U.S. Law Week 3588 (June 12, 1972).

III.

Finally, Rule 8(1) also violates the First Amendment by burdening Appellant's right, recognized by international law, freely to determine her own nationality. That right is particularly important with regard to women like Appellant, married to men of different nationalities. See Article 5, 1967 Declaration on the Elimination of Discrimination Against Women. Such policies have a close analogy in American constitutional law which affords a person freedom to determine what acts of fundamental allegiance he will engage in. *West Virginia Board of Education* v. *Barnett,* 319 U.S. 624 (1943). Rule 8(1) burdens that right by compelling Appellant to choose between her nationality and the practice of law. Such an effect, even though indirect, is unconstitutional. *Sherbert* v. *Verner,* 374 U.S. 398 (1963).

ARGUMENT

I.

Connecticut Superior Court Rule 8(1), which excludes aliens from the practice of law, is "inherently suspect" and discriminates unreasonably against aliens, thereby denying them the equal protection of the laws.

By court rule, Connecticut classifies applicants for admission to the bar into two categories: citizens and aliens. Citizens are eligible for admission; aliens are not. This classification, premised on alienage, is inherently suspect. It advances no compelling state interest, nor does it even bear any rational relationship to an applicant's fitness to practice law. Accordingly, it denies the equal protection of the laws to lawful resident aliens like the Appellant.[1]

A. *Rules which discriminate on the basis of alienage and totally exclude aliens from lawful occupations are inherently suspect, presumptively unconstitutional, and therefore subject to the closest judicial scrutiny.*

There is little dispute over the general principles which govern the disposition of this case. A long series of decisions has established that the Equal Protection Clause of the Constitution applies to aliens as well as citizens. *Yick Wo* v. *Hopkins*, 118 U.S. 356, 369 (1886); *Truax* v. *Raich*, 239 U.S. 33, 39 (1915); *Takahashi* v. *Fish and Game Commission*, 334 U.S. 410 (1948). Classification on the basis of alienage is considered invidious and therefore particu-

[1] The majority of states similarly requires United States citizenship as a precondition of eligibility for the practice of law. See Ohira and Stevens, *Alien Lawyers in the United States and Japan: A Comparative Study*, 39 Wash. L. Rev. 412 (1964).

larly dubious. *Takahashi* v. *Fish and Game Commission, supra; Oyama* v. *California,* 332 U.S. 633 (1948); *Sei Fujii* v. *California,* 38 Cal. 2d 718, 242 P.2d 617 (1952); *Purdy & Fitzpatrick* v. *State of California,* 71 Cal. 2d 556, 79 Cal. Rptr. 77, 456 P.2d 645 (1969). Just recently this Court, in invalidating statutory arrangements which conditioned eligibility for welfare benefits on United States citizenship or on extended residence in the state, unanimously reaffirmed these principles:

> . . . classifications based on alienage, like those based on nationality or race, are inherently suspect and subject to close judicial scrutiny. Aliens as a class are a prime example of a "discrete and insular" minority (see *United States* v. *Carolene Products Co.,* 304 U.S. 144, 152-53 n. 4 (1938)) for whom such heightened judicial solicitude is appropriate. Accordingly it was said in *Takahashi* v. *Fish and Game Commission,* 334 U.S. at 420, that "The power of a state to apply its laws exclusively to its alien inhabitants as a class is confined within narrow limits. *Graham* v. *Richardson,* 403 U.S. 365, 372 (1971).

The strictness of review to which an allegedly discriminatory state regulation is to be subjected is also affected by the relative importance of the subject with respect to which equality is sought. Employment is one of the subjects to which particular importance has been attributed. The established rule that the state may not arbitrarily deny to an individual the right to pursue a lawful occupation has been explicitly extended to the professions, and the notion that the practice of a profession is a mere 'privilege' which can be withheld on any ground whatever has been authorita-

tively rejected. *Baird* v. *State Bar of Arizona,* 401 U.S. 1 (1971) ("The practice of law is not a matter of grace, but of right for one who is qualified by his learning and his moral character." *Id.* at 8.); see also, *Konigsberg* v. *State Bar,* 353 U.S. 252, 262 (1957); *Schware* v. *Board of Bar Examiners,* 353 U.S. 232 (1957); *Spevack* v. *Klein,* 385 U.S. 511 (1967).

Thus, a rule like the one challenged here is subject to close scrutiny for two reasons. First, it embodies the kind of total exclusion or restriction of aliens from the pursuit of lawful occupations which this Court has invalidated over the years. See, e.g., *Yick Wo* v. *Hopkins, supra* (operating a public laundry); *Truax* v. *Raich, supra* (requirement that 80 per cent of employees be citizens); *Takahashi* v. *Fish and Game Commission, supra* (commercial fishing in offshore waters); see also, *Purdy & Fitzpatrick* v. *State of California, supra* (exclusion of aliens from employment on public works); *Department of Labor* v. *Cruz,* 45 N.J. 372, 212 A.2d 545 (1965) (same). Secondly, Rule 8(1) is subject to close scrutiny because it arbitrarily withholds the right to engage in a profession. In *Schware* v. *Board of Bar Examiners, supra,* this Court explained that,

> A State cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment. . . . A State can require high standards of qualification, such as good moral character or proficiency in its law, before it admits an applicant to the bar, but any qualification must have a rational connection with the appli-

> cant's fitness or capacity to practice law. . . . Obviously an applicant could not be excluded merely because he was a Republican or a Negro or a member of a particular church. 353 U.S. at 238-39 (footnotes and citations omitted).

