£12.00

67/14
C

WAR RELOCATION AUTHORITY

In reply, please refer to:

Encls
check on previous information

U. S. DEPT. OF THE INTERIOR
WAR RELOCATION AUTHORITY
461 Market St., San Francisco 5, Calif.

February 16, 1945

MEMORANDUM TO: R. B. Cozzens
Assistant Director

ATTENTION: Pat Frayne
Information Specialist

Mr. Greenock has asked us to furnish a summary statement on dual citizenship. I think the following includes the points of chief importance in Solicitor's Opinion No. 55 which presents a detailed statement on this subject.

1. Dual citizenship arises not alone between the United States and Japan, but between any two countries which differ as to what the test of citizenship ought to be. There are two such tests in general use throughout the world. One is the place of birth. The other is the citizenship of the parents. The United States follows the test of birthplace. Japan follows the test of parentage. Obviously, whenever one country follows either of these theories and another country follows the other theory--the result is dual citizenship.

2. However, it is always possible for a child to inherit and retain the nationality of his parents (even if born outside the United States, for example) if proper action is taken. Thus children born of American parents in Japan can by proper action retain their American citizenship. In fact, both Japan and the United States have statutes which provide for loss of nationality so that any one who is a dual citizen may divest himself of either nationality.

3. No problem of dual citizenship arises so far as the Issei are concerned since they are Japanese by Japanese law and by our law as well.

4. As for a Nisei who is a dual citizen, he can divest himself of American citizenship by expatriation. (A recent statute permits this action during war time.)

5. It is generally conceded that the Japanese Government does not claim as a citizen a Nisei born since December 1, 1924 who was not registered with the Japanese diplomatic representative within fourteen days of his birth.

6. Nisei born prior to December 1, 1924, or who have been registered since that date, may renounce their Japanese citizenship by filing a statement to that effect with the Japanese Minister of Interior through the Japanese Embassy, together with certain required data such as birth certificate, etc.

7. It follows that many children of Japanese parents who were born in the United States before December 1, 1924, and others who were born on or after that date and were properly registered, are in the status of dual citizens unless they have taken steps to expatriate themselves either from the United States or from Japan. There may be some question as to whether the Spanish Embassy (which has been acting for the Japanese Government since war was declared) has properly transmitted such applications and also whether, if transmitted, they have been acted upon.

8. It should be pointed out that the effect of the Japanese statute which has presumably been operative since December 1, 1924 has been to diminish the extent of dual citizenship. That statute was an attempt on the part of the Japanese Government to conform to conditions in the United States by requiring prompt action on the part of parents wishing to preserve the Japanese citizenship of their Nisei children, and to make those children American citizens rather than dual citizens if the parents failed to take such action.

EB

Edgar Bernhard
Assistant Solicitor

Stencil 200 303.1

~~44.24~~

U. S. DEPARTMENT OF THE INTERIOR
WAR RELOCATION AUTHORITY
461 Market Street
San Francisco 5, California

April 2?
~~March 9~~, 1945

INFORMATION BULLETIN NO. ~~2~~ 3
WESTERN FIELD OFFICE

TO: Western Field Office Division Heads
Area Supervisors
Reports Officers
District Relocation Officers

SUBJECT: Dual Citizenship

Following is a summary statement on dual citizenship, which includes points of chief importance in Solicitor's Opinion No. 55, prepared by WRA Assistant Solicitor Edgar Bernhard.

1. Dual citizenship arises not alone between the United States and Japan, but between any two countries which differ as to what the test of citizenship ought to be. There are two such tests in general use throughout the world. One is the place of birth. The other is the citizenship of the parents. The United States follows the test of birthplace. Japan follows the test of parentage. Obviously, whenever one country follows either of these theories and another country follows the other theory -- the result is dual citizenship.

2. However, it is always possible for a child to inherit and retain the nationality of his parents (even if born outside the United States, for example) if proper action is taken. Thus children born of American parents in Japan can by proper action retain their American citizenship. In fact, both Japan and the United States have statutes which provide for loss of nationality so that any one who is a dual citizen may divest himself of either nationality.

3. No problem of dual citizenship arises so far as the Issei are concerned since they are Japanese by Japanese law and by our law as well.

4. As for a Nisei who is a dual citizen, he can divest himself of American citizenship by expatriation. (A recent statute permits this action during war time.)

5. It is generally conceded that the Japanese Government does not claim as a citizen a Nisei born since December 1, 1924 who was not registered with the Japanese diplomatic representative within fourteen days of his birth.

