

SHORT TITLE AND SAVING CLAUSE

See note under section 451 of this title.

§ 459. Definitions and effective date. (a) Definitions.

For the purposes of this chapter—

(1) the term "United States", when used in a geographical sense, means the States, the Territories of Alaska and Hawaii, the District of Columbia, Puerto Rico, and the Virgin Islands;

(2) the term "Commissioner" means the Commissioner of Immigration and Naturalization.

(b) Effective date.

The provisions of this chapter shall take effect on June 28, 1940; except that sections 451 and 452 of this title shall take effect sixty days after said date. (June 28, 1940, ch. 439, title III, § 38, 54 Stat. 675.)

SHORT TITLE AND SAVING CLAUSE

See note under section 451 of this title.

§ 460. Registration of aliens in Canal Zone.

The President is authorized to provide, by Executive order, for the registration and fingerprinting, in a manner as nearly similar to that provided in this chapter as he deems practicable, of aliens in the Panama Canal Zone. (June 28, 1940, ch. 439, title III, § 39, 54 Stat. 676.)

SHORT TITLE AND SAVING CLAUSE

See note under section 451 of this title.

Chapter 11.—NATIONALITY CODE

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NATIONALITY ACT OF 1940

On October 14, 1940, Congress passed this chapter (act Oct. 14, 1940, ch. 876, 54 Stat. 1137) for the purpose of consolidating and restating the laws of the United States upon citizenship, naturalization, and expatriation. Section 504 thereof, in addition to certain specific repeals, provided that all acts or parts of acts in conflict therewith were thereby repealed.

SUBCHAPTER I.—DEFINITIONS

§ 501. General definitions for purposes of chapter.

For the purposes of this chapter—

- (a) The term "national" means a person owing permanent allegiance to a state.
(b) The term "national of the United States" means (1) a citizen of the United States, or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States. It does not include an alien.
(c) The term "naturalization" means the conferring of nationality of a state upon a person after birth.
(d) The term "United States" when used in a geographical sense means the continental United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States.
(e) The term "outlying possessions" means all territory, other than as specified in subsection (d), over which the United States exercises rights of sovereignty, except the Canal Zone.
(f) The term "parent" includes in the case of a posthumous child a deceased parent.
(g) The term "minor" means a person under twenty-one years of age. (Oct. 14, 1940, ch. 876, title I, subch. I, § 101, 54 Stat. 1137.)

§ 502. General definitions for purposes of subchapter III.

For the purposes of subchapter III of this chapter—

- (a) The term "State" includes (except as used in subsection (a) of section 701), Alaska, Hawaii, the District of Columbia, Puerto Rico, and the Virgin Islands of the United States.
(b) The term "naturalization court", unless otherwise particularly described, means a court authorized by subsection (a) of section 701 to exercise naturalization jurisdiction.

(c) The term "clerk of court" means a clerk of a naturalization court.

(d) The terms "Commissioner" and "Deputy Commissioner" mean the Commissioner of Immigration and Naturalization and a Deputy Commissioner of Immigration and Naturalization, respectively.

(e) The term "Attorney General" means the Attorney General of the United States.

(f) The term "Service" means the Immigration and Naturalization Service of the United States Department of Justice.

(g) The term "designated examiner" means an examiner or other officer of the Service designated under section 733 by the Commissioner.

(h) The term "child" includes a child legitimated under the law of the child's residence or domicile, whether in the United States or elsewhere; also a child adopted in the United States, provided such legitimation or adoption takes place before the child reaches the age of sixteen years and the child is in the legal custody of the legitimating or adopting parent or parents. (Oct. 14, 1940, ch. 876, title I, subch. I, § 102, 54 Stat. 1138.)

§ 503. Foreign state.

For the purposes of subsections (a), (b), and (c) of section 804 of this chapter, the term "foreign state" includes outlying possessions of a foreign state, but does not include self-governing dominions or territory under mandate, which, for the purposes of these subsections, shall be regarded as separate states. (Oct. 14, 1940, ch. 876, title I, subch. I, § 103, 54 Stat. 1138.)

§ 504. Place of general abode.

For the purposes of sections 601, 707 (b), 803, 804, 805, 806, and 807 of this chapter, the place of general abode shall be deemed the place of residence. (Oct. 14, 1940, ch. 876, title I, subch. I, § 104, 54 Stat. 1138.)

SUBCHAPTER II.—NATIONALITY AT BIRTH

§ 601. Persons born nationals and citizens.

The following shall be nationals and citizens of the United States at birth:

- (a) A person born in the United States, and subject to the jurisdiction thereof;
(b) A person born in the United States to a member of an Indian, Eskimo, Aleutian, or other aboriginal tribe: *Provided*, That the granting of citizenship under this subsection shall not in any manner impair or otherwise affect the right of such person to tribal or other property;
(c) A person born outside of the United States and its outlying possessions of parents both of whom are citizens of the United States and one of whom has resided in the United States or one of its outlying possessions, prior to the birth of such person;
(d) A person born outside of the United States and its outlying possessions of parents one of whom is a citizen of the United States who resided in the United States or one of its outlying possessions prior to the birth of such person, and the other of whom is a national, but not a citizen of the United States;

(e) A person born in an outlying possession of the United States of parents one of whom is a citizen of the United States who resided in the United States or one of its outlying possessions prior to the birth of such person;

(f) A child of unknown parentage found in the United States, until shown not to have been born in the United States;

(g) A person born outside the United States and its outlying possessions of parents one of whom is a citizen of the United States who, prior to the birth of such person, has had ten years' residence in the United States or one of its outlying possessions, at least five of which were after attaining the age of sixteen years, the other being an alien: *Provided*, That, in order to retain such citizenship, the child must reside in the United States or its outlying possessions for a period or periods totaling five years between the ages of thirteen and twenty-one years: *Provided further*, That, if the child has not taken up a residence in the United States or its outlying possessions by the time he reaches the age of sixteen years, or if he resides abroad for such a time that it becomes impossible for him to complete the five years' residence in the United States or its outlying possessions before reaching the age of twenty-one years, his American citizenship shall thereupon cease.

The preceding provisos shall not apply to a child born abroad whose American parent is at the time of the child's birth residing abroad solely or principally in the employment of the Government of the United States or a bona fide American, educational, scientific, philanthropic, religious, commercial, or financial organization, having its principal office or place of business in the United States, or an international agency of an official character in which the United States participates, for which he receives a substantial compensation;

(h) The foregoing provisions of subsection (g) concerning retention of citizenship shall apply to a child born abroad subsequent to May 24, 1934. (Oct. 14, 1940, ch. 876, title I, subch. II, § 201, 54 Stat. 1138.)

DERIVATION

Subsection (a): Constitution, Amend. XIV, § 1; R. S. § 1092.

Subsection (b): Act June 2, 1924, ch. 233, 43 Stat. 253.

Subsection (c): R. S. § 1093; act May 24, 1934, ch. 344, § 1, 48 Stat. 707.

HAWAIIANS

Former section 4 of this title provided as follows: "All persons who were citizens of the Republic of Hawaii on August 12, 1898, are declared to be citizens of the United States. (Apr. 30, 1900, ch. 339, § 4, 31 Stat. 141.)"

INDIANS

Former sections 3-3c of this title provided as follows: "§ 3. Indians. All Indians born within the territorial limits of the United States are declared to be citizens of the United States. The granting of citizenship to Indians shall not in any manner affect the right of any Indian to tribal or other property. (Feb. 8, 1887, ch. 119, § 6, 24 Stat. 390; Mar. 3, 1901, ch. 868, 31 Stat. 1447; May 8, 1906, ch. 2348, 34 Stat. 182; Nov. 6, 1919, ch. 95, 41 Stat. 350; Mar. 3, 1921, ch. 120, § 3, 41 Stat. 1250; June 2, 1924, ch. 233, 43 Stat. 253; Oct. 14, 1940, ch. 876, title I, subchap. V, § 504, 54 Stat. 1173.)"

"§ 3a. Cherokee Indians. All noncitizen Cherokee Indians born within the territorial limits of the United States and resident in the State of North Carolina are hereby declared to be citizens of the United States and

entitled to all the rights, privileges, and immunities belonging to such citizens, including the right of franchise, provided they can meet and conform to the educational and other tests imposed upon voters of the State of North Carolina, as a condition precedent to the exercise of such right of franchise. All acts or parts of acts of Congress inconsistent herewith are hereby repealed. Nothing contained in this section shall in any manner impair or otherwise affect the right of any Indian to tribal or other property. (June 19, 1930, ch. 544, 46 Stat. 787.)"

"§ 3b. Indians of Metlakatla, Alaska. The Indians of the Tsimshian Tribe, and those people known as Metlakatlans, who emigrated from Metlakatla, British Columbia, Canada, to Annette Island, in the Alexander Archipelago in southeastern Alaska in the year 1887, and there established a colony known as Metlakatla, Alaska, and any and all other British Columbia Indians who joined them there not later than January 1, 1900, and have since resided continuously therein, having been faithful and loyal to the Constitution, laws and the Government of the United States, are hereby declared to be citizens of the United States. (May 7, 1934, ch. 221, § 1, 48 Stat. 667.)"

"§ 3c. Same; property rights; rights of United States. The granting of citizenship to the Indians described in section 3b of this title shall not in any manner affect the rights, individual or collective, of the said Indians to any property, nor shall it affect the rights of the United States Government to supervise and administer the affairs of the said Metlakatla Colony. And any reservations heretofore made by any act of Congress or Executive order or proclamation for the benefit of the said Indians shall continue in full force and effect and shall continue to be subject to modification, alteration, or repeal by the Congress or the President, respectively. (May 7, 1934, ch. 221, § 2, 48 Stat. 667.)"

OREGON TERRITORY, PERSONS BORN IN

Former section 2 of this title provided as follows: "All persons born in the district of country formerly known as the Territory of Oregon, and subject to the jurisdiction of the United States on the 18th May, 1872, are citizens in the same manner as if born elsewhere in the United States. (R. S. § 1995.)"

VIRGIN ISLANDERS

Former sections 5b and 5c of this title provided as follows:

"§ 5b. Inhabitants of Virgin Islands; children. The following persons and their children born subsequent to January 17, 1917, are hereby declared to be citizens of the United States:

"(a) All former Danish citizens who, on January 17, 1917, resided in the Virgin Islands of the United States, and are now residing in those islands or in the United States or Puerto Rico, and who did not make the declaration required to preserve their Danish citizenship by article 6 of the treaty entered into on August 4, 1916, between the United States and Denmark, or who, having made such a declaration, have heretofore renounced or may hereafter renounce it by a declaration before a court of record;

"(b) All natives of the Virgin Islands of the United States who, on January 17, 1917, resided in those islands, and are now residing in those islands or in the United States or Puerto Rico, and who are not citizens or subjects of any foreign country; and

"(c) All natives of the Virgin Islands of the United States who, on January 17, 1917, resided in the United States, and are now residing in the Virgin Islands of the United States, and who are not citizens or subjects of any foreign country.

"(d) All natives of the Virgin Islands of the United States who are, on June 28, 1932, residing in continental United States, the Virgin Islands of the United States, Puerto Rico, the Canal Zone, or any other insular possession or Territory of the United States, who are not citizens or subjects of any foreign country, regardless of their place of residence on January 17, 1917. (Feb. 25, 1927, ch. 192, § 1, 44 Stat. 1234, as amended May 17, 1932, ch. 190, 47 Stat. 158; June 28, 1932, ch. 283, § 5, 47 Stat. 336.)"

"§ 5c. Persons born in Virgin Islands on or after January 17, 1917. All persons born in the Virgin Islands of the United States on or after January 17, 1917 (whether before or after February 25, 1927), and subject to the jurisdiction of the United States, are hereby declared to be citizens of the United States. (Feb. 25, 1927, ch. 192, § 3, 44 Stat. 1235.)"

CROSS REFERENCE

Hawaiian-born women, United States citizenship at birth for certain purposes, see note under section 717 of this title.

§ 602. Citizens by birth in Puerto Rico on or after April 11, 1899.

All persons born in Puerto Rico on or after April 11, 1899, subject to the jurisdiction of the United States, residing on the effective date of this chapter in Puerto Rico or other territory over which the United States exercises rights of sovereignty and not citizens of the United States under any other Act, are hereby declared to be citizens of the United States. (Oct. 14, 1940, ch. 876, title I, subch. II, § 202, 54 Stat. 1139.)

CITIZENSHIP OF PUERTO RICANS

Former sections 5 and 5a of this title provided as follows:

"§ 5. Puerto Ricans. All citizens of Puerto Rico, as defined by section 733 of Title 48, and all natives of Puerto Rico who were temporarily absent from that island on April 11, 1899, and have since returned and are permanently residing in that island, and are not citizens of any foreign country, are declared, and shall be deemed and held to be, citizens of the United States: *Provided*, That any person hereinbefore described may retain his political status held on March 2, 1917, by making a declaration, under oath, of his decision to do so within six months from said date before the district court in the district in which he resided, the declaration to be in form as follows:

"I, _____, being duly sworn, hereby declare my intention not to become a citizen of the United States as provided in the act of Congress conferring United States citizenship upon citizens of Puerto Rico and certain natives permanently residing in said island."

"In the case of any such person who may have been absent from the island during said six months the terms of this proviso may be availed of by transmitting a declaration, under oath, in the form herein provided within six months from March 2, 1917, to the executive secretary of Puerto Rico. Any person who was born in Puerto Rico of an alien parent and was permanently residing in that island may, if of full age, within six months from March 2, 1917, or if a minor, upon reaching his majority or within one year thereafter, make a sworn declaration of allegiance to the United States before the United States District Court for Puerto Rico, setting forth therein all the facts connected with his or her birth and residence in Puerto Rico and accompanying due proof thereof, and from and after the making of such declaration shall be considered to be a citizen of the United States. (Mar. 2, 1917, ch. 145, § 5, 39 Stat. 953; May 17, 1932, ch. 190, 47 Stat. 158.)"

"§ 5a. Same; extension of time for becoming citizens of United States. Persons born in Puerto Rico of alien parents, referred to in the last paragraph of section 5 of this title, who did not avail themselves of the privilege granted to them of becoming citizens of the United States, shall have a period of one year from March 4, 1927, to make the declaration provided for in the aforesaid section: *Provided*, That persons who elected to retain the political status of citizens of Puerto Rico may within one year after March 4, 1927, become citizens of the United States upon the same terms and in the same manner as is provided for the naturalization of native Puerto Ricans born of foreign parents. (Mar. 2, 1917, ch. 145, § 5a, as added Mar. 4, 1927, ch. 503, § 2, 44 Stat. 1418; May 17, 1932, ch. 190, 47 Stat. 158.)"

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 5a-1 of this title.

EFFECTIVE DATE OF THIS CHAPTER

See section 906 of this title.

§ 603. Citizens by birth in Canal Zone or Panama on or after Feb. 26, 1904.

(a) Any person born in the Canal Zone on or after February 26, 1904, and whether before or after the effective date of this chapter, whose father or mother or both at the time of the birth of such person was or is a citizen of the United States, is declared to be a citizen of the United States.

(b) Any person born in the Republic of Panama on or after February 26, 1904, and whether before or after the effective date of this chapter, whose father or mother or both at the time of the birth of such person was or is a citizen of the United States employed by the Government of the United States or by the Panama Railroad Company, is declared to be a citizen of the United States. (Oct. 14, 1940, ch. 876, title I, subch. II, § 203, 54 Stat. 1139.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 5d and 5e of this title.

EFFECTIVE DATE OF THIS CHAPTER

See section 906 of this title.

§ 604. Persons born nationals but not citizens.

Unless otherwise provided in section 601, the following shall be nationals, but not citizens, of the United States at birth:

(a) A person born in an outlying possession of the United States of parents one of whom is a national, but not a citizen, of the United States;

(b) A person born outside the United States and its outlying possessions of parents both of whom are nationals, but not citizens, of the United States, and have resided in the United States or one of its outlying possessions prior to the birth of such person;

(c) A child of unknown parentage found in an outlying possession of the United States, until shown not to have been born in such outlying possession. (Oct. 14, 1940, ch. 876, title I, subch. II, § 204, 54 Stat. 1139.)

