3:7 PRINTED & FORM LETTERS 1947

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WAYNE M. COLLINS
Attorney at Law
Mills Tower, 220 Bush Street
San Francisco 4, California

Telephone Garfield 1218

You are a party plaintiff in consolidated equity suit No. 25294, filed Nov. 13, 1945, in the U.S. District Court in San Francisco. Since then the number of plaintiffs has been increased to approximately 5,500 by court orders authorizing their joinder.

On April 29, 1948, U.S. District Judge Louis E. Goodman rendered his written Opinion in the case canceling the renunciations and restoring their citizenship upon the ground the renunciations of the Nisei were caused by duress. He held there was no such thing as dual citizenship.

The decision restores U.S. citizenship to persons in the suit, whether they are in the United States, Japan or elsewhere. The court originally allowed the government 90 days within which to designate any particular plaintiffs against whom it might wish to present further evidence, if it can, but placed the burden of proof upon the government to demonstrate by special hearings in such cases that such renunciations were free and voluntary and in nowise the product of the duress in which they were held and to which they were subjected. That burden of proof is very difficult, if not impossible, for the government to sustain. If any persons are designated they will be few in number.

Inasmuch as several thousand renunciants recently were joined in the suit, the court has granted the government an extension of 120 days' time from the date I file an interlocutory decree in the case within which it has the right to designate any of the plaintiffs for special hearings. The interlocutory decree will be filed by September 20, 1948; consequently, the final judgment and decree restoring citizenship will be filed about Monday, January 21, 1949. I do not know whether the government will appeal from that judgment.

When the judgment becomes final, all persons in Japan whose citizenship is restored will be authorized to return to the U.S. by applying to a U.S. consul at Yokohama or Kobe. If the government designates for special hearing any of the

Nisei plaintiffs who are in Japan, such persons will be granted permission to return to the United States for that purpose. Those consuls will be notified by me of the names and addresses of the Nisei plaintiffs in Japan.

Inasmuch as the time, labor and expense involved in sending and answering thousands of letters is prohibitive, you are requested not to write to me unless the matter is urgent, or you have not given me your present address, or you change your address. If you are in Japan, you should notify me by card or letter of the address at which you can be reached in the United States before you return to this country.

For your information, if you are in Japan, you are warned against committing any act of expatriation which would cause you to lose U.S. citizenship. The following acts have been defined by Congress, in Title 8, U.S. Code, Sec. 801, to constitute acts of expatriation whereby a citizen loses his U.S. nationality and citizenship, namely: (1) taking an oath or affirming or declaring allegiance to a foreign state; (2) serving in the armed forces of a foreign state if he has or acquires the nationality of that state; (3) accepting or performing employment under a foreign government if only nationals of that state are eligible for such employment; (4) voting in an election or plebiscite in a foreign state to determine sovereignty over foreign territory; (5) making a formal renunciation of U.S. nationality before a diplomatic or consular officer of the United States in a foreign state; (6) deserting our armed forces in time of war if convicted of desertion or dismissed or dishonorably discharged from those forces; (7) committing an act of treason or attempting to overthrow or bear arms against the U.S. if convicted by a court martial; and (8) leaving or remaining outside the jurisdiction of the U.S. in time of war or national emergency for the purpose of evading service in our armed forces.

When the judgment becomes final, each plaintiff in the case will receive written notification from me.

Very truly yours,

1947

WAYNE M. COLLINS
Attorney at Law
Mills Tower
220 Bush Street
San Francisco 4, Calif.
GArfield 1-1218

Dear

As you heretofore were notified, you have been included as a party plaintiff in equity suit No. 25294-G which is pending in the U.S. District Court in San Francisco. That suit is: (1) a suit to cancel your renunciation of U.S. nationality; (2) a suit to declare your U.S. nationality; (3) a suit for declaratory relief. The suit is based upon the alleged facts that each renunciation was directly caused by the duress in which each was held by the government at the time of renunciation and by the concurrent duress, coercion and undue influence of alien groups which were permitted by the W.R.A. to operate in the Tule Lake Center and to hold all the internees in a state of terror so that none of them was a free agent at the time and each was compelled to renounce. It is also based upon the fact that the renunciation statute is unconstitutional and void. The American consul at Yokohama has been informed that you are a party plaintiff in said equity suit.