Of course, the principle underlying both doctrines is that constitutional rights no longer "turn upon whether a governmental benefit is characterized as a 'right' or as a 'privilege'." *Graham* v. *Richardson, supra* at 374. Consequently, with regard to provisions like Rule 8(1) which discriminate against aliens and deny them access to employment or professional status, the normal presumption of constitutionality is reversed, and such provisions are presumptively unconstitutional. They can only be justified, if ever, by a showing that they are necessary to accomplish a compelling state interest. See, *Shapiro* v. *Thompson,* 394 U.S. 618, 637-38 (1969); *Graham* v. *Richardson, supra* at 376.

These principles, reaffirmed in *Graham* v. *Richardson,* have recently been applied to strike down a variety of statutes and rules totally excluding aliens from public employment, educational benefits or professional status. For example, in *Dougall* v. *Sugarman,* 339 F. Supp. 906 (S.D. N.Y. 1971), *prob. juris. noted,* —— U.S. ——, 40 U.S. Law Week 3588 (June 12, 1972), a three-judge court invalidated, as offensive to the Equal Protection Clause, a New York statute which prevented aliens from applying for competitive state civil service positions. A similar Vermont law was held unconstitutional, with the court ruling that in light of *Graham,* the issue did not even require the convening of a three-judge court. *Teitcheid* v. *Leopold,* ——

F. Supp. ——, 4 CCH Empl. Prac. Dec. ¶7561 (D. Vt. 1971). In *Younus* v. *Shabat*, 336 F. Supp. 1137 (N.D. Ill. 1971) the court held that a state college cannot deny tenure to an otherwise qualified resident alien. Finally, in *Chapman* v. *Gerard*, —— F.2d ——, 40 Law Week 2565 (3rd Cir. 1972) the Third Circuit held that it was unconstitutional to exclude alien students from a public scholarship fund.

Most significantly, two state Supreme Courts have recently relied on these principles to hold that resident aliens may not constitutionally be excluded from the practice of law. *Application of Park*, 484 P.2d 690 (Alaska 1971); *Raffaelli* v. *Committee of Bar Examiners*, —— Cal. 3d ——, 496 P.2d 1264, 101 Cal. Rptr. 896 (1972) (App. S.B. 3-24). In *Park* the Alaska Supreme Court declared the requirement of citizenship for admission to the bar to be unreasonable, holding that notwithstanding "a possible conflict with his own national loyalty" a resident alien could nevertheless in good faith take an oath to support the Constitution of the United States. Throughout the proceedings, the Appellant has maintained, without contradiction, that she could take such an oath.[2] And in *Raffaelli*, the California Supreme Court, overruling its 1933 decision in *Large* v. *State Bar*, 218 Cal. 334, 23 P.2d 288 (1933), unanimously held that the citizenship requirement was unconstitutional:

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[2] The court below attempted to distinguish *Park* on the ground that the applicant there, unlike the Appellant, had the intention to become a citizen. However the Alaska Supreme Court, though noting that Park had filed such a declaration, specifically stated: "We do not mean by this that the alien resident must have filed his official declaration of intent to become a citizen of the United States." 484 P.2d at 694, n. 18.

> We conclude that the challenged classification does not have "a rational connection with the appellant's fitness or capacity to practice law." (*Schware* v. *Board of Bar Examiners* (1957) *supra,* 353 U.S. 232, 239). A fortiori respondent has not sustained its burden of establishing that the classification—based as it is on the suspect factor of alienage—not only promotes " 'a *compelling* interest which justifies the law but that the distinctions drawn by the law are *necessary* to further its purpose.' " (*Serrano* v. *Priest* (1971) 5 Cal. 3d 584, 597, and cases cited.). *Raffaelli* v. *Committee of Bar Examiners, supra,* 101 Cal. Rptr. at 905 (App. S.B. 19).

B. ***The total exclusion of resident aliens from eligibility for admission to the bar advances no compelling state interest, nor does it even bear a rational relationship to any legitimate interest.***

Notwithstanding these settled principles, the Connecticut Supreme Court upheld the constitutionality of Rule 8(1). Appellant contends that Connecticut has failed to demonstrate that the citizenship requirement promotes a compelling interest and is necessary to further that interest. Indeed, as the California Supreme Court held in *Raffaelli,* such an exclusion does not even bear a rational relationship to an applicant's fitness or capacity to practice law.

