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THE AMERICAN PASSPORT

THE AMERICAN PASSPORT

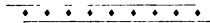
By Gaillard Hunt

U. S. - Passport clerk.

ITS HISTORY

AND A

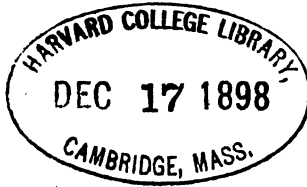
DIGEST OF LAWS, RULINGS, AND REGULATIONS
GOVERNING ITS ISSUANCE BY THE
DEPARTMENT OF STATE



WASHINGTON
GOVERNMENT PRINTING OFFICE
1898

US 675.9

~~6382.25~~



The Dept. of State

*The Honorable JOHN SHERMAN,
Secretary of State.*

*Sir: I have the honor to submit an historical sketch of the
American passport and a digest of the laws, rulings, and regula-
tions governing its issuance by the Department of State.*

*I am, Sir,
Your obedient servant,*

*GAILLARD HUNT,
Passport Clerk.*

*DEPARTMENT OF STATE,
Passport Division, December 27, 1897.*

Ordered to be printed.

*JOHN SHERMAN,
Secretary of State.*

v

TABLE OF CONTENTS.

PART I.

CHAPTER I.

DEFINITION OF THE AMERICAN PASSPORT.

	PAGE.
Definition in international law,	I
Real nature of the document,	2
Dana's Wheaton quoted,	5
The visa,	6

CHAPTER II.

THE SPECIAL PASSPORT.

Double purpose of,	7
To foreign diplomatic representatives,	7
To distinguished foreigners,	7
Military passes,	8
Form given to bearers of dispatches,	8
a female,	8
an American minister,	9
travelers,	10
explorer,	10
a foreign minister,	12
one who has made a "declaration of intention,"	12
foreign travelers,	13
a student,	14
free persons of color,	15
showing introductory features,	18
for family of a foreign minister,	20
given during civil war,	21
a dismissed foreign minister,	23
Number issued since Seward's administration,	24

	PAGE.
No fee charged until Sherman's administration,	24
Solicitor's opinion,	24
Passport Division's memorandum,	25
Olney's informal decision,	25
Sherman's decision,	31
To Army and Navy officers,	33

CHAPTER III.

PASSPORTS ISSUED BY OTHER THAN FEDERAL AUTHORITY.

Treaty of 1778 with France,	36
Violation of safe-conduct, penalty for,	36
Permission to leave this country in 1815,	36
Supreme Court's opinion,	37
Passports issued by municipal or State authority,	37
form of, from governor of Connecticut,	37
a notary public,	38
governor of Louisiana,	39
Illegal documents in the nature of passports,	41
Naturalization certificate as a passport,	42

CHAPTER IV.

EVIDENCE REQUIRED BEFORE ISSUING PASSPORTS AND PASSPORT
REGULATIONS.

Evidence of citizenship required,	43
Department notice of 1845,	43
1853,	43
Issuance to persons not citizens,	44
Nature of proof of citizenship,	44
Form of application in 1830,	45
1867,	49
1888,	64
Circular of 1845,	46
1846,	47
general instructions, 1873,	54
1879,	57
1882,	58

Table of Contents.

ix

	PAGE.
Circular of general instructions, 1888,	59
1889,	59
Regulations during the civil war,	49
Rules governing applications for passports, 1896,	59
Blanks in use,	64

CHAPTER V.

OATH OF ALLEGIANCE.

When first required,	69
Form of oath,	69
Modifications permitted,	71

CHAPTER VI.

FEE FOR ISSUING A PASSPORT.

None up to 1862,	72
Method of collection,	72
Changes in amount,	73
Illegal charges in Department in 1797,	73
Passport Clerk administers oath free,	74

CHAPTER VII.

DURATION OF THE PASSPORT.

For a specific journey,	75
Limited to one trip abroad,	75
one year,	75
two years,	75
Of special passports,	76

CHAPTER VIII.

WORDING AND PICTORIAL FEATURES OF THE PASSPORT.

The first passport,	77
Form used in 1817,	78
1820,	79
at the present time,	80

Table of Contents.

	PAGE.
Pictorial features of the passport of 1796,	80
1817,	80
1833,	80
1872,	81
1875,	81
1877,	81
1889,	81

CHAPTER IX.

PASSPORTS ISSUED ABROAD.

Duration in 1796,	82
First one recorded,	82
Form in 1796,	83
By consul,	84
Certificate of citizenship,	84
Refused to aliens by Rufus King,	85
Penalty for issuing false passports,	85
Evidence of citizenship required,	86
General instructions,	86
Qualified passports,	87
Dr. Wharton's opinion,	87
Consuls not to issue without permission,	88

PART II.

DIGEST OF LAWS, RULINGS, AND REGULATIONS.

Accompanying person in a passport,	91
Agents for passports,	93
Alteration in a passport,	94
Application, by whom made,	95
Chinese, application by,	95
Citizenship,	96
by annexation of territory,	97
nativity,	99
naturalization,	105

Table of Contents.

	PAGE.
Copies of passports,	118
Courier's passport,	119
Criminal conviction of applicant,	119
Declaration of intention to become a citizen,	120
Divorced woman's application,	121
Duplicate passport,	124
Duration and renewal of passport,	125
Expatriation,	127
Fee,	145
Indian's, passports for,	146
Insane persons, applications for,	148
Issuance abroad,	149
Issuing, agent for,	150
Japanese, applications by,	153
Minor's application,	153
Name of applicant,	154
Naturalization certificate,	155
Oath of allegiance,	166
Passports, necessity for,	169
Protection document,	170
of passport,	171
Residence abroad,	203
Seal of officer before whom affidavit is executed,	210
Special passports,	211
State authorities, passports issued by,	213
Titles and occupations in passports,	216
Visa,	216
Widow's application,	217

PART I
HISTORY OF THE AMERICAN PASSPORT

THE AMERICAN PASSPORT.

CHAPTER I.

DEFINITION OF THE AMERICAN PASSPORT.

THE word passport is formed of two French words, *passer*, to pass, and *port*, a port or harbor. Originally, it meant permission to leave a port or harbor, or sail into it, and this was extended to include generally permission of egress and of passage. In the strict nomenclature of international law, passports were classed with those documents known as safe conducts or letters of protection, by which the person of an enemy might be rendered safe and inviolable. "These may be given to carry on the peculiar commerce of war, or for reasons which have no relation to it, which terminate with the person himself." A broader definition is, "A document issued by competent civil authority, granting permission to the person specified in it to travel, or authenticating his right to protection."

The word passport.

Woolsey, §147.

Century Dictionary.

None of these definitions is, however, accurately descriptive of the American passport, as it has been granted by this Government since its formation under the Constitution. In time of peace a law-abiding American citizen has always been free to

Unusual
passports.

leave the country without the permission of the Government; and, under the same conditions, foreigners have always been permitted to travel or sojourn within our boundaries without a permissive document. Under extraordinary circumstances safe conducts have been issued to aliens, and even to our own citizens, for purposes of travel in the United States; and occasionally passports for departure have been and are given to ministers or other officials of foreign governments. During the civil war no one was permitted to leave or enter the United States without a passport. These cases are exceptional, and will be treated separately. They need not enter into a correct defining of the regular American passport, a document sanctioned by more than a century of issuance and authorized by statute. In its wording this passport has not varied materially, and in the purpose of its use it has not varied at all. It is a document issued by the Secretary of State, or, under his authority, by a diplomatic or consular officer of the United States abroad, to a citizen of the United States, stating his citizenship, and requesting for him free passage and all lawful aid and protection during his travels or sojourn in foreign lands. Except for a brief period during the civil war, it has never been regularly issued to other than American citizens, and it has always stated this citizenship. It is intended only for use abroad, and has no sanctioned uses, customary or statutory, within the United States in time of peace; and the request which it conveys is

Definition.

To citizens
always.

Post, p. 44.

Used only
abroad.

expected to receive recognition from the agents of foreign governments, subject, of course, to the laws of foreign countries.

Some foreign countries, before recognizing the ^{Visa.} validity of a passport, require that a visa, or visé, shall be, or shall have been, affixed to it. This is an indorsement denoting that the passport has been examined and is authentic, and that the bearer may be permitted to proceed on his journey. Sometimes ^{Regulations.} it is required that the visa be affixed in the country where the passport is issued by a diplomatic or consular officer of the government requiring it; sometimes simply by such officer anywhere; sometimes at the frontier of the country to which admission is sought. It may even be required from a diplomatic or consular officer of the government which issued the passport.

The theory and practice respecting passports to private ^{Dana's Wheaton, P. 298, n.} citizens in times of peace seems to be this: Each nation, as part of its internal system, may withhold the right of transit through its territory. Permissions to foreigners to pass through it are properly passports; and, in strictness, a foreigner would be obliged to obtain a new passport at the boundaries of each nationality, and each national authority might subject him to an examination to ascertain his character and citizenship. To avoid these inconveniences, a system is adopted by which a citizen, leaving his own country for another, obtains from his own government what is called a passport, and is so, as respects a right to leave his own country; but, in respect to foreign countries, is rather a certificate of citizenship, with such

a description of the person, and usually with his autograph appended, as will serve to identify the bearer and prevent the document being transferred. The presenting of this at the entrance of a foreign country serves to authenticate and identify the bearer; and the foreign government, instead of granting a passport, gives its assent to the bearer's passing through in the form of a visé upon the document itself. This is especially convenient to the traveler in going through several countries, and enables the local governments to examine and authenticate the person and documents at various points, attested by fresh visés. Where a person away from home desires a passport or certificate from his own government, one may be given him by the diplomatic agent of that government. Each nation has its rules as to who may give and receive these passports; and compliance with them is expected to satisfy foreign governments, in respect to forms. As this passport from one's own government attests to no privilege, but simply certifies private citizenship, it furnishes no exemption from the jurisdiction of the country which receives him. The most that can be claimed for it is, that it is a request to foreign governments to admit the bearer, with the privileges and obligations of a foreign citizen.

CHAPTER II.

THE SPECIAL PASSPORT.

THE special passport differs from the ordinary passport in that it usually describes the official rank or occupation of the holder, and often, also, the purpose of his traveling abroad, while generally omitting a description of his person. It serves, therefore, the double purpose of an ordinary passport, which insures to the holder the rights and privileges of American citizenship while he is abroad, and of an introductory letter, which may procure him especial attention in his travels. In the practice of the Department yet another document, similar in wording to the special passport, has been, for convenience, known and treated as a special passport, without, however, having the same force or effect. This document is given to persons not citizens of the United States, usually to foreign diplomatic representatives accredited to this Government and members of their families about to go abroad, and formerly, in some cases, to travel in the United States. It has also been given on rare occasions to foreigners of distinction, having no official connection with the Government; but none of this character has been granted for many years. Another form of special passport was that given to free persons of color intended for use in

Double purpose.

To a foreign official.

To a distinguished foreigner.

To free persons of color.

this country, and during the civil war persons traveling between points which were under military occupation by the United States Army were given passports signed by the Secretary of State which really partook of the nature of military passes.*

To bearer of
dispatches.

The special passport, describing the rank or occupation of the holder, was probably issued from the very beginning of the Government under the Constitution. The first one recorded, however, is dated March 27, 1819, John Quincy Adams being Secretary of State, and is for a bearer of dispatches. It reads as follows:

Passports,
No. 3.

UNITED STATES.

To all whom these Presents shall come, Greeting:

The Bearer hereof, John Henry Purviance, charged with Public Despatches to the Minister Plenipotentiary of the United States at Madrid upon the voyage—These are therefore to request all whom it may concern to permit the said John H. Purviance, to pass, without let or Molestation, in going, staying or returning; and to give to him all friendly aid and Protection, as these United States would do in like cases.

Given, etc., March 27, 1819.

JOHN QUINCY ADAMS.

To a female.

The following is of a kind which was rare at the time it was granted, but became more common during and after the administration of Hamilton Fish. It was given to a female, who necessarily

*The passport given to American vessels is yet another kind, the granting of which does not fall within the jurisdiction of the Department of State.

did not enjoy any official rank, and who was granted a special passport by the Secretary of State in the exercise of his discretion.

UNITED STATES.

Passports,
No. 3.

To all to whom these Presents shall come, Greeting :

The Bearers hereof, Mrs. Elizabeth Patterson and her son, Citizens of the United States of America, having occasion to pass into foreign Countries about their lawful concerns. These are therefore to request all whom it may concern, to permit the said Elizabeth Patterson and her son, to pass freely without molestation in going, staying, or returning, and to give to them all friendly aid and protection, as these United States would do in like cases.

In faith whereof, etc.

Done, etc., sixteenth day of April, in the year of our Lord, 1819, etc.

JOHN QUINCY ADAMS,
Secretary of State.

An American minister about to proceed to his post received the following: To an American minister.

UNITED STATES.

Passports,
No. 3.

To all to whom these Presents shall come, Greeting :

I certify that the bearer hereof, John Graham, a distinguished citizen of the United States of America, is proceeding to Rio Janeiro, in the character of Minister plenipotentiary of the United States to the Court of His Most Faithful Majesty the King of the United Kingdom of Portugal, Brazil, and Algarves.

These are therefore to request all whom it may concern, to permit the said John Graham to pass wheresoever his lawful pursuits may call him, freely without molestation,

in going, staying, and returning; and to give to him all friendly aid and protection, as these United States would do in like cases.

In faith, etc.

Done, etc., Twentieth day of April in the year of our Lord 1819.

JOHN QUINCY ADAMS,
Secretary of State.

To a private citizen.

A little later a passport, of which the following is a copy, was issued to a private citizen:

Passports,
No. 3.

UNITED STATES OF AMERICA.

To all to whom these Presents shall come, Greeting:

The Bearer hereof Luther Bradish, Esq., being about to visit different foreign Countries with the view of gratifying a commendable curiosity, and of obtaining useful information, These are therefore, in a special manner, to request all whom it may concern, particularly all foreign States, Powers, or Potentates, and their officers, to permit the said Luther Bradish, to pass freely without molestation, in going, staying, or returning, and to give to him all friendly aid and protection, as these United States would do in like cases.

In faith, etc.

Done, etc., 15th day of April, 1820.

J. Q. A.
Secretary of State.

To an explorer.

Passports,
No. 4.

Under date of April 26, 1821, Adams still being Secretary of State, appears one for Peter Stephen Chazotte, who is "about to visit and explore the southern parts of East Florida with a view to meritorious and laudable purposes," and requests "all

whom it may concern," and "particularly all persons in authority under the United States," to let him pass and afford him aid, "without expense to the Government, towards facilitating the objects of his journey."

The Department sometimes made use of foreign consuls as bearers of dispatches:

To a foreign consul, bearer of dispatches.

UNITED STATES.

Passports, No. 4.

To all to whom these Presents shall come Greeting.

The Bearer hereof, Mr. H. D. Wichelhausen, Consul from the City of Bremen, at Baltimore, being charged with the Public Dispatches from this Department for some of the Ministers and Charges d'affaires, of the United States in Europe—These are therefore to request all whom it may concern, to permit the said H. D. Wichelhausen, to pass without let, or molestation; and to give to him all friendly aid and protection, as the United States would do in the like case.

In faith, etc.

Done, etc., this fourteenth day of October, in the year of our Lord 1820, etc.

Captains of vessels were occasionally used for the same purpose:

To captain of a vessel, bearer of dispatches

To all to whom these Presents shall come, Greeting:

Passports, No. 5.

Captain Edward Griffith Master of the Brig Eliza, being charged with a Despatch from this Government to the Consul-General of the United States at Algiers, which he is instructed eventually to deliver, in Person, to the said Consul General. These are to request all whom it may concern to render to the said Captain and Vessel all the assistance and accommodation which may be useful to

the said Captain and Vessel in the Prosecution of his voyage to Algiers and back again to the United States.

Done, etc., this 16th Dec., A. D. 1822.

In testimony, etc.,

J. Q. ADAMS,
Secretary of State.

To a foreign
minister.

A foreign minister leaving this country received a passport in the following form :

Passports,
No. 7.

To all to whom these Presents shall come Greeting.

Whereas General Charles d'Alveer, Minister Plenipotentiary from the Republic of Buenos Ayres to the United States, has made known to this Government, that he is soon to return to Buenos Ayres upon a Leave of absence, These are therefore to request all Persons Citizens of the United States, especially officers Naval or Military, of the same, to permit him safely and freely to pass, and to give to him all lawful aid and protection, to which kindness, he is well entitled as the accredited agent of a friendly Government to the United States.

Given, etc., 23d day of October 1824.

J. Q. A.

To one who
had "de-
clared his
intention."

An instance is found of one granted to a person who had declared his intention of becoming a citizen of the United States, but had not yet been naturalized :

Passports,
No. 7.

UNITED STATES OF AMERICA.

To all whom it may concern :

Manuel Cartazar, who has resided for several years in the United States, having declared with all due solemnities, his intention to become a Citizen of the United States, and to renounce forever all allegiance and fidelity to all other foreign States or Governments, These are therefore

to request all whom it may concern, to permit the said Manuel Cartazar, safely and freely to pass, and in case of need to give him all lawful aid and protection.

In faith, etc.

Done, etc., 15th March A. D. 1825, etc.

H. CLAY,
Secretary of State.

Foreigners traveling in the United States were sometimes given special passports describing their purpose, as is shown by the two following: To foreigners traveling in the United States.

UNITED STATES OF AMERICA

Passports,
No. 8.

To all whom it may concern

The Bearer hereof, Don Manuel Simon de Escudero, a native of Chihuahua in the Republic of Mexico, being desirous of visiting the United States on lawful business.

These are therefore, to request all whom it may concern to permit the said Don Manuel Simon Escudero, to pass wherever his lawful pursuits may call him, freely without let or molestation, in coming to the United States aforesaid, and to give him all friendly aid and protection.

In testimony, etc.

Done, etc., Eleventh day of January, A. D. 1826, etc.

H. CLAY.

UNITED STATES OF AMERICA.

Passports,
No. 10.

To all whom it may concern:

General D. M. Teran, being appointed by the Government of Mexico to perform various scientific operations and surveys for the satisfaction and information of that Government: these are, therefore, to signify to all whom it may concern, that the said Teran and Suite, composed of the following persons: Lieuten^t Col. D. C. Tarnaba, Lieuten^t Col. D. S. Batres Sub-Lieuten^t of Artillery,

D. P. M^aSanchez D. R. Chovel Mineralogist, D. Luis Berlandier Physician Botanist, and of such other attendants as General Teran may choose to engage, have free liberty to pass wheresoever their lawful pursuits may call them within the jurisdictional Limits of the United States, in the performance of this service, recommend them to all friendly aid, hospitality and Protection accordingly.

In testimony, etc.

Done, etc., Twenty-seventh day of March, A. D. 1828, etc.

HENRY CLAY,
Secretary of State.

For oriental
travel.

A passport of peculiar wording, intended especially for oriental travel, is as follows:

Passports,
No. 11.

DEPARTMENT OF STATE,
Washⁿ, 3 Feby: 1829.

The bearer hereof, the Rev. Samuel F. Jarvis, a Citizen of the United States of America, having been appointed Professor of Oriental languages and literature in Washington College, Connecticut, one of the said United States, intends to travel to Egypt, Syria and other countries of the East, solely for literary purposes, and with the laudable view to enlarge his qualifications to perform the duties of his Professorship.

I, Henry Clay, Secretary of State of the United States of America, do, therefore, hereby recommend the said Samuel F. Jarvis to the friendly offices of the people of all countries, in which he may travel, whether they be Christians, Mahometans, Jews or others; and especially I commend him to the kind treatment of all officers and Agents of the Government of the United States.

In testimony, etc.

H. CLAY.

Description [blank].

Under date of February 5, 1835, is recorded the first special passport to a free person of color:

To free person of color.

UNITED STATES OF AMERICA.

Special Passports, vol. 1, p. 82.

To all to whom these presents shall come, Greeting.

I, the undersigned Secretary of State of the United States of America, hereby request all whom it may concern to permit safely and freely to pass John Browne, a free person of colour, born in the United States, and in case of need to give him all lawful aid and Protection.

Given under my hand and the seal of the Department of State, at the City of Washington, this 5th day of February, A. D. 1835 in the 59th year of the Independence of the United States.

[SEAL.]

JOHN FORSYTH.

DESCRIPTION.

Age, 26 years.
Stature, 5 ft, 7¾ in.
Forehead, ordinary,
Eyes, dark,
Nose, large,
Mouth, large.
Chin, ordinary.
Hair, long, straight and black.
Complexion, yellow.
Face, oval.
Signature of the Bearer
JOHN BROWNE.

For several years following, passports of this character were issued frequently and were then discontinued. Before they were granted, the Department required satisfactory evidence that the applicant was a freeman. The following certificate

Evidence required.

is an illustration. The passport was issued to the person it describes :

Special Pass-
ports, vol. 1,
p. 268.

DISTRICT OF COLUMBIA.

COUNTY OF WASHINGTON.

I William Brent Clerk of the Circuit Court of the District of Columbia for the County of Washington do hereby certify that the bearer hereof, Alfred Keighler, a bright mulatto man, about thirty nine years of age, five feet eight and a half inches high, apparently straight and well proportioned, high round forehead hazel eyes rather large nose, and small mouth, a small mole on the right side of the forehead a scar on the end of the forefinger of the left hand, no other scars or marks about him, full face large features and good countenance is a free man, as appears by a deed of manumission from James Long to him filed and recorded this day in my office, which said Alfred Keighler is identified to me by Richard Wallach Esq^r to be the same Alfred Keighler mentioned in the aforesaid Deed of Manumission.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said Circuit Court of this 3rd day of June, A. D. 1847.

W. BRENT,
Clerk.

In another case two informal letters constituted the evidence on which the passport was issued :

Special Pass-
ports, vol. 1,
p. 278.

DEAR CLAYTON,

The bearer is a free colored man named Louis Thompson. I have known him well in years past—He used to wait on Senator Mangum, and at Mangum's instance, perhaps, you once when Secretary, gave him a passport—He lost it and wants another, a note from you to Marcy

will no doubt procure it—Louis is a clever fellow,—an honest, brave enterprising fellow—and is undoubtedly a native of this country. Hear his story and then give him a line to Mr. Marcy.

Yr's &c,

J. J. CRITTENDEN.

Hon. J. M. CLAYTON.

Jan'y 4th 1856.

JAN'Y 5, 1856.

DEAR SIR:

The bearer Louis Thompson a free colored man wants a protection. Please see that one is granted to him. I would write to the Secretary about it, but know he has little time to attend to such little matters as reading letters about protections & passports. Do you apply to the Secretary.—

Very respectfully yours,

JOHN M. CLAYTON.

PASSPORT CLERK OF STATE DEPARTMENT,

Washington.

Another similar case is as follows:

WASHINGTON, *Dec. 5, 1856.*

Special Pass-
ports, vol. 1,
p. 283.

The bearer of this paper Walker also called Walker Lewis is well known to me and has been so known for many years. I know that he was reared the slave of my connection the late Judge Philip Norborne Nicholas of Richmond Virginia: that after the death of Judge Nicholas, upon the division of his estate Walker became the property of Miss Jane Hollins Nicholas the daughter of Judge Nicholas who emancipated both Walker and his wife and children. I have examined the instruments by which such emancipation was accomplished am well acquainted with the transaction & the parties thereto.

A P—2.

Walker is an accomplished waiter and has always sustained an excellent character.

PETER V. DANIEL.

Introductory features.

The introductory features of the special passport are illustrated by the four following examples:

Special Passports, vol. 1, p. 4.

UNITED STATES OF AMERICA.

DEPARTMENT OF STATE.

To all to whom these Presents shall come, Greeting:

Know ye that Luigi Persico, the bearer hereof and an Artist of eminence now in the employment of the Government of the United States, is proceeding to Italy for purposes connected with his profession and with the execution of his commission.

These are, therefore, to request all whom it may concern to permit him to pass without let or molestation, in going and returning, and to extend to him all friendly aid and protection, as would in like cases be extended to citizens or subjects of other countries, resorting to the United States in the lawful pursuit of their business.

In testimony whereof, etc., 30th April, 1829.

M. VAN BUREN.

Special Passports, vol. 1, p. 45.

UNITED STATES OF AMERICA.

DEPARTMENT OF STATE.

To all to whom these presents shall come, Greeting:

Know ye that the bearer hereof, Daniel Noulan, a citizen of the U. S., aged 18 years, is deprived of the faculties of hearing and speaking, and is proceeding to S. America for the benevolent purpose of meliorating the condition of those who may there be afflicted like himself.

This is therefore to request all Diplomatic, Consular and other Agents of the U. S. in S. America, and all function-

aries civil and military of the several Governments of that region to allow him to pass freely without let or molestation, and to extend to him all such aid and protection, as would be extended to the citizens or subjects of Foreign Nations, resorting to the U. S. for similar objects.—

In testimony whereof, etc., 26th of November, 1831.—

[EDW. LIVINGSTON.]

UNITED STATES OF AMERICA.

DEPARTMENT OF STATE.

Special Pass-
ports, vol. 1,
p. 175.

To all to whom these presents shall come, Greeting:

Know Ye, that the bearer hereof John James Audubon, a distinguished naturalist and native citizen of the United States, has made known to me his intention of travelling on this continent with the view principally of aiding the cause by extending his researches and explorations in natural history, and as he is known to me to be a man of character, and honor, and worthy of all friendly offices, and of all personal regard—

These are, therefore to request all whom it may concern, to permit him to pass freely without let or molestation, and to extend to him all such friendly aid and protection as he may need, and which becomes the hospitality of civilized and friendly nations.

In testimony, etc., 24th day of July, A D. 1842.

DAN'L WEBSTER.

UNITED STATES OF AMERICA.

DEPARTMENT OF STATE.

Special Pass-
port, vol. 1,
p. 199.

To all to whom these presents shall come, Greeting:

Know Ye, that the bearer hereof Isaac G. Strain, a citizen of the United States of America, and an officer, of the Navy thereof, has made known to me his intention of

travelling into various unexplored regions of South America, accompanied by a party of several persons, under his control and direction, with a view of aiding the cause of science, by extending his researches and explorations in all directions for the promotion of knowledge—

We believe that the bearer has no improper object in view, and that arms are borne by himself and party solely as a defence against beasts of prey, and hostile Indians—

The bearer is known in the service of his country as a man of character and honor, and worthy of all good offices and friendly regard. And all Diplomatic and Consular Representatives of the United States are hereby required and enjoined to furnish Mr. Strain and his party with all aid and succour—We also request all Governments in amity with the United States to entreat him kindly, and to give him facilities for pursuing the interesting objects of his enterprise—

And all persons whom it may concern are requested to permit him to pass freely without let or molestation, and to extend to him all such friendly protection and assistance as he may need and which becomes the hospitality of civilized and friendly nations.

In testimony whereof, etc., 7th day of August 1843.

A. P. UPSHUR.

Following is an example of the passport issued to a member of the family of a foreign minister :

To family
of foreign
minister.

UNITED STATES OF AMERICA.

DEPARTMENT OF STATE.

Special Pass-
ports, vol. 2,
p. 23.

To all to whom these presents shall come, Greeting:

Know Ye that the bearer hereof Boris Bodisco, of the family of A. de Bodisco, Privy Counciller, Envoy Extraordinary and Minister Plenipotentiary of His Imperial Maj-

esty, the Emperor of all the Russias, near the Govt. of the U. S. is about proceeding to Havre & Paris.

These are therefore to request all whom it may concern, to permit him and the persons of his suite, to pass freely, without let or molestation, and to extend to them all such friendly aid and protection as would in like cases be extended to citizens or subjects of Foreign Countries resorting to the United States, in the lawful pursuit of their affairs.

In testimony, etc., 9th day of July, A. D. 1847.

JAMES BUCHANAN.

The passports granted for use in this country During civil war. during the civil war were in the following form:

UNITED STATES OF AMERICA.

DEPARTMENT OF STATE.

Special Passports, vol. 3, p. 126.

To all to whom these presents shall come, Greeting:

Know Ye, that the bearer hereof, Capt. J. C. Meyer, of the Bremen Bark, Admiral Bromny, now laying at Alexandria, Va., is obliged to go to Baltimore, Md., to attend to business connected with his ship and cargo.

These are therefore to request all whom it may concern, to permit him to pass freely, without let or molestation, and to extend to him all such friendly aid and protection as he may require.

In testimony, etc., first day of May, A. D. 1861.

W. H. S.

Countersigned by General Scott.

UNITED STATES OF AMERICA.

DEPARTMENT OF STATE.

Special Passports, vol. 3, p. 172.

To all to whom these presents shall come, Greeting:

Know Ye, that the bearer hereof, Prince Napoleon, is now proceeding to Mount Vernon.

These are therefore to request all whom it may concern, to permit him to pass freely without let or molestation, and to extend to him all such friendly aid and protection as he may require.

In testimony, etc., fifth day of August, A. D. 1861.

W. H. SEWARD.

Special Pass-
ports, vol. 3,
p. 418.

UNITED STATES OF AMERICA.

DEPARTMENT OF STATE.

To all to whom these presents shall come, Greeting:

And in particular the Military & Civil authorities of the U. S.

Know Ye, that the bearer hereof, Señor Don Luis de Potestad, is Second Secretary of Her Catholic Majesty's Legation in the U. S., and as such is exempt from Military draft, and with his family & household is entitled to the protection and aid due pursuant to public law and the Statutes of the U. S. to the Diplomatic Agents of foreign countries.

These are therefore to request all whom it may concern to permit him to pass freely without let or molestation, and to extend to him all such friendly aid and protection as he may lawfully stand in need of

In testimony, etc., twenty-eighth day of August, A. D. 1862.

FREDERICK W. SEWARD.

Special Pass-
ports, vol. 3,
p. 532.

UNITED STATES OF AMERICA.

DEPARTMENT OF STATE.

To all to whom these presents shall come, Greeting:

Know Ye, that the bearer hereof, The Right Honorable Lord Lyons, accredited to this Government as Envoy

Extraordinary and Minister Plenipotentiary of Her Britannic Majesty, is travelling in the United States and Canadas for recreation.

These are therefore to request all authorities, Civil Military and Naval to extend to him that protection and courtesy which are due to the diplomatic representative of a friendly power.

In testimony, etc., twenty-fourth day of August, A. D. 1864.

WILLIAM H. SEWARD.

A foreign minister, being dismissed from service near the Government of the United States and "given his passports," as the phrase is, receives a document in the following form : To dismissed foreign minister.

No. 789.

(Special Passport.)

UNITED STATES OF AMERICA.

DEPARTMENT OF STATE.

Special Passports, vol. 10, p. 216.

To all to whom these presents shall come, Greeting:

Know Ye, that the bearer hereof the [full name and title] is about to travel abroad.

These are therefore to request all officers of the United States, or of any state thereof to permit him to pass freely, without let or molestation, and to extend to him all friendly aid and protection in case of need.

In testimony, etc., — day of ———, A. D. 18 .

During the period from 1846 to 1868 no special To Millard Fillmore. passports are recorded as having been granted to private citizens, save one on July 7, 1855, to Millard Fillmore, "late President of the United States." In 1868 the practice was revived, but only four special

Number to
private
citizens.

passports to private individuals were issued during Mr. Seward's administration. Mr. Fish, during the eight years of his term, issued thirty-five; Mr. Evarts, in four years, issued ninety-six; Mr. Blaine, serving from March to December, 1881, issued fifty; Mr. Frelinghuysen, serving a little over three years, issued eighty-three; Mr. Bayard, serving four years, issued one hundred and fifty-four; Mr. Blaine, serving from March, 1889, to June, 1892, issued three hundred and ninety-four; Mr. Foster, serving less than a year, issued twenty-nine; Mr. Gresham, serving from March, 1893, to May, 1895, issued one hundred and three; Mr. Olney, serving from June, 1895, to March, 1897, issued twenty-two.

No fee
charged
formerly.

Solicitor's
views, 1894.

Shortly after Secretary Gresham assumed office, an effort was made to introduce a more perfect system to regulate the granting of special passports. No fee for a special passport had ever been charged, and the propriety of this practice was questioned, in view of the requirement of law that a fee of one dollar be collected for every citizen's passport issued. The Solicitor of the Department, Hon. W. D. Dabney, stated in a memorandum dated May 7, 1894:

There is no law authorizing the issuance of special passports, nor waiving the fee in favor of any person or class of persons. I do not see how anyone—unless, perhaps, persons traveling in the service of the Government—is entitled to exemption from payment of the fee.

No decision was rendered by Mr. Gresham, and the matter was brought to the attention of his

successor, Mr. Olney. The memorandum of the Olney's views. Passport Division stated:

The act of 1862 required that a fee be collected "for Passport Division's memorandum. every passport issued;" that of 1874 that it be collected for "each citizen's passport;" that of 1888 (now in force) used the same language. Section 4076 of the Revised Statutes forbids the granting of a passport to any person who is not a citizen of the United States. In view of the above, the propriety of issuing special passports free of charge is seriously questioned. In the case of those documents, called passports, given to foreign diplomatic officers, they are sanctioned by international usage and courtesy. They are addressed often to authorities in this country and are not passports in the meaning of the law; but, to whomsoever they are addressed, they contain a distinct statement that the holder is not an American citizen, and under the circumstances it is thought they may be excluded from consideration in the question submitted.

It was doubted by several officials of the Department Olney's decision. whether the special passport was a "citizen's passport" in the meaning of the law, and it was decided verbally and informally by Mr. Olney that the custom of charging no fee for a special passport should continue, but that the special passport should never contain a statement that the holder was a citizen of the United States.

The whole question came up on review before Sherman's decision. Secretary Sherman. He decided that the special passport should always contain a statement that the recipient is a citizen of the United States, that it could not properly be given to anyone who is not a

citizen, and that the fee of one dollar should always be collected from every person to whom a special passport might be issued. Following are the Solicitor's opinion and the Secretary's decision :

Solicitor's
memoran-
dum.

MEMORANDUM FOR THE SECRETARY.

ORDINARY AND SPECIAL PASSPORTS.

Ante, p. 3. Passports, as regarded in the text-books on international law, are written permission given by a belligerent to subjects of the enemy whom he allows to travel without special restrictions in the territory belonging to him or under his control. (Hall, section 191; Halleck, 351.)

Ante, p. 5. Passports to private citizens in time of peace are documents of an entirely different nature. A citizen of one country visiting another might obtain from the country visited a passport authorizing him to travel in that country, and when he crossed the border into another country he would be compelled to repeat the process. To avoid this inconvenience, a system has been adopted by which a citizen leaving his own country for another obtains from his own government what is called a passport. With respect to the citizen's own country, this passport is permission to leave; but in respect to foreign countries, it is rather a certificate of citizenship, with such a description of the person as will serve to identify the bearer and prevent the document being transferred. The presenting of this document at the entrance of a foreign country serves to authenticate and identify the bearer; and the foreign government, instead of granting him a passport, gives its assent to the bearer's passing through, either impliedly or by express indorsement on the document itself. As this passport from one's own government attests no privilege, but simply certifies private citizenship, it furnishes no

exemption from the jurisdiction of the country which receives him. The most that can be claimed for it is that it is a request to a foreign government to admit the bearer with the privileges and obligations of a foreign citizen. (Dana's Wheaton, sec. 220, note.)

“That sort of passport which is given by a government to its citizens when proposing to pass into the territory of another government is in its essentials only a certificate of nationality and identification.” (17 At. Gen., 674.)

There was no special federal legislation on the subject of passports until August 18, 1856 (11 Stat., 60), the substance of which, with some modifications, may now be found in the Revised Statutes, sections 4075 and 4076:

[See “Sherman's decision” below.]

A law was passed March 3, 1863 (12 Stat., 754), authorizing the issuing of passports to “any class of persons liable to military duty by the laws of the United States.” This statute is, no doubt, repealed by reason of its omission *Post*, p. 44. when the Revised Statutes were compiled and adopted.

