

ADDENDUM — ADDITIF

Austria

(a) FEDERAL ACT OF 2 JUNE 1954 ON THE ACQUISITION OF AUSTRIAN NATIONALITY BY VOLKSDEUTSCHE ¹

The National Council has decided:

Article 1. (1) Persons whose mother-tongue is German and who are stateless or whose nationality is uncertain (Volksdeutsche), and who satisfy the requirements of article 2, shall acquire Austrian nationality, on making a declaration that they desire to be loyal citizens of the Austrian Republic.

(2) Such a declaration may also be made by a married woman.

(3) Volksdeutsche within the meaning of paragraph (1) are, in particular, persons described on their identity card as a "Volksdeutscher" (Order concerning Aliens' Identity Cards, BGBl No. 33/1946) unless, owing to circumstances which arose subsequent to this entry being made, they are to be considered as foreign nationals.

(4) This Federal Law shall not affect the acquisition of (Austrian) nationality by Volksdeutsche under the Nationality Law of 1949, BGBl No. 276/1949.

Article 2. (1) Notwithstanding the provisions of paragraph (2), the aforesaid declaration may be made only by a person who:

(a) has legal capacity;

(b) has become stateless or whose nationality has become uncertain as a result of events occurring after the second world war;

(c) acquired domicile in the territory of the Republic between 1 January 1944 and 31 December 1949 and has retained the same since at least 1 January 1950.

(d) has not been the subject of a conviction which under the National Council Franchise Law, article 24, would, at the time of conviction, have entailed loss of the franchise;

(e) has shown by his previous conduct that he has a positive attitude to the independent Austrian Republic and that he will not endanger the public peace, order or security.

(2) The legal guardian of a Volksdeutscher who is under a legal disability may make the declaration on his behalf.

The provisions of paragraph 1 (c) shall not apply to a Volksdeutscher who has been a prisoner of war or an interned person or has entered Austria with the consent of the Austrian authorities under the Family Reunion Scheme and has acquired Austrian domicile only since his release from captivity or entry into the territory of the Republic and has retained it since. Convictions which have been expunged from the record shall not be a bar in the meaning of paragraph 1(d).

¹ *Bundesgesetzblatt für die Republik Oesterreich* (Official Journal of Laws (and Decrees) of the Federal Republic of Austria, No. 33 of 5 August 1954, item No. 142).

² *Bundesgesetzblatt für die Republik Oesterreich* (Official Journal of Laws (and Decrees) of the Federal Republic of Austria).

Article 3. (1) The declaration according to article 1 may until 31 December 1955 be made in writing to the Office of the competent Land Government.

(2) The Office of the Land Government shall ascertain *ex-officio* whether the requirements of this Law for acquisition of (Austrian) nationality directly, or by derivation (article 4) have been satisfied. It shall issue a certificate to this effect. If the requirements have been satisfied, it shall be stated on the certificate that the declarant and the persons, if any, mentioned in article 4, acquired Austrian nationality at the time of the making of the declaration (paragraph 1).

Article 4. Where (Austrian) nationality is acquired by declaration, its acquisition by derivation shall be governed by the following rules:

1. The wife shall also acquire (Austrian) nationality by virtue of the declaration of the husband. Minor legitimate children, but not married daughters, shall acquire (Austrian) nationality through their father.

2. Minor legitimate children, but not married daughters, of a female declarant shall acquire (Austrian) nationality with the consent of their legal guardian. In the absence of the consent of the legal guardian, the consent of the court shall have effect instead thereof.

3. Minor illegitimate children, but not married daughters, shall acquire (Austrian) nationality through their mother.

4. Persons mentioned in sub-paragraphs 1-3 shall acquire (Austrian) nationality by derivation only if they themselves satisfy the requirements of article 2, paragraph 1 (d) (e), and persons mentioned in sub-paragraphs 1 and 3 only if they consent thereto either personally or through their legal guardian not later than the issue of the certificate referred to in article 3(2).

Article 5. The Federal Ministry of the Interior shall give effect to the provisions of this Law coming within the competence of the Federation, and the Land Government so far as they come within the competence of the Land.

(b) FEDERAL ACT OF 20 DECEMBER 1955 ¹

The National Council has decided:

Article 1. The Federal Act of 2 June 1954, BGBl No. 142, shall be amended as follows:

In Article 3, paragraph (1), the words "until 31 December 1955" shall be replaced by the words "until 30 June 1956".

Article 2. The Federal Ministry of the Interior shall give effect to the provisions of this Law coming within the competence of the Federation, and the Land Government where they come within the competence of a Land.

¹ *Bundesgesetzblatt* No. 72 of 30 December 1955, item No. 284.

(c) CONSTITUTIONAL ACT OF 8 FEBRUARY 1956,¹
AMENDING THE REGULATIONS ON CITIZENSHIP

Article I

(1) The Constitutional Act of 6 February 1947 (*Bundesgesetzblatt* No. 25), part III, section II,² on the treatment of National Socialists (National Socialists Act) is hereby abrogated.

(2) Persons who have lost their citizenship under section I of the Act aforesaid shall not regain such citizenship as a consequence of the above repeal.

(d) FEDERAL ACT OF 14 MARCH 1957³ TO AMEND THE TRANSITIONAL CITIZENSHIP ACT, 1949, BGBl. No. 276, AS AMENDED BY THE FEDERAL ACT OF 15 DECEMBER 1951, BGBl. No. 12/1952

The National Council has decided:

Article I

The Transitional Citizenship Act, 1949,⁴ BGBl. No. 276, as amended by the Federal Act of 15 December 1951, BGBl. No. 12/1952,⁵ shall be amended as follows:

Article 4, paragraph 3, shall be amended as follows:

“(3) Application for the revocation of loss of citizenship may be made on or before 31 December 1958 by a person deprived of citizenship (paragraphs 1 and 2) to the authority which originally ordered the loss of citizenship.”

Article II

This Federal Act shall be applied, in so far as concerns the Federation, by the Federal Ministry of the Interior and, in so far as concerns a Federal Land, by the Land Government.

¹ *Bundesgesetzblatt*, No. 8 /1956. Translation by the Secretariat of the United Nations.

² The *United Nations Legislative Series*, “Laws concerning Nationality”, ST/LEG/SER. B/4, p. 31.

³ *Bundesgesetzblatt*, No. 25/1957, p. 618. Translation by the Secretariat of the United Nations.

⁴ See the *United Nations Legislative Series*, “Laws concerning Nationality”, ST/LEG/SER. B/4, p. 32.

⁵ This act extended the terms mentioned in article 3 (1) and article 4 (3) of the Transitional Citizenship Act, 1949 to 31 December 1953. These terms had previously been extended from 31 December 1949 to 31 December 1950 by Federal Act of 22 November 1950, BGBl. No. 242.

Ceylon

CITIZENSHIP ACT NO. 18 OF 1948, AS AMENDED BY ACTS NOS. 40 OF 1950
AND 13 OF 1955

PART I. CITIZENSHIP OF CEYLON

2. (1) With effect from the appointed date, there shall be a status to be known as "the status of a citizen of Ceylon".

(2) A person shall be or become entitled to the status of a citizen of Ceylon in one of the following ways only:

- (a) by right of descent as provided by this Act;
- (b) by virtue of registration as provided by this Act or by any other Act authorizing the grant of such status by registration in any special case of a specified description.

(3) Every person who is possessed of the aforesaid status is hereinafter referred to as a "citizen of Ceylon". In any context in which a distinction is drawn according as that status is based on descent or registration, a citizen of Ceylon is referred to as "citizen by descent" or "citizen by registration"; and the status of such citizen is in the like context referred to as "citizenship by descent" or "citizenship by registration".

3. A citizen of Ceylon may, for any purpose in Ceylon, describe his nationality by the use of the expression "Citizen of Ceylon".

PART II. CITIZENSHIP BY DESCENT

4. (1) Subject to the other provisions of this Part, a person born in Ceylon before the appointed date shall have the status of a citizen of Ceylon by descent, if:

- (a) his father was born in Ceylon, or
- (b) his paternal grandfather and paternal great grandfather were born in Ceylon.

(2) Subject to the other provisions of this Part, a person born outside Ceylon before the appointed date shall have the status of a citizen of Ceylon by descent, if:

- (a) his father and paternal grandfather were born in Ceylon, or
- (b) his paternal grandfather and paternal great grandfather were born in Ceylon.

5. (1) Subject to the other provisions of this Part, a person born in Ceylon on or after the appointed date shall have the status of a citizen of Ceylon by descent if at the time of his birth his father is a citizen of Ceylon.

(2) Subject to the other provisions of this Part, a person born outside Ceylon on or after the appointed date shall have the status of a citizen of Ceylon by descent if at the time of his birth his father is a citizen of Ceylon and if, within one year from the date of birth, or within such further period as the Minister may for good cause allow, the birth is registered in the prescribed manner:

- (a) at the office of a consular officer of Ceylon in the country of birth, or
- (b) at the office of the Minister in Ceylon.

6. Upon application made in that behalf in the prescribed manner, the Minister may, in his discretion, grant, in the prescribed form, a certificate of citizenship of Ceylon by descent to a person with respect to whose status as a citizen of Ceylon by descent a doubt exists; and a certificate issued under this section to any person shall be conclusive evidence that that person was a citizen of Ceylon by descent on the date thereof, but without prejudice to any evidence that he was such a citizen at an earlier date.

7. Every person first found in Ceylon as a newly born deserted infant of unknown and unascertainable parentage shall, until the contrary is proved, be deemed to have the status of a citizen of Ceylon by descent.

8. (1) Any person who ceases under section 18 or section 19 to be a citizen of Ceylon by descent may at any time thereafter make application to the Minister for a declaration that such person has resumed the status of a citizen of Ceylon by descent; and the Minister may make the declaration for which the application is made:

(a) if that person renounces citizenship of any other country of which he is a citizen, in accordance with the law in force in that behalf in that other country; and

(b) if that person is, and intends to continue to be, ordinarily resident in Ceylon.

(2) Where a declaration is made in relation to any person under sub-section (1), that person shall, with effect from such date as may be specified in the declaration, again have the status of a citizen of Ceylon by descent.

(3) Any person who makes or has made an application under sub-section (1) may, in his application or by subsequent letter, make a request for the grant to any minor child of that person of the status of a citizen of Ceylon by descent; and if in any such case a declaration under sub-section (1) is made in relation to that person, each minor child specified in the declaration shall have the status of a citizen of Ceylon by descent.

(4) The Minister may refuse to make a declaration under sub-section (1) in relation to any person on grounds of public policy; and such refusal shall be final and shall not be contested in any court, but without prejudice to the power of the Minister subsequently to make such a declaration in relation to that person.

(5) The Minister may in his discretion exempt any person from the requirements of paragraph (a) of sub-section (1) of this section, and make a declaration under that sub-section notwithstanding that such person does not comply with the said requirements.

9. (1) Any reference to father, paternal grandfather, or paternal great grandfather in any of the provisions of this Part relating to citizenship by descent shall, in regard to a person born out of wedlock and not legitimated, be deemed to be a reference to mother, maternal grandfather, or maternal great grandfather respectively.

(2) A person shall be deemed, for the purposes of this section, to have been legitimated if his parents married each other subsequent to his birth.

10. Any reference in this Part to the status or description of the father of a person at the time of that person's birth shall, in regard to a person born after the death of his father, be deemed to be a reference to the status or description of the father at the time of the father's death; and where that

death occurred before, and the birth occurs on or after, the appointed date, the status or description which would have been applicable to the father had he died on or after that date shall be deemed to be the status or description applicable to him at the time of his death.

PART III. CITIZENSHIP BY REGISTRATION

11. (1) This section shall apply to any applicant for registration as a citizen of Ceylon who has the following qualifications:

(a) that the applicant is of full age and of sound mind;

(b) that the applicant:

(i) is a person whose mother is or was a citizen of Ceylon by descent or would have been a citizen of Ceylon by descent if she had been alive on the appointed date, and who, being married, has been resident in Ceylon throughout a period of seven years immediately preceding the date of the application, or being unmarried, has been resident in Ceylon throughout a period of ten years immediately preceding the date of the application, or

(iii) is a person, whose father was a citizen of Ceylon by descent, and who would have been a citizen of Ceylon under sub-section (2) of section 5 if his birth had been registered in accordance with the provisions of that sub-section, or

(iv) is a person whose father, having been a citizen of Ceylon by descent whether at or before the time of the birth of that person, ceased under section 19 to be a citizen of Ceylon; and

(c) that the applicant is, and intends to continue to be, ordinarily resident in Ceylon.

(2) Subject to the other provisions of this Part, a person to whom this section applies shall:

(a) if he has the qualification set out in sub-paragraph (i) of paragraph (b) of sub-section (1) of this section, be registered as a citizen of Ceylon on his making application in that behalf to the Minister in the prescribed manner, or

(b) if he has the qualification set out in sub-paragraph (iii) or sub-paragraph (iv) of the aforesaid paragraph (b), be so registered on his making such application, unless the Minister decides to disallow such application on grounds of public policy.

(3) The Minister's refusal, under sub-section (2) (b) of this section, to allow the application of any person for registration as a citizen of Ceylon shall be final and shall not be contested in any court.

11A. (1) Subject to the other provisions of this Part, no person who is the spouse, or the widow or widower, of a citizen of Ceylon by descent or registration, shall be registered as a citizen of Ceylon under this Act, except in accordance with the succeeding provisions of this section.

(2) A person who desires to be registered as a citizen of Ceylon under this section shall send an application in the prescribed form and manner to the prescribed officer.

(3) After the receipt of the application under sub-section (2), the prescribed officer shall send the application to the Minister, if he is satisfied that the applicant has the following qualifications:

(a) that the applicant has the qualifications specified in paragraphs (a) and (c) of sub-section (1) of section 11;

(b) that the applicant has been resident in Ceylon throughout a period of one year immediately preceding the date of the application of such applicant; and

(c) that the applicant is the spouse or the widow or widower, of a citizen of Ceylon by descent or registration.

(4) The Minister may refuse an application sent to him under sub-section (3), if he is satisfied that it is not in the public interest to grant the application.

(5) Where the Minister grants an application for registration made under this section by any person, such person shall be registered as a citizen of Ceylon.

(6) The Minister's refusal under sub-section (4) of this section to allow the application of any person for registration as a citizen of Ceylon shall be final and shall not be contested in any court.

12. (1) Subject to the other provisions of this Part, a person to whom section 11 or section 11A does not apply may, on his making application in that behalf to the Minister in the prescribed manner, be registered as a citizen of Ceylon if the Minister is satisfied:

(a) that he is a person who

(i) has rendered distinguished public service or is eminent in professional, commercial, industrial, or agricultural life, or

(ii) has been granted in Ceylon a certificate of naturalization under the British Nationality and Status of Aliens Act, 1914, of the United Kingdom, or Letters Patent under the Naturalization Ordinance and has not ceased to be a British subject, and

(b) that he is, and intends to continue to be, ordinarily resident in Ceylon.

(2) The number of persons registered as citizens of Ceylon under this section shall not exceed twenty-five in any year.

(3) The Minister's refusal under this section to allow the application of any person for registration as a citizen of Ceylon shall be final and shall not be contested in any court.

13. (1) Where an applicant for registration as a citizen of Ceylon has any minor child, he may in his application or by subsequent letter make a request for the inclusion of the name of that child in the certificate of registration which may be granted to him under this Part.

(2) Where a request as aforesaid is made by an applicant under section 11 or section 11A or section 12, the Minister may, subject to the other provisions of this Part, comply with the request if the applicant is registered as a citizen of Ceylon.

14. (1) Save as provided in section 11, a person who has ceased to be a citizen of Ceylon shall not be granted citizenship by registration.

(2) A person who is a citizen of any country other than Ceylon under any law in force in that country shall not be granted citizenship by registration unless he renounces citizenship of that country in accordance with that law.

(3) The Minister may in his discretion exempt any person from the provisions of sub-section (2) of this section; and nothing in that sub-section shall prevent the registration as a citizen of Ceylon of any person so exempted.

15. There shall be kept and maintained, in the prescribed form, a register of persons who are granted citizenship by registration.

16. The Minister shall grant, in the prescribed form, a certificate of registration as a citizen of Ceylon to every person who is registered under section 11 or section 11A or section 12 and, where he decides to comply with a request made by that person under section 13, shall include in the certificate the name of every minor child to whom the request relates.

17. (1) A British subject to whom a certificate of registration as a citizen of Ceylon is granted, shall, on subscribing the prescribed oath or affirmation of citizenship, have the status of a citizen of Ceylon by registration as from the date of that certificate.

(2) An alien to whom a certificate of registration as a citizen of Ceylon is granted shall, on subscribing the prescribed oath or affirmation of allegiance and the prescribed oath or affirmation of citizenship, have the status of a citizen of Ceylon by registration as from the date of that certificate.