§ 605. Children born out of wedlock.

The provisions of section 601, subsections (c), (d), (e), and (g), and section 604, subsections (a) and (b), hereof apply, as of the date of birth, to a child born out of wedlock, provided the paternity is established during minority, by legitimation, or adjudication of a competent court.

In the absence of such legitimation or adjudication, the child, whether born before or after the effective date of this chapter, if the mother had the nationality of the United States at the time of the child's birth, and had previously resided in the United States or one of its outlying possessions, shall be held to have acquired at birth her nationality status. (Oct. 14, 1940, ch. 876, title I, subch. II, § 205, 54 Stat. 1139.)

EFFECTIVE DATE OF THIS CHAPTER

See section 906 of this title.

SUBCHAPTER III.—NATIONALITY THROUGH NATURALIZATION

§ 701. Jurisdiction to naturalize.

(a) Exclusive jurisdiction to naturalize persons as citizens of the United States is hereby conferred upon the following specified courts: District Courts of the United States now existing, or which may hereafter be established by Congress in any State, District Courts of the United States for the Territories of Hawaii and Alaska, and for the District of Columbia and for Puerto Rico, and the District Court of the Virgin Islands of the United States; also all courts of record in any State or Territory now existing, or which may hereafter be created, having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited. The jurisdiction of all the courts herein specified to naturalize persons shall extend only to such persons resident within the respective jurisdictions of such courts, except as otherwise specifically provided in this chapter.

(b) A person who petitions for naturalization in any State court having naturalization jurisdiction, may petition within the State judicial district or State judicial circuit in which he resides, whether or not he resides within the county in which the petition for naturalization is filed.

(c) The courts herein specified, upon request of the clerks of such courts, shall be furnished from time to time by the Commissioner or a Deputy Commissioner with such blank forms as may be required in naturalization proceedings.

(d) A person may be naturalized as a citizen of the United States in the manner and under the conditions prescribed in this chapter, and not otherwise. (Oct. 14, 1940, ch. 876, title I, subch. III, § 301, 54 Stat. 1140.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 357, 358, 358a, 372, and 408 of this title and section 863 of Title 48, Territories and Insular Possessions.

VALIDATION OF HAWAIIAN JURISDICTION BEFORE SEPT. 27, 1906

Former section 385 of this title provided as follows: "All records relating to naturalization, all declarations of intention to become citizens of the United States, and all certificates of naturalization filed, recorded, or issued prior to September 27, 1906, in or from any circuit court of the Territory of Hawaii, shall for all purposes be deemed to be and to have been made, filed, recorded, or issued by a court with jurisdiction to naturalize aliens, but shall not be by this section further validated or legalized. (Apr. 30, 1900, ch. 339, § 100, 31 Stat. 161; May 27, 1910, ch. 258, § 9, 36 Stat. 448; Oct. 14, 1940, ch. 876, title I, subchap. V, § 504, 54 Stat. 1172.)"

§ 702. Eligibility for naturalization; sex or marriage.

The right of a person to become a naturalized citizen of the United States shall not be denied or abridged because of sex or because such person is married. (Oct. 14, 1940, ch. 876, title I, subch. III, § 302, 54 Stat. 1140.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 367 of this title.

§ 703. Same; race.

The right to become a naturalized citizen under the provisions of this chapter shall extend only to white persons, persons of African nativity or descent, and descendants of races indigenous to the Western Hemisphere: *Provided*, That nothing in this section shall prevent the naturalization of native-born Filipinos having the honorable service in the United States Army, Navy, Marine Corps, or Coast Guard as specified in section 724, nor of former citizens of the United States who are otherwise eligible to naturalization under the provisions of section 717. (Oct. 14, 1940, ch. 876, title I, subch. III, § 303, 54 Stat. 1140.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 369a of this title.

RACIAL LIMITATIONS ON NATURALIZATION GENERALLY

Former section 359 of this title provided as follows: "The provisions of this chapter shall apply to aliens being free white persons, and to aliens of African nativity and to persons of African descent, and nothing in sections 376-378, 337-395, 406 of this title shall repeal or in any way enlarge this section, except as specified in sections 388-390 and 392-394 of this title, and under the limitation therein defined. (R. S. § 2169; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 318; May 9, 1918, ch. 69, § 2, 40 Stat. 547.)"

CHINESE PROHIBITED ADMISSION TO CITIZENSHIP

Former section 363 of this title provided as follows: "No State court or court of the United States shall admit Chinese to citizenship. (May 6, 1882, ch. 126, § 14, 22 Stat. 61.)"

§ 704. Same; language.

No person except as otherwise provided in this chapter shall hereafter be naturalized as a citizen of the United States upon his own petition who cannot speak the English language. This requirement shall not apply to any person physically unable to comply therewith, if otherwise qualified to be naturalized. (Oct. 14, 1940, ch. 876, title I, subch. III, § 304, 54 Stat. 1140.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 365 of this title.

§ 705. Same; belief in Government and property rights.

No person shall hereafter be naturalized as a citizen of the United States—

(a) Who advises, advocates, or teaches, or who is a member of or affiliated with any organization, association, society, or group that advises, advocates, or teaches opposition to all organized government; or

(b) Who believes in, advises, advocates, or teaches, or who is a member of or affiliated with any organization, association, society, or group that believes in, advises, advocates, or teaches—

(1) the overthrow by force or violence of the Government of the United States or of all forms of law; or

(2) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or any other organized government, because of his or their official character; or

(3) the unlawful damage, injury, or destruction of property; or

(4) sabotage.

(c) Who writes, publishes, or causes to be written or published, or who knowingly circulates, distributes, prints, or displays, or knowingly causes to be circulated, distributed, printed, published, or displayed, or who knowingly has in his possession for the purpose of circulation, distribution, publication, or display any written or printed matter advising, advocating, or teaching opposition to all organized government, or advising, advocating, or teaching—

(1) the overthrow by force or violence of the Government of the United States or of all forms of law; or

(2) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government; or

(3) the unlawful damage, injury, or destruction of property; or

(4) sabotage.

(d) Who is a member of or affiliated with any organization, association, society, or group that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subdivision (c).

For the purpose of this section—

(1) the giving, loaning, or promising of money or anything of value to be used for the advising, advocacy or teaching of any doctrine above enumerated shall constitute the advising, advocacy, or teaching of such doctrine; and

(2) the giving, loaning, or promising of money or anything of value to any organization, association, society, or group of the character above described shall constitute affiliation therewith; but nothing in this paragraph shall be taken as an exclusive definition of advising, advocacy, teaching or affiliation.

The provisions of this section shall be applicable to any applicant for naturalization who at any time within a period of ten years immediately preceding the filing of the petition for naturalization is, or has been, found to be within any of the clauses enumerated in this section, notwithstanding that at the time petition is filed he may not be included in such classes. (Oct. 14, 1940, ch. 876, title I, subch. III, § 305, 54 Stat. 1141.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 364 of this title.

§ 706. Same; desertion from armed forces or evasion of draft during war.

A person who, at any time during which the United States has been or shall be at war, deserted or shall desert the military or naval forces of the United States, or who, having duly enrolled, departed, or shall depart from the jurisdiction of the district in which enrolled, or went or shall go beyond the limits

of the United States, with intent to avoid any draft into the military or naval service, lawfully ordered, shall, upon conviction thereof by a court martial, be ineligible to become a citizen of the United States; and such deserters shall be forever incapable of holding any office of trust or of profit under the United States, or of exercising any rights of citizens thereof. (Oct. 14, 1940, ch. 876, title I, subch. III, § 306, 54 Stat. 1141.)

CROSS REFERENCE

Loss of nationality by deserting military or naval service, see section 801 of this title.

§ 707. Same; residence.

(a) No person, except as hereinafter provided in this chapter, shall be naturalized unless such petitioner, (1) immediately preceding the date of filing petition for naturalization has resided continuously within the United States for at least five years and within the State in which the petitioner resided at the time of filing the petition for at least six months, (2) has resided continuously within the United States from the date of the petition up to the time of admission to citizenship, and (3) during all the periods referred to in this subsection has been and still is a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.

(b) Absence from the United States for a continuous period of more than six months but less than one year during the period for which continuous residence is required for admission to citizenship, immediately preceding the date of filing the petition for naturalization, or during the period between the date of filing the petition and the date of final hearing, shall be presumed to break the continuity of such residence, but such presumption may be overcome by the presentation of evidence satisfactory to the naturalization court that such individual had a reasonable cause for not sooner returning to the United States. Absence from the United States for a continuous period of one year or more during the period for which continuous residence is required for admission to citizenship, immediately preceding the date of filing the petition for naturalization or during the period between the date of filing the petition and the date of final hearing, shall break the continuity of such residence, except that in the case of an alien who has resided in the United States for at least one year, during which period he has made a declaration of intention to become a citizen of the United States, and who thereafter is employed by or under contract with the Government of the United States or an American institution of research recognized as such by the Attorney General, or is employed by an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States or a subsidiary thereof, no period of absence from the United States shall break the continuity of residence if—

(1) Prior to the beginning of such period (whether such period begins before or after his departure from the United States) the alien has established to the satisfaction of the Attorney General that his absence

from the United States for such period is to be on behalf of such Government, or for the purpose of carrying on scientific research on behalf of such institution, or to be engaged in the development of such foreign trade and commerce or whose residence abroad is necessary to the protection of the property rights in such countries of such firm or corporation, and

(2) Such alien proves to the satisfaction of the court that his absence from the United States for such period has been for such purpose.

(c) No period of absence from the United States during the five years immediately preceding June 25, 1936, shall be held to have broken the continuity of residence required by the naturalization laws if the alien proves to the satisfaction of the Attorney General and the court that during all such period of absence he has been under employment by, or contract with, the United States, or such American institution of research, or American firm or corporation, described in subsection (b) of this section, and has been carrying on the activities described in that subsection in its behalf.

(d) The following shall be regarded as residence within the United States within the meaning of this subchapter:

(1) Honorable service on vessels owned directly by the Government of the United States, whether or not rendered at any time prior to the applicant's lawful entry into the United States: *Provided*, That this subdivision shall not apply to service on vessels operating in and about the Canal Zone in connection with the maintenance, operation, protection, and civil government of the Panama Canal and Canal Zone.

(2) Continuous service by a seaman on a vessel or vessels whose home port is in the United States and which are of American registry or American owned, if rendered subsequent to the applicant's lawful entry into the United States for permanent residence and immediately preceding the date of naturalization. (Oct. 14, 1940, ch. 876, title I, subch. III, § 307, 54 Stat. 1142.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 382, 382a, 384, and 388 of this title.

§ 708. Same; residence of clergymen, etc., temporarily absent in professional capacity.

Any alien who has been lawfully admitted into the United States for permanent residence and who has heretofore been or may hereafter be absent temporarily from the United States solely in his or her capacity as a regularly ordained clergyman or nun, shall be considered as residing in the United States for the purpose of naturalization, notwithstanding any such absence from the United States, but he or she shall in all other respects comply with the requirements of the naturalization laws. Such alien shall prove to the satisfaction of the Attorney General and the naturalization court that his or her absence from the United States has been solely in the capacity hereinbefore described. (Oct. 14, 1940, ch. 876, title I, subch. III, § 308, 54 Stat. 1143.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 382b of this title.

§ 709. Requirements as to proof.

(a) As to each period and place of residence in the State in which the petitioner resides at the time of filing the petition, during the entire period of at least six months immediately preceding the date of filing the petition, there shall be included in the petition the affidavits of at least two credible witnesses, citizens of the United States, stating that each has personally known the petitioner to have been a resident at such place for such period, and that the petitioner is and during all such period has been a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.

(b) At the hearing on the petition, residence in the State in which the petitioner resides at the time of filing the petition, for at least six months immediately preceding the date of filing the petition, and the other qualifications required by subsection (a) of section 707 during such residence shall be proved by the oral testimony of at least two credible witnesses, citizens of the United States, in addition to the affidavits required by subsection (a) of this section to be included in the petition. At the hearing, residence within the United States during the five-year period, but outside the State, or within the State but prior to the six months immediately preceding the date of filing the petition, and the other qualifications required by subsection (a) of section 707 during such period at such places, shall be proved either by depositions taken in accordance with subsection (e) of section 727, or oral testimony, of at least two such witnesses for each place of residence.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section the requirements of subsection (a) of section 707 as to the petitioner's residence, moral character, attachment to the principles of the Constitution of the United States, and disposition toward the good order and happiness of the United States may be established by any evidence satisfactory to the naturalization court in those cases under subsection (b) of section 707 in which the alien declarant has been absent from the United States because of his employment by or contract with the Government of the United States or an American institution of research, recognized as such by the Attorney General, or employment by an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States or a subsidiary thereof.

(d) The clerk of court shall, if the petitioner requests it at the time of filing the petition for naturalization, issue a subpoena for the witnesses named by such petitioner to appear upon the day set for the final hearing, but in case such witnesses cannot be produced upon the final hearing other witnesses may be summoned upon notice to the Commissioner, in such manner and at such time as the Commissioner, with the approval of the Attorney General, may by regulation prescribe. If it should appear

after the petition has been filed that any of the verifying witnesses thereto are not competent, and it further appears that the petitioner has acted in good faith in producing such witnesses found to be incompetent, other witnesses may be substituted in accordance with such regulations. (Oct. 14, 1940, ch. 876, title I, subch. III, § 309, 54 Stat. 1143.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 379, 382, and 397 of this title.

§ 710. Married persons excepted from certain requirements; validation of certain naturalizations.

(a) Any alien who, after September 21, 1922, and prior to May 24, 1934, has married a citizen of the United States, or any alien who married prior to May 24, 1934, a spouse who was naturalized during such period and during the existence of the marital relation may, if eligible to naturalization, be naturalized upon full and complete compliance with all requirements of the naturalization laws, with the following exceptions:

(1) No declaration of intention shall be required;

(2) In lieu of the five-year period of residence within the United States, and the six months' period of residence in the State where the petitioner resided at the time of filing the petition, the petitioner shall have resided continuously in the United States for at least one year immediately preceding the filing of the petition.

(b) Any alien who, on or after May 24, 1934, has married or shall hereafter marry a citizen of the United States, or any alien whose husband or wife was naturalized on or after May 24, 1934, and during the existence of the marital relation or shall hereafter be so naturalized may, if eligible for naturalization, be naturalized upon full and complete compliance with all requirements of the naturalization laws, with the following exceptions:

(1) No declaration of intention shall be required;

(2) In lieu of the five-year period of residence within the United States, and the six months' period of residence in the State where the petitioner resided at the time of filing the petition, the petitioner shall have resided continuously in the United States for at least three years immediately preceding the filing of the petition.

(c) The naturalization of any woman on or after May 24, 1934, by any naturalization court of competent jurisdiction, upon proof of marriage to a citizen or the naturalization of her husband and proof of but one year's residence in the United States is hereby validated only so far as relates to the period of residence required to be proved by such person under the naturalization laws.

(d) The naturalization of any male person on or after May 24, 1934, by any naturalization court of competent jurisdiction, upon proof of marriage to a citizen of the United States after September 21, 1922, and prior to May 24, 1934, or of the naturalization during such period of his wife, and upon proof of three years' residence in the United States, is hereby validated only so far as relates to the period of residence required to be proved by such person under the naturalization laws and the omission by such person

to make a declaration of intention. (Oct. 14, 1940, ch. 876, title I, subch. III, § 310, 54 Stat. 1144.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 368 of this title.