6. Nisei born prior to December 1, 1924, or who have been registered since that date, may renounce their Japanese citizenship by filing a statement to that effect with the Japanese Minister of Interior through the Japanese Embassy, together with certain required data such as birth certificate, etc.

7. It follows that many children of Japanese parents who were born in the United States before December 1, 1924, and others who were born on or after that date and were properly registered, are in the status of dual citizens unless they have taken steps to expatriate themselves either from the United States or from Japan.

8. It should be pointed out that the effect of the Japanese statute which has presumably been operative since December 1, 1924 has been to diminish the extent of dual citizenship. That statute was an attempt on the part of the Japanese Government to conform to conditions in the United States by requiring prompt action on the part of parents wishing to preserve the Japanese citizenship of their Nisei children, and to make those children American citizens rather than dual citizens if the parents failed to take such action.

* * * * * * * *

(Following are excerpts taken from a memorandum on dual nationality by Professors Max Radin and John H. Boalt of the University of California, which was done on June 3, 1943.)

"Properly speaking, there is no such thing as dual nationality. The idea of nationality has come down to us from the medieval English law and is derived from the notion of the bond of allegiance which connected a prince and his subjects.

"It is quite possible for a person under the laws of two separate states to claim the nationality of either or of both, when he is in a third state. Suppose, for example, a man had a right both to Austrian and to Argentinian nationality as happened frequently enough. If he was in Brazil he might demand of the Brazilian government the right to be regarded either as an Austrian or an Argentinian. In a few countries, he might claim both nationalities. But if he was in Austria he would be regarded exclusively as an Austrian and in the Argentine as an Argentinian.

"A good deal of the difficulty is created by the conflict of two theories of international law, one of which is called ius sanguinis, and the other is called the ius soli. The countries that maintain the ius sanguinis hold that citizenship is a matter of blood and inheritance. Those that maintain the ius soli hold that it is a matter of place of birth. Some countries use, to a limited degree, both theories. The following list of countries in 1929 used only the ius sanguinis:

"1. Austria, China, Danzig, Esthonia, Finland, Germany, Hungary, Japan, Latvia, Lithuania, Monaco, Netherlands, Poland, Rumania, Russia, Serbs, Croats, and Slovenes, Switzerland.

"2. Siam and Venezuela use both systems.

"The following countries use chiefly ius sanguinis but have some provisions based on ius soli:

" 3. Afghanistan, Albania, Belgium, Belgian Congo, Bulgaria, Cuba, Denmark, Dominican Republic, Egypt, France, Greece, Haiti, Iceland, Iraq, Italy, Luxemburg, Mexico, Norway, Persia, Portugal, Salvador, Spain, Sweden, Syria and Lebanon, Turkey.

" The following countries use chiefly the ius soli but have some provisions based on ius sanguinis. It will be noted that among them are Great Britain and the United States.

" 4. Argentina, Bolivia, Brazil, Chile, Great Britain, Australia, British India, Irish Free State, Canada, Hong Kong, Newfoundland, New Zealand, Palestine, Colombia, Costa Rica, Czechoslovakia, Ecuador, Guatemala, Honduras, Liberia, Nicaragua, Panama, Paraguay, Peru, United States, Uruguay.

" The countries that have insisted on the ius sanguinis have not done so, as is always insisted in the case of Japan, because of any superstitious devotion to an Emperor-cult, or because they have raised the notion of patriotism to the rank of a religious dogma.

" The reason has been almost wholly economic. Those countries were in the main emigration countries, that is countries that had economic difficulties in maintaining a rapidly rising population with the result that there was a large emigration. These countries were very anxious to retain enough control of their emigrant citizens to be able to count on a certain increase in revenue by taxation and to facilitate repatriation by refusing to admit loss of citizenship. Countries that stress the ius soli were immigration countries. The qualified acceptance by the United States of the ius sanguinis doctrine on behalf of their citizens born abroad was motivated by the increase of our commercial connections abroad and our large group of citizens that travelled for pleasure in foreign countries.

" From the above, it will be seen that if it is declared that Japanese-Americans born here cannot receive the privileges of American citizenship, because the Japanese government still regards them as Japanese subjects, the same would have to be applied to the countries in lists one and three, and particularly to the children of Italian and German ancestry born in this country. Nor can the fact that a Japanese, German, Frenchman or Italian, chooses to register his infant child with the governments of those countries, when that child would be under our law be a citizen of the United States, bind the child itself. It would be proper, to be sure, to make a law which requires a person who has a right to two different nationalities, to choose between them when he becomes of age. We have no such law. On the contrary our statutes particularly state that, except as a punishment for treason or a military offense amounting to treason, no person who has American citizenship by birth can lose it, while in the United States. He can, of course, renounce his citizenship elsewhere.