(3) A minor child whose name is included in a certificate of registration as a citizen of Ceylon shall have the status of a citizen of Ceylon by registration as from the date of that certificate.

PART IV. LOSS OF CITIZENSHIP

18. If a citizen of Ceylon of full age and of sound mind makes a declaration of renunciation of citizenship of Ceylon in the prescribed manner, the Minister shall cause the declaration to be registered; and, upon registration thereof, the declarant shall cease to be a citizen of Ceylon: Provided, however, that the Minister may withhold registration of such declaration if it is made during the continuance of any war in which Ceylon is engaged and if, by the operation of any law enacted in consequence of that war, the declarant is deemed for the time being to be an enemy.

19. (1) Where a person born before the appointed date is a citizen of Ceylon by descent and is also on that date a citizen of any other country, that person shall:

(a) on the thirty-first day of December, 1952, or

(b) on the day on which he attains the age of twenty-two years,

whichever day is in his case the later, cease to be a citizen of Ceylon, unless before that day he renounces citizenship of that other country in accordance with the law therein in force in that behalf and notifies such renunciation to a prescribed officer.

(2) Where a person is a citizen of Ceylon by descent and that person, by operation of law, is at the time of his birth or becomes thereafter, also a citizen of any other country, that person shall:

(a) on the thirty-first day of December, 1952, or

(b) on the day immediately succeeding the date of the expiration of a period of twelve months from the date on which he so becomes a citizen of that other country, or

(c) on the day on which he attains the age of twenty-two years, whichever day is in his case the latest, cease to be a citizen of Ceylon, unless before that day he renounces citizenship of that other country in accordance with the law therein in force in that behalf and notifies such renunciation to a prescribed officer.

(3) A person who, under sub-section (2) of section 5, is a citizen of Ceylon by descent but whose father is or was a citizen of Ceylon by registration, shall, on the day on which he attains the age of twenty-two years, cease to be a citizen of Ceylon, unless before that day he transmits to the Minister in the prescribed manner and form a declaration of retention of citizenship of Ceylon.

(4) In the case of any person to whom the provisions of any of the preceding sub-sections apply, the Minister may in his discretion direct that those provisions shall apply in that case subject to the modification that the reference therein to the age of twenty-two years shall be construed as a reference to such higher age as may be specified in the direction.

(5) A person who is a citizen of Ceylon by descent shall cease to be a citizen of Ceylon if he voluntarily becomes a citizen of any other country.

(6) Where a person who, having been exempted from the requirements of paragraph (a) of sub-section (1) of section 8, resumes the status of a citizen of Ceylon by descent by virtue of a declaration under that sub-section, that person shall, on the day immediately succeeding the date of the expiration of a period of three months (or such longer period as the Minister may for good cause allow) from the date of the declaration cease to be a citizen of Ceylon, unless he earlier complies with the requirements of the aforesaid paragraph (a).

20. (1) A person who is a citizen of Ceylon by registration shall cease to be a citizen of Ceylon if he voluntarily becomes a citizen of any other country.

(2) Where a person who is registered as a citizen of Ceylon thereafter becomes, by operation of law, also a citizen of any other country, that person shall:

(a) on the day immediately succeeding the date of the expiration of a period of three months (or such longer period as the Minister may for good cause allow) from the date on which he so becomes a citizen of that other country, or

(b) on the day on which he attains the age of twenty-two years, whichever day is in his case the later, cease to be a citizen of Ceylon, unless before that day he renounces citizenship of that other country in accordance with the law therein in force in that behalf and notifies such renunciation to a prescribed officer.

(3) Where any person:

(a) who, having been exempted from the provisions of sub-section (2) of section 14, is registered under this Act as a citizen of Ceylon; or

(b) who is registered under the Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949, as a citizen of Ceylon, continues after such registration to be a citizen of any other country, that person shall:

(i) on the day immediately succeeding the date of the expiration of a period of three months (or such longer period as the Minister may for good cause allow) from the date of his registration as a citizen of Ceylon, or

(ii) on the day on which he attains the age of twenty-two years, whichever day is in his case the later, cease to be a citizen of Ceylon, unless before that day he renounces citizenship of that other country in accordance with the law therein in force in that behalf and notifies such renunciation to a prescribed officer.

20A. In any case where any person purports to renounce citizenship of any country for the purpose of acquiring, retaining or resuming, under any provision of this Act, the status of a citizen of Ceylon, and it is found at any time that the renunciation was not in accordance with or not effective under the law in force in that behalf in such other country, that person shall be deemed never to have acquired, retained or resumed, under that provision, the status of a citizen of Ceylon; and if the Minister makes a declaration to that effect in any such case, the declaration shall be final and shall not be contested in any court.

21. A person who is a citizen by registration shall cease to be a citizen of Ceylon if that person resides outside Ceylon for five consecutive years or more, exclusive of any period during which that person:

(a) is employed abroad as an officer in the service of the Government of Ceylon, or

(b) is abroad as a representative of the Government of Ceylon, or

(c) being the spouse or minor child of a citizen of Ceylon who is abroad in any of the capacities specified in paragraphs (a) and (b) of this section, resides abroad with that citizen, or

(d) resides abroad on a holiday or for reasons of health, or

(e) is a student at an educational institution abroad, or

(f) resides abroad with a spouse who is a citizen of Ceylon by descent, or

(g) is abroad for any prescribed purpose.

22. (1) Where the Minister is satisfied that a person who is a citizen of Ceylon by registration:

(a) has been convicted of an offence under this Act; or

(b) has been convicted of any offence under Chapter VI of the Penal Code; or

(c) was registered as a citizen of Ceylon by means of fraud, false representation, or the concealment of material circumstances or by mistake; or

(d) has, within five years after the date of registration as a citizen of Ceylon, been sentenced in any court to imprisonment for a term of twelve months or more; or

(e) has, since the date of his becoming a citizen of Ceylon by registration, been for a period of not less than two years ordinarily resident in a foreign country of which he was a national or citizen at any time prior to that date, and has not maintained a substantial connection with Ceylon; or

(f) has taken an oath or affirmation of, or made a declaration of, allegiance to a foreign country; or

(g) has so conducted himself that his continuance as a citizen of Ceylon is detrimental to the interests of Ceylon,

the Minister may by Order declare that such person shall cease to be such a citizen, and thereupon the person in respect of whom the Order is made shall cease to be a citizen of Ceylon by registration.

(2) Before the Minister makes any Order in relation to a person to whom paragraph (g) of sub-section (1) of this section applies, he shall refer that person's case for inquiry by one or more persons appointed by him, with such qualifications as may be prescribed. The person or persons who have been authorized to make an inquiry under the preceding provisions of this section shall, as soon as the inquiry is completed, make a written report to the Minister. He shall not make any order under sub-section (1) of this section without carefully considering such report.

(3) Where a person ceases to be a citizen of Ceylon under sub-section (1) of this section, the Minister may by Order direct that all or any of the persons specified in the following paragraphs shall cease to be citizens of Ceylon, and thereupon they shall cease to be citizens:

(a) all or any of the minor children of such person who have been included in the certificate of registration issued to him at the time of his registration, and

(b) the spouse, widow or widower of such person, if such spouse, widow or widower was registered under this Act.

PART V. MISCELLANEOUS

23. Any person who, for the purpose of procuring anything to be done or not to be done under this Act, makes any statement which he knows to be false in a material particular shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding three months.

24. Every person to whom a certificate under this Act is granted shall, in respect of that certificate, pay, in the prescribed manner, a fee according to the prescribed rates.

25. (1) The Minister may make all such regulations as may be necessary for giving effect to the provisions of this Act, and in particular for prescribing any matter which is stated or required to be prescribed.

(2) No regulation made by the Minister shall have effect until it has received the approval of the Senate and the House of Representatives and notification of such approval is published in the *Gazette*.

26. (1) In this Act, unless the context otherwise requires:

“alien” means a person who is not a British subject;

“appointed date” means the date appointed by the Minister under section 1;

“British subject” has the same meaning as in the law of the United Kingdom;

“consular officer of Ceylon” includes an Ambassador, a High Commissioner, a Commissioner, a Representative, or a Trade Commissioner of Ceylon;

“minor child” means a person who has not attained the age of twenty-one years;

“prescribed” means prescribed by regulation made under this Act.

(2) For the purposes of this Act a person of full age is a person who has attained the age of twenty-one years.

27. The Naturalisation Ordinance is hereby repealed.

Germany (Federal Republic)

(a) SETTLEMENT OF NATIONALITY QUESTIONS ACT OF 22 FEBRUARY 1955¹

The Federal Diet, with the approval of the Federal Council, has enacted the following law:

FIRST SECTION. NATIONALITY STATUS OF ETHNIC GERMANS WHO ACQUIRED GERMAN NATIONALITY BETWEEN 1938 AND 1945 BY COLLECTIVE NATURALIZATION

Article 1

(1) Ethnic Germans on whom German nationality was conferred by virtue of the following instruments:

(a) The Treaty of 20 November 1938 between the German Reich and the Czechoslovak Republic on questions of nationality and option (*Reichsgesetzblatt II*, page 895),

(b) The Treaty of 8 July 1939 between the German Reich and the Lithuanian Republic concerning the nationality of Memellanders (*Reichsgesetzblatt II*, page 999),

(c) The Decree of 20 April 1939 concerning the acquisition of German nationality by former Czechoslovak nationals of German ethnic origin (*Reichsgesetzblatt I*, page 815) and the Decree of 6 June 1941 regulating questions of nationality with respect to the Protectorate of Bohemia and Moravia (*Reichsgesetzblatt I*, page 308),

(d) The Decree of 4 March 1941 concerning the register of ethnic Germans and German nationality in the incorporated Eastern territories (*Reichsgesetzblatt I*, page 118), as amended by the Second Decree of 31 January 1942 concerning the register of ethnic Germans and German nationality in the incorporated Eastern territories (*Reichsgesetzblatt I*, page 51),

(e) The Decree of 14 October 1941 concerning the acquisition of nationality on Lower Styria, Carinthia and Cariola (*Reichsgesetzblatt I*, page 648),

(f) The Decree of 19 May 1943 concerning the acquisition of German nationality by entry in the register of ethnic Germans in the Ukraine (*Reichsgesetzblatt I*, page 321),

shall be deemed to have become German nationals in accordance with the provisions of the above instruments unless they have disclaimed German nationality by an explicit declaration to that effect or do so disclaim it.

(2) The same shall apply to the wife or child of a person entitled to disclaim German nationality, in so far as, under German law, the nationality of the former follows the nationality of the latter, whether or not the latter exercises his right to disclaim German nationality. Married women who possessed German nationality when the marriage was contracted shall be deemed to have retained such nationality.

Article 2

Where a person entitled to disclaim German nationality has accomplished an act which entails the loss of such nationality and where such person does

¹ *Bundesgesetzblatt I*, page 65. Translation by the Secretariat of the United Nations.

not exercise his right to disclaim German nationality, he shall be deemed to have possessed German nationality only until the occurrence of the act entailing loss of nationality.

Article 3

When German nationality is disclaimed, the person making the disclaimer shall be deemed not to have acquired German nationality in accordance with article 1.

Article 4

Where, before disclaiming German nationality, a person entitled to disclaim German nationality accomplishes an act which entails the acquisition of German nationality, the effect of the disclaimer shall be that he shall be deemed to have acquired German nationality at the time of occurrence of the act entailing the acquisition of such nationality.

Article 5

(1) No disclaimers may be made later than one year after the entry into force of this Act.

(2) Any person having the right to disclaim German nationality may renounce that right before the expiry of the period during which such disclaimer may be made.

SECOND SECTION. NATIONALITY STATUS OF PERSONS WHO UNDER ARTICLE 116, PARAGRAPH 1 OF THE BASIC LAW ARE GERMANS WITHOUT POSSESSING GERMAN NATIONALITY

Article 6

(1) Any person who, under article 116, paragraph 1 of the Basic Law,¹ is a German without possessing German nationality must be naturalized on application unless there is good reason to presume that he endangers the internal or external security of the Federal Republic or of a German *Land*.

(2) When the rejection of the application for naturalization becomes final, the applicant shall lose the legal status of a German.

Article 7

(1) Where a German not possessing German nationality has voluntarily left the territory of the German Reich as constituted on 31 December 1937 and has taken up permanent residence in the foreign State from whose territory he was expelled or in one of the other States referred to in article 1, paragraph 2 (3) of the Federal Expellees Act of 19 May 1953 (*Bundesgesetz-*

¹ Article 116, paragraph 1 of the Basic Law reads as follows:

“Unless otherwise provided by law, a German within the meaning of this Basic Law is a person who possesses German citizenship or who has been accepted in the territory of the German Reich, as it existed on 31 December 1937, as a refugee or expellee of German ethnic stock (*Volkszugehörigkeit*) or as the spouse or descendant of such person.”

blatt I, page 201), he shall lose the legal status of a German within the meaning of the Basic Law on the date of the entry into force of this Act.

(2) Where the change in permanent residence referred to in paragraph 1 takes place after the entry into force of this Act, the legal status of a German within the meaning of the Basic Law shall be deemed to have been lost on the date of such change of residence.

THIRD SECTION. NATIONALITY STATUS OF OTHER CATEGORIES OF PERSONS

Article 8

(1) An ethnic German who is not a German within the meaning of the Basic Law but who has his permanent residence in Germany and can be presumed not to intend to return to his home country shall be entitled to claim naturalization in accordance with article 6. If he is naturalized, his spouse shall also be entitled to claim naturalization.

(2) A person ceasing to be permanently resident in Germany after the entry into force of this Act shall forfeit his claim to naturalization on the date on which he ceases to be so resident.

Article 9

(1) An ethnic German who is not a German within the meaning of the Basic Law may apply for naturalization while abroad, if he has the legal status of an expellee within the meaning of article 1 of the Federal Expellees Act or is received as an emigrant within the meaning of article 1, paragraph 2(3) of that Act in the area to which this Act applies. Article 13 of the Nationality Act of 22 July 1913 (*Reichsgesetzblatt*, page 583) shall apply *mutatis mutandis*. Where application is made for naturalization, the spouse of the applicant in an existing marriage may, although not an ethnic German, also apply for naturalization while abroad.

(2) An application for naturalization must be granted if the applicant fulfils the requirement of paragraph 1, was a member during the Second World War of the German Armed Forces or of a formation attached or assimilated thereto, has acquired no new nationality since his expulsion and does not come from a State which claims as its nationals persons naturalized by collective naturalization between 1938 and 1945. The same shall apply to applications for naturalization by the wives and widows of such persons and by their children provided the children are minors at the time of application.

Article 10

Service in the German Armed Forces, the *Waffen SS*, the German police, the Todt Organization and the Reich Labour Service shall not in itself be deemed to have conferred German nationality; persons having performed such service shall be deemed to have become German nationals only if a decision to that effect was issued and delivered by the competent authorities before the entry into force of this Act.

Article 11

Any person excluded on grounds of race from one of the collective naturalization measures referred to in article 1, paragraph 1, shall be entitled

to claim naturalization if he is permanently resident in Germany and has not in the meantime acquired another nationality.

Article 12

Former German nationals who, in consequence of measures of persecution on political, racial or religious grounds between 1933 and 1945 acquired a foreign nationality before the entry into force of this Act, shall be entitled to claim naturalization on or before 31 December 1956 even if they retain their permanent residence abroad.

Article 13

No claim to naturalization in accordance with article 9, paragraph 2, article 11 and article 12 shall exist if there is good reason to presume that the applicant will endanger the internal or external security of the Federal Republic or of a German *Land*.

FOURTH SECTION. PROCEDURAL RULES

(a) *General rules*

Article 14

A person who has completed his eighteenth year shall be placed on the same footing as a person of full age as far as concerns the exercise of the right to disclaim German nationality (article 5, paragraph 1), the declaration of renunciation (article 5, paragraph 2) and the exercise of the right to naturalization (article 6, article 8, article 9, paragraph 2, article 11 and article 12).

Article 15

(1) A person who has not completed his eighteenth year or who is over eighteen but who is legally incapacitated or whose legal capacity is restricted for reasons other than age shall be represented by his legal representative in personal matters.

(2) The guardian of a child born out of wedlock shall be required to obtain the consent of the mother if the mother has custody of the child. The same shall apply if the guardian does not wish to exercise the right to disclaim German nationality and the claim to naturalization. In the event of disagreement between the guardian and the mother the guardian shall be bound to apply to the guardianship court for a ruling.

Article 16

The declaration of one spouse shall not require the consent of the other spouse.

Article 17

(1) The authority competent to receive declarations disclaiming German nationality made after the entry into force of this Act (article 5, paragraph 1) and declarations of renunciation (article 5, paragraph 2) and to grant naturalization (articles 6, 8, 9, 11 and 12) shall be the naturalization authority in the jurisdiction of which the declarant or applicant has his permanent residence.