WOMEN MARRYING CITIZENS; EFFECT OF REPEAL OF FORMER LAW

Former section 10 of this title provided as follows: "The repeal of section 1994 of the Revised Statutes of 1874, providing that 'any woman who is now or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen', shall not terminate citizenship acquired or retained thereunder. Nor shall the repeal of section 4 of act March 2, 1897, chapter 2534, Thirty-fourth Statutes, page 1229, providing that 'any foreign woman who acquires American citizenship by marriage to an American shall be assumed to retain the same after the termination of the marital relation if she continue to reside in the United States, unless she makes formal renunciation thereof before a court having jurisdiction to naturalize aliens, or if she resides abroad she may retain her citizenship by registering as such before a United States consul within one year after the termination of such marital relation', terminate citizenship acquired or retained thereunder, nor restore citizenship lost thereunder. (Sept. 22, 1922, ch. 411, § 6, 42 Stat. 1022.)"

§ 711. Same; spouse of United States citizen residing in United States in marital union prior to petition.

A person who upon the effective date of this section is married to or thereafter marries a citizen of the United States, or whose spouse is naturalized after the effective date of this section, if such person shall have resided in the United States in marital union with the United States citizen spouse for at least one year immediately preceding the filing of the petition for naturalization, may be naturalized after the effective date of this section upon compliance with all requirements of the naturalization laws with the following exceptions:

(a) No declaration of intention shall be required.

(b) The petitioner shall have resided continuously in the United States for at least two years immediately preceding the filing of the petition in lieu of the five-year period of residence within the United States and the six months' period of residence within the State where the naturalization court is held. (Oct. 14, 1940, ch. 876, title I, subch. III, § 311, 54 Stat. 1145.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 368 of this title.

EFFECTIVE DATE OF THIS SECTION

See section 906 of this title.

§ 712. Same; alien whose spouse is United States citizen regularly stationed abroad by United States employer.

An alien, whose spouse is (1) a citizen of the United States, (2) in the employment of the Government of the United States, or of an American institution of research recognized as such by the Attorney General, or an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof, and (3) regularly stationed abroad in such employment, and who is (1) in the United States at the time of naturalization, and (2)

declares before the naturalization court in good faith an intention to take up residence within the United States immediately upon the termination of such employment abroad of the citizen spouse, may be naturalized upon compliance with all requirements of the naturalization laws, with the following exceptions:

(a) No declaration of intention shall be required; and

(b) No prior residence within the United States or within the jurisdiction of the naturalization court or proof thereof shall be required. (Oct. 14, 1940, ch. 876, title I, subch. III, § 312, 54 Stat. 1145.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 369 and 382 of this title.

§ 713. Children born outside United States; one parent a continuous United States citizen and other an alien subsequently naturalized.

A child born outside of the United States, one of whose parents at the time of the child's birth was an alien and the other of whose parents then was and never thereafter ceased to be a citizen of the United States, shall, if such alien parent is naturalized, be deemed a citizen of the United States, when—

(a) Such naturalization takes place while such child is under the age of eighteen years; and

(b) Such child is residing in the United States at the time of naturalization or thereafter and begins to reside permanently in the United States while under the age of eighteen years. (Oct. 14, 1940, ch. 876, title I, subch. III, § 313, 54 Stat. 1145.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 6 of this title.

§ 714. Same; both parents aliens, or one an alien and other a citizen subsequently losing citizenship.

A child born outside of the United States of alien parents, or of an alien parent and a citizen parent who has subsequently lost citizenship of the United States, becomes a citizen of the United States upon fulfillment of the following conditions:

(a) The naturalization of both parents; or
(b) The naturalization of the surviving parent if one of the parents is deceased; or

(c) The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents; and if—

(d) Such naturalization takes place while such child is under the age of eighteen years; and

(e) Such child is residing in the United States at the time of the naturalization of the parent last naturalized under subsection (a) of this section, or the parent naturalized under subsection (b) or (c) of this section, or thereafter begins to reside permanently in the United States while under the age of eighteen years. (Oct. 14, 1940, ch. 876, title I, subch. III, § 314, 54 Stat. 1145.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 7 and 8 of this title.

§ 715. Same; one parent a United States citizen at time of petition.

A child born outside of the United States, one of whose parents is at the time of petitioning for the naturalization of the child, a citizen of the United States, either by birth or naturalization, may be naturalized if under the age of eighteen years and not otherwise disqualified from becoming a citizen and is residing permanently in the United States with the citizen parent, on the petition of such citizen parent, without a declaration of intention, upon compliance with the applicable procedural provisions of the naturalization laws. (Oct. 14, 1940, ch. 876, title I, subch. III, § 315, 54 Stat. 1146.)

§ 716. Children adopted by United States citizens.

An adopted child may, if not otherwise disqualified from becoming a citizen, be naturalized before reaching the age of eighteen years upon the petition of the adoptive parent or parents if the child has resided continuously in the United States for at least two years immediately preceding the date of filing such petition, upon compliance with all the applicable procedural provisions of the naturalization laws, if the adoptive parent or parents are citizens of the United States, and the child was:

(a) Lawfully admitted to the United States for permanent residence; and

(b) Adopted in the United States before reaching the age of sixteen years; and

(c) Adopted and in the legal custody of the adoptive parent or parents for at least two years prior to the filing of the petition for the child's naturalization. (Oct. 14, 1940, ch. 876, title I, subch. III, § 316, 54 Stat. 1146.)

§ 717. Former citizens of United States excepted from certain requirements; citizenship lost by spouse's alienage or loss of United States citizenship, or by entering armed forces of foreign state and acquiring its nationality.

(a) A person who was a citizen of the United States and who prior to September 22, 1922, lost United States citizenship by marriage to an alien or by the spouse's loss of United States citizenship, and any person who lost United States citizenship on or after September 22, 1922, by marriage to an alien ineligible to citizenship, may, if no other nationality was acquired by affirmative act other than such marriage, be naturalized upon compliance with all requirements of the naturalization laws with the following exceptions:

(1) No declaration of intention and no certificate of arrival shall be required, and no period of residence within the United States or within the State where the petition is filed shall be required.

(2) The petition need not set forth that it is the intention of the petitioner to reside permanently within the United States.

(3) The petition may be filed in any court having naturalization jurisdiction, regardless of the residence of the petitioner.

(4) The petition may be heard at any time after filing if there is attached to the petition at the time of filing a certificate from a naturalization examiner

stating that the petitioner has appeared before such examiner for examination.

Such person shall have, from and after the naturalization, the same citizenship status as that which existed immediately prior to its loss.

(b) (1) From and after the effective date of this chapter,¹ a woman, who was a citizen of the United States at birth, and who has or is believed to have lost her United States citizenship solely by reason of her marriage prior to September 22, 1922, to an alien, and whose marital status with such alien has or shall have terminated, if no other nationality was acquired by affirmative act other than such marriage, shall, from and after the taking of the oath of allegiance prescribed by subsection (b) of section 735 of this chapter, be deemed to be a citizen of the United States to the same extent as though her marriage to said alien had taken place on or after September 22, 1922.

(2) Such oath of allegiance may be taken abroad before a diplomatic or consular officer of the United States, or in the United States before the judge or clerk of a naturalization court.

(3) Such oath of allegiance shall be entered in the records of the appropriate embassy or legation or consulate or naturalization court, and upon demand, a certified copy of the proceedings, including a copy of the oath administered, under the seal of the embassy or legation or consulate or naturalization court, shall be delivered to such woman at a cost not exceeding \$1, which certified copy shall be evidence of the facts stated therein before any court of record or judicial tribunal and in any department of the United States.

(c) A person who shall have been a citizen of the United States and also a national of a foreign state, and who shall have lost his citizenship of the United States under the provisions of section 801 (c) of this chapter, shall be entitled to the benefits of the provisions of subsection (a) of this section, except that contained in subdivision (2) thereof. Such person, if abroad, may enter the United States as a non-quota immigrant, for the purpose of recovering his citizenship, upon compliance with the provisions of sections 101, 102, 105, 108, 109, 113, 115, 116, 132, 136, 138, 130, 142-156, 158-169, 171, 173, 175, 177-179, 201-204, 205-213, 214-226, and 229 of this title. (Oct. 14, 1940, ch. 876, title I, subch. III, § 317, 54 Stat. 1146.)

¹ Effective date of this chapter, see section 906 of this title.

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 9a, 369, and 369a of this title and section 733b of Title 48, Territories and Insular Possessions.

CITIZENSHIP OF WOMEN BORN IN HAWAII

Former section 368b of this title provided as follows: "For the purposes of section 369a (now covered by section 717 (a)) of this title, a woman born in Hawaii prior to June 14, 1900, shall be considered to have been a citizen of the United States at birth. (July 2, 1932, ch. 395, 47 Stat. 571; July 1, 1940, ch. 495, 54 Stat. 707.)"

CROSS REFERENCE

Former citizens of United States who lost citizenship by oath to enter armed forces of allied country in World War, see section 723 of this title.

§ 718. Same; citizenship lost by parent's expatriation.

(a) A former citizen of the United States expatriated through the expatriation of such person's parent or parents and who has not acquired the nationality of another country by any affirmative act other than the expatriation of his parent or parents may be naturalized upon filing a petition for naturalization before reaching the age of twenty-five years and upon compliance with all requirements of the naturalization laws with the following exceptions:

(1) No declaration of intention and no certificate of arrival and no period of residence within the United States or in a State shall be required;

(2) The petition may be filed in any court having naturalization jurisdiction, regardless of the residence of the petitioner;

(3) If there is attached to the petition at the time of filing, a certificate from a naturalization examiner stating that the petitioner has appeared before him for examination, the petition may be heard at any time after filing; and

(4) Proof that the petitioner was at the time his petition was filed and at the time of the final hearing thereon a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States, and that he intends to reside permanently in the United States shall be made by any means satisfactory to the naturalization court.

(b) No former citizen of the United States, expatriated through the expatriation of such person's parent or parents, shall be obliged to comply with the requirements of the immigration laws, if he has not acquired the nationality of another country by any affirmative act other than the expatriation of his parent or parents, and if he has come or shall come to the United States before reaching the age of twenty-five years.

(c) After his naturalization such person shall have the same citizenship status as if he had not been expatriated. (Oct. 14, 1940, ch. 876, title I, subch. III, § 318, 54 Stat. 1147.)

§ 719. Same; minor child's citizenship lost through cancelation of parent's naturalization.

(a) A person who as a minor child lost citizenship of the United States through the cancelation of the parent's naturalization on grounds other than actual fraud or presumptive fraud as specified in the second paragraph of section 405 of this title, or who shall lose citizenship of the United States under subsection (c) of section 738 of this chapter, may, if such person resided in the United States at the time of such cancelation and if, within two years after such cancelation or within two years after the effective date of this section, such person files a petition for naturalization or such a petition is filed on such person's behalf by a parent or guardian if such person is under the age of eighteen years, be naturalized upon compliance with all requirements of the naturalization laws with the exception that no declaration of intention shall be required and the required

five-year period of residence in the United States need not be continuous.

(b) Citizenship acquired under this section shall begin as of the date of the person's naturalization, except that in those cases where the person has resided continuously in the United States from the date of the cancellation of the parent's naturalization to the date of the person's naturalization under this section, the citizenship of such person shall relate back to the date of the parent's naturalization which has been canceled or to the date of such person's arrival in the United States for permanent residence if such date was subsequent to the date of naturalization of said parent. (Oct. 14, 1940, ch. 876, title I, subch. III, § 319, 54 Stat. 1148.)

REFERENCES IN TEXT

The second paragraph of section 405 of this title, to which reference is made in this section, was repealed by section 504 of act October 14, 1940, cited to text. Prior to its repeal said paragraph provided as follows: "If any alien who shall have secured a certificate of citizenship under the provisions of this chapter shall, within five years after the issuance of such certificate, return to the country of his nativity, or go to any other foreign country, and take permanent residence therein, it shall be considered prima facie evidence of a lack of intention on the part of such alien to become a permanent citizen of the United States at the time of filing his application for citizenship, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the cancellation of his certificate of citizenship as fraudulent, and the diplomatic and consular officers of the United States in foreign countries shall from time to time, through the Department of State, furnish the Department of Justice with the names of those within their respective jurisdictions who have such certificates of citizenship and who have taken permanent residence in the country of their nativity, or in any other foreign country, and such statements, duly certified, shall be admissible in evidence in all courts in proceedings to cancel certificates of citizenship."

EFFECTIVE DATE OF THIS SECTION

See section 906 of this title.

§ 720. Persons misinformed of citizenship status excepted from certain requirements.

A person not an alien enemy, who resided uninterruptedly within the United States during the period of five years next preceding July 1, 1920, and was on that date otherwise qualified to become a citizen of the United States, except that such person had not made a declaration of intention required by law and who during or prior to that time, because of misinformation regarding the citizenship status of such person, erroneously exercised the rights and performed the duties of a citizen of the United States in good faith, may file the petition for naturalization prescribed by law without making the preliminary declaration of intention, and upon satisfactory proof to the court that petitioner has so acted may be admitted as a citizen of the United States upon complying with the other requirements of the naturalization laws. (Oct. 14, 1940, ch. 876, title I, subch. III, § 320, 54 Stat. 1148.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 377 of this title.

§ 721. Nationals but not citizens of United States.

A person not a citizen who owes permanent allegiance to the United States, and who is otherwise

qualified may, if he becomes a resident of any State, be naturalized upon compliance with the requirements of this chapter, except that in petitions for naturalization filed under the provisions of this section, residence within the United States within the meaning of this chapter shall include residence within any of the outlying possessions of the United States. (Oct. 14, 1940, ch. 876, title I, subch. III, § 321, 54 Stat. 1148.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 360 of this title.

§ 722. Puerto Ricans.

A person born in Puerto Rico of alien parents, referred to in the last paragraph of section 5, act of March 2, 1917, ch. 145, 39 Stat. 953, and in section 5a of the said act, as amended by section 2 of the act of March 4, 1927, ch. 503, 44 Stat. 1418, who did not exercise the privilege granted of becoming a citizen of the United States, may make the declaration provided in said paragraph at any time, and from and after the making of such declaration shall be a citizen of the United States. (Oct. 14, 1940, ch. 876, title I, subch. III, § 322, 54 Stat. 1148.)

REFERENCES IN TEXT

Sections 5 and 5a of act Mar. 2, 1917, mentioned in the text, formerly constituted sections 5 and 5a of this title, which are now set out in note under section 602 of this title.

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 5, 5a, and 5a-1 of this title and section 733b of Title 48, Territories and Insular Possessions.

§ 723. Former citizens of United States; citizenship lost by entering armed forces of allied country during World War.

A person who, while a citizen of the United States and during the World War in Europe, entered the military or naval service of any country at war with a country with which the United States was then at war, who has lost citizenship of the United States by reason of any oath or obligation taken for the purpose of entering such service, may be naturalized by taking before any naturalization court specified in subsection (a) of section 701 the oaths prescribed by section 735. (Oct. 14, 1940, ch. 876, title I, subch. III, § 323, 54 Stat. 1149.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 18 of this title.

CROSS REFERENCE

Recovery of citizenship by persons who lost citizenship by acquiring nationality of foreign state or entering foreign army, see section 717 of this title.

§ 724. Persons serving in armed forces of United States.

(a) A person, including a native-born Filipino, who has served honorably at any time in the United States Army, Navy, Marine Corps, or Coast Guard for a period or periods aggregating three years and who, if separated from such service, was separated under honorable conditions, may be naturalized without having resided, continuously immediately preceding

the date of filing such person's petition, in the United States for at least five years and in the State in which the petition for naturalization is filed for at least six months, if such petition is filed while the petitioner is still in the service or within six months after the termination of such service.

(b) A person filing a petition under subsection (a) of this section shall comply in all respects with the requirements of this subchapter except that—

- (1) No declaration of intention shall be required;
- (2) No certificate of arrival shall be required;
- (3) No residence within the jurisdiction of the court shall be required;

(4) Such petitioner may be naturalized immediately if the petitioner be then actually in any of the services prescribed in subsection (a) of this section, and if, before filing the petition for naturalization, such petitioner and at least two verifying witnesses to the petition, who shall be citizens of the United States and who shall identify petitioner as the person who rendered the service upon which the petition is based, have appeared before and been examined by a representative of the Service.