The statutory requirements as to passports issued by the United States are—

1. That they shall be issued by the Secretary of State only.
2. That they can be issued to citizens of the United States only.

The statutes prescribe no form, and do not undertake to prescribe what kind of a document a passport shall be. It was no doubt intended that it should be of a nature described by Mr. Dana in a note above referred to; and the forms which are now and for a long time have been in use by the Department of State show that the passports issued in pursuance of Revised Statutes, sections 4075 and 4076, are, in the first place, certificates of citizenship, and, in the second place, requests upon foreign govern-

ments to permit the citizen bearer to enjoy therein the rights of a United States citizen as guaranteed by treaty and international law. The passport ordinarily used contains a description of the bearer's person and reads as follows:

"To all to whom these presents shall come, Greeting:

"I, the undersigned, Secretary of State of the United States of America, hereby request all whom it may concern to permit —— ——, a citizen of the United States, —— safely and freely to pass, and in case of need to give —— all lawful aid and protection."

Besides this passport, it has been customary in the Department to issue to officials of the United States and to distinguished citizens going abroad what is called a special passport. The special passport differs in form from the ordinary passport in these particulars: It does not contain a description of the person, and it does give the bearer's official title or other claim to special consideration. A special passport is really a passport and a letter of introduction. The present form of special passport is as follows:

"Know ye that the bearer hereof, —— —— (here give official title, if any).

"These are therefore to request all whom it may concern to permit him to pass freely, without let or molestation, and to extend to him all such friendly aid and protection as would be extended to like —— of foreign governments resorting to the United States."

Ante, p. 25.

Until quite recently, it contained also a declaration that the bearer was a citizen of the United States. It is never granted, so far as I know, to any person other than a citizen of the United States, and certainly ought not to be granted to any alien. It is a passport within Mr. Dana's description and within the meaning of the statutes; and,

since it conveys impliedly a guaranty of American citizenship, it should expressly declare that citizenship. The special passport is not, to my knowledge, granted to any official or individual who is not a citizen of the United States. We have a large number of alien vice-consuls and consular agents who hold official commissions from the United States, but none of them is given a passport. It is clear to my mind that the special passport is nothing but an ordinary passport, in which the bearer's titles of office and dignity are substituted for the ordinary description of a man. It differs in no essential particular from the passport referred to in the statutes. It is a citizen's passport, and I recommend the restoration to the form of the declaration that the bearer is a citizen of the United States.

PASSPORT FEES.

The act of August 18, 1856 (11 Stat., 60), provided that no charge should be made for granting a passport in the United States. One dollar was allowed when the *Ante*, p. 25. passport was issued in a foreign country. The internal-revenue act of July 1, 1862, section 89 (12 Stat., 472), fixed a fee of three dollars for "every passport issued in the office of the Secretary of State." The act of June 30, 1864, for the support of the Government, provided, section 106 (13 Stat., 276), that a fee of five dollars should be collected for "every passport issued in the office of the Secretary of State." The act of July 14, 1870, designed to abolish certain internal taxes (section 3, 16 Stat., 257), repealed previous provisions imposing a tax on passports. The legislative, executive, and judicial act, of June 20, 1874 (18 Stat., 90), fixed a fee of five dollars to be collected for "each citizen's passport issued from the Department" [of State], and by the act of March 23, 1888 (25 Stat., 45), it is provided "that from and after the

passage of this act, a fee of one dollar shall be collected for each citizen's passport issued from the Department of State; that all acts or parts of acts inconsistent with this are hereby repealed."

If you agree with me that a special passport is only a variation in form of the ordinary passport, and that it is a citizen's passport, the fee of one dollar should be collected for the special passport as well as for the ordinary passport.

The question whether officers of the United States whose duty is in the United States and who do not go abroad on public business shall, when they go abroad, be furnished with a special passport instead of an ordinary passport, is not one of law, but is one for the discretion of the Secretary of State. The distinction between the two kinds of passport is one of form and not of substance. It is a regulation, and not a law, which requires the exclusion from the ordinary passport of the bearer's titles and business, and it is also a regulation which permits the inclusion in a special passport of the bearer's titles and other marks of distinction.

As a matter of policy, I see no reason why, when an Army or Navy officer goes abroad on special or private business, he should not take an ordinary passport, which is a certificate of his citizenship and a request for the protection due him as a citizen of the United States while in a foreign jurisdiction, and depend for documentary evidence of his official position at home and his title to consideration abroad upon the letter of introduction or some sort of certificate of his official title given him by his immediate chief, the Secretary of War or of the Navy. On this point, however, I have nothing more than a bare suggestion to make. There is no infraction of the law in giving any United States official, civil or military, a pass-

port describing him by his official title, declaring his citizenship of the United States, and requesting for him the rights and privileges of a citizen of the United States in foreign countries, upon the payment by such citizen of the prescribed fee of one dollar. I do recommend, however, that the present form of special passport be amended so as to make it—what every passport ought to be—a certificate of nationality. There is no express authority in the Secretary of State to grant to any person a passport which is not a certificate of citizenship. The document ceases to be a passport and becomes a mere letter of introduction; and while the Secretary may, no doubt, of propriety furnish such letters to any person he chooses, they are not official documents and ought not to be under the seal of the Department of State.

Respectfully submitted.

W. E. FAISON,
Solicitor.

PASSPORT FEES.

DEPARTMENT OF STATE,

May 1, 1897.

Sherman's
decision.

Sections 4075 and 4076 of the Revised Statutes provide:

“SEC. 4075. The Secretary of State may grant and issue passports, and cause passports to be granted, issued and verified in foreign countries by such Diplomatic or Consular officers of the United States, and under such rules as the President shall designate and prescribe for and on behalf of the United States; and no other person shall grant, issue or verify any such passport. Where a legation of the United States is established in any country, no person other than the diplomatic representative of the

United States at such place shall be permitted to grant or issue any passport, except in the absence therefrom of such representative.

“SEC. 4076. No passport shall be granted or issued to or verified for any other persons than citizens of the United States.”

The act of March 23, 1888 (25 Stat., 45), provides:

“That from and after the passage of this act a fee of one dollar shall be collected for each citizen's passport issued from the Department of State. That all acts or parts of acts inconsistent with this are hereby repealed.”

The passports referred to in the above enactments can be issued to citizens of the United States only, and they are (1) certificates of citizenship and (2) requests to foreign governments to admit the bearer with the privileges and obligations of a citizen of the United States. (Dana's Wheaton, sec. 220, note.)

Passports issued to citizens of the United States are ordinary (describing the person of the bearer and omitting titles of office, dignity, or business) and special (omitting personal description and identifying the bearer by his official title or mark of dignity or distinction). Both ordinary and special passports are citizen's passports, and the fee of one dollar prescribed by the act of March 23, 1888, for each citizen's passport must be collected for the special as well as for the ordinary passport.

The special passport, being a citizen's passport, should also contain a declaration that the bearer is a citizen of the United States.

Passports issued to foreign diplomatic officers or other foreigners wishing to travel in the United States are passports of a different nature and are not within the application of the statutes above quoted.

JOHN SHERMAN.

Not only had the practice of issuing special passports to persons not in official life become common after Mr. Seward's administration, but those issued to officials had increased in number also, and many were given to men, holding inferior civil or military rank, who were not journeying abroad on public errands. Officers of the Army, according to the rule laid down by Secretary Fish in 1874, should not receive them unless they were majors or held a higher rank; but this rule fell into disuse, and all Army officers, including cadets at the Military Academy, were granted special passports upon request of the Secretary of War. In May, 1894, the attention of the Secretary of War was informally invited to this increase, and he ceased from that time to call for any special passports for Army officers, unless they were ordered abroad on public service. In April, 1897, the question was reopened by the War Department, which suggested that the rule of 1894 was too strict, because it deprived Army officers of certain privileges, while in foreign countries, to which their rank entitled them and which they might use for the benefit of the service. The Secretary of State, in consequence, modified the practice, so that passports might be issued to Army officers for whom the War Department had requested the privilege, the understanding being that they should be used for purposes tending to increase the efficiency of the military service, and not for purely personal convenience. The ruling was made to apply equally to

To Army officers.
Fish's rule.
Post, p. 34.

the Navy. The letter following explains the position taken:

Sherman's
letter.

MAY 5, 1897.

The Honorable

The SECRETARY OF WAR.

SIR: I have the honor to acknowledge the receipt of your reference of April 17 to this Department of the letter of J. W. Clous, Lieutenant-Colonel, U. S. Army, upon the subject of granting special passports to officers of the Army about to proceed abroad.

Lieutenant-Colonel Clous states that embarrassment occurs to officers traveling with ordinary passports which do not state their rank, and you indorse his letter with the statement that you are "inclined to favor the resumption of the custom of obtaining special passports for all Army officers who may go abroad, either on duty or on leave of absence."

On August 19, 1874, Mr. Fish, Secretary of State, in a letter to the Acting Secretary of the Treasury, laid down the following rule in respect to special passports: "It is the rule of the Department to issue special passports only to prominent officials about to visit foreign countries on public business. In the military service of the Government they are given to officers not below the rank of major in the Army and the relative rank in the Navy." It has also been an established rule of the Department that special passports for Army officers should be issued only on requisition of the War Department. Of recent years the granting of special passports became more common, Mr. Fish's rule was disregarded, and the War Department made requisition upon this Department for special passports for all Army officers going abroad, whatever their rank and whatever their purpose in traveling.

During the last Administration an effort was made to

check the too free issue of these documents, and to revert, in so far as possible, to the original intention in regard to them. The informal notice to your Department in May, 1894, that they would no longer be issued to Army officers, unless they were proceeding abroad under Government orders, was, it is understood, caused by the increasing number of requisitions for officers of inferior rank, even for military cadets, who intended to travel, as this Department had reason to suppose, entirely for the purpose of recreation, and who, in consequence of holding passports describing their rank and title and occupation, enjoyed privileges which were denied other citizens holding ordinary passports.

The Department is now, however, in view of the representations made in Lieutenant-Colonel Clous's letter and your indorsement thereon, prepared to modify the informal notice of May, 1894, and will hereafter issue to officers of the Army special passports, depending upon your Department to ascertain before making requisition for such passports that they will be put to uses tending to increase the efficiency of the military service and will not be used for purposes of purely private and personal convenience. They will be issued only upon request of your Department, and never upon direct request of Army officers.

It is proper to add that by a recent ruling of this Department the fee of one dollar required by law to be collected for every citizen's passport issued must accompany every application for a special as well as an ordinary passport.

I return herewith Lieutenant-Colonel Clous's letter, a copy having been retained for the files of this Department.

I have, etc.

JOHN SHERMAN,

CHAPTER III.

PASSPORTS ISSUED BY OTHER THAN FEDERAL AUTHORITY.

Treaty of
1778 with
France.

No legal pro-
vision till
1856.

1 Stat., 118.

3 Stat., 199.

THE treaty of 1778 with France, which was the first made by the United States, provided for a form of passport to be given by the two Governments to their respective vessels, but until 1856 there was no law restricting the granting of passports to federal authority. April 30, 1790, an act was approved providing for the imprisonment and fine of any person violating a safe-conduct or passport "duly obtained and issued under the authority of the United States," or for striking, wounding, etc., an ambassador or other public minister; but from its wording it is evident that the act had in view passports issued for use in this country to the representatives of foreign powers near the Government of the United States. An act approved February 4, 1815, "to prohibit intercourse with the enemy," provided that no citizen, or "person usually residing within the United States," be permitted to cross the frontier into the enemy's country or territory in his possession without a passport from the Secretary of State, Secretary of War, "or other officer, civil or military, authorized by the President of the United States to grant the same, or from the governor of a State or Territory," under penalty of fine and imprisonment.

The act was to be operative only during the war with Great Britain then in progress.

In 1835 the Supreme Court of the United States described the situation thus:

Supreme Court's views, 9 Peters, 699.

There is no law of the United States in any manner regulating the issuing of passports, or directing upon what evidence it may be done, or declaring their legal effect. It is understood, as matter of practice, that some evidence of citizenship is required by the Secretary of State before issuing a passport. This, however, is entirely discretionary with him.

In the absence of any law upon the subject, the issuing of passports to Americans going abroad naturally fell to the Department of State, as one of its manifestly proper functions. Nevertheless, as they had doubtless been issued before the adoption of the Constitution by State or municipal authorities, the practice continued without statutory prohibition, until 1856. Following is a copy of a passport granted in 1805 by the governor of Connecticut to Prof. Benjamin Silliman, of Yale College:

The Department of State: Its History and Functions, p. 177, et seq.

By State and municipal authorities.

By governor of Connecticut.

His Excellency Jonathan Trumbull, Governor
[SEAL.] & Commander in Chief in and over the State
of Connecticut in America.

Passport Letters.

To all Persons, of whatsoever Nation, People, or Country, who may see these Presents, Hereby Certifies & Makes Known.—That Benjamin Silliman Esq^r the Bearer of this Instrument, is a native Citizen of the United States of America, born in the Town of Trumbull, in the State of Connecticut,—of very respectable parentage,—has had a liberal Education at our College of Yale in s^d State; and

now is a Member of the same College, in the Character of their Professor of Chemistry & Natural History.—The said M^r Silliman, at the Request, & with the Permission of the Faculty of the said College, is enterprizing a Voyage to Europe, for the laudable purpose of Improvement in the particular Objects of his Professorship, and for his advancement in other Branches of general Science—

The said Professor Silliman is therefore Hereby Recommended to all Nations & Countries to & through which He may have occasion to travel, for His safe Protection & Passport among all their People.—And He is hereby commended particularly to the kind notice, attention & assistance of all Literary & Scientific men, in the several Countries & Places, where he may visit or Reside.—

In Faith & Testimony whereof, and in confirmation of the above Instrument, I have hereunto sett my Hand, & affixed my Seal of Office, at Lebanon in s^d State of Connecticut, this 26th Day of March in the Year of our Lord 1805 and of the Independence of the United States of America, the Twenty Ninth.

JONA. TRUMBULL.

This is indorsed: “Governor Trumbull’s certificate of citizenship of Benjamin Silliman.”

By notary public.

The requests to the Department for passports sometimes took a form of wording and an appearance which might easily have deceived foreigners into the belief that they were passports. Following is an example :

3 Passport Letters.

UNITED STATES OF AMERICA.

STATE OF SOUTH CAROLINA.

By John Ward, Justice of the Quorum, and Notary Public, by Letters Patent, under the Great Seal of the

State, duly Commissioned and Sworn, residing and practicing in the City of Charleston and the State aforesaid.

To all to whom these presents shall come, Greeting:

These are to Certify, That the bearer hereof Jacob Keller aged Thirty Seven years or thereabouts five feet six inches high Grey hair fresh complexion, and whose signature appears in the margin, hath this day produced to me proof that he is a Citizen of the United States of America.

JACOB KELLER.
And whereas the said Jacob Keller hath occasion to pass into Foreign Countries about his lawful affairs; these are to pray all whom it may concern, to permit the said Jacob Keller (he demeaning himself well and peaceably) to pass and repass wheresoever his lawful pursuits may call him, freely and without let or molestation in going, staying or returning, and to give him all friendly aid and protection, as the United States would do in like case.

In testimony whereof, I the said Notary have hereunto set my Hand and affixed my Seal Notarial, at Charleston, the twenty-sixth day of January one thousand eight hundred and thirty one and in the fifty fifth year of the Independence of the United States of America.

JOHN WARD, *N. P.* [SEAL.]

To this is attached, also in printed form, a certificate by the governor of John Ward's official character.

Although the Department's circulars prior to 1856 informed applicants that passports issued by State or judicial authorities were not recognized by the agents of foreign governments, it appears that they were—in some cases, at any rate—so recognized. The following is a passport issued by the By governor of Louisiana. governor of Louisiana in 1848. Another of later

date from the same source is found well covered with French visas, showing clearly that it had been accepted as a legitimate passport by the French authorities.

65 Passport
Letters.

UNITED STATES OF AMERICA.

STATE OF LOUISIANA.

By Isaac Johnson,

Governor of the State of Louisiana.

And Commander in Chief of the Militia thereof.

These are to request all persons in authority and all others whom it may concern, to let

Antoine Langinatti—aged Seventy five years—a citizen of the United States—

And Inhabitant of this State going by Sea to Veracruz, about his own private affairs, pass safely and freely without giving him any hindrance but on the contrary affording to him all [word torn out] of protection, as we would do in like case for the Subject or Citizen of a Foreign State who might be recommended to us.—

76

5.2½

high

hazel

rather large

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dark

oval

[SEAL.]

Given under my hand, and the Seal of the State, at New-Orleans on the twenty third day of March—in the year of our Lord one thousand eight hundred and forty-eight—and of the year of the Independence of the United States of America, the seventy second.

ISAAC JOHNSON

Signature of the Bearer

his
ANTONIO X LUNGITTI
mark

By the Governor:

CHARLES GAYARRÉ,
Secretary of State.

“The lack of legal provision on the subject [of passports] led to gross abuses, and ‘the impositions practiced upon the illiterate and unwary by the fabrication of worthless passports’ (IX Op. Atty. Genl., 350) led finally to the passage of the act of August 18, 1856. This provided that the Secretary of State be authorized to grant and issue passports and cause them to be granted and verified in foreign countries by diplomatic and consular officers of the United States, under such rules as the President might prescribe. No one else was to issue passports. * * * Any person not authorized to do so who granted a passport (or instrument in the nature of a passport) should, upon conviction of the offense, be deemed guilty of a misdemeanor and fined and imprisoned.”

The Department of State: Its History and Functions, pp. 178, 179.

Nevertheless, passports have occasionally been granted by persons not authorized to do so since 1856. One issued in 1865 by the governor of Louisiana is described in a letter of the Department of April 23, 1875:

By governor of Louisiana.

This paper purports to bear the signature of J. Madison Wells, as governor, to be countersigned by J. H. Hardy, as secretary of the State, and to be attested by the great seal of the State of Louisiana. It describes Mr. Gottlieb Spitzer as a citizen of the United States, desiring to go to Havana, Cuba, and requests all authorities to let him “pass free and unmolested where he may go, and to give him such aid and protection as he may need.”

Vol. v, p. 367.

Other illegal documents in the nature of passports have come to the Department’s notice from time to

Illegal documents

time. February 25, 1869, the Secretary of State wrote to the governor of Massachusetts:

Vol. i, p. 172. I have the honor to acknowledge the receipt of your letter of the 18th instant, transmitting copies of the law under which the secretary of the Commonwealth of Massachusetts has issued passports, and also a printed blank showing the form of the instrument thus issued. The title of one of these laws is "An act authorizing passports;" that of the other is "An act concerning the issue of passports and certificates of citizenship." The instrument issued in virtue of these laws appears to be substantially the same as those issued by this Department, with the exception that it runs in the name of the Commonwealth instead of the United States and certifies the bearer to be a citizen of the Commonwealth instead of the general declaration that he is a citizen of the United States.

Certificates
of citizen-
ship.

Certificates
of naturali-
zation.

Certificates of citizenship given under the seals of notaries public have also been brought to the Department's attention; and it has been noticed that some certificates of naturalization which have been sent to the Department with applications for passports bear the visas of Spanish authorities in Cuba, thus showing that the certificates have been used as passports. The last-named practice is merely an imposition upon the Spanish authorities. The other spurious passports are a violation of law; but, although several of them have been sent at different times to the Attorney-General for action by his Department, sufficient evidence upon which to base an indictment of the persons issuing them has thus far not been obtained.

CHAPTER IV.

EVIDENCE REQUIRED BEFORE ISSUING PASSPORTS, AND PASS- PORT REGULATIONS.

IN July, 1845, a notice was printed and distributed Department
notice of 1845. by the Department "for the information of citizens of the United States about to visit foreign countries" containing this statement:

To prevent delay in obtaining a passport, the appli- 38 Passport
Letters. cation should be accompanied by such evidence as may show the applicant to be a citizen of the United States (when that fact is not already known to the Department of State).

Subsequent circulars of instruction were all to the same effect, but our agents abroad might occasionally issue passports to persons who were not American citizens. The Personal Instructions to the Diplomatic Agents of the United States, issued in 1853, said:

They sometimes receive applications for such passports from citizens of other countries; but these are not regularly valid, and should be granted only under special circumstances, as may sometimes occur in the case of foreigners coming to the United States.

It was not until the passage of the act approved 11 Stat., 60. August 18, 1856, that it was specifically prohibited to grant passports to persons other than American

citizens; and this law was amended by the act approved March 3, 1863, so that it should not apply to persons liable to military duty under the act of the same date "for enrolling and calling out the national forces." The persons specified in the latter law were "all able-bodied male citizens of the United States, and persons of foreign birth who shall have declared on oath their intention to become citizens under and in pursuance of the laws thereof, between the ages of twenty and forty-five years," with the exception of certain officials, and physically and mentally unfit persons, etc. This extension of the law lasted only until May 30, 1866, when the act providing for it was repealed. How many availed themselves of its provisions can not be ascertained, but it is probable that the number was small. The "declaration of intention" was not construed to entitle a person to a passport before 1863 nor after 1866. A special passport to a person who had made this first step toward acquiring American citizenship was, however, issued by Henry Clay March 15, 1825.

12 Stat., 754.

12 Stat., 731.

Persons not citizens to have passports.

Repealed.
14 Stat., 54.

Ante, p. 12.

Evidence of citizenship.

Naturalization certificate.

The nature of the evidence required in proof of the citizenship of applicants for passports has varied; but some sort of evidence was always exacted, except in those cases where the Department or the diplomatic or consular officer had knowledge that the persons applying were entitled to receive passports. In the case of naturalized citizens the certificate of naturalization was submitted as evidence of citizenship; but, while this has always

been the rule, its strict observance in the earlier days was not always insisted upon. The evidence upon which the passports were issued up to 1830 consisted chiefly of letters from the applicants themselves, or from third persons known to the Department, or certificates from notaries public that the applicant was a citizen of the United States. In 1830 a printed form of application came into use, as follows:

Form of application,
1830.

UNITED STATES OF AMERICA.

2 Passport
Letters.

State of Maryland, to wit:

I, John Gill, Notary public by Letters Patent [SEAL.] under the Great Seal of the State of Maryland, Commissioned and duly qualified, residing in the City of Baltimore, in the State aforesaid, do hereby Certify, Attest and Make Known, That, on the day of the date hereof, before me personally appeared, John P. Strobel, An American citizen

[Here follows the description.]

Who being by me duly and solemnly sworn, did depose and say that he is a naturalized citizen of the United States of America, being the same person mentioned in the Certificate of Naturalization herewith enclosed, granted at Baltimore the 21st October 1806, and signed Wm Gibson Clk Balto. Coty. Ct.

In Testimony Whereof, the said Deponent hath hereunto subscribed his name; and I the said Notary have hereunto set my Hand, and affixed my Notarial Seal the 17th day of May in the Year of our Lord, One Thousand Eight Hundred and Thirty.

[Name cut off.]

But this form does not appear to have been obligatory, and there was no uniformity in the applications.

Circular of
July, 1845.

The circular of July, 1845, gave instructions as to the proper method of proceeding in order to procure a passport :

38 Passport
Letters.

DEPARTMENT OF STATE,

Washington, July, 1845.

For the information of citizens of the United States about to visit foreign countries, where they may be subjected to inconvenience for the want of sufficient evidence of their national character, it is deemed proper to state that passports will be granted gratis, by the Secretary of State, to such citizens, on his being satisfied that they are entitled to receive them.

To prevent delay in obtaining a passport, the application should be accompanied by such evidence as may show the applicant to be a citizen of the United States (where that fact is not already known to the Department of State), and with a description of his person, embracing the following particulars: Age, — years; stature, — feet, — inches; forehead, —; eyes, —; nose, —; mouth, —; chin, —; hair, —; complexion, —; face, —;

When the applicant is to be accompanied by his wife, children, or servants, or females under his protection, it will be sufficient to state the names and ages of such persons, and their relationship to the applicant, as one passport may cover the whole.

Certificates of citizenship or passports granted by the different States and municipal authorities in the United States are not recognized by the officers of foreign governments; and for the want of necessary official information as to those authorities, the ministers and consuls of the United States in foreign countries can not authenticate such documents.

It is proper to add that persons who leave the United States without certificates or other evidence of their citi-

zenship, expecting to be furnished with passports by the diplomatic agents or consuls of the United States residing in the country to be visited, are always liable to be disappointed in obtaining them, as these documents are only properly granted on the faith of some evidence that the individuals for whom they are asked are entitled to receive them. Such testimony it is sometimes difficult, if not impracticable, to procure among strangers, and it is therefore recommended to every citizen of the United States who purposes going abroad to furnish himself, before leaving home, with the necessary passport.

The postage on all applications of this character must be prepaid, and it is desirable, in all cases when practicable, that the individual wanting a passport should address his request immediately to the Department of State, instead of applying to a collector of customs or seeking to obtain it through any other indirect channel.

There is noticeable from this time an improve- Affidavits.
ment in the character of the applications, more of them coming from the applicants direct, and some of them being in the form of affidavits of the applicants.

In May, 1846, the Department issued another Circular of May, 1846.
circular of instructions. It contained the same information as the one last quoted, with additions giving more explicit directions to applicants. It was repeated in April, 1850:

* * * * *

This proof need be transmitted but once. On all subse- Circulars 1, 107.
quent occasions, a simple reference to it and to the period when it was presented will be sufficient.

When the applicant is a *native citizen of the United States* he must transmit an affidavit of this fact, stating his age and place of birth, signed by him, and sworn to by himself and one other citizen of the United States named therein, to whom he is personally known, and to the best of whose knowledge and belief the declaration made by him is true. This affidavit must be attested by a Notary Public, under his signature and seal of office. When there is no notary in the place the affidavit may be made before a Justice of the Peace or other officer authorized to administer oaths.

If the applicant be a *naturalized* citizen, his certificate of naturalization must be transmitted for inspection. It will be returned with the passport.

* * * * *

More applications now appear in the form of affidavits, but the Department did not enforce the requirements of its circular at all rigorously.

Circular of
August, 1857.

In August, 1857, another circular was issued to the same effect as the last one quoted, except that the closing paragraph relative to passports issued by municipal or State authorities was changed so as to conform with the act of 1856 forbidding the granting of such passports.

Certificates of citizenship or passports issued by State authorities or by judicial or municipal functionaries of the United States are not recognized by the officers of foreign governments; and by the twenty-third section of the act of Congress approved on the 18th of August last it is made penal for such authorities and functionaries to issue such passports.

The prevailing form of application became as Form used. follows:

UNITED STATES OF AMERICA.

State of _____, }
County of _____. } ss.

I, _____, do swear that I was born in the _____ on or about the — day of _____; that I am a (naturalized or native) and loyal citizen of the United States, and about to proceed abroad _____.

[Signature.]

Sworn to before me, this — day of _____, 186 .

Notary Public.

I, _____, do swear that I am acquainted with the above-named _____, and with the facts above stated by him, and that the same are true, to the best of my knowledge and belief.

Sworn to before me, this — day of _____, 186 .

Description of _____.

The above blank was prescribed by the Department and contained at the bottom a short note of instruction to the applicant, and this statement: "Passports bound in morocco books, one dollar in addition to the regular tax."*

The most stringent passport regulations ever pre-^{During}scribed by the Government were those in effect _{civil war.}

*This was a private enterprise of a clerk in the Passport Division.

during the civil war. The first order was as follows:

TO ALL WHOM IT MAY CONCERN.

DEPARTMENT OF STATE,

Washington, August 19, 1861.

Circulars,
vol. 1.

Until further notice, no person will be allowed to go abroad from a port of the United States without a passport either from this Department or countersigned by the Secretary of State; nor will any person be allowed to land in the United States without a passport from a minister or consul of the United States, or, if a foreigner, from his own government, countersigned by such minister or consul. This regulation, however, is not to take effect in regard to persons coming from abroad until a reasonable time shall have elapsed for it to become known in the country from which they may proceed.

No fee will be charged for a passport or for countersigning a passport.

WILLIAM H. SEWARD.

Ante, p. 21.

Persons within the United States were required to have passports, whether they were citizens or not, before they were allowed to pass the lines of the Union Army:

DEPARTMENT OF STATE,

Washington, November 12, 1861.

Circulars I,
192½.

Circumstances which have recently occurred render it necessary to repeat a previous regulation, that no person, whether a citizen or a foreigner, will be allowed to pass the lines of the United States Army in any direction without a passport signed or countersigned by the Secretary of State, and, if any person shall attempt so to pass, he will be liable to arrest and detention by military authority.

WILLIAM H. SEWARD.

Later, those who had left the country in avoidance of their military duties were deprived of the privilege of receiving passports from our agents abroad:

DEPARTMENT OF STATE,
Washington, August 8, 1862.

To Diplomatic and Consular Officers:

It is expected that, until further notice, you will not issue a passport to any citizen between the ages of eighteen and forty-five, and otherwise liable to the performance of military duty, who, you may have reason to suppose, shall have left the United States subsequent to this date.

WILLIAM H. SEWARD.

Persons liable to military duty under the act of March 3, 1863, were refused passports unless they gave bond to perform such duty or to provide substitutes. The closing paragraph of the Department's instructions in regard to passports, dated April, 1863, reads:

Persons liable to military service, residing in States where a draft has not taken place, are required to give the usual bond, conditioned to perform duty, or to provide a proper substitute if drafted; and persons who may be exempt by reason of physical disability will furnish an authorized surgeon's certificate to that effect, in order that passports may be issued. The oath of allegiance to the United States, as prescribed by law, will be required in all cases.

The instructions of July 1, 1864, repealed this requirement.

The following circular explains the extreme pre-Immigration from Canada.

cautions taken in 1864 against unfriendly immigration from Canada :

DEPARTMENT OF STATE,
Washington, December 17, 1864.

Circulars I,
281.

The President directs that, except immigrant passengers directly entering an American port by sea, henceforth no traveler shall be allowed to enter the United States from a foreign country without a passport. If a citizen, the passport must be from this Department or from some United States minister or consul abroad; and if an alien, from the competent authority of his own country; the passport to be countersigned by a diplomatic agent or consul of the United States.

This regulation is intended to apply especially to persons proposing to come to the United States from the neighboring British provinces. Its observance will be strictly enforced by all officers—civil, military, and naval—in the service of the United States, and the State and municipal authorities are requested to aid in its execution. It is expected, however, that no immigrant passenger, coming in manner aforesaid, will be obstructed, or any other persons who may set out on their way hither before intelligence of this regulation could reasonably be expected to reach the country from which they have started.

WILLIAM H. SEWARD.

I. Passports from Canada and the adjoining British provinces are issued for one year, and need not be surrendered within that period.

II. Citizens of the United States, desirous of visiting Canada, may take out their passports either from United State consulates or from this Department.

III. United States consular agents are authorized to issue passports, and may countersign those of foreigners.

IV. Travelers making transit through Canada from one

American port to another American port must procure passports.

V. Persons residing near the line who desire to cross and recross daily, in pursuit of their usual avocations, are "travelers" in the contemplation of the order, and must provide themselves with passports.

VI. Females and minor children traveling alone are included in the order. When, however, husband, wife, and minor children travel together, a single passport for the whole will suffice. For any other person in the party a separate passport will be required.

VII. Should any person, native or foreign, clandestinely enter the United States in derogation of the order, the fact should be reported to the military authorities of the district.

(Circular No. 55.)

DEPARTMENT OF STATE,

Washington, January 14, 1865.

To the Consular Officers of the United States in Conterminous British Provinces:

Consular officers in the territory conterminous with the United States, on their northern and northeastern frontiers, are hereby authorized to receive United States currency in payment for passports, so long as the order of December 17, 1864, shall remain in force, bearing in mind that the law requires five dollars as a fee for issuing a passport, which amount is payable into the United States Treasury; and in foreign countries a consular fee of one dollar in addition. The existing regulation, by which consular agents were forbidden to give passports, is hereby rescinded for the period above mentioned. If any person shall have been charged more than the legal fees, as they are herein mentioned, the excess shall be refunded

to him by the consul to whom the sum has been paid, such repayment to be reported to this Department. A uniform rate of charge is expected and enjoined. Passports to enter British provinces and return thence will be promptly issued by this Department, on application, in accordance with the passport regulations.

WILLIAM H. SEWARD.

Circulars I,
293.

The necessity for this measure having terminated, it was repealed by a circular dated June 2, 1865.

Husband,
wife, and
children.

Circulars I,
211.

September 25, 1862, in a circular to the diplomatic and consular officers, the requirement relative to the number of persons who might travel on one passport was modified so as to include only a husband, wife, and minor children.

General In-
structions,
1873.

September 1, 1873, the Department issued a circular of General Instructions in Regard to Passports.

General In-
structions,
1873.

GENERAL INSTRUCTIONS IN REGARD TO PASSPORTS.

DEPARTMENT OF STATE, U. S. A.,

Washington, September 1, 1873.

Citizens of the United States visiting foreign countries are liable to serious inconvenience if unprovided with authentic proof of their national character. The best safeguard is a passport from this Department, certifying the bearer to be a citizen of the United States. Passports are issued only to citizens of the United States upon application supported by proof of citizenship.

Citizenship is acquired by nativity, by naturalization, and by annexation of territory. An alien woman who marries a citizen of the United States thereby becomes a citizen. Minor children resident in the United States become citizens by the naturalization of their father.

The oath of allegiance to the United States, as prescribed by law, will be required in all cases where a renewal is required of a passport issued prior to the year 1861. In an application for the renewal of a passport the original need not be returned; a reference to its date and number will be sufficient.

When the applicant is a native citizen of the United States, he must transmit an affidavit of this fact, signed by him, stating his age and place of birth, and sworn to by himself and one other citizen of the United States, named therein, to whom he is personally known and to the best of whose knowledge and belief the declaration made by him is true.

This affidavit must be attested by a notary public, under his signature and seal of office. When there is no notary in the place, the affidavit may be made before a justice of the peace or other officer authorized to administer oaths, but if he has no seal his official act must be authenticated by a certificate of the court.

If the applicant be a naturalized citizen, his application for a passport must be accompanied by a certified copy of the record of naturalization (commonly called certificate of naturalization) from the court in which the naturalization was granted, and he must state under oath that he is the identical person described in the certificate presented.

The wife or widow of a naturalized citizen must transmit a certificate of the record of her husband's naturalization, stating under oath that she is such wife or widow.

The children of a naturalized citizen must transmit a certificate of the record of the father's naturalization, stating under oath that they are such children and were minors at the time of such naturalization.

The application should be accompanied by a description of the person, stating the following particulars, viz:

Age: years. Stature: feet, inches (English measure). Forehead: . Eyes: . Nose: . Mouth: .
Chin: . Hair: . Complexion: . Face: .

When the applicant is to be accompanied by his wife, minor children, or servants, it will be sufficient to state the names and ages of such persons and their relationship to the applicant. A woman's passport may also include her minor children and servants.

The oath of allegiance to the United States, as prescribed by law, will be required in all cases.

When husband, wife, minor children, and servants expect to travel together, a single passport for the whole will suffice. For any other person in the party a separate passport will be required.

A new passport will be expected to be taken out by every person whenever he or she may leave the United States, and every passport must be renewed, either at this Department or at a legation or consulate abroad, within two years from its date.

Certificates of citizenship or passports issued by State authorities or by judicial or municipal functionaries of the United States are not recognized by the officers of foreign governments; and by the twenty-third section of the act of Congress approved on the 18th of August, 1856, it is made penal for such authorities and functionaries to issue such passports.

In issuing passports to naturalized citizens, the Department will be guided by the naturalization certificate, and the signature to the application and oath of allegiance should conform in orthography to that in the naturalization paper.

Military service does not of itself confer citizenship. A person of alien birth who has been honorably discharged from military service in the United States, but who has

not been naturalized, should not transmit his discharge paper in application for a passport, but should apply to the proper court for admission to citizenship, and transmit a certified copy of the record of such admission.