(2) Where the declarant or applicant is permanently resident outside Germany, the competent authority shall be the naturalization authority in the jurisdiction of which he was last permanently resident. If he was never permanently resident in Germany, the competent authority shall be the naturalization authority in the jurisdiction of which his father or mother are or were last permanently resident.

(3) If in accordance with paragraphs 1 or 2 an authority outside the area to which this Act applies is competent or there is no competent authority the Federal Minister of the Interior shall be competent.

(4) In the case of minors (article 15, paragraph 1) under parental authority, the competent authority shall be the naturalization authority of the parent entitled to represent the child.

(5) Proceedings pending before different authorities may be combined with the consent of the authorities concerned.

(b) *Disclaimers*

Article 18

(1) Declarations disclaiming German nationality made after the entry into force of this Act must be made orally before an authority and registered with it or in officially certified form.

(2) Where the person entitled to disclaim German nationality is permanently resident outside the area to which this Act applies, the declaration disclaiming German nationality may be made before a diplomatic or consular mission or other liaison office of the Federal Republic of Germany or may be certified by such authority.

(3) Where the person entitled to disclaim German nationality is unable to make the declaration in the manner provided in paragraphs 1 or 2, a simple written declaration shall suffice, provided that alternative proof is furnished of the authenticity of the signature of the applicant.

Article 19

(1) If a person is prevented by circumstances beyond his control from making a declaration disclaiming naturalization within the statutory time-limit, he may make the declaration not later than six months after the date when the circumstances ceased to exist.

(2) The fact that a person entitled to disclaim German nationality is permanently resident in the Soviet-occupied zone of Germany, the Soviet-occupied sector of Berlin or in one of the German territories under foreign administration shall be regarded as a circumstance beyond his control.

Article 20

The time-limit for declarations disclaiming German nationality shall be deemed to have been complied with if the declaration is received within that time-limit by an authority which, although not competent for territorial or material reasons, is situated within the area to which this Act applies or by a diplomatic or consular mission or other liaison office of the Federal Republic of Germany.

Article 21

If a person entitled to disclaim German nationality dies before the expiry of the statutory time-limit without having exercised his right to disclaim German nationality or having renounced that right, any person related to him in the ascending and descending line or the surviving spouse shall, on furnishing *prima facie* proof of a legal interest, be entitled to apply to the competent probate court within the statutory time-limit for authority to exercise the right on behalf of the deceased or to renounce it. Before ruling on the application, the court shall give all persons entitled to make such application an opportunity to appear before it, in the absence of compelling reasons to the contrary. The proceedings shall be conducted in accordance with the provisions of the Non-contentious Matters Act of 17 May 1898 (*Reichsgesetzblatt*, page 189).

Article 22

A person who has exercised his right to disclaim German nationality shall receive a document certifying that he has not acquired German nationality by virtue of the instruments enumerated in article 1, paragraph 1, or by deriving it from a person who so acquired it. It shall not be possible to prove non-acquisition of German nationality except by production of such a certificate.

Article 23

(1) Declarations disclaiming German nationality and declarations of renunciation may be contested on the ground of error concerning their contents or on the ground that they were made as a result of coercion or threats.

(2) Where such declarations are contested a declaration must be made before the authority competent under article 17. Such declaration shall be made orally before that authority and registered by it or in officially certified form.

(3) The time-limit for making such declarations shall be one month, beginning on the date on which the error became known or on which the coercion ended, but not earlier than on the date of the entry into force of this Act. It shall end not later than six months after the date of receipt of the certificate of disclaimer.

(c) *Naturalization*

Article 24

(1) Where in the case of naturalization (articles 6, 8, 9, 11 and 12) facts which would have militated against naturalization were not disclosed through the fault of the applicant, the naturalization shall be void, unless the naturalization authority considers the requirements for naturalization in accordance with articles 8 and 13 of the Nationality Act to have been fulfilled.

(2) The decision to declare the naturalization void must be embodied in a formal order. The order must be made within five years from the date of naturalization and must be served on the person concerned. If the whereabouts of the latter are unknown or if the order cannot be served because

service would have to be effected outside the area to which this Act applies, the order shall instead be published in the *Federal Gazette*.

FIFTH SECTION. TRANSITIONAL AND FINAL PROVISIONS

Article 25

The right of establishment of expellees and any resultant subsequent settlement of their nationality shall not be affected by declarations made in accordance with this Act.

Article 26

No fees shall be payable in respect of proceedings under the provisions of this Act.

Article 27

In so far as article 17 regulates territorial competence, it shall apply also to the nationality questions covered by the Nationality Act.

Article 28

German nationality "subject to revocation" shall be equivalent to German nationality, unless the right of revocation was exercised by 8 May 1945.

Article 29

In accordance with the provisions of article 13 of the Third Transition Act of 4 January 1952 (*Bundesgesetzblatt I*, page 1) this Act shall apply also in *Land Berlin*.

Article 30

This Act shall enter into force on the date of its publication.

(b) SECOND SETTLEMENT OF NATIONALITY QUESTIONS ACT
OF 17 MAY 1956¹

The Federal Diet, with the approval of the Federal Council, has enacted the following law:

The Act respecting the reunification of Austria and the German Reich of 13 March 1938 (*Reichsgesetzblatt I*, page 237) having ceased to be operative, the legal questions concerning nationality arising therefrom shall be regulated as follows:

Article 1

The decrees respecting German nationality in *Land Austria* of 3 July 1938 (*Reichsgesetzblatt I*, page 790) and 30 June 1939 (*Reichsgesetzblatt I*, page 1072) are hereby repealed with effect from 27 April 1945. The German nationality of persons who were German nationals on 26 April 1945 under articles 1, 3 and 4 of the Decree of 3 July 1938 or under article 1 of the Decree of 30 June 1939 shall be deemed to have lapsed on that date.

¹ *Bundesgesetzblatt I*, page 431. Translation by the Secretariat of the United Nations.

Article 2

The second sentence in article 1 shall not apply to women who between 13 March 1938 and 26 April 1945 married a German national whose German nationality was not acquired in accordance with the provisions aforementioned or to children legitimated by such a German national between 13 March 1938 and 26 April 1945.

Article 3

(1) Any person who has lost German nationality in accordance with the provisions of the second sentence of article 1 shall be entitled to regain it by declaration with retroactive effect to the date of loss provided that he has had his permanent residence since 26 April 1945 within the territory of the German Reich as constituted on 31 December 1937 (Germany).

(2) The following persons shall also be entitled to regain German nationality with retroactive effect by declaration:

1. Any woman who after 26 April 1945 but not later than 31 March 1953 married a man who regains German nationality in accordance with the provisions of paragraph 1, even if the marriage is dissolved.

2. Any child born in wedlock or legitimated after 26 April 1945 whose father regains German nationality in accordance with the provisions of paragraph 1, and any illegitimate child whose mother regains German nationality in accordance with those provisions, provided that they have had their permanent residence in Germany since their marriage or since their birth or legitimation.

(3) Any person who acquired German nationality after 26 April 1945 shall be entitled to make such a declaration even if he gave up his permanent residence in Germany after acquiring nationality.

(4) Where, after 26 April 1945, a person entitled to make such a declaration accomplished an act which entailed the loss of German nationality, the acquisition of German nationality shall be effective only until the date of the occurrence of that act.

(5) No person shall be entitled to make such a declaration if there is good reason to presume that he endangers the internal or external security of the Federal Republic or of a German *Land*.

Article 4

If between 13 March 1938 and 26 April 1945 a woman possessing German nationality married a man who was a German national in accordance with the provisions referred to in the second sentence of article 1 and she herself was not included in that category of persons, her German nationality shall be deemed to have been lost after 26 April 1945 if her permanent residence at that time was outside Germany or if she established permanent residence abroad before 1 May 1952. Notwithstanding the foregoing, she shall be entitled to make a declaration under article 3, paragraph 1 if she has had her permanent residence in Germany since 1 January 1955.

Article 5

(1) For the purposes of this Act, any person furnishing reasonable proof that he was unable to maintain his permanent residence in Germany after

26 April 1945 shall be treated as if he fulfilled this condition, provided that he established permanent residence in Germany on 23 May 1949 at the latest and has maintained it without interruption since that date. The same shall apply to any person who established his permanent residence in Germany after 23 May 1949, provided that this was done in connexion with his flight, expulsion, deportation or emigration from one of the territories referred in article 1, paragraph 2, No. 3 of the Federal Expellees Act of 19 May 1953 (*Bundesgesetzblatt I*, page 201), or in connexion with his release from the custody of a foreign Power.

(2) Where any of the persons referred to in article 3, paragraph 2, was unable to establish his permanent residence in Germany at the prescribed time, he shall be entitled to acquire German nationality with retroactive effect to the date of his marriage, birth or legitimation, provided that he established and maintained his permanent residence in Germany as soon as it was possible for him to do so.

Article 6

(1) Article 2, paragraph 1 of the Decree of 3 July 1938 conferred German nationality only if the individual concerned was willing to receive such nationality.

(2) Where such a person still possessed German nationality on 26 April 1945, he shall be deemed to have remained a German national, provided that he declares his desire to retain German nationality. The provisions of article 3, paragraph 4, shall apply *mutatis mutandis*.

Article 7

(1) A woman who, being an alien national, married a German national after 12 March 1938 possessing German nationality under article 6, paragraph 1 or 2, shall be deemed to have become a German national by the marriage, provided that the marriage was contracted before 1 April 1953 and provided that she does not disclaim German nationality; the right of disclaimer shall also be open to women who possessed German nationality at the time of their marriage.

(2) Any person who became a German national under article 4 or article 5 of the Imperial and State Nationality Act of 22 July 1913 (*Reichsgesetzblatt*, page 583) on the ground that he was the descendant of a person possessing German nationality by virtue of article 6, paragraph 1 or 2, shall be entitled to disclaim German nationality, but if he is the descendant of a person possessing German nationality by virtue of article 6, paragraph 2, he may do so only if he was born or legitimated before the date of the declaration required under article 6, paragraph 2. The right to disclaim German nationality shall also be open to persons who possessed such nationality at the time when they were legitimated.

(3) The effect of disclaimer is that the person disclaiming German nationality shall be deemed not to have become a German national.

Article 8

(1) The declarations provided for in this Act may only be made up to 30 June 1957. In the case of persons entitled to make such declarations

under article 3, paragraph 2, article 5, paragraph 2 and article 7, the time-limit shall not expire before 31 December 1957 and in the cases provided for in article 5 it shall not expire until six months have elapsed since the establishment of residence in Germany.

(2) All persons entitled to make such declarations have the right to renounce that right before the time-limit has elapsed.

(1) All declarations made under this Act shall be governed, *mutatis mutandis*, by articles 14 to 21 and article 23 of the Settlement of Nationality Questions Act of 22 February 1955 (*Bundesgesetzblatt I*, page 65) it being understood that the first sentence in article 21 shall also apply to any person who failed to acquire the right to make such a declaration only because he died before the entry into force of this Act, or because he was in the custody of a foreign Power up to the time of his death and was thereby prevented from realizing his desire to establish permanent residence in Germany. In addition, article 22 shall apply to declarations of disclaimer (article 7). The provisions of German civil law shall apply in the matter of legal representation.

(2) Any person who is deemed to have acquired or retained German nationality by virtue of his Act shall be given a document attesting thereto.

(3) No fees shall be payable in respect of proceedings under the provisions of this Act, including the preparation of the above-mentioned document.

Article 10

Any person who before the entry into force of this Act obtained a valid judgement of an administrative court to the effect that he possessed German nationality as a result of the annexation of Austria, or was entitled to receive a certificate of nationality on that ground, shall be deemed to be a German national, provided that he did not, after obtaining the said judgement, accomplish an act entailing the loss of German nationality.

Article 11

In accordance with the provisions of article 13, paragraph 1, of the Third Transitional Act of 4 January 1952 (*Bundesgesetzblatt I*, page 1) this Act shall also apply in *Land Berlin*.

Article 12

This act shall enter into force on the date of its publication.

(c) THIRD SETTLEMENT OF NATIONALITY QUESTIONS ACT OF 19 AUGUST 1957¹

SECOND SECTION.² AMENDMENT OF THE SETTLEMENT OF NATIONALITY QUESTIONS ACT

Article III

Article 12 of the Settlement of Nationality Questions of 22 February 1955 (*Bundesgesetzblatt I*, page 65) shall be amended to read as follows:

¹ *Bundesgesetzblatt I*, p. 1251. Translation by the Secretariat of the United Nation.

² See the body of this volume for the first and the last section of this Act.

Article 12

(1) A claim to naturalization may also be made by any former German national who acquired a foreign nationality before the entry into force of this Law, owing to persecution on political, racial or religious grounds in the period from 30 January 1933 to 8 May 1945, even if he continues to be domiciled abroad.

(2) The descendants of the persons referred to in paragraph (1) above may claim naturalization until 31 December 1970.

Ghana**NATIONALITY AND CITIZENSHIP ACT, 1957****PART I. PRELIMINARY**

1. This Act may be cited as the Ghana Nationality and Citizenship Act, 1957.

2. (1) In this Act, unless the context otherwise requires:

“alien” means a person who is not a Commonwealth citizen or a British protected person;

“British protected person” means any person who under any enactment for the time being in force in any country mentioned in subsection (3) of section 9 of this Act is a British protected person or a protected person of that country;

“certificate of naturalisation” means a certificate of naturalisation granted under this Act;

“child” includes a child born out of wedlock and the expressions “father”, “mother” and “parent” shall be construed accordingly;

“foreign country” means a country other than Ghana, a country mentioned in subsection (3) of section 9 of this Act, a mandated territory, a trust territory, a state or territory which is declared by Her Majesty by Order in Council to be a protectorate or protected state for the purposes of the British Nationality Act, 1948, of the United Kingdom Parliament, the new Hebrides and Canton Island;

“Ghana consulate” means an office of a consular officer of the Government of Ghana where a register of births is kept, or, where there is no such office, such office as may be prescribed;

“Gold Coast” shall have the meaning assigned to it in and for the purposes of the Gold Coast (Constitution) Order in Council, 1954;

“Minister” means the Minister responsible for citizenship;

“minor” means a person who has not attained the age of twenty-one years.

(2) Any reference in this Act to Ghana in relation to birth or residence before the commencement of the Ghana Independence Act, 1957, shall be read and construed as including a reference to the Gold Coast.

(3) References in this Act to any country mentioned in subsection (3) of section 9 of this Act, shall include references to the dependencies of that country.

(4) For the purposes of this Act a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the Government of

any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(5) A person shall for the purposes of this Act be of full age if he has attained the age of twenty-one years and of full capacity if he is not of unsound mind.

(6) For the purposes of this Act a person shall be deemed not to have attained a given age until the commencement of the relevant anniversary of the day of his birth.

(7) The Interpretation Ordinance shall apply to the interpretation of this Act, as it applies to the interpretation of an Ordinance.

PART II. NATIONALITY AND CITIZENSHIP OF GHANA

3. (1) A citizen of Ghana may, for any purpose in Ghana, describe his nationality by the use of the expression "citizen of Ghana" or "Ghanaian citizen", or by the use of the expression "national of Ghana" or "Ghanaian national".

(2) For the purposes of this Act, the expressions "national of Ghana" and "Ghanaian national" shall have the same meaning as the expressions "citizen of Ghana" and "Ghanaian citizen" respectively.

PART III. ACQUISITION OF CITIZENSHIP ON COMMENCEMENT OF ACT

4. (1) Subject to the provisions of this section every person born in Ghana, whether before or after the commencement of the Ghana Independence Act, 1957, who immediately before the date of commencement of this Act was a citizen of the United Kingdom and Colonies or a British protected person shall be a citizen of Ghana:

Provided that a person shall not be such a citizen by virtue of this section if none of his parents or grandparents was born in Ghana.

(2) A person who becomes a citizen of Ghana by virtue of the provisions of this section shall be deemed for the purposes of section 8 of this Act to be a citizen of Ghana by birth.

5. (1) Every person born outside Ghana who, immediately before the commencement of this Act, was a citizen of the United Kingdom and Colonies or a British protected person shall, if at least one of his parents was born in Ghana and was immediately before the date of commencement of this Act or at his death if occurring prior to that date a citizen of the United Kingdom and Colonies or a British protected person, be a citizen of Ghana.

(2) A person who becomes a citizen of Ghana by virtue of the provisions of this section shall be deemed for the purposes of sections 8 and 11 of this Act to be a citizen of Ghana by descent.

6. A woman who immediately before the date of commencement of this Act was by virtue of her marriage a citizen of the United Kingdom and Colonies or a British protected person (whether by registration or by operation of the law) shall, if the person to whom she has been married becomes or would but for his death have become a citizen of Ghana under the provisions of section 4 or 5 of this Act, on that date herself become such a citizen.