Because you already are included in that suit you are entitled to apply for a certificate of identity from an American consul abroad. Under the provisions of Title 8 U.S. Code, Section 903, a person in a foreign country who claims U.S. nationality is entitled to return to the United States by applying to a U.S. consul in a foreign country for a certificate of identity. The consul supplies the application forms. The consul requires an affidavit from an applicant that he claims U.S. nationality and that his claim is presented in good faith and has a substantial basis, and that a suit has been filed in a U.S. District Court on his behalf to declare his nationality under that statute. Thereupon, the American consul issues him a certificate of identity which entitles him to return to this country when and if he can book passage. If a certificate of identity is refused the applicant may appeal directly to the Secretary of State, Washington, D.C.

If the applicant is granted such a certificate his return may be made contingent upon his posting a bond to guarantee that in the event he loses the suit and it is declared that he is not a national of the United States that he will leave the United States thereafter.

The consuls in Japan, evidently through instructions from the State Department and probably from the Attorney General, make it a practice to withhold granting certificates of identity to renunciants until such time as it may appear that their presence would be required here in any hearing which may be required in the equity suit. Inasmuch as the equity suit may be determined on questions of law and of fact without individual hearings being required and because such a decision may be rendered within a month or two, our consuls probably will decline to issue certificates of identity until the case is decided by the court. Under the circumstances there is no reason for you either (1) to apply to the consul for a certificate of identity at the present time or (2) to appeal from an adverse decision from him to the Secretary of State. It is best that you wait until a decision is rendered on the pending motions in the equity suit before you either apply for a certificate of identity or contemplate taking an appeal from a refusal.

If the decision of the court should be adverse to any renunciants or class of renunciants and a hearing be ordered in such cases, those renunciants thereupon, by applying for certificates will be issued certificates of identity so that they may return to this country for their individual hearings and remain here thereafter until such time as their cases may be determined upon any appeal that might be taken to an appellate court.

For your information, U.S. District Judge Louis E. Goodman on August 11th rendered his judgment in habeas corpus cases here holding that a person who resided in the United States and renounced while a resident here was not thereby converted into an alien enemy who would be subject to detention and deportation under the provisions of the Alien Enemy Act and he ordered the release of some 331 renunciants who were detained at Crystal City, Texas, and Bridgeton, New Jersey. In his written decision he declared that no American born citizen can possess dual nationality. In that case he did not pass on the question of the validity of the renunciations because that matter is to be determined in the equity cases. In that decision he did not decide whether or not citizenship was to be restored to renunciants who are residents of this country and are still here or to those who are in Japan.

For your information, until such time as the equity suits determine your political status, I wish you to be informed that if any of you have committed any act deemed to constitute "expatriation" you would be prevented from showing in any suit here that you were a citizen of the United States. By an act of "expatriation" a citizen of the United States who is in a foreign country loses his U.S. nationality under the provisions of Title 8 U.S. Code, Section 801. A citizen of the United States can lose his citizenship by any of the following acts under the provisions of that statute by:-

a. Becoming naturalized in a foreign state;

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

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;

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

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

f. Making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state;

g. Deserting the military or naval forces of the United States in time of war provided he is convicted thereof by court martial or is dismissed or dishonorably discharged from service;

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;

i. Making in the U.S. a formal written renunciation of nationality on a form prescribed by the Attorney General whenever the United States shall be in a state of war and the Attorney General approves such renunciation as not contrary to the interests of national defense; (This is the section under which persons renounced their nationality at Tule Lake.)

j. Departing from or remaining outside the jurisdiction of the United States in time of war or during a period declared by the President to be a period of national emergency for the purpose of avoiding training and service in the land or naval forces of the United States;

When a decision is rendered in the equity suits on my pending motions for judgment on the pleadings and for summary judgment, each of you will be informed of the nature and contents of that judgment. If hearings are required in the case of any of the renunciants abroad, those persons will be notified by mail of that fact and thereupon may apply for a certificate of identity and that certificate will be issued to them.