In reaching its result, the court below ostensibly considered this Court's teaching in *Graham,* but concluded that the citizenship requirement was valid nevertheless:

> Tested in the light of these requirements the provision of §8(1) of the Practice Book is not constitutionally invalid as to the petitioner as a denial to her of the equal protection of the laws. Attorneys are the means

> through which the majority of the people seek redress for their grievances, enforcement and defense of their rights and compensation for their injuries and losses. The courts not only demand their loyalty, confidence and respect but also require them to function in a manner which will foster public confidence in the profession and, consequently, the judicial system. In this light the requirement of citizenship is not simply reasonable but is basic to the maintenance of a viable system of dispensing justice under our form of government (App. J.S. 34).[3]

Yet, it is never shown how Appellant will be "disabled" from functioning in a manner which will foster public confidence in the profession and the judicial system. The record in this case is totally without any basis to support this sweeping generalization. The State bar has never made any claim or showing that "confidence and respect" in the profession and judicial system hang on a thin thread of citizenship of all the members of the bar. Indeed, at least four States, California, Tennessee, Virginia and Illinois, have no restrictions against resident aliens being admitted to the bar.[4] In fact, Illinois apparently dispenses with the bar examination where applicants have practiced in an English-speaking common law jurisdiction. Supreme Court of Illinois, Rules Governing Admission to the Bar, Rules 701, 705. Maine and Delaware apparently will allow an

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[3] The reference to *Graham* in the opinon below appears to be an afterthought. The bulk of the court's discussion of the equal protection issues is addressed to the conclusion that the citizenship requirements is reasonable (App. J.S. 29-33).

[4] In *Raffaelli*, the California Supreme Court noted that aliens were admitted to practice law in that state for 70 years, from 1861 until 1931 (App. S.B., 10).

alien attorney to be admitted on motion, after three years practice in another state. Maine Rev. Stats. Ann., title 4, ch. 17, Section 802; Supreme Court of Delaware Rule 31(3). Georgia, Massachusetts, Montana, Oregon, Alaska and Washington will admit an alien to the bar though each requires some declaration of intent to become a citizen.[5] There is not the slightest reason to believe that these states have suffered any ill effects from allowing aliens to practice there. See Ohira and Stevens, *Alien Lawyers—A Comparative Study, supra; Application of Park, supra; Raffaelli* v. *Committee of Bar Examiners, supra.* And, of course, all applicants for admission, whether citizens or not, are subject to the character and fitness inquiries authorized by this Court. See *Law Students' Civil Rights Research Council* v. *Wadmond,* 401 U.S. 154 (1971).

Nevertheless, the court below has identified a number of interests claimed to be advanced by the exclusion of aliens. None can withstand close scrutiny.

1. The "officer of the court" rationale.

Connecticut argues that attorneys are officers of the court, creating a dual trust which imposes upon them a duty to act with fidelity both to the courts and to their clients. Why an alien cannot discharge this dual obligation is not made clear. Why is it that a citizen of Holland, who lives in the United States, cannot fulfill her duties to her clients and the courts?

To be sure, a state has an interest in securing a high level of professional conduct. But there is no connection between the requirement of citizenship and the advancement of this

[5] Ga. Code Ann. Section 9-104; Oregon Supreme Court, Rules on Admission of Attorneys, Rule 4.05(1).

interest. The assumption below that an attorney as an officer of the court must be a citizen is entirely unreasoned and has been severely questioned in the literature. Konvitz, *The Alien and Asiatic in American Law,* 188 (1946); Fisher and Nathanson, *Citizenship Requirements in Professional and Occupational Licensing in Illinois,* 45 Chi. B. Rec. 391 (1964). Reliance on the talismanic concept that an attorney is an "officer of the court" cannot be a substitute for careful analysis. The word "officer," in many contexts, is used to indicate persons holding a position of trust within the government. Assuming *arguendo* that aliens could be barred from such positions, *but see, e.g., Dougall* v. *Sugarman, supra,* the word "officer" as applied to lawyers conveys quite a different meaning. 20 Am. Jur. 2d, *Courts,* Section 4. Although in a very limited sense an attorney is a public officer, he does not come within the meaning of such terms as used in statutory or constitutional provisions. 7 Am. Jur. 2d, *Attorneys at Law,* Section 3, p. 45. Indeed, Article I, Section 6 of the Constitution provides that "no Person holding any Office under the United States" shall be a member of either house during his continuance in office. Yet it has never been suggested that attorneys, particularly those admitted before federal courts, being "officers of the court," could not serve as Senators or Representatives.[6]

Nor can it be argued that there is something inherently inconsistent between being an officer of the court and being

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[6] Interestingly, counsel have been unable to find any provision in the federal statutes which specifically requires that United States judges be either lawyers or citizens. Of course, the Constitution requires that members of the House (Article I, Section 2) and Senate (Article I, Section 3) and the President (Article II, Section 1) be citizens of the United States.

This Court's Rules governing admission to its bar do not require that the applicant be a citizen of the United States. Rules of the Supreme Court of the United States, Rule 5.

an alien, particularly since it is possible for aliens to practice law in several American states, Ohira and Stevens, *Alien Lawyers in the United States and Japan, supra* at 415, 419, 429. In all those states attorneys are of course "officers of the court" as much as they are elsewhere. As this Court observed a century ago: "Certainly many prominent and distinguished lawyers have been admitted to practice, both in the State and Federal courts, who were not citizens of the United States or of any State." *Bradwell* v. *State,* 21 L. Ed. 442, 16 Wall. 130, 139 (1872). In *Raffaelli* the California Supreme Court provided the appropriate response to the "officer of the court" rationale:

> Without detracting in any degree from the high responsibility and trust placed in members of the bar and their privileged and intimate relationship with the Courts of California, we perceive no demonstrable nexus between that status and a requirement that every lawyer be a United States citizen. The most that can be said is that an "officer of the court" should be able to appreciate the spirit of American institutions, subscribe to an oath to support the Constitution, remain accessible to his clients and subject to the control of the bar, and meet similar responsibilities. But these are the very grounds, as we have shown, which cannot rationally be invoked to justify the wholesale exclusion of aliens from the bar, 101 Cal. Rptr. at 906 (App. S.B. 18-19).