(c) In case such petitioner's service was not continuous, petitioner's residence in the United States and State, good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during any period within five years immediately preceding the date of filing said petition between the periods of petitioner's service in the United States Army, Navy, Marine Corps, or Coast Guard, shall be verified in the petition filed under the provisions of subsection (a) of this section, and proved at the final hearing thereon by witnesses, citizens of the United States, in the same manner as required by section 709. Such verification and proof shall also be made as to any period between the termination of petitioner's service and the filing of the petition for naturalization.

(d) The petitioner shall comply with the requirements of section 709 as to continuous residence in the United States for at least five years and in the State in which the petition is filed for at least six months, immediately preceding the date of filing the petition, if the termination of such service has been more than six months preceding the date of filing the petition for naturalization, except that such service shall be considered as residence within the United States or the State.

(e) Any such period or periods of service under honorable conditions, and good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during such service, shall be proved by duly authenticated copies of records of the executive departments having custody of the records of such service, and such authenticated copies of records shall be accepted in lieu of affidavits and testimony or depositions of witnesses. (Oct. 14, 1940, ch. 876, title I, subch. III, § 324, 54 Stat. 1149.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 388, 391, 392, and 393-395 of this title.

ALIEN VETERANS OF WORLD WAR

Former sections 389a and 392a-392d of this title provided as follows:

"§ 389a. Alien honorably discharged from Regular Army; residence. Hereafter, service in the Regular Army honorably terminated shall be credited for purposes of legal residence under the naturalization laws of the United States, regardless of the legality or illegality of the original entry into the United States of the alien, the certificate of the honorable termination of such service or a duly authenticated copy thereof made by a naturalization examiner of the Immigration and Naturalization Service being accepted in lieu of the certificate from the Department of Labor of the alien's arrival in the United States required by the naturalization laws; and service so credited in each case shall be considered as having been performed immediately preceding the filing of the petition for naturalization. (Aug. 19, 1937, ch. 698, § 2; Aug. 16, 1940, ch. 684, 54 Stat. 789.)"

"§ 392a. Alien veterans of World War; naturalization proceeding within two years. An alien veteran, as defined in section 241 of this title, shall, if residing in the United States, be entitled, at any time within two years after March 4, 1929, to naturalization upon the same terms, conditions, and exemptions which would have been accorded to such alien if he had petitioned before the armistice of the World War, except that such alien shall be required to appear and file his petition in person and to take the prescribed oath of allegiance in open court. (May 26, 1926, ch. 398, § 7, 44 Stat. 655; Mar. 4, 1920, ch. 683, § 3, 45 Stat. 1546.)"

"§ 392b. Alien veterans residing in United States; terms, conditions and exemptions affecting naturalization. (a) An alien veteran, as defined in section 241 of this title, shall, if residing in the United States, be entitled at any time prior to May 25, 1940, to naturalization upon the same terms, conditions, and exemptions which would have been accorded to such alien if he had petitioned before the armistice of the World War, except that (1) such alien shall be required to prove that immediately preceding the date of his petition he has resided continuously within the United States for at least two years, in pursuance of a legal admission for permanent residence, and that during the five years immediately preceding the filing of his petition he has behaved as a person of good moral character; (2) if such admission was subsequent to March 3, 1924, such alien shall file with his petition a certificate of arrival issued by the Commissioner of Immigration and Naturalization; (3) final action shall not be had upon the petition until at least ninety days have elapsed after filing of such petition; and (4) such alien shall be required to appear and file his petition in person, and to take the prescribed oath of allegiance in open court. Such residence and good moral character shall be proved either by the affidavits of two credible witnesses who are citizens of the United States, or by depositions by two such witnesses made before a naturalization examiner, for each place of residence.

"(b) All petitions for citizenship made outside the United States in accordance with section 390 of this title, upon which naturalization has not been granted prior to May 25, 1932, are hereby declared to be invalid for all purposes. (May 25, 1932, ch. 203, § 1, 47 Stat. 165; Ex. Ord. No. 6166, § 14, June 10, 1933; June 24, 1935, ch. 288, § 1, 49 Stat. 395; Aug. 23, 1937, ch. 735, § 1, 50 Stat. 743; June 21, 1939, ch. 234, § 1, 53 Stat. 851; Oct. 14, 1940, ch. 876, title I, subchap. V, § 504, 54 Stat. 1174.)"

"§ 392c. Same; effect of departure from United States; proof of compliance with provisions. The provisions of subdivision (a) of section 392b of this title are hereby extended to include any alien lawfully admitted into the United States for permanent residence who departed therefrom, for the purpose of serving, and actually served prior to November 11, 1918, in the military or naval forces of the United States in the World War and was discharged from such service under honorable circumstances: *Provided*, That before any applicant for citizenship under this section is admitted to citizenship the court shall be satisfied by competent proof that he is entitled to and has complied in all respects with the provisions of this section and sections 392b and 392d of this title; and

that he was and had been a bona fide lawfully admitted resident in the United States for two years before the passage of this act. (June 24, 1935, ch. 288, § 2, 49 Stat. 895; Aug. 23, 1937, ch. 735, § 2, 50 Stat. 743; June 21, 1939, ch. 234, § 2, 53 Stat. 851; Oct. 14, 1940, ch. 876, title I, subchap. V, § 504, 54 Stat. 1174.)"

"§ 392d. Same; regulations for enforcement. The Commissioner of Immigration and Naturalization, with the approval of the Secretary of Labor, shall prescribe such rules and regulations as may be necessary for the enforcement of sections 392b (a) and 392c of this title. (June 24, 1935, ch. 288, § 3, 49 Stat. 895; Aug. 23, 1937, ch. 735, § 3, 50 Stat. 744; June 21, 1939, ch. 234, § 3, 53 Stat. 851; Oct. 14, 1940, ch. 876, title I, subchap. V, § 504, 54 Stat. 1174.)"

§ 725. Persons serving on United States Government or private vessels.

(a) A person who has served honorably or with good conduct for an aggregate period of at least five years (1) on board of any vessel of the United States Government other than in the United States Navy, Marine Corps, or Coast Guard, or (2) on board vessels of more than twenty tons burden, whether or not documented under the laws of the United States, and whether public or private, which are not foreign vessels, and whose home port is in the United States, may be naturalized without having resided, continuously immediately preceding the date of filing such person's petition, in the United States for at least five years, and in the State in which the petition for naturalization is filed for at least six months, if such petition is filed while the petitioner is still in the service on a reenlistment, reappointment, or re-shipment, or within six months after an honorable discharge or separation therefrom.

(b) The provisions of subsections (b), (c), (d), and (e) of section 724 shall apply to petitions for naturalization filed under this section, except that service with good conduct on vessels described in subsection (a) (2) of this section may be proved by certificates from the masters of such vessels. (Oct. 14, 1940, ch. 876, title I, subch. III, § 325, 54 Stat. 1150.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 388, 393, and 394 of this title.

§ 726. Alien enemies.

(a) An alien who is a native, citizen, subject, or denizen of any country, state, or sovereignty with which the United States is at war may be naturalized as a citizen of the United States if such alien's declaration of intention was made not less than two years prior to the beginning of the state of war, or such alien was at the beginning of the state of war entitled to become a citizen of the United States without making a declaration of intention, or his petition for naturalization shall at the beginning of the state of war be pending and the petitioner is otherwise entitled to admission, notwithstanding such petitioner shall be an alien enemy at the time and in the manner prescribed by the laws passed upon that subject.

(b) An alien embraced within this section shall not have such alien's petition for naturalization called for a hearing, or heard, except after ninety days' notice given by the clerk of the court to the Commissioner to be represented at the hearing, and

the Commissioner's objection to such final hearing shall cause the petition to be continued from time to time for so long as the Commissioner may require.

(c) Nothing herein contained shall be taken or construed to interfere with or prevent the apprehension and removal, agreeably to law, of any alien enemy at any time previous to the actual naturalization of such alien.

(d) The President of the United States may, in his discretion, upon investigation and report by the Department of Justice fully establishing the loyalty of any alien enemy not included in the foregoing exemption, except such alien enemy from the classification of alien enemy, and thereupon such alien shall have the privilege of applying for naturalization. (Oct. 14, 1940, ch. 876, title I, subch. III, § 326, 54 Stat. 1150.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 378 of this title.

§ 727. Administration of naturalization laws; rules and regulations; instruction in citizenship; forms; oaths; depositions; documents in evidence; photographic studio.

(a) The Commissioner, or, in his absence, a Deputy Commissioner, shall have charge of the administration of the naturalization laws, under the immediate direction of the Attorney General, to whom the Commissioner shall report directly upon all naturalization matters annually and as otherwise required.

(b) The Commissioner, with the approval of the Attorney General, shall make such rules and regulations as may be necessary to carry into effect the provisions of this subchapter and is authorized to prescribe the scope and nature of the examination of petitioners for naturalization as to their admissibility to citizenship for the purpose of making appropriate recommendations to the naturalization courts. Such examination shall be limited to inquiry concerning the applicant's residence, good moral character, understanding of and attachment to the fundamental principles of the Constitution of the United States, and other qualifications to become a naturalized citizen as required by law, and shall be uniform throughout the United States.

(c) The Commissioner is authorized to promote instruction and training in citizenship responsibilities of applicants for naturalization including the sending of names of candidates for naturalization to the public schools, preparing and distributing citizenship textbooks to such candidates as are receiving instruction in preparation for citizenship within or under the supervision of the public schools, preparing and distributing monthly an immigration and naturalization bulletin and securing the aid of and cooperating with official State and National organizations, including those concerned with vocational education.

(d) The Commissioner shall prescribe and furnish such forms as may be required to give effect to the provisions of this subchapter, and only such forms as may be so provided shall be legal. All certificates of naturalization and of citizenship shall be printed on safety paper and shall be consecutively numbered in separate series.

(e) Members of the Service may be designated by the Commissioner or a Deputy Commissioner to administer oaths and to take depositions without charge in matters relating to the administration of the naturalization and citizenship laws. In cases where there is a likelihood of unusual delay or of hardship, the Commissioner or a Deputy Commissioner may, in his discretion, authorize such depositions to be taken before a postmaster without charge, or before a notary public or other person authorized to administer oaths for general purposes.

(f) A certificate of naturalization or of citizenship issued by the Commissioner or a Deputy Commissioner under the authority of this chapter shall have the same effect in all courts, tribunals, and public offices of the United States, at home and abroad, of the District of Columbia, and of each State, Territory, and insular possession of the United States, as a certificate of naturalization or of citizenship issued by a court having naturalization jurisdiction.

(g) Certifications and certified copies of all papers, documents, certificates, and records required or authorized to be issued, used, filed, recorded, or kept under any and all provisions of this subchapter shall be admitted in evidence equally with the originals in any and all cases and proceedings under this chapter and in all cases and proceedings in which the originals thereof might be admissible as evidence.

(h) The officers in charge of property owned or leased by the Government are authorized, upon the recommendation of the Attorney General, to provide quarters, without payment of rent, in any building occupied by the Service, for a photographic studio, operated by welfare organizations without profit and solely for the benefit of aliens seeking naturalization. Such studio shall be under the supervision of the Commissioner. (Oct. 14, 1940, ch. 876, title I, subch. III, § 327, 54 Stat. 1150.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 352-354, 356, 356a, 382c, 387, 390, 390c, and 408 of this title.

§ 727a. Patriotic address to new citizens.

Either at the time of the rendition of the decree of naturalization or at such other time as the judge may fix, the judge or someone designated by him shall address the newly naturalized citizen upon the form and genius of our Government and the privileges and responsibilities of citizenship; it being the intent and purpose of this section to enlist the aid of the judiciary, in cooperation with civil and educational authorities, and patriotic organizations in a continuous effort to dignify and emphasize the significance of citizenship. (May 3, 1940, ch. 183, § 2, 54 Stat. 178.)

CODIFICATION

Section is not a part of the Nationality Act of 1940.

PURPOSE OF SECTION

Preamble of Res. May 3, 1940, cited to text and affecting this section and section 152 of title 36, provided as follows:

"Whereas some two million young men and women in the United States each year reach the age of twenty-one years; and

"Whereas it is desirable that the sovereign citizens of our Nation be prepared for the responsibilities and impressed with the significance of their status in our self-governing Republic; Therefore be it [resolved, etc.]".

§ 728. Registry of aliens.

(a) The Commissioner shall cause to be made, for use in complying with the requirements of this subchapter, a registry of each person arriving in the United States after the effective date of this chapter, of the name, age, occupation, personal description (including height, complexion, color of hair and eyes, and fingerprints), the date and place of birth, nationality, the last residence, the intended place of residence in the United States, the date and place of arrival of said person, and the name of vessel or other means of transportation, upon which said person arrived.

(b) Registry of aliens at ports of entry required by subsection (a) of this section may be made as to any alien not ineligible to citizenship in whose case there is no record of admission for permanent residence, if such alien shall make a satisfactory showing to the Commissioner, in accordance with regulations prescribed by the Commissioner, with the approval of the Attorney General, that such alien—

(1) Entered the United States prior to July 1, 1924;

(2) Has resided in the United States continuously since such entry;

(3) Is a person of good moral character; and

(4) Is not subject to deportation.

(c) For the purposes of the immigration laws and naturalization laws an alien, in respect of whom a record of registry has been made as authorized by this section, shall be deemed to have been lawfully admitted to the United States for permanent residence as of the date of such alien's entry. (Oct. 14, 1940, ch. 876, title I, subch. III, § 328, 54 Stat. 1151.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 106 and 106c of this title.

EFFECTIVE DATE OF THIS CHAPTER

See section 906 of this title.

§ 729. Certificate of arrival.

(a) The certificate of arrival required by this subchapter may be issued upon application to the Commissioner in accordance with regulations prescribed by the Commissioner, with the approval of the Attorney General, upon the making of a record of registry as authorized by section 728 of this chapter.

(b) No declaration of intention shall be made by any person who arrived in the United States after June 29, 1906, until such person's lawful entry for permanent residence shall have been established, and a certificate showing the date, place, and manner of arrival in the United States shall have been issued. It shall be the duty of the Commissioner or a Deputy Commissioner to cause to be issued such certificate. (Oct. 14, 1940, ch. 876, title I, subch. III, § 329, 54 Stat. 1152.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 106, 106b, and 377b of this title.

§ 730. Photographs.

(a) Two photographs of the applicant shall be signed by and furnished by each applicant for a declaration of intention and by each petitioner for

naturalization or citizenship. One of such photographs shall be affixed by the clerk of the court to the triplicate declaration of intention issued to the declarant and one to the duplicate declaration of intention required to be forwarded to the Service; and one of such photographs shall be affixed to the original certificate of naturalization issued to the naturalized citizen and one to the duplicate certificate of naturalization required to be forwarded to the Service.

(b) Two photographs of the applicant shall be furnished by each applicant for—

- (1) A record of registry;
- (2) A certificate of derivative citizenship;
- (3) A certificate of naturalization;
- (4) A special certificate;

(5) A declaration of intention or a certificate of naturalization or of citizenship, in lieu of one lost, mutilated, or destroyed; and

(6) A new certificate of citizenship in the new name of any naturalized citizen who, subsequent to naturalization, has had such citizen's name changed by order of a court of competent jurisdiction or by marriage.

One such photograph shall be affixed to each such declaration or certificate issued by the Commissioner and one shall be affixed to the copy of such declaration or certificate retained by the Service. (Oct. 14, 1940, ch. 876, title I, subch. III, § 330, 54 Stat. 1152.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 377c and 399c of this title.

CROSS REFERENCE

Photographic studio for benefit of aliens, see section 727 of this title.

§ 731. Declaration of intention.