PART IV. CITIZENSHIP BY BIRTH OR DESCENT

7. Subject to the provisions of this section, every person born in Ghana after the commencement of this Act shall be a citizen of Ghana by birth:

Provided that a person shall not be such a citizen by virtue of this section if at the time of his birth:

(a) neither of his parents is a citizen of Ghana and his father possesses such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Her Majesty; or

(b) his father is an enemy alien and the birth occurs in a place then under occupation by the enemy.

8. A person born outside Ghana after the commencement of this Act shall be a citizen of Ghana by descent if at the time of his birth:

(a) his father is a citizen of Ghana otherwise than by descent; or

(b) his mother is a citizen of Ghana by birth.

PART V. COMMONWEALTH CITIZENSHIP

9. (1) Every person who under this Act is a citizen of Ghana or who under any enactment for the time being in force in any country mentioned in subsection (3) of this section is a citizen of that country, shall, by virtue of that citizenship, have also the status of a Commonwealth citizen.

(2) In any law in force in Ghana other than this Act, references to a British subject shall be read and construed as references to a Commonwealth citizen.

(3) The following are the countries hereinbefore referred to—that is to say, the United Kingdom and Colonies, Canada, Australia, New Zealand, the Union of South Africa, India, Pakistan, Southern Rhodesia and Ceylon.

10. A Commonwealth citizen who is not a citizen of Ghana shall not be guilty of an offence against the laws of Ghana by reason of anything done or omitted in any country mentioned in subsection (3) of section 9 of this Act or in any foreign country, unless:

(a) the act or omission would be an offence if he were an alien; and

(b) in the case of an act or omission in any country mentioned in subsection (3) of section 9 of this Act it would be an offence if the country in which the act was done or the omission made were a foreign country.

PART VI. CITIZENSHIP BY REGISTRATION AND NATURALISATION

11. (1) Subject to the provisions of subsection (4) of this section, a citizen of any country mentioned in subsection (3) of section 9 of this Act, or a British protected person, being a person of full age and capacity, on making application therefor to the Minister in the prescribed manner, may with the approval of the Governor-General be registered as a citizen of Ghana if he satisfies the Minister that he is of good character and has a sufficient knowledge of a language indigenous to and in current use in Ghana and that he is ordinarily resident in Ghana and has been so resident in Ghana, whether before or after the commencement of the Ghana Independence Act, 1957, throughout the period of five years, or such shorter period as the Minister may in the special circumstances of any particular case accept, immediately preceding his application.

(2) Subject to the provisions of subsection (4) of this section any person of full age and capacity born outside Ghana one of whose parents was at the time of his birth a citizen of Ghana by descent may with the approval of the Governor-General, on making application therefor to the Minister in the prescribed manner, be registered as a citizen of Ghana.

(3) Subject to the provisions of subsection (4) of this section, a woman who has been married to a citizen of Ghana may with the approval of the Governor-General on making application therefor to the Minister in the prescribed manner, be registered as a citizen of Ghana whether or not she is of full age and capacity.

(4) A person shall not be registered as a citizen of Ghana under this section unless and until he has made a declaration in writing of his willingness to renounce any other nationality or citizenship he may possess and has taken an oath of allegiance in the form specified in the First Schedule to this Act.

12. (1) The Minister may with the approval of the Governor-General cause the minor child of any citizen of Ghana to be registered as a citizen of Ghana upon application made in the prescribed manner by a parent or guardian of the child.

(2) The Minister, in such special circumstances as he thinks fit, may with the approval of the Governor-General cause any minor to be registered as a citizen of Ghana.

13. A person registered under any of the last two foregoing sections shall be a citizen of Ghana by registration as from the date on which he is registered.

14. The Minister, if application therefor is made to him in the prescribed manner by any alien of full age and capacity who satisfies him that he is qualified under the provisions of the Second Schedule to this Act for naturalisation, may with the approval of the Governor-General grant to him a certificate of naturalisation, and the person to whom the certificate is granted shall, on taking an oath of allegiance in the form specified in the First Schedule to this Act, and on making a declaration in writing of his willingness to renounce any other nationality and any claim to the protection of any other country, be a citizen of Ghana by naturalisation as from the date on which that certificate is granted.

PART VII. RENUNCIATION AND DEPRIVATION OF CITIZENSHIP

15. (1) If any citizen of Ghana of full age and capacity who is also:

(a) a citizen of any country mentioned in subsection (3) of section 9 of this Act; or

(b) a national of a foreign country,

makes a declaration in the prescribed manner of renunciation of citizenship of Ghana, the Minister, if he is satisfied that that person is not ordinarily resident in Ghana, shall, and in all other cases, may cause the declaration to be registered; and, upon the registration, that person shall cease to be a citizen of Ghana:

Provided that the Minister may withhold registration of any such declaration if in his opinion it is contrary to public policy.

(2) For the purposes of this section any woman who has been married shall be deemed to be of full age.

16. (1) The Minister may by order deprive any person of his Ghana citizenship if the Minister is satisfied that that person has at any time while a citizen of Ghana and of full age and capacity acquired the nationality or citizenship of a foreign country by any voluntary and formal act other than marriage and that it is not conducive to the public good that he should continue to be a citizen of Ghana.

(2) The Minister may require any such citizen of Ghana as is referred to in the last foregoing section of this Act to renounce his nationality or citizenship of any other country within such period as the Minister may specify and in the event of any such person failing to renounce such nationality or citizenship within the time specified the Minister may by order deprive that person of his citizenship of Ghana.

(3) Upon an order being made under this section in respect of any person, he shall cease to be a citizen of Ghana.

17. (1) A citizen of Ghana who is such by registration or naturalisation shall cease to be a citizen of Ghana if he is deprived of that citizenship by an order of the Minister made under this or the next following section.

(2) Subject to the provisions of this section, the Minister may by order deprive any such citizen of his citizenship if he is satisfied that the registration or certificate of naturalisation was obtained by means of fraud, false representation or the concealment of any material fact.

(3) Subject to the provisions of this section, the Minister may by order deprive any citizen of Ghana who is such by naturalisation of that citizenship if he is satisfied that that citizen—

(a) has shown himself by act or speech to be disloyal or disaffected towards Her Majesty or the Government of Ghana; or

(b) has, during any war in which Ghana was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was to his knowledge carried on in such a manner as to assist an enemy in that war; or

(c) has within five years after becoming naturalised been sentenced in any country to imprisonment for a term of not less than twelve months.

(4) The Minister may by order deprive any citizen by naturalisation of his citizenship of Ghana if he is satisfied that that person has been ordinarily resident in foreign countries for a continuous period of seven years and during that period, has not registered annually in the prescribed manner at a Ghana consulate or by notice in writing to the Minister his intention to retain his citizenship of Ghana.

(5) The Minister shall not deprive a person of citizenship under this section unless he is satisfied that it is not conducive to the public good that that person should continue to be a citizen of Ghana.

18. When a naturalised person who was a citizen of any country mentioned in subsection (3) of section 9 of this Act has been deprived of that citizenship on grounds which, in the opinion of the Minister, are substantially similar to any of the grounds specified in subsections (2), (3) and (4) of the last foregoing section, then, if that person is a citizen of Ghana, the Minister may by an order made under this section deprive him of that citizenship, if the Minister is satisfied that it is not conducive to the public good that that person should continue to be a citizen of Ghana.

19. Any reference in this Act to the status or description of either parent of a person at the time of that person's birth shall, in relation to a person born after the death of that parent, be construed as a reference to the status or description of that parent at the time of the parent's death; and where that death occurred before, and the birth occurs after the commencement of this Act, the status or description which would have been applicable to such parent had he or she died after the commencement of this Act shall be deemed to be the status or description applicable to him or her as the case may be at the time of his or her death.

20. The Governor-General or the Minister as the case may be, shall not be required to assign any reason for the grant or refusal of any application under this Act, and the decision of the Governor-General or the Minister on any such application shall not be subject to appeal to or review in any court.

21. The Minister may in such cases as he thinks fit, on the application of any person with respect to whose citizenship of Ghana a doubt exists, whether on a question of fact or law, certify that a person is a citizen of Ghana; and a certificate issued under this section shall, unless it is proved that it was obtained by means of fraud, false representation or concealment of any material fact, be conclusive evidence that that person was such a citizen on the date thereof, but without prejudice to any evidence that he was such a citizen at an earlier date.

22. (1) Every document purporting to be a notice, certificate, order or declaration, or an entry in a register, or a subscription of an oath of allegiance, given, granted or made under this Act, shall be received in evidence, and shall, unless the contrary is proved, be deemed to have been given, granted or made by or on behalf of the person by whom or on whose behalf it purports to have been given, granted or made.

(2) *Prima facie* evidence of any such document as aforesaid may be given by production of a document purporting to be certified as a true copy thereof by such person and in such manner as may be prescribed.

(3) Any entry in a register made under this Act, shall be received as evidence of the matters stated in the entry.

23. (1) Any person who for the purpose of procuring anything to be done or not to be done under this Act makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, shall be liable on summary conviction to imprisonment for a term not exceeding six months.

(2) Any person who fails to comply with any requirement imposed on him by regulations made under this Act with respect to the delivering up of certificates of naturalisation shall be liable on summary conviction to a fine not exceeding one hundred pounds.

24. The Governor-General may by regulations make provision generally for carrying into effect the purposes of this Act, and in particular:

(a) for prescribing anything which under this Act is to be prescribed;

(b) for the registration of anything required or authorised under this Act to be registered;

(c) for the administration and taking of oaths of allegiance under this Act, for the time within which oaths of allegiance shall be taken and for the registration of oaths of allegiance;

(d) for the giving of any notice required or authorised to be given to any person under this Act;

(e) for the cancellation of the registration of, and the cancellation and amendment of certificates of naturalisation relating to, persons deprived of citizenship under this Act, and for requiring such certificates to be delivered up for those purposes;

(f) for the registration by officers in the service of the Government of Ghana of the births and deaths of persons of any class or description born or dying elsewhere than in Ghana;

(g) for enabling the births and deaths of citizens of Ghana born or dying in any country in which the Government of Ghana has for the time being no diplomatic or consular representatives to be registered by persons serving in the diplomatic, consular or other foreign service of any country which, by arrangement with the Government of Ghana, has undertaken to represent that government's interest in that country, or by a person authorised in that behalf by the Governor-General;

(h) for the imposition and recovery of fees in respect of any application made to the Governor-General or the Minister under this Act or in respect of any registration, or the making of any declaration, or the grant of any certificate, or the taking of any oath of allegiance, authorised to be made, granted or taken by or under this Act, and in respect of supplying a certified or other copy of any notice, certificate, order, declaration or entry, given, granted or made as aforesaid; and for the application of any such fees.

25. The British Nationality Fees Ordinance and the British Nationality (Offences) Ordinance, 1952, are hereby repealed.

SCHEDULES

FIRST SCHEDULE

(Sections 11 and 14)

I, A.B. swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Her Heirs and Successors, according to law and that I will support and uphold the Constitution of Ghana as by law established. So help me God.

SECOND SCHEDULE

(Section 14)

QUALIFICATIONS FOR NATURALISATION

1. Subject to the provisions of the next following paragraph, the qualifications for naturalisation of an alien who applies therefor are—

(a) that he has resided in Ghana throughout the period of twelve months immediately preceding the date of the application; and

(b) that during the seven years immediately preceding the said period of twelve months he has resided in Ghana for periods amounting in the aggregate to not less than five years; and

(c) that he is of good character; and

(d) that he has sufficient knowledge of a language indigenous to and in current use in Ghana; and

(e) that he intends in the event of a certificate being granted to him to reside in Ghana.

2. The Minister, if in the special circumstances or any particular case he thinks fit, may with the approval of the Governor-General—

(a) allow a continuous period of twelve months ending not more than six months before the date of application to be reckoned for the purposes of sub-paragraph (a) of the last foregoing paragraph as though it had immediately preceded that date;

(b) allow residence in a country other than a foreign country to be reckoned for the purposes of sub-paragraph (b) of the last foregoing paragraph as if it had been residence in Ghana;

(c) allow periods of residence earlier than eight years before the date of application to be reckoned in computing the aggregate mentioned in the said sub-paragraph (b).

India

CITIZENSHIP ACT NO. 57 OF 1955¹

An act to provide for the acquisition and termination of Indian citizenship

Be it enacted by Parliament in the Sixth Year of the Republic of India as follows:—

1. This Act may be called the Citizenship Act, 1955.

2. (1) In this Act, unless the context otherwise requires,—

(a) “a Government in India” means the Central Government or a State Government;

(b) “citizen”, in relation to a country specified in the First Schedule, means a person who, under the citizenship or nationality law for the time being in force in that country, is a citizen or national of that country;

(c) “citizenship or nationality law”, in relation to a country specified in the First Schedule, means an enactment of the legislature of that country which, at the request of the Government of that country, the Central Government may, by notification in the Official Gazette, have declared to be an enactment making provision for the citizenship or nationality of that country:

Provided that no such notification shall be issued in relation to the Union of South Africa except with the previous approval of both Houses of Parliament;

(d) “Indian consulate” means the office of any consular officer of the Government of India where a register of births is kept, or where there is no such office, such office as may be prescribed;

(e) “minor” means a person who has not attained the age of eighteen years;

(f) “person” does not include any company or association or body of individuals, whether incorporated or not;

(g) “prescribed” means prescribed by rules made under this Act;

(h) “undivided India” means India as defined in the Government of India Act, 1935, as originally enacted.

¹ Government of India, Ministry of Law, *Acts of Parliament*, 1955, p. 307.

(2) For the purposes of this Act, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the Government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(3) Any reference in this Act to the status or description of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the status or description of the father at the time of the father's death; and where that death occurred before, and the birth occurs after, the commencement of this Act, the status or description which would have been applicable to the father had he died after the commencement of this Act shall be deemed to be the status or description applicable to him at the time of his death.

(4) For the purposes of this Act, a person shall be deemed to be of full age if he is not a minor, and of full capacity if he is not of unsound mind.

Acquisition of Citizenship

3. (1) Except as provided in sub-section (2) of this section, every person born in India on or after the 26th January, 1950, shall be a citizen of India by birth.

(2) A person shall not be such a citizen by virtue of this section if at the time of his birth—

(a) his father possesses such immunity from suits and legal process as is accorded to an envoy of a foreign sovereign power accredited to the President of India and is not a citizen of India;

or

(b) his father is an enemy alien and the birth occurs in a place then under occupation by the enemy.

4. (1) A person born outside India on or after the 26th January, 1950, shall be a citizen of India by descent if his father is a citizen of India at the time of his birth:

Provided that if the father of such a person was a citizen of India by descent only, that person shall not be a citizen of India by virtue of this section unless—

(a) his birth is registered at an Indian consulate within one year of its occurrence or the commencement of this Act, whichever is later, or, with the permission of the Central Government, after the expiry of the said period; or

(b) his father is, at the time of his birth, in service under a Government in India.

(2) If the Central Government so directs, a birth shall be deemed for the purposes of this section to have been registered with its permission, notwithstanding that its permission was not obtained before the registration.

(3) For the purposes of the proviso to sub-section (1), any male person born outside undivided India who was, or was deemed to be, a citizen of India at the commencement of the Constitution shall be deemed to be a citizen of India by descent only.

5. (1) Subject to the provisions of this section and such conditions and restrictions as may be prescribed, the prescribed authority may, on application made in this behalf, register as a citizen of India any person who is not already such citizen by virtue of the Constitution or by virtue of any of the other provisions of this Act and belongs to any of the following categories:—

- (a) persons of Indian origin who are ordinarily resident in India and have been so resident for six months immediately before making an application for registration;
- (b) persons of Indian origin who are ordinarily resident in any country or place outside undivided India;
- (c) women who are, or have been, married to citizens of India;
- (d) minor children of persons who are citizens of India; and
- (e) persons of full age and capacity who are citizens of a country specified in the First Schedule:

Provided that in prescribing the conditions and restrictions subject to which persons of any such country may be registered as citizens of India under this clause, the Central Government shall have due regard to the conditions subject to which citizens of India may, by law or practice of that country, become citizens of that country by registration.

Explanation. For the purposes of this sub-section, a person shall be deemed to be of Indian origin if he, or either of his parents, or any of his grandparents, was born in undivided India.

(2) No person being of full age shall be registered as a citizen of India under sub-section (1) until he has taken the oath of allegiance in the form specified in the Second Schedule.

(3) No person who has renounced, or has been deprived of, his Indian citizenship, or whose Indian citizenship has terminated, under this Act shall be registered as a citizen of India under sub-section (1) except by order of the Central Government.

(4) The Central Government may, if satisfied that there are special circumstances justifying such registration, cause any minor to be registered as a citizen of India.

(5) A person registered under this section shall be a citizen of India by registration as from the date on which he is so registered; and a person registered under the provisions of clause (b) (ii) of article 6 or article 8 of the Constitution shall be deemed to be a citizen of Indian by registration as from the commencement of the Constitution or the date on which he was so registered, whichever may be later.