" If the foregoing rules were not applied it would be possible for a foreign government by changing its law to deprive an American citizen of his citizenship. Suppose, for example, we take the case of Germany. Germany formerly acknowledged the right of expatriation. It did not claim that a citizen born in the United States of German parentage was a German. Later it adopted the ius sanguinis. The effect of that would be---if we followed the reasoning put forth against the Japanese---that all the American citizens of German parentage would lose their civil rights because Germany suddenly chose to claim them as German citizens.

(more)

"The fundamental weakness of the case against the Japanese is that it fails to realize that the United States has always refused to recognize similar claims in the case of nationals of other countries. To apply it to the Japanese alone would be obviously discriminatory."

R. B. Cozzens
Assistant Director

RGreenock:eh

(Pages 927-929 of the Homu Section of Volume 6 of the 1938 Edition of Genko Horei Shuran)

THE NATIONALITY ACT

E 12.00

Statute No. 66, of 16 March 1899
Revised by Statute No. 27, of 1916 and by Statute No. 19, of 1924

We hereby sanction the Nationality Act which was approved by the Imperial Diet, and order the same to be promulgated.

(Signed--Prime Minister
Countersigned--Minister of Home Affairs)

The Nationality Act

Article 1. A child is regarded as a Japanese if its father is at the time of its birth a Japanese. The same applies if the father who died before the child's birth was at the time of his death a Japanese.

Article 2. If the father loses his nationality, either by divorce or by dissolution of adoption, before the child's birth, the provisions of the preceding article apply retroactively from the commencement of conception.

The provisions of the preceding paragraph do not apply in cases where both the father and the mother have left the family, except when the mother in such cases returns to the family before the child's birth.

Article 3. Incases where the father cannot be ascertained, or has no nationality, if the mother is a Japanese the child is regarded as a Japanese.

Article 4. If neither the father nor the mother of a child born in Japan can be ascertained, or if they have no nationality, the child is regarded as a Japanese.

Article 5. An alien acquires Japanese nationality in the following cases:

(1) By becoming the wife of a Japanese.
(2) Be becoming the nyufu[1] of a Japanese woman.
(3) By acknowledgment by his or her father or mother who is a Japanese.
(4) By adoption by a Japanese.
(5) By becoming naturalized.

Article 6. For an alien to acquire Japanese nationality by acknowledgment the following conditions must be fulfilled:

(1) He or she must be a minor by the law of his or her country.

---

[1] A man who married the female head of a family and at the same time becomes a member thereof through adoption. (Translator's note)

(2) She must not be the wife of an alien.
(3) The parent, whether father or mother, who has first made acknowledgment simultaneously, must be a Japanese.
(4) If the father and mother have made acknowledgment simultaneously, the father must be a Japanese.

Article 7. An alien may become naturalized with the permission of the Minister of Home Affairs.

The Minister of Home Affairs cannot permit naturalization, except in the case of persons fulfilling the following conditions:

(1) Having had a domicile in Japan for five or more years consecutively.
(2) Being of full twenty years of age or more, and having legal capacity by the law of his or her country.
(3) Being of good character.
(4) Having sufficient property, or ability, to secure an independent livelihood.
(5) Having no nationality, or whenhe or she would lose his or her nationality in consequence of the acquisition of Japanese nationality.

Article 8. The wife of an alien cannot become naturalized, except in conjunction with her husband.

Article 9. The aliens mentioned below, if they ar actually in possession of a domicile in Japan, may become naturalized, although theymay not have satisfied condition number 1 of paragraph 2 of Article 7:

(1) Those whose fathers or mothers were Japanese.
(2) Those whose wives were Japanese.
(3) Those born in Japan.
(4) Those who have had places of residence in Japan for ten years or more, consecutively.

The persons mentioned numbers 1 to 3, inclusive, of the preceding paragraph, cannot become naturalized unless they have possessed places of residence in Japan for three years or more, consecutively; but if the father, or the mother, of a person mentioned in number 3 was born in Japan, this rule does not apply.

Article 10. In cases where the father, or the mother, of an alien is a Japanese, if the alien in question is in actual possession of a domicile in Japan, he or she may become naturalized, although he or she may not have satisfied the conditions mentioned in numbers 1, 2 and 4 of paragraph 2 of Article 7.