An applicant for naturalization shall make, under oath before, and only in the office of, the clerk of court or such clerk's authorized deputy, regardless of the place of residence in the United States of the applicant, not less than two nor more than seven years at least prior to the applicant's petition for naturalization, and after the applicant has reached the age of eighteen years, a signed declaration of intention to become a citizen of the United States, which declaration shall be set forth in writing, in triplicate, and shall contain substantially the following averments by such applicant:

- (1) My full, true, and correct name is _____ (full, true name, without abbreviation, and any other name which has been used, must appear here).
- (2) My present place of residence is _____ (number and street), _____ (city or town), _____ (county), _____ (State).
- (3) My occupation is _____.
- (4) I am _____ years old.
- (5) My personal description is as follows: Sex _____; color _____, complexion _____, color of eyes _____, color of hair _____, height _____ feet _____ inches, weight _____ pounds; visible distinctive marks _____; race _____; present nationality _____.

(6) I was born on _____ (month, day, and year), in _____ (city or town), _____ (county, district, province, or state), _____ (country).

(7) I am _____ married; the name of my wife or husband is _____; we were married on _____ (month, day, and year), at _____ (city or town), _____ (state or country); he or she was born at _____ (city or town), _____ (county, district, province, or state), _____ (country), on _____ (month, day, and year); and entered the United States at _____ (city or town), (State), on _____ (month, day, and year), for permanent residence in the United States, and now resides at _____ (city or town), _____ (state or country).

(8) I have _____ children; and the name, sex, date, and place of birth, and present place of residence of each of said children who is living are as follows: _____.

(9) My place of last foreign residence was _____ (city or town), _____ (county, district, or province), _____ (country).

(10) I emigrated to the United States from _____ (city or town), _____ (country).

(11) My lawful entry for permanent residence in the United States was at _____ (city or town), _____ (State), under the name of _____, on _____ (month, day, and year), on the _____ (name of vessel or other means of conveyance).

(12) I have _____ been absent from the United States, having departed therefrom on _____ (dates of departures), from the port or ports of _____, upon the following vessels or other means of conveyance: _____ (names of vessels or conveyances upon departures); and returned to the United States on _____ (dates of return to the United States), at the port or ports of _____, upon the following vessels or other means of conveyance _____ (names of vessels or conveyances upon return).

(13) I have _____ heretofore made declaration of intention number _____, on _____ (month, day, and year), at _____ (city or town), _____ (county), _____ (State), in the _____ (name of court).

(14) I am not an anarchist, nor a disbeliever in or opposed to organized government, nor a member of or affiliated with any organization or body of persons teaching disbelief in or opposition to organized government.

(15) It is my intention in good faith to become a citizen of the United States and to reside permanently therein.

(16) I will, before being admitted to citizenship, renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which at the time of admission to citizenship I may be a subject or citizen.

(17) I certify that the photograph affixed to the duplicate and triplicate hereof is a likeness of me and was signed by me.

(18) So help me God. (Oct. 14, 1940, ch. 876, title I, subch. III, § 331, 54 Stat. 1153.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 373 and 409 of this title.

ALIEN SPENDING CHILDHOOD IN UNITED STATES

Former section 375a of this title provided as follows: "Any alien who at the time of entering the United States is less than sixteen years of age may upon attaining the age of twenty-one years, if eligible to citizenship, be naturalized upon full and complete compliance with all the requirements of the naturalization laws, subject to the following exceptions:

"(a) No declaration of intention shall be required; and
 "(b) The petition for naturalization shall be filed within one year after such alien attains the age of twenty-one years.

"Nothing in this section shall be construed as preventing its application to aliens who entered the United States prior to its enactment. (July 2, 1940, ch. 512, §§ 1, 2, 54 Stat. 715.)"

VIRGIN ISLANDERS

Former section 377a of this title provided as follows:

"The following persons, if not ineligible to citizenship, may, upon petition filed within one year after February 25, 1927, and upon full and complete compliance with all other provisions of the naturalization laws, be naturalized without making a declaration of intention:

"(a) All natives of the Virgin Islands of the United States who, on January 17, 1917, resided in those islands or in the United States, and who are now residing in those islands or in the United States or Puerto Rico, and who are citizens or subjects of any foreign country;

"(b) All natives of the Virgin Islands of the United States who, on January 17, 1917, resided in the United States, and are now residing in the United States or Puerto Rico, and who are not citizens or subjects of any foreign country; and

"(c) Except as otherwise provided in this section or in section 5b of this title, all persons who, on January 17, 1917, resided in the Virgin Islands of the United States, and are now residing in those islands, and who are not citizens of the United States. (Feb. 25, 1927, ch. 192, § 2, 44 Stat. 1234; May 17, 1932, ch. 190, 47 Stat. 158.)"

§ 732. Petition for naturalization.

(a) An applicant for naturalization shall, not less than two nor more than ten years after such declaration of intention has been made, make and file in the office of the clerk of a naturalization court, in duplicate, a sworn petition in writing, signed by the applicant in the applicant's own handwriting, if physically able to write, and duly verified by witnesses, which petition shall contain substantially the following averments by such applicant.

(1) My full, true, and correct name is _____ (full, true name, without abbreviation, and any other name which has been used, must appear here).

(2) My present place of residence is _____ (number and street), _____ (city or town), _____ (county), _____ (State).

(3) My occupation is _____.

(4) I am _____ years old.

(5) My personal description is: Sex _____; color _____, complexion _____, color of eyes _____, color of hair _____, height _____ feet _____ inches, weight _____ pounds; visible distinctive marks _____; race _____; present nationality _____.

(6) I was born on _____ (month, day, and year), in _____ (city or town), _____ (county, district, province, or state), _____ (country).

(7) I am _____ married; the name of my wife or husband is _____; we were married on _____ (month, day, and year), at _____ (city or town), _____ (state or country); he or she was born at _____ (city or town), _____ (county, district, province, or state), _____ (country), on _____ (month,

day, and year); entered the United States at _____ (city or town), _____ (State), on _____ (month, day, and year), for permanent residence in the United States, and now resides at _____ (city or town), _____ (state or country).

(8) I have _____ children; and the name, sex, date, and place of birth, and present place of residence of each of said children who is living are as follows: _____.

(9) My last place of foreign residence was _____ (city or town), _____, (county, district, or province), _____, (country).

(10) I emigrated to the United States from _____ (city or town), _____ (country).

(11) My lawful entry for permanent residence in the United States was at _____ (city or town), _____ (State), under the name of _____, on _____ (month, day, and year), on the _____ (name of vessel or other means of conveyance) as shown by the certificate of my arrival attached to this petition.

(12) I have _____ been absent from the United States, having departed therefrom on _____ (dates of departures), from the port or ports of _____, upon the following vessels or other means of conveyance: _____ (names of vessels or conveyances upon departures); and returned to the United States on _____ (dates of return to the United States), at the port or ports of _____, upon the following vessels or other means of conveyance: _____ (names of vessels or conveyances upon return).

(13) I have resided continuously in the United States of America for the term of five years at least immediately preceding the date of this petition, to wit, since _____, and continuously in the State in which this petition is made for the term of six months at least immediately preceding the date of this petition, to wit, since _____.

(14) I declared my intention to become a citizen of the United States on _____ (month, day, and year), in the _____ (name of court) Court of _____, at _____ (city or town), _____ (State).

(15) I have _____ heretofore made petition for naturalization number _____, on _____ (month, day, and year), at _____ (city or town), _____ (county), _____ (State), in the _____ (name of court), and such petition was dismissed or denied by that Court for the following reasons and causes, to wit: _____, and the cause of such dismissal or denial has since been cured or removed.

(16) I am not an anarchist, nor a disbeliever in or opposed to organized government, nor a member of or affiliated with any organization or body of persons teaching disbelief in or opposition to organized government.

(17) I am attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States.

(18) It is my intention in good faith to become a citizen of the United States, and to reside permanently therein.

(19) It is my intention to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which at this time I am a subject or citizen.

(20) Attached hereto and made a part of this, my petition for naturalization, or my declaration of intention to become a citizen of the United States (if such declaration of intention be required by the naturalization law), a certificate of arrival from the Immigration and Naturalization Service of my said lawful entry into the United States for permanent residence (if such certificate of arrival be required by the naturalization law), and the affidavits of the two verifying witnesses required by law.

(21) Wherefore, I, petitioner for naturalization, pray that I may be admitted a citizen of the United States of America, and that my name be changed to _____.

(22) I, aforesaid petitioner, being duly sworn, depose and say that I have (read) (heard read) this petition and know that the same is true of my own knowledge except as to matters herein stated to be alleged upon information and belief, and that as to those matters I believe it to be true; and that this petition is signed by me with my full, true, and correct name. So help me God. _____ (full, true, and correct name of petitioner).

(b) The applicant's petition for naturalization, in addition to the averments required by subsection (a) of this section, shall include averments of all other facts which may be material to the applicant's naturalization and required to be proved upon the hearing of such petition.

(c) At the time of filing the petition for naturalization there shall be filed with the clerk of court a certificate from the Service, if the petitioner arrived in the United States after June 29, 1906, stating the date, place, and manner of petitioner's arrival in the United States, and the declaration of intention of such petitioner, which certificate and declaration shall be attached to and made a part of said petition.

(d) Petitions for naturalization may be made and filed during the term time or vacation of the court and shall be docketed the same day as filed, but final action thereon shall be had only on stated days, to be fixed by rule of the court. (Oct. 14, 1940, ch. 876, title I, subch. III, § 332, 54 Stat. 1154.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 379, 380, 398 and 409 of this title.

CROSS REFERENCES

Aliens spending childhood in United States, see note under section 731 of this title.

§ 733. Hearing of petitions; preliminary hearings.

(a) The Commissioner or a Deputy Commissioner shall designate members of the Service to conduct preliminary hearings upon petitions for naturalization to any naturalization court and to make findings and recommendations thereon to such court. For such purposes any such designated examiner is hereby authorized to take testimony¹ concerning any matter touching or in any way affecting the admissibility of any petitioner for naturalization, to subpoena witnesses, and to administer oaths, including the oath of the petitioner to the petition for naturalization and the oath of petitioner's witnesses.

¹So in original. Probably should be "testimony".

(b) The findings of any such designated examiner upon any such preliminary hearing shall be submitted to the court at the final hearing upon the petition with a recommendation that the petition be granted, or denied, or continued, with the reasons therefor. Such findings and recommendations shall be accompanied by duplicate lists containing the names of the petitioners, classified according to the character of the recommendations, and signed by the designated examiner. The judge to whom such findings and recommendations are submitted shall, if he approve such recommendations, enter a written order with such exceptions as the judge may deem proper, by subscribing his name to each such list when corrected to conform to his conclusions upon such recommendations. One of such lists shall thereafter be filed permanently of record in such court and the duplicate list shall be sent by the clerk of such court to the Commissioner. (Oct. 14, 1940, ch. 876, title I, subch. III, § 333, 54 Stat. 1156.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 399a of this title.

§ 734. Same; final hearings.

(a) Every final hearing upon a petition for naturalization shall be had in open court before a judge or judges thereof, and every final order which may be made upon such petition shall be under the hand of the court and entered in full upon a record kept for that purpose, and upon such final hearing of such petition the applicant, and, except as provided in subsection (b) of this section, the witnesses shall be examined under oath before the court and in the presence of the court.

(b) The requirement of subsection (a) of this section for the examination of the petitioner and witnesses under oath before the court and in the presence of the court shall not apply in any case where a designated examiner has conducted the preliminary hearing authorized by subsection (a) of section 733; except that the court may, in its discretion, and shall, upon demand of the petitioner, require the examination of the petitioner and the witnesses under oath before the court and in the presence of the court.

(c) Except as otherwise specifically provided in this chapter, no final hearing shall be held on any petition for naturalization nor shall any person be naturalized nor shall any certificate of naturalization be issued by any court within thirty days after the filing of the petition for naturalization, nor within sixty days preceding the holding of any general election within the territorial jurisdiction of the naturalization court.

(d) The United States shall have the right to appear before any court in any naturalization proceedings for the purpose of cross-examining the petitioner and the witnesses produced in support of the petition concerning any matter touching or in any way affecting the petitioner's right to admission to citizenship, and shall have the right to call witnesses, produce evidence, and be heard in opposition to the granting of any petition in naturalization proceedings.

(c) It shall be lawful at the time and as a part of the naturalization of any person; for the court, in its discretion, upon the prayer of the petitioner included in the petition for naturalization of such person, to make a decree changing the name of said person, and the certificate of naturalization shall be issued in accordance therewith. (Oct. 14, 1940, ch. 876, title I, subch. III, § 334, 54 Stat. 1156.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 862, 896, 898, 399, and 399a of this title.

§ 735. Oath of renunciation and allegiance.

(a) A person who has petitioned for naturalization shall, before being admitted to citizenship, take an oath in open court (1) to support the Constitution of the United States, (2) to renounce and abjure absolutely and entirely all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which the petitioner was before a subject or citizen, (3) to support and defend the Constitution and the laws of the United States against all enemies, foreign and domestic, and (4) to bear true faith and allegiance to the same, provided that in the case of the naturalization of a child under the provisions of section 715 or 716 the naturalization court may waive the taking of such oath if in the opinion of the court the child is too young to understand its meaning.

(b) The oath prescribed by subsection (a) of this section which the petitioner for naturalization is required to take, shall be in the following form:

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; and that I take this obligation freely without any mental reservation or purpose of evasion: So help me God. In acknowledgment whereof I have hereunto affixed my signature.

(c) In case the person petitioning for naturalization has borne any hereditary title, or has been of any of the orders of nobility in any foreign state, the petitioner shall, in addition to complying with the requirements of subsections (a) and (b) of this section, make under oath in open court, in the court to which the petition for naturalization is made, an express renunciation of such title or order of nobility, and such renunciation shall be recorded in the court as a part of such proceedings. (Oct. 14, 1940, ch. 876, title I, subch. III, § 335, 54 Stat. 1157.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 381 and 386 of this title.

§ 736. Certificate of naturalization.

A person, admitted to citizenship by a naturalization court in conformity with the provisions of this chapter, shall be entitled upon such admission to receive from the clerk of such court a certificate of

naturalization, which shall contain substantially the following information: number of petition for naturalization; number of certificate of naturalization; date of naturalization; name, signature, place of residence, autographed photograph, and personal description of the naturalized person, including age, sex, marital status, and country of former nationality; title, venue, and location of the naturalization court; statement that the court, having found that the petitioner intends to reside permanently in the United States, had complied in all respects with all of the applicable provisions of the naturalization laws of the United States, and was entitled to be admitted a citizen of the United States of America, thereupon ordered that the petitioner be admitted as a citizen of the United States of America; attestation of the clerk of the naturalization court; and seal of the court. (Oct. 14, 1940, ch. 876, title I, subch. III, § 336, 54 Stat. 1157.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 404 and 409 of this title.

VALIDATION OF CERTAIN PREVIOUSLY ISSUED CERTIFICATES

Former sections 406 and 407 of this title provided as follows:

"§ 406. Validation of certificates of naturalization granted prior to Dec. 31, 1918. All certificates of naturalization granted by courts of competent jurisdiction prior to December 31, 1918, upon petitions for naturalization filed prior to January 31, 1918, upon declarations of intention filed prior to September 27, 1906, are declared to be valid in so far as the declaration of intention is concerned, but shall not be further validated or legalized by the provisions of this section. (May 9, 1918, ch. 69, § 3, 40 Stat. 548.)"

"§ 407. Validation of certificates of naturalization failing to show compliance with act March 3, 1903. Naturalization certificates issued after the time of the taking effect of act March 3, 1903, Thirty-second Statutes, page 1222, which fail to show that the courts issuing said certificates complied with the requirements of section 39 of said act, but which were otherwise lawfully issued, are declared to be as valid as though said certificates complied with said section. In all such cases applications shall be made for new naturalization certificates, and when the same are granted, upon compliance with the provisions of said act of 1903, they shall relate back to the defective certificates, and citizenship shall be deemed to have been perfected at the date of the defective certificate. (June 29, 1906, ch. 3624, § 1, 34 Stat. 630.)"

§ 737. Functions and duties of clerks of courts.

(a) It is hereby made the duty of the clerk of each and every naturalization court to administer the oath in the clerk's office to each applicant for a declaration of intention made before such clerk, and to retain the original of such declaration of intention for the permanent files of the court, to forward the duplicate thereof to the Commissioner within thirty days after the close of the month in which such declaration was filed, and to furnish the declarant with the triplicate thereof.