6. (1) Where an application is made in the prescribed manner by any person of full age and capacity who is not a citizen of a country specified in the First Schedule for the grant of a certificate of naturalisation to him, the Central Government may, if satisfied that the applicant is qualified for naturalisation under the provisions of the Third Schedule, grant to him a certificate of naturalisation:

Provided that, if in the opinion of the Central Government, the applicant is a person who has rendered distinguished service to the cause of science, philosophy, art, literature, world peace or human progress generally, it may waive all or any of the conditions specified in the Third Schedule.

(2) The person to whom a certificate of naturalisation is granted under sub-section (1) shall, on taking the oath of allegiance in the form specified in the Second Schedule, be a citizen of India by naturalisation as from the date on which that certificate is granted.

7. If any territory becomes a part of India, the Central Government may, by order notified in the Official Gazette, specify the persons who shall be

citizens of India by reason of their connection with that territory; and those persons shall be citizens of India as from the date to be specified in the order.

Termination of Citizenship

8. (1) If any citizen of India of full age and capacity, who is also a citizen or national of another country, makes in the prescribed manner a declaration renouncing his Indian citizenship, the declaration shall be registered by the prescribed authority; and, upon such registration, that person shall cease to be a citizen of India:

Provided that if any such declaration is made during any war in which India may be engaged, registration thereof shall be withheld until the Central Government otherwise directs.

(2) Where a male person ceases to be a citizen of India under sub-section (1), every minor child of that person shall thereupon cease to be a citizen of India:

Provided that any such child may, within one year after attaining full age, make a declaration that he wishes to resume Indian citizenship and shall thereupon again become a citizen of India.

(3) For the purposes of this section, any woman who is, or has been, married shall be deemed to be of full age.

9. (1) Any citizen of India who by naturalisation, registration or otherwise voluntarily acquires, or has at any time between the 26th January, 1950 and the commencement of this Act voluntarily acquired, the citizenship of another country shall, upon such acquisition or, as the case may be, such commencement, cease to be a citizen of India:

Provided that nothing in this sub-section shall apply to a citizen of India who, during any war in which India may be engaged, voluntarily acquires the citizenship of another country, until the Central Government otherwise directs.

(2) If any question arises as to whether, when or how any person has acquired the citizenship of another country, it shall be determined by such authority, in such manner, and having regard to such rules of evidence, as may be prescribed in this behalf.

10. (1) A citizen of India who is such by naturalisation or by virtue only of clause (c) of article 5 of the Constitution or by registration otherwise than under clause (b) (ii) of article 6 of the Constitution or clause (a) of sub-section (1) of section 5 of this Act shall cease to be a citizen of India, if he is deprived of that citizenship by an order of the Central Government under this section.

(2) Subject to the provisions of this section, the Central Government may, by order, deprive any such citizen of Indian citizenship, if it is satisfied that—

(a) the registration or certificate of naturalisation was obtained by means of fraud, false representation or the concealment of any material fact; or

(b) that citizen has shown himself by act or speech to be disloyal or disaffected towards the Constitution of India as by law established; or

(c) that citizen has, during any war in which India may be engaged, unlawfully traded or communicated with an enemy or been engaged in, or associated with, any business that was to his knowledge carried on in such manner as to assist an enemy in that war; or

(d) that citizen has, within five years after registration or naturalisation, been sentenced in any country to imprisonment for a term of not less than two years; or

(e) that citizen has been ordinarily resident out of India for a continuous period of seven years, and during that period, has neither been at any time a student of any educational institution in a country outside India or in the service of a Government in India or of an international organisation of which India is a member, nor registered annually in the prescribed manner at an Indian consulate his intention to retain his citizenship of India.

(3) The Central Government shall not deprive a person of citizenship under this section unless it is satisfied that it is not conducive to the public good that that person should continue to be a citizen of India.

(4) Before making an order under this section, the Central Government shall give the person against whom the order is proposed to be made notice in writing informing him of the ground on which it is proposed to be made and, if the order is proposed to be made on any of the grounds specified in sub-section (2) other than clause (e) thereof, of his right, upon making application therefor in the prescribed manner, to have his case referred to a committee of inquiry under this section.

(5) If the order is proposed to be made against a person on any of the grounds specified in sub-section (2) other than clause (e) thereof and that person so applies in the prescribed manner, the Central Government shall, and in any other case it may, refer the case to a Committee of Inquiry consisting of a chairman (being a person who has for at least ten years held a judicial office) and two other members appointed by the Central Government in this behalf.

(6) The Committee of Inquiry shall, on such reference, hold the inquiry in such manner as may be prescribed and submit its report to the Central Government; and the Central Government shall ordinarily be guided by such report in making an order under this section.

Supplemental

11. Every person who is a citizen of a Commonwealth country specified in the First Schedule shall, by virtue of that citizenship, have the status of a Commonwealth citizen in India.

12. (1) The Central Government may, by order notified in the Official Gazette, make provisions on a basis of reciprocity for the conferment of all or any of the rights of a citizen of India on the citizens of any country specified in the First Schedule.

(2) Any order made under sub-section (1) shall have effect notwithstanding anything inconsistent therewith contained in any law other than the Constitution of India or this Act.

13. The Central Government may, in such cases as it thinks fit, certify that a person, with respect to whose citizenship of India a doubt exists, is a citizen of India; and a certificate issued under this section shall, unless it is proved that it was obtained by means of fraud, false representation or concealment of any material fact, be conclusive evidence that that person was such a citizen on the date thereof, but without prejudice to any evidence that he was such a citizen at an earlier date.

14. (1) The prescribed authority or the Central Government may, in its discretion, grant or refuse an application under section 5 or section 6 and shall not be required to assign any reasons for such grant or refusal.

(2) Subject to the provisions of section 15, the decision of the prescribed authority or the Central Government on any such application as aforesaid shall be final and shall not be called in question in any court.

15. (1) Any person aggrieved by an order made under this Act by the prescribed authority or any officer or other authority (other than the Central Government) may, within a period of thirty days from the date of the order, make an application to the Central Government for a revision of that order;

Provided that the Central Government may entertain the application after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by sufficient cause from making the application in time.

(2) On receipt of any such application under sub-section (1), the Central Government shall, after considering the application of the aggrieved person and any report thereon which the officer or authority making the order may submit, make such order in relation to the application as it deems fit, and the decision of the Central Government shall be final.

16. The Central Government may, by order, direct that any power which is conferred on it by any of the provisions of this Act other than those of section 10 and section 18 shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercisable also by such officer or authority as may be so specified.

17. Any person who, for the purpose of procuring anything to be done or not to be done under this Act, knowingly makes any representation which is false in a material particular shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

18. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the registration of anything required or authorized under this Act to be registered, and the conditions and restrictions in regard to such registration;

(b) the forms to be used and the registers to be maintained under this Act;

(c) the administration and taking of oaths of allegiance under this Act, and the time within which, and the manner in which, such oaths shall be taken and recorded;

(d) the giving of any notice required or authorized to be given by any person under this Act;

(e) the cancellation of the registration of, and the cancellation and amendment of certificates of naturalisation relating to, persons deprived of citizenship under this Act, and the delivering up of such certificates for those purposes;

(f) the registration at Indian consulates of the births and deaths of persons of any class or description born or dying outside India.

(g) the levy and collection of fees in respect of applications, registrations, declarations and certificates under this Act, in respect of the taking of an oath of allegiance, and in respect of the supply of certified or other copies of documents;

(h) the authority to determine the question of acquisition of citizenship of another country, the procedure to be followed by such authority and rules of evidence relating to such cases;

(i) the procedure to be followed by the committees of inquiry appointed under section 10 and the conferment on such committees of any of the powers, rights and privileges of civil courts;

(j) the manner in which applications for revision may be made and the procedure to be followed by the Central Government in dealing with such applications; and

(k) any other matter which is to be, or may be, prescribed under this Act.

(3) In making any rule under this section, the Central Government may provide that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

(4) All rules made under this section shall, as soon as may be after they are made, be laid for not less than fourteen days before both Houses of Parliament and shall be subject to such modifications as Parliament may make during the session in which they are so laid.

19. (1) The British Nationality and Status of Aliens Acts, 1914 to 1943, are hereby repealed in their application to India.

(2) All laws relating to naturalisation which are in force in any part of India are hereby repealed.

THE FIRST SCHEDULE

[SEE SECTIONS 2 (1) (b) AND 5(1) (e)]

A. The following Commonwealth countries:—

1. United Kingdom.
2. Canada.
3. Commonwealth of Australia.
4. New Zealand.
5. Union of South Africa.
6. Pakistan.
7. Ceylon.
8. Federation of Rhodesia and Nyasaland.

B. The Republic of Ireland.

Explanation. In this Schedule, "United Kingdom" means the United Kingdom of Great Britain and Northern Ireland, and includes the Channel Islands, the Isle of Man and all Colonies; and "Commonwealth of Australia" includes the territories of Papua and the territory of Norfolk Island.

THE SECOND SCHEDULE

[SEE SECTIONS 5(2) AND 6(2)]

Oath of Allegiance

I, A. B..... do solemnly affirm (or swear) that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully observe the laws of India and fulfil my duties as a citizen of India.

THE THIRD SCHEDULE

[SEE SECTION 6(1)]

QUALIFICATIONS FOR NATURALISATION

The qualifications for naturalisation of a person who is not a citizen of a country specified in the First Schedule are:—

(a) that he is not a subject or citizen of any country where citizens of India are prevented by law or practice of that country from becoming subjects or citizens of that country by naturalisation;

(b) that, if he is a citizen of any country, he has renounced the citizenship of that country in accordance with the law therein in force in that behalf and has notified such renunciation to the Central Government;

(c) that he has either resided in India or been in the service of a Government in India or partly the one and partly the other, throughout the period of twelve months immediately preceding the date of the application;

(d) that during the seven years immediately preceding the said period of twelve months, he has either resided in India or been in the service of a Government in India, or partly the one and partly the other, for periods amounting in the aggregate to not less than four years;

(e) that he is of good character;

(f) that he has an adequate knowledge of a language specified in the Eighth Schedule to the Constitution; and

(g) that in the event of a certificate of naturalisation being granted to him, he intends to reside in India, or to enter into, or continue in, service under a Government in India or under an international organisation of which India is a member or under a society, company or body of persons established in India:

Provided that the Central Government may, if in the special circumstances of any particular case it thinks fit,—

(i) allow a continuous period of twelve months ending not more than six months before the date of the application to be reckoned, for the purposes of clause (c) above, as if it had immediately preceded that date;

(ii) allow periods of residence or service earlier than eight years before the date of the application to be reckoned in computing the aggregate mentioned in clause (d) above.

Libya

NATIONALITY LAW NO. 17 OF 1954¹

PART 1

Article 1

Any person who at the promulgation of the Constitution (on the 7th of October 1951) was normally resident in Lybia and not a national or subject of any foreign state, shall be a Libyan subject as from that date if:

(a) he was born in Lybia; or

(b) he was born outside Libya and either of his parents was born in Libya, or

(c) he was born outside Libya, and had on that date normally resided in Libya for at least ten successive years.

Article 2

(1) Any person born before the 7th of October 1951, who was not normally resident in Libya on that date, may:

(a) If he was born in Libya; or

(b) if he was born outside Libya and either of his parents or any of his grand parents was born in Libya, opt for Libyan nationality in accordance with the provisions of this Law.

(2) Any person born before the 7th of October 1951, who was normally resident in Libya on that date but is not a Libyan subject by virtue of Article 1 of this Law, may:

(a) if he is an Arab and stateless, or

(b) if he is a citizen of an Arab country and had been normally resident in Libya on the said date for not less than five successive years, or

(c) in any other case, if he had been ordinarily resident in Libya on the 7th of October 1956 for not less than ten successive years, and is still residing therein, opt for Libyan nationality in accordance with the provisions of this law provided that persons in category (c) shall apply for Libyan nationality not later than the 1st of January 1955.

Article 3

A person wishing to opt for Libyan nationality under the preceding article shall apply to the Minister of Foreign Affairs, and he may include in his application the names of his wife and of his minor children.

If the Minister is satisfied:

(1) That the applicant is of sane mind and full age:

(2) That he is of good character and has not been convicted of any offence involving moral turpitude, unless he has been rehabilitated,

(3) that he intends to reside in Libya; and

(4) that he, and those included in the application, will on becoming subjects divest themselves of any foreign nationality they may possess;

¹ *Official Gazette of the United Kingdom of Libya*, No. 3, Vol. 4, 25 April 1954.

he shall, with the approval of the Council of Ministers, issue to the applicant a certificate of Libyan nationality in respect of himself and those included in his application.

On the issue of a certificate of Libyan nationality under this article, the persons whose names are included therein shall be Libyan subjects from the date of the certificate.

Article 4

Any person shall be a Libyan subject if:

(a) he was born in Libya on or after the 7th October, 1951 and does not by reason of his birth acquire any foreign nationality; or

(b) he was born outside Libya on or after the 7th of October 1951, and his father was a Libyan subject by virtue of his birth in Libya or naturalization or the operation of Article 1 of Article 2 of this Law; or

(c) he was born outside Libya under the preceding paragraph, and in that case, his birth must be registered within one year at a Libyan Embassy, Legation, or Consulate, or at the Ministry of Foreign Affairs, or any other place approved for the purpose by the Minister of Foreign Affairs.

(2) Any person who under para. (b) or (c) acquires a foreign nationality by virtue of his birth may divest himself of his foreign nationality and opt for Libyan nationality giving notice thereof to the Minister of Foreign Affairs within one year of attaining full age.

PART 2. NATURALIZATION

Article 5

Libyan nationality may, by decree, be granted to any foreigner provided that he fulfils the following conditions:

(1) That he has attained full age and is neither incompetent nor deficient nor a married woman;

(2) That he has been normally resident in Libya, or in the service of the Government of the United Kingdom of Libya, or partly the one and partly the other for a period of ten successive years immediately preceding his application, or if he is an Arab, five years. The applicant may be exempted from the condition of residence if he had previously served in the armed forces of Libya, or where such exemption is conducive to the public good, in such case nationality shall be granted by special law;

(3) that he is of good character and has not been found guilty of any offence involving moral turpitude unless he has been rehabilitated;

(4) that he intends to reside in Libya, and has lawful means of support; and

(5) that he knows the Arabic language sufficiently.

The application shall be submitted to the Minister of Foreign Affairs, who within three months of receipt thereof, shall refer it to the Council of Ministers after being satisfied that it conforms to all the conditions required, and the Council of Ministers at its own discretion may recommend the issue to the applicant of a decree of naturalization. Such decree shall be effective when the applicant has taken an oath of allegiance to the country and the King and has lost any foreign nationality he may possess.

Article 6

(1) There may be included in an application for naturalization and a decree of naturalization issued under the previous article, the name of the applicant's wife and any child under the age of eighteen and the wife and the child so included shall thereupon become Libyan subjects; but any such child may within one year after attaining full age renounce Libyan nationality by giving notice to the Minister of Foreign Affairs.

PART 3. MARRIED WOMEN

Article 7

A woman who is a foreigner and who is married to a Libyan subject shall have the right to become a Libyan subject by giving notice to the Minister of Foreign Affairs, provided she loses her foreign nationality. The Minister may on stated grounds, withhold the grant of such nationality, or may withdraw it where matrimony does not last for two years at least.

On termination of matrimony, such a woman shall not lose her Libyan nationality unless she marries a foreigner or makes her normal residence outside Libya or has recovered her foreign nationality.

If a foreign woman marries a Libyan subject, the children born before that marriage shall not by reason only of the marriage acquire Libyan nationality.

Article 8

A Libyan woman who marries a foreigner shall retain her Libyan nationality unless she desires to acquire the nationality of her husband and she is permitted to do so by the national law of her husband.

In the event of the termination of marriage, such a woman may resume her Libyan nationality by giving notice to the Minister of Foreign Affairs within one year of such termination, and provided that she renounces her foreign nationality.

PART 4. — LOSS OF NATIONALITY

Article 9

Any Libyan subject who voluntarily acquires the nationality of any foreign state shall thereupon cease to be a Libyan subject, provided he gives notice thereof to the Minister of Foreign Affairs.

If the father of any children under the age of eighteen loses his Libyan nationality, such children shall likewise lose their Libyan nationality.

Provided that any such children may, if they lose their foreign nationality, by notice given to the Minister of Foreign Affairs within one year of attaining full age, resume their Libyan nationality.

Article 10

(1) A Libyan subject who has acquired Libyan nationality under any of articles 2, 4, 6, or 7 of this law may within five years from the date of his acquiring Libyan nationality be divested of his nationality by Royal Decree, if:

(a) he is found to have obtained Libyan nationality as a result of a false statement or concealment of material facts; or

(b) he has been convicted of an offence showing disloyalty to the country and the King;

(c) he has been convicted of any offence involving moral turpitude; or

(d) he has, in the course of the five years following the date of his acquiring Libyan nationality, resided outside Libya for two successive years for a reason not acceptable to the Council of Ministers. The nationality of the wife and children of a person divested of nationality under this article shall not be affected unless the Royal Decree so provides.