2. Attorneys as "Commissioners of the Superior Court."

The Connecticut Supreme Court also justified Rule 8(1) on the ground that each attorney in Connecticut is also

a Commissioner of the Superior Court and thus granted "extraordinary powers to perform their duties . . ." (App. J.S. 28).[7]

An attorney, as Commissioner of the Superior Court "may, within the state, sign writs, issue subpoenas, take recognizances and administer oaths." Conn. Gen. Stat. Section 51-85. In Connecticut, civil suits are instituted by an attorney preparing a writ, summons and complaint, signing these as a Commissioner of the Superior Court, giving them to a sheriff, deputy or constable and having them served on the defendant. The papers are returned, after service, to the attorney, who files them with the clerk of the court to which they are returnable. Attorneys also issue subpoenas by signing them, giving them to a sheriff, deputy, constable or independent person and having them served on the witness.

These are not "extraordinary powers." Appellant is aware of no reported cases where these "powers" have been subject to abuse by attorneys. The record in this case contains no evidence tending to show that these "powers" are likely to be more abused by alien attorneys than by attorneys who are citizens. There has been no showing that the exclusion of aliens in any way protects the public from any abuse of these powers.

These same "extraordinary powers" are delegated to clerks and assistant clerks of the Superior Courts, Courts of Common Pleas and Circuit Courts. Conn. Gen. Stat. §§51-52; 51-146; 51-168; 51-252; 51-253. Only in the Court of Common Pleas must the clerk be an attorney. Assist-

[7] In *Raffaelli,* the California Supreme Court relied on this argument to distinguish the decision below, 101 Cal. Rptr. at 906, n. 10 (App. S.B., 22).

ant clerks in any of these courts do not have to be attorneys, and in fact, many assistant clerks in Connecticut are not attorneys. Clerks and assistant clerks may issue writs, summons or attachments. Conn. Gen. Stat. §52-89. They have the same powers as the Commissioner of the Superior Court in that respect. These "carefully guarded" powers, then, have been delegated to those who are not attorneys.[8] More importantly, there is no requirement that these clerks and assistant clerks even be citizens.

Not only do non-attorneys possess these "extraordinary powers," but historically there is no relationship between the citizenship requirement for attorneys and the delegation of these "powers." These powers were delegated to attorneys in 1921. *Public Acts,* 1921, c. 67. The requirement that attorneys be citizens first appeared in 1879. 1879 *Practice Book* §§4(3) and 8. Citizenship was a requirement for admission to the bar long before attorneys assumed the powers of Commissioners of the Superior Court.

The Connecticut Supreme Court also reasoned that attorneys are vested with a portion of the "sovereign power of the government to be exercised for the public good" (App. J.S. 28). What is referred to is the authority to command sheriffs and constables to serve papers, writs and subpoenas. Again, assuming these powers can be characterized as "extraordinary," there is no showing that an alien cannot faithfully perform those functions. An alien attorney would be under the control of the bar

[8] In the Federal District Court in Connecticut, all writs, summons, complaints, attachments and subpoenas are issued by the clerk of the District Court. The clerk of that court is not an attorney.

just as much as any other attorney. He would be liable to disciplinary proceedings as well as disbarment.[9]

The powers of an attorney as a commissioner of the Superior Court are not extraordinary. They are not subject to abuse by Connecticut attorneys so that one must be a citizen in order to be an attorney. There is no connection between these "powers" and the requirement of citizenship.

3. The requirements of an oath, "loyalty and allegiance to the state" and "adherence to its political and judicial system."

The gravamen of the decision below is that a state may require fealty to it as the precondition for admission to its bar and that non-citizens who "owe their primary allegiance to a foreign power" cannot meet that condition (App. J.S. 31). Similarly the decision below seems to suggest that resident aliens cannot in good faith take an oath to uphold the Constitution of the United States and of Connecticut (App. J.S. 28-29).

In Connecticut newly admitted attorneys take both the attorney's oath and the oath required of Commissioners

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[9] Additionally, while residency is a requirement for admission to the bar, once admitted, an attorney may move from Connecticut and remain a member of the Connecticut bar. Thus, appellant's husband, as a Connecticut attorney, could move to the Netherlands and become a permanent resident, and still remain a member of the Connecticut bar. On the other hand, his wife, because she is an alien, cannot do this when she has chosen to be and is a resident of Connecticut. Presumably one could, as a Connecticut attorney renounce his citizenship, become a citizen of another country, and remain a Connecticut attorney. Citizenship is a requirement for admission to the bar. The rules are silent as to whether it is a requisite for continued membership in the bar.

of the Superior Court. See Conn. Gen. Stat. Section 1-25.[10] The Commissioner's oath requires a pledge to support the Constitution of the United States and of Connecticut (App. J.S. 28). Appellant stands ready to take that oath and the Connecticut attorney's oath.

