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## HOW AMERICAN CITIZENSHIP MAY BE LOST

You have been hearing in this series of Friday afternoon talks various things <sup>about</sup> American citizenship - its advantages - how an alien may become a citizen - but little, if anything, <sup>2</sup> believe has been said about how this citizenship may be lost. Yet whether you are native or foreign-born you may lose it. Hundreds do every year.

For those of us who are native born the matter is ~~a very~~ simple ~~one~~. We can lose our American citizenship only in two ways:- First, by voluntarily becoming a citizen of another country which is possible if we can satisfy the requirements of the naturalization law of the country we want to adopt. And Second, by voluntarily taking an oath of allegiance to a foreign government.

Many an American boy who enlisted for military service in a foreign country <sup>before</sup> during the late war and since innocently enough took foreign oaths of allegiance and so lost his American citizenship. An oath of allegiance taken after we went into the War did not count - one of our laws saying that "No American citizen shall be allowed to expatriate himself when this country is at war."

We have heard-properly enough-a good deal of talk on the past over the fact that we native born American women had our citizenship taken from us for reasons which did not apply to men - for instance if we married an alien we were automatically thrown out, though that did not happen to a man. Nine years ago in September 1922-Congress did away with this discrimination, <sup>the new</sup> ~~exception~~

<sup>very</sup> <sup>she</sup> <sup>if a</sup> ~~in case that the woman married an alien ineligible to citizenship - a~~  
~~though a man married one woman of these races did not~~  
lost her own citizenship. In March of this year Congress removed

(Hindoo, a Japanese, a Chinaman)

this last difference between the rights of native born men and women. *Mr. women may* You can marry a man of any race on earth and preserve your citizenship.

*as I said*  
As you see the matter is simple for us who are native-born but ~~the situation is very different~~ for the foreign-born American. *U.S. Congress* It is much more complicated. He may lose his citizenship in the same two ways as native-born Americans, *but he may also* lose it for other reasons: First, *if* that there were irregularities of *any* kind in the securing of his certificate of naturalization. Our requirements are definite - precise - and the government tolerates no irregularities *of* fraud. If these can be *proved* the certificate of naturalization is promptly cancelled. For instance, the law requires that every applicant for naturalization must file a certificate of arrival with ~~his declaration of intention~~. In a recent case a man was granted citizenship by the judge in spite of the fact that he submitted no certificate of arrival and in spite of the fact that the naturalization examiner protested against his being given citizenship. The case finally came before the United States Supreme Court which held that the man's citizenship had been illegally procured and must be cancelled.

In another case a man obtained citizenship in a judicial district in which he was not a resident. This is against the law and his certificate was cancelled. In a third case a man was granted citizenship after a final hearing in the judge's chambers. The law requires a public hearing in open court. His case eventually came before the United States Supreme Court - when *the* cancellation was *upheld* the Court was severe. *in making its decision* No alien has the slightest right to naturalization unless all statutory requirements are complied with; every certificate of citizenship must be treated *as declared*

as granted upon the condition that the Government may challenge it ... and demand its cancellation unless issued in accordance with such requirements." ~~If procured when prescribed qualifications have no existence in fact, it is illegally procured; a manifest mistake by the judge cannot supply these nor render their existence non-essential."~~

The moral of this is that if a man or woman of a foreign country wishes to become an American citizen he must first know what the law requires - second, he must carry out the requirements to the letter <sup>nothing he can</sup> and his witnesses can ~~never~~ evade or lie without almost surely being discovered and the citizenship he seeks refused or if by error granted - lost.

There are a number of booklets which describe in full the steps by which one may become a citizen of the United States. One of the best of these is published by the Foreign Language Information Service, at 222 Fourth Avenue, New York City. Perhaps I am prejudiced for I am a trustee of that organization and it is at their request I am talking to you but it is a good booklet and copies of it may be secured by writing to <sup>them</sup> ~~the Foreign Information Service or F.L.I.S. for short.~~ This booklet costs 25 cents. Let me repeat the name and address - F.L.I.S., 222 Fourth Avenue, New York City.

A second way in which a foreign-born citizen may get into trouble and frequently lose his citizenship is by going back to his native land and over-staying the time our Government thinks consistent with the oath he took when he was naturalized, ~~that is~~ <sup>the</sup> his oath that it was his intention to reside permanently in the United States. If within five years after naturalization, a

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naturalized citizen returns to his native country or to any other foreign country and takes a <sup>up what looks like a</sup> permanent residence ~~there~~, there is always a suspicion that he did not intend to become a permanent citizen of the United States at the time he was naturalized and his certificate of citizenship may be cancelled on the ground of fraud. This provision of the law, however, applies only to naturalized citizens who remove from the United States within five years after acquiring citizenship. ✓

Let me illustrate what I mean by an instance which happened only a few weeks ago. A woman came to the Foreign Language Information Service wishing to go to Norway to visit her father who was seriously ill there. Our Department of State in Washington had refused her an American passport. Her father, a Norwegian by birth, was naturalized as an American citizen in 1890, more than 40 years ago and for many years had his headquarters in this country. A few years ago he was injured and returned to Norway, where his wife was living, and has remained there. <sup>- in a hospital.</sup> Now he had a daughter who had come to this country in 1928 when she was still a minor. Her citizenship, consequently, followed that of her father's. In refusing her a passport our Department of State held that since the father must be presumed to be no longer an American citizen because he had been living in Norway for so long the daughter also had lost her claim to American citizenship.

The Foreign Language Information Service, to which the daughter came for assistance, took up the matter with the Department of State, pointing out that the father had remained in Norway because of the seriousness of his injuries and that he <sup>had not and did</sup> ~~could not return~~ <sup>not intend to pick up his address at</sup> ~~because he was still in a hospital in Norway.~~ When these facts had been satisfactorily established, the State Department granted the

daughter a temporary American passport - that is she is able to visit her father and keep her <sup>american</sup> citizenship.