The Libyan nationality may be nullified by Royal Decree showing grounds for same, if the person concerned joins the military service of a foreign country without the permission of his Government.

PART 5. — GENERAL PROVISIONS

Article 11

(a) Any person who acquires Libyan nationality under Articles 2, 5 or 6 of this Law shall not assume the office of Minister or take up an appointment in a diplomatic mission or be a Wali or Nazir or hold any post which can be held by a Libyan, or be elected or appointed for Parliament of any Legislative Council until ten years have lapsed since he acquired Libyan nationality if he is a citizen of an Arab country, and fifteen years if he is not.

(b) The provisions of para. (a) of this article shall not apply to the Libyans who migrated from the country since 1911 if they divest themselves of foreign nationality and acquire Libyan nationality under this Law.

Article 12

The Minister of Foreign Affairs may, where he thinks fit, extend the period fixed for the making of applications or giving of notices as provided by this law with the exception—where public circumstances require it—of para. (c) of Article 2. He may also extend the time fixed for the registration.

Article 13

Periods of time shall for the purposes of this Law be calculated by the Gregorian calendar. A person who has his home in Lybia and goes abroad for temporary purposes shall nevertheless be regarded as normally resident in Libya for the purposes of this Law.

Article 14

The Minister of Foreign Affairs may make regulations

(a) as to the issue of certificates of nationality and naturalization;

(b) Prescribing the text of the oath of allegiance, applications, notices, and all other forms required under this Law;

(c) prescribing the fees to be paid on any application for and grant of certificate of nationality and naturalization, or on giving any notice under this Law.

Article 15

A Law shall be promulgated regulating passports and other travel documents and prescribing the fees to be paid for the issue thereof.

Article 16

The Cyrenaican Nationality Law of 1949, and another law conflicting with the provisions of this Law are hereby repealed.

Article 17

This Law may be cited as the Libyan Nationality Law, 1954, and shall come into force on the date of publication in the *Official Gazette*.

Netherlands

Act of December 23, 1953, A.O.D. 620, repealing Royal Decree of May 22, 1943 (A.O.D. D 16) (the prevention of undesirable effects as a result of the acquisition of foreign nationality after May 9, 1940) and laying down transitional regulations (which became effective on March 1, 1954, by Royal Decree of January 12, 1954, A.O.D. 1)

Article I

Royal Decree of May 22, 1953 (A.O.D. D 16) is repealed, it being understood that such persons as would, but for the operation of this Decree, not or no longer possess the status of a Netherlander or Netherlands subject, shall lose this status when the present Act becomes effective.

Article II

Any woman who has not by or as a result of her marriage with a foreigner lost the status of a Netherlander or Netherlands subject, but who loses it as a result of the provisions of article I, shall regain that status on the dissolution of her marriage provided she notifies or has notified—within a year after the dissolution of her marriage or within a year after the present Act has become effective—her wish to regain that status, to the authority mentioned in article 8 of the Act relative to Netherlandership and Residentsip as this article was or will be worded on the date of notification, or to the authority referred to in the penultimate paragraph of article 2 of the Act of February 10, 1910 (A.O.D. 55), as amended.

Article III

The child referred to in article 10 of the Act relative to Netherlandership and Residentsip which has not lost the status of a Netherlander but loses it as a result of the provisions of article I, shall regain that status on coming of age under Netherlands law provided that within one year thereafter, or, being a major, within a year after the present Act has become effective, he/she gives notice of his/her desire to regain that status, to the authority referred to in the foregoing article 10, as it was or will be worded on the date of notification.

Article IV

This Act shall also be binding upon Surinam, the Netherlands Antilles and New Guinea and shall take effect on a date to be fixed by Us.

Paraguay

ACT NO. 245 OF 23 DECEMBER 1954¹ TO INTERPRET ARTICLE 41, PARAGRAPH 4, OF THE NATIONAL CONSTITUTION²

The House of Representatives of the Paraguayan Nation hereby approves the following provision, which shall have the force of

LAW:

Article 1. Article 41, paragraph 4, of the National Constitution shall be interpreted as follows: a Paraguayan national resident abroad who acquires another nationality or citizenship because he is required to do so under the laws of the country of his residence shall not lose Paraguayan nationality and citizenship.

Saudi Arabia

SAUDI ARABIAN NATIONALITY ORDINANCE, 1954³

Article 1. This Ordinance shall be known as the Saudi Arabian Nationality Ordinance.

Article 2. This Ordinance shall not be retroactive, and all orders made and proceedings completed lawfully in virtue of previous ordinances, and all grants of nationality made in virtue of those ordinances by lawful process and on valid evidence, shall continue in effect.

Article 3. In this Ordinance:

(a) "Saudi Arabian national" means a person subject to the Government of His Majesty the King in accordance with the provisions of this Ordinance;

(b) "naturalized Saudi Arabian" means a person who has obtained Saudi Arabian nationality by virtue of the relevant provisions of this Ordinance;

(c) "alien" means any person other than a Saudi Arabian national;

(d) "incapable person" means a minor or a lunatic or a mental defective;

(e) "majority" has the meaning assigned to it by the religious law;

(f) "Kingdom of Saudi Arabia" includes all the territory and waters and air space under the dominion of Saudi Arabia, and all ships and aircraft wearing the Saudi Arabian flag.

Article 4. A person shall be a Saudi Arabian national if:

(a) he was a subject of the Ottoman Empire in 1914 and one of the original inhabitants of the territory of the Saudi Kingdom;

¹ *Gaceta oficial de la República del Paraguay*, Número 164, Asunción, 24 December 1954. Translation by the Secretariat of the United Nations.

² For article 41, paragraph 4 of this Constitution, see: *The United Nations Legislative Series*, "Laws concerning Nationality", ST/LEG/SER.B/4, p. 375.

³ Enacted by the Council of Ministers by Resolution No. 4 of 23 September 1954 (25 Muharram 1374) and promulgated by the Government in Royal Proclamation No. 8/20/5614 of 20 October 1954 (22 Safar 1374). Arabic text from the periodical *Majallat al-Hajj* (Pilgrimage Review), vol. 8, part 10, December 1954. Translation by the Secretariat of the United Nations.

(b) he was an Ottoman subject born within the territory of the Kingdom of Saudi Arabia, or resident therein in 1332 or 1914, and continued to reside therein until 22 Rabi' Awwal 1345¹ and had not acquired foreign nationality before that date;

(c) not being an Ottoman subject, he resided within the territory of the Kingdom of Saudi Arabia in 1332 or 1914 and continued to reside therein until 22 Rabi' Awwal 1345¹ and had not acquired foreign nationality before that date.

Article 5. Article 4(a) shall apply to a woman who was an original inhabitant of the territory of the Kingdom of Saudi Arabia and who applies for restoration of Saudi Arabian nationality after her divorce or the death of her husband.

Article 6. An application for a certificate of Saudi Arabian nationality made by a person to whom article 4(b or c) applies after the expiration of one year from the enactment of this Ordinance or, in the case of an incapable person, from the date on which he attains his majority shall not be granted.

Article 7. A person born in the Kingdom of Saudi Arabia or abroad to a Saudi Arabian father, or to a Saudi Arabian mother by a father unknown or of unknown nationality, shall be a Saudi Arabian national.

Article 8. A person born in the Kingdom of Saudi Arabia to two alien parents or to an alien father and to a Saudi Arabian mother, or born abroad to an alien father of known nationality and a Saudi Arabian mother, shall be an alien; provided that when he attains majority he shall be entitled to opt for Saudi Arabian nationality if he satisfies the following requirements:

(a) he is permanently resident in the Kingdom of Saudi Arabia on attaining majority;

(b) he is of good character and conduct and has not been convicted of a crime or sentenced to imprisonment for a term exceeding six months for a moral offence;

(c) he knows the Arabic language;

(d) he has applied within one year after attaining majority for a grant of Saudi Arabian nationality; and a lunatic or a mental defective shall have the nationality of his father if living or otherwise of his guardian under the religious law; and his father or guardian shall opt for Saudi Arabian nationality in respect of him after the requirements aforesaid have been satisfied.

Article 9. Saudi Arabian nationality may be granted to an alien who satisfies the following requirements:

1. he shall have attained his majority by the date of the application;

2. he shall not be a lunatic or a mental defective;

3. he shall at the time of application:

(a) have been permanently and usually resident in the Kingdom of Saudi Arabia for not less than five consecutive years in accordance with the relevant provisions of law;

(b) be of good character and conduct;

¹ 12 July 1926, the date of publication of the first Nationality Ordinance.

- (c) never have been sentenced to imprisonment for a moral offence;
- (d) be maintaining himself by lawful means.

An applicant for naturalization shall append to his application his permanent residence permit, his legal passport or other document accepted by the competent authorities as equivalent thereto, and any other document in his possession relating to the nationality which he is about to relinquish, and documents evidencing the matters which he is required by this Ordinance to establish.

Article 10. Saudi Arabian nationality shall be granted by the President of the Council of Ministers on a motion by the Minister of the Interior, who may in any case, before making such motion and without disclosing a reason, withhold his consent to the grant of Saudi Arabian nationality to an alien satisfying the requirements of article 9.

Article 11. A Saudi Arabian national may not acquire a foreign nationality without prior permission from the President of the Council of Ministers, and a Saudi Arabian national who acquires a foreign nationality before obtaining the said permission and in anticipation thereof shall continue to be a Saudi Arabian national unless His Majesty's Government sees fit to deprive him of Saudi Arabian nationality in accordance with article 13.

Article 12. The wife of a Saudi Arabian national who acquires a foreign nationality by permission shall, if she obtains the new nationality of her husband under the law relating thereto, lose her Saudi Arabian nationality unless within one year after her husband acquires the nationality aforesaid she declares her desire to retain her Saudi Arabian nationality.

A minor child shall lose his Saudi Arabian nationality if under the law relating to the new nationality he acquires the same by virtue of his father's change of nationality; but he shall be entitled to restoration of Saudi Arabian nationality within one year after he attains majority.

Article 13. A Saudi Arabian national may be deprived of Saudi Arabian nationality by reasoned decree on any of the following grounds:

- (a) he has acquired another nationality in breach of the provisions of article 11 of this Ordinance;
- (b) he has served in the armed forces of a foreign government without prior permission of His Majesty's Government;
- (c) he has acted in the interests of a foreign State or government at war with the Kingdom of Saudi Arabia;
- (d) he has accepted office in a foreign government or international organization and has remained therein despite an order of His Majesty's Government to quit same.

In any of the cases mentioned in paragraphs (a-d) of this article the Saudi Arabian national shall, at least three months before the date of any decree depriving him of Saudi Arabian nationality, receive a notice warning him of the consequences of his act; and in every case in which Saudi Arabian nationality is withdrawn in accordance with the provisions of this article the property of the person thus deprived of nationality shall be liquidated in accordance with the Real Property Regulations, and he may be forbidden to reside in the territory of the Kingdom of Saudi Arabia or to return thereto.

Article 14. The wife of an alien acquiring Saudi Arabian nationality shall acquire it also thereby, unless within one year of his acquisition thereof she declares her desire to retain her original nationality; and a minor child of such an alien shall if resident in the Kingdom of Saudi Arabia be a Saudi Arabian national, but shall be entitled to opt for his father's original nationality within one year from the date on which he attains majority, and if resident abroad shall be an alien, but shall be entitled to opt for his father's Saudi Arabian nationality within one year from the date on which he attains majority.

Article 15. A naturalized person shall be required to make a separate application for grant of Saudi Arabian nationality to each woman whose guardian he is under the religious law and by virtue of a certificate issued in accordance with that law.

Article 16. An alien woman shall on marriage to a Saudi Arabian national acquire his nationality.

Article 17. Without prejudice to any provision of article 132 or article 133 of the Code of Procedure in Religious Courts, a Saudi Arabian woman shall not lose her nationality on marriage to an alien unless she is permitted to leave the Kingdom with her husband (in accordance with the Ordinance relating thereto) and afterwards declares and publishes her acquisition of her husband's nationality and acquires the same by virtue of the relevant provisions of law.

Article 18. A Saudi Arabian woman who has been married to an alien may, if she returns to reside in the Kingdom after dissolution of the marriage, apply for restoration of Saudi Arabian nationality.

Article 19. The following provisions shall apply to wives and children of persons deprived of Saudi Arabian nationality:

(a) the wife of a man deprived of Saudi Arabian nationality under article 13 may opt to acquire her husband's new nationality or to retain Saudi Arabian nationality, and if she has opted for his nationality and her marriage is subsequently dissolved, she may apply for restoration of her Saudi Arabian nationality. A minor child resident abroad shall, on attaining majority, be entitled unconditionally and without restriction to opt for Saudi Arabian nationality, and shall thereupon acquire all the rights of a Saudi Arabian national without exception;

(b) loss of Saudi Arabian nationality by a person under article 11 shall not entail its loss by his wife or child or by any person who has such nationality through dependence.

Article 20. A person who has completed the period of residence required for grant of Saudi Arabian nationality and has applied for naturalization and then leaves the Kingdom on a passport of the government of his original nationality before he has been granted Saudi Arabian nationality and remains absent from the country for a period exceeding one year shall lose credit for any period of residence. A person who has completed his required period of residence and leaves the country without applying for Saudi Arabian nationality and remains abroad for a period exceeding six months from the date of issue of his re-entry permit shall cease to be entitled to apply for nationality.

Article 21. Saudi Arabian nationality may, on application by the Minister of the Interior, be withdrawn by reasoned decree from any person naturalized under article 8, 9 or 10 of this Ordinance during the first five years thereafter on either of the following grounds:

(a) he has been convicted of a crime or sentenced to a period of imprisonment exceeding one year for a moral offence;

(b) he is proved to have done or abetted any act prejudicial to the general safety of the Kingdom, or to have become by reason of his conduct a person whose presence in the country is undesirable.

Article 22. Saudi Arabian nationality may, on a motion made by the Minister of the Interior and with the consent of the President of the Council of Ministers, be at any time withdrawn from a naturalized person if it is proved that he obtained it by means of false statements or by fraud, error, forgery or fabrication in respect of any witness, document, certificate or evidence, committed by him for the purpose of obtaining the said nationality.

Article 23. Withdrawal of Saudi Arabian nationality from a naturalized person shall entail its withdrawal also from any person who acquired it through dependence on him; but if it be shown that a person who had acquired nationality through dependence is a person of good character, and that there is no reason why nationality should not be granted to him, it shall be granted to him subject to computation of the time which has expired in his favour.

Article 28. This Ordinance repeals the Saudi Arabian Nationality Ordinance brought into effect by Royal Administrative Order No. 7/1/47 on 5 December 1938 (13 Shawal 1357), and all previous ordinances relating to Hejazi nationality or to Hejazi-Nejdi nationality, and all provisions of other ordinances contrary to the provisions of this Ordinance.

Spain

ACT No. 504, OF 15 JULY 1954¹

Article 1. Articles 17 to 27 of the Civil Code,² Book I, Part I, now in force shall be amended to read as follows:

“*Article 17.* The following have Spanish nationality:

1. The children of a Spanish father;
2. The children of a Spanish mother and a father who is an alien, provided they do not assume the nationality of the father;
3. Persons born in Spain of alien parents, if the latter were born in Spain and resided there at the time of the birth. This does not apply to the children of aliens attached to the diplomatic service;

¹ Published in *Legislación y Disposiciones de la Administración Central, Edición Oficial*, vol. XXXIII, July-September 1954. Translation by the United Nations Secretariat.

² *United Nations Legislative Series*, “Laws Concerning Nationality”. ST/LEG/SER.B/4, p. 437.

4. Persons born in Spain of unknown parents, without prejudice to their status according to their true parentage, should it become known.

“Article 18. The following may opt for Spanish nationality:

1. Persons born in Spanish territory of alien parents other than those referred to in article 17 (3);
2. Persons born outside Spain of a father or mother whose original nationality was Spanish.

“Such persons may exercise their option by making a declaration, within the year following attainment of majority or *sui juris* status, before the civil registrar of their place of residence, in the case of persons living in Spain, or before a diplomatic or consular agent of the Spanish Government in the case of persons residing abroad.

“In order to be effective, the declaration of option must fulfil the conditions set forth in the final paragraph of article 19.

“Article 19. An applicant may, in exceptional circumstances or by virtue of residence in Spain for the period prescribed by article 20, acquire Spanish nationality by obtaining naturalization papers, which may be issued by the head of the State at his discretion.

“No such applicant may be granted Spanish nationality unless he is over the age of twenty-one years, or over the age of eighteen years and *sui juris*.

“If a person acquires Spanish nationality under this article, his wife unless legally separated and the children under his paternal authority shall likewise acquire the said nationality.