A person born abroad, but whose father was a native citizen of the United States, must state under oath that his father was born in the United States and was a citizen thereof at the time of the applicant's birth. This affidavit must be supported by that of one other citizen acquainted with the facts.

Passports may be issued by the diplomatic representatives of the United States in foreign countries. The minister is required to charge a fee of five dollars for each passport issued from his legation. No fee is charged for passports issued by the Secretary of State.

To persons wishing to obtain passports for themselves, blank forms of application will be furnished by this Department on request, stating whether the applicant be a native or naturalized citizen. Forms are not furnished, except as samples, to those who make a business of procuring passports.

Communications should be addressed to the Department of State, indorsed "Passport Bureau," and each communication should give the post-office address of the person to whom the answer is to be directed.

Professional titles will not be inserted in passports.

Passports can not be issued to aliens who have only declared their intention to become citizens.

April 1, 1879, another circular was issued. The paragraph concerning the duration of a passport was changed to read: Circular of April 1, 1879.

A passport is good for two years from its date, and no longer. A new one may be obtained by stating the date

and number of the old one, paying the fee of five dollars, and furnishing satisfactory evidence that the applicant is at the time within the United States. The oath of allegiance must also be transmitted when the former passport was issued prior to 1861.

The paragraph relating to the fee was made to conform to the law imposing a tax of five dollars on every citizen's passport :

By act of Congress approved June 20, 1874, a fee of five dollars is required to be collected for every citizen's passport. That amount should accompany each application. Postal money orders and bank checks should be payable to the Disbursing Clerk of the Department of State. Checks to be available for the full amount must be drawn on banks at principal business centers. Individual checks must be certified by the banks upon which they are drawn.

Except in the above particulars and in the order of the paragraphs and a few verbal changes, the circular of 1879 was the same as that of 1873. These circulars required fuller and more convincing proof of citizenship than had been exacted before.

Circular of
June 1, 1882.

June 1, 1882, another edition of the circular of instructions was issued, but it did not differ from the circular of 1879. In 1888 another circular appeared. The requirement that the application should be supported by the affidavit of another person was modified, and a certificate was declared to be sufficient. The following requirement was added :

Every applicant is required to state his occupation and the place of his permanent legal residence, and to declare that he goes abroad for temporary sojourn and intends to

return to the United States for the purpose of residing and performing the duties of citizenship therein.

The act of March 23, 1888, having reduced the ^{25 Stat., 45.} fee for a passport from five dollars to one dollar, the circular required :

That amount in currency, postal money order, or postal note should accompany each application. Orders should be payable to the Disbursing Clerk of the Department of State.

A circular issued in 1889 contained, in reference ^{Circular of 1889.} to the fee, the statement, "Drafts or checks are inconvenient and undesirable," but was, in other respects, the same as the circular of the year before.

The requirements of the different circulars quoted will sufficiently indicate the changes in the forms of the applications and the evidence required. In 1888 ^{Forms prescribed in 1888.} new forms were prescribed by the Department, which, so far as the form for a naturalized citizen and a person claiming citizenship through the naturalization of a husband or parent were concerned, required additional statements which had never been required before, and which were not fully indicated by the circular of instructions of that year. It was accordingly superseded by the "Rules governing applications for passports," prescribed by Secretary Olney September 15, 1896, now in force.

RULES GOVERNING APPLICATIONS FOR PASSPORTS. ^{Rules of 1896.}

The following rules are prescribed for applications for passports:

1. *To citizens only.*—The law forbids the granting of a

passport to any person who is not a citizen of the United States.—*Revised Statutes, sec. 4076.*

2. *Who are citizens.*—All persons born in the United States and subject to the jurisdiction thereof are citizens of the United States.

So are all children born out of the limits and jurisdiction of the United States whose fathers were at the time of their birth citizens thereof.

An alien woman, with certain exceptions, who marries a citizen of the United States acquires his citizenship.

An alien, having complied with the requirements of law, may become a citizen by naturalization before a court having competent jurisdiction.

Minor children, resident in the United States, become citizens by the naturalization of their father.

The widow and minor children of an alien who dies after he has declared his intention of becoming a citizen of the United States and before he has secured naturalization are considered as citizens of the United States upon taking the oaths prescribed by law.

3. *Who may issue passports.*—Under the law, passports can be issued in the United States only by the Secretary of State. In a foreign country they may be issued by the chief diplomatic representative of the United States; or, in the absence of a diplomatic representative, by a consul-general; or, in the absence of both, by a consul.—*Revised Statutes, secs. 4075, 4078.*

4. *Applications.*—A citizen of the United States desiring to procure a passport must make a written application, in the form of an affidavit, to the Secretary of State.

If he is temporarily abroad, he must apply to the nearest diplomatic representative of the United States; or, in the absence of a diplomatic representative, to the highest consular officer of the United States. The necessary affi-

avit may be made before a consular officer of the United States.

In this country the affidavit must be attested by an officer duly authorized to administer oaths. If he has no seal, his official character must be authenticated by certificate of the proper legal officer.

If the applicant signs by mark, two attesting witnesses to his signature are required.

Every applicant is required to state the date and place of his birth, his occupation, and the place of his permanent residence, and to declare that he goes abroad for temporary sojourn and intends to return to the United States with the purpose of residing and performing the duties of citizenship therein.

Every applicant must take the oath of allegiance to the Government of the United States.

Every application must be accompanied by a description of the person applying, stating the following particulars, viz: Age, — years; stature, — feet — inches (English measure); forehead, —; eyes, —; nose, —; mouth, —; chin, —; hair, —; complexion, —; face, —.

Every application must be accompanied by a certificate from at least one credible witness that the applicant is the person he represents himself to be, and that the facts stated in the affidavit are true to the best of the witness's knowledge and belief.

5. *Native citizens.*—The application containing the information indicated by rule 4 will be sufficient evidence in the case of native citizens.

6. *A person born abroad whose father was a native citizen of the United States.*—In addition to the statements required by rule 4, his application must show that his father was born in the United States, has resided therein, and was a

citizen at the time of the applicant's birth. The Department may require that this affidavit be supported by that of one other citizen acquainted with the facts.

7. *Naturalized citizens.*—In addition to the statements required by rule 4, a naturalized citizen must transmit his certificate of naturalization, or a duly certified copy of the court record thereof, with his application. It will be returned to him after inspection. He must state in his affidavit when and from what port he emigrated to this country, what ship he sailed in, where he has lived since his arrival in the United States, when and before what court he was naturalized, and that he is the identical person described in the certificate of naturalization. The signature to the application should conform in orthography to the applicant's name as written in the naturalization paper, which the Department follows.

8. *The wife or widow of a naturalized citizen.*—In addition to the statements required by rule 4, she must transmit for inspection her husband's naturalization certificate, must state that she is the wife or widow of the person described therein, and must set forth the facts of his emigration, naturalization, and residence, as required in the rule governing the application of a naturalized citizen.

9. *The child of a naturalized citizen claiming citizenship through the naturalization of the father.*—In addition to the statements required by rule 4, the applicant must state that he or she is the son or daughter, as the case may be, of the person described in the naturalization certificate, which must be submitted for inspection, and must set forth the facts of his emigration, naturalization, and residence, as required in the rule governing the application of a naturalized citizen.

10. *Expiration of passport.*—A passport expires two years from the date of its issuance. A new one will be issued

upon a new application, and, if the applicant be a naturalized citizen, the old passport will be accepted in lieu of a naturalization certificate, if the application upon which it was issued is found to contain sufficient information as to the emigration, residence, and naturalization of the applicant.

11. *Wife, minor children, and servants.*—When an applicant is accompanied by his wife, minor children, or servant, being an American citizen, it will be sufficient to state the fact, giving the respective ages of the children and the citizenship of the servant, when one passport will cover the whole. For any other person in the party a separate passport will be required. A woman's passport may include her minor children and servant under the above-named conditions.

12. *Professional titles.*—They will not be inserted in passports. There are no exceptions to this rule.

13. *Fee.*—By act of Congress approved March 23, 1888, a fee of one dollar is required to be collected for every citizen's passport. That amount in currency or postal money order should accompany each application. Orders should be payable to the Disbursing Clerk of the Department of State. Drafts or checks will not be received.

14. *Blank forms of application.*—They will be furnished by the Department to persons who desire to apply for passports, upon their stating whether they are native or naturalized citizens or claim through the naturalization of husband or father. Forms are not furnished, except as samples, to those who make a business of procuring passports.

15. *Address.*—Communications should be addressed to the Department of State, Passport Division, and each communication should give the post-office address of the person to whom the answer is to be directed.

Blank forms. The three blank forms of application adopted in 1889 and now in use are given below. They differ very slightly from the blanks used in 1888:

[Edition of 1889.]

[FORM FOR NATIVE CITIZEN.]

[Form No. 203.]

No. _____.

Issued _____.

UNITED STATES OF AMERICA.

State of _____, }
 County of _____, } ss.

I, _____, a native and loyal citizen of the United States, hereby apply to the Department of State, at Washington, for a passport for myself, accompanied by _____ as follows: _____, born at _____ on the — day of _____, 18 __, and _____.

I solemnly swear that I was born at _____, in the State of _____, on or about the — day of _____, 18 __; that my father is a _____ citizen of the United States; that I am domiciled in the United States, my permanent residence being at _____, in the State of _____, where I follow the occupation of _____; that I am about to go abroad temporarily; and that I intend to return to the United States _____, with the purpose of residing and performing the duties of citizenship therein.

OATH OF ALLEGIANCE.

Further, I do solemnly swear that I will support and defend the Constitution of the United States 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.

Sworn to before me this — day of _____, 18 __.

 _____,
Notary Public.

DESCRIPTION OF APPLICANT.

Age: _____ years.	Mouth: _____.
Stature: — feet — inches, Eng.	Chin: _____.
Forehead: _____.	Hair: _____.
Eyes: _____.	Complexion: _____.
Nose: _____.	Face: _____.

IDENTIFICATION.

_____, 18 .

I hereby certify that I know the above-named _____ personally, and know him to be a native-born citizen of the United States, and that the facts stated in his affidavit are true to the best of my knowledge and belief.

_____,
[Address of witness.] _____.

Applicant desires passport sent to following address:

_____.

[Edition of 1887.]

[FORM FOR NATURALIZED CITIZEN.]

No. _____.

Issued _____.

UNITED STATES OF AMERICA.

State of _____, }
County of _____ } ss.

I, _____, a naturalized and loyal citizen of the United States, hereby apply to the Department of State, at Washington, for a passport for myself, accompanied by _____ as follows: _____, born at _____, on the — day of _____, 18 , and _____.

I solemnly swear that I was born at _____, on or about the — day of _____, 18 ; that I emigrated to the United States, sailing on board the _____, from _____, on or about the — day of _____, 18 ; that I resided — years,

A P—5.

uninterruptedly, in the United States, from — to —, at —; that I was naturalized as a citizen of the United States before the — court of — at — on the — day of —, 18 , as shown by the accompanying certificate of naturalization; that I am the identical person described in said certificate; that I am domiciled in the United States, my permanent residence being at —, in the State of —, where I follow the occupation of —; that I am about to go abroad temporarily; and that I intend to return to the United States —, with the purpose of residing and performing the duties of citizenship therein.

OATH OF ALLEGIANCE.

Further, I do solemnly swear that I will support and defend the Constitution of the United States 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.

Sworn to before me this — day of —, 18 .

Notary Public.

DESCRIPTION OF APPLICANT.

Age: — years.	Mouth: —.
Stature: — feet, — inches, Eng.	Chin: —.
Forehead: —.	Hair: —.
Eyes: —.	Complexion: —.
Nose: —.	Face: —.

IDENTIFICATION.

I hereby certify that I know the above-named — personally, and know h— to be the identical person referred to in the within-described certificate of natu-

ralization, and that the facts stated in h— affidavit are true to the best of my knowledge and belief.

_____,
[Address of witness.] _____.

Applicant desires passport sent to following address:

[Edition of 1889.]

[FORM FOR PERSON CLAIMING CITIZENSHIP THROUGH NATURALIZATION OF HUSBAND OR PARENT.]

No. _____. Issued _____.

UNITED STATES OF AMERICA.

State of _____, }
County of _____. } ss.

I, _____, a naturalized and loyal citizen of the United States, hereby apply to the Department of State, at Washington, for a passport for myself, accompanied by my wife, _____, and minor children, as follows: _____, born at _____ on the — day of _____, 18 ; and _____.

I solemnly swear that I was born at _____ on or about the — day of _____, 18 ; that my _____ emigrated to the United States, sailing on board the _____ from _____, on or about the — day of _____, 18 ; that he resided — years, uninterruptedly, in the United States, from _____ to _____, at _____; that he was naturalized as a citizen of the United States before the _____ court of _____, at _____, on the — day of _____, 18 , as shown by the accompanying certificate of naturalization; that I am the _____ of the person described in said certificate; that I have resided in the United States, uninterruptedly, for — years, from _____ to _____, at _____; that I am domiciled in the United States, my permanent residence being at _____, in the State of _____, where I

follow the occupation of _____; that I am about to go abroad temporarily; and that I intend to return to the United States _____ with the purpose of residing and performing the duties of citizenship therein.

OATH OF ALLEGIANCE.

Further, I do solemnly swear that I will support and defend the Constitution of the United States 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.

Sworn to before me this — day of _____, 18 _____.

Notary Public.

DESCRIPTION OF APPLICANT.

Age: _____ years.	Mouth: _____.
Stature: — feet — inches, Eng.	Chin: _____.
Forehead: _____.	Hair: _____.
Eyes: _____.	Complexion: _____.
Nose: _____.	Face: _____.

IDENTIFICATION.

I hereby certify that I know the above-named _____ personally, and know h— to be the _____ of the person referred to in the within-described certificate of naturalization, and that the facts stated in h— affidavit are true to the best of my knowledge and belief.

[Address of witness.] _____.

Applicant desires passport sent to following address:
_____.

CHAPTER V.

OATH OF ALLEGIANCE.

IT will be noticed that the circular of 1873 stated Ante, p. 56. that an oath of allegiance to the Constitution of the United States was required from all applicants for passports, but this requirement had really gone into Prior to 1861. effect in 1861. It is not improbable that it was Since 1851. originally intended to be temporary, to continue in force only during the civil war; but the propriety of exacting a promise to support the Government from everyone who might ask from it the protection of a passport has been recognized by successive Secretaries of State since the war. The form of oath required was the same as that prescribed by the act approved August 6, 1861, for persons assuming 12 Stat., 326. federal office. It first appears upon an application dated August 31, 1861. The law of May 13, 1884, Rev. Stat., vol. 1, 2d edit., 428. modified the form of oath of allegiance; but it was not until the blank forms of application of 1888 were issued that the modified oath was used in Modified form. passport applications, the first one bearing date August 15.

The oath required from 1861 to 1888 was as follows:

I, ———, do solemnly swear that I will support, Old form. protect, and defend the Constitution and Government of

the United States against all enemies, whether domestic or foreign; and that I will bear true faith, allegiance, and loyalty to the same, any ordinance, resolution, or law of any State, convention, or legislature to the contrary notwithstanding; and, further, that I do this with a full determination, pledge, and purpose, without any mental reservation or evasion whatever; and, further, that I will well and faithfully perform all the duties which may be required of me by law: So help me God.

The oath in use since 1888 is as follows:

Present form.

Further, I do solemnly swear that I will support and defend the Constitution of the United States 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.

Affirmation.

Persons who prefer making an affirmation to taking an oath have always been permitted to do so; but from time to time there have been applications for passports from members of religious sects, who, from conscientious scruples, have been unwilling to take the oath without expressing some reservation tending to invalidate it. The practice toward these

Reservation.

citizens was not uniform. Sometimes they were granted passports, and sometimes they were refused. The question was finally settled October 7, 1897, by a Department letter, in which it was stated that the Government had no disposition to deny to any loyal citizen traveling or sojourning abroad in lawful pursuit of his business or pleasure the protection of a passport, nor to place upon him any requirements

Modified form permitted.

of application for a passport repugnant to his conscience or the free exercise of his religious belief, but that an oath of allegiance containing any alteration or addition tending to invalidate it could not be accepted. ' The following form would, however, be deemed sufficient :

Further, I do solemnly swear that I will support and defend the Government of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I owe allegiance to no other government; and that I take this obligation freely, without any mental reservation or purpose of evasion: So help me God.

CHAPTER VI.

FEE FOR ISSUING A PASSPORT.

11 Stat., 60.
Fee in 1856.

No fee prior
to 1856.

Ante, pp. 46,
47, 48.

Post, p. 77.

12 Stat., 472.
Fee in 1862.

Ante, pp. 25,
29.

THE act of August 18, 1856, required that there should be no charge for issuing passports in this country, and in foreign countries the fee was not to exceed one dollar. But, whatever the practice may have been in the case of passports issued by our agents abroad, the Department had never, so far as can be ascertained, made any charge for issuing passports; nor would such a charge have been warranted in the absence of any law permitting or prescribing it. The circulars of 1845, 1846, and 1857 stated that passports would be issued gratis. The form of passport used in 1796 contained the word "gratis" printed upon it; so did that of 1817. It was omitted in 1820, restored in 1833, and since 1857 has been omitted. The act of July 1, 1862, "to provide internal revenue to support the Government and to pay interest on the public debt," provided that after June 30, 1862, there should be collected the sum of three dollars for every passport issued by the Department of State, the amount to be paid to any collector appointed under the act, and his receipt forwarded to the Secretary of State with the application for passport. Ministers and

consuls were to charge the same amount, accounting for the funds directly to the Department. The act of June 30, 1864, increased the fee to five dollars, both at home and abroad, the method of collecting being the same as before. The receipts, being sent to the Secretary of State, were in turn transmitted by him to the Commissioner of Internal Revenue, by whom they were charged to the collector's account. The act of July 14, 1870, "to reduce internal taxes, and for other purposes," provided that the tax on passports should cease October 1, 1870. The appropriation act of June 20, 1874, ordered that a fee of five dollars should be collected for each citizen's passport issued by the Department. An account of the fees was to be kept, and the amount collected paid into the Treasury at least quarterly. April 30, 1878, an act was approved directing the Secretary of State to issue passports free of charge to colored Americans going to Brazil to work on the Madera and Mamore Railway. March 23, 1888, the fee was reduced to the present rate of one dollar. Since that date diplomatic and consular officers have been, under Executive order, obliged to charge the same official fee as the Department.

While no fee for a passport was officially collected up to 1862, there had been, during the administration of Timothy Pickering, an irregular and unofficial charge made by the clerks in the Department for making out passports. When the facts

^{13 Stat., 276.}

Fee in 1864.

^{16 Stat., 267.}

Fee in 1870.

^{18 Stat., 90.}

Fee in 1874.

^{20 Stat., 240.}

No fee in 1878
to certain
colored
people.

^{25 Stat., 45.}

Fee in 1888.

Improper
charge.

were learned by the Secretary he dismissed the two clerks implicated in the transaction.*

16 Stat., 368,
369.

Passport
clerk to ad-
minister
oaths free.

An act approved February 2, 1870, prescribed that "the clerk in the Department of State who may from time to time be assigned to the duty of examining applications for passports is hereby authorized and empowered to receive and attest, but without charge to the applicant, all oaths, affidavits, or affirmations which are or may be required by law or by the rules of the Department of State, to be made before granting such passport or passports; and such oaths, affidavits, or affirmations shall be deemed to be made under the pains and penalties of perjury." Before the date of this act, it may be that the passport clerk, having also an appointment as a notary public, exacted the regular notarial fee from such applicants for passports as made affidavit before him.

*See Upham's *Life of Pickering*, vol. iii, p. 308, *et seq.* The following is the story of this, one of the few cases of dishonest practices by Government clerks:

A certain dry goods merchant of Philadelphia, a native of Scotland, called at the Department of State November 12, 1796, to obtain a passport, and was shown into an office where he found a "gentleman alone," who made out the passport and handed it to him. Upon asking what was the charge, he was told, "There is no particular sum charged; it is left to the people's generosity." He accordingly laid down five dollars, which the gentleman "pocketed, rose, saw the merchant to the door, and made a low bow." The merchant did not know Pickering, and the latter's enemies hearing of the transaction, endeavored to make it appear that it was the Secretary himself who had received the money. The incident was printed January 24, 1797, in the chief opposition newspaper, *The Aurora*, as evidence of Pickering's dishonesty. He made an investigation, from which it appeared that the merchant had dealt with "a lusty man, a clerk in the office of the Secretary of State." The clerk implicated an associate, and both were dismissed.

CHAPTER VII.

DURATION OF THE PASSPORT.

THE early returns of passports issued by our Early passports. ministers and consuls abroad, show that many of them, being granted for a specific voyage or journey, terminated after their purpose was accomplished. General passports contained no notice of their limitation. But in the Department circular of 1845 it was announced that a new passport must Ante, p. 46. be procured each time a citizen might go abroad. Consular Regulations, 1868, par. 706. As long as he remained in foreign lands, he was Good for one year. expected to renew his passport at a legation or consulate annually. Ante, p. 54. By the circular of September Good for two years. 1, 1873, the duration of the passport was limited to two years, and since early in 1892 the statement "Good only for two years from date" has been printed upon each passport issued.

Up to 1889 a new passport was issued to a person Renewal. who held an old one simply upon the receipt of the old passport and a certificate that the holder was at the time within the United States. This practice, however, was found to be a fruitful source of imposition upon the Department. Unscrupulous procurement. Unscrupulous persons while still abroad would send their old passports to agents in this country, who would present them to the Department, at the same time leading it

to suppose, often by false statements, that the original holder was in this country at the time the application for renewal was made. Accordingly, in 1893, the renewal of passports was stopped, and since then a new application has been required in each case where a new passport is desired.

Special
passport.

These remarks are applicable to the regular passport. The special passport contains no statement upon its face of the length of its duration; but, generally speaking, it may be said to be subject to the same limitations as the ordinary passport.

CHAPTER VIII.

WORDING AND PICTORIAL FEATURES OF THE PASSPORT.

THE first passport found in the records of the Form in 1796. Passport Division is dated July 8, 1796. It is on a printed form, and there is every reason to suppose that similar documents had been issued by the Department from the organization of the Government. It was apparently sent to the Department with request for its renewal. It is as follows:

To all to whom these presents shall come, Greeting:

The Bearer hereof, Francis Maria Barrere a citizen of the United States of America, having occasion to pass into foreign countries about his lawful affairs, these are to pray all whom it may concern, to permit the said Francis Maria Barrere (he demeaning himself well and peaceably) to pass wheresoever his lawful pursuits may call him, freely and without let or molestation in going, staying or returning, and to give him all friendly aid and protection, as these United States would do to their citizens in the like case.

Passport
Letters,
No. 1.

[SEAL.]

In faith whereof I have caused the seal of the Department of State for the said United States to be hereunto affixed. Done at Philadelphia, this eighth day of July in the year of our Lord 1796, and of the Independence of these States the Twenty first.

(Gratis.)

TIMOTHY PICKERING

Secretary of State.

This is indorsed :

The within mentioned Francis Maria Barrere has presented this passport to me this day, the fourteenth of August, being on his way to Madrid.

Given under my hand in this city of Cadiz the day above mentioned in the year 1796.

JOS. M. YZNARDI,
Consul for the U. S. of Am.

The record for 1817 shows that this form was changed so as to include in the body of the passport a description of the person of the holder :

Form in 1817.

UNITED STATES.

Passports,
No. 2.

To all to whom these presents shall come, Greeting:

The bearer hereof, William Dall, jun., aged twenty-two years, or thereabout, of the height of five feet, ten inches, light complexion, brown hair, gray eyes, has a scar on the left cheek, one on left eye brow, and one on the forefinger of the right hand.

(whose name is here repeated in his own hand writing, viz.)

a citizen of the United States of America, having occasion to pass into foreign countries about his lawful affairs, these are to pray all whom it may concern to permit the said

(he demeaning himself well and peaceably) to pass where-soever his lawful pursuits may call him, freely and without let or molestation, in going, staying or returning, and to give to him all friendly aid and protection, as these United States would do in like cases.

In faith whereof, I have caused the seal of the Department of State, for the said United States

[SEAL.] to be hereunto affixed. Done at the City of Washington, this thirtieth day of October in the year of our Lord, 1817 and of the Independence of these States the forty-second.

(Gratis.) *Secretary of State.*

The record for 1820 shows a further change, the description being placed on one side, and the wording being shorter. The form has undergone no material change since. It will be noticed that the word "Gratis" is omitted; but in a passport of later date (May 14, 1833) it is found restored, and later (1857) omitted, as it has been ever since.

No. 2.

UNITED STATES OF AMERICA.

Form in 1820.

To all to whom these presents shall come, Greeting:

Passports,
No. 4.

Age, years
Stature, feet, }
Inches Eng. }
forehead
Eyes,
Nose,
mouth,
chin,
hair,
complexion,
face,
Signature of the Bearer

I, the undersigned, Secretary of State of the United States of America, hereby request all whom it may concern, to permit, safely and freely, to pass, Walter Livingston—a citizen of the United States, and, in case of need, to give him all lawful aid and protection.

Given under my hand and the impression of the Seal of the Department of State, at the City of Washington, the ninth day of September, 1820, in the 45 year of the Independence of the United States.

[SEAL.]

The wording of the passport now in use has been *Ante*, p. 28. already quoted. It differs from the wording of the

passport of 1820 only in the insertion of the words "Department of State;" in the arrangement of the wording in the body of the passport; in a slight change of the recital, "Given under my hand" etc.; and in the insertion at the top of the words, "Good only for two years from date."

Size of first passport.

Cut at top.

The first printed form of a passport is about the size of a modern letter sheet and has no ornamentation whatever. In 1817 a new form contained a small cut of the American arms at the top. The eagle, however, is portrayed with the head turned in the wrong direction; with six, instead of thirteen, arrows in the dexter, instead of sinister, talon; having a shield on his breast with eighteen, instead of thirteen, pales; alternate gules and argent, instead of argent and gules.

In 1833.

In 1833 appeared a large, engraved passport, about one-third smaller than the one now in use. The effigy at the top is a displayed eagle, his head turned to the left, bearing upon his breast a lyre, with the motto upon it, "Nunc Sidera Ducit."*

*I have been unable to ascertain the origin of this motto. Mr. Henry Livingston Thomas, Translator of the Department, suggests the following as a possible explanation of its source:

Stattius, in the sixth book of the Thebaid, verse 360, uses the words "quis sidera ducat." The poet is describing the obsequies of Archemorus, son of Lycurgus, King of Nemea, in which Apollo takes part with song and the lyre. Stattius thus describes Apollo's song:

Tunc aperit, quis fulmen agat, quis sidera ducat
Spiritus, unde animi fluvius, quæ pabula ventis,
Quo fonte immensum vivat mare, quæ via soles
Præcipitet, noctem quæ porrigat, imane tellus,
An media, et rursus mundo succinta latenti.

A note from Prof. Charles Eliot Norton, of Harvard, says:

"Our professors of latin can not trace 'nunc sidera ducit' to its

Thirteen stars surround the eagle, and thirteen stars of varying magnitude, forming the constellation Lyra, are upon the lyre and the eagle's breast and wings. The Department seal is engraved (not impressed) and bears the legend "Secretary of State's Office," and under it is the engraver's name, "W. I. Stone, script. et sculpt. Washington, D. C."* In 1872 another form is found without any effigy at ^{In 1872.} the top and with the engraved seal bearing the legend "Department of State." The engravers' names are given, "Philp & Solomons, Washington." The plate in use in 1875 contained no ornamenta- ^{In 1875.} tion, and the engraved seal was omitted.

In 1877 another effigy was used, composed of a ^{In 1877.} group—a seated female figure holding a battle-ax, an American shield, and an eagle having a scroll in his beak with the motto "E pluribus unum" on it. It was executed by the Bureau of Engraving and Printing.

The device now used was adopted in 1889. It consists of an eagle with spread wings and open beak (*furiosant*, heraldically speaking), perched upon a horizontal flagstaff, the American flag flowing behind. This, also, was designed by the Bureau of Engraving and Printing.

source. They doubt if it comes from any classical author. It may come from some one of the belated Latins, or from some Renaissance Latinist, or be a pure invention."

* This was the same engraver who made a facsimile of the Declaration of Independence by direction of Secretary John Quincy Adams in the winter of 1823-24. It was distributed by the Department June 12, 1824. (See *Annals of Congress*, first session, vol. 1, p. 912; 4 *Stat.*, p. 78; Department circular, June 12, 1824.)

CHAPTER IX.

PASSPORTS ISSUED ABROAD.

Limited
passports.

THE archives, beginning in 1796, show that many of the passports issued abroad by our legations in London and Paris were for a limited period, which was stated in the passport, most of them being for three months, some for six months, and a few for one year. Still fewer were for an indefinite period. After 1808 many were granted "to depart," and the destination of the recipient was stated. It would appear from the entries made that evidence of identity was exacted before the passports were issued, and that they were given, in the earlier days at any rate, only to citizens of the United States. The first recorded passport issued abroad is as follows:

Register of
Passports,
1796-1812.

Post, p. 85.
First
passport.

1 Passport
Letters.

William Allen Deas, Charge des Affaires of the United States of America at the Court of Great Britain.

I do hereby certify,

That Samuel Potts—sixty years of age, Five feet eight inches in height, blue eyes, ordinary sized mouth, large Nose, high Forehead, bald, fair Complexion, gray Hair, and long Face, is a citizen of the United States of America and as such is entitled to all the privileges to that character belonging. This certificate to avail during the Voyage upon which Mr. Potts is on the point of embarking for the United States.

Given under my Hand and the Seal of Legation at
London this twenty seventh day of October 1795.

WM. ALLEN DEAS. [SEAL.]

There is a letter on file from Samuel Bayard to ¹ Passport Letters. Rufus King (minister to England) introducing George Washington Talbot, who is going to France. A memorandum appears, "Granted passport. 7. Oct. 96 for three months."

The following is in printed form :

No. 1135. James Monroe, Ministre Plénipotentiaire des ¹ Passport Letters. Etats-Unis d'Amérique, près la République Française.

Je prie tous ceux qui sont à prier, de laisser passer librement et en toute sûreté John Bryant Cap^{te} de navire âgé de trente cinq ans, taille de cinq pieds deux pouces, cheveux et sourcils chatains bruns yeux gris bleus nez retroussé bouche moyeienne menton rond front bas visage rond Citoyen Américain, allant à divers lieux de la republique francaise, sans lui donner, ni souffrir qu'il soit donné ancun empêchement; mais de lui accorder au contraire tous les secours qui sont en leur prevoir: en conséquence de quoi j'ai signé le présent Passe-port, valable pour trois mois et j'y ai fait apposer le Sceau de la Légation.

JOHN BRYANT.

Donné à Paris, le 12 Octobre 1796—25 Vendémiaire l'an 5^{me}, l'an 25^{me} de la République Américaine.

[SEAL.]

JAS. MONROE

At the bottom is written the following:

Le Ministre des relations extérieures Certifie que la signature cy dessus est celle du C. Monroe, ministre plénipotentiaire des Etats unis d'Amérique auprès de la république française. À Paris le Vendemiare an 5 de la République française.

CH. DELAIROIX.

[SEAL OF MINISTRY FOR. RELS.] Par le Ministre

An example of the letters sent to the legation in London is as follows:

1 Passport
Letters.

George Astor, of Cornhill, London, Merchant, maketh oath and faith that John Jacob Astor, of the City of New York in the United States of America, Merchant, is a citizen of the United States.

GEORGE ASTOR.

Sworn at Guildhall London 7 of March 1797 Before me
BROOK WATSON,
Mayor.

Among the papers is the following in printed form:

1 Passport
Letters.

Frederick Jacob Wichelhausen,
Consul of the United States of America at the Port of
Bremen.

These are to certify that the bearer hereof, Mr. Richard Johns, 21 years of age, 5 feet 7½ Inches high, with light Hair and light Complexion, having produced certificates of his being an American Citizen belonging to and born at Georgetown, State of Maryland, I do in consequence thereof grant him this Pass to prevent his receiving any Molestation in the legal pursuit of his Business, & do request all whom it may concern to afford him every assistance and Comfort.

Given under my hand and Seal of office this 18th day of September, One thousand Seven Hundred and ninety seven.

[SEAL.]

FRED: JACOB WICHELHAUSEN.

Consuls certified to citizenship on a printed form:

1 Passport
Letters.

American Consulate }
London }

I Samuel Williams, Consul of the United States of

America, do hereby certify, that Martin Henderson Parkin-
son is an American citizen.

Witness my hand and the seal of the Con-
[SEAL.] sulate, at London, this 11th day of September,
1799.

S. WILLIAMS

MARTIN HENDERSON PARKINSON

It appears from drafts of letters that King re-
fused passports to those who were not American
citizens.

Many of the letters to him were from citizens
landed at Dover, who wrote from that point re-
questing passports to permit them to proceed to
London, as they were detained in Dover by the
British authorities.

Several of the following appear :

American Consulate, London.

¹ Passport
Letters.

I, George W. Ewing, Consul of the United
States of America, do hereby certify That ———
—— a description of whose person is in the
margin, is a citizen of the said United States.
Given under my hand and Consular Seal
this — day of — in the year of our Lord
1803 and of the Independence of the United
States the Twenty seventh.

Aged
Color
Height
Marks
Eyes
Nose
Mouth
Chin
Hair

[Signature of the bearer.]

[SEAL.] GEORGE W. EWING.

The eighth section of the act of February 28, 1803, ² Stat., 205.
provided that if any consul, vice-consul, commercial
agent, or vice-commercial agent should knowingly
issue a passport or other paper to an alien, certify-
ing him to be a citizen of the United States, he

General
Instructions
to Consuls,
1855, par. 249.

should be punished by a fine not to exceed one thousand dollars. The General Instructions to the Consuls and Commercial Agents of the United States, published in 1855, added to this the penalty of deprivation of office. The personal instructions of 1853 to our diplomatic agents did, however, permit the granting of passports, under "special circumstances," to aliens. The act of 1856 made the offense a misdemeanor punishable by a fine of not more than five hundred dollars and imprisonment for not more than a year.

11 Stat., 61.

The instructions which have been sent from time to time to our agents abroad have required that they should exact from applicants for passports proof of citizenship the same in character as that required by the home office. The force and effect of passports issued by them should, therefore, be substantially the same as of passports issued by the Department. Nevertheless, passports issued at Washington have usually commanded a greater certainty of recognition than those issued abroad, and travelers have been advised to secure them in this country. In the Consular Regulations of 1856, and in subsequent editions, until that of 1870, it was stated:

Ante, p. 47.

Regulations
for Consular
Officers, 1856,
par. 403.

"Passports granted by the Secretary of State secure to the bearers facilities from foreign governments not accorded to those issued by diplomatic officers, consuls-general, or consuls."

11 Stat., 61.

Until the act of 1856 prohibited a consular officer from issuing a passport in a country where there

was a diplomatic agent, except during the latter's absence, passports were granted by consuls as a regular part of their duties; but June 1, 1853, Secretary Circular, June 1, 1853. Marcy issued a circular ordering that whenever there was a legation and consulate in the same place, the former only should issue passports. The form Form prescribed. prescribed for legations and consulates was the same, *mutatis mutandis*, as that used in the Department; but from 1870 to 1885 it was permitted to issue what was known as a "qualified passport." It was Qualified passports. given to those citizens whose parentage was American, but who were themselves born abroad. In addition to the statements found in the regular passport it contained the following: "But the right of the said ——— to ask of the United States, its officers and agents, such aid and protection is limited and qualified by the obligations and duties which attach to him [or her] under the laws of the Kingdom [Empire or Republic] of ——— (his [or her] father then being a citizen of the United States) and where he [or she] now resides."

June 29, 1885, the Department issued a circular Circular, June 29, 1885. setting forth the views of the Solicitor, Francis Wharton, LL. D., on the subject of this regulation, and it was definitely ordered to be annulled, the citizens to whom it was intended to apply being placed thereafter in the same category with other citizens.