(b) It shall be the duty of the clerk of each and every naturalization court to forward to the Commissioner a duplicate of each petition for naturalization within thirty days after the close of the month in which such petition was filed, and to forward to the Commissioner certified copies of such other proceedings and orders instituted in or issued out of said court affecting or relating to the naturaliza-

tion of persons as may be required from time to time by the Commissioner.

(c) It shall be the duty of the clerk of each and every naturalization court to issue to any person admitted by such court to citizenship a certificate of naturalization and to forward to the Commissioner within thirty days after the close of the month in which such certificate was issued, a duplicate thereof, and to make and keep on file in the clerk's office a stub for each certificate so issued, whereon shall be entered a memorandum of all the essential facts set forth in such certificate, and to forward a duplicate of each such stub to the Commissioner within thirty days after the close of the month in which such certificate was issued.

(d) It shall be the duty of the clerk of each and every naturalization court to report to the Commissioner, within thirty days after the close of the month in which the final hearing and decision of the court was had, the name and number of the petition of each and every person who shall be denied naturalization together with the cause of such denial.

(e) Clerks of courts shall be responsible for all blank certificates of naturalization received by them from time to time from the Commissioner, and shall account to the Commissioner for them whenever required to do so. No certificate of naturalization received by any clerk of court which may be defaced or injured in such manner as to prevent its use as herein provided shall in any case be destroyed, but such certificate shall be returned to the Commissioner.

(f) It shall be the duty of the clerk of each and every naturalization court to cause to be filed in chronological order in separate volumes, indexed, consecutively numbered, and made a part of the records of such court, all declarations of intention and petitions for naturalization. (Oct. 14, 1940, ch. 876, title I, subch. III, § 337, 54 Stat. 1158.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 400, 401, and 404 of this title.

§ 738. Revocation of naturalization.

(a) It shall be the duty of the United States district attorneys for the respective districts, upon affidavit showing good cause therefor, to institute proceedings in any court specified in subsection (a) of section 701 in the judicial district in which the naturalized citizen may reside at the time of bringing suit, for the purpose of revoking and setting aside the order admitting such person to citizenship and canceling the certificate of naturalization on the ground of fraud or on the ground that such order and certificate of naturalization were illegally procured.

(b) The party to whom was granted the naturalization alleged to have been fraudulently or illegally procured shall, in any such proceedings under subsection (a) of this section, have sixty days' personal notice in which to make answer to the petition of the United States; and if such naturalized person be absent from the United States or from the judicial district in which such person last had his residence,

such notice shall be given by publication in the manner provided for the service of summons by publication or upon absentees by the laws of the State or the place where such suit is brought.

(c) If a person who shall have been naturalized shall, within five years after such naturalization, return to the country of such person's nativity, or go to any other foreign country, and take permanent residence therein, it shall be considered prima facie evidence of a lack of intention on the part of such person to become a permanent citizen of the United States at the time of filing such person's petition for naturalization, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the revocation and setting aside of the order admitting such person to citizenship and the cancelation of the certificate of naturalization as having been obtained through fraud. The diplomatic and consular officers of the United States in foreign countries shall from time to time, through the Department of State, furnish the Department of Justice with the names of those persons within their respective jurisdictions who have been so naturalized and who have taken permanent residence in the country of their nativity, or in any other foreign country, and such statements, duly certified, shall be admissible in evidence in all courts in proceedings to revoke and set aside the order admitting to citizenship and to cancel the certificate of naturalization.

(d) The revocation and setting aside of the order admitting any person to citizenship and canceling his certificate of naturalization under the provisions of subsection (a) of section 738 shall not, where such action takes place after the effective date of this chapter, result in the loss of citizenship or any right or privilege of citizenship which would have been derived by or available to a wife or minor child of the naturalized person had such naturalization not been revoked, but the citizenship and any such right or privilege of such wife or minor child shall be deemed valid to the extent that it shall not be affected by such revocation: *Provided*, That this subsection shall not apply in any case where the revocation and setting aside of the order was the result of actual fraud.

(e) When a person shall be convicted under this chapter of knowingly procuring naturalization in violation of law, the court in which such conviction is had shall thereupon revoke, set aside, and declare void the final order admitting such person to citizenship, and shall declare the certificate of naturalization of such person to be canceled. Jurisdiction is hereby conferred on the courts having jurisdiction of the trial of such offense to make such adjudication.

(f) Whenever an order admitting an alien to citizenship shall be revoked and set aside or a certificate of naturalization shall be canceled, or both, as provided in this section, the court in which such judgment or decree is rendered shall make an order canceling such certificate and shall send a certified copy of such order to the Commissioner; in case such certificate was not originally issued by the court making such order, it shall direct the clerk of the naturalization court in which the order is revoked and set aside to transmit a copy of such order and judgment

to the court out of which such certificate of naturalization shall have been originally issued. It shall thereupon be the duty of the clerk of the court receiving such certified copy of the order and judgment of the court to enter the same of record and to cancel such original certificate of naturalization, if there be any, upon the records and to notify the Commissioner of the entry of such order and of such cancellation. A person holding a certificate of naturalization or citizenship which has been canceled as provided by this section shall upon notice by the court by which the decree of cancellation was made, or by the Commissioner, surrender the same to the Commissioner.

(g) The provisions of this section shall apply not only to any naturalization granted and to certificates of naturalization and citizenship issued under the provisions of this chapter, but to any naturalization heretofore granted by any court, and to all certificates of naturalization and citizenship which may have been issued heretofore by any court or by the Commissioner based upon naturalization granted by any court. (Oct. 14, 1940, ch. 876, title I, subch. III, § 338, 54 Stat. 1158.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 405 and 414 of this title.

EFFECTIVE DATE OF THIS CHAPTER

See section 906 of this title.

§ 739. Certificates of derivative citizenship.

A person who claims to have derived United States citizenship through the naturalization of a parent or through the naturalization or citizenship of a spouse may apply to the Commissioner for a certificate of citizenship. Upon proof to the satisfaction of the Commissioner that the applicant is a citizen, and that the applicant's alleged citizenship was derived as claimed, and upon taking and subscribing before a member of the Service within the United States to the oath of allegiance required by this chapter of a petitioner for naturalization, such individual shall be furnished by the Commissioner or a Deputy Commissioner with a certificate of citizenship, but only if such individual is at the time within the United States. (Oct. 14, 1940, ch. 876, title I, subch. III, § 339, 54 Stat. 1160.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 399c of this title.

§ 740. Revocation of certificates issued by Commissioner or deputy.

The Commissioner is authorized to cancel any certificate of citizenship or any copy of a declaration of intention or certificate of naturalization heretofore or hereafter issued by the Commissioner or a Deputy Commissioner if it shall appear to the Commissioner's satisfaction that such document was illegally or fraudulently obtained from the Commissioner or a Deputy Commissioner; but the person to whom such document has been issued, shall be given at such person's last known place of address, written notice of the intention to cancel such document with the reasons therefor and shall be given

at least sixty days in which to show cause why such document should not be canceled. The cancellation of any such document shall affect only the document and not the citizenship status of the person in whose name the document was issued. (Oct. 14, 1940, ch. 876, title I, subch. III, § 340, 54 Stat. 1160.)

§ 741. Documents and copies issued by Commissioner or deputy.

(a) A person who claims to have been naturalized in the United States under section 723 of this chapter may make application to the Commissioner for a certificate of naturalization. Upon proof to the satisfaction of the Commissioner or a Deputy Commissioner that the applicant is a citizen and that he has been naturalized as claimed in the application, such individual shall be furnished a certificate of naturalization by the Commissioner or a Deputy Commissioner, but only if the applicant is at the time within the United States.

(b) If any certificate of naturalization or citizenship issued to any citizen, or any declaration of intention furnished to any declarant, is lost, mutilated, or destroyed, the citizen or declarant may make application to the Commissioner for a new certificate or declaration. If the Commissioner or a Deputy Commissioner finds that the certificate or declaration is lost, mutilated, or destroyed, he shall issue to the applicant a new certificate or declaration. If the certificate or declaration has been mutilated, it shall be surrendered to the Commissioner or a Deputy Commissioner before the applicant may receive such new certificate or declaration. If the certificate or declaration has been lost, the applicant or any other person who may come into possession of it is hereby required to surrender it to the Commissioner or a Deputy Commissioner.

(c) The Commissioner or a Deputy Commissioner shall issue for any naturalized citizen, on such citizen's application therefor, a special certificate of naturalization for use by such citizen only for the purpose of obtaining recognition as a citizen of the United States by a foreign state. Such certificate when issued shall be furnished to the Secretary of State for transmission to the proper authority in such foreign state.

(d) If the name of any naturalized citizen has, subsequent to naturalization, been changed by order of any court of competent jurisdiction, or by marriage, the citizen may make application for a new certificate of naturalization in the new name of such citizen. If the Commissioner or a Deputy Commissioner finds the name of the applicant to have been changed as claimed, the Commissioner or a Deputy Commissioner shall issue to the applicant a new certificate and shall notify the naturalization court of such action.

(e) The Commissioner or a Deputy Commissioner is authorized to make and issue, without fee, certifications of any part of the naturalization records of any court, or of any certificate of naturalization or citizenship, for use in complying with any statute, State or Federal, or in any judicial proceeding. No such certification shall be made by any clerk of court except upon order of the court. (Oct. 14, 1940, ch. 876, title I, subch. III, § 341, 54 Stat. 1160.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 18 and 399b of this title.

§ 742. Fiscal provisions; fees.

(a) The clerk of each and every naturalization court shall charge, collect, and account for the following fees:

(1) For receiving and filing a declaration of intention, and issuing a duplicate and triplicate thereof, \$2.50.

(2) For making, filing, and docketing a petition for naturalization, \$5, including the final hearing on such petition, if such hearing be held, and a certificate of naturalization, if the issuance of such certificate is authorized by the naturalization court.

(b) The Commissioner shall charge, collect, and account for the following fees:

(1) For application for record of registry, \$18.

(2) For the issuance of each certificate of arrival, \$2.50.

(3) For application for a declaration of intention in lieu of a declaration alleged to have been lost, mutilated, or destroyed, \$1.

(4) For application for a certificate of naturalization in lieu of a certificate alleged to have been lost, mutilated, or destroyed, \$1.

(5) For application for a certificate of derivative citizenship, \$5.

(6) For application for the issuance of a special certificate of citizenship to obtain recognition, \$5.

(7) For application for a certificate of naturalization under section 723, \$1.

(8) For application for a certificate of citizenship in changed name, \$5.

(9) Reasonable fees, with the approval of the Attorney General, in cases where such fees have not been established by law, to cover the cost of furnishing, to other than officials or agencies of the Federal Government, copies, whether certified or uncertified, of any part of the records, or information from the records, of the Service. Such fees shall not exceed a maximum of 25 cents per folio, with a minimum fee of 50 cents for any one such service, in addition to a fee of \$1 for any official certification furnished under seal.

(c) The clerk of any naturalization court specified in subsection (a) of section 701 (except the courts specified in subsection (d) of this section), shall account for and pay over to the Commissioner one-half of all fees up to the sum of \$6,000, and all fees in excess of \$6,000, collected by any such clerk in naturalization proceedings in any fiscal year.

(d) The clerk of any United States district court (except in Alaska) and the clerk of the District Court of the United States for the District of Columbia shall account for and pay over to the Commissioner all fees collected by any such clerks in naturalization proceedings.

(e) The accounting required by subsections (c) and (d) of this section shall be made and the fees paid over to the Commissioner by such respective clerks in their quarterly accounts which they are hereby required to render to the Commissioner within thirty days from the close of each quarter of

each and every fiscal year, in accordance with regulations prescribed by the Commissioner.

(f) The clerks of the various naturalization courts shall pay all additional clerical force that may be required in performing the duties imposed by this chapter upon clerks of courts from fees retained under the provisions of this section by such clerks in naturalization proceedings.

(g) All fees collected by the Commissioner and all fees paid over to the Commissioner by clerks of naturalization courts under the provisions of this chapter, shall be deposited by the Commissioner in the Treasury of the United States.

(h) In all naturalization proceedings in which an alien applying for a certificate of naturalization or of citizenship is represented by counsel, there is hereby established a limit of \$25 for counsel's fees, except where legal action before a court requires extended legal service when the court may approve a reasonable fee in excess of \$25.

(i) During the time when the United States is at war no clerk of a United States court shall charge or collect a naturalization fee from an alien in the military or naval service of the United States for filing a petition for naturalization or issuing a certificate of naturalization upon admission to citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected. A report of all transactions under this subsection shall be made to the Commissioner as in the case of other reports required of clerks of courts by this chapter.

(j) In addition to the other fees required by this chapter, the petitioner for naturalization shall, upon the filing of a petition for naturalization, deposit with and pay to the clerk of the naturalization court a sum of money sufficient to cover the expenses of subpoenaing and paying the legal fees of any witnesses for whom such petitioner may request a subpoena, and upon the final discharge of such witnesses, they shall receive, if they demand the same from the clerk, the customary and usual witness fees from the moneys which the petitioner shall have paid to such clerk for such purpose, and the residue, if any, shall be returned by the clerk to the petitioner. (Oct. 14, 1940, ch. 876, title I, subch. III, § 342, 54 Stat. 1161.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in sections 18, 106a, 380a, 399b, 399c, 399d, 399f, 402, and 403 of this title; sections 567, 558, and 567 of Title 28, Judicial Code and Judiciary; and sections 41 and 44 of Title 31, Money and Finance.

DISPOSITION OF FEES

Former section 402a of this title provided as follows: "Notwithstanding the provisions of section 567 of title 28, all fees received by the clerks of court to which such section applies for services rendered in naturalization proceedings shall be paid over to the Immigration and Naturalization Service within thirty days from the close of each quarter in each fiscal year and the moneys so received shall be disposed of in the same manner as provided in section 402 of this title. (Mar. 2, 1929, ch. 586, § 7 (b), 45 Stat. 1515; Ex. Ord. No. 6166, § 14, June 10, 1933.)"

CROSS REFERENCE

For provisions relating to fees in the Federal courts generally, see sections 557 and 567 of Title 28, Judicial Code and Judiciary.

§ 743. Same; mail.

All mail matter of whatever class, relating to naturalization, including duplicate papers required by law or regulation to be sent to the Service by clerks of courts addressed to the Department of Justice or the Service, or any official thereof, and endorsed "Official Business", shall be transmitted free of postage and by registered mail if necessary, and so marked. (Oct. 14, 1940, ch. 876, title I, subch. III, § 343, 54 Stat. 1163.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 324 of Title 29, The Postal Service.

§ 744. Same; textbooks for citizenship instruction.

Authorization is hereby granted for the publication and distribution of the citizenship textbook described in subsection (c) of section 727, and for the reimbursement of the printing and binding appropriation of the Department of Justice upon the records of the Treasury Department from the naturalization fees deposited in the Treasury through the Service for the cost of such publication and distribution, such reimbursement to be made upon statements by the Commissioner of books so published and distributed. (Oct. 14, 1940, ch. 876, title I, subch. III, § 344, 54 Stat. 1163.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 387 of this title.

DERIVATION

Act June 29, 1906, ch. 3592, § 4 (9), as added May 9, 1918, ch. 69, § 1, 40 Stat. 544; Ex. Ord. No. 6166, § 14, June 10, 1933.

§ 745. Compilation of naturalization statistics.

The Commissioner is authorized and directed to prepare from the records in the custody of the Service a report upon those heretofore seeking citizenship to show by nationalities their relation to the numbers of aliens annually arriving and to the prevailing census populations of the foreign born, their economic, vocational, and other classification, in statistical form, with analytical comment thereon, and to prepare such report annually hereafter. Payment for the equipment used in preparing such compilation shall be made from the appropriation, "Salaries and expenses, Immigration and Naturalization Service". (Oct. 14, 1940, ch. 876, title I, subch. III, § 345, 54 Stat. 1163.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 399e of this title.