“In order to acquire Spanish nationality by either method, the following requirements must be fulfilled:

1. The applicant must first have renounced his previous nationality;
2. He must swear an oath of allegiance to the Head of the State and of obedience to the laws;
3. He must register as Spanish in the civil register.

“Article 20. An applicant for grant of Spanish nationality shall be required to have resided in Spain for ten years.

“However, residence of five years shall be sufficient if the applicant (1) has introduced into Spanish territory an important industry or invention, or (2) is the owner or director of similarly important agricultural, industrial or commercial undertaking, or (3) has rendered distinguished service to the art, culture or economy of the nation, or has appreciably furthered Spanish interests.

“In exceptional cases an applicant who satisfies none of the requirements of the preceding paragraph may nevertheless be eligible for grant of Spanish nationality after residence in Spain for only two years if he falls within any of the categories listed in article 18, but has not exercised his option within the prescribed time-limits, or is an alien adopted as a minor by persons of Spanish nationality, or is a national by origin of a Latin American country or of the Philippines, or is an alien but has married a woman of Spanish nationality.

“In all instances, the period of residence must be continuous and must immediately precede the date of application.

“Grant of nationality may be withheld in the interests of law and order.

“*Article 21.* An alien woman who marries a Spanish national shall acquire her husband’s nationality.

“If such a marriage is annulled, the provisions of article 69 shall apply for purposes of nationality.

“*Article 22.* A person who voluntarily acquires another nationality shall cease to be a Spanish national.

“The loss of nationality shall take effect only if the person involved is over the age of twenty-one years or over the age of eighteen years and *sui juris*, has resided outside Spain for at least three years immediately preceding the acquisition of alien nationality and, in the case of a male, is not liable for active military service, unless these requirements are waived by the Government. A married woman not legally separated from her husband may not independently and voluntarily acquire another nationality.

“Voluntary acquisition of another nationality shall not entail loss of Spanish nationality if Spain is at war.

“Notwithstanding the provisions of paragraph 1, the acquisition of the nationality of a Latin American country or of the Philippines shall not entail loss of Spanish nationality if an express agreement to that effect has been made with the State whose nationality is acquired.

“Likewise, and provided that an express agreement to that effect has been made, the acquisition of Spanish nationality shall not entail the loss of the nationality of origin in the case of a Latin American country or the Philippines.

“*Article 23.* The following shall also lose Spanish nationality:

1. Any person who serves in the armed forces or holds public office in a foreign State when expressly prohibited from doing so by the Spanish Head of State;
2. Any person definitively sentenced to loss of Spanish nationality in conformity with the provisions of penal law;
3. A Spanish woman who, by marriage with an alien, acquires her husband’s nationality;
4. A woman whose husband loses Spanish nationality, if she is not legally separated from him and her nationality depends on his;
5. A child under paternal authority, where the father loses Spanish nationality, and the child’s nationality depends on that of the father.

“*Article 24.* If a person loses Spanish nationality under article 22, he may recover it by returning to Spanish territory and declaring his desire to do so before the civil registrar of the place of residence which he elects, so that the appropriate records may be made, and by renouncing his alien nationality.

“*Article 25.* A Spanish woman who loses her nationality by marriage may, upon the dissolution of the marriage or grant of a permanent legal

separation, recover Spanish nationality by complying with the requirements of the preceding article.

“A child who has lost Spanish nationality through the effects of paternal authority shall have the right, upon the extinction of paternal authority, to recover Spanish nationality by exercise of the option provided for in article 18.

“Persons sentenced to the loss of Spanish nationality or deprived of it on the grounds of having served in the armed forces or held public office in a foreign State shall be entitled to recover it only by special dispensation of the head of the State.

“*Article 26.* Persons born and residing abroad who possess Spanish nationality as the children of a Spanish father or mother also born abroad shall not lose their Spanish nationality, even though they are nationals of their country of residence under the laws of that country, if they make an express declaration before a Spanish diplomatic or consular agent or, in the absence of such an agent, in a duly authenticated written statement made to the Spanish Ministry of Foreign Affairs, of their desire to retain Spanish nationality.

“*Article 27.* Aliens shall enjoy in Spain the same civil rights as Spanish nationals except as otherwise provided by special laws and treaties.”

Article 2. Any provisions at variance with those laid down in the present Act shall be null and void.

Tunisie

DÉCRET DU 26 JANVIER 1956 (12 DJOUMADA II 1375), PORTANT PROMULGATION DU CODE DE LA NATIONALITÉ TUNISIENNE ¹

Nous, Mohamed Lamine Pacha Bey, Possesseur du Royaume de Tunis,

Vu les Conventions franco-tunisiennes signées à Paris le 3 juin 1955 et notamment les articles 7 à 14 de la Convention sur la situation des personnes;

Vu les articles 92 à 94 du décret du 26 avril 1861 (15 chaoual 1277) sur l'organisation politique de la Régence;

Vu le décret du 19 juin 1944 (25 redjeb 1332) relatif à la nationalité tunisienne;

Vu le décret du 8 novembre 1921 (7 redjeb 1340) relatif à l'acquisition de la nationalité tunisienne;

Vu Notre décret du 21 septembre 1955 (3 safar 1375) portant organisation provisoire des pouvoirs publics;

Vu l'avis du Conseil des Ministres;

Sur la proposition de Notre Premier Ministre, Président du Conseil,

Avons pris le décret suivant:

Article premier. — Les textes publiés ci-après et relatifs à la nationalité tunisienne sont réunis en un seul corps sous le titre de « Code de la Nationalité Tunisienne ».

¹ *Journal officiel tunisien*, n° 8, 74^e année, 27 janvier 1956, p. 101.

Article 2. — Les dispositions dudit Code seront mises en vigueur et appliquées par les tribunaux à dater du premier mars 1956. A partir de cette date, sont et demeurent abrogées toutes dispositions antérieures et notamment les décrets susvisés des 19 juin 1914 (25 redjeb 1332) et 8 novembre 1921 (7 rabia I 1340).

Article 3. — Notre Premier Ministre, Président du Conseil, Notre Ministre de la Justice et Notre Ministre des Finances sont chargés, chacun en ce qui le concerne, de l'exécution du présent décret.

Scellé, le 26 janvier 1956 (12 djoumada II 1375).

*Le Premier Ministre,
Président du Conseil,
TAHAR BEN AMMAR.*

CODE DE LA NATIONALITÉ TUNISIENNE

TITRE PRÉLIMINAIRE. — DISPOSITIONS GÉNÉRALES

Article premier. — Le présent décret, sous le titre de Code de la Nationalité Tunisienne, détermine quels individus ont, à leur naissance, la nationalité tunisienne, à titre de nationalité d'origine.

La nationalité tunisienne s'acquiert ou se perd après la naissance par l'effet de la loi ou par une décision de l'autorité publique prise dans les conditions fixées par la loi.

Article 2. — Les dispositions relatives à la nationalité contenues dans les traités, conventions ou accords internationaux dûment ratifiés et publiés s'appliquent même si elles sont contraires aux dispositions de la législation interne tunisienne.

Article 3. — Les lois nouvelles relatives à l'attribution de la nationalité tunisienne, à titre de nationalité d'origine, s'appliquent même aux individus nés avant la date de leur mise en vigueur, si ces individus n'ont pas encore, à cette date, atteint leur majorité. Cette application ne porte cependant pas atteinte à la validité des actes passés par l'intéressé ni aux droits acquis par des tiers sur le fondement des textes antérieurs.

Article 4. — Les conditions de l'acquisition et de la perte de la nationalité tunisienne, après la naissance, sont régies par la loi en vigueur au moment où se réalisent les faits et les actes de nature à entraîner cette acquisition et cette perte.

Article 5. — Est considéré majeur, au regard du présent Code, tout individu âgé de vingt et une années solaires accomplies.

Article 6. — Au sens du présent Code, l'expression « en Tunisie » s'entend de tout le territoire tunisien, des eaux réservées tunisiennes, des bateaux, navires et aéronefs tunisiens.

TITRE PREMIER. — DE LA NATIONALITÉ TUNISIENNE

CHAPITRE I. — DE LA NATIONALITÉ TUNISIENNE D'ORIGINE

Section I. — Attribution en raison de la filiation

Article 7. — Est Tunisien, l'enfant né d'un prince de la famille régnante.

Article 8. — Est Tunisien :

- 1° l'enfant né d'un père tunisien ;
- 2° l'enfant naturel lorsque celui de ses parents à l'égard duquel la filiation a d'abord été établie est Tunisien.

Article 9. — Est Tunisien :

- 1° l'enfant né d'une mère tunisienne et d'un père inconnu ou apatride ;
- 2° l'enfant naturel lorsque celui de ses parents à l'égard duquel la filiation a été établie en premier lieu est apatride et que celui qui l'a reconnu en second lieu est Tunisien.

Section II. — *Attribution en raison de la naissance en Tunisie*

Article 10. — Est Tunisien, l'enfant né en Tunisie de parents inconnus.

Toutefois, il sera réputé n'avoir jamais été Tunisien si, au cours de sa minorité, sa filiation est établie à l'égard d'un étranger et s'il a, conformément à la loi nationale de cet étranger, la nationalité de celui-ci.

Article 11. — L'enfant nouveau-né trouvé en Tunisie est présumé, jusqu'à preuve du contraire, né en Tunisie.

Article 12. — Est Tunisien, l'enfant né en Tunisie de parents apatrides résidant en Tunisie depuis au moins cinq ans si l'un d'eux appartient par son origine ethnique à la majorité de la population d'un pays, lorsque cette majorité parle la langue arabe ou pratique la religion musulmane.

Section III. — *Dispositions communes*

Article 13. — L'enfant qui est Tunisien en vertu des dispositions du présent titre est réputé avoir été Tunisien dès sa naissance même si l'existence des conditions requises par la loi pour l'attribution de la nationalité tunisienne n'est établie que postérieurement à la naissance.

Toutefois, dans ce dernier cas, l'attribution de la qualité de Tunisien dès la naissance ne porte pas atteinte à la validité des actes passés par l'intéressé ni aux droits acquis à des tiers sur le fondement de la nationalité apparente possédée par l'enfant.

Article 14. — La reconnaissance de l'enfant naturel doit être conforme aux règles du statut personnel de ses parents.

Si la filiation d'un enfant naturel résulte, à l'égard du père et de la mère, du même acte ou du même jugement, elle est réputée avoir été établie d'abord à l'égard du père.

Article 15. — La filiation de l'enfant naturel n'a d'effet sur la nationalité de celui-ci que si elle est établie durant sa minorité.

CHAPITRE II. — DE L'ACQUISITION DE LA NATIONALITÉ TUNISIENNE

Section I. — *Acquisition par le bienfait de la loi*

Article 16. — Devient Tunisien, sous réserve de réclamer cette qualité par déclaration dans les conditions prévues à l'article 39 du présent Code et dans le délai d'un an précédant sa majorité :

- 1° l'enfant né en Tunisie d'une mère tunisienne et d'un père étranger si, au moment de la déclaration, il réside en Tunisie ;
- 2° l'enfant né en Tunisie de parents étrangers dont l'un y est lui-même né.

Article 17. — Devient Tunisienne, sous réserve de réclamer cette qualité par déclaration dans les conditions prévues à l'article 39 du présent Code :

1° la femme étrangère lorsque son mari est Tunisien, si le ménage réside en Tunisie depuis au moins deux ans ;

2° la femme étrangère mariée à un Tunisien lorsque, en vertu de sa loi nationale, elle perd sa nationalité d'origine par le mariage avec un étranger.

Toutefois, dans le cas prévu au paragraphe 1° du présent article, le Gouvernement peut s'opposer par décret, pris après avis du Conseil des Ministres, à l'acquisition de la nationalité tunisienne.

En cas d'opposition du Gouvernement, l'intéressée est réputée n'avoir jamais acquis la nationalité tunisienne.

Article 18. — Sous réserve des dispositions prévues à l'article 41 ; l'intéressé acquiert la nationalité tunisienne à la date à laquelle la déclaration est enregistrée.

Section II. — *Acquisition par voie de naturalisation*

Article 19. — La nationalité tunisienne peut être accordée par décret pris après avis du Conseil des Ministres sur le rapport de Notre Ministre de la Justice.

Article 20. — Sous réserve des exceptions prévues à l'article 21, la naturalisation ne peut être accordée qu'à l'étranger justifiant d'une résidence habituelle en Tunisie pendant les cinq années qui précèdent le dépôt de sa demande.

Article 21. — Peut être naturalisé sans condition de stage :

1° l'individu qui justifie que sa nationalité d'origine était la nationalité tunisienne ;

2° l'étranger marié à une Tunisienne si le ménage réside en Tunisie lors du dépôt de sa demande ;

3° l'étranger qui a rendu des services exceptionnels à la Tunisie ou celui dont la naturalisation présente pour la Tunisie un intérêt exceptionnel. Dans ce cas, le décret de naturalisation ne peut être accordé qu'après avis du Conseil des Ministres, sur le rapport motivé de Notre Ministre de la Justice.

Article 22. — L'étranger qui a fait l'objet d'un arrêté d'expulsion ou d'un arrêté d'assignation à résidence n'est susceptible d'être naturalisé que si cet arrêté a été régulièrement rapporté. La résidence en Tunisie pendant la durée de la mesure administrative susvisée n'est pas prise en considération dans le calcul du stage prévu à l'article 20.

Article 23. — Nul ne peut être naturalisé :

1° s'il n'est majeur ;

2° s'il ne justifie d'une connaissance suffisante selon sa condition de la langue arabe ;

3° s'il n'est reconnu être sain d'esprit ;

4° s'il n'est reconnu, d'après son état de santé physique, ne devoir être ni une charge, ni un danger pour la collectivité ;

5° s'il n'est pas de bonnes vie et mœurs ou s'il a fait l'objet d'une condamnation supérieure à une année d'emprisonnement non effacée par l'amnistie ou la réhabilitation pour une infraction de droit commun sanctionnée en

droit tunisien par une peine criminelle ou un emprisonnement correctionnel. Les condamnations prononcées à l'étranger pourront toutefois ne pas être prises en considération.

Section III. — *Des effets de l'acquisition de la nationalité tunisienne*

Article 24. — L'individu qui a acquis la nationalité tunisienne, par application des articles 16, 17 et 19 du présent Code, jouit à compter du jour de cette acquisition de tous les droits attachés à la qualité de Tunisien, sous réserve des incapacités prévues à l'article 25 du présent Code ou dans les lois spéciales.

Article 25. — L'étranger naturalisé est soumis aux incapacités suivantes pendant un délai de cinq ans à partir du décret de naturalisation :

1° il ne peut être investi de fonctions ou de mandats électifs pour l'exercice desquels la qualité de Tunisien est nécessaire ;

2° il ne peut être électeur lorsque la qualité de Tunisien est nécessaire pour permettre l'inscription sur les listes électorales ;

3° il ne peut occuper un emploi vacant des cadres tunisiens.

Article 26. — Le décret de naturalisation peut relever l'étranger en tout ou en partie des incapacités prévues à l'article précédent, après avis du Conseil des Ministres, sur le rapport motivé de Notre Ministre de la Justice.

Article 27. — Devient de plein droit Tunisien, au même titre que ses parents à condition de ne pas être marié :

1° l'enfant mineur légitime dont le père ou la mère si elle est veuve, acquiert la nationalité tunisienne ;

2° l'enfant mineur naturel dont celui des parents à l'égard duquel la filiation a été établie en premier lieu ou, le cas échéant, dont le parent survivant acquiert la nationalité tunisienne.

Section IV. — *Dispositions communes*

Article 28. — La résidence prévue aux articles 16, 17, 20, 21 et 22 ne doit pas être frauduleuse.

Article 29. — Le mariage ne produit effet quant à la nationalité que s'il est célébré en l'une des formes admises soit par le droit tunisien, soit par la loi du pays où il a été célébré.

CHAPITRE III. — DE LA PERTE, DE LA DÉCHÉANCE ET DU RETRAIT DE LA NATIONALITÉ TUNISIENNE

Section I. — *Perte de la nationalité tunisienne*

Article 30. — Perd la nationalité tunisienne, le Tunisien majeur qui acquiert volontairement une nationalité étrangère, sous réserve d'en aviser le Ministre de la Justice.

L'intéressé est libéré de son allégeance à l'égard de la Tunisie à la date de signature du décret portant perte de la nationalité tunisienne.

Article 31. — Perd la nationalité tunisienne, le Tunisien qui, remplissant un emploi dans un service public d'un Etat étranger ou dans une armée étrangère, le conserve passé le délai de six mois après l'injonction de le résigner

qui lui aura été faite par le Gouvernement Tunisien, à moins qu'il ne soit établi qu'il a été dans l'impossibilité de le faire. Dans ce dernier cas, le délai de six mois court seulement du jour où la cause de l'impossibilité a disparu. L'intéressé est libéré de son allégeance à l'égard de la Tunisie à la date du décret qui prononcera la perte de la nationalité tunisienne.