From 1856, till the Consular Regulations now Regulations for Consular Officers, 1856, par. 405. in force went into effect in 1896, a consul-general or, in his absence, a consul had authority to issue Consular Regulations, 1896, par. 148.

passports in colonies; but the Regulations of 1896 prohibited, generally, consular officers from issuing passports, unless specifically authorized so to do by the Department, this prohibition not, however, extending to the issuing of passports by a consular officer during the temporary absence from a country of the diplomatic representative. More than forty consular officers now have the specific authority required by the regulations.

As the evidence upon which a passport is issued abroad is substantially the same as that required by the Department in Washington, so is the prescribed form of application almost identical; but additional statements are required to show when the applicant last left the United States, whether he already has a passport, that he has not been refused one on a previous application, and for what purpose he desires a passport.

PART II

DIGEST OF LAWS, RULINGS, AND REGULATIONS
GOVERNING THE ISSUANCE OF PASSPORTS BY
THE DEPARTMENT OF STATE

89

DIGEST OF LAWS, RULINGS, AND REGULATIONS.

Unless otherwise specified, the references are to the volumes of press-copied letters in the Passport Division.

ACCOMPANYING PERSON IN A PASSPORT.

One passport may include the wife, minor children, and American servant of the holder. If the servant is not of American birth, his citizenship must be established in the usual way. A woman's passport may include her minor children and servant under the above-named conditions. Grandchildren, nieces or nephews, mothers, and others not the children of the applicant can not be included in his passport; and the term servant is held not to include a governess, tutor, etc. But an elder brother's passport may include his minor brothers of tender years, and a guardian may take his ward.

The tutor will require a separate passport, upon affidavits furnished in accordance with the inclosed instructions.

Vol. v, p. 7,
May 25, 1874.

I have to say that the oldest of the three persons referred to should execute the requisite affidavits, when a passport will be issued to him and made to include his minor brothers

Vol. viii,
p. 243,
Dec. 13, 1882.

Vol. viii,
p. 413,
Mar. 17, 1884. The passport to Mr. Mackey can be made to include his wife, but not his mother.

Vol. ix, p. 400,
Oct. 13, 1886. The word "governess," as generally employed and understood, does not indicate a servant within the meaning of the passport instructions.

Vol. xii, p. 350,
Aug. 7, 1895. The Secretary of State has made a rule that servants who are not citizens of the United States shall not be included in passports.

Vol. xiii,
p. 263,
Mar. 24, 1896. It will be necessary, before a passport can be issued for the nurse, that her citizenship be established. As it appears from the application that she was born in France, her certificate of naturalization as a citizen of the United States should be sent to this Department; but if she is a citizen of France, it is suggested that she may obtain the necessary information relative to her procuring a French passport from the consul of France in Boston.

Vol. xiv,
p. 430,
May 21, 1896. In regard to your request that it be inserted in your passport that you are accompanied by your pupil, Charles P. Bispham, you are informed that one passport can only include the wife, minor children, or servants of the person to whom it is issued.

Rules governing applications for passports,
1896. When an applicant is accompanied by his wife, minor children, or servant, being an American citizen, it will be sufficient to state the fact, giving the respective ages of the children and the citizenship of the servant, when one passport will cover the whole. For any other person in the party a separate passport will be required. A woman's passport may include her minor children and servant under the above-named conditions.

AGENTS FOR PASSPORTS.

The Department does not employ such officers. Notaries public and others sometimes assume the title, but it is misleading and objectionable. Nor are applicants required to make use of any intermediary agent in procuring passports from the Department. When they do so, the Department declines to regulate the amount of fee which may be charged.

I have to inform you that the only charge made upon passports by the United States Government is the tax, which is duly collected according to law. (See vol. 13, p. 176, sec. 106, of the United States Statutes at Large.) It is not necessary to employ any agent, as passports can always be obtained by direct application to this Department on furnishing the evidence of loyalty and citizenship required by law. Nor is any delay customary, as passports are invariably issued on the same day that the application and evidences of citizenship are received.

It is observed that the card accompanying your note of the 19th instant represents you as United States Government passport agent.

The use of such title by any person is considered very objectionable, from its liability to mislead the public into the belief that the person so designated is an agent employed by the Government for the purpose of furnishing passports, whereas no such official is employed outside of the Department.

The sum of five dollars received with Mr. Fish's affidavit is the only money collected by this Department or authorized by it to be collected on account of his passport.*

* The present fee is one dollar.

When an application has been perfected before a proper officer, in accordance with the inclosed "general instructions," it is optional with the applicant whether he communicates directly with the Department or employs an attorney or "agent" to transmit the paper for him. In the latter case, the Department can not undertake to decide what may be a reasonable fee for such service.

Vol. vii,
p. 478,
Jan. 12, 1881.

I have to say that applicants for passports are frequently led to suppose that this Department is in some way responsible for the fidelity and efficiency of persons who call themselves "U. S. passport agents." The Government has no such "agents." The assumed title is misleading and therefore objectionable.

Vol. xvi,
p. 149,
Sept. 14, 1886.

Your letter of the 13th instant requesting that John G. Eustis, of New Orleans, be appointed special passport agent for that city has been received. In reply, I have to inform you that the Department does not make such appointments. The "agents" referred to as having been appointed for the city of New York are simply notaries public who advertise themselves as "passport agents," but have no connection with this Department.

ALTERATIONS IN PASSPORT.

If any alteration is to be made in the passport it should be made by the Department, and not by the person to whom it is issued.

Vol. viii,
p. 149,
Sept. 14, 1886.

It is not considered proper for a passport to undergo any alteration or addition after it has been issued.

APPLICATION, BY WHOM MADE.

(See also Insane Person and Minors.)

One person can not apply for a passport for another, except in the case of a minor who is too young to understand the nature of an oath, or an insane person or person of unsound mind who is incapacitated from fulfilling the usual requirements.

It would appear from your statement that they desired passports for their wives, and not for themselves; but the passport regulations do not contemplate that one person should make application for another person.

Vol. xiii,
p. 478,
Apr. 11, 1896.

CHINESE, APPLICATION BY.

People of the Mongolian race born in China can not legally secure naturalization as American citizens, and consequently can not receive American passports. But Chinese birth of parents not Mongolian is not a bar to securing American citizenship.

I have to state that by the act of Congress in 1882 the courts are forbidden to admit natives of China to citizenship in this country; and the Department is unable to issue a passport to a Chinese subject whom it has been sought to naturalize against the plain inhibitions of the law.

Vol. x, p. 425,
Dec. 22, 1890.

The Secretary of State is authorized by law to issue passports to citizens of the United States; but the courts having held that the naturalization of Chinese subjects is

Vol. xi, p. 399,
Sept. 14, 1894.

without warrant of law, the Department is constrained to deny Mr. Barroto's application.

If, however, Mr. Barroto makes affidavit that his parents were not of the Mongolian race and accompanies it by the affidavits of two well-known and reputable citizens of the community in which he lives, who have personal knowledge of the facts, his application will be considered.

Vol. xii,
p. 78,
Jan. 8, 1895.

I have to inform you that people of the Mongolian race, born in China, can not become naturalized American citizens and are not entitled to passports from this Government.

Vol. xv, p. 484,
July 9, 1896.

From the fact of his birth, from his personal description, and from the statement made in your letter it is fair to presume that he is of the Mongolian race. The law relative to naturalization (sec. 2169, Revised Statutes, U. S.) provides that it shall apply only to aliens "being free white persons, and to aliens of African nativity and to persons of African descent," and it has been held by the federal courts of the United States and accepted as a rule of conduct of this Department that the Chinese, being of the Mongolian race, are neither white persons nor Africans and can not properly receive naturalization as American citizens.

CITIZENSHIP.

(See also *Expatriation.*)

A passport is in its terms a statement that the holder is a citizen of the United States, and it is a violation of law to issue one to a person who is not a citizen of the United States. In all cases, therefore, the Department requires an applicant for a

passport to clearly establish his citizenship before the document is issued.

Broadly speaking, there are three classes of American citizens: those whose citizenship is acquired by birth; those of alien birth who have acquired citizenship under the naturalization laws; those who have become citizens by annexation of territory.

No passport shall be granted or issued to or verified R. S., sec. 4076. for any other persons than citizens of the United States.

* * * Or if any consular officer who shall be authorized to grant, issue, or verify passports shall knowingly and willfully grant, issue, or verify any such passport to or for any person not a citizen of the United States, he shall be imprisoned for not more than one year, or fined not more than five hundred dollars, or both; and may be charged, proceeded against, tried, convicted, and dealt with therefor in the district where he may be arrested or in custody. R. S., sec. 4078.

Citizenship is acquired by birth, by naturalization, and by annexation of territory. General instructions in regard to passports, 1889.

CITIZENSHIP BY ANNEXATION OF TERRITORY.

Inhabitants of East and West Florida became citizens of the United States when the territory was purchased from Spain in 1821. Florida.

Residents of Texas and the territory acquired by the treaty of Guadalupe Hidalgo became citizens of the United States by virtue of the annexation, if they did not elect otherwise. The same rule Mexico and Texas.

applies to residents in the territory embraced in the Gadsden purchase.

Alaska.

Russian subjects in Alaska, if they did not return to Russia within three years after the Alaska purchase, became American citizens.

Treaty with Spain, Feb. 22, 1821.

The inhabitants of the territories which His Catholic Majesty ceded to the United States, by this treaty, shall be incorporated in the Union of the United States, as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities of the citizens of the United States.—*Article VI, Florida purchase.*

9 Stat., 1.

All the laws of the United States are hereby declared to extend to and over, and to have full force and effect within, the State of Texas, admitted at the present session of Congress into the Confederacy and Union of the United States.—*Act of December 29, 1845.*

Treaty with Mexico, July 4, 1848.

Those who shall prefer to remain in the said territories may either retain their title and rights of Mexican citizens, or acquire those of citizens of the United States. But they shall be under the obligation to make their election within one year from the date of the exchange of ratifications of this treaty; and those who shall remain in said territories after the expiration of that year, without having declared their intention to retain the character of Mexicans, shall be considered to have elected to become citizens of the United States.—*Article VIII, Guadalupe Hidalgo.*

Treaty with Mexico, June 30, 1854.

All the provisions of the eighth and ninth, sixteenth and seventeenth articles of the treaty of Guadalupe Hidalgo shall apply to the territory ceded by the Mexican Republic in the first article of the present treaty, and to all the rights of persons and property, both civil and ecclesias-

tical, within the same, as fully and effectually as if the said articles were herein again recited and set forth.—*Article V, Gadsden purchase.*

All persons who were citizens of Texas at the date of annexation, viz, December 29, 1845, became citizens of the United States by virtue of the collective naturalization effected by the act of that date.—*Wharton's Dig. Int. Law, vol. ii, p. 431.*

The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years; but if they should prefer to remain in the ceded territory, they, with the exception of uncivilized native tribes, shall be admitted to the enjoyment of the rights, advantages, and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property, and religion.—*Article III, Alaska purchase.*

I have to say that the power "to establish an uniform rule of naturalization" is in Congress exclusively, no vestige of it remaining in the States; that the treaty ceding Alaska gave its inhabitants three years in which to elect whether they would reserve their natural allegiance and return to Russia or be admitted to the rights of citizens of the United States; that a Russian subject is entitled to become naturalized in the legal mode, irrespective of birth or residence in Alaska. I return herewith the "certificate of Californian citizenship."

CITIZENSHIP BY NATIVITY.

All persons born in the United States, except such as are born in foreign embassies or legations and Indians untaxed, are natural-born citizens of

the United States; and a person born abroad whose father was at the time of his birth a citizen of the United States is himself a citizen. A woman who might acquire citizenship in her own right acquires it when she marries an American. American birth, irrespective of the parents' nationality, confers American citizenship; and no act of the father can deprive the son of the rights given him by his birth. An adopted child, however, does not acquire the citizenship of its adopted parents.

Adopted
child.

U. S. Const.,
14th amend. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State in which they reside.

R. S., sec.
1992. All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States.

R. S., sec.
1993. All children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States; but the right of citizenship shall not descend to children whose fathers never resided in the United States.

R. S., sec.
1994. 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.

R. S., sec.
1996. 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 the 11th day of March, 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 the 19th day of April, 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; but this section shall be construed solely as a removal of any disability such soldier or sailor may have incurred under the preceding section by the loss of citizenship and of the right to hold office in consequence of his desertion.

A citizen of the United States can not, by adopting a child of foreign nationality, confer on such child the privileges of citizenship in the United States.—*Mr. Fish to Mr. Read, January 6, 1872.*

Your letter of the 13th, inquiring “if a boy born here is a citizen before he is twenty-one years of age” has been received.

In reply I refer you to the fourteenth amendment to the Constitution of the United States, in which is the following provision: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State in which they reside.”

It appears that you claim American citizenship upon the ground that your father was a citizen of the United States at the time of your birth.

In such case, your application for a passport would need to be supported by proof of your citizenship equivalent to that which would be required of him (by the “general instructions”) if he were in the United States applying for a passport for himself. If you are unable to furnish

R. S., sec. 1997.

Wharton's Dig Int. Law, vol. ii, p. 394.

Vol. iv, p. 224, Oct. 2, 1873.

Vol. viii, p. 268, Feb. 13, 1883.

such proof, it will be impossible, under the existing laws and regulations, to supply you with a passport.

For. Relis.,
1888, p. 48.

The existing provisions of law on the subject are found—

(a) In section 1 of the act of Congress of April 9, 1866 (now section 1992 of the Revised Statutes), which provides that—

“All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States.”

(b) In section 1 of the fourteenth amendment to the Constitution of the United States, proposed to the States June 16, 1866, and promulgated July 21, 1868, it is provided that—

“All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside.”

I find the following statement in an instruction of Mr. Marcy, then Secretary of State, to Mr. Mason, our minister to France, dated June 6, 1854:

“In reply to the inquiry which is made by you in the same letter, whether ‘the children of foreign parents *born in the United States*, but brought to the country to which the father is a subject and continuing to reside within the jurisdiction of their father’s country, are entitled to protection as citizens of the United States,’ I have to observe that it is presumed that, according to the common law, any person born in the United States, unless he be born in one of the foreign legations therein, may be considered a citizen thereof until he formally renounces his citizenship. There is not, however, any United States statute containing a provision upon this subject, nor, so far as I am aware, has there been any judicial decision in regard to it.”

The Attorney-General of the United States on the 18th of July, 1859, gave it as his opinion that "a free white person born in this country of foreign parents is a citizen of the United States." (*9 Op. Att. Gen.*, 373.)

Constitutional provisions or statutes in this relation subsequent to these *dicta* will, of course, control; and questions arising thereunder must be considered upon the facts presented in actual cases in which a ruling becomes necessary, giving due heed to the general principle that the right of election of citizenship commonly pertains to the individual himself on becoming *sui juris*.—*Mr. Bayard to Mr. de Bounder de Melsbroeck, April 2, 1838.*

At the time of his birth his father was the minister of the Netherlands at this capital and had married an American woman. In 1871 the family removed to Europe, and they have successively resided in Stockholm, St. Petersburg, and Vienna, at each of which places Mr. Mazel, sr., has served his Government in a diplomatic capacity. You state that it is now young Mr. Mazel's wish to come to this country and be a citizen thereof, and you inquire whether, in view of his birth in the United States, he can claim citizenship here without awaiting the lapse of a period of five years and performing the ordinary conditions of naturalization.

For. Rels.,
1891, p. 21.

The Department of State is of opinion that Mr. Mazel can enjoy the privileges of citizenship in the United States only after naturalization in the ordinary way. Section 1992 of the Revised Statutes of the United States reads as follows:

"All persons born in the United States and not subject to any foreign power * * * are declared to be citizens of the United States."

There has been not a little diversity of opinion as to the

scope to be given to the words "not subject to any foreign power" in the section just quoted, but it does not appear ever to have been doubted that the child of a diplomatic officer came within the class whose birth in the United States did not warrant a claim to citizenship. In this relation it is proper to refer to the case of *McKay vs. Campbell*, 2 Sawyer, 118, in which it is stated that the "children of ambassadors" form an exception to the rule as to persons being born in the allegiance of a sovereign who are born on his soil. It is not thought that the fact of Mr. Mazel having married an American woman affects the case, since legitimate children follow the status of their father.—*Mr. Wharton to Mr. Grant, August 10, 1891.*

Vol. xiii,
p. 325,
Mar. 30, 1896.

Referring to your letter of March 23, relative to the issuance of passports to two minor children born in this country of alien parents, you are informed that passports may be issued to them if it is bona fide their intention to return to this country and make it their permanent domicile.

Vol. xv,
p. 145,
June 10, 1896.

The Department has received your letter of June 8, from which it would appear that you were born in this country, but that your birth was recorded in the consulate of France in New York City, your father having been a French citizen at the time of your birth. You state, however, that you have always lived in this country, have considered yourself an American citizen, and, it is presumed, intend to return here after a temporary sojourn abroad.

In reply you are informed that your application for passport may be made as a native American citizen, and, the facts being as stated in your letter, a passport will be issued to you.

Memoran-
dum of Solic-
itor, July 2,
1896.

Mr. ——— wishes to obtain a passport; he is the son of Germans who lived in this country from 1874 to 1880,

when they emigrated back to Germany. He was born on the 31st of January, 1876, as shown by his birth certificate. In 1892 he returned to this country and lived here uninterruptedly to this date. Now he desires to pay his parents a visit of a few months. He is under the impression that his father while in this country was naturalized.

He is a native-born citizen of the United States.

It is well settled by numerous decisions of our federal courts that birth in the United States confers American citizenship, irrespective of the nationality of the parents. Guttin was born here, and upon his application he was properly granted a passport as a citizen of the United States. * * *

Memorandum of Solicitor, November, 1896.

Whether the father returned to France, or whether he ever resumed French allegiance, is not material, so far as our laws are concerned. No act of the father can deprive the son of the status acquired by his birth in the United States. As to the son's own acts after he arrived at majority: While the fact that he submitted to a military examination before the French consul and received a French "livet" may be deemed by the French Government a sufficient election of French nationality, this can not, it seems to me, in view of his birth and residence here—continued long after he reached the age of twenty-one—and his application for a passport as a citizen of the United States, be regarded by us as a renunciation of American citizenship.

CITIZENSHIP BY NATURALIZATION.

A person of alien birth may become an American citizen by complying with the naturalization laws. His rights, so far as this Government is concerned, are then the same as those of a native-born citizen.

Rights of naturalized citizens.

Declaration
of intention.

If he dies after he has declared his intention to become a citizen and before his citizenship has been accomplished, his widow and minor children may become citizens upon taking the necessary oaths.

Wife.

A wife becomes a citizen by her husband's naturalization, if she might herself be lawfully naturalized.

Minor
children.

Minor children become citizens by their parents' naturalization.

Mother's
naturalization.

When a woman marries an alien, she ceases to be entitled to American protection. When the father has died without becoming naturalized and the mother secures naturalization, her minor children become citizens.

African
extraction.
Mongolian.
Ante, p. 95.
Indians.
Post, p. 146.

The foregoing remarks apply to free white persons and persons of African nativity and descent, and not to persons of the Mongolian race or to Indians, or to other races which are neither white nor African.

Fraudulent
naturalization.

A passport is prima facie evidence that the person holding it, while traveling abroad, is a citizen of the United States; and the agents of foreign governments are expected to so receive it. If, however, they have good reason to believe that the certificate of naturalization on the strength of which it was issued was fraudulently obtained, then the government granting it may be requested to investigate its validity.

R. S., sec.
2165.

An alien may be admitted to become a citizen of the United States in the following manner, and not otherwise:
First. He shall declare on oath, before a circuit or dis-

trict court of the United States, or a district or supreme court of the Territories, or a court of record of any of the States having common-law jurisdiction, and a seal and clerk, two years, at least, prior to his admission, that it is bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and, particularly, by name, to the prince, potentate, state, or sovereignty of which the alien may be at the time a citizen or subject.

Second. He shall, at the time of his application to be admitted, declare, on oath, before some one of the courts above specified, that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty; and, particularly, by name, to the prince, potentate, state, or sovereignty of which he was before a citizen or subject; which proceedings shall be recorded by the clerk of the court.

Third. It shall be made to appear to the satisfaction of the court admitting such alien that he has resided within the United States five years at least, and within the State or Territory where such court is at the time held, one year at least; and that during that time he has behaved as a man of a 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 same; but the oath of the applicant shall in no case be allowed to prove his residence.

Fourth. In case the alien applying to be admitted to citizenship has borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came, he shall, in addition to the above requisities,

make an express renunciation of his title or order of nobility in the court to which his application is made, and his renunciation shall be recorded in the court.

Fifth. Any alien who was residing within the limits and under the jurisdiction of the United States before the twenty-ninth day of January, one thousand seven hundred and ninety-five, may be admitted to become a citizen on due proof made to some one of the courts above specified, that he has resided two years, at least, within the jurisdiction of the United States, and one year, at least, immediately preceding his application, within the State or Territory where such court is at the time held; and on his declaring on oath that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and, particularly, by name, to the prince, potentate, state, or sovereignty whereof he was before a citizen or subject; and, also, on its appearing to the satisfaction of the court, that during such term of two years he has behaved as a man of good moral character, attached to the Constitution of the United States, and well disposed to the good order and happiness of the same; and where the alien, applying for admission to citizenship, has borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came, on his, moreover, making in the court an express renunciation of his title or order of nobility. All of the proceedings, required in this condition to be performed in the court, shall be recorded by the clerk thereof.

Sixth. Any alien who was residing within the limits and under the jurisdiction of the United States, between the 18th day of June, one thousand seven hundred and ninety-eight, and the eighteenth day of June, one thousand eight

hundred and twelve, and who has continued to reside within the same, may be admitted to become a citizen of the United States without having made any previous declaration of his intention to become such; but whenever any person, without a certificate of such declaration of intention, makes application to be admitted a citizen, it must be proved to the satisfaction of the court, that the applicant was residing within the limits and under the jurisdiction of the United States before the eighteenth day of June, one thousand eight hundred and twelve, and has continued to reside within the same; and the residence of the applicant within the limits and under the jurisdiction of the United States, for at least five years immediately preceding the time of such application, must be proved by the oath of citizens of the United States, which citizens shall be named in the record as witnesses; and such continued residence within the limits and under the jurisdiction of the United States, when satisfactorily proved, and the place where the applicant has resided for at least five years, shall be stated and set forth, together with the names of such citizens, in the record of the court admitting the applicant; otherwise the same shall not entitle him to be considered and deemed a citizen of the United States. [Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the declaration of intention to become a citizen of the United States, required by section two thousand one hundred and sixty-five of the Revised Statutes of the United States, may be made by an alien before the clerk of any of the courts named in said section two thousand one hundred and sixty-five; and all such declarations heretofore made before any such clerk are hereby declared as legal and valid as if made before one of the courts named in said section.]

Discharged
soldier.

R. S., sec.
2166.

Any alien, of the age of twenty-one years and upward, who has enlisted, or may enlist, in the armies of the United States, either the regular or the volunteer forces, and has been, or may be hereafter, honorably discharged, shall be admitted to become a citizen of the United States, upon his petition, without any previous declaration of his intention to become such; and he shall not be required to prove more than one year's residence within the United States previous to his application to become such citizen; and the court admitting such alien shall, in addition to such proof of residence and good moral character, as now provided by law, be satisfied by competent proof of such person's having been honorably discharged from the service of the United States.

Minor under
18 years of
age.

R. S., sec.
2167.

Any alien, being under the age of twenty-one years, who has resided in the United States three years next preceding his arriving at that age, and who has continued to reside therein to the time he may make application to be admitted a citizen thereof, may, after he arrives at the age of twenty-one years, and after he has resided five years within the United States, including the three years of his minority, be admitted a citizen of the United States, without having made the declaration required in the first condition of section twenty-one hundred and sixty-five; but such alien shall make the declaration required therein at the time of his admission; and shall further declare, on oath, and prove to the satisfaction of the court, that, for two years next preceding, it has been his bona fide intention to become a citizen of the United States; and he shall in all other respects comply with the laws in regard to naturalization.

Widows and
children.

R. S., sec.
2168.

When any alien, who has complied with the first condition specified in section twenty-one hundred and sixty-five, dies before he is actually naturalized, the widow and

the children of such alien shall be considered as citizens of the United States, and shall be entitled to all rights and privileges as such, upon taking the oaths proscribed* by law.

The provisions of this Title shall apply to aliens [being Africans. free white persons, and to aliens] of African nativity and R. S., sec. 2169. to persons of African descent.

No alien shall be admitted to become a citizen who has Residence. not for the continued term of five years next preceding his R. S., sec. 2170. admission resided within the United States.

No alien who is a native citizen or subject, or a denizen Alien enemy. of any country, state, or sovereignty with which the United R. S., sec. 2171. States are at war, at the time of his application, shall be then admitted to become a citizen of the United States; but persons resident within the United States, or the Territories thereof, on the eighteenth day of June, in the year one thousand eight hundred and twelve, who had before that day made a declaration, according to law, of their intention to become citizens of the United States, or who were on that day entitled to become citizens without making such declaration, may be admitted to become citizens thereof, notwithstanding they were alien enemies at the time and in the manner prescribed by the laws heretofore passed on that subject; nor shall anything herein contained 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.

The children of persons who have been duly naturalized Minors. under any law of the United States, or who, previous to R. S., sec. 2172. the passage of any law on that subject, by the Government of the United States, may have become citizens of any one of the States, under the laws thereof, being under

* Error in the roll; should be "prescribed."

the age of twenty-one years at the time of the naturalization of their parents, shall, if dwelling in the United States, be considered as citizens thereof; and the children of persons who now are, or have been, citizens of the United States, shall, though born out of the limits and jurisdiction of the United States, be considered as citizens thereof; but no person heretofore proscribed by any State, or who has been legally convicted of having joined the army of Great Britain during the Revolutionary War, shall be admitted to become a citizen without the consent of the legislature of the State in which such person was proscribed.

Police court
of District of
Columbia.
R. S., sec.
2173.
Seamen.
R. S., sec.
2174.

The police court of the District of Columbia shall have no power to naturalize foreigners.

Every seaman, being a foreigner, who declares his intention of becoming a citizen of the United States in any competent court, and shall have served three years on board of a merchant-vessel of the United States subsequent to the date of such declaration, may, on his application to any competent court, and the production of his certificate of discharge and good conduct during that time, together with the certificate of his declaration of intention to become a citizen, be admitted a citizen of the United States; and every seaman, being a foreigner, shall, after his declaration of intention to become a citizen of the United States, and after he shall have served such three years, be deemed a citizen of the United States for the purpose of manning and serving on board any merchant-vessel of the United States, anything to the contrary in any act of Congress notwithstanding; but such seamen shall, for all purposes of protection as an American citizen, be deemed such, after the filing of his declaration of intention to become such citizen.

Record of
seamen.
R. S., sec.
4588.

The collector of every district shall keep a book or books, in which, at the request of any seaman, being a citizen of

the United States of America, and producing proof of his citizenship, authenticated in the manner hereinafter directed, he shall enter the name of such seaman, and shall deliver to him a certificate, in the following form, that is to say: "I, A. B., collector of the district of D., do hereby certify, that E. F., an American seaman, aged —— years, or thereabouts, of the height of —— feet —— inches, (describing the said seaman as particularly as may be,) has, this day, produced to me proof in the manner directed by law; and I do hereby certify that the said E. F. is a citizen of the United States of America. In witness whereof, I have hereunto set my hand and seal of office, this —— day of ——." It shall be the duty of the collectors to file and preserve the proofs of citizenship so produced. For each certiffate so delivered the collectors shall be entitled to receive from the seaman applying for the same the sum of twenty-five cents.

Your letter of the 29th instant asking for information in regard to the naturalization of persons who may have arrived in this country during their minority, accompanied by a copy of Judge Hilton's decision in the case of William Morrison, has been received. In reply, I have to state that the section of the act of May 26, 1824, seems fully to meet the case to which you refer. By the provisions of the section referred to, a person who may have arrived in this country during his minority may become a citizen of the United States, independent of the fact of his father's naturalization, after he arrives at the age of twenty-one years and after he shall have lived five years within the United States, without making the usual declaration of intention two years before his admission. Any such person, therefore, can present himself before any of the courts and procure his certificate of naturalization, at any time, provided he makes "the declaration required in the first

Minor under
18 years of
age.

Vol. i, p. 106,
Nov. 30, 1861.

condition of the first section of the act of April 14, 1802, and further declare, on oath, and prove to the satisfaction of the court that for three years next preceding it has been his bona fide intention to become a citizen of the United States," and shall in all other respects comply with the laws in regard to naturalization.

28 Stat., 124. Any alien of the age of twenty-one years and upward who has enlisted or may enlist in the United States Navy or Marine Corps, and has served or may hereafter serve five consecutive years in the United States Navy or one enlistment in the United States Marine Corps, and has been or may hereafter be honorably discharged, shall be admitted to become a citizen of the United States upon his petition, without any previous declaration of his intention to become such; and the court admitting such alien shall, in addition to proof of good moral character, be satisfied by competent proof of such person's service in, and honorable discharge from, the United States Navy or Marine Corps.

Mother's
naturalization.

Vol. ii, p. 419,
Apr. 25, 1872.

I have to acknowledge receipt of your letter of the 19th instant, in which you make inquiry as to the value of the mother's certificate of naturalization in the application for a passport of a person of foreign birth whose father died without having procured complete naturalization papers, but whose mother was duly naturalized while yet a widow and while the applicant was a minor.

In reply, I have to state that in such case the mother's naturalization papers would suffice in place of the father's.

Married
women.

For. Rel.,
1893, p. 599.

In an opinion, June 4, 1874 (14 Op. Att. Gen., 402), Attorney-General Williams, responding to inquiries put by Mr. Fish, then Secretary of State, recites the above opinion and also two others (one being a North Carolina decision) concludes that the authorities he cites "go to

the extent of holding that, irrespective of the time or place of marriage or the residence of the parties, any free white woman, not an alien enemy, married to a citizen of this country, is to be taken and deemed a citizen of the United States."

Although not questioning the doctrine thus broadly enunciated, yet, in view of the obstacles to claiming for the laws, judicial decisions, and executive opinions of the United States effective validity beyond the jurisdiction of the United States, this Department prudently refrains from asserting its application to the case of an alien wife continuing within her original allegiance at the time of her husband's naturalization in the United States, inasmuch as the citizenship of the wife might not be effectively asserted as against any converse claim of the sovereignty within which she has remained. The result would naturally be a conflict of private international law, wherein the state within whose actual jurisdiction the wife remains might be found to have the practical advantage of the argument.—*Mr. Foster to Mr. Thompson, February 9, 1893.*

First. It is conceded that the passport of the citizen of either government, native or naturalized, not bearing upon its face the insignia of its own invalidity, can not be called in question by the municipal, district, and inferior officers of the [Austrian] government, but that such paper is prima facie evidence of the facts therein stated and must be respected as such. If the subordinate officers of the government have suspicions of the fraudulent character of the paper presented, they may report the fraud or irregularity alleged to some tribunal, if any, having competent authority under the rules of international law to determine the same.

Passport
evidence of
citizenship.
For. Rels.,
1894, p. 37.

Second. That it is the duty of either government, if its properly constituted tribunal shall be satisfied that the

certificate of naturalization upon which the passport was based was fraudulently or illegally procured, to present such consideration to the government granting the same, with the request that an examination be had, and, if the fact be found that such certificate of naturalization was fraudulently or illegally obtained, that it be canceled or annulled.

Third. That the arrest or detention of a citizen bearing a passport of his government, issued by competent authority, by a subordinate officer of either government is a breach of the courtesy due to a friendly nation, and a breach of official duty on the part of the officer so offending.

Fourth. That consular and other representative officers of the United States have the right to intervene for the protection of American citizens so unlawfully arrested.—*Mr. Tripp to Mr. Gresham, August 23, 1894.*

Passport evidence of citizenship.

For. Rel., 1895, p. 19.

It appears from the correspondence that Solomon Czosnek was born in Chrzanow, in the province of Galicia, of Austrian parents, in 1873. His father went to the United States and was naturalized while Solomon was a minor. In 1895 Solomon went to Chrzanow on business, having provided himself with a passport from this Department. He was arrested for violating military law in evading service, was bound over to the district court to answer the criminal charge, and through your intervention he was discharged.

The case is a valuable one, because in the Benich case and other cases the authorities of Austria-Hungary, while admitting that a passport of a friendly nation is prima facie evidence of citizenship and must be respected by administrative officers, have suggested that judicial officers might act in disregard of it. In this case you contended that when there is no charge of fraud in the procurement

of a passport or as to the identity of the person presenting it, it must be respected by judicial as well as administrative officers, and the correspondence shows that this view was shared by the Austro-Hungarian minister, who instructed the attorney to dismiss the complaint, and added that hereafter the judicial authorities of Galicia would be instructed to be governed in all similar cases by the views expressed in your notes.—*Mr. Adee to Mr. Tripp, August 12, 1895.*

Referring to your letter of April 30, asking whether the daughter of a naturalized citizen of the United States who has married an alien may obtain a passport through her father's citizenship, you are informed that, inasmuch as a woman's citizenship follows that of her husband, she is not a citizen of the United States and can not, under the law, receive a passport.

Married woman.

Vol. xiv,
p. 194,
May 2, 1896.

He was born in Germany in 1877 of alien parents. His father having died, his mother came to the United States with the son in 1885, and she has since been married to a naturalized citizen of the United States.

Solicitor's memorandum, 1896.

Section 2172 of the Revised Statutes provides that "the children of persons who have been duly naturalized under the law of the United States * * * being under the age of twenty-one years at the time of the naturalization of their parents, shall, if dwelling in the United States, be considered as citizens thereof."

Minor child.

The only question seems to be whether the mother by her marriage to an American citizen became duly naturalized under any law of the United States.

Section 1994 of the Revised Statutes provides that "any woman who 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."

The federal courts have held that the object of this law was to allow the citizenship of the wife to follow that of the husband, without the necessity of any application on her part, and that the effect of the marriage of an alien woman to a citizen of the United States is equivalent to her naturalization in the usual mode prescribed by law. In other words, that she is thereby duly naturalized.

The exact case now presented has arisen in the courts and has been decided as indicated above.

Alien dying
after decla-
ration of
intention.

It is inferred, however, that your claim to citizenship is based upon the provisions of section 2168 of the Revised Statutes of the United States, which reads as follows:

Vol. xvii,
p. 383,
Feb. 16, 1897.

“When any alien, who has complied with the first condition specified in section twenty-one hundred and sixty-five, dies before he is actually naturalized, the widow and the children of such alien shall be considered as citizens of the United States, and shall be entitled to all rights and privileges as such, upon taking the oaths prescribed by law.”

Upon complying with the terms of the above law, you will be entitled to the rights and privileges of citizenship and will be granted a passport upon submitting proof of such compliance. It should be in the form of a certificate of the court before which you may appear and take the oaths prescribed by law.

COPIES OF PASSPORTS.

As passports are not recorded, the Department can not furnish copies of them; but it may furnish information in reference to them, when it is clear

that no improper use will be made of the information.

I have to say that the Department does not furnish copies of passports. For legitimate purposes, it sometimes gives certificates to the effect that passports have been issued to certain parties.

Vol. x, p. 98,
May 6, 1887.

COURIER'S PASSPORT.

No such document is issued, except under extraordinary circumstances, when the mails are deemed unsafe.

Your note of the 20th instant, requesting that a "courier's passport" be issued for Mr. H. Holland, has been received. In reply, I have to inform you that a long-established rule of the Department forbids the granting of such passports, except in cases where the mails are deemed unsafe.

Vol. i, p. 19,
Dec. 21, 1866.

CRIMINAL CONVICTION OF APPLICANT.

While the Department may, for good and sufficient reason, refuse to issue a passport to a citizen, it has held that criminal conviction of a citizen in a foreign country is not in itself sufficient cause for refusing a passport.