Very truly yours,

WMC:cw

WAYNE M. COLLINS
Attorney at Law
Mills Tower
220 Bush Street
San Francisco 4, Calif.
GArfield 1-1218

December 30, 1947

Dear

You have been included as a party plaintiff in equity suit No. 25294-G which is pending in the U.S. District Court in San Francisco. That suit is: (1) a suit to cancel your renunciation of U.S. nationality; (2) a suit to declare your U.S. nationality; (3) a suit for declaratory relief. The suit is based upon the alleged facts that each renunciation was directly caused by the duress in which each was held by the government at the time of renunciation and by the concurrent duress, coercion and undue influence of alien groups which were permitted by the W.R.A. to operate in the Tule Lake Center and to hold all the internees in a state of terror so that none of them was a free agent at the time and each was compelled to renounce. It is also based upon the fact that the renunciation statute is unconstitutional and void. The American consul at Yokohama is being informed that you are a party plaintiff in said equity suit.

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If the decision of the court should be adverse to any renunciants or class of renunciants and a hearing be ordered in such cases those renunciants thereupon, by applying for certificates will be issued certificates of identity so that they may return to this country for their individual hearings and remain here thereafter until such time as their cases may be determined upon any appeal that might be taken to an appellate court.

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For your information, until such time as the equity suits determine your political status, I wish you to be informed that if any of you have committed any acts deemed to constitute "expatriation" you would be prevented from showing in any suit here that you were a citizen of the United States. By an act of "expatriation" a citizen of the United States who is in a foreign country loses his U.S. nationality under the provisions of Title 8 U.S. Code, Section 801. A citizen of the United States can lose his citizenship by any of the following acts under the provisions of that statute by:-

a. Becoming naturalized in a foreign state;

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

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;

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

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

f. Making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state;

g. Deserting the military or naval forces of the United States in time of war provided he is convicted thereof by court martial or is dismissed or dishonorably discharged from service;

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.

i. Making in the U.S. a formal written renunciation of nationality on a form prescribed by the Attorney General whenever the United States shall be in a state of war and the Attorney General approves such renunciation as not contrary to the interests of national defense; (This is the section under which persons renounced their nationality at Tule Lake.)

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When a decision is rendered in the equity suits on my pending motions for judgment on the pleadings and for summary judgment, each of you will be informed of the nature and contents of that judgment. If hearings are required in the case of any of the renunciants abroad, those persons will be notified by mail of that fact and thereupon may apply for a certificate of identity and that certificate will be issued to them.

Very truly yours,

WMC:cw

[1947?]

WAYNE M. COLLINS,
Attorney at Law,
Mills Tower,
220 Bush Street,
San Francisco, 4, Calif.
GArfield 1218.

Mr.

Dear

At the last session of Congress, which has adjourned, Title 8 U.S. Code, sec. 1001, was amended so as to restrict the right to become a naturalized citizen. As amended, the statute now provides that a person serving or who has served in the military forces is eligible to become a naturalized citizen only provided he served in the military forces prior to December 28, 1945, and provided he applies for such naturalization on or by December 31, 1946.

The right of a qualified person to become naturalized may be held not to be an absolute one. The government may contest such an application for a number of reasons and in such an event the decision of a court would have to be sought thereon. A naturalization examiner or a judge might raise questions of fact or law which could result in a denial of a petition for naturalization. For example, the question of law whether or not the statute enables a renunciant or former citizen to become naturalized has not as yet been determined by the courts.