Article 32. — La femme tunisienne ne perd pas sa nationalité par le mariage avec un étranger.

Article 33. — La perte de la nationalité tunisienne, par application de l'article 30, peut être étendue à la femme et aux enfants mineurs non mariés s'ils ont eux-mêmes une nationalité étrangère. Elle ne pourra toutefois être étendue aux enfants mineurs si elle ne l'est également à la femme.

Section II. — *Déchéance de la nationalité tunisienne*

Article 34. — L'individu qui a acquis la qualité de Tunisien peut être déchu de la nationalité tunisienne, par décret pris après avis du Conseil des Ministres sur le rapport de Notre Ministre de la Justice :

1° s'il a été condamné pour un acte qualifié crime ou délit contre la sûreté intérieure ou extérieure de l'Etat;

2° s'il s'est livré au profit d'un Etat étranger à des actes incompatibles avec la qualité de Tunisien et préjudiciables aux intérêts de la Tunisie;

3° s'il a été condamné en Tunisie ou à l'étranger pour un acte qualifié crime par la loi tunisienne et ayant entraîné une condamnation à une peine d'au moins cinq années d'emprisonnement.

Article 35. — La déchéance n'est encourue que si les faits reprochés à l'intéressé et visés à l'article 34 se sont produits dans le délai de dix ans à compter de la date de l'acquisition de la nationalité tunisienne. Elle ne peut être prononcée que dans le délai de cinq ans à compter de la perpétration desdits faits.

Article 36. — La déchéance peut être étendue à la femme et aux enfants mineurs non mariés de l'intéressé, à condition qu'ils soient d'origine étrangère et qu'ils aient conservé une nationalité étrangère. Elle ne pourra toutefois être étendue aux enfants mineurs si elle ne l'est également à la femme.

Section III. — *Retrait de la nationalité tunisienne*

Article 37. — Lorsqu'il apparaît, postérieurement au décret de naturalisation, que l'intéressé ne remplissait pas les conditions requises par la loi pour pouvoir être naturalisé le décret peut être rapporté dans le délai d'un an à partir du jour de sa publication.

Article 38. — Lorsque l'étranger a sciemment fait une fausse déclaration, présenté une pièce contenant une assertion mensongère ou erronée ou employé des manœuvres frauduleuses à l'effet d'obtenir la naturalisation, le décret intervenu peut être rapporté par décret pris après avis du Conseil des Ministres. L'intéressé, dûment averti, a la faculté de produire des pièces et mémoires.

Le décret de retrait devra intervenir dans le délai de deux ans à partir de la découverte de la fraude.

Toutefois, lorsque la validité des actes passés antérieurement au décret de retrait était subordonnée à l'acquisition par l'intéressé de la qualité de Tunisien, cette validité ne peut être contestée pour le motif que l'intéressé n'a pas acquis cette nationalité.

TITRE II. — DE LA PROCÉDURE ADMINISTRATIVE

CHAPITRE I. — DES DÉCLARATIONS DE NATIONALITÉ, DE LEUR ENREGISTREMENT, DES DÉCRETS PORTANT OPPOSITION À L'ACQUISITION DE LA NATIONALITÉ TUNISIENNE

Article 39. — Toute déclaration en vue de réclamer, de répudier la nationalité tunisienne ou d'y renoncer, dans les cas prévus par la loi, doit satisfaire aux conditions suivantes :

- 1° être dressée sur papier timbré en double exemplaire ;
- 2° comporter élection de domicile de la part de l'intéressé ;
- 3° comporter la signature légalisée de l'intéressé, à défaut d'être établie par un officier ministériel ;
- 4° être accompagnée de tous documents et pièces à l'appui ;
- 5° être adressée par lettre recommandée avec avis de réception au Ministère de la Justice.

Article 40. — Toute déclaration souscrite conformément à l'article précédent doit être enregistrée au Ministère de la Justice.

Article 41. — Si l'intéressé ne remplit pas les conditions requises par la loi, Notre Ministre de la Justice doit refuser d'enregistrer la déclaration. Cette décision de refus est notifiée avec ses motifs au déclarant qui peut se pourvoir devant la Chambre Civile du Tribunal Régional, conformément à l'article 55 du présent Code. Le tribunal décide de la validité ou de la nullité de la déclaration.

Article 42. — Dans le cas prévu au paragraphe premier de l'article 17 du présent Code, le gouvernement peut s'opposer à l'acquisition de la nationalité tunisienne par décret pris après avis du Conseil des Ministres.

Le décret doit intervenir six mois au plus après la déclaration ou, si la régularité de celle-ci a été contestée, six mois au plus après le jour où la décision judiciaire qui en a admis la validité est devenue définitive.

CHAPITRE II. — DES DÉCISIONS RELATIVES AUX NATURALISATIONS

Article 43. — L'étranger qui désire obtenir la nationalité tunisienne par voie de naturalisation doit adresser au Ministère de la Justice sa demande à laquelle sont joints les actes de l'état civil, les pièces et les titres qui lui sont réclamés, de nature :

- 1° à établir que sa demande est recevable dans les formes de la loi ;
- 2° à permettre à Notre Ministère de la Justice d'apprécier si la faveur sollicitée est justifiée au point de vue national.

Article 44. — Toute demande de naturalisation fait l'objet d'une enquête à laquelle fait procéder Notre Ministre de la Justice dans les six mois à dater du jour de la réception de la demande.

Article 45. — Si les conditions requises par la loi ne sont pas remplies, Notre Ministre de la Justice déclare la demande irrecevable. Sa décision est motivée. Elle est notifiée à l'intéressé.

Article 46. — Lorsque la demande est recevable, Notre Ministre de la Justice soumet, s'il y a lieu, le projet de décret de naturalisation au Conseil des Ministres.

Article 47. — Si le Conseil des Ministres estime qu'il n'y a pas lieu d'accorder la naturalisation sollicitée, il prononce le rejet de la demande. Il peut également en prononcer l'ajournement, en imposant un délai ou des conditions. Ce délai une fois expiré ou ces conditions réalisées, il appartient au postulant, s'il le juge opportun, de formuler une nouvelle demande. La décision du Conseil n'exprime pas de motif. Elle est notifiée à l'intéressé par Notre Ministre de la Justice.

Article 48. — Les décrets de naturalisation sont publiés au Journal Officiel Tunisien. Ils prennent effet à la date de leur signature, sans toutefois qu'il soit porté atteinte à la validité des actes passés par l'intéressé, ni aux droits acquis par des tiers antérieurement à la publication du décret, sur le fondement de l'extranéité de l'intéressé.

CHAPITRE III. — DES DÉCRETS RELATIFS À LA PERTE, À LA DÉCHÉANCE ET AU RETRAIT DE LA NATIONALITÉ TUNISIENNE

Article 49. — Dans les cas prévus aux articles 30, 31 et 33 du présent Code, Notre Ministre de la Justice soumet les projets du décret portant perte de la nationalité tunisienne au Conseil des Ministres.

Article 50. — Les décrets portant perte de la nationalité tunisienne sont publiés au Journal Officiel Tunisien. Ils prennent effet à la date de leur signature, sans toutefois qu'il soit porté atteinte à la validité des actes passés par l'intéressé, ni aux droits acquis par des tiers antérieurement à la publication du décret, sur le fondement de la nationalité tunisienne de l'intéressé.

Article 51. — Lorsque le Ministre de la Justice décide de poursuivre la déchéance ou le retrait de la nationalité tunisienne à l'encontre d'un individu tombant sous le coup des dispositions des articles 34 et 37, il notifie la mesure envisagée à la personne de l'intéressé ou à son domicile; à défaut de domicile connu, la mesure envisagée est publiée au Journal Officiel Tunisien.

L'intéressé a la faculté, dans le délai d'un mois à dater de l'insertion au Journal Officiel Tunisien ou de la notification, d'adresser au Ministre de la Justice des pièces et mémoires.

Article 52. — La déchéance ou le retrait de la nationalité tunisienne est prononcé par décret pris après avis du Conseil des Ministres sur le rapport de Notre Ministre de la Justice.

Le décret qui, dans les conditions de l'article 36, étend la déchéance à la femme et aux enfants mineurs non mariés de la personne déchue, est pris dans les mêmes formes.

Dans tous les cas, le Conseil des Ministres ne peut être saisi qu'après le délai de deux mois à dater de l'insertion au Journal Officiel Tunisien ou de la notification prévue à l'article 51.

Article 53. — Les décrets de déchéance ou de retrait sont publiés et produisent leurs effets dans les conditions visées à l'article 50.

Article 54. — Les greffiers des tribunaux de Tunisie sont tenus d'adresser, dans le mois à dater du prononcé des jugements visés à l'article 34, une expédition de ces jugements au Ministère de la Justice.

TITRE III. — DU CONTENTIEUX DE LA NATIONALITÉ

CHAPITRE I. — DE LA COMPÉTENCE DES TRIBUNAUX JUDICIAIRES

Article 55. — La Chambre Civile du Tribunal Régional est seule compétente pour connaître des contestations sur la nationalité.

L'action est portée devant le tribunal de la résidence de celui dont la nationalité est en cause ou, s'il n'a pas de résidence en Tunisie, devant le Tribunal du demandeur conformément aux articles 14 et 15 du Code de procédure civile.

Article 56. — L'exception de nationalité tunisienne et l'exception d'extranéité sont d'ordre public; elles doivent être soulevés d'office par le juge.

Elles constituent, devant toute autre juridiction que la juridiction civile une question préjudicielle qui oblige le juge à surseoir à statuer jusqu'à ce que la question ait été tranchée, selon la procédure réglée par les articles 58 et suivants du présent Code.

Article 57. — Si l'exception de nationalité tunisienne ou d'extranéité est soulevée devant une juridiction répressive celle-ci doit renvoyer à se pourvoir dans les trente jours devant le tribunal régional compétent soit la partie qui invoque l'exception, soit, dans le cas où l'intéressé est titulaire d'un certificat de nationalité tunisienne délivré conformément aux articles 70 et suivants, le ministère public.

La juridiction répressive surseoit à statuer jusqu'à ce que la question de nationalité ait été tranchée ou jusqu'à ce que soit expiré le délai ci-dessus imparti dans le cas où le tribunal régional n'a pas été saisi.

CHAPITRE II. — DE LA PROCÉDURE DEVANT LES TRIBUNAUX JUDICIAIRES

Article 58. — Le Tribunal Régional est saisi par voie de requête écrite conformément aux articles 32 et suivants du Code de Procédure Civile.

Article 59. — Tout individu peut intenter devant le Tribunal Régional une action dont l'objet principal et direct est de faire juger qu'il a ou qu'il n'a pas la nationalité tunisienne.

Le commissaire du Gouvernement près ledit Tribunal est obligatoirement partie au procès, sans préjudice du droit d'intervention des tiers intéressés.

Article 60. — Le commissaire du Gouvernement près le tribunal compétent a seul qualité pour intenter contre tout individu une action dont l'objet principal et direct est d'établir si le défendeur a ou n'a pas la nationalité tunisienne.

Article 61. — Le commissaire du Gouvernement près le tribunal compétent est tenu d'agir s'il en est requis par une administration publique ou par une tierce personne ayant soulevé l'exception de nationalité devant une juridiction qui a sursis à statuer en application de l'article 56. Le tiers requérant devra être mis en cause.

Article 62. — Lorsque l'Etat est partie principale devant le Tribunal Régional où une question de nationalité est posée à titre incident, il ne peut

être représenté que par le commissaire du Gouvernement en ce qui concerne la contestation sur la nationalité.

Article 63. — Lorsqu'une question de nationalité est posée à titre incident entre parties privées devant le Tribunal Régional, le ministère public doit toujours être mis en cause et présenter des conclusions motivées.

Article 64. — Dans toutes les instances qui ont pour objet, à titre principal ou à titre incident, une contestation sur la nationalité, une copie de la requête est déposée au Ministère de la Justice.

Toute demande à laquelle n'est pas jointe la justification de ce dépôt est déclarée irrecevable.

Aucune décision au fond ne peut intervenir avant l'expiration du délai de trente jours à dater dudit dépôt.

Les dispositions du présent article sont applicables à l'exercice des voies de recours.

Article 65. — Seules les décisions définitives rendues en matière de nationalité par les juridictions civiles dans les conditions visées aux articles précédents ont, par dérogation à l'article 481 du Code des obligations et contrats, à l'égard de tous, l'autorité de la chose jugée.

Article 66. — Les greffiers des tribunaux sont tenus d'adresser, dans le mois à dater du prononcé des jugements réglant une contestation sur la nationalité, une expédition de ces jugements au Ministère de la Justice.

CHAPITRE III. — DE LA PREUVE DE LA NATIONALITÉ TUNISIENNE

Article 67. — La charge de la preuve, en matière de nationalité, incombe à celui qui, par voie d'action ou par voie d'exception, prétend avoir ou non la nationalité tunisienne.

Toutefois, cette charge incombe à celui qui, par les mêmes moyens, conteste la qualité de Tunisien à un individu titulaire d'un certificat de nationalité tunisienne délivré conformément aux articles 70 et suivants.

Article 68. — La preuve d'une déclaration tendant à acquérir, répudier la nationalité tunisienne ou y renoncer résulte de la production d'un exemplaire enregistré de cette déclaration.

Article 69. — La preuve d'un décret de naturalisation ou d'un décret portant perte, déchéance ou retrait de la nationalité tunisienne résulte de la production soit de l'ampliation de ce décret, soit d'un exemplaire du Journal Officiel Tunisien où le décret a été publié.

Article 70. — Notre Ministre de la Justice a seul qualité pour délivrer un certificat de nationalité tunisienne à toute personne justifiant qu'elle a cette nationalité.

Article 71. — Le certificat de nationalité indique, en se référant au présent Code, la disposition légale en vertu de laquelle l'intéressé a la qualité de Tunisien, ainsi que les documents qui ont permis de l'établir. Il fait foi jusqu'à preuve du contraire.

Article 72. — Le Ministre de la Justice peut refuser de délivrer le certificat de nationalité. Le silence qu'il garde pendant un délai d'un mois à dater de la demande équivaut à un refus.

En cas de refus, l'intéressé peut se pourvoir devant la juridiction compétente, conformément aux articles 55 et suivants.

Article 73. — Les certificats de nationalité ainsi que les décrets de naturalisation sont assujettis au paiement de droits fixes qui seront déterminés par un arrêté de Notre Ministre des Finances, pris après avis du Conseil des Ministres.

United States of America

(a) PUBLIC LAW 85-316.¹ AN ACT TO AMEND THE IMMIGRATION AND NATIONALITY ACT² AND FOR OTHER PURPOSES, 11 SEPTEMBER 1957

Section 11. Section 323 of the Immigration and Nationality Act is amended by adding at the end thereof the following new subsection:

“(c) Any such adopted child (1) one of whose adoptive parents is (A) a citizen of the United States, (B) in the Armed Forces of the United States or in the employment of the Government of the United States, or of an American institution of research recognized as such by the Attorney General, or of an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof, or of a public international organization in which the United States participates by treaty or statute, and (C) regularly stationed abroad in such service or employment, and (2) regularly stationed abroad in such service or employment, and (2) who is in the United States at the time of naturalization, and (3) whose citizen adoptive parent declares before the naturalization court in good faith an intention to have such child take up residence within the United States immediately upon the termination of such service or employment abroad of such citizen adoptive parent, may be naturalized upon compliance with all the requirements of the naturalization laws except that no prior residence or specified period of physical presence within the United States or within the jurisdiction of the naturalization court or proof thereof shall be required, and paragraph (3) of sub-section (a) of this section shall not be applicable.”

Section 16. In the administration of section 301 (b) of the Immigration and Nationality Act, absences from the United States of less than twelve months in the aggregate, during the period for which continuous physical presence in the United States is required, shall not be considered to break the continuity of such physical presence.

(b) ACT OF 16 MARCH, 1956

Granting the benefits of section 301(a) (7) of the Immigration and Nationality Act to certain children of United States citizens—70 Stat. 50, 8 U.S.C. 1401(a).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301 (a) (7) of the Immigration and Nationality Act shall be considered to have been and to be applicable to a child born outside of the United States and its outlying possessions after

¹ *United States Statutes at Large*, 1957, vol. 71, p. 639.

² See the *United Nations Legislative Series*, “Laws concerning Nationality”, ST/LEG/SER.B/4, p. 496.

January 12, 1941, and before December 24, 1952, of parents one of whom is a citizen of the United States who has served in the Armed Forces of the United States after December 31, 1946, and before December 24, 1952, and whose case does not come within the provisions of section 201 (g) or (i) of the Nationality Act of 1940.

Viet-Nam

ORDONNANCE N^o. 10 DU 7 DÉCEMBRE 1955 PORTANT CODE DE LA NATIONALITÉ VIETNAMIENNE

Article premier. — Le présent code régleme la attribution