§ 746. Penal provisions. (a) Offenses against chapter.

It is hereby made a felony for any alien or other person, whether an applicant for naturalization or citizenship, or otherwise, and whether an employee of the Government of the United States or not—

(1) Knowingly to make a false statement under oath, either orally or in writing, in any case, pro-

ceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization or citizenship.

(2) Knowingly to procure or attempt to procure—

a. The naturalization of any such person, contrary to the provisions of any law; or

b. Documentary or other evidence of naturalization or of citizenship of any such person, contrary to the provisions of any law.

(3) To procure or attempt to procure any documentary or other evidence of naturalization or of citizenship of any person knowing or having reason to believe that such person is not entitled thereto.

(4) To encourage, advise, aid, or assist any person—

a. Not then entitled or qualified under this chapter to apply for a declaration of intention, to apply for such declaration of intention, with knowledge or having reason to believe that such person was not then so entitled or qualified; or

b. Not then entitled or qualified under this chapter to secure a declaration of intention, to obtain such declaration of intention, with knowledge that such person was not then so entitled or qualified; or

c. Not then entitled or qualified under this chapter to apply for naturalization or citizenship, to apply for such naturalization or citizenship, with knowledge that such person was not then so entitled or qualified; or

d. Not then entitled or qualified under this chapter to obtain naturalization or citizenship, to obtain such naturalization or citizenship, with knowledge that such person was not then so entitled or qualified; or

e. Not then entitled or qualified under this chapter to apply for documentary or other evidence of naturalization or of citizenship, to apply for such documentary or other evidence of naturalization or of citizenship, with knowledge that such person was not then so entitled or qualified; or

f. Not then entitled or qualified under this chapter to obtain documentary or other evidence of naturalization or of citizenship, to obtain such documentary or other evidence of naturalization or of citizenship, with knowledge that such person was not then so entitled or qualified.

(5) To encourage, aid, advise, or assist any person not entitled thereto to obtain, accept, or receive any certificate of arrival, declaration of intention, certificate of naturalization, or certificate of citizenship, or other documentary evidence of naturalization or of citizenship—

a. Knowing the same to have been procured by fraud; or

b. Knowing the same to have been procured by the use or means of any false name or false statement given or made with the intent to procure the issuance of such certificate of arrival, declaration of intention, certificate of naturalization, or certificate of citizenship, or other documentary evidence of naturalization or of citizenship; or

c. Knowing the same to have been fraudulently altered in any manner.

(6) Knowingly, in any naturalization or citizenship proceeding, whether as the applicant, declarant,

petitioner, witness, or otherwise in such proceeding—

a. To personate another person;

b. To appear falsely in the name of a deceased person, or in an assumed or fictitious name.

(7) Knowingly, contrary to the provisions of this chapter—

a. To issue a certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or any other documentary evidence of naturalization or of citizenship; or

b. To assist in or be a party to the issuance of a certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or any other documentary evidence of naturalization or of citizenship.

(8) Knowingly to possess without lawful authority or lawful excuse, and with intent unlawfully to use the same, any false, forged, antedated, or counterfeited certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or any other documentary evidence of naturalization or of citizenship, purporting to have been issued under any law of the United States relating to naturalization or citizenship, knowing such certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or any other documentary evidence of naturalization or of citizenship to be false, forged, antedated, or counterfeited.

(9) Falsely to make, forge, or counterfeit any oath, notice, affidavit, certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or any other documentary evidence of naturalization or of citizenship, or any order, record, signature, or other instrument, paper, or proceeding, required or authorized by any law relating to naturalization or citizenship.

(10) To cause or procure to be falsely made, forged, or counterfeited, any oath, notice, affidavit, certificate, certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or any other documentary evidence of naturalization or of citizenship, or any order, record, signature, or other instrument, paper, or proceeding, required or authorized by any law relating to naturalization or citizenship.

(11) To aid or assist in falsely making, forging, or counterfeiting, any oath, notice, affidavit, certificate, certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or any other documentary evidence of naturalization or of citizenship, or any order, record, signature, or other instrument, paper, or proceeding, required or authorized by any law relating to naturalization or citizenship.

(12) To utter, sell, dispose of, or use as true or genuine, for any unlawful purpose, any false, forged, antedated, or counterfeited oath, notice, affidavit, certificate, certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or any other documentary evidence of naturalization or of citizenship, or any order, record, signature, or other instrument, paper, or proceeding, required or authorized by any law relating to naturalization or citizenship.

(13) To sell, or dispose of unlawfully, a declaration of intention, certificate of naturalization, certificate of citizenship, or any other documentary evidence of naturalization or of citizenship.

(14) Knowingly to use in any manner for the purpose of registering as a voter, or as evidence of a right to vote, or otherwise unlawfully, any order, certificate, certificate of naturalization, certificate of citizenship, judgment, decree, or exemplification, showing any person to be naturalized or admitted to be a citizen, whether heretofore or hereafter issued or made, which has been unlawfully issued or made.

(15) Knowingly and unlawfully to use, or attempt to use, any order, certificate, certificate of naturalization, certificate of citizenship, judgment, decree, or exemplification, showing any person to be naturalized or admitted to be a citizen, whether heretofore or hereafter issued or made, which has been issued to or in the name of any other person or in a fictitious name, or in the name of a deceased person.

(16) To use or attempt to use any certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or other documentary evidence of naturalization or of citizenship heretofore or which may hereafter be issued or granted, knowing the same to be forged, counterfeited, or antedated, or to have been procured by fraud or by false evidence, or without appearance or hearing of the applicant in court where such appearance and hearing are required, or otherwise unlawfully obtained.

(17) To aid, assist, or participate in the use of any certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship, or other documentary evidence of naturalization or of citizenship heretofore or which may hereafter be issued or granted, knowing the same to be forged, counterfeited, or antedated, or to have been procured by fraud or by false evidence, or without appearance or hearing of the applicant in court where such appearance and hearing are required, or otherwise unlawfully obtained.

(18) Knowingly to falsely represent himself to be a citizen of the United States without having been naturalized or admitted to citizenship, or without otherwise being a citizen of the United States.

(19) Knowingly, with the intent to avoid any duty or liability imposed or required by law, to deny that he has been naturalized or admitted to be a citizen, after having been so naturalized or admitted.

(20) To engrave, without lawful authority, any plate in the likeness of any plate designed for the printing of a declaration of intention, or certificate of naturalization, or certificate of citizenship, or any other documentary evidence of naturalization or of citizenship.

(21) To cause or procure to be engraved, without lawful authority, any plate in the likeness of any plate designed for the printing of a declaration of intention, or certificate of naturalization, or certificate of citizenship, or any other documentary evidence of naturalization or of citizenship.

(22) To assist in engraving, without lawful authority, any plate in the likeness of any plate de-

signed for the printing of a declaration of intention, or certificate of naturalization, or certificate of citizenship, or any other documentary evidence of naturalization or of citizenship.

(23) To sell any plate in the likeness of any plate designed for the printing of a declaration of intention, or certificate of naturalization, or certificate of citizenship, or any other documentary evidence of naturalization or of citizenship, except by direction of the Commissioner or other proper officer of the United States.

(24) To bring into the United States from any foreign place any plate in the likeness of any plate designed for the printing of a declaration of intention, certificate of naturalization, or certificate of citizenship, or any other documentary evidence of naturalization or of citizenship, except by direction of the Commissioner or other proper officer of the United States.

(25) To have in the control, custody, or possession of any such alien or other person, any metallic plate engraved after the similitude of any plate from which any declaration of intention, or certificate of naturalization, or certificate of citizenship, or any other documentary evidence of naturalization or of citizenship, has been or is to be printed, with intent to use or to suffer such plate to be used in forging or counterfeiting any such declaration of intention, or certificate of naturalization, or certificate of citizenship, or other documentary evidence or any part thereof.

(26) To bring into the United States from any foreign place, except by direction of the Commissioner or other proper officer of the United States, any declaration of intention, or certificate of naturalization, or certificate of citizenship, or any other documentary evidence of naturalization or of citizenship, printed from any metallic plate engraved after the similitude of any plate from which any declaration of intention, certificate of naturalization, or certificate of citizenship, or any other documentary evidence of naturalization or of citizenship has been or is to be printed.

(27) To have in his possession, without lawful authority, any blank certificate of arrival, blank declaration of intention, or blank certificate of naturalization or of citizenship, provided by the Service, with the intent unlawfully to use the same.

(28) To have in his possession a distinctive paper which has been adopted by the proper officer or agency of the United States for the printing or engraving of any declaration of intention, or certificate of naturalization or of citizenship, with intent unlawfully to use the same.

(29) To print, photograph, make, or execute, or in any manner cause to be printed, photographed, made, or executed, without lawful authority, any print or impression in the likeness of any certificate of arrival, declaration of intention, or certificate of naturalization or of citizenship, or any part thereof.

(30) Knowingly to procure or attempt to procure an alien or other person to violate any of the provisions of this chapter.

(31) Failing, after at least sixty days' notice, by the appropriate court or the Commissioner or a Deputy Commissioner, to surrender a certificate of natu-

ralization or citizenship which has been canceled, in accordance with the provisions of this chapter, such person having such certificate in his possession or under his control.

(32) Knowingly to certify that an applicant, declarant, petitioner, affiant, witness, deponent, or other person named in an application, declaration, petition, affidavit, deposition, or certificate of naturalization, or certificate of citizenship, or other paper or writing required or authorized to be executed or used under the provisions of this chapter, personally appeared before the person making such certification and was sworn thereto or acknowledged the execution thereof, or signed the same, when in fact such applicant, declarant, petitioner, affiant, witness, deponent, or other person, did not personally appear before the person making such certification, or was not sworn thereto, or did not execute the same, or did not acknowledge the execution thereof.

(33) Knowingly to demand, charge, solicit, collect, or receive, or agree to charge, solicit, collect, or receive any other or additional fees or moneys in naturalization or citizenship or other proceedings under this chapter than the fees and moneys specified in such chapter.

(34) Willfully to neglect to render true accounts of moneys received by any clerk of a naturalization court or such clerk's assistant or any other person under this chapter or willfully to neglect to pay over any balance of such moneys due to the United States within thirty days after said payment shall become due and demand therefor has been made and refused, which neglect shall constitute embezzlement of the public moneys.

(b) Application of section to copies and duplicates of documents.

The provisions of this section shall apply to copies and duplicates of certificates of arrival, of declarations of intention, of certificates of naturalization, of certificates of citizenship, and of other documents required or authorized by the naturalization laws and citizenship laws as well as to the originals of such certificates of arrival, declarations of intention, certificates of naturalization, certificates of citizenship, and other documents, whether issued by any court or by the Commissioner or a Deputy Commissioner.

(c) Application of section to courts having jurisdiction of naturalization proceedings.

The provisions of this section shall apply to all proceedings had or taken or attempted to be had or taken, before any court specified in subsection (a) of section 701, or any court, in which proceedings for naturalization may have been or may be commenced or attempted to be commenced, and whether or not such court at the time such proceedings were had or taken was vested by law with jurisdiction in naturalization proceedings.

(d) Penalties for violating subsection (a).

Any person violating any provision of subsection (a) of this section shall be fined not more than \$5,000, or imprisoned not more than five years, or both.

(e) Penalties for failure to respect subpoena for final hearing.

Any person who has been subpoenaed under the provisions of subsection (d) of section 709 to appear

on the final hearing of a petition for naturalization, and who shall neglect or refuse to so appear and to testify, if in the power of such person to do so, shall be subject to the penalties prescribed by subsection (d) of this section.

(f) Violation of franking privilege; penalty.

If any person shall use the endorsement "Official Business" authorized by section 743 to avoid payment of postage or registry fee on a private letter, package, or other matter in the mail, such person shall be guilty of a misdemeanor and subject to a fine of \$300, to be prosecuted in any court of competent jurisdiction.

(g) Statute of limitations.

No person shall be prosecuted, tried, or punished for any crime arising under the provisions of this chapter unless the indictment is found or the information is filed within five years next after the commission of such crime.

(h) Law governing prosecution of crimes committed before effective date of chapter.

For the purpose of the prosecution of all crimes and offenses against the naturalization or citizenship laws of the United States which may have been committed prior to the date when this chapter shall go into effect, the existing naturalization and citizenship laws shall remain in full force and effect.

(i) Evidence of Government employees as to false oaths, etc.

It shall be lawful and admissible as evidence in any proceedings founded under this chapter, or any of the penal or criminal provisions of the immigration, naturalization or citizenship laws, for any officer or employee of the United States to render testimony as to any statement voluntarily made to such officer or employee in the course of the performance of the official duties of such officer or employee by any defendant at the time of or subsequent to the alleged commission of any crime or offense referred to in this section which may tend to show that such defendant did not or could not have had knowledge of any matter concerning which such defendant is shown to have made affidavit, or oath, or to have been a witness pursuant to such law or laws.

(j) Clerks of courts; failure to comply with law generally.

In case any clerk of court shall refuse or neglect to comply with any of the provisions of section 737 (a), (b), (c), or (d), such clerk of court shall forfeit and pay to the United States the sum of \$25 in each and every case in which such violation or omission occurs, and the amount of such forfeiture may be recovered by the United States in an action of debt against such clerk.

(k) Clerks of courts; failure to account for certificates of naturalization.

If any clerk of court shall fail to return to the Service or properly account for any certificate of naturalization furnished by the Service as provided in subsection (e) of section 737, such clerk of court shall be liable to the United States in the sum of \$50, to be recovered in an action of debt, for each and every such certificate not properly accounted for or returned.

(l) Application of section to registry of aliens.

The provisions of subsections (a), (b), (d), (g), (h), and (i) of this section shall apply in respect of the application for and the record of registry authorized by section 728, in the same manner and to the same extent, including penalties, as they apply in any naturalization or citizenship proceeding or any other proceeding under section 746. (Oct. 14, 1940, ch. 876, title I, subch. III, § 346, 54 Stat. 1163.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other penal provisions relating to this subject were contained in sections 18, 106a, 399c (c), 400, 401, 410-415 of this title, sections 135, 137-143, 582 of Title 18, Criminal Code and Criminal Procedure, and section 324 of Title 39, The Postal Service.

LAW GOVERNING PROSECUTION OF CRIMES UNDER PRIOR ACTS

Former section 416 of this title provided as follows: "For the purposes of the prosecution of all crimes and offenses against the naturalization laws of the United States which may have been committed prior to May 9, 1918, the statutes and laws then in force and since repealed shall remain in full force and effect. (May 9, 1918, ch. 69, § 2, 40 Stat. 547.)"

Provisions similar to those of former section 416 of this title were contained in act June 29, 1906, ch. 3592, § 25, 34 Stat. 603, which was repealed by act Oct. 14, 1940, ch. 876, title I, subchap. V, § 504, 54 Stat. 1173.

EFFECTIVE DATE OF THIS CHAPTER

See section 906 of this title.

§ 747. Saving clauses.

(a) Nothing contained in either subchapter III or in subchapter V of this chapter, unless otherwise provided therein, shall be construed to affect the validity of any declaration of intention, petition for naturalization, certificate of naturalization or of citizenship, or other document or proceeding which shall be valid at the time this chapter shall take effect; or to affect any prosecution, suit, action, or proceedings, civil or criminal, brought, or any act, thing, or matter, civil or criminal, done or existing, at the time this chapter shall take effect; but as to all such prosecutions, suits, actions, proceedings, acts, things, or matters, the statutes or parts of statutes repealed by this chapter, are hereby continued in force and effect.

(b) Any petition for naturalization heretofore filed which may be pending at the time this chapter shall take effect shall be heard and determined within two years thereafter in accordance with the requirements of law in effect when such petition was filed. (Oct. 14, 1940, ch. 876, title I, subch. III, § 347, 54 Stat. 1168.)

EFFECTIVE DATE OF THIS CHAPTER

See section 906 of this chapter.