Of course, should the constitutional oath be interpreted as requiring an attorney to be a citizen then it would be subject to the challenges made against Rule 8(1). The oath after all is not an end in itself. It can be validly required only if reasonably related to proper requirements for admission as an attorney. The question should turn not on the taking of an oath but upon the fulfillment of the requirement to support the respective Constitutions. See *Law Students' Civil Rights Research Council Inc., et al.* v. *Wadmond, et al., supra* at 163-66.[11]

The argument that an alien cannot take an oath to support the Federal and State constitutions cannot be sustained in view of the fact that resident aliens are subject to the draft, see *Astrup* v. *Immigration and Naturalization Service,* 402 U.S. 509 (1971), and are permitted to enlist in the armed services, 10 U.S.C. Sections 510(b)(1),

[10] The attorney's oath in effect requires a pledge to be honest and scrupulous (App. J.S. 44).

[11] In any event, since the Commissioner's oath is required by a statute, it can have no effect on qualification as an attorney. The qualifications for an attorney are within the *exclusive* province of the judiciary. Any legislative requirement violates the Connecticut Constitution. *Heiberger* v. *Clark,* 148 Conn. 177, 169 A.2d 652 (1961). Similarly, there is ample authority for the power of the admitting authority to waive the requirement that an applicant take a particular form of oath. Conn. Gen. Stat. Section 1-22 provides that where a person cannot take an oath, or the court finds another ceremony would be more binding, the court "may permit or require any other ceremony to be used."

591(b)(1), 3253(c) and 8253(c), which require subscribing to an oath even more demanding than Connecticut's.[12] Evidently the United States Congress believes that aliens can subscribe to such an oath in good faith.

More importantly, the decision below, justifying the exclusion of aliens on the ground that their status bespeaks a lack of primary loyalty to or belief in the government or the state, contravenes the rulings in the trilogy of bar admission cases decided by this Court. *Baird* v. *State Bar of Arizona,* 401 U.S. 1 (1971); *In re Stolar,* 401 U.S. 23 (1971); *Law Students' Civil Rights Research Council* v. *Wadmond,* 401 U.S. 154 (1971). In those cases, this Court defined a very narrow area of legitimate inquiry into the political beliefs and loyalties of applicants to the bar, limited to insuring that an applicant has "the qualities of character and the professional competence requisite to the practice of law." *Baird* v. *State Bar of Arizona, supra* at 7. And only two kinds of political inquiries may legitimately be made by the state: (1) whether the applicant has been a knowing member of an organization advocating the overthrow of the government by force or violence and shared the intent to further the organization's illegal goals, and (2) whether the applicant can in good faith take an oath to uphold the Constitution. In fact, New York's requirement that the applicant "believes in the form of the government of the United States and is loyal to such government" was upheld solely because it had been construed to require only a good faith willingness to swear to uphold the Constitution. *Law Students' Civil Rights Research Council* v. *Wadmond, supra* at 162-63.

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[12] An inductee must take an oath to "support and defend the Constitution of the United States of America against all enemies foreign and domestic" and to "bear true faith and allegiance to the same." 10 U.S.C. Section 502.

Even assuming *arguendo* that broader inquiries into loyalty can be made, it is simply irrational to assume that all aliens automatically lack loyalty or primary allegiance to the American political system. As the courts of California have repeatedly recognized, "there are no rational grounds for believing that all residents who are not also citizens are ipso facto lacking in loyalty or commitment to abide by the laws of the land." *Raffaelli* v. *Committee of Bar Examiners, supra,* 101 Cal. Rptr. at 903 (App. S.B. 14). Our national experience with resident aliens bears out this contention. We afford substantial societal repsonsibilities to aliens. Although they are barred by the Constitution from holding the office of President or serving in the Congress, virtually every other occupation, including many far more sensitive than the practice of law, is open to them. For example, aliens are not legally prohibited from holding any position in the Department of Defense or the Atomic Energy Commission and are eligible for certain positions in the Department of State and the United States Information Agency. See, United States Civil Service Commission, "Federal Employment of Non-Citizens" (BRE-27, 1970). Nor are they barred from employment in the highest levels of American government; by virtue of the "Excepted Service" they may be appointed to policy-making federal positions. See United States Civil Service Commission, "The Federal Career Service at Your Service," 12-13 (1969).[13] Accordingly, an alien's "primary allegiance to

[13] In *Dougall* v. *Sugarman, supra,* the court specifically rejected the state's contention that it could exclude aliens from the state civil service because the government is entitled to conduct its affairs through persons who have undivided loyalty. The court found no connection between the requirement of loyalty to the government and any compelling state interest. This argument would apply *a fortiori* to the case of private attorneys.

a foreign power" is, by itself, a constitutionally impermissible basis for denying admission to the bar. The requirement of citizenship is far too broad a means of implementing a goal which can be achieved by narrowly prescribed criteria governing admission to the bar.