Article 11. Notwithstanding the provisions of paragraph 2 of Article 7, the Minister of Home Affairs may, subject to the imperial sanction, permit the naturalization of an alien who has rendered specially meritorious services to Japan.

Article 12. Naturalization must be announced in the "Official Gazette."

Naturalization cannot be set up against a third party who has acted in good faith, until after suchnotification has taken place.

Article 13. The wife of a person who acquires Japanese nationality in conjunction with her husband.

The provisions of the preceding paragraph do not apply when the law of the wife's country contains provisions which are contrary thereto.

Article 14. If the wife of a person who has acquired Japanese nationality has not acquired Japanese nationality in accordance with the provisions of the preceding article, she may become naturalized although she may not have fulfilled the conditions of paragraph 2 of Article 7.

Article 15. The child of a person who acquired Japanese nationality acquires Japanese nationality in conjunction with its father of its mother, if it is a minor according to the law of its own country.

The provisions of the preceding paragraph do not apply when the law of the child's country contains provisions which are contrary thereto.

Article 16. A naturalized person, a person who, being the child of a naturalized person, has acquired Japanese nationality, or a person who has been adopted by, or has become the nyufu of a Japanese, does not possess the following rights:

(1) The right to become a Minister of State.
(2) The right to become the President of the Vice President or a member of the Privy Council.
(3) The right to become on official of chokunin rank in the Imperial Household.
(4) The right to become an Envoy Extraordinary and Minister Plenipotentiary.
(5) The right to become a General Officer in the army or an Officer of flag rank in the navy.
(6) The right to become President of the Supreme Court, President of the Board of Audit, or President of the Court of Administrative Jurisdiction.
(7) The right to become a member of the Imperial Diet.

Article 17. The restrictions laid down in the preceding article may in the case of a person who has become naturalized in accordance with the provisions of Article 11, after five years have elapsed from the date of his acquiring Japanese nationality, and in the case of other persons after ten years have elapsed, be removed by the Minister of Home Affairs, subject to the imperial sanction.

Article 18. A Japanese who, on becoming the wife of an alien, has acquired her husband's nationality, loses Japanese nationality.

Article 19. A person who has acquired Japanese nationality by marriage, or by adoption, loses Japanese nationality be divorce or the dissolution of adoption only whenhe or she thereby recovers his or her foreign nationality.

Article 20. A person who voluntarily acquires foreign nationality loses Japanese nationality.

Section 2 of Article 20. A Japanese who, by reason of having been born in a foreign country designated by Imperial Ordinance, has acquired the nationality of that country, and who does not as laid down by order express his intention of retaining Japanese nationality, loses his Japanese nationality retroactively from his birth.

Persons who have retained Japanese nationality in accordance with the provisions of the preceding paragraph, or Japanese subjects who, by reason of having been born in a designated foreign country before its designation in accordance with the provisions of the preceding paragraph, have acquired the nationality of that country, may, when they are in possession of the nationality of the country concerned and in possession of a domicile in that country, renounce Japanese nationality if they desire to do so.

Persons who shall have renounced their nationality in accordance with the provisions of the preceding paragraph lose Japanese nationality.

Section 3 of Article 20. Japanese subjects who, by reason of haveing been born in a foreign country other than the foreign countries indicated in paragraph 1 of the preceding article, have acquired the nationality of that country, may, when they possess a domicile in that country, effect renunciation of Japanese nationality by obtaining the sanction of the Minister of Home Affairs.

The provisions of paragraph 3 of the preceding article shall apply, mutatis mutandis, to persons who shall have renounced nationality in accordance with the provisions of the preceding paragraph.

Article 21. If the wife and child of a person who loses Japanese nationality acquire the said person's new nationality, they lose Japanese nationality.

Article 22. The provisions of the preceding article do not apply to the wife and child of a person who loses Japanese nationality by divorce, or by the dissolution of adoption. But cases in which the wife is not divorced when the dissolution of the husband's adoption takes place, or in which the child leaves the family together with the father, do not come under this rule.

Article 23. If a child who is a Japanese acquired foreign nationality by acknowledgment, he or she loses Japanese nationality. But this rule does not apply to a person who has become the wife,

the nyufu, or the adopted child of a Japanese.

Article 24. Notwithstanding the provisions of Article 19, Article 20, and the preceding three articles, a male of full seventeen years of age or over does not lose Japanese nationality, unless he has completed active service in the army or navy, or unless he is under no obligation to serve.

A person who actually occupies an official post, civil, or military, does not lose Japanese nationality notwithstanding the provisions of the preceding eight articles until after he or she has lost such official post.