CROSS REFERENCE

Statutes repealed by this chapter, see section 904 of this title.

SUBCHAPTER IV.—LOSS OF NATIONALITY

§ 800. Right of expatriation.

Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle this Government has freely received emigrants from all nations, and invested them with

the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore any declaration, instruction, opinion, order, or decision of any officer of the United States which denies, restricts, impairs, or questions the right of expatriation, is declared inconsistent with the fundamental principles of the Republic. (R. S. § 1999.)

CODIFICATION

Section is not a part of the Nationality Act of 1940.

DERIVATION

Act July 27, 1866, ch. 249, § 1, 16 Stat. 223.

§ 801. General means of losing United States nationality.

A person who is a national of the United States, whether by birth or naturalization, shall lose his nationality by:

(a) Obtaining naturalization in a foreign state, either upon his own application or through the naturalization of a parent having legal custody of such person: *Provided, however,* That nationality shall not be lost as the result of the naturalization of a parent unless and until the child shall have attained the age of twenty-three years without acquiring permanent residence in the United States: *Provided further,* That a person who has acquired foreign nationality through the naturalization of his parent or parents, and who at the same time is a citizen of the United States, shall, if abroad and he has not heretofore expatriated himself as an American citizen by his own voluntary act, be permitted within two years from the effective date of his chapter to return to the United States and take up permanent residence therein, and it shall be thereafter deemed that he has elected to be an American citizen. Failure on the part of such person to so return and take up permanent residence in the United States during such period shall be deemed to be a determination on the part of such person to discontinue his status as an American citizen, and such person shall be forever estopped by such failure from thereafter claiming such American citizenship; or

(b) Taking an oath or making an affirmation or other formal declaration of allegiance to a foreign state; or

(c) Entering, or serving in, the armed forces of a foreign state unless expressly authorized by the laws of the United States, if he has or acquires the nationality of such foreign state; or

(d) Accepting, or performing the duties of, any office, post, or employment under the government of a foreign state or political subdivision thereof for which only nationals of such state are eligible; or

(e) Voting in a political election in a foreign state or participating in an election or plebiscite to determine the sovereignty over foreign territory; or

(f) Making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state, in such form as may be prescribed by the Secretary of State; or

(g) Deserting the military or naval service of the United States in time of war, provided he is convicted thereof by a court martial; or

(h) Committing any act of treason against, or attempting by force to overthrow or bearing arms against the United States, provided he is convicted thereof by a court martial or by a court of competent jurisdiction. (Oct. 14, 1940, ch. 876, title I, Subch. IV, § 401, 54 Stat. 1168.)

¹ So in original. Probably should be "this".

SIMILAR PROVISIONS

Prior to the enactment of this chapter, other provisions on this subject were contained in sections 6, 17, and 17a of this title.

FORFEITURE OF CITIZENSHIP FOR DESERTION OR AVOIDANCE OF DRAFT

Former sections 11 and 12 of this title provided as follows:

"§ 11. Mitigation by President of loss of citizenship by desertion from armed forces before August 22, 1912. The loss of rights of citizenship prior to August 22, 1912, imposed by law upon deserters from the military or naval service may be mitigated or remitted by the President where the offense was committed in time of peace and where the exercise of such clemency will not be prejudicial to the public interests. (R. S. § 1998; Aug. 22, 1912, ch. 396, § 1, 37 Stat. 356; Oct. 14, 1940, ch. 876, title I, subchap. V, § 504, 54 Stat. 1173.)"

"§ 12. Civil War deserters. All persons who deserted the military or naval service of the United States and did not return thereto or report themselves to a provost marshal within sixty days after the issuance of the proclamation by the President, dated March 11, 1865, are deemed to have voluntarily relinquished and forfeited their rights of citizenship, as well as their right to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizens thereof. No soldier or sailor, however, who faithfully served according to his enlistment until April 19, 1865, and who, without proper authority or leave first obtained, quit his command or refused to serve after that date, shall be held to be a deserter from the Army or Navy; and this section shall be construed solely as a removal of any disability such soldier or sailor may have incurred, by the loss of citizenship and of the right to hold office, in consequence of his desertion. (R. S. §§ 1996, 1997.)"

EFFECTIVE DATE OF THIS CHAPTER

See section 908 of this title.

§ 802. Presumption of expatriation.

A national of the United States who was born in the United States or who was born in any place outside of the jurisdiction of the United States of a parent who was born in the United States, shall be presumed to have expatriated himself under subsection (c) or (d) of section 801, when he shall remain for six months or longer within any foreign state of which he or either of his parents shall have been a national according to the laws of such foreign state, or within any place under control of such foreign state, and such presumption shall exist until overcome whether or not the individual has returned to the United States. Such presumption may be overcome on the presentation of satisfactory evidence to a diplomatic or consular officer of the United States, or to an immigration officer of the United States, under such rules and regulations as the Department of State and the Department of Justice jointly prescribe. However, no such presumption shall arise with respect to any officer or

employee of the United States while serving abroad as such officer or employee, nor to any accompanying member of his family. (Oct. 14, 1940, ch. 876, title I, subch. IV, § 402, 54 Stat. 1169.)

§ 803. Restrictions on expatriation; residence in United States; age.

(a) Except as provided in subsections (g) and (h) of section 801, no national can expatriate himself, or be expatriated, under this section while within the United States or any of its outlying possessions, but expatriation shall result from the performance within the United States or any of its outlying possessions of any of the acts or the fulfillment of any of the conditions specified in this section if and when the national thereafter takes up a residence abroad.

(b) No national under eighteen years of age can expatriate himself under subsections (b) to (g), inclusive, of section 801. (Oct. 14, 1940, ch. 876, title I, subch. IV, § 403, 54 Stat. 1169.)

§ 804. Expatriation of naturalized nationals by residence abroad.

A person who has become a national by naturalization shall lose his nationality by:

(a) Residing for at least two years in the territory of a foreign state of which he was formerly a national or in which the place of his birth is situated, if he acquires through such residence the nationality of such foreign state by operation of the law thereof; or

(b) Residing continuously for three years in the territory of a foreign state of which he was formerly a national or in which the place of his birth is situated, except as provided in section 806 hereof.

(c) Residing continuously for five years in any other foreign state, except as provided in section 806 hereof. (Oct. 14, 1940, ch. 876, title I, subch. III, § 404, 54 Stat. 1170.)

§ 805. Same; exception in case of persons employed or compensated by United States.

Section 804 shall have no application to a person:

(a) Who resides abroad in the employment and under the orders of the Government of the United States;

(b) Who is receiving compensation from the Government of the United States and residing abroad on account of disability incurred in its service. (Oct. 14, 1940, ch. 876, title I, subch. IV, § 405, 54 Stat. 1170.)

§ 806. Same; further exceptions.

Subsections (b) and (c) of section 804 shall have no application to a person:

(a) Who shall have resided in the United States not less than twenty-five years subsequent to his naturalization and shall have attained the age of sixty-five years when the foreign residence is established;

(b) Who is residing abroad upon October 14, 1940, or who is thereafter sent abroad, and resides abroad temporarily solely or principally to represent a bona fide American educational, scientific, philanthropic, religious, commercial, financial, or business organization, having its principal office or place of busi-

ness in the United States, or an international agency of an official character in which the United States participates, for which he receives a substantial compensation;

(c) Who is residing abroad on account of ill health;

(d) Who is residing abroad for the purpose of pursuing studies of a specialized character or attending an institution of learning of a grade above that of a preparatory school, provided that such residence does not exceed five years;

(e) Who is the wife, husband, or child under twenty-one years of age of, and is residing abroad for the purpose of being with, an American citizen spouse or parent who is residing abroad for one of the objects or causes specified in section 805 or subsections (a), (b), (c), or (d) hereof;

(f) Who was born in the United States or one of its outlying possessions, who originally had American nationality, and who, after having lost such nationality through marriage to an alien, reacquired it. (Oct. 14, 1940, ch. 876, title I, subch. IV, § 406, 54 Stat. 1170.)

§ 807. Same; minor children of naturalized American nationals losing nationality by foreign residence.

A person having American nationality, who is a minor and is residing in a foreign state with or under the legal custody of a parent who loses American nationality under section 804 of this chapter, shall at the same time lose his American nationality if such minor has or acquires the nationality of such foreign state: *Provided*, That, in such case, American nationality shall not be lost as the result of loss of American nationality by the parent unless and until the child attains the age of twenty-three years without having acquired permanent residence in the United States. (Oct. 14, 1940, ch. 876, title I, subch. IV, § 407, 54 Stat. 1170.)

SIMILAR PROVISIONS

Prior to the enactment of this chapter other provisions on this subject were contained in section 6 of this title.

§ 808. Exclusiveness of means of losing nationality.

The loss of nationality under this chapter shall result solely from the performance by a national of the acts or fulfillment of the conditions specified in this chapter. (Oct. 14, 1940, ch. 876, title I, subch. IV, § 408, 54 Stat. 1171.)

§ 809. Nationality not to be lost under section 804 or 807 until October, 1941.

Nationality shall not be lost under the provisions of section 804 or 807 of this chapter until the expiration of one year following October 14, 1940: *Provided, however*, That a naturalized person who shall have become subject to the presumption that he has ceased to be an American citizen as provided for in the second paragraph of section 17 of this title, and who shall not have overcome it under the rules in effect immediately preceding October 14, 1940, shall continue to be subject to such presumption for the period of one year following October 14, 1940, unless it is overcome during such period. (Oct. 14, 1940, ch. 876, title I, subch. IV, § 409, 54 Stat. 1171.)

REFERENCE IN TEXT

Section 17 of this title, to which reference is made in this section, was repealed by section 504 of act October 14, 1940, cited to text.

§ 810. Chapter inapplicable in contravention of treaties or conventions.

Nothing in this chapter shall be applied in contravention of the provisions of any treaty or convention to which the United States is a party upon October 14, 1940. (Oct. 14, 1940, ch. 876, title I, subch. IV, § 410, 54 Stat. 1171.)

SUBCHAPTER V—MISCELLANEOUS

CROSS REFERENCE

Saving clause, see section 747 of this title.

§ 901. Procedure when diplomatic official believes that person in foreign state has lost American nationality.

Whenever a diplomatic or consular officer of the United States has reason to believe that a person while in a foreign state has lost his American nationality under any provision of subchapter IV of this chapter, he shall certify the facts upon which such belief is based to the Department of State, in writing, under regulations to be prescribed by the Secretary of State. If the report of the diplomatic or consular officer is approved by the Secretary of State, a copy of the certificate shall be forwarded to the Department of Justice, for its information, and the diplomatic or consular office in which the report was made shall be directed to forward a copy of the certificate to the person to whom it relates. (Oct. 14, 1940, ch. 876, title I, subch. V, § 501, 54 Stat. 1171.)

§ 902. Certificates of nationality for non-naturalized United States nationals.

The Secretary of State is hereby authorized to issue, in his discretion and in accordance with rules and regulations prescribed by him, a certificate of nationality for any person not a naturalized citizen of the United States who presents satisfactory evidence that he is an American national and that such certificate is needed for use in judicial or administrative proceedings of a foreign state. Such certificate shall be solely for use in the case for which it was issued and shall be transmitted by the Secretary of State through appropriate official channels to the judicial or administrative officers of the foreign state in which it is to be used. (Oct. 14, 1940, ch. 876, title I, subch. V, § 502, 54 Stat. 1171.)

§ 903. Judicial proceedings for declaration of United States nationality in event of denial of rights and privileges as national; certificate of identity pending judgment.

If any person who claims a right or privilege as a national of the United States is denied such right or privilege by any Department or agency, or executive official thereof, upon the ground that he is not a national of the United States, such person, regardless of whether he is within the United States or abroad, may institute an action against the head of such Department or agency in the District Court of the United States for the District of Columbia or in the district court of the United States for the district in which such person claims a permanent residence

for a judgment declaring him to be a national of the United States. If such person is outside the United States and shall have instituted such an action in court, he may, upon submission of a sworn application showing that the claim of nationality presented in such action is made in good faith and has a substantial basis, obtain from a diplomatic or consular officer of the United States in the foreign country in which he is residing a certificate of identity stating that his nationality status is pending before the court, and may be admitted to the United States with such certificate upon the condition that he shall be subject to deportation in case it shall be decided by the court that he is not a national of the United States. Such certificate of identity shall not be denied solely on the ground that such person has lost a status previously had or acquired as a national of the United States; and from any denial of an application for such certificate the applicant shall be entitled to an appeal to the Secretary of State, who, if he approves the denial, shall state in writing the reasons for his decision. The Secretary of State, with approval of the Attorney General, shall prescribe rules and regulations for the issuance of certificates of identity as above provided. (Oct. 14, 1940, ch. 876, title I, subch. V, § 503, 54 Stat. 1171.)

§ 903a. Protection to naturalized citizens abroad.

All naturalized citizens of the United States while in foreign countries are entitled to and shall receive from this Government the same protection of persons and property which is accorded to native-born citizens. (R. S. § 2000.)

CODIFICATION

Section is not a part of the Nationality Act of 1940.

DERIVATION

Act July 27, 1868, ch. 249, § 2, 15 Stat. 224.

§ 903b. Release of citizens imprisoned by foreign governments.

Whenever it is made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons of such imprisonment; and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, the President shall use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate the release; and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress. (R. S. § 2001.)

CODIFICATION

Section is not a part of the Nationality Act of 1940.

DERIVATION

Act July 27, 1868, ch. 249, § 3, 15 Stat. 224.

§ 904. Repeals.

All Acts or parts of Acts in conflict with the provisions of this chapter, except for the purposes of section 746 of this title, are hereby repealed.

The repeal herein provided shall not terminate nationality heretofore lawfully acquired, nor restore

nationality heretofore lost under any law of the United States or any treaty to which the United States may have been a party. (Oct. 14, 1940, ch. 876, title I, subch. V, § 504, 54 Stat. 1172.)

¹ Act October 14, 1940, cited to text, contained certain specific repeals not set out here. See historical note to this section.

Section is based upon portions of section 504 of act October 14, 1940, cited to text. Remainder of said section of the act contained specific repeals.

SPECIFIC REPEALS BY ACT OCTOBER 14, 1940, CITED TO TEXT

In addition to the provisions from which this section was taken, section 504 of act October 14, 1940, cited to text, specifically repealed all or parts of the following: Title 8, §§ 1, 3, 5a-1, 5d, 5e, 6, 7, 8, 9, 9a, 11, 16, 17, 17a, 18, 106, 106a, 106b, 106c, 351, 352, 353, 354, 356, 356a, 357, 358, 358a, 360, 362, 364, 365, 366, 366a, 367, 368, 368a, 369, 369a, 372, 372a, 373, 377, 377b, 377c, 378, 379, 380, 380a, 380b, 381, 382, 382a, 382b, 382c, 384, 385, 386, 387, 388, 389, 390, 391, 392, 392b, 392c note, 392d note, 392e, 392f, 392g, 393, 394, 395, 396, 397, 398, 399, 399a, 399b, 399c, 399d, 399e, 399f, 400, 401, 402, 403, 404, 405, 408, 409, 410, 411, 412, 413, 414, 415; title 18, §§ 135, 137, 138, 139, 140, 141, 142, 143; title 30, § 324; title 48, § 733b; title 50 App. § 202.

SAVING CLAUSE

Statutes repealed by this chapter to remain in effect for certain purposes, see section 747 of this title.

§ 905. Separability clause.

If any provision of this chapter shall for any reason be declared by any court of competent jurisdiction to be invalid, such declaration shall not invalidate the remainder of this chapter. (Oct. 14, 1940, ch. 876, title I, Subch. V, § 505, 54 Stat. 1174.)

§ 906. Effective date.

This chapter shall take effect from and after ninety days from October 14, 1940. (Oct. 14, 1940, ch. 876, title I, subch. V, § 505, 54 Stat. 1174.)

§ 907. Short title.

This chapter may be cited as the Nationality Act of 1940. (Oct. 14, 1940, ch. 876, title I, § 1, 54 Stat. 1137.)