Mr. Putnam is a native American citizen, a resident of the Republic of Colombia, and obtained, on December 20, 1884, a passport from Minister Scruggs. He was subsequently convicted in a Colombian court of felony, sen-

For. Rels.,
1888, p. 420.

tenced to a term of imprisonment, which sentence he served out, when he was discharged without a pardon.

He now applies for a renewal of his passport, and you ask the opinion of the Department in the case.

The question is whether a foreign conviction of crime is a bar to an application by the party convicted for a passport, and the Department holds that it is not, because foreign convictions of crime are not to be regarded as extraterritorial in their operation.—*Mr. Bayard to Mr. Walker, March 29, 1888.*

DECLARATION OF INTENTION TO BECOME A CITIZEN.

A declaration of intention to become a citizen of the United States made by an alien before a court does not confer citizenship upon him, and he can not, in consequence, be granted a passport. Any question relative to the right of such a person to complete his citizenship belongs to the judiciary to decide, and not to the Department.

Vol. i, p. 66,
July 23, 1867.

In reply I have to inform you that the law allowing passports to be granted to persons that had only "declared their intentions" was repealed May 30, 1866.

Vol. i, p. 97,
Apr. 28, 1868.

In reply to your letter of the 27th instant, inquiring whether the Government will consent to your absence for the purpose of completing your studies, shall not derogate from your right to become a citizen in pursuance of your declaration of intention, I have to say that whether or not your absence will affect your right to naturalization depends upon the law, which belongs to the judiciary to

interpret, and in respect to which no department of this Government has any dispensing power.

Passports can not be issued to aliens who have only declared their intention to become citizens.

General instructions in regard to passports, 1889.

Your dispatch No. 346, of the 13th ultimo, in regard to the application of Mr. Richard King (who has made his declaration of intention to become an American citizen) for a passport has been received and considered.

Protection accorded.

For. Rels., 1887, p. 287.

If Mr. King should, on appealing to this Government for protection, show that he was domiciled in this country, as well as in inchoate citizenship by virtue of having declared his intention, the question of granting protection would be presented for consideration. But this position does not involve the admission of Mr. King's right to a passport or special protection papers. A passport can only be granted to native or naturalized citizens, and protection papers are no longer issued by the Department.—*Mr. Bayard to Mr. McLane, February 1, 1887.*

DIVORCED WOMAN'S APPLICATION.

A woman of American birth who marries an alien and afterwards secures a divorce from him may procure a passport as an American, provided it is clearly shown that she intends to reside in this country; but the circumstances surrounding each case must regulate its treatment.

It has been said that the wife, at the moment of marriage, loses her citizenship and acquires that of her husband.

Morse on Citizenship, p. 144.

band; but perhaps it would be correct to say, with the author first cited (Phillimore), "The condition of the wife, from the standpoint of nationality, is temporarily lost in that of the husband." If this description be qualified by adding the words, "during the marital union," it is undoubtedly correct; for the moment this relation ends by legal separation, as suggested by Phillimore, she may, at option, resume her nationality of birth, or she may acquire a new one. The common-law idea that the husband and wife are one, and that the husband is that one, applies, of course, only during the existence of the relation.

Webster on
Citizenship,
p. 299.

The woman merges her nationality in that of her husband upon marriage to a foreigner. In case of legal separation, the practice places her in a position similar to that of a minor child, born of foreign parents, who has been adopted by a citizen of the United States, upon reaching majority. The wife may elect whether to preserve the foreign nationality acquired by her marriage, or reacquire her former American citizenship.

For. Rels.,
1874, p. 409.

An American lady, native born, after arriving at womanhood, came to Europe and married an Englishman. After living many years with her husband and having children by him, she has recently obtained a divorce in England. She now applies to me for a passport, to be issued in her maiden name and as an American citizen. I have declined giving such a passport for the reasons—

First. That there is nothing in the decree of divorce authorizing her to take her maiden name; and that I am not advised that the laws of England, independent of the order in the decree, authorize a divorced woman, at her option, to take her maiden name.

Second. Touching the question of citizenship, I consider

her case analogous to that decided by you in your dispatch No. 238, dated February 24, 1871, where you decided that it would be judicious to withhold a passport in a case where an American woman had married a foreigner and her husband had afterward died, unless she gave evidence of her intention to resume her residence in the United States.

In the present case the party desiring the passport does not "give evidence of her intention to resume her residence in the United States," but avows that her purpose in obtaining a passport is to enable her to marry a Frenchman.—*Mr. Washburn to Mr. Fish, No. 963, May 5, 1874.*

Answer: I have to state that the course pursued by you in regard thereto is approved.—*Mr. Fish to Mr. Washburn, No. 614, June 9, 1874.* For. Rels., 1874, p. 413.

You state that Mrs. Lawrence was originally a British subject, that she married a citizen of the United States, and has since been divorced. For. Rels., 1894, p. 139.

Mrs. Lawrence, by her marriage, became an American citizen both by British and American law; she is undoubtedly still an American citizen, viewed either from the American or the English standpoint. She has not lost her American nationality by any method recognized by our law; and, according to British law, an English woman who by marriage acquires foreign citizenship must, in order to reacquire her original nationality upon her husband's death, obtain a certificate therefor from the British authorities. It is not believed that any different rule would be applied where the parties are divorced. As Mrs. Lawrence claims American citizenship, it is assumed that she has not taken any steps to reacquire British nationality. It is not understood, either, that there is any conflicting claim to her allegiance.—*Mr. Uhl to Mr. Denby, March 17, 1894.*

DUPLICATE PASSPORT.

When a passport has been lost or destroyed by accident and the fact is clearly established, a duplicate may be issued in its place; but two passports are never furnished to one applicant. When a duplicate is issued, every effort should be made to obtain possession of the original; and when it is obtained, either the original or the duplicate should be destroyed.

Vol. ii, p. 305,
Mar. 14, 1872.

It is proper that you should understand that the circumstances connected with this case are such as to cause this Department to view the application with suspicion.

The attorney who makes application for this passport alleges that in two separate instances passports for which he has applied were not received.

It is desired, accordingly, that the accompanying passport shall not be delivered, unless you are fully satisfied that the case is regular, authentic, and genuine. It is presumed that you have sufficient address to enable you to ascertain whether —— is really entitled to a passport before you deliver it. If he is really entitled to it, of course he should receive it; otherwise not.—*To Dispatch Agent, New York.*

Vol. viii,
p. 155,
May 5, 1882.

Application for duplicate of a lost passport of recent date should be in the form of affidavit, stating the facts in regard to loss.

Vol. x, p. 109,
May 11, 1887.

It is not customary to send passports in duplicate.

Vol. xiii,
p. 312,
Mar. 28, 1896.

Before a duplicate passport can be issued, it must be clearly shown that the original has not reached the person for whom it was intended, or has been lost.

DURATION AND RENEWAL OF PASSPORT.

A passport is good for two years from its date, and no longer. When it has expired, a new application may be made and a new passport issued. The old passport, if issued in this country, may be accepted instead of the naturalization certificate in proof of citizenship, if upon examination the original application is found to have contained sufficient information to satisfy the regulations in force. If the examination develops the fact that the first passport was improperly issued, the Department declines to issue another.

A passport can not be issued by this Department upon one obtained from a legation or consulate. Vol. ii, p. 207.
Jan. 5, 1872.

It is true, as stated in your letter and in Mr. ——'s letter, that he received a passport from this Government before. It was issued April 30, 1884, and was a reissue of a passport which had previously been given him on May 17, 1875. The application on which the latter passport was issued contained no statement as to the time of Mr. ——'s emigration, and hence the Department had no opportunity, as it has in the case of the application now under consideration, of ascertaining that the applicant's naturalization was incorrect. The passport regulations now in force require an affidavit containing fuller information than was formerly required, and an old passport is now no longer reissued. Vol. xiii,
p. 286,
Mar. 26, 1896.

The regulation in question is prescribed by this Department in the exercise of the discretionary authority of the Secretary of State to grant passports, the issuance thereof Letter to Hon.
R. R. Hitt,
Apr. 23, 1896.

being, under section 4075, Revised Statutes, permissive and not mandatory. The object of prescribing a two years' duration for passports issued is partly to insure evidence at reasonable intervals of the conservation of United States citizenship by persons residing indefinitely abroad, and partly in view of the provisions of certain naturalization treaties which stipulate that a return to and residence for two years in the country of origin creates a presumption of intention to resume the original status. Prior to the adoption of this rule it was not uncommon for parties permanently domiciled abroad, and not locally known to be American citizens, to claim protection in some emergency under passports issued many years before; and the convenience of the rule has been manifest in many regards, both as regards native and naturalized citizens.

Printed form
of Department
letter,
1896.

Referring to your letter of ———, requesting a renewal of the passport formerly issued to ——— ———, you are informed that passports are no longer renewed. The regulations require an application to be executed and submitted to the Department each time a passport is requested before the same can issue. In case of a naturalized citizen, an old passport, if issued subsequent to 1861, will be accepted in lieu of a naturalization certificate, if, upon examination, the application upon which it was issued is found to contain sufficient information as to the emigration, residence, and naturalization of the applicant. It is, however, preferable to submit the evidence of naturalization with each renewed application, to avoid delay and consequent inconvenience to the parties, should the Department's records be found deficient in regard to these particulars.

EXPATRIATION.

(See also *Citizenship.*)

† .
The Government of the United States has declared by statute that expatriation is a natural and inherent right of all men. Americans, therefore, who go abroad may subsequently acquire citizenship in some other country, or they may forfeit American citizenship. Sometimes the forfeiture may be by some formal act of renunciation; sometimes it may follow a severance for a long period of time of their relations with this Government; sometimes it may be inferred from an acceptance of service under a foreign government. There is no general or fixed rule on the subject; but, whenever expatriation has occurred, the former American citizen is necessarily denied the protection of a passport.

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

Right of
expatriation.
R. S. sec.
1999.

expatriation, is declared inconsistent with the fundamental principles of the Republic. X

Service under
foreign
government.

For. Rels.,
1879, p. 824.

It appears that, after lending important services to the republicans of Mexico during the French intervention and the Empire of Maximilian in 1866-67, Mr. Smith took active part in 1876 in the successful revolutionary movement of General Diaz, became a colonel in the Mexican army, and was understood to be in such service at the time of his death, of which the date is given as June 5, 1879.

You further quote the provision of the Mexican law of January 30, 1856, enacting the naturalization, apparently without any additional formality beyond the fact of service, of a foreigner who "accepts any public office of the nation, or belongs to the army or navy," and in view of this you ask in general terms for the views of the Department upon the status of Americans accepting service under the Mexican Government, and also specific instructions on the points presented in Mr. Strother's letter to you of the 15th ultimo, a copy of which you transmit.

In answer to the first point presented by you, I may observe that on the 27th of July, 1868, Congress declared that the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of "life, liberty, and the pursuit of happiness" (section 1999, Revised Statutes). The act of changing allegiance and citizenship must necessarily conform to the laws of the country where the American who voluntarily expatriates himself becomes a citizen or subject. No law of the United States, for instance, can make a Mexican citizen out of one of our own citizens, or prevent him from becoming a Mexican citizen by the operation of Mexican law. Mr. Smith, by the act of voluntarily taking military service under the Government of Mexico while a law was

in existence by which such an act on his part conferred and involved the assumption of Mexican citizenship, must be deemed to have understandingly conformed to that Mexican law, and of his own accord embraced Mexican citizenship. Under the enactment of Congress, previously quoted, no permission of the Government of the United States is necessary to the exercise of the right of expatriation. This answers the first question put by Mr. Strother.

The second and third inquiries respecting the status of the minor children are not so easy to answer. The two sons of Mr. Smith, aged respectively seven and ten years at the time of their father's death, were undoubtedly American citizens by birth, inasmuch as the father's change of allegiance occurred after the birth of the youngest child. If within the jurisdiction of the United States, their right to American citizenship would be unimpaired, and, even if within Mexican jurisdiction during minority, they would, in the absence of any Mexican law specifically attaching the altered status of the father to his minor children within Mexican jurisdiction, be still properly regarded as American citizens. But if there be such a law, or if, on attaining majority, they remain in Mexico and come within any provision of Mexican law making them citizens of that Republic, they could not be regarded as citizens of the United States.

The registration of the younger son, by the widowed mother, after the death of the father, although irregularly and unnecessarily delayed, is in contravention of no rule, the child's citizenship at birth being clear.—*Mr. Seward to Mr. Foster, August 13, 1879.*

✦ I have had the honor to receive your communication, dated the 6th instant, requiring my opinion as the principal officer of one of the Executive Departments respecting

Fish on expatriation.
Letter to the President,

A P—9.

For. Rels.,
1873, p. 1186,
et seq.

several questions which accompanied your communication.

In obedience to that requirement I respectfully submit my opinion, in answer to the several questions, as follows:

“Question 1. The law-making power having declared that ‘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’ (15 Stat. at Large, 223), should the Executive refuse to give effect to an act of expatriation of a citizen of the United States?”

The act of Congress of the 27th of July, 1868 (15 Stat. at Large, 223), disposed of the contradictory opinions and decisions of officers of this Government as to the right of expatriation (so far as it concerns citizens of the United States) by declaring in its preamble that “the right of expatriation is a natural and inherent right of all people.”

This is the legislative declaration of the principle on which the naturalization laws of the United States have ever rested and is the legislative sanction of the doctrine which has, almost without exception, been uniformly held in the diplomatic correspondence and by the executive and political branch of the Government.

There seems, therefore, to be no difficulty in answering to the first question that the Executive should not refuse to give effect to an act of expatriation of a citizen of the United States.

But the legislative authority which declared it “to be a natural and inherent right of all people” has failed to define “expatriation” or to declare how or under what circumstances it may be exercised, what is essential to its full attainment, or what shall be the evidence of its accomplishment.

The absence of authoritative or of legislative definition on these points has given rise to much doubt and correspondence on the part of the Executive Departments of the Government.

Expatriation, I understand to mean the quitting of one's country, with an abandonment of allegiance and with the view of becoming permanently a resident and citizen of some other country, resulting in the loss of the party's preëxisting character of citizenship. The quitting of the country must be real, that is to say, actual emigration for a lawful purpose, and should be accompanied by some open avowal or other attendant acts showing good faith and a determination and intention to transfer one's allegiance.

Meaning of the word.

It can not be exercised by one while residing in the country whose allegiance he desires to renounce, nor during the existence of hostilities; no subject of a belligerent can transfer his allegiance or acquire another citizenship, as the desertion of one's country in time of war is an act of criminality, and to admit the right of expatriation "*flagrante bello*" would be to afford a cover to desertion and treasonable aid to the public enemy.

By whom exercised.

It can be exercised only by persons of lawful age, and not by those who leave their country under the charge or conviction of crime or other disabilities. And the same considerations of public policy which deny the right of any citizen in time of war would seem to justify its denial to any citizen while in the actual service of his country; and it will be remembered that Congress has asserted its right to denationalize its own citizens, and has defined one mode whereby the right of citizenship shall be forfeited, in the act of March 3, 1865 (13 Stat., p. 490), which provides that, in addition to the other lawful penalties for desertion from the military or naval service of the United States, all persons who shall desert such service, or who,

being enrolled, shall depart the jurisdiction of the district in which he is enrolled, or go beyond the limits of the United States with intent to avoid any draft into the military or naval service, duly ordered, shall be deemed to have voluntarily relinquished and forfeited their rights of citizenship, or to become citizens, and shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizens thereof.

“Question 2. May a formal renunciation of United States citizenship and a voluntary submission to the sovereignty of another power be regarded otherwise than an act of expatriation?”

Change of residence.

This question is understood to presuppose an actual change of residence, inasmuch as no person can make himself subject to another power while domiciled and resident within one to which he owes allegiance.

Marshall quoted.

Chief Justice Marshall (2 Cranch, p. 119) says that when a citizen by his own act has made himself the subject of a foreign power, his situation is completely changed, and that the act certainly places him out of the protection of the United States while within the territory of the sovereign to whom he has sworn allegiance.

This opinion is in conformity with public policy and right, and is sustained by the general authority of the writers on public law.

The fourteenth amendment to the Constitution makes subjection to the jurisdiction of the United States an element of citizenship of the United States.

If, then, to this act of voluntary submission of himself to the sovereignty of another power be added a formal renunciation of American citizenship, I can not see that it can be regarded otherwise than as an act of expatriation.

By marriage. Hence it would seem that the marriage of a female

citizen of the United States with a foreigner, subject of a country by whose laws marriage confers citizenship upon the wife of the subject, and her removal to and residence in the country of her husband's citizenship would divest her of her native character of an American citizen.

A Frenchman loses his native character by foreign naturalization, or by accepting office under a foreign government without permission of the State, or by so establishing himself abroad as to evidence an intention of never returning to his country. In France.

The Austrian and Prussian emigrant who has obtained permission and quits his country "*sine animo revertendi*," forfeits the privilege of citizenship. In Austria and Prussia.

Bavarian citizenship is lost by the acquisition, without the special permission of the King, of "*jura indigenatus*" in another country, by emigration, and by the marriage of a Bavarian woman with a stranger. In Bavaria.

Württemberg citizenship is lost by emigration, sanctioned by Government, or by the acceptance of a public office in another state. In Würtemberg.

In Spain citizenship is lost by foreign naturalization, or by entering the service of another state without permission of Government. In Spain.

In Portugal, by foreign naturalization; by acceptance, without permission of the King, of a pension and of a decoration from a foreign state, and by judicial banishment. In Portugal.

"Question 3. Can an election of expatriation be shown or presumed by an acquisition of domicile in another country with an avowed purpose not to return?"

Protracted absence from the country of one's allegiance is not of itself evidence of abandonment or of intentional change of allegiance. Absence.

But in answering this question with reference to the Prepetual allegiance.

policy or practice of the United States, regard must be had for the change which late years have brought about with respect to the doctrine of perpetual allegiance, for a long time persistently maintained by Great Britain at least, and with reference to which doctrine many of the opinions and decisions of jurists and of courts have been framed, as also to the facility which the policy of this Government in its naturalization laws has extended to the subjects of other powers to throw off their previous allegiance, and to the earnestness with which the United States, in all branches of its Government, asserts and enforces the right of expatriation and of renunciation of preëxisting citizenship.

The international treaties of naturalization of late years make an entire change of doctrine from that laid down by jurists and held by courts before the overthrow and abandonment of the doctrine of perpetual allegiance.

This question, therefore, presents itself for consideration somewhat in the nature of one of first impression, and to be answered with reference to a policy and to principles but recently of general acceptance rather than to the dogmas of books.

If government assume the duty of protection, the citizen must be ready to support the government with his services, his fortune, and his life even, should the public exigencies be such as to require them.

Domicile and residence.

He may reside abroad for purposes of health, of education, of amusement, of business, for an indefinite period; he may acquire a commercial or a civil domicile there; but if he do so sincerely and *bona fide animo revertendi*, and do nothing inconsistent with his preëxisting allegiance, he will not thereby have taken any step towards self-expatriation.

But if, instead of this, he permanently withdraws him-

self and his property and places both where neither can be made to contribute to the national necessities, acquires a political domicile in a foreign country, and avows his purpose not to return, he has placed himself in the position where his country has the right to presume that he has made his election of expatriation.

In several of the treaties of naturalization of this ^{Treaties.} country with other powers, the residence of a naturalized citizen in the land of his nativity without intent to return to the United States is declared to work of itself a renunciation of the citizenship acquired by naturalization, and such intent may be held to exist when the residence continues for more than two years.

The fourteenth amendment of the Constitution makes personal subjection to the jurisdiction of the United States an element of citizenship. The avowed voluntary permanent withdrawal from such jurisdiction would seem to furnish one of the strongest evidences of the exercise of that right which Congress had declared to be the natural and inherent right of all people.

But, in the absence of legislative definition of what constitutes "expatriation," and of the mode whereby it is to be effected, the experience of the Government has made manifest that while expatriation is declared to be a right, which may be converted into a fact, it is, like other facts, to be established in each individual case by evidence peculiar to itself, and each case to be decided upon its own merits.

"Question 4. Ought the Government to hold itself bound to extend its protection, and consequently exert its military and naval power for such protection, in favor of persons who have left its territories, and who reside abroad, without an apparent intent to return to them, and who do not contribute to its support?"

It does not necessarily follow that a citizen has lost his right to the protection of his government because he may have left its territories and resides abroad without apparent intent to return and without contributing to its support.

Intent to return.

The intent to return, although not apparent, may be really and bona fide entertained, and it does not necessarily follow that he is avoiding any obligation to his country because he does not contribute to its support. There may be no contributions at the time required of the citizen.

While thus resident or "domiciled" in another country, he becomes amenable to its laws; but, unless he assume some position or commit some act inconsistent with his preëxisting citizenship, he does not forfeit that citizenship or his right to look to his government to extend to him all the protection which the nature of any wrong or injustice inflicted upon him by the government within whose territories he may be domiciled may justify. In connection with this question, and with reference to the exertion of military and naval power for the protection or in favor of citizens of the United States, who may be unjustly deprived of their liberty by the authority of foreign governments, it may be remarked that while the act of July 27, 1868 (15 Stat., 223), declares it to be the duty of the President to demand the reasons of such imprisonment, it prohibits his use of the military or naval power of the Government to obtain his release.

"Question 5. What should constitute evidence of the absence of an intent to return in such cases?"

By some of the recent naturalization treaties, two years' continued residence of a naturalized citizen in the country of his nativity after his naturalization may be regarded as evidence of intent not to return to the United States. The strongest evidence of such intent would be the solemn declaration of intention of remaining abroad.

Naturalization, or taking preliminary steps to become naturalized in a foreign country, voluntary entrance into the civil or military service of another government, express renunciation, or acts amounting thereto, or indicating a fixed intention of renunciation of preëxisting citizenship might be regarded as evidence of the absence of intent to return, which might also be otherwise indicated by a variety of facts or of circumstances.

When a person who has attained his majority removes to another country and settles himself there, he is stamped with the national character of his new domicile; and this is so, notwithstanding he may entertain a floating intention of returning to his original residence or citizenship at some future period; and the presumption of law with respect to residence in a foreign country, especially if it be protracted, is that the party is there *animo manendi*, and it lies upon him to explain it.

It is probably not possible to lay down any general rule in answer to this question, and it results that each case must be decided upon its own merits.

“Question 6. When a naturalized citizen of the United States returns to his native country and resides there for a series of years, with no apparent purpose of returning, shall he be deemed to have expatriated himself where the case is not regulated by treaty?”

A person of foreign birth once duly naturalized is a citizen, entitled to all the privileges and protection which may be claimed by one born within the territory of the United States. He may, however, divest himself of his acquired citizenship, or may lose his character as such, either in accordance with treaty regulations or in the same mode by which a native-born citizen becomes expatriated or denationalized.

† The act of July 27, 1868 (15 Stat. at Large, 223), enacts ^{Naturalized} citizens.

Protection. that all naturalized citizens of the United States while in foreign states shall be entitled to, and shall receive from this Government, the same protection of persons and property that is accorded to native-born citizens in like situations and circumstances. †

The question recognizes the fact, already alluded to, that our treaties with some powers make a residence in the country of nativity, without intent to return to the country of adoption, to work a renunciation of the citizenship acquired by naturalization.

By some treaties no fixed period of residence in the country of nativity works of itself a renunciation of the acquired citizenship, while by others the intent not to return may be held to exist when the residence continues more than two years.

**Treaty with
Great Brit-
ain.**

By the treaty with Great Britain of the 13th of May, 1870, the British subject naturalized in the United States after its date who renews his residence within the British dominion may, on his own application, and on such conditions as the British Government may impose, be readmitted to the character of a British subject. Residence alone, however long continued, without a direct application to be readmitted to British citizenship, and without the assent thereto of the British Government, will not rehabilitate him as a British subject.

**Two years'
residence.**

The adoption in numerous treaties of this period of two years as that when the intent not to return to the United States may be held to exist on the part of the naturalized citizen who has returned to his native country indicates that, while the principle on which rests the right of protection while in foreign countries of the naturalized is the same with that of the native-born citizen, there is an appreciation of the strong proclivity to resume his original citizenship on the part of him who, having wandered from

home, returns to find the attractions of early associations and of family ties enticing him, at a period, perhaps, when the restlessness and spirit of adventure of the fresher years of life have passed, to rest and to end his days amid the scenes of his childhood or youth and among those who claim the strong ties of common blood.

Hence, probably, even when not regulated by treaty, the evidence would be more readily obtained to determine that a naturalized citizen who had returned to the country of his nativity should be deemed to have expatriated himself—or, perhaps it would be more proper to say, to have rehabilitated himself with his original citizenship—than to show that a native-born citizen had expatriated himself by the same period of foreign residence.

It not infrequently happens that naturalization is almost immediately followed by the return of the naturalized person to his native country and his continued residence there, without having acquired property or established any permanent relations of family or of business in the United States.

Again, cases are of constant occurrence of naturalized Pretexts. persons who have resided for years in the country of nativity, manifesting no purpose of returning to the United States and exhibiting no interest in the Government, but who assert American citizenship only when called upon to discharge some duty in the country of their residence; thus making the claim to American citizenship the pretext for avoiding duties to one country, while absence secures them from duties to the other.

These are among the class of cases where the continued residence in the country of nativity and the absence of apparent purpose of returning may be taken at least as *prima facie* evidence of expatriation.

But generally, when not regulated by treaty, the mere

absence of apparent purpose of returning to the United States on the part of a naturalized citizen who has returned to his native country and resided there for a series of years does not of itself constitute evidence of his self-expatriation.

The presumption of law to which reference has already been made, viz, that he is there *animo manendi*, applies, however, to him equally with the native-born citizen, and it rests with him as with the native-born to explain it; and here, again, in the absence of some prescribed rule, the circumstances attending each case must control its decision.

“Question 7. Are the children born abroad of a person who has been a citizen of the United States, but who has become a subject or citizen of another power, or who has expatriated himself, citizens of the United States and entitled to its protection?”

Children.

If born after the father has become the subject or citizen of another power, or after he has in any way expatriated himself, the children born abroad are to all intents and purposes aliens, and not entitled to protection from the United States.

The act of the 10th February, 1855 (10 Stat. at Large, 604), provides that “persons heretofore born, or hereafter to be born, out of the limits and jurisdiction of the United States, whose fathers were or shall be *at the time of their birth* citizens of the United States, shall be deemed and considered, and are hereby declared to be, citizens of the United States: *Provided, however,* That the right of citizenship shall not descend to persons whose fathers never resided in the United States.”

It will be noticed that the act professes to extend citizenship only to those born abroad whose fathers *at the time of their birth* are citizens.

Every independent state has as one of the incidents of its sovereignty the right of municipal legislation and jurisdiction over all persons within its territory, and may therefore change their nationality by naturalization, and this, without regard to the municipal laws of the country whose subjects are so naturalized, so long as they remain, or exercise the rights conferred by naturalization, within the territory and jurisdiction of the state which grants it.

It may also endow with the rights and privileges of its citizenship persons residing in other countries, so as to entitle them to all rights of property and of succession within its limits and also with political privileges and civil rights to be enjoyed or exercised within the territory and jurisdiction of the state thus conferring its citizenship.

But no sovereignty can extend its jurisdiction beyond its own territorial limits so as to relieve those born under and subject to another jurisdiction from their obligations or duties thereto; nor can the municipal law of one state interfere with the duties or obligations which its citizens incur, while voluntarily resident in such foreign state and without the jurisdiction of their own country.

It is evident from the *proviso* in the act of the 10th February, 1855, viz, "that the rights of citizenship shall not descend to persons whose fathers never resided in the United States," that the law-making power not only had in view this limit to the efficiency of its own municipal enactments in foreign jurisdiction, but that it has conferred only a qualified citizenship upon the children of American fathers born without the jurisdiction of the United States, and has denied to them, what pertains to other American citizens, the right of transmitting citizenship to their children, unless they shall have made themselves residents of the United States, or, in the language

of the fourteenth amendment of the Constitution, have made themselves "subject to the jurisdiction thereof."

The child born of alien parents in the United States is held to be a citizen thereof and to be subject to duties with regard to this country which do not attach to the father.

The same principle on which such children are held by us to be citizens of the United States, and to be subject to duties to this country, applies to the children of American fathers born without the jurisdiction of the United States, and entitles the country within whose jurisdiction they are born to claim them as citizens and to subject them to duties to it.

Such children are born to a double character: the citizenship of the father is that of the child so far as the laws of the country of which the father is a citizen are concerned and within the jurisdiction of that country; but the child, from the circumstances of his birth, may acquire rights and owes another fealty besides that which attaches to the father.

"Question 8. Can a person who has formally renounced his allegiance to the United States, and assumed the obligations of a citizen or subject of another power, become again a citizen of the United States in any other way than in the manner provided by general laws?"

Renaturali-
zation.

Persons who have formally renounced their allegiance to the United States and have assumed the obligation of citizen or subject of another power—in other words, persons who have denationalized or expatriated themselves—are aliens to the United States, and can become citizens only by virtue of the same laws, and with the same formalities, and by the same process, by which other aliens are enabled to become citizens.

Having replied to the several questions submitted, I may

be permitted to express my opinion of the necessity of legislation to define how and by what acts, whether of commission or of omission, or of both, United States citizenship is lost.

It has been shown that in some instances recent treaties provide one test; but even in these cases further legislation is needed to relieve the decision in each case of much embarrassment and of much doubt.—*Mr. Fish to the President, August 25, 1873.*

The material facts upon which the application is based appear to be that Verdelet *père*, the father of Eugene Albert, was born in France, resided in this country thirty-five years, and in 1853 became a citizen of the United States by naturalization. In 1859 he returned to his native country, and continued to reside there until his death, which occurred in 1874. In 1862 Eugene Albert, the present applicant, was born in Bordeaux, France. He has always resided in France, has never been in the United States, and expresses no intention of ever coming here to reside, although, he says, property interests may render it necessary for him to visit the United States at some future time.

Continued residence abroad.

For. Rel., 1883, p. 285.

A passport is the usual form in which this Government attests the nationality of citizens of the United States to a foreign government. Under the circumstances of Mr. Verdelet's case, it is considered that he is not entitled to a passport, and consequently that he can not justly claim a certificate in any other form attesting the fact that he has maintained American nationality.—*Mr. Frelinghuysen to Mr. Morton, November 9, 1883.*

† The position taken by the Imperial Government in Yablonski's case, accompanied as it is by the text of the

Russian contention.

For. Rels.,
1895, p. 1107.

Russian law claimed to be applicable to such cases, constitutes the most direct statement of the Russian contention in this regard that has as yet been presented.

Taking the two clauses of the law together, they amount to a claim for the punishment of a Russian subject for the imputed offense of becoming a citizen or subject of another state, or even of entering into the service of another state. * * *

The position of the United States as to the right of expatriation is long established and well known. The doctrine announced by us at an early stage of our national existence has been since generally adopted by all the European states except Russia and Turkey; and the Turkish Government does not go so far as to assert in practice a claim to punish a Turk for the offense of acquiring any other nationality. That every sovereign state has an indefeasible right to prescribe and apply the conditions under which an alien, being within its territorial jurisdiction, may be admitted to citizenship is a proposition not to be denied and scarcely capable of any material qualification. The legislation of the United States proceeds upon this theory.

Under the circumstances, and under the statutes of this country, this Government can not acquiesce in the Russian contention now formally announced, and must continue in the future to do as it has done in the past, and remonstrate against denial of the rights of American citizenship to persons of Russian origin who by due process of law have acquired our nationality, controverting any and every attempt to treat the acquisition of our citizenship as a penal offense against the law of the country of origin.—*Mr. Olney to Mr. Pierce, November 4, 1895.*

J. v.

FEE.

The Secretary of State is required by law to collect a fee of one dollar for every citizen's passport issued. The fee having been collected and the passport issued, the former is turned over to the Treasury Department, and there is no provision of law nor any regulation by which it may at a subsequent date be refunded. Previous to the passage of the act now in force the fee was five dollars.

While it is provided by act of Congress that a fee of Vol. v, p. 59,
July 28, 1874. five dollars shall be collected on every citizen's passport issued from the Department, there is no law or regulation authorizing the return of fees received under the act referred to. The failure of the passport to reach you in time was not the fault of this Department, and the delay was occasioned by a failure to comply with the regulations. It could, in accordance with the frequent practice in such cases, still be forwarded to Mr. Archer; and, as the fee can not be repaid, will be returned to you, should you so request.

In reply to your letter of the 4th instant, inclosing the Vol. xi, p. 49,
June 8, 1894. passport No. 12043, in favor of Adolf Bender, and requesting the return of the fee paid therefor, because Mr. Bender would not be protected by the passport in Russian territory, you are informed that the Department can not comply with your request, the passport having been regularly applied for and issued.

The Department has received your letter of September Vol. xvi,
p. 405, Sept.
28, 1896. 25, relative to the passport issued to Dr. Guido Ranniger on June 1, 1896, and suggesting the refund of the fee paid by him, as the passport failed to reach him. In reply,

A P—10.

you are informed that the passport having been regularly issued, the fee can not be returned and has been deposited with the United States Treasury.

Rule 13, rules governing applications for passports, 1896.

By act of Congress approved March 23, 1888, a fee of one dollar is required to be collected for every citizen's passport. That amount in currency or postal money order should accompany each application. Orders should be made payable to the Disbursing Clerk of the Department of State. Drafts or checks will not be received.

INDIANS, PASSPORTS FOR.

Various acts of Congress have from time to time been passed making certain tribes of Indians and certain Indians who fulfill statutory conditions citizens of the United States, and these may be granted passports. All other Indians are not citizens, but as wards of the Government they may receive its protection. While they are abroad, they may, therefore, be granted documents specifying that they are not citizens, but requesting protection for them.

MS. instructions.

I have to acknowledge the receipt of your No. 506, of the 11th ultimo, reporting the application of Humper Nepar, or Wadded Moccasin, a Sioux Indian, for a passport.

In reply, I have to say that Indians are not citizens of the United States by reason of birth within its limits. Neither are our *general* naturalization laws applicable to them, but various Indian tribes have been naturalized by *special* acts of Congress.

Section 6 of the act of February 8, 1887 (24 Stat., 388), provides that "every Indian born within the terri-

torial limits of the United States to whom allotments shall have been made under the provisions of this act, or under any law or treaty, and *every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, his residence separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States.*”

Section 43 of the act of May 2, 1890 (26 Stat., 99), provides that “any member of any Indian tribe or nation residing in the Indian Territory may apply to the United States court therein to become a citizen of the United States, and such court shall have jurisdiction thereof and shall hear and determine such application as provided in the statutes of the United States.”

Unless Humber Nespar was naturalized in one of the above modes, he is not entitled to a passport as a citizen of the United States.

A copy of your dispatch will be sent to the Interior Department and an effort made to determine definitely what his status is, as some Sioux tribes have been naturalized by special acts. Even if he has not acquired citizenship, he is a ward of the Government and entitled to the consideration and assistance of our diplomatic and consular officers. Your action in the case is, therefore, approved.

In this connection, reference to the case of “Hampa,” reported in dispatch No. 453, of May 7, 1896, from the consul at Odessa, is pertinent. Hampa, an American Indian, a member of a cow-boy company which performed at Odessa, was discharged on account of drunkenness. The consul aided him, and, upon the police requiring of Hampa a passport or document from the consulate certifying to his identity, the consul issued the following:

“To whom it may concern:

“The bearer of this document is a North American

Indian whose name is Hampa. This Indian is a ward of the United States, and is entitled to the protection of its consular and other officials. He is not, however, entitled to a passport, as he is not a citizen of the United States. This consulate has the honor to request the Russian authorities to grant Hampa all necessary protection during his stay in Russia, and grant him permission to depart when he requires it.