Not all cases, however, turn out so satisfactorily. A famous case in our courts was that of a German named Sinjen. He came to this country in 1885 and was naturalized in 1893. In 1909 he and his wife returned to Germany, because of the illness and death of one of his wife's parents. They remained in Germany to settle the estate and to sell some property which they had acquired until the war broke out in 1914. When they applied for an American pass<sup>port</sup> they were refused on the ground that they had abandoned their American citizenship. They ~~were forced to remain there during the period of the war but they again applied for an~~ <sup>again</sup> American passport in 1919 and 1920, <sup>but</sup> both times they were refused. ~~As they could not get permission to return to the United States,~~ <sup>they went to Mexico</sup> they went to Mexico and finally succeeded in entering this country. During his absence, certain property which Mr. Sinjen owned in the United States had been confiscated by the Alien Property Custodian. On his return he brought suit for its recovery and our Federal courts finally decided that in spite of his long absence from ~~this country~~, he had not intended to abandon his citizenship but was still an American citizen and that the property should be returned to him.

Another danger a naturalized American citizen runs if he returns to his native land is being held there to do military service. This may be because the government to which he formerly owed allegiance does not grant to its nationals the right of expatriation without special permission. It may be because that government, while willing that its nationals should become American citizens, does not recognize that such citizenship exempts the

holder from obligations to military service.

The United States had<sup>s</sup> concluded naturalization treaties with a number of countries under the terms of which former nationals of those countries who are now American citizens, are not liable for further military duty. Draft evaders or deserters are not, of course, protected by these treaties in the event of their return to their native countries.

France, Poland, Roumania, Switzerland, Italy and the Netherlands recognize the right of their native-born to become citizens of other countries, but do not consider it a bar to military service. Any native of these six countries residing abroad who has evaded military service by emigration or who has failed to respond to the notice calling him to military service, is liable on return to the country of his origin to arrest and compulsory military service. In Switzerland he may pay a tax in place of such service.

Formerly it was naturalized citizens of Italian birth who were especially likely to get into trouble of this sort, but the Italian government has in the past two years considerably changed its policy. While not relinquishing her claim to military service from American citizens of Italian birth, Italy has announced that in times of peace she will not enforce such claim and that such citizens may visit their native land without fear of molestation.

An American citizen who visiting his native country is made to perform foreign military service against his will should protest against it and should also at once notify the nearest American diplomatic or consular officer of what has happened to him.

if he does, he does not forfeit his American citizenship. But the burden of proof is on him to show that his military service was really enforced. In most countries accurate records are kept of protests against such service and the appropriate authorities will furnish the U. S. government with such information upon request. Records at the American ministry, embassy or at the American Consulate should also show that the person in question either in person or by letter protested against being made to serve in the foreign army and asked the intervention of the U. S. government.

Enforced military service does not apply only to naturalized citizens. The attention of the State Department is called daily to numbers of cases in which persons born in the United States of foreign parents are impressed into the military service of the countries of their parents' nationality.

These cases involve what is called dual nationality. A boy born in the United States of Italian parents who have not yet been naturalized is an American citizen by reason of his birth here but an Italian subject by reason of his parentage. Italy claims him as an Italian subject, because his parents, at the time of his birth, still owed allegiance to Italy. The United States makes a similar claim in regard to the children of American citizens born abroad.

All American citizens who are subject to dual allegiance of this sort, should if they visit the country of their parents nationality, take particular care to protect their American citizenship in case military service and an oath of allegiance is required of them.

Some years ago two brothers were born in the United States of Lithuanian parents. The parents returned to Lithuania, taking their two sons with them and putting them in school in Lithuania. Both boys fought in the Lithuanian army in the war between Lithuania and Poland. Subsequently the two brothers wished to return to the United States. The United States granted the younger boy, who was still under twenty-one, an American passport. It held that while he had taken an oath of allegiance to Lithuania, he had done so as a minor and that as he was under age, he still had the right to elect American citizenship and return here. But the older brother was over twenty-one and had taken his oath of allegiance in the Lithuanian army after reaching his majority. He was held, consequently, to have lost any claim to American citizenship. The younger brother, after his return to this country, frequently came to the Foreign Language Information Service to get help for his older brother. There was nothing that could be done and the Lithuanian quota is too small and the waiting list too long to offer much hope that the brothers can be reunited in this country.

There is one more point that it is important to make. If you are a naturalized American citizen and want to visit the country of your birth - go to the Department of State for your passport - not to the consulate of your native country. It <sup>may</sup> cost you more but it will be your protection.

Most foreign governments, like our own, require an applicant for a passport to take an oath of allegiance. Take this oath, as I have already said, and you <sup>are liable to lose your American citizenship</sup> ~~expatriate yourself~~. Furthermore, the United States Commissioner of Naturalization has

9 urged Congress to make the use of a foreign passport a reason for cancelling certificates of citizenship, even in cases where no oath of allegiance to a foreign government has been taken. While Congress has not yet acted on this recommendation, it may do so at any time. Furthermore, American citizens using a foreign passport may find their return to the United States difficult, if not impossible, under our immigration laws.

I have said enough I hope about this important and complicated matter to convince the naturalized American citizen and his friends that it is only by a complete understanding of our laws that he can keep his position as a citizen of the United States.

If any of you would like further information or would like to discuss some individual case, come or write to the Foreign Language Information Service, 222 Fourth Avenue, New York City. The Service will be very glad to assist you, either to become an American citizen or to protect you from the loss of your citizenship, once it is gained.