There are renunciants in Crystal City and renunciants who have been relocated who are eligible to apply for naturalization upon the ground that they served in the military forces prior to December 28, 1945. As veterans they are eligible to naturalization if they apply for naturalization before December 31, 1946. The petition and forms required for naturalization may be obtained from officers of the Immigration and Naturalization Service.

Service in the military forces since Dec. 28, 1945, does not entitle a person to become naturalized under the existing law. There is a chance that at its next session Congress may make such persons eligible for citizenship but there is no present indication that it will do so. Congress, however, always has the power to enlarge or restrict the right to naturalization.

As the law now stands, if any of you should be accepted into the military service such service would not entitle you to naturalization unless you had a record of service before Dec. 28, 1945. I am informed that G.I. benefits will accrue to all persons who have a record of service prior to October, 1946.

The Ninth Circuit Court of Appeals here has rendered its decision and opinion that renunciants may be inducted into the military service from a WRA camp and that they must obey the instructions of their local draft boards and comply with the provisions of the Selective Training and Service Act of 1940. Failure to obey the lawful instructions of the draft boards is made punishable as a crime.

Local draft boards in California have taken the view that they will classify as 1-A all renunciants who are eligible for induction under the Selective Training and Service Act of 1940. They are classifying them 1-A and ordering them to report for medical examinations. Draft boards outside California are doing likewise.

The Sixth Army headquarters in San Francisco, however, refuses the enlistment and induction of renunciants and will continue to refuse them until it receives a ruling from the Adjutant General or the War Department to accept them. In other words, it follows an administrative practice of rejecting or refusing to accept them until it is ordered to do otherwise by a higher military authority. Other Army headquarters, however, have accepted renunciants for service both as enlistees and inductees.

There is a possibility that a native-born citizen who renounces his citizenship but remains a resident of this country may be eligible for naturalization. However, this question has not yet been determined by the courts. Title 8 U.S. Code, sec. 703, restricts the right of naturalization to "white persons, persons of African nativity and descent, descendants of races indigenous to the Western Hemisphere, and Chinese persons or persons of Chinese descent."

The contention can be made that persons of Japanese ancestry are descendants of "races indigenous to the Western Hemisphere". It may be argued that the words "races indigenous to the Western Hemisphere" include not only the Indian but other races as well. No one knows how many generations may be required to establish a "race".

The courts might take the view that one, two or three generations of native-born persons is sufficient to establish a "race" indigenous to the Western Hemisphere and, in particular, to the United States, regardless of the nationality of their remote ancestors.

I am not aware that such a contention has at any time been advanced or that any decision on such a point has been made. It is an arguable matter, however, and it might be that the Supreme Court might adopt the view that native born persons of second, third and additional generations would fall within the definition of a race indigenous to the United States. It may be that Congress, in enacting Sec. 703 intended to include within the phrase "races indigenous" races other than the Indian race or races and that it may include Nisei, Sansei, etc. It can also be argued that the remote ancestors of all Indian and Japanese were Mongolian and that, by reason thereof, native-born Japanese are of the same ancestral stock as Indians and hence are of a race indigenous to the Western Hemisphere.
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The argument also can be made that native-born Japanese who are renunciants are "white persons" within the meaning of the statute, although it is a weak one. In addition, a case can be made out for a renunciant to claim a right to naturalization based not upon his ancestral origin but upon that of his former status which was that of "a former citizen of the United States".

The foregoing contentions and theories are of no immediate importance to you. However, in the event we should lose the citizenship issue, each renunciant can apply for naturalization and one test case could be taken through the courts for a final determination.

In the event that you are ordered to report for induction or for medical examination by your draft board and in the event that you apply direct to the army to enlist you may state that you were born in the United States, that you claim to be an American citizen but that your political status is uncertain due to the fact that you signed an application for renunciation at Tule Lake under duress and that you will not know your precise political status until such time as the court before whom the matter is pending determines whether you are still a citizen, a non-citizen resident of this country or an alien resident of this country.

Very truly yours,

WMC:cw