“ _____ ,
“*Consul.*”

As the document expressly stated that Hampa was not a citizen of the United States and not entitled to a passport, its issuance could not be regarded as a violation of Revised Statutes, section 4078. That section prohibits the granting by consular officers of passports to or for any person not a citizen of the United States. The same section also provides that no person not lawfully authorized to do so shall issue any passport or other instrument in the nature of a passport, to or for any citizen of the United States, or to or for any person claiming to be or designated as such in such passport.

The Department, at least tacitly, approved the consul's action in this case, and sees no valid objection to your issuing a similiar document to Humper Nespar in the event of his failure to show that he is actually a citizen.—
Mr. Sherman to Mr. Breckinridge, April 3, 1897.

INSANE PERSONS, APPLICATIONS FOR.

In rare instances it is desired to obtain a passport for an insane person, or one of unsound mind, who can not himself make the usual application or take

the required oaths. In such cases the guardian or nearest friend may act for him.

It appears that Mrs. Blümeling derives her American citizenship from her husband, Herman Blümeling, who, as shown by a copy of his citizen paper inclosed in Mr. Cramer's dispatch, was duly naturalized in Jersey City on the 24th day of October, 1870, and therefore is entitled to have a passport. For. Rels., 1885, p. 807.

The only objection to issuing the passport arises from the fact that the person applying for it, having become insane, can not make the written application and affidavit and take the oath of allegiance as required by diplomatic regulations issued by this Department.

In answer to this, it may be said that as a general rule the affidavits and other similar applications of the guardian or nearest friend of any insane person are received, where the object is to assert a right, as if made by the insane person himself. Even were this not the case, the regulations in regard to issuing passports are not imposed by Congress, but are discretionary with the Executive, and may at any time be interpreted or modified by the Department of State. They should certainly not be applied in such a way as to exclude from a passport persons by whom it may be most needed, as in the present case.—*Mr. Porter to Mr. Winchester, July 11, 1885.*

ISSUANCE ABROAD WHERE THERE IS NO DIPLOMATIC OR CONSULAR REPRESENTATIVE.

In those countries where the United States has no diplomatic or consular representation it is competent for the nearest American diplomatic agent to issue a passport.

For. Rels.,
1894, p. 245.

Your dispatch No. 58, of the 10th ultimo, in relation to your action in issuing a passport to an American citizen upon an application taken before the vice-commercial agent of the United States at Luxemburg, has been received.

In reply, I have to say that no question of territorial jurisdiction is necessarily involved in the case. When there is no representative of the United States competent to issue a passport in a small sovereign state, the nearest embassy or legation can be applied to. Thus, an application from Monaco might be made indifferently to Paris or Rome; from Andorra, to Madrid or Paris, and so forth.

It would seem, however, that the commercial agent at Luxemburg had authority to issue a passport. The statutes provide for the issuance of passports in foreign countries by consular officers, and commercial agents are declared to be full consular officers by section 1674 of the Revised Statutes.—*Mr. Uhl to Mr. Runyon, April 3, 1894.*

ISSUING, AGENT FOR.

The only place in this country from which a passport can issue is the Department of State. Sometimes, however, when an imperfect or insufficient application is made so late that the passport can not reach the person by whom it is desired before he goes abroad, and when his departure without it might be attended with grave inconvenience, danger to his safety, or hardship, the Department may make use of a United States dispatch agent, collector of customs, or postmaster as its agent to

Dispatch
agent, col-
lector of
customs,
postmaster.

issue the passport. Such agent is furnished with a blank passport and is instructed to take the applicant's sworn statements and issue the passport, if he is entitled to it under the law. Formerly this practice was not uncommon; but the policy now is to avoid, whenever possible, any but the regular methods of issuance from the Department in Washington.

Please find passports for Mr. John F. Cahill and Miss Kate R. McAdam, who will call upon you for them. Vol. II, p. 171,
Nov. 27, 1871.

Will you please deliver them when the applicants shall have executed in due form the inclosed blanks?—*To collector of customs, Baltimore.*

If you are advised that he intends to sail from New York and is in haste to leave home, you will be pleased to inform the Department, and a passport will be sent to Edgar Irving, esq., United States dispatch agent, 34½ Pierce street, New York, to be delivered to Mr. Mayer upon his filing the affidavits with Mr. Irving. Mr. Jonathan Amory is the dispatch agent at Boston, to whom the business might be intrusted if it is so desired. The passport can be sent to the collector of customs of any other port for a similar disposition. Vol. II, p. 287,
Mar. 6, 1872.

I have to acknowledge the receipt of your letter of the 21st instant, transmitting affidavits of Messrs. Akin and Traver and stating that other persons in Jacksonville intend to apply for passports. Vol. II, p. 268,
Feb. 26, 1872.

In reply, I have to inform you that the two cases above referred to seemed to belong to that class of exceptional ones in which persons are suddenly and unexpectedly called from home. It is desired by the Department that

parties who contemplate journeying to foreign countries "during the season" and desire passports will, sufficiently in advance of their departure, transmit to this office complete applications, so that the passports may issue after receipt of the required affidavits, as is the usual custom.—
To deputy collector of customs, Jacksonville.

Vol. iv, p. 435,
Apr. 23, 1874.

I have replied by telegram to your inquiry whether you would be allowed to fill out blank passports for certain parties who, it is supposed, may wish to go to Cayenne, to the effect that you are not allowed to do so.

Passports can be issued in the United States only by the Secretary of State, by whom they must be signed.—
To dispatch agent, Boston.

Vol. v, p. 54,
July 22, 1874.

In cases of emergency the Department sends passports to the dispatch agent at New York for delivery upon a compliance with regulations, including payment of the fee, to be forwarded with affidavits by the dispatch agent.

Vol. ix, p. 259,
Mar. 2, 1886.

Herewith I hand you a passport for Mr. Daniel S. Troy and wife, to be delivered to him upon his depositing with you, for transmission to this Department, the affidavits indicated by the accompanying papers and a money order for five dollars payable to the Disbursing Clerk of the Department of State.—*To postmaster, Montgomery, Alabama.*

Vol. xiv,
p. 359,
May 16, 1896.

I inclose a blank passport, No. 11469, a blank application, and an old passport and the naturalization certificate of Mr. Isaac Lesem. Mr. Lesem will call at your office, will execute the proper application, and you will please fill out the passport and deliver it to him, returning the application to this Department. The passport should bear date as having been issued this day, and the fee has already been paid.—*To dispatch agent, New York.*

Under the law, passports can be issued in the United States only by the Secretary of State. In a foreign country they may be issued by the chief diplomatic representative of the United States; or, in the absence of a diplomatic representative, by the consul-general; or, in the absence of both, by a consul.

Rule 3, rules governing applications for passports, 1896.

JAPANESE, APPLICATIONS BY.

The rule governing the applications of Chinese for passports applies to persons of Mongolian race born in Japan.

Ante, p 95.

A native of Japan, of the Mongolian race, is not entitled to naturalization, not being included within the term "white persons" in Revised Statutes, section 2169.

62 Fed. Rep., 126.

MINOR'S APPLICATION.

A minor may receive a passport and may make application in his own behalf, if he has attained sufficient age to understand the nature of an oath. If he is too young to execute an affidavit and it is clearly necessary for him to have a passport, his parent or guardian may apply for him. The purpose of his leaving the country and that he will return must be satisfactorily shown.

I have to say that, in general, passports may be issued to minors who are of sufficient age to understand and execute the requisite affidavits. There are, however, several exceptions to the general rule, and each case can only be decided upon its merits when presented.

Vol. x, p. 297.
June 26 1888.

Vol. xii, p. 167,
Mar. 30, 1893.

I have to inform you that, owing to the extreme youth of the applicant, it will be necessary for her parent to make the application.

Vol. xiv,
p. 474.
May 23, 1896.

As his son is but thirteen years of age, he may be included in his father's passport, and if he remains in Germany may later obtain a passport on his own account by making application to the embassy of the United States at Berlin. The necessary statements may be made before the nearest consul. In view of his age it is not deemed advisable to issue him a separate passport.

NAME OF APPLICANT.

When the applicant's name does not correspond with the name as given in the naturalization certificate, which the Department follows, the circumstance must be explained. If the error is in the naturalization certificate, any alteration in it must be made by the court issuing it, and not by the Department. If the applicant has changed his name, an authenticated copy of the legal decree authorizing the change must be furnished; but in exceptional cases secondary evidence may be accepted.

Vol. iii, p. 250,
Aug. 20, 1872.

You state that the name in this passport is the same as that which appears in the certificate of naturalization, but that the applicant's name was incorrectly written by the clerk of the court. If a mistake was made in preparing the certificate, that document should be returned for correction to the court from which it was issued.

Vol. ii, p. 390,
Apr. 10, 1892.

I have to inform you that if Mr. Scholt is, as his affidavit declares, "the identical person described in the

certificate of naturalization presented," he should make his application in the name by which he is so described, and a passport will be issued to him in that name; or, if he wishes to change his name, he must present, with his application for a passport, legal evidence that the change is made according to the laws of the State in which he resides.

It is noticed that while your application is signed by you as William Kuechen, the naturalization certificate is in favor of John Henry W. Kuchen. It will be necessary that the discrepancy in the names be explained, and that your identity with the person described in the certificate be established before a passport can be issued to you.

Vol. xiv,
p. 44,
Apr. 18, 1896.

NATURALIZATION CERTIFICATE.

The effective proof of citizenship of a person of alien birth who applies for a passport is his certificate of naturalization; or, if he acquired citizenship through the naturalization of his parent, the latter's certificate of naturalization; or, if the applicant be a married woman, the naturalization certificate of her husband.

Effective
proof.

Information relative to the steps necessary to procure naturalization should be sought from a court having jurisdiction in the premises, and not from the Department, as naturalization is a judicial act over which the executive branch of the Government exercises no control.

A judicial act.

When the certificate of naturalization has been lost, the applicant's remedy is to apply to the court

Lost or de-
stroyed cer-
tificate.

which issued it for a duly certified copy. If the original certificate and the court record have been destroyed, application should be made to the proper court for a restoration of the record. Sometimes this is not possible, and the Department may then accept secondary evidence of citizenship; but this is rarely done, and the nature of the secondary evidence which may be required is governed by the circumstances surrounding the case.

False naturalization.

The Department declines to recognize the validity of a certificate of naturalization when it appears that it was obtained by mistakes or by fraud, and when a passport is obtained through such a certificate and subsequently that fact becomes known, the return of the passport is demanded. Similarly, an imperfect, defective, or mutilated naturalization certificate may be rejected. But this Government denies the right of a foreign government to impeach a certificate of naturalization issued by an American court.

General Land Office.

In case the naturalization certificate was filed by the applicant in the General Land Office, the Department contents itself with obtaining the information shown by the certificate from that office.

For the illegal use of a naturalization certificate heavy penalties are provided by the statutes.

Certificates of election, etc.

A certificate of election, service as a consular officer of the United States, a town clerk's certificate of citizenship, that of the secretary of state of a State, registration as a voter, proof of having

voted, and similar evidence are none of them acceptable as proof of citizenship in lieu of a naturalization certificate.

Your note of the 17th instant inclosing a check for twenty-five dollars to be added to the conscience fund, "to ease my mind in regard to my manner of getting naturalized a few months before the legal term of probation," has been received. In reply, I have to request that you return to this Department the passport No. 28300, dated October 10, 1866, obtained on the naturalization papers referred to above.

Fraudulent naturalization.

Vol. i, p. 22,
Dec. 24, 1866.

I have to inform you that under an existing rule of this Department it is absolutely necessary that you should transmit here for inspection the certificate of naturalization issued to your father. I have also to state, the fact of your father having represented this Government at Ancona, Italy, in the capacity of consul does not verify the fact of his being a citizen of the United States.

Service as consul.

Vol. i, p. 249,
Nov. 24, 1869.

I have the honor to return herewith Mr. E. T. Bullock's note and the paper purporting to be a certificate of naturalization of John Muscovally. The certificate does not state that Mr. Muscovally was admitted a citizen of the United States. It simply states what "was done in order that the said John Muscovally might become a naturalized citizen of the United States." A passport can not be given him on the evidence furnished.

Incomplete certificate.

Vol. i, p. 259,
Jan. 6, 1870.

With reference to Mr. Joseph Birch's application for a passport, I will thank you to inform the Department, if such information is conveniently accessible, whether his certificate of naturalization is on file in your office, and, if so, what is its date and the name of the court from which it issued. The applicant thinks it was filed as

General Land Office.

Vol. iv, p. 12,
Mar. 19, 1873.

evidence for the location of land secured by college script of Tennessee, the entry upon which was made in 1871.—*To the Commissioner of the General Land Office.*

Secretary of
one of the
States.

Vol. iv, p. 61,
Apr. 18, 1873.

I have to inform you that the certificate of the secretary of state of Texas does not suffice in place of the naturalization paper.

Certificate of
election.

Vol. iv, p. 203,
Aug. 5, 1873.

The certificate of election and that of the county clerk with reference to the husband's citizenship do not suffice in place of the naturalization papers. If you will state the time at which the paper was filed in the General Land Office, the Department will make inquiry respecting it, and thus perhaps be able to settle the question of citizenship in accordance with existing regulations.

Destroyed
certificate.

Vol. ii, p. 274,
Mar. 1, 1872.

I have to inform you that his certificate of naturalization is required to complete the application. If this paper has been destroyed by fire, it is presumed that Mr. Heimann may procure a duplicate or certified copy thereof on application to the court from which it originated.

Vol. ii, p. 369,
Apr. 2, 1872.

You are right in supposing that similar instances have been brought to the attention of the Department of the destruction of the original naturalization papers by fire, and at Chicago the destruction of the records of the court, making it impossible to obtain new certificates of the records of naturalization.

The Department can not undertake to lay down in express terms any simple rule to govern matters of this kind. In the cases in which passports have been granted, the Department has acted upon satisfactory evidence of the fact of the naturalization of the applicant at a date stated in his application. Sometimes testimony is produced from the parties who were witnesses of the naturali-

zation. In other cases citizens known to the Department have furnished affidavits of the facts. It is sometimes not difficult for applicants to furnish evidence that they have voted at certain elections in which only duly naturalized citizens could lawfully take part. It is believed that any citizen, honestly and truly naturalized, who has fulfilled in good faith all the duties of citizenship for a period of years, will not be unable to furnish evidence satisfactory to the Department of the fact of his naturalization and citizenship. Whatever evidence to this effect you may be able to offer will be carefully examined.

The criminal court of Cook County, Illinois, has within the present month taken action in cases of this character, whereby, upon the applicant's petition and affidavit, supported by adequate testimony, he has procured an order of the court recognizing his citizenship and been furnished with the documentary evidence required to support his application for a passport.

Restored
court record.
Vol. v, p. 371,
Apr. 26, 1875.

I have to say that when no certificate or record of the naturalization is extant the remedy consists in applying to a court of record for an order and certificate recognizing the citizenship upon such proof as the party is able to furnish. This is the proper way to make competent proof available and meet the requirements of existing regulations in regard to passports.

Vol. viii,
p. 280,
Mar. 27, 1883.

Your claim to citizenship rests entirely upon the alleged citizenship of your father. The main evidence in regard to his citizenship is simply the statement in his affidavit, dated October 20, 1869, that he was at the time a citizen of the United States and had been such since the year 1844. If, as appears from your statements, you were under the age of eighteen years when you came to reside

Father's
natural-
ization.
Vol. x, p. 185,
Dec. 17, 1887.

in the United States, you can, under provision of section 2167 of the Revised Statutes, obtain naturalization in your own name immediately upon making the requisite declaration and proofs before the proper court, and thus be able to perfect your application for a passport without regard to your father's nationality.

Voting.

The fact that you have voted at regular elections in the United States can not be accepted as conclusive proof of citizenship. The Department is in frequent receipt of positive evidence that parties have voted for years who were not citizens, although they may have honestly believed themselves to be such. With regard to the passport issued to you by the legation of the United States at Mexico in December, 1874, it would appear, from your present statements, that you could not at that time have furnished better proofs than those which the Department now deems entirely insufficient.

Certificate
ubiquitous.
For. Rel.,
1888, p. 511.

It is a well-settled principle that judgments duly entered in a competent court having jurisdiction, duly certified to be such by the executive, are ubiquitous in their effect; and eminently is this the case with judgments of naturalization, which are bound up so intimately with national honor and polity. Hence it is that it has been uniformly held by the Department that while, on the application of a foreign government, it will cause inquiries to be made as to whether a judgment of naturalization was improvidently granted, and while it will never permit itself to grant protection based upon a naturalization decree which is shown to it to be fraudulent, it will not recognize a foreign government's right to impeach such decrees. When set up by it as the basis of its action towards a foreign state, it can not recognize the right of any foreign executive or court to determine as to their validity. That determination must be made, so far as

concerns foreign governments, exclusively by itself.—*Mr. Bayard to Mr. McLane, February 15, 1888.*

1. Is a passport to be refused to the wife or widow of a naturalized citizen who has not the naturalization papers of her husband? Loss of certificate. For. Rels., 1888, p. 542.

2. Is a passport to be refused to a naturalized citizen who has left his naturalization papers at home, or who has lost them? * * *

In all cases arising under the first and second questions as quoted above the legation should require the original certificate or a duly certified copy thereof to be produced as the best evidence of citizenship. If the applicant shall be unable to produce a certificate of naturalization or a certified copy thereof, then the naturalization certificate, like all other records, may be proved by parol, but, to admit parol proof of it, the following conditions must exist:

(a) The prior existence of the certificate must be shown. Secondary evidence.

(b) If burned or otherwise destroyed, such destruction of the certificate must be proved.

(c) If lost, diligent but ineffectual search for it must be shown.

(d) Parol proof of a lost or destroyed certificate should not be received if the original record of naturalization, of which a certified copy could be procured, is attainable. A party who can not produce his naturalization certificate can not supply it by parol proof, unless he also proves that the original record of the naturalization is unattainable and can not be reproduced by a certified copy.—*Mr. Bayard to Mr. Vignaud, June 13, 1888.*

Having been born in Ireland and not personally naturalized in the United States, you claim American citizenship through the naturalization of your father. The record, Destroyed record. Vol. x, p. 414, June 5, 1890.

however, of his naturalization is not produced, since it is said to have been destroyed by fire in Columbia, South Carolina. From the absence of that record, other information in regard to this naturalization is also lacking, such as the time at which it was done and the court in which it was effected.

I exceedingly regret that the Department, which would be glad to avoid any objection to complying with your application, finds itself unable to take any action on the matter as it now stands. Such has been the invariable view of the Department, to which no exception is known, as to its functions in cases presenting the same general features as your own.

Where citizenship of the United States is sought to be derived from naturalization, the original or a copy of the decree of naturalization duly authenticated under the seal of the court issuing it is the customary and competent evidence of naturalization. In cases of the loss or destruction of the record, it is requisite that proof of such loss or destruction should be made, and, if it can not be supplied, a new naturalization would seem to be the obvious and most effective means of meeting the necessities of the case.

The Department has uniformly held that the appropriate course for a person seeking to establish naturalization by other than the ordinary proofs is to resort to the judicial branch of the Government, which is exclusively charged with authority to naturalize aliens, and which is invested with the necessary powers for investigating and determining matters of fact which are essential to the acquisition of citizenship. It is upon the judgment of the court, duly promulgated and recorded in accordance with law, that the Department acts, and it has never been held to be authorized to act on any other basis.

It appears by your sworn statement that you arrived in this country from Bremen on or about the month of June, 1863, and that you had resided here four years uninterruptedly at the time of your naturalization on the 17th of June, 1867. Your certificate of naturalization, however, recites that you had resided within the limits and jurisdiction of the United States for a full term of six years and upwards previous to being admitted to citizenship. Before the Department acts upon your application for a passport, it would be glad to have you explain the foregoing discrepancy.

False naturalization.
Vol. x, p. 435.
Oct. 16, 1891.

You are informed that this Department can not accept the certificate of the town clerk of New Britain, Connecticut, that he was "admitted and sworn an elector of the State of Connecticut" as sufficient evidence of his citizenship, and it will be necessary for him to produce his certification of naturalization as required in the General Instructions.

Town clerk.
Vol. xi, p. 1,
May 26, 1894.

You state that you were born in Austria June 11, 1866, and were naturalized by the court of the eastern district at New Orleans, Louisiana, February 5, 1886. As you had not attained your majority, the certificate of naturalization submitted can not be accepted by this Department as satisfactory, and a passport can not be granted you.

False naturalization.
Vol. xii, p. 170,
Apr. 1, 1895.

Your former passport was inadvertently issued to you and can not be repeated.

I have to inform you that the clerk of the county court is the proper person to whom you should apply for the information relative to securing your final naturalization papers. It is not within the province of this Department to decide such questions, unless some special case arises in connection with the departmental business.

Where to apply.
Vol. xiii,
p. 127.
Mar. 10, 1896.

Registration. The paper accompanying the application appears to be simply his registration as a voter in the city of New Orleans and can not be accepted as adequate proof of his citizenship.

Vol. xiv,
p. 290.
May 12, 1896.

Penalties for
securing and
using false
naturaliza-
tion certi-
ficates.

R. S., sec.
5395.

In all cases where any oath or affidavit is made or taken under or by virtue of any law relating to the naturalization of aliens, or in any proceedings under such laws, any person taking or making such oath or affidavit who knowingly swears falsely, shall be punished by imprisonment not more than five years, nor less than one year, and by a fine of not more than one thousand dollars. (See sections 2165-2174.)

R. S., sec.
5424.

Every person applying to be admitted a citizen, or appearing as a witness for any such person, who knowingly personates any other person than himself, or falsely appears in the name of a deceased person, or in an assumed or fictitious name, or falsely makes, forges, or counterfeits any oath, notice, affidavit, certificate, order, record, signature, or other instrument, paper, or proceeding required or authorized by any law relating to or providing for the naturalization of aliens; or who utters, sells, disposes of, or uses as true or genuine, or for any unlawful purpose, any false, forged, ante-dated, or counterfeit oath, notice, certificate, order, record, signature, instrument, paper, or proceeding above specified; or sells or disposes of to any person other than the person for whom it was originally issued any certificate of citizenship, or certificate showing any person to be admitted a citizen, shall be punished by imprisonment at hard labor not less than one year, nor more than five years, or by a fine of not less than three hundred nor more than one thousand dollars, or by both such fine and imprisonment.

R. S., sec.
5425.

Every person who uses, or attempts to use, or aids, or assists, or participates in the use of any certificate of

citizenship, knowing the same to be forged, or counterfeit, or ante-dated, or knowing the same to have been procured by fraud or otherwise unlawfully obtained; or who, without lawful excuse, knowingly is possessed of any false, forged, ante-dated, or counterfeit certificate of citizenship, purporting to have been issued under the provisions of any law of the United States relating to naturalization, knowing such certificate to be false, forged, ante-dated, or counterfeit, with intent unlawfully to use the same; or obtains, accepts, or receives any certificate of citizenship known to such person to have been procured by fraud or by the use of any false name, or by means of any false statement made with intent to procure, or to aid in procuring, the issue of such certificate, or known to such person to be fraudulently altered or ante-dated; and every person who has been or may be admitted to be a citizen who, on oath or by affidavit, knowingly denies that he has been so admitted, with intent to evade or avoid any duty or liability imposed or required by law, shall be imprisoned at hard labor not less than one year nor more than five years, or be fined not less than three hundred dollars, nor more than one thousand dollars, or both such punishments may be imposed.

Every person who in any manner uses for the purpose of registering as a voter, or as evidence of a right to vote, or otherwise, unlawfully, any order, certificate of citizenship, or certificate, judgment, or exemplification, showing any person to be admitted to be a citizen, whether heretofore or hereafter issued or made, knowing that such order or certificate, judgment, or exemplification has been unlawfully issued or made; and every person who unlawfully uses, or attempts to use, any such order or certificate, issued to or in the name of any other person, or in a fictitious name, or the name of a deceased person, shall

R. S., sec.
5426.

be punished by imprisonment at hard labor not less than one year nor more than five years, or by a fine of not less than three hundred nor more than one thousand dollars, or by both such fine and imprisonment.

R. S., sec.
5427.

Every person who knowingly and intentionally aids or abets any person in the commission of any felony denounced in the three preceding sections, or attempts to do any act therein made felony, or counsels, advises, or procures, or attempts to procure, the commission thereof, shall be punished in the same manner and to the same extent as the principal party.

R. S., sec.
5428.

Every person who knowingly uses any certificate of naturalization heretofore granted by any court or hereafter granted, which has been or may be procured through fraud or by false evidence, or has been or may be issued by the clerk, or any other officer of the court without any appearance and hearing of the applicant in court and without lawful authority; and every person who falsely represents himself to be a citizen of the United States, without having been duly admitted to citizenship, for any fraudulent purpose whatever, shall be punishable by a fine of not more than one thousand dollars, or be imprisoned not more than two years, or both.

R. S., sec.
5429.

The provisions of the five preceding sections shall apply to all proceedings had or taken, or attempted to be had or taken, before any court in which any proceeding for naturalization may be commenced or attempted to be commenced. (See sections 2165-2174.)

OATH OF ALLEGIANCE.

Before a person is granted a passport, he is required to take an oath or affirmation of allegiance to the Constitution of the United States. The

form of oath is the same as that prescribed by section 1757 of the Revised Statutes of the United States, and no alteration or addition which tends to invalidate it is permitted. Minor children who are old enough to understand the nature of an oath and women are included in this requirement. Previous to 1861 it was not required, but since then it has been exacted in all cases. ✓

I have had the honor to receive your note of the 1st instant asking that the Right Reverend Doctor Laughlin, Bishop of Buffalo, may be exempted from taking the oath of allegiance to the United States before receiving a passport from this Department. In reply I regret to inform you that, although I have personally entire confidence in the loyalty of Doctor Laughlin and every inclination to comply with any reasonable request of yours, I do not deem myself at liberty to dispense with the oath referred to in any case during the present civil war. Vol. i, p. 302,
Feb. 3, 1864.

I have to say that the oath of allegiance is required of all applicants for passports. It is not, of course, understood as imposing the obligation to bear arms upon one of your sex, or to require anything beyond the proper sphere of womanhood. Vol. ii, p. 167,
Nov. 23, 1871.

The Department can not recognize an oath of allegiance to the Constitution of the United States which contains any reservation, and a passport can not be issued in your favor until you have filed the oath which is required in all cases. Vol. xii, p. 219,
Apr. 30, 1895.

Every applicant must take the oath of allegiance to the Government of the United States. Rule 4, rules governing applications for passports.

Modified
form.

Ante, p. 71.

Letter of
Oct. 7, 1897.

You are informed that this Government has no disposition to deny any loyal citizen traveling or sojourning abroad in lawful pursuit of his business or pleasure the protection of a passport; nor does it desire to place upon him any requirements of application for a passport repugnant to his conscience or the free exercise of his religious belief. But it is manifestly proper that before issuing a passport the Government should exact from the person who applies for it a promise that he will, on his part, support and defend the Government whose protection he solicits. The oath of allegiance is therefore required from all persons before they are granted passports, and to this regulation the Department adheres; nor will it accept an oath which contains any alteration or addition tending to invalidate it. The words used by Mr. * * * amount to a protest against the Constitution of the United States, and it is understood that such is the intention of their meaning. The Department can not accept this oath. * * *

It is not doubted, however, that Mr. * * * is a citizen of the United States, and the antecedents of the sect to which he belongs have tended to demonstrate the loyalty of its members to the Government of the United States. In order, therefore, that no hardship may be visited upon any loyal citizens because they follow the dictates of conscience, the Department is willing to reconsider so much of the letter of September 30 as refuses to accept any modification of the form of the oath as now prescribed, and Mr. * * * may submit another application, containing the oath of allegiance in the form now used, except that the word "Government" may be inserted for the word "Constitution," and the statement added, "That I acknowledge allegiance to no other government," so that the oath shall read: (See for form *ante*, p. 71.)

PASSPORTS, NECESSITY FOR.

As a general statement, the Department advises persons who purpose traveling abroad to procure passports, in order that they may be able to establish their nationality, should occasion require, as well as for the purpose of entering those countries which require travelers to produce passports at the frontier.

Your letter of the 18th instant requesting to be informed if any reliance can be placed upon recent articles in the New York papers advising all American citizens who desire to reside for any length of time in any of the German cities to provide themselves with passports, and also informing the public that passports are very desirable for Russia and Austria and indispensable for Cuba, has been received. In reply I have to inform you that the articles referred to can be relied upon. This Department would advise all citizens visiting foreign countries to provide themselves with passports, as they might be liable to serious inconvenience if unprovided with authentic proof of their national character.

Vol. 1, p. 151,
Dec. 22, 1868.

Citizens of the United States visiting foreign countries are liable to serious inconvenience if unprovided with authentic proof of their national character. The best safeguard is a passport from this Department certifying the bearer to be a citizen of the United States.

General instructions in regard to passports, June 1, 1888.

The Department has at various times in the past by public announcement advised American citizens about to proceed abroad to provide themselves with passports from this Government. Although the tendency of recent years has been towards freer and less hampered travel,

Mr. Olney to the President, Feb. 8, 1897.

some countries abolishing all passport requirements and some omitting their enforcement, there are still governments which exact passports before admitting foreigners to their dominions; and in most of the countries of continental Europe a foreigner after a brief sojourn is required to establish his identity and nationality before the local authorities, for which purpose the most effective document is a passpost. As many individual cases of inconvenience arising from a failure to procure passports have been brought to the Department's attention, * * * it must be said that it is still a wise precaution, if not a necessity, for all Americans to carry passports from their Government if they purpose traveling extensively or sojourning in foreign countries.

PROTECTION DOCUMENT.

A passport is the only document issued by this Government for the protection of Americans traveling in foreign countries.

Vol. i, p. 71,
Aug. 31, 1867.

I have to inform you that a passport as a citizen of the United States may be expected to secure for you in Great Britain or Ireland the same privileges and exemptions which, under similiar circumstances, would be enjoyed by a British subject with a Foreign Office passport in the United States.

Vol. x, p. 53.
Mar. 23, 1887.

The usual passport issued from this office is the only document provided by the Government for the protection of American citizens who are about to visit foreign countries.

Vol. x, p. 198,
May 25, 1894.

Replying to your letter of * * * received May 25, in which you state that you are a naturalized citizen of the

United States and desire to return on a visit to Germany and request that a passport be issued in your favor, with such instruction as will prevent your detention in Germany, you are informed that, upon your complying with the regulations and making application in due form, a passport will be issued; but the Department can not accompany it with any special instructions.

During your temporary residence abroad you will receive such protection as this Government accords to citizens of the United States.

PROTECTION OF PASSPORT.

Excepting the special or official passport, which need not enter into consideration, this Government issues the same form of passport to all citizens of the United States, whether they are native born or naturalized. All are accorded equal protection abroad, the law requiring that there be no discrimination. But if a citizen of alien birth returns to the country of his original allegiance and we have no treaty on the subject of naturalization with that country exempting him from such laws as may cover his case, he is liable to apprehension if he violated law before emigrating or by obtaining naturalization in this country. This Department lends its good offices, through its agents abroad, in preventing injustice to its citizens; but in civilized countries the local law is supreme, until it has been superseded by treaty provisions, and naturalized Americans can not expect to escape

from its operations when they voluntarily place themselves within its sphere.

Wharton's
Dig. Int.
Law, vol. ii,
p. 329.

Within our domestic jurisdiction we are bound to uphold and enforce the right of expatriation, and our assertion of that right follows, to every foreign country, the alien who has become a citizen of the United States by due process of law, and regards him as the equal of a native-born American citizen.—*Secretary of State to Mr. Cox, November 28, 1885*

France.
Vol. xiii,
p. 349.
Apr. 1, 1896.

The Department has received your letter of March 28, asking for a passport to protect you in returning to France, the country of your nativity, and stating that when you came to this country you were exempt from military service in France, because you were an ecclesiastical student, but that after having been ordained a priest in this country you were later called upon to serve in the French army, which call you did not obey.

In reply you are informed that the Department understands that under French law the naturalization abroad of a French citizen who has not complied with the military laws is deemed void, unless his naturalization was authorized by the French Government. The Department is not informed as to what classes of persons are exempt from military service in France.

This Government can give you no assurance of immunity from the operation of the laws of France in the event of your voluntarily placing yourself again within the jurisdiction of that country; but, should occasion arise, our diplomatic representative in France will, upon application, afford you such assistance as the circumstances of the case may justify.

Department
letter, April
23, 1896.

In the absence of any statutory authority and in view of the provisions of sections 1999 and 2000, Revised

Statutes, it would be impossible for this Department to make, in the issuance of passports, any distinction between native and naturalized citizens.

The absence of authority to make such distinction is, ^{Germany.} however, in some instances a disadvantage to the holder of a passport—as, for example, in Germany and other countries with which the United States have naturalization treaties containing a two years' residence clause—and it has been pointed out in recent correspondence that it would materially contribute to the immunity of the bearer of a passport from molestation and examination were it to indicate upon its face not merely that the person has been naturalized, but that he has resided in the United States the full term of five years, which is further prescribed by those treaties as a condition to exemption from claims growing out of the bearer's original allegiance. As it is, the passport is only positive evidence of the fact of citizenship; and, it being silent as to the conditions of lawful naturalization and five years' residence, the authorities of the several treaty countries may, and in fact do, call upon the bearer to further show that he comes under the treaty conditions by proving lawful naturalization and the stipulated period of residence. Here, again, he may encounter difficulty, for the certificates of naturalization, as issued by the different courts of this country, vary greatly as to form and statement, and often certify only that the party has fulfilled the statutory conditions precedent to naturalization, leaving the five years' residence to be independently proved in some other way. This is not always easy, and delay and hardship in procuring the necessary proof frequently ensue.

So far as I have been able to ascertain, the legislation and regulations of most countries in regard to passports make a distinction between the native and the naturalized Distinction abroad between native and naturalized citizens.

British practice.

citizen. The British rule in this regard may be cited. Under the act of 33 Victoria, chapter 14, being the British naturalization statute, it is prescribed that the naturalization of an alien shall be without force and effect should he return to the country of his original allegiance, unless by the laws thereof, or by treaty between that country and Great Britain, his change of status is recognized; and an indorsement in the language of the naturalization act is made upon all British passports issued to naturalized aliens as follows: "This passport is granted with the qualification that the bearer shall not, when within the limits of the foreign state of which he was a subject previously to obtaining his certificate of naturalization, be deemed a British subject, unless he has ceased to be a subject of that state in pursuance of the laws thereof or in pursuance of a treaty to that effect."

Among the other continental states, the rule very generally obtains of requiring an applicant for naturalization to produce evidence that he is permitted by his sovereign to change his allegiance; and, in the absence of evidence of such permission, naturalization is refused. This rule is so far conformed to by the European governments that it is there regarded as a declaratory application of an accepted principle of international law.

The legislation of the United States and of most of the countries of the Western Hemisphere does not, however, prescribe any such condition for admission to citizenship, nor make any distinction between the native and the naturalized citizen as respects passports or protection.

CITIZENSHIP AND NATURALIZATION.

Department circular.

Treaties regulating the rights of persons who have emigrated from the territory of one of the contracting parties and have been naturalized in that of the other party have been concluded between the United States and the follow-

ing powers: Austria-Hungary, Baden, Bavaria, Belgium, Denmark, Ecuador, Great Britain, Hesse-Darmstadt, the North German Union, Sweden and Norway, and Würtemberg.

The treaties with Austria-Hungary, Baden, Bavaria, Hesse-Darmstadt, the North German Union, and Würtemberg provide that citizens or subjects of these powers who have become naturalized citizens of the United States and have resided therein "uninterruptedly" for five years shall be held to be citizens of the United States, and shall be treated as such. The treaty with Sweden and Norway provides for similar treatment of subjects who have resided in the United States "for a continuous period of at least five years and during such residence have become naturalized citizens of the United States."

The treaties with Belgium, Denmark, Ecuador, and Great Britain recognize citizenship whenever acquired under our laws.