Article 25. A person who has lost Japanese nationality by marriage and who is domiciled in Japan after the dissolution of the marriage, may, with the permission of the Minister of Home Affairs, recover Japanese nationality.

Article 26. If a person who has lost Japanese nationality in accordance with the provisions of Article 20 to Article 21 inclusive is domiciled in Japan, he or she may, with the permission of the Minister of Home Affairs, recover Japanese nationality. But this rule does not apply to cases in which the persons mentioned in Article 16 have lost Japanese nationality.

Article 27. The provisions of Articles 13 to 15 inclusive apply mutatis mutandis to cases coming under the preceding two articles.

Section 2 of Article 27. The procedure relative to the renunciation and recovery of nationality shall be determined by ordinance.

Supplement

Article 28. This act becomes effective from 1 April 1899.

Supplement

(Statute #19 of 1924)

The effective date of this act shall be determined by Imperial Ordinance.

(Translator's note: Further provisions make this act applicable to Taiwan and Karafuto.)

DUAL CITIZENSHIP AMONG THE JAPANESE

Much has been made throughout the Nation and especially among Californians of the fact that Americans of Japanese ancestry possess dual citizenship and that because of this divided loyalty, we cannot place much dependence and faith in such citizens. Once more the American people have acted on emotion and prejudice rather than on the facts in the case. Such facts do not warrant the assumptions we have made nor the actions we have taken on the basis of our misunderstanding of the problem of dual citizenship.

It is commonly assumed that American-born persons of Japanese parentage are born Japanese nationals and are automatically dual citizens. This is not true and has not been for 20 years. To obtain Japanese citizenship for them, their parents are required to register them at a Japanese consulate within 14 days of birth. Have Japanese parents taken advantage of the Japanese law to the extent that most people think? Representative Ford has told the people of the Nation that 99.9 percent of the American-born Japanese possess dual citizenship.[1] This is not true according to surveys that have been made of dual citizenship.

Professor Edward K. Strong of Stanford University and his associates carried out research on this problem in 1930 and found that 40 percent of those 7 years old and older in California had American citizenship only. Since these were persons born before 1924 when the present law came into force, they could only have reached that status by definite renunciation of their citizenship. Of those 1 to 6 years of age in 1930, Strong found that two-thirds were American citizens only, that is, their parents had not taken the trouble to register them at the Japanese consulate within the required two weeks period. This is true despite the fact that their parents were denied American citizenship and that by such failure to act they were erecting a barrier of nationality between themselves and their children. Here is evidence of a pro-American bias and lack of bitterness on the part of those to whom citizenship was denied which should be better appreciated.

Another popular fallacy about the Japanese Americans is that dual citizenship is exclusively a Japanese phenomena. This is far from the truth. As a matter of fact 24 countries today have dual citizenship. Bulgaria, Finland, France, Greece, Hungary, Norway, Poland, Sweden and Yugo-Slavia are among them. These countries have made equally important contributions to the flow of immigration to this country and not much concern has been given to dual citizenship status.

As the years have gone by, the number of Americans of Japanese ancestry possessing dual citizenship has decreased so that we can safely say that those 10 years old or younger who possess such citizenship are very small indeed. Most of the children now being born are of the third generation. Since many of their parents do not possess dual citizenship, these children could never secure such citizenship even if they desired it. The best estimate is that not more than 20 percent of Americans of Japanese ancestry are today dual citizens, if this estimate is any where near accurate.[2] The problem has been reduced 80 percent in two decades and will probably be wiped out in another generation.

1. From an article appearing in the San Francisco Recorder, a financial and legal daily, August 3, 1943
2. Same article.

FILES

DUAL CITIZENSHIP

What Propertion of Japanese-Americans Have Dual Citizenship?

Some children born of Japanese parents have dual citizenship. Prof. Edward K. Strong, Stanford University, in a report in 1930 found that 40% of those 7 years old and older in California had American citizenship only. Since these were persons born before 1924 when the present Alien Land Law came into force, they could only have reached that status by definite renunciation of their Japanese citizenship. There is one report made in 1930 that 2/3 were American citizens only; that is their parents had not registered them at the Japanese consulate within the required two weeks period. The best estimate is that not more than 20% of Americans of Japanese ancestry are today dual citizens. While this is a large percentage, the figures prove that 80% are not in any way connected with dual citizenship, and whereas it has been reduced 80% in two decades it probably will be wiped out in another generation.

Japan has recently addressed the State Dept. regarding exchange of internees at Tule Lake.