In effect, Connecticut has created an absolute presumption that aliens cannot possess the requisite loyalty and allegiance. Such a presumption is not analytically different than presuming that all women are less able than men to administer estates, *Reed* v. *Reed,* 404 U.S. 71 (1971) or presuming that all unwed fathers are unfit parents, *Stanley* v. *Illinois,* 31 L. Ed.2d 551 (1972). Classifications which embody such presumptions are offensive to the requirements of equal protection of the laws.

As the California Supreme Court succinctly noted in response to similar arguments:

> First, to inquire into the "loyalty" of a prospective lawyer is . . . to skate on very thin constitutional ice indeed. (*Baird* v. *State of Arizona, (1971) supra,* 401 U.S. 1; *In re Stolar, (1971) supra,* 401 U.S. 23). Second, we cannot say that aliens as a class are incapable of honestly subscribing to this oath. *Raffaelli* v. *Committee of Bar Examiners, supra,* 101 Cal. Rptr. at 902 (App. S.B. 13).

In sum, none of the reasons offered by the Court below to sustain the citizenship requirement for admission to the bar are valid bases for the total exclusion of aliens from the practice of law. This Court should hold, with the California Supreme Court, that:

> In the light of modern decisions safeguarding the rights of those among us who are not citizens of the United States, the exclusion appears constitutionally indefensible. It is the lingering vestige of a xenophobic attitude which . . . also once restricted membership in our bar to persons who were both "male" and "white." It should now be allowed to join those anachronistic classifications among the crumbled pedestals of history. *Raffaelli* v. *Committee of Bar Examiners, supra,* 101 Cal. Rptr. at 898 (App. S.B., 3-4).

II.

Superior Court Rule 8(1) infringes upon the federal power over immigration.

In *Graham* v. *Richardson,* this Court held that statutes which discriminated against aliens in the distribution of welfare benefits not only denied them the equal protection of the laws but also contravened the federal government's "broad constitutional powers" over aliens. 403 U.S. at 377. In so ruling, this Court reaffirmed a principle dating back a half century:

> The authority to control immigration—to admit or exclude aliens—is vested solely in the Federal Government. *Fong Yue Ting* v. *United States,* 149 U.S. 698, 713 . . . The assertion of an authority to deny to aliens the opportunity of earning a livelihood when lawfully admitted to the State would be tantamount to the assertion of the right to deny them entrance and abode, for in ordinary cases they cannot live where they cannot work. And, if such a policy were permissible, the

practical result would be that those lawfully admitted to the country under the authority of the acts of Congress, instead of enjoying in a substantial sense and in their full scope the privileges conferred by the admission, would be segregated in such of the States as chose to offer hospitality. *Truax* v. *Raich, supra,* at 42 (1915). See also, *Takahashi* v. *Fish and Game Commission, supra.*

In *Graham* this Court identified, as part of a "comprehensive" Congressional plan for the regulation of immigration and naturalization, an overriding national policy to provide economic security for lawfully admitted aliens and to allow them freely to travel and take up abode in the various States. Since the statutes in question were inconsistent with those federal policies, they encroached upon "exclusive federal power" and were constitutionally impermissible.

The court below held *Graham* inapplicable on the theory that Rule 8(1) involves only an indirect and remote interference with national immigration policy. It is true that Rule 8(1) does not explicitly attempt directly to regulate or control immigration. But explicit, direct interference is not the only sort of state interference which is precluded by the exclusive competency over immigration matters vested in the Congress. Rule 8(1) interferes with two other overriding federal policies, parallel to those identified in *Graham.*

In the first place, Rule 8(1) burdens the general congressional power to admit aliens. This is precisely what this Court held to be prohibited in *Graham* v. *Richardson,*

supra and *Truax* v. *Raich, supra*. It is true that many of these cases involved denial of access to "common occupation of the community" (*Truax* v. *Raich, supra* at 41). But *Takahashi* suggests that the alien in fact has a right to work in his specific occupation. Indeed, if the alien involved happens to be one with a profession, to deny him the opportunity to acquire a license on the sole basis of his alienage amounts to exactly what this Court has held to be an impermissible interference with Congress' power. In the case of an alien professional, the burden imposed on his right to entry is even heavier than in the case of others who can more easily change from one occupation to another to which no anti-alien restrictions apply. For a profession is not only a way of earning a livelihood. It also is the choice of a specific way of life which cannot be changed easily as one moves from one country to another.

Quite apart from the burden Rule 8(1) imposes upon appellant's congressionally granted right to live in the United States, the requirement in question interferes with a comprehensive regulatory scheme enacted by Congress in the exercise of its exclusive power over immigration. The criterion applied by this Court to determine the validity of state laws in light of treaties or federal laws on the same subject is whether the state law in question stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. *Hines* v. *Davidowitz*, 312 U.S. 52, 67 (1941); *Graham* v. *Richardson, supra* at 377-80. If the state legislation concerned affects the field of international relations or deals with the rights, liberties, and personal freedom of human beings, it is to be subjected to closer scrutiny than it might be otherwise.