The exceptions to the requisition of five years' residence under our statutes are:

1. Soldiers who have been honorably discharged from the armies of the United States. Such persons, being of the age of twenty-one years and upward, may be naturalized without any previous declaration of intention to become citizens, and without being required to prove more than one year's residence in the United States previous to their application. (See section 21 of act of Congress of July 17, 1862; 12 Stats., 597.) An erroneous notion has to some extent prevailed that the mere facts of service and discharge are equivalent to naturalization, whereas they are only part of the evidence on which naturalization may be granted.

2. Seamen who have declared their intention to become citizens and who, subsequently to such declaration, have

served three years on board of a merchant vessel of the United States may be admitted to citizenship:

“And every seaman * * * shall, after his declaration of intention to become a citizen, * * * and after he shall have served such three years, be deemed a citizen of the United States for the purpose of manning and serving on board any merchant vessel of the United States * * *; but such seaman shall, for all purposes of protection as an American citizen, be deemed such after the filing of his declaration of intention.” * * * (Act of June 7, 1872; R. S., sec. 2174.)

3. The children of persons duly naturalized, being under twenty-one years of age at the time of their parents being so naturalized, are, if dwelling within the United States, considered as citizens. (Act of April 14, 1802; R. S., sec. 2172.)

4. Persons born out of the limits and jurisdiction of the United States whose fathers at the time of such birth were citizens of the United States; and

5. Women married to citizens of the United States. (Act of February 10, 1855; R. S., sec. 1994.)

It has been decided (7 Wallace, 496) that the state of marriage confers citizenship on the wife, whether the citizenship of the husband existed at the time of marriage or was subsequently acquired. It has also been provided (R. S., sec. 2168) that when any alien who has duly declared his intention to become a citizen dies before he is actually naturalized, the widow and the children of such alien shall be considered as citizens of the United States, and shall be entitled to all rights and privileges as such on taking the oaths prescribed by law.

In the explanatory protocols annexed to some of the treaties it is stated that the words “resided uninterruptedly” are to be understood, not of a continued bodily

presence, but in the sense of general residence; and therefore a transient absence, subordinated to such residence, by no means interrupts the period of "five years" contemplated by such treaties. It is presumed that this construction will be accepted by the other powers which have not in terms announced their assent thereto.

The treaties referred to generally contain a provision that "the declaration of an intention to become a citizen of one or the other country has not for either party the effect of naturalization." But, aside from the treaties, the issuing of passports to any other persons than citizens of the United States was, and still remains, prohibited by act of Congress.

The treaties in some cases provide that if a subject of the other contracting party, who has been naturalized in the United States, renews his residence in the country of his original allegiance, without the intent to return to the United States, he shall be held to have renounced his naturalization in the United States. It has also been repeatedly held by the Department of State that residence in a foreign land, entered on and continued in as a permanence, without the intention of returning being shown, precludes one who may be nominally a citizen of the United States from obtaining the interposition of the Government of the United States in his behalf in a claim against a foreign state. It has also been held that an avoidance in such cases of taxes or other obligations due the United States is a fact from which an abandonment of allegiance may be inferred. The intention not to return is assumed in some of the treaties to be established when the person naturalized in the one country resides in the other country more than two years, but this presumption may be rebutted.

The pertinent provisions of the treaties in regard to renunciation of naturalization are given in Appendix A.

Several of the treaties further provide that a naturalized citizen of the one party, on return to the territory of the other party, remains liable to trial and punishment for an action punishable by the laws of his original country and committed before his emigration, saving, always, the limitation established by the laws of his original country; some of them—for example, Baden, Bavaria, and Württemberg—add “or any other remission of liability to punishment.”

The ministers of justice and the interior of the North German Union have issued circular instructions to the effect that the punishable action committed by the unauthorized emigration of a subject shall not be made the ground for a penal prosecution upon the return of such person to his former country after an absence of not less than five years and his naturalization in the United States. A similar intention is declared in the explanatory protocol accompanying the treaty with Bavaria, and it may reasonably be expected that the other powers with whom we have treaties on this subject will construe them with the same liberality.

Inquiries are constantly received at the Department from naturalized citizens of the United States for advice as to whether they would be likely to encounter molestation should they return to their native country. Following a uniform and necessary rule, the Department declines to give opinions on the merits of hypothetical cases so presented, involving questions of foreign laws and policies the interpretation of which is not within its province.

Liability to prosecutions for military or other offenses committed prior to emigration is not, as a rule, affected by the naturalization of the offender. Such provisions as are found in the treaties on this subject are given in Appendix B. The various offenses and penalties therefor,

and the limitations upon prosecutions, being matters of foreign municipal law, are necessarily outside the advisory province of this Department.

In respect to those countries with which we have no naturalization treaties, it is necessary to speak with great reserve. It would not be possible to give an interpretation to foreign laws, even if their entire text were in our possession. The construction of those laws belongs to the judicial tribunals of the countries in which they are promulgated. It must be understood, therefore, that what follows is collected from authors of good repute and other unofficial sources, and is given only as such, but without affirming its authority. With this qualification, the following statements may be made:

France.—By the laws of France, a French citizen can not expatriate himself and change his allegiance without obtaining the consent of his Government. He may lose his national character, however, by doing several acts, among which is the unauthorized seeking or accepting of foreign citizenship. By such a transfer of allegiance he loses his claim to French citizenship and subjects himself to certain disabilities. Unlike any other foreign citizen, for instance, he can not take up his residence in France without the authorization of the French Government, and, if he attempts to do so, he may be expelled. No foreigner can serve in the French army. A Frenchman, therefore, who has been naturalized in the United States can not be held to perform military service in France. But this exemption can be secured only by administrative or judicial act. The son of every Frenchman is registered at the place of his birth, if born in France, or at the place of his family's residence, if born abroad, as liable to military service. This registration forms in each commune a recruiting list, and, when the time comes, each person on

the list is notified to present himself at a designated place. If he fails to report when called upon, he is charged with insubmission (*délit d'insoumission*), and his name and description are given to the police authorities, with the order to arrest him when found. If he has been naturalized abroad, he is still liable to arrest immediately on his return to France. If he pleads that he has renounced his original nationality, he is required to go before a civil tribunal and show by properly authenticated papers that his naturalization was in conformity with the law of the country in which it was effected. If the tribunal is satisfied on this point, it adjudges him to have lost "the quality of a Frenchman;" and the defendant then goes back to the council of war. Here his name is definitely erased from the military rolls. But he is nevertheless tried for the offense of insubmission committed before he could legally have thrown off his original allegiance. If three years have elapsed since the day he was fully naturalized, he is discharged. If such a period has not elapsed, he falls under the operation of the law punishing insubmission and is sentenced to a fine or to a few weeks' or months' imprisonment, perhaps to both, according to the circumstances of the case. Whether punished or not, he is turned over, after his release, to the civil authorities. If he is supposed to be a bona fide citizen, he is not interfered with; but, if suspected of having acquired his foreign citizenship to escape military service, he is at once ordered to leave France. (See dispatch of Mr. Vignaud to Mr. Frelinghuysen, No. 665, November 13, 1884.) In any event he may be subjected to the costs of the proceedings.

Spain and Greece treat nationality as lost by naturalization in a foreign country or by entering without license into its civil or military service. In the ultramarine prov-

inces of Spain no one considered as a foreigner by Spanish law is subject to military service. Foreigners are also exempt there from personal service in the municipal guards. But domiciled residents who have their own houses are subject to charges for furnishing lodging and transportation.

Italy still holds to the indissolubility of natural allegiance, unless the consent of the Sovereign be obtained to the renunciation. (For. Rel. U. S., 1878, pp. 458, 459, 469.) Hence naturalization abroad, without the King's permission, does not exempt from conscription for military service.

In Switzerland it has been held that naturalization in the United States, when preceded by an accepted renunciation of Swiss allegiance, dissolves such allegiance. (For. Rel. U. S., 1879, p. 973.)

A Russian subject can not emigrate or become naturalized in a foreign country without the permission of the Emperor. If he does so, he commits an offense for which he may be subjected to a fine or exile. The application of this penalty is his only guaranty against his being compelled to stand the chances of the lot for the annual supply of recruits. By a law of January 1, 1874, Russian subjects are forbidden to throw off their allegiance until they have performed their military service. This law applies to all subjects above the age of fifteen.

A subject of the Ottoman Empire can not divest himself of that character without the authority of the Imperial Government. If, without such authority, he accepts a foreign naturalization, it is regarded as of no effect, both in reference to himself and to his children. Every person who obtains naturalization abroad or enters a foreign military service without the permission of the Sultan may be declared to have forfeited his Ottoman character, and

in that case is altogether interdicted from returning to the Ottoman Empire.

Directions for procuring passports may be obtained by addressing the Department of State, Passport Division, Washington, D. C.

APPENDIX A.

Austria-Hungary.—Article IV. The emigrant from the one state who, according to article 1, is to be held as a citizen of the other state, shall not, on his return to his original country, be constrained to resume his former citizenship; yet if he shall of his own accord reacquire it and renounce the citizenship obtained by naturalization, such a renunciation is allowable, and no fixed period of residence shall be required for the recognition of his recovery of citizenship in his original country.

Baden.—Article IV. The emigrant from the one state who, according to the first article, is to be held as a citizen of the other state, shall not, on his return to his original country, be constrained to resume his former citizenship; yet if he shall of his own accord reacquire it and renounce the citizenship obtained by naturalization, such a renunciation is allowed, and no fixed period of residence shall be required for the recognition of his recovery of citizenship in his original country.

Bavaria.—Article IV. If a Bavarian, naturalized in America, renews his residence in Bavaria without the intent to return to America, he shall be held to have renounced his naturalization in the United States. Reciprocally, if an American, naturalized in Bavaria, renews his residence in the United States without the intent to return to Bavaria, he shall be held to have renounced his naturalization in Bavaria. The intent not to return may be held to exist when the person naturalized in the one country resides more than two years in the other country.

Protocol.—Relating to article four of the treaty.—1. It is agreed on both sides that the regulative powers granted to the two governments respectively by their laws for protection against resident aliens whose residence endangers peace and order in the land are not effected by the treaty. In particular the regulation contained in the second clause of the tenth article of the Bavarian military law of the 30th of January, 1868, according to which Bavarians emigrating from Bavaria before the fulfillment of their military duty can not be admitted to a permanent residence in the land till they shall have become thirty-two years old, is not affected by the treaty. But yet it is established and agreed that by the expression “permanent residence” used in the said article, the above-described emigrants are not forbidden to undertake a journey to Bavaria for a less period of time and for definite purposes, and the Royal Bavarian Government, moreover, cheerfully declares itself ready, in all cases in which the emigration has plainly taken place in good faith, to allow a mild rule in practice to be adopted.

2. It is hereby agreed that when a Bavarian naturalized in America, and reciprocally an American naturalized in Bavaria, takes up his abode once more in his original country without the intention of return to the country of his adoption, he does by no means thereby recover his former citizenship; on the contrary, in so far as it relates to Bavaria, it depends on His Majesty the King whether he will or will not in that event grant the Bavarian citizenship anew.

The article fourth shall accordingly have only this meaning, that the adopted country of the emigrant can not prevent him from acquiring once more his former citizenship; but not that the state to which the emigrant originally belonged is bound to restore him at once to

his original relation. On the contrary, the citizen naturalized abroad must first apply to be received back into his original country in the manner prescribed by its laws and regulations, and must acquire citizenship anew, exactly like any other alien. But yet it is left to his own free choice whether he will adopt that course or will preserve the citizenship of the country of his adoption. The two plenipotentiaries give each other mutually the assurance that their respective Governments in ratifying this treaty will also regard as approved and will maintain the agreements and explanations contained in the present protocol, without any further formal ratification of the same.

Belgium.—Article IV. Citizens of the United States naturalized in Belgium shall be considered by Belgium as citizens of the United States when they shall have recovered their character as citizens of the United States according to the laws of the United States. Reciprocally, Belgians naturalized in the United States shall be considered as Belgians by the United States when they shall have recovered their character as Belgians according to the laws of Belgium.

Denmark.—Article II. If any such citizen of the United States, as aforesaid naturalized within the Kingdom of Denmark as a Danish subject, should renew his residence in the United States, the United States Government may, on his application and on such conditions as that Government may see fit to impose, readmit him to the character and privileges of a citizen of the United States, and the Danish Government shall not in that case claim him as a Danish subject on account of his former naturalization. In like manner, if any such Danish subject, as aforesaid naturalized within the United States as a citizen thereof, should renew his residence within the Kingdom of Den-

mark, His Majesty's Government may, on his application, and on such conditions as that Government may think fit to impose, readmit him to the character and privileges of a Danish subject, and the United States Government shall not in that case claim him as a citizen of the United States on account of his former naturalization.

Article III. If, however, a citizen of the United States naturalized in Denmark shall renew his residence in the former country without the intent to return to that in which he was naturalized, he shall be held to have renounced his naturalization. In like manner, if a Dane naturalized in the United States shall renew his residence in Demark without the intent to return to the former country, he shall be held to have renounced his naturalization in the United States. The intent not to return may be held to exist when a person naturalized in the one country shall reside more than two years in the other country.

Ecuador.—Article II. If a naturalized citizen of either country shall renew his residence in that where he was born, without an intention of returning to that where he was naturalized, he shall be held to have reassumed the obligations of his original citizenship and to have renounced that which he had obtained by naturalization.

Article III. A residence of more than two years in the native country of a naturalized citizen shall be construed as an intention on his part to stay there without returning to that where he was naturalized. This presumption, however, may be rebutted by evidence to the contrary.

Great Britain.—Article II. Such citizens of the United States as aforesaid, who have become and are naturalized within the dominions of Her Britannic Majesty as British subjects, shall be at liberty to renounce their naturalization and to resume their nationality as citizens of the

United States, provided that such renunciation be publicly declared within two years after the exchange of the ratifications of the present convention. Such British subjects as aforesaid, who have become and are naturalized as citizens within the United States, shall be at liberty to renounce their naturalization and to resume their British nationality, provided that such renunciation be publicly declared within two years after the 12th day of May, 1870. The manner in which this renunciation may be made and publicly declared shall be agreed upon by the Governments of the respective countries.

Article III. If any such citizen of the United States, as aforesaid naturalized within the dominions of Her Britannic Majesty, should renew his residence in the United States, the United States Government may, on his own application and on such conditions as that Government may think fit to impose, readmit him to the character and privileges of a citizen of the United States, and Great Britain shall not in that case claim him as a British subject on account of his former naturalization. In the same manner, if any such British subject, as aforesaid naturalized in the United States, should renew his residence within the dominions of Her Britannic Majesty, Her Majesty's Government may, on his own application and on such conditions as that Government may think fit to impose, readmit him to the character and privileges of a British subject, and the United States shall not in that case claim him as a citizen of the United States on account of his former naturalization.

Hesse-Darmstadt.—Article IV. If a Hessian, naturalized in America, but originally a citizen of the parts of the Grand Duchy not included in the North German Confederation, renews his residence in those parts without the intent to return to America, he shall be held to have

renounced his naturalization in the United States. Reciprocally, if an American, naturalized in the Grand Duchy of Hesse (within the above-described parts), renews his residence in the United States without the intent to return to Hesse, he shall be held to have renounced his naturalization in the Grand Duchy. The intent not to return may be held to exist when the person naturalized in one country resides more than two years in the other country.

North German Union.—Article IV. If a German naturalized in America renews his residence in North Germany, without the intent to return to America, he shall be held to have renounced his naturalization in the United States. Reciprocally, if an American, naturalized in North Germany, renews his residence in the United States, without the intent to return to North Germany, he shall be held to have renounced his naturalization in North Germany. The intent not to return may be held to exist when the person naturalized in the one country resides more than two years in the other country.

Sweden and Norway.—Article III. If a citizen of the one party, who has become a recognized citizen of the other party, takes up his abode once more in his original country and applies to be restored to his former citizenship, the Government of the last-named country is authorized to receive him again as a citizen on such conditions as the said Government may think proper.

Protocol.—III. Relating to the third article of the convention. It is further agreed that if a Swede or Norwegian who has become a naturalized citizen of the United States renews his residence in Sweden or Norway without the intent to return to America, he shall be held by the Government of the United States to have renounced his American citizenship. The intent not to return to

America may be held to exist when the person so naturalized resides more than two years in Sweden or Norway.

Württemberg.—Article IV. If a Würtemberger naturalized in America renews his residence in Württemberg without the intent to return to America, he shall be held to have renounced his naturalization in the United States. Reciprocally, if an American naturalized in Württemberg renews his residence in the United States without the intent to return to Württemberg, he shall be held to have renounced his naturalization in Württemberg. The intent not to return may be held to exist when the person naturalized in the one country resides more than two years in the other country.

APPENDIX B.

Austria-Hungary.—Article II. A naturalized citizen of the one party, on return to the territory of the other party, remains liable to trial and punishment for an action punishable by the laws of his original country committed before his emigration, saving always the limitation established by the laws of his original country and any other remission of liability to punishment. In particular, a former citizen of the Austro-Hungarian Monarchy who, under the first article, is to be held as an American citizen is liable to trial and punishment according to the laws of Austro-Hungary for nonfulfillment of military duty—

1. If he has emigrated after having been drafted at the time of conscription, and thus having become enrolled as a recruit for service in the standing army.
2. If he has emigrated whilst he stood in service under the flag, or had a leave of absence only for a limited time.
3. If, having a leave of absence for an unlimited time,

or belonging to the reserve or to the militia, he has emigrated after having received a call into service, or after a public proclamation requiring his appearance, or after war has broken out.

On the other hand, a former citizen of the Austro-Hungarian Monarchy naturalized in the United States, who, by or after his emigration, has transgressed the legal provisions on military duty by any acts or omissions other than those above enumerated in the clauses numbered one, two, and three, can, on his return to his original country, neither be held subsequently to military service nor remain liable to trial and punishment for the nonfulfillment of his military duty.

Baden.—Article II. A naturalized citizen of the one party, on return to the territory of the other party, remains liable to trial and punishment for an action punishable by the laws of his original country and committed before his emigration, saving always the limitation established by the laws of his original country or any other remission of liability to punishment. In particular, a former Badener, who under the first article is to be held as an American citizen, is liable to trial and punishment according to the laws of Baden for nonfulfillment of military duty—

1. If he has emigrated after he, on occasion of the draft from those owing military duty, has been enrolled as a recruit for service in the standing army.

2. If he has emigrated whilst he stood in service under the flag or had a leave of absence only for a limited time.

3. If, having a leave of absence for an unlimited time or belonging in the reserve or to the militia, he has emigrated after having received a call into service, or after a public proclamation requiring his appearance, or after war has broken out.

On the other hand, a former Badener, naturalized in the United States, who, by or after his emigration, has transgressed or shall transgress the legal provisions on military duty by any acts or omissions other than those above enumerated in the clauses numbered one to three can, on his return to his original country, neither be held subsequently to military service nor remain liable to trial and punishment for the nonfulfillment of his military duty. Moreover, the attachment on the property of an emigrant for nonfulfillment of his military duty, except in the cases designated in the clauses numbered one to three, shall be removed so soon as he shall prove his naturalization in the United States according to the first article.

Bavaria.—Article II. A naturalized citizen of the one party, on return to the territory of the other party, remains liable to trial and punishment for an action punishable by the laws of his original country and committed before his emigration, saving always the limitation established by the laws of his original country or any other remission of liability to punishment.

Protocol.—Relating to the second article of the treaty.—1. It is expressly agreed that a person, who under the first article is to be held as an adopted citizen of the other state, on his return to his original country can not be made punishable for the act of emigration itself, not even though at a later day he should have lost his adopted citizenship.

Belgium.—Article II. Citizens of either contracting party, in case of their return to their original country, can be prosecuted there for crimes or misdemeanors committed before naturalization, saving to them such limitations as are established by the laws of their original country.

Article III. Naturalized citizens of either contracting party, who shall have resided five years in the country which has naturalized them, can not be held to the obligation of military service in their original country, or to incidental obligation resulting therefrom, in the event of their return to it, except in cases of desertion from organized and embodied military or naval service or those that may be assimilated thereto by the laws of that country.

Ecuador.—Article IV. Naturalized citizens of either country, on returning to that where they were born, shall be subject to trial and punishment according to the laws for offenses committed before their emigration, saving always the limitations established by law.

Hesse-Darmstadt.—Article II. A naturalized citizen of the one party, on return to the territory of the other party, remains liable to trial and punishment for an action punishable by the laws of his original country and committed before his emigration, saving always the limitation established by the laws of his original country.

North German Union.—Article II. A naturalized citizen of the one party, on return to the territory of the other party, remains liable to trial and punishment for an action punishable by the laws of his original country and committed before his emigration, saving always the limitation established by the laws of his original country.

Sweden and Norway.—Article II. A recognized citizen of the one party, on returning to the territory of the other, remains liable to trial and punishment for an action punishable by the laws of his original country and committed before his emigration, but not for the emigration itself, saving always the limitation established by the laws of his original country and any other remission of liability to punishment.

Protocol.—Relating to the second article of the convention. If a former Swede or Norwegian, who under the first article is to be held as an adopted citizen of the United States of America, has emigrated after he has attained the age when he becomes liable to military service and returns again to his original country, it is agreed that he remains liable to trial and punishment for an action punishable by the laws of his original country and committed before his emigration, but not for the act of emigration itself, unless thereby have been committed any punishable action against Sweden or Norway or against a Swedish or Norwegian citizen, such as non-fulfillment of military service or desertion from the military force or from a ship, saving always the limitation established by the laws of the original country and any other remission of liability to punishment; and that he can be held to fulfill, according to the laws, his military service or the remaining part thereof.

Württemberg.—Article II. A naturalized citizen of the one party, on return to the territory of the other party, remains liable to trial and punishment for an action punishable by the laws of his original country and committed before his emigration, saving always the limitation established by the laws of his original country or any other remission of liability to punishment.

Turkey.

Questions concerning our citizens in Turkey may be affected by the Porte's nonacquiescence in the right of expatriation and by the imposition of religious tests as a condition of residence, in which the Government can not concur. The United States must hold, in their intercourse with every power, that the status of their citizens is to be respected and equal civil privileges accorded to them without regard to creed and affected by no con-

sideration save those growing out of personal obligations which may survive, under municipal laws, after such voluntary return.—*President Cleveland, first annual message, 1885.*

On several previous occasions the attention of Congress has been directed to the questions arising with Austria-Hungary growing out of arrests of returning naturalized citizens on the ground of unfulfilled military service accruing before they acquired our nationality. The progress steadily made toward their settlement has been most satisfactory, and the published correspondence will show the disposal of a residual issue touching the treaty exemption of such citizens from liability for constructive offense in the act of emigration itself, while the understanding of the two Governments as to the class and scope of punishable acts committed by such persons prior to emigration has become more precise. In consequence, arrests on this score have become infrequent in Austria-Hungary, and release promptly follows the representations of our agents in all worthy cases.

Annual report of the Secretary of State, 1896. Austria-Hungary.

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The recurring claims of the Imperial German Government and of the several States of the Empire concerning the liability of naturalized Americans of German birth to unfulfilled military duty and to penalties for its evasion have been discussed during the past year in an accommodating spirit. In the majority of cases representation of the just rights of the parties under current treaties has been followed by prompt release, but not infrequently the sovereign right of expulsion is asserted on the ground that the individual's continued presence is at variance with the public good.

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Russia.

The published correspondence for a number of years back has shown the persistence of the United States in endeavoring to obtain for its citizens, whether native or naturalized and irrespective of their faith, the equality of privilege and treatment stipulated for all American citizens in Russia by existing treaties. Holding to the old doctrine of perpetual allegiance; refusing to lessen its authority by concluding any treaty recognizing the naturalization of a Russian subject without prior imperial consent; asserting the extreme right to punish a naturalized Russian on return to his native jurisdiction, not merely for unauthorized emigration, but also specifically for the unpermitted acquisition of a foreign citizenship; and sedulously applying, at home and through the official acts of its agents abroad, to all persons of the Jewish belief the stern restrictions enjoined by Russian law, the Government of Russia takes ground not admitting of acquiescence by the United States because at variance with the character of our institutions, the sentiments of our people, the provisions of our statutes, and the tendencies of modern international comity.

* * * * *

Switzerland.

The Helvetian Republic appears to stand, by a somewhat notable anomaly, with the minority of modern states in holding to the now generally abandoned doctrine of perpetual allegiance, and the more remarkably so as its contention seems to rest, not on the old theory of the sovereign's absolute mastership over the subject, but on the individual's relation to the local commune, in which he is held to acquire a species of perpetual denization by descendance, inheritance, or even purchase, that can not be dissolved except with the consent of the commune. This pretension has been pushed so far that even native Americans, born of naturalized parents, may,

it seems, be held to military duty should they visit Switzerland.

It has been held by the different German States that a ^{Germany.} residence of more than two years without intent to ^{Extracts from} return to America is sufficient to bring about this loss ^{report of Con-} of American citizenship. Obvious exceptions to this rule ^{sul Tingle, of} are the cases of American students at German universi- ^{Brunswick.} ties and business men required, temporarily, by the demands of their business to remain in Germany longer than the prescribed time. * * *

There are two instances when a German subject may unconditionally emigrate to the United States and be free from all fear of disturbance upon his return because of unfulfilled military duty. The first is when he has emigrated to the United States before reaching the age of seventeen and becomes a citizen there. * * * At the age of seventeen all German men become liable to military duty. At this age they are entered on the rolls as so liable and may not emigrate without a special permission from military authorities. * * * The youth of seventeen who has emigrated with permission is also not liable, unless, before he becomes a citizen, the German Government should publish a summons to all Germans abroad, and who are abroad with or without permission, to return to service under the colors. In this case, should he disregard the summons, he is liable to the German authorities upon his return to Germany. Should he have emigrated, however, with or without permission, and should he have acquired citizenship before such a summons is published, then upon his return to Germany he is not liable to any punishment. * * * The second instance is where the emigrant has not only completed the period of military service, but he has also

reached the age of thirty-one, over which age no German, having completed the service required of him, can be drawn into the service in time of peace. * * *

Often they have been notified that they will be drawn into service, and before that time arrives they emigrate. More often still, having served as one-year volunteers or two years as common soldiers, and having been transferred to the reserve or to the national guards, they emigrate without permission and acquire citizenship in the United States. * * * Having emigrated without permission, and not being in the reserves or national guard, and being in process of acquiring citizenship or having already acquired it, should a summons be published for all Germans to return to their native land, the German American who disregards it and becomes an American citizen can not be justly held accountable upon return to Germany on a visit; should he be a member of the reserves or national guard and disregard the summons while not yet a citizen, then he is guilty of desertion, though not so guilty by the simple fact of emigrating without permission when not serving, and on returning to Germany may be punished for desertion, even though he has become a citizen. A member of the reserves abroad, in good position, receiving command to return and serve can avoid obeying it by getting a certificate from the German consul that he has a good position and therefore can not be excused without suffering material damage. * * *

No German is liable for military duty except between the ages of seventeen and forty-five. * * *

In this connection, it should be remembered that this restriction of two years' residence refers only to residence in the particular state of which a German American was a native—*e. g.*, a Bavarian who has become an American

citizen may reside in Prussia as long as he likes without being considered to have given up his American citizenship, while were he from Prussia he could only return to Prussia under the two years' residence limitation. * * *

Above and beyond all other offenses in the eyes of German military law, saving, of course, treason, is desertion, treason itself being the gravest form of desertion. There is no treaty, no assumption of new citizenship, that can avail to protect a former German subject from its consequences should he come again into the power of the German authorities and be proceeded against because of this crime. * * * Says the military penal code, section 69: "Desertion (flight from the colors) is the unpermitted removal (of oneself), with the intention to escape for good one's legal or accepted obligation to (military) service." That there may be no doubt as to what unpermitted removal may mean, sections 64, 65, and 68 of the military penal code define it as follows: "Unpermitted removal is, besides voluntary removal of oneself from the troops or from his military post or overstaying of leave, also present when a person not in active military service, but who is yet unfreed from his military obligations, does not obey within three days after the time fixed, after a declaration of war or an ordered mobilization, a call to service or a published command to place himself at the disposal of the military authorities." * * * A German American should not return to Germany should he know himself guilty of—

(a) Leaving the colors without permission in time of war.

(b) Overstaying his leave and going to America without the offense being condoned or pardoned.

(c) Emigration to America without permission after he has received an order to present himself for service, whether in time of peace or war.

(d) Emigration to America, unless he is above or below the age for military duty (seventeen to forty-five), after declaration of war has been made, or a general mobilization is under way, or a public command has been published for all persons liable to service to present themselves, even should he receive no personal command.

Should the emigrant already find himself in America when the notice indicated in clauses *c* and *d* take place, and should he not yet have become a citizen, then he is just as liable, upon returning to Germany, for desertion as if the offense were committed while he was yet in Germany, though his emigration without his Government's consent, if not serving with the colors, can not be considered desertion. * * *

He is a native of Alsace-Lorraine, and, having committed any of the infractions of military law mentioned, whether one of the mildest or severest is for our purpose quite indifferent, emigrates to the United States and becomes a citizen. Returning to Germany he is arrested and charged with the offense. Perhaps it is one with which a friend of K's from another part of Germany has already been charged and from the punishment of which he has escaped by means of his American citizenship, and counts upon his citizenship protecting him in the same way. In this, however, he is sadly mistaken. The reason is simple. There is no treaty between the German Imperial Government and the United States covering military offenses in Alsace-Lorraine, that province having been obtained by Germany subsequent to the different treaties already quoted. The German Government has declared that in cases such as K's it will

proceed in accordance with the facts, the inference being that the guilty person will be treated as would a German in other German States who has gone abroad, thereby violating his military obligations, and has returned without acquiring citizenship.

Question. Does the change of allegiance without con- Russia.
sent entail loss of property as well as loss of civil rights and liability to banishment?

Answer. Articles 325 and 326 of the criminal code:

Article 325. Whoever, absenting himself from the Fatherland, enters into the service of a foreign power without the permission of the Government, or becomes the subject of a foreign power, is liable for this violation of his duty and oath of fidelity to the loss of all his civil rights and perpetual banishment from the Empire; or, if afterwards he returns voluntarily to Russia, to deportation to Siberia.

Article 326. Whoever, absenting himself from the Fatherland, does not return to it upon being invited to do so by the Government, is equally liable for this infraction to the loss of all civil rights and to perpetual banishment from the Empire, if within the term fixed at the option of the court he does not show that he has been impelled by circumstances independent of his will, or, at the least, extenuating circumstances. Up to that moment he is considered as absent, disappeared from his domicile, and his property is placed under guardianship, according to the regulations established to this effect by the civil laws.

The property of a person sentenced to the loss of civil rights is not confiscated, but passes to his legitimate heirs under the same laws which would be applied in the case of his natural death. The heirs can also claim possession

of all property which might come by inheritance to the culprit after his condemnation.

The wife of the person deprived of civil rights has the right to claim a divorce. Furthermore, the culprit loses his paternal authority over his children born prior to his condemnation.

Articles 24, 26, 27, and 28 of the penal code:

Article 24. The loss of civil rights does not affect the wife of the convict, nor his children born or conceived prior to his condemnation, nor their descendants.

Article 26. Deportation to Siberia entails the loss of all family and property rights.

Article 27. The loss of family rights consists in the termination of paternal authority over the children born prior to the condemnation, if the children of the convict have not followed him into deportation or if they left him afterwards.

Article 28. Following the loss of property rights, all property which belonged to the convict sentenced to enforced labor or to deportation passes, from the day of execution of the sentence, to his legal heirs in such manner as it would pass in the case of the natural death of the convict.

The proceedings and sentence for infraction provided for in article 325 of the penal code follow the ordinary course of criminal procedure.

The examining judge proceeds in an investigation upon the official evidence of the police and local authorities or upon the requisition of the procureur. Persons charged with illegal absence from the Fatherland are transferred before a court of justice after arrest at the frontier or on the territory of the Empire.

They may, however, be prosecuted by default if they do not answer to the summons of the court, after legal

citation to appear has been inserted in the newspapers or addressed to the delinquent through our diplomatic and consular agencies.

Question. If the property be confiscated, is it so only during the life of the offender or does it remain forever alienated from his heirs?

Answer. See the reply given above.

Question. What, if any, are the penalties provided for those who emigrate in childhood or during their minority and subsequently become citizens or subjects of a foreign country without imperial consent? And what is the period of minority?

Answer. They entail all the consequences mentioned in the first reply, if they do not take the steps necessary when they attain their majority, which is fixed at twenty-one years of age.

Article 221, Vol. X, first part of civil code:

Article 221. The rights to fully dispose of one's property, to contract obligations, are not acquired before coming of age—that is to say, before twenty-one years of age.

Question. Is military service claimed if it matures while a subject is abroad and after he has sworn allegiance to another country? And what are the penalties for failure to return and perform such service?

Answer. By virtue of article 3 of the regulations of military service, persons above fifteen years of age can not ask supreme permission to avoid the duties incumbent upon Russian subjects before having acquitted their military obligations. Persons who have attained the age of twenty years and over, who sojourn abroad, are notified to respond to the military service. In case they fail to respond to this call, they entail the penalties indicated in the above-mentioned article 326 of the penal code.

Question 5. What is the status in the foregoing respects of the children and further descendants born in the country to which the father may have sworn allegiance or in which he may have acquired citizenship, as herein contemplated?

Question 6. Can any of these descendants inherit property or in any way acquire title to property in the Empire?

Answer to questions 5 and 6. The children of a Russian subject born in legitimate marriage, even in the case their father may have lost his civil rights, are considered as Russian subjects and have a right to hold property in the Empire, whether by succession or by any other legal means of acquisition.—*Count Lamsdoff to Mr. Breckinridge*,
February 20,
March 4, 1897.

R. S., sec.
2000.

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., sec.
2001.

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.

RESIDENCE ABROAD.

(See also *Expatriation*.)

In order to obtain a passport, the applicant must state that he intends to return to this country and how long he purposes to remain abroad. If his absence is to be permanent, he forfeits his right to receive a passport. Permanent absence.

How long he may remain abroad without losing the right to receive a passport depends upon his intention of returning, which is to be determined by the circumstances of his business and social relations. Duration of absence.

But the obligation of returning is not held to apply to American citizens and their descendants living in American communities in countries where extraterritorial jurisdiction exists, or to those who are engaged as missionaries in barbaric or uncivilized countries. Barbarous and uncivilized countries.

According to your statement, Mr. László, a Hungarian by birth, who emigrated to this country at the time of the political disturbances in Hungary thirty-seven years ago and was duly naturalized, returned, after residing here sixteen years, to Hungary, where "he has remained uninterruptedly for twenty years, having what is apparently permanent employment." For. Rels., 1887, p. 23.

You state also that his children were born in Hungary, and from this I infer that his family relations were there established. On the face of these circumstances the presumption is he is now domiciled in Hungary. It is true that this presumption may be rebutted by proof on his part that his residence was without *animus manendi*; but,

until such proof is received, the presumption continues in force. Hence, under the established rule of this Department, he can not, as a person domiciled in Hungary, obtain from the Department or its representatives a passport averring him to be entitled to the immunities of a citizen of the United States.—*Mr. Bayard to Mr. Lee, July 12, 1887.*

In Turkey.

For. Rels.,
1887, p. 1125.

1. Persons who are members in Turkey of a community of citizens of the United States of the character above described do not lose their domicile of origin, no matter how long they remain in Turkey, provided that they remain as citizens of the United States, availing themselves of the extraterritorial rights given by Turkey to such communities, and not merging themselves in any way in Turkish domicile or nationality.

2. The American domicile they thus retain they impart to their descendants, so long as such descendants form part of such distinctive American communities, subject to the above proviso.