In 1965 Congress revised the Immigration and Nationality Act in important respects. This Act now amounts to "a comprehensive federal scheme for immigration which seeks to regulate alien employment to some extent" *Purdy & Fitzpatrick* v. *State,* 79 Cal. Rptr. 77, 84, 456 P.2d 645 (1969). The scheme set up by the Act is contravened by Rule 8(1).[14]

The previous immigration statute established a system which accorded preferential status to certain categories of would-be immigrants primarily on the basis of national origin. But the Act as revised established a totally new scheme of preferences "designed to be fair, rational, humane, and in the national interest." Senate Report No. 748, Judiciary Committee, First Sess., 89th Cong.; 1965 *U.S. Code Cong. & Adm. News,* pp. 3328, 3332. One important purpose of the revised Act was to protect the American labor market from the adverse effects from the entrance of foreign workers not needed in this country. *Id.* at 3333. At the same time, the Act sought to assure that among the aliens to be admitted a high preference would be accorded to those "whose admission will be substantially beneficial to the national economy, cultural interests, or welfare of the United States." *Id.* at 3332.

Thus, the legislative scheme, insofar as relevant to the present issue, is briefly as follows: 8 U.S.C. §1151(a) establishes a limit to the total number of aliens to be admitted for permanent residence in each fiscal year. 8 U.S.C. §1153 establishes categories of preference priorities. First priority is given to two categories of immigrants who qualify

[14] The statutory and regulatory material is set forth at App. J.S. 45-48.

for such priority under the "foremost consideration" of "reunification of families." *Id.* at 3332. Immediately thereafter comes the preferential category of "qualified immigrants who are members of the professions, or who because of their exceptional ability in the sciences or the arts will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States." Under 8 U.S.C. §1101 (32), "[t]he term 'profession' shall include but not be limited to architects, engineers, *lawyers,* physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies or seminaries." Nevertheless, this category of aliens shall be excluded, "unless the Secretary of Labor has determined and certified to the Secretary of State and to the Attorney General that (A) there are not sufficient workers in the United States who are able, willing, qualified, and available at the time of the application for a visa and admission to the United States and at the place to which the alien is destined to perform such skilled or unskilled labor, and (B) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly employed." 8 U.S.C. §1182(a)(14). The Secretary of Labor has in fact made a general determination to this effect as to all persons "who received an advance degree in a particular field of study from an institution of higher learning accredited in the country where the degree was obtained (comparable to a Ph.D. or master's degree given in American colleges or universities)" 29 C.F.R. (1969) pt. 60.2(a) and Schedule A, Group 1.

It follows from these provisions that it is the policy of the Federal Government to encourage the immigration of persons who, like Appellant, have received advanced pro-

fessional training. In *Graham* v. *Richardson, supra,* this Court invalidated laws which denied welfare benefits to aliens because such statutes imposed "auxiliary burdens" upon aliens whom Congress sought to protect. 403 U.S. at 379. And in *Purdy & Fitzpatrick* v. *State, supra,* the California Supreme Court struck down a California statute prohibiting employment of aliens on public works, among other reasons, because it *potentially* presented a conflict with the Federal Act and determinations made pursuant thereto by the Secretary of Labor. Appellant submits that in this case, in which the conflict between Rule 8(1) and federal immigration policy is actual and present, the Rule can *a fortiori* not be upheld.

The response of the Connecticut Supreme Court to these arguments is inapposite. The court reasoned that Rule 8(1) could be sustained because it had "but the slightest effect on the millions of aliens in this country" and would "hardly affect the general balance of alien population" (App. J.S. 36).

The court reached this conclusion by interpreting the goals behind federal immigration laws in terms of *Shapiro* v. *Thompson,* 394 U.S. 618 (1969) so that Rule 8(1) would be unconstitutional only if it unreasonably burdened or restricted interstate movement of aliens. In *Graham* v. *Richardson* this Court specifically declined to rule on the scope of *Shapiro* v. *Thompson* as applying the right to travel to aliens. But in *Graham* this Court did rule that once admitted, an alien cannot be subjected to discriminatory laws of the states, because to allow this would be tantamount to the assertion of the state's right to deny the aliens *right to entrance and abode into this country.* Moreover, the intrusion on exclusive federal power is not to

be tolerated merely because it affects only a small number of aliens. In *Sailer* v. *Leger,* 403 U.S. 365 (1971), the companion case to *Graham,* the discriminatory state provision burdened a class of only 65 to 70 persons, yet it was held violative of federal policy. See *Dougall* v. *Sugarman, supra* at 910, n. 8. The Connecticut Supreme Court misconstrued the scope and purpose of federal control over immigration, the goals of the statutory program and the decisions of this Court.

That court also asserted that "The intent of §8(1) is clearly neither to insure economic success for citizens as opposed to aliens nor to discourage aliens from settling within the jurisdiction"; Rule 8(1) "was intended to serve a greater need . . . " (App. J.S. 37). There is no statement in the opinion as to what is the "greater need" or what was "intended" by Rule 8(1).

The Superior Court decision (App. J.S. 20), however, provides some insight concerning this "greater need." That court pointed out, in justifying the requirement of citizenship for lawyers, that citizenship is required in Connecticut for licensing in the following activities: Medicine and Surgery, Osteopathy, Podiatry, Pharmacy, Embalmers and Funeral Directors, Ownership of a Barbership or Barber College, Hairdressers and Cosmeticians, Hypertrichologists (hair removers), Architects, Accountants and Sanitarians (App. J.S. 20). One is tempted to wonder what "greater need" the requirement of citizenship was "intended" to promote with regard to barber shop owners, hairdressers, embalmers, sanitarians, hair removers and lawyers. The "intent" of Rule 8(1) is irrelevant. Its effect is to contravene exclusive federal control over immigration. There-

fore, Rule 8(1) conflicts with the Supremacy Clause and is unconstitutional.

III.

Superior Court Rule 8(1) violates the First Amendment by burdening Appellant's right, recognized in international law and public policy, freely to determine her own nationality.

Attitudes towards the concept of nationality have changed. If in earlier days nationality was regarded primarily as a privilege, more recently it is increasingly looked upon as an instrument for securing the rights of individuals in the national and international sphere. See Lauterpacht, Foreword to *Weis, Nationality and Statelessness in International Law,* p. XI (1956). Concern has been displayed in international law literature about the inhumane application of principles of nationality, for instance, to deprive people of their citizenship or confer upon them a nationality without their consent or to discriminate against those living in a country without having its nationality. See van Panhuys, *The Role Of Nationality In International Law,* 232-239 (1959). This concern found expression in article 15 of the Universal Declaration of Human Rights which reads:

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Thus, one of the most important, emerging principles of international law is that the individual should have the

right to freely determine his or her nationality. That principle is particularly important with regard to women like Appellant who have husbands whose nationality differs from their own, because of the tendencies to require them to adopt their husband's nationality.

Even before the adoption of this Declaration it had been recognized that women married to men with nationalities different from their own, like Appellant, run a greater risk of interference with the free exercise of their rights with respect to nationality than most people. This is at least partly due to the fact that couples of mixed nationality most often live in the husband's country of origin. Concern for this matter was and should be all the stronger since the position of women in and outside of the family is becoming more and more independent from and equal to, that of men, and the law is adapting itself to the new requirements of society. The number of women in the professions has increased, while due to the ever-improving means of communication between citizens of different parts of the world, the incidence of marriage between nationals of different countries is likely to continue increasing.

Several international Conventions have sought to safeguard the right of a woman married to a man with a nationality different from her own to retain her own nationality, if she chooses to, and her right not to be discriminated against as a result of such a choice. Most recently, in 1967, the United National General Assembly unanimously adopted the Declaration on the Elimination of Discrimination against Women, Article 5 of which reads:

> Women shall have the same right as men to acquire, change or retain their nationality. Marriage to an alien shall not automatically affect the nationality of the wife

either by rendering her stateless or by forcing on her the nationality of her husband.

All these international instruments specifically recognize the fact that a woman marrying a husband with a nationality different from her own may often not wish to change her own nationality as a result of such marriage, and have a right to act according to such wishes. Plainly it is a complete frustration of such international law and policy to force a woman to give up her profession in order to exercise the fundamental right to retain her nationality.

The concept underlying these developments in international law finds a close analogy in United States constitutional law which recognizes that an individual must be free to determine what acts of fundamental allegiance he chooses to engage in. *West Virginia Board of Education* v. *Barnette,* 319 U.S. 624 (1943) (holding it offensive to the most fundamental meaning of the First Amendment to force a person to engage in an act of allegiance).

Even though Rule 8(1), as applied to Appellant, does not directly interfere with her freedom in this respect, it clearly imposes a severe burden on her right of free choice in matters of fundamental allegiance. For either she has to give up her nationality, or she cannot be admitted to the Connecticut Bar. Non-admission to the bar forecloses to Appellant virtually all possibility of employment in her chosen profession. It has been established in a long series of cases that it is not only direct interferences with basic rights and freedoms which are intolerable, but that the attachment by the state, without a compelling interest on its side, of seriously adverse consequences to the free exercise of these rights and freedoms is equally unconstitu-

tional. *Sherbert* v. *Verner,* 374 U.S. 398 (1963); *Flemming* v. *Nestor,* 363 U.S. 603 (1960); *Speiser* v. *Randall,* 357 U.S. 513 (1958); *Shapiro* v. *Thompson,* 394 U.S. 618 (1969). Consequently, Rule 8(1) is inconsistent with international public policy and with the First Amendment of the United States Constitution, in that if applied to Appellant it would necessarily operate to coerce her into giving up her nationality and engaging in an act of allegiance in order to secure the benefit of the equally fundamental right to practice her profession.

In this case, this Court can conclude, as it did in *Baird* v. *State Bar of Arizona, supra,* that:

> This record is wholly barren of one word, sentence or paragraph that tends to show this lady is not morally and professionally fit to serve honorably and well as a member of the legal profession. It was error not to process her application and not to admit her to the . . . bar. 401 U.S. at 8.

CONCLUSION

For the reasons set forth above, the judgment of the Connecticut Supreme Court should be reversed.

Respectfully submitted,

R. David Broiles
Hooper, Kerry, Chappell & Broiles
200 Fort Worth Club Building
Fort Worth, Texas 76102

Melvin L. Wulf
Joel M. Gora
American Civil Liberties Union Foundation
156 Fifth Avenue
New York, New York 10010

*Attorneys for Appellant**

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