3. Section 1993 of the Revised Statutes, providing that "the rights of citizenship shall not descend to children whose fathers never resided in the United States," does not apply to the descendants of citizens of the United States members of such communities. Such descendants are to be regarded, through their inherited extraterritorial rights recognized by Turkey herself, as born and continuing in the jurisdiction of the United States.—*Mr. Porter to Mr. Emmet, August 9, 1887.*

For. Rels.,
1888, p. 20.

As appears by his certificate of naturalization, Mr. Löwinsohn was naturalized in the court of common pleas of New York City on the 5th of February, 1872. He was born in Pressburg, Hungary, on the 5th of February, 1851, and therefore had just reached the age of twenty-

one year on the day of his naturalization. He came to the United States in November, 1866, and had consequently, at the time of his naturalization, lived in the United States just long enough for that purpose. He left the country of adoption in February (he does not give the day), 1872, a few days only after his naturalization, returned to the land of his nativity, and in March, the month after his departure from the United States, settled himself in Vienna, where he has since continued to reside, has married and had children born to him, and is engaged in a lucrative business. He has never visited the United States since he left in 1872, and now evidently has no definite intention of ever returning and performing the duties and assuming the liabilities of American citizenship.

Your action (in refusing him a passport) is approved.—
Mr. Bayard to Mr. Lawton, December 5, 1887.

Frank R. Blackiston applied to the legation in Paris for a passport. He was born in this country, went abroad at the age of twenty and resided there, returning for a few months at a time on nine different occasions. He owns property and pays taxes in North Adams, Massachusetts, but in making application declares "that at present I have no plan, intention, or desire to return to the United States to perform the duties of citizenship therein."

The laws of the United States enjoin upon its authorities the recognition of the right of its citizens freely to renounce their allegiance, and this injunction the Executive is not at liberty to disregard. At the same time it is forbidden to issue passports to any but citizens of the United States, which has always been held to mean not persons who may be able merely to produce evidence that at a certain time they were citizens of the United States,

For. Rels.,
1889, pp. 168,
169.

but those who at the time they apply for the protection of the Government are its loyal citizens, bearing, in the language of the oath they are required to take, "true faith and allegiance to the same;" when, therefore, a person declares that he has "no plan, intention, or desire" to perform the duties of citizenship, he by his own act excludes himself from the class of persons who, in bearing "true faith and allegiance," are entitled to the protection of the Government whose allegiance he renounces.—*Mr. Blaine to Mr. Reid, December 2, 1889.*

For. Rels.,
1890, p. 11.

I have to say that there is no fixed term of foreign residence by which the loss of American domicile is decided. The domicile of a person depends upon his intention, which is to be determined upon all the facts in the case. In the determination of this question no distinction is made between native and naturalized citizens, but the comparative periods of residence in this and in foreign countries are to be considered in arriving at the real intention of the individual. * * *

I have to say that where, in his application for a passport, a person makes oath that he intends to return to the United States within a certain time, and afterwards, when he applies for a renewal of his passport, it appears that he has not fulfilled that intention, this circumstance raises a doubt as to his real purposes and motives, which he may be called upon to dispel. * * *

An American, whether by birth or by naturalization, residing abroad, in representation of an American business, and keeping up an interested association with this country, is in a different case from an alien who returns, immediately after naturalization, to his native place, there to engage in a local calling and, it may be, marrying there and exhibiting every evidence of an intention to make his home among his kindred. In the latter instance

it would require strong proof to countervail the prima facie presumption that his naturalization was obtained solely to enable him to dwell thereafter in his native land without subjection to the duties and burdens of native citizenship.—*Mr. Blaine to Mr. Grant, March 25, 1890.*

I have received your No. 418, of the 8th ultimo, respecting an application for a passport made by Ludwig Henckel, who states that he was born in St. Louis, Missouri, January 10, 1874. He was taken in 1875 to Venezuela by his father, who claims to have previously declared his intention to become a citizen of the United States, and who, on January 13, 1882, was appointed consular agent of the United States at San Cristobal, Venezuela. After thirty years' absence, the father returned to Hanover, his native city, taking the son with him. The latter, it appears, is now serving an apprenticeship at Hamburg, and at its expiration, three years hence, "declares it to be his intention to return to America to reside." For. Rels., 1892, pp. 189, 190.

Notwithstanding the allegiance of the father, the son is by birth a citizen of the United States. His absence from the country during minority and while under the control of his father should not be counted too strongly against him, especially in view of the fact that he declares his intention of returning to this country to reside after the completion of his apprenticeship. If he will take the necessary oath to that effect, he would seem to come substantially within the rule, and a passport may be issued to him.—*Mr. Blaine to Mr. Phelps, May 3, 1892.*

Mr. Iby, son of a Roumanian subject, is stated to have come to the United States at the age of fifteen and to have been duly naturalized in December, 1888, when twenty-five years old. Quitting the United States in For. Rels., 1893, p. 320.

January, 1889, he has since been domiciled in London with apparent permanence. On the occasion of applying for a passport, January 10, 1891, Mr. Iby declared his intention to return to the United States "within two years." That time having elapsed, he now declares his intention to return "within a year." His employment is that of a traveling agent for a British manufacturing firm, in whose service he was for a time in their New York branch office. He has no relations, property, or business interests in the United States, and the personal interrogatories made by you suggest doubt as to the bona fides of his declared intention to take up his residence in the United States "within a year."

* * * The Department is always well disposed toward those of our citizens who sojourn abroad in representation of American commercial interests, but Mr. Iby's employment is not American, and even if he were to be put in charge of the New York branch of the present English house, as is suggested, his agency would still be foreign. * * *

It is the long-standing rule of the Department that an applicant's declared purpose to return to the United States should be made satisfactorily apparent, and not be conspicuously negated by the attendant facts of his sojourn abroad * * *.

Nevertheless, if he should satisfy you of good grounds for his purpose to return within a year, a passport may be issued, with the distinct intimation that should not his intentions be more practically executed at the end of that term than they have proved to be on the expiration of his previously announced term of two years, further renewal can not be granted by your legation. The best proof in such case is its execution.—*Mr. Wharton to Mr. Lincoln, March 2, 1893.*

Between the legal status of citizenship and the right to continued protection during indefinitely prolonged sojourn abroad, the executive authority of the United States draws a clear distinction in exercising its statutory discretion to issue passports as evidence of the right to protection. The relation of the citizen to the state being reciprocal, embracing the duties of the individual, no less than his rights, the essential thing to be determined is the good faith with which the obligations of citizenship are fulfilled.

The best evidence of the intention of the party to discharge the duties of a good citizen is to make the United States his home; the next best is to shape his plans so as to indicate a tolerable certainty of his returning to the United States within a reasonable time. If the declared intent to return be conspicuously negated by the circumstances of sojourn abroad, a passport may be withheld.—*Mr. Adee to Mr. Coombs, April 28, 1893.*

Your embassy appears, according to Mr. Hess's statement, to have acted in accordance with our long-established rule that the applicant for a passport must produce evidence to show his intention to return and to reside in the United States.

The Department has, however, admitted occasional exceptions to this rule where sound public policy seemed to warrant them. Our legations have been authorized to issue passports to missionaries in foreign lands whose residence there was continuous and practically permanent, and who could not allege any definite intention of returning to, and residing in, the United States. An exception has also been made in the case of agents of American business houses who are engaged in foreign lands in promoting trade with the United States. (See

Wharton's International Law Digest, vol. ii, pp. 369, 370.)—*Mr. Gresham to Mr. Runyon, November 1, 1894.*

Vol. xii,
p. 169,
Mar. 30, 1895.

It appears from your statement that your permanent residence is at Havana, where you follow the occupation of merchant. You do not state when you intend to return to the United States.

The Department must decline to issue a passport upon the above showing.

Vol. xii,
p. 373-
Aug. 17, 1895.

Referring to your letter accompanying your application for passport, in which you state that you have no permanent residence in this country, having resided for years in Germany, where you now intend to reside indefinitely, I have to inform you that when persons expressly declare that they have no intention to return to their native country to resume their residence and perform the duties of citizenship, they have practically abandoned their allegiance, and with it the right to claim protection from the government from which they have so alienated themselves and withheld their support.

The Department therefore declines to issue you a passport.

SEAL OF OFFICER BEFORE WHOM AFFIDAVIT IS EXECUTED.

The Department requires that the seal of the officer before whom an application for passport has been executed be affixed, or, if this is not done, that a certificate of his character and the verity of his signature be furnished from the proper legal officer.

Vol. iii, p. 102,
June 12, 1872.

I have to inform you that the Department does not accept the signature of a notary public unless accom-

panied by an impression of his seal of office or a certificate of a competent court in authentication of his official acts.

Although the laws of the several States differ in their definition of a seal, it is the usage of this Department to require an impression upon something attached to the paper or an impression stamped in the surface of the paper itself from a die-cut seal, because a seal of this kind satisfies the usual description of an official seal, and paper thus verified may be used in any court if necessary. It is believed that most, if not all, the Executive Departments in Washington, including the Pension and Patent Offices, follow the same rule.

The Department interprets this (requirement that the officer administering the oath to the applicant affix his seal of office) to require an authentication of each official act, and that a general certificate of the official character of the officer would not be sufficient.

Memorandum of Solicitor, Aug. 16, 1891.

In this country the affidavit must be attested by an officer duly authorized to administer oaths. If he has no seal, his official character must be authenticated by certificate of the proper legal officer.

Rule 4, rules governing applications for passports.

SPECIAL PASSPORTS.

By a practice sanctioned by long and uninterrupted use, special passports, designating the occupation or the official rank of the recipient, are granted to persons of high official rank or those who are going abroad upon Government business,

Ante, p. 6 et seq.

and, by a later practice, occasionally to persons of distinction in private life. The practice in regard to them has varied in strictness, but the tendency has been of late years to limit them to a very few individuals. They are issued without sworn application.

Another form of so-called passport is that given occasionally to the representative of a foreign power who is leaving the United States. It is addressed to officers of the United States and of the States, and differs slightly from the usual special passport. The rank and nationality of the person to whom it is given are invariably inserted, and it is not a citizen's passport.

Vol. iii,
p. 118,
June 18, 1872.

With reference to your inquiry concerning special passports, I have to inform you that the Department does not issue such, except to certain officers of the Government or to persons who have formerly held high and important trusts in the public service.

Vol. iv,
p. 172½,
June 23, 1873.

I beg leave to say that it has been found necessary, in consequence of the very frequent requests for official or special passports, to adopt the rule of granting such passports only to persons of high official positions of the Government, or to those who may be going abroad on special business of the Government and under special instructions from some of the Departments.

Vol. v, p. 90,
Aug. 19, 1874.

It is the rule of the Department to issue special passports only to prominent officials about to visit foreign countries on public business. In the military service of the Government they are given to officers not below the

rank of major in the Army and the relative rank in the Navy.

I have to say that special passports to officers of the Army are issued upon requisitions from the War Department. Vol. x, p. 79, Apr. 14, 1887. Ante, p. 357.

STATE AUTHORITIES, PASSPORTS ISSUED BY.

The Secretary of State is the only person in the United States who is authorized by law to issue passports, and all passports or instruments in the nature of passports issued by State or municipal authorities are illegal. Ante, p. 36 et seq. V L

I have the honor to acknowledge the receipt of your letter of the 15th instant transmitting copies of the law under which the secretary of the Commonwealth of Massachusetts has issued passports, and also a printed blank showing the form of the instrument thus issued. The title of one of these laws is "An act authorizing passports;" that of the other is "An act concerning the issue of passports and certificates of citizenship." The instrument issued in virtue of these laws appears to be substantially the same as those issued by this Department, with the exception that it runs in the name of the Commonwealth, instead of the United States, and certifies the bearer to be a citizen of the Commonwealth, instead of the general declaration that he is a citizen of the United States. Vol. i, p. 172.

I have the honor to refer Your Excellency to section 23 of the act of Congress of August 18, 1856 (11 Stat., 60), prohibiting the issuing of passports by any other person (within the United States) than the Secretary of State,

and also to section 106 (13 Stat., 276) of the act of June 30, 1864, to provide internal revenues, etc. It seems to me within the legitimate powers of Congress to make the issuing of passports a source of revenue, and for the protection of that revenue to forbid the issuing, under any other authority, of documents serving the purpose of passports.—*To Governor of Massachusetts, February 25, 1869.*

Vol. v, p. 365,
Apr. 23, 1875.

Referring to the Department's letter to you of the 2d instant, you will observe that Mr. Spitzer's application was suspended for the reason that no certificate of naturalization accompanied it; also, that the paper transmitted as a substitute for such certificate was described as a passport, issued December 19, 1865, by the governor of Louisiana. This paper purports to bear the signature of J. Madison Wells as governor, to be countersigned by J. H. Hardy as secretary of the State, and to be attested by the great seal of the State of Louisiana. It describes Mr. Gottlieb Spitzer as a citizen of the United States, desiring to go to Havana, Cuba, and requests all authorities to let him "pass free and unmolested where he may go, and to give him such aid and protection as he may need." By act of Congress of August 18, 1856, reproduced in the Revised Statutes, sections 4075, 4076, 4078, etc., the Secretary of State is designated as the only officer having authority to issue passports, and prohibits, under serious penalties, any other person from granting, issuing, or verifying any passport or other instrument of the nature of a passport, and further provides that no passport shall be granted to any person other than a citizen of the United States.

As this document seems to be within the prohibition of the statute, the Department deems it expedient to retain it.

Referring to the blank form of passport and letter of His Honor Mayor Post, of Tampa, Florida, submitted by you yesterday, I have to say that the Secretary of State of the United States is the only officer in this country who can lawfully issue American passports. I refer you to a provision upon the subject in the inclosed "general instructions."

Vol. ix, p. 256,
Feb. 17, 1886.

The Secretary of State may grant and issue passports, and cause passports to be granted, issued, and verified in foreign countries by such diplomatic or consular officers of the United States, and under such rules as the President shall designate and prescribe for and on behalf of the United States; and no other person shall grant, issue, or verify any such passport.

R. S., sec.
4075.

If any person acting, or claiming to act, in any office or capacity, under the United States, or any of the States of the United States, who shall not be lawfully authorized so to do, shall grant, issue, or verify any passport or other instrument in the nature of a passport, to or for any citizen of the United States, or to or for any person claiming to be or designated as such in such passport or verification, or if any consular officer who shall be authorized to grant, issue, or verify passports shall knowingly and willfully grant, issue, or verify any such passport to or for any person not a citizen of the United States, he shall be imprisoned for not more than one year, or fined not more than five hundred dollars, or both; and may be charged, proceeded against, tried, convicted, and dealt with therefor in the district where he may be arrested or in custody.

R. S., sec.
4075.

TITLES AND OCCUPATIONS IN PASSPORTS.

By a rule of long standing, the official title of a person to whom a passport is granted is never inserted.

Vol. iv,
P. 374,
Mar. 9, 1874.

I have to acknowledge the receipt of your application of the 7th instant for a passport, in which you request that your title as adjutant-general of Rhode Island may be specified in the passport.

It is not the custom of the Department to insert in passports official designations of the character indicated in your letter.

Vol. xiii,
P. 284,
Mar. 26, 1896.

In reply to your letter of March 24, asking whether you can procure for Mr. William T. Stewart a passport or other paper designating him as the correspondent of your newspaper, he being about to proceed to Cuba, you are informed that, upon his making proper application as indicated by the inclosed regulations and blank form, he will be granted a passport, if it is found that he is entitled under the law thereto; but the regulations of the Department do not permit insertion in the passport of the occupation or the title of the recipient.

Rule 12, rules
governing
applications
for passports.

Professional titles.—They will not be inserted in passports. There are no exceptions to this rule.

VISA.

Some countries require that the passports of American travelers should be visaed by the diplomatic or consular (usually the latter) representatives of those countries before entering them. The

Department has nothing to do with the requirements and always declines to act as an intermediary in procuring the visa, which the holder of the passport should apply for himself.

I have to say that the Russian legation and consulates in the United States are accustomed to visa passports without the intervention of the Department.

Vol. vii,
P. 341,
Apr. 16, 1880.

The Department of State does not obtain visas to ports from foreign legations.

Vol. x, p. 371,
Mar. 28, 1880.

WIDOW'S APPLICATION.

(See also Divorced Woman's Application.)

The widow of a citizen of the United States retains her husband's citizenship, provided she retains her American domicile. If she was of alien birth, she may be presumed to have abandoned her American citizenship if she returns to the country of her origin and resides there.

By the law of England and the United States a woman on her marriage with a subject or citizen merges her nationality in that of her husband. * * * The continental codes, on the other hand, enable a woman whose nationality of origin has been changed by marriage to resume it when she becomes a widow, on the condition, however, of her returning to the country of her origin. The widow to whom you refer may, as a matter of strict law, remain a citizen; but, as a citizen has no absolute right to a passport, and as the law of the United States has, outside of its jurisdiction, only such force as foreign

MS. instructions.
France.

nations may choose to accord it in their own territory, I think it judicious to withhold passports in such cases, unless the widow gives evidence of her intention to resume her residence in the United States.—*Mr. Fish to Mr. Washburne, No. 238, February 24, 1871.*

Rule 8, rules governing applications for passports, 1896.

She must transmit for inspection her husband's naturalization certificate, must state that she is the wife or widow of the person described therein, and must set forth the facts of his emigration, naturalization, and residence, as required in the rule governing the application of a naturalized citizen.

INDEX

INDEX.

- ACCOMPANYING PERSON,**
in a passport, 91.
- AFFIRMATION,**
instead of oath, permitted, 70.
- AGENTS,**
for issuing passports, how employed, 150.
for procuring passports, none employed, 93.
- ALASKA,**
inhabitants of, became American citizens by Alaska purchase, 98.
- ALLEGIANCE,**
abandonment of, how effected, 131.
- ALSACE-LORRAINE,**
naturalized Americans in; Consul Tingle's report, 198.
- ALTERATIONS,**
in passports, how made, 94.
- AMERICAN MINISTER,**
special passport for, 9.
- APPLICATION,**
by whom made, 95.
form of, in 1830, 45.
form of, in 1857, 49.
form of, in 1888, 59.
(See FORM OF APPLICATION.)
- ARMY OFFICERS, SPECIAL PASSPORTS FOR,**
Fish's rule, 33.
Sherman's letter, 34.
- ASTOR, JOHN JACOB,**
passport issued to, 84.
- AUDUBON, JOHN JAMES,**
special passport for, 19.
- AUSTRIA-HUNGARY,**
how citizenship in, is lost, 133.
naturalization treaty with, 175, 182, 188.
naturalized Americans in; Olney's report, 193.
- BADEN,**
naturalization treaty with, 175, 182, 189.

-
- BARRERE, FRANCIS MARIA,**
 passport for, 77.
- BAVARIA,**
 how citizenship in, is lost, 133.
 naturalization treaty with, 175, 182, 190.
- BEARER OF DISPATCHES,**
 captain of a vessel as, 11.
 foreign consuls as, 11.
 passport for, 8.
- BELGIUM,**
 naturalization treaty with, 175, 184, 190.
- BODISCO, BORIS,**
 special passport for, 20.
- BRADISH, LUTHER,**
 special passport for, 10.
- BROTHER, YOUNGER,**
 sometimes included in a passport, 91.
- BROWNE, JOHN,**
 special passport for, 15.
- BRYANT, JOHN,**
 passport issued to, in 1796, 83.
- CANADA,**
 precautions against immigration from, in 1864, 51.
- CARTAZAR, MANUEL,**
 special passport for, 12.
- CERTIFICATE OF NATURALIZATION.**
 (See NATURALIZATION CERTIFICATE.)
- CERTIFICATES OF CITIZENSHIP,**
 from notaries public, 47.
- CHAZOTTE, PETER STEPHEN,**
 special passport for, 10.
- CHINESE,**
 applications by, 95.
 naturalization of, unlawful, 95.
- CHILDREN,**
 of naturalized citizens, law as to, 176.
- CITIZENS,**
 naturalized, rights of, 105.
 passports issued to other than American, 43.
 three classes of American, 97.
- CITIZENSHIP,**
 by annexation of territory, 97.
 by marriage, 100.
 by nativity, 99.

CITIZENSHIP—Continued.

- by naturalization, 105.
- digest on, 95.
- evidence of, required before issuing a passport, 37.
- of an adopted child, 100, 101.
- of child of alien parents born in this country, 101.
- passport prima facie evidence of, 106, 115.
- renunciation of, how effected, 132.

CITIZENSHIP AND NATURALIZATION,

- Department circular on, 174.

CIVIL WAR,

- regulations for passports during, 50.
- special passport during, 21.

COLLECTORS OF CUSTOMS,

- as agents for issuing passports, 150, 151, 152.

COLORED AMERICANS,

- passports free to certain, 73.
- special passports to, free, 7.

CONNECTICUT,

- governor of, passport issued by, 37.

CONSCIENCE FUND,

- contribution to, for false naturalization, 157.

CONSULS,

- certificates of citizenship by, 84.
- passports issued by, 85.
- prohibited from issuing passports where there is a diplomatic officer, 86.
- service as, not proof of citizenship, 157.

COPIES OF PASSPORTS,

- when given, 118.

COUNTY CLERK,

- certificate of, not proof of citizenship, 158.

COURIER'S PASSPORT,

- when issued, 119.

CRIMINAL CONVICTION,

- not a bar to receiving a passport, 119.

D'ALVEER, GEN. CHARLES,

- special passport for, 12.

DABNEY, W. D., SOLICITOR,

- on fee for special passport, 24.

DALL, WILLIAM, JR.,

- passport for, 78.

DEAS, WILLIAM ALLEN,

- chargé des affaires, passport issued by, 82.

- DECLARATION OF INTENTION,**
passports not issued to those who have made, 44, 120.
special passport for one who has made, 12.
under treaties, 177.
- DEFINITION,**
of American passport, 3.
- DENMARK,**
naturalization treaty with, 175, 184.
- DESERTION,**
from military or naval service a bar to American citizenship, 100.
- DISPATCH AGENTS,**
as agents for issuing passports, 150, 151, 152.
- DIVORCED WOMAN,**
application by, 121.
- DOMICILE, AMERICAN,**
how lost, 206.
- DUPLICATE PASSPORTS,**
when issued, 124.
- DURATION,**
of passports, 75, 125.
- EAST FLORIDA,**
special passport for explorer in, 10.
- ECUADOR,**
naturalization treaty with, 175, 185, 191.
- ELECTION,**
certificate of, not evidence of citizenship, 156, 158.
- ENGLAND,**
practice in, relative to passports for naturalized citizens, 173, 174.
- ESCUADERO, DON MANUEL SIMON DE,**
special passport for, 13.
- EVIDENCE REQUIRED,**
abroad, 88.
before issuing passports, 43.
upon which passports were issued up to 1830, 45.
- EXPATRIATION,**
a right, 127.
Fish on, 129.
how accomplished, 127, 128.
- EXPLORER,**
special passport for, 10.
- FAISON, WALTER E., SOLICITOR,**
memorandum on fee for special passport, 26.

FEE FOR ISSUING A PASSPORT, 72.

- abolished in 1870, 73.
- after collection not refunded, 145.
- digest, 145.
- how collected, 72.
- in 1864, 73.
- irregular charge in 1795, 73, 74, n.
- none charged until 1862, 72.
- reduced in 1888, 73.
- restored in 1874, 73.
- unofficial charge, 73.

FEE FOR SPECIAL PASSPORT,

- Dabney's views on, 24.
- none charged, 24.
- Olney's decision, 25.
- Passport Division's memorandum on, 25.
- Sherman's decision, 25, 31.
- Solicitor Faison's memorandum on, 26.

FEMALE,

- special passport for, 8, 9.

FILLMORE, MILLARD,

- special passport for, 23.

FISH, HAMILTON,

- on expatriation; letter to the President, 129.

FIVE YEARS' RESIDENCE,

- before naturalization, exceptions to, in statutes, 175.

FLORIDA, EAST AND WEST,

- inhabitants became American citizens in 1821, 97.

FOREIGN MINISTER,

- dismissed from the United States, special passport for, 23.
- special passport for, leaving the United States, 12.

FOREIGNERS,

- traveling in the United States, special passports for, 13.

FORM OF APPLICATION,

- for native citizens, 64.
- in 1888, 59.
- naturalized citizens, 65.
- person claiming citizenship through naturalization of husband or parent, 67.

FORMS OF PASSPORT,

- in 1796, 77.
- in 1817, 78.
- issued abroad, 87, 88.
- since 1820, 79.

A P—15.

- FRANCE,**
 how citizenship in, is lost, 133.
 status of naturalized Americans of French birth in, 172, 179.
- FREE PERSON OF COLOR,**
 passport for, 15.
- GENERAL INSTRUCTIONS,**
 in 1873, 54.
 in 1879, 57.
 in 1882, 58.
 in 1888, 59.
- GERMAN UNION, NORTH,**
 naturalization treaty with, 175.
- GERMANY,**
 Consul Tingle's report, 195.
 necessity for passports in, 169, 171.
 status of naturalized Americans in, 173.
 status of naturalized Americans in; Olney's report, 193.
- GOVERNESS,**
 not included in another's passport, 91.
- GRAHAM, JOHN,**
 special passport for, 9.
- GRANDCHILDREN,**
 not usually included in passport, 91.
- GREAT BRITAIN,**
 naturalization treaty with, 175, 185.
- GREECE,**
 status of naturalized Americans in, 180.
- GRIFFITH, CAPT. EDWARD,**
 special passport for, 11.
- HESSE-DARMSTADT,**
 naturalization treaty with, 175, 186, 191.
- ILLEGAL DOCUMENTS,**
 in the nature of passports, 41.
- INDIANS,**
 passports for, 146.
- INSANE PERSONS,**
 applications for, how made, 148.
- INSTRUCTIONS,**
 how to obtain a passport; circular of 1845, 46.
 of 1846, 47.
 of 1850, 47.
 of 1857, 48.
- INTRODUCTORY FEATURES,**
 of special passports, 7, 18.

-
- ISSUANCE ABROAD,
where there is no diplomatic or consular representative, rule as to,
149.
- ITALY,
status of naturalized Americans in, 181.
- JAPANESE,
applications by, rule as to, 153.
- JARVIS, REV. SAMUEL F.,
special passport for, 14.
- JOHNS, RICHARD,
passport issued to, 84.
- KEIGHLER, ALFRED,
special passport for, 16.
- KELLER, JACOB,
passport issued to, 39.
- LAND OFFICE, GENERAL,
information from, of naturalization, 156, 157.
- LETTERS OF PROTECTION,
passports classed as, 3.
(*See* PROTECTION.)
- LEWIS, WALKER,
special passport for, 17.
- LIVINGSTON, WALTER,
passport for, 79.
- LOUISIANA,
governor of, passport issued by, 39, 41, 214.
- MARINE CORPS.
(*See* NAVY.)
- MARRIED WOMEN,
when may become citizens, 114, 117, 176.
- MASSACHUSETTS,
passports issued by authorities of, 47.
passport law in, 213.
- MERCHANTS,
American, abroad, status of, 206, 207, 208.
- MEYER, CAPT. J. C.,
special passport for, 21.
- MILITARY DUTY,
liable to, in Germany; Consul Tingle's report, 197.
passports issued to those liable to, 44.
- MILITARY PASSES,
similar to passports, 8.

- MINOR CHILDREN,
 acquiring citizenship through parent, 117.
 in passports, 91.
 how naturalized after reaching age of twenty-one, 110, 111, 113.
 application; rulings as to, 153.
 application, when another may make, 95.
- MISSIONARIES,
 American, abroad, status of, 209.
- MONGOLIANS,
 can not lawfully be naturalized, 106.
 (*See* CHINESE and JAPANESE.)
- MONROE, JAMES, MINISTER PLENIPOTENTIARY,
 passport issued by, 83.
- MOTHER'S NATURALIZATION,
 confers citizenship on minor children, 114.
- NAME OF APPLICANT,
 rulings as to, 154.
- NAPOLEON, PRINCE,
 special passport for, 21.
- NATURALIZATION,
 citizenship by, 105.
 legal provisions on the subject, 106.
- NATURALIZATION CERTIFICATE,
 destruction of, rule as to, 158.
 incomplete, rule as to, 158.
 loss of, rule as to, 161.
 penalties for securing false, 164.
 rulings as to, 155.
 unlawful use of, as passports, 47.
- NATURALIZED CITIZENS,
 returning to country of origin, status of, 171, 172, 174.
- NAVY,
 service in, and in marine corps, naturalization because of, 114.
- NAVY OFFICERS,
 special passports for, 33.
- NEPHEWS,
 not included in passports, 91.
- NIECES,
 not included in passports, 91.
- NORTH GERMAN UNION,
 naturalization treaty with, 187, 191.
- NORTON, PROF. CHARLES ELIOT,
 quoted, 80, n.

- NOTARIES PUBLIC,
 passports issued by, 38.
- NOULAN, DANIEL,
 special passport for, 18.
- OATH OF ALLEGIANCE, 69.
 form of, in 1861, 69.
 form of, since 1888, 70.
 modified form, 168.
 practice towards those who decline to take, 70.
 rule as to, 166.
 when required, 69.
- OLNEY, RICHARD, SECRETARY,
 on fee for special passport, 25.
- ORIENTAL TRAVEL,
 special passport for, 14.
- PARKINSON, MARTIN HENDERSON,
 certificate of citizenship to, 85.
- PASSPORT,
 definition, 3.
 size of, 80.
 used only abroad, 4.
- PASSPORT CLERK,
 to administer oath free, 74.
- PASSPORT OR SAFE-CONDUCT,
 penalty for violation of, 36.
- PASSPORTS,
 bound in morocco, 49.
 by other than federal authority, 36.
 for American vessels, 8, n.
 for foreign ministers, 4.
 penalty for issuance by unauthorized persons, statute, 215.
 to pass army lines during civil war, 50.
 who may issue, statute, 215.
- PASSPORTS FOR ALIENS,
 abroad, penalty for issuing, 85, 86.
 during civil war, 4.
- PASSPORTS ISSUED ABROAD, 82.
 for departure, 82.
 force and effect of, 86.
- PASSPORTS, NECESSITY FOR,
 rulings, 169.
- PASSPORTS, PRIVILEGES OF,
 denied absentees during civil war, 51.
- PATTERSON, MRS. ELIZABETH,
 special passport for, 9.

- PERPETUAL ALLEGIANCE,**
change in doctrine of, 134.
Russian contention, 194.
Swiss contention, 194.
- PERSICO, LUIGI,**
special passport for, 18.
- PICTORIAL FEATURES OF PASSPORTS,**
in 1796, 80.
in 1817, 80.
in 1833, 80.
in 1872, 81.
in 1877, 81.
in 1889, 81.
- POLICE COURT OF DISTRICT OF COLUMBIA,**
can not naturalize, 112.
- PORTUGAL,**
how citizenship in, is lost, 133.
- POSTMASTERS,**
as agents for issuing passports, 150, 151, 152.
- POTESTAD, SEÑOR DON LUIS DE,**
special passport for, 22.
- POTS, SAMUEL,**
passport issued to, 82.
- PRIVATE CITIZEN,**
special passport for, 10.
- PROTECTION,**
for North American Indians; how accorded, 148.
in countries with which we have no naturalization treaty, 179.
of naturalized and native Americans abroad, statute, 202.
of passport, rulings on, 171.
- PROTECTION DOCUMENT,**
rulings on, 170.
- PRUSSIA,**
how citizenship in, is lost, 133.
- PURVIANCE, JOHN HENRY,**
special passport for, 8.
- QUALIFIED PASSPORTS,**
forbidden in 1885, 87.
- REGISTRATION AS A VOTER,**
not evidence of citizenship, 156, 164.
- RENATURALIZATION,**
how effected, 142.
- RENEWAL,**
of passports, 75.

RESIDENCE ABROAD,

how long may be permitted, 135, 177, 203.

RULES,

governing applications for passports, 1896, 59.

RUSSIA,

contention as to citizenship, 143, 144.

penalties for foreign naturalization by a subject of, 199.

status of naturalized American of Russian birth in, 181, 194.

subjects of, in Alaska, became American citizens by Alaska purchase, 98.

SAFE-CONDUCTS,

passports classed as, 3.

to aliens, 4.

to Americans, 4.

SAFE-CONDUCT OR PASSPORT,

penalty for violation of, 36.

SEAL,

of officer before whom affidavit is executed, 210.

SEAMEN,

protection and citizenship of, 112.

when may become citizens, 175.

SECRETARY OF STATE OF A STATE,

certificate of, not evidence of citizenship, 156, 158.

SERVANTS,

when included in passport, 91.

SERVICE AS A CONSUL,

not proof of citizenship, 157.

SHERMAN, JOHN, SECRETARY,

on fee for special passport, 25.

SILLIMAN, BENJAMIN,

passport issued to, 37.

SOLDIER,

honorably discharged, naturalization of, 110, 175.

SPAIN,

how citizenship in, is lost, 133.

status of naturalized American of Spanish birth in, 180.

SPECIAL PASSPORTS,

double purpose of, 7.

duration of, 76.

number to private individuals issued by Bayard, 24.

number to private individuals issued by Blaine, 24.

number to private individuals issued by Evarts, 24.

number to private individuals issued by Fish, 24.

number to private individuals issued by Foster, 24.

SPECIAL PASSPORTS—Continued.

- number to private individuals issued by Frelinghuysen, 24.
- number to private individuals issued by Gresham, 24.
- number to private individuals issued by Olney, 24.
- number to private individuals issued by Seward, 24.
- parctice concerning, 211.
- so-called, for foreign ministers, 212.
- to foreigners of distinction, 7.
- to free colored persons, 7.
- to whom granted, 212.

STATE AND MUNICIPAL AUTHORITY,

- passports issued by, 37, 213.

STRAIN, ISAAC G.,

- special passport for, 19.

SUPREME COURT,

- on passports, 37.

SWEDEN AND NORWAY,

- naturalization treaty with, 175, 187, 191.

SWITZERLAND,

- status of naturalized American of Swiss birth in, 181, 194.

TALBOT, GEORGE WASHINGTON,

- passport issued to, 83.

TERAN, GEN. D. M.,

- special passport for, 13.

TEXAS,

- inhabitants of, became American citizens by treaty of Guadalupe Hidalgo, 97.
- by Gadsden purchase, 98.

THOMAS, HENRY LIVINGSTON, TRANSLATOR,

- quoted, 80, n.

THOMPSON, LOUIS,

- special passport for, 16.

TINGLE, EDWARD STEPHENS, CONSUL,

- report on naturalized Americans in Germany, 195.

TITLES AND OCCUPATIONS,

- in passports, 216.

TOWN CLERK'S CERTIFICATE,

- not evidence of citizenship, 156, 163.

TREATIES,

- of naturalization, with what countries concluded, 174, 175.
- with France (1778); passports under, 36.

TRUMBULL, JONATHAN,

- governor of Connecticut, passport issued by, 37.

- TURKEY,**
status of Americans living in American communities in, 204.
status of naturalized American of Turkish birth in, 181, 192.
- TUTOR,**
not included in a passport, 91.
- TWO YEARS' LIMITATION,**
of passports, 75.
- VISA OR VISÉ,**
of passport, defined, 5.
rule as to, 216, 217.
- VOTING,**
evidence of, not proof of citizenship, 156, 160.
- WAR OF 1812,**
passports granted during, 36.
- WHARTON, FRANCIS, LL. D., SOLICITOR,**
on qualified passports, 87.
- WHEATON, DANA'S,**
definition quoted, 5.
- WHITE PERSONS, FREE, AND AFRICANS,**
naturalization laws apply only to, 106, 111.
- WICHELHAUSEN, H. D.,**
special passport for, 11.
- WIDOW AND MINOR CHILDREN,**
of one who has declared his intention to become an American citizen, 106, 110.
- WIDOW'S APPLICATION,**
digest, 217.
- WIFE,**
of one who becomes naturalized, 106.
- WORDING OF PASSPORTS,**
in 1796, 77.
- WÜRTEMBERG,**
how citizenship in, is lost, 133.
naturalization treaty with, 175, 188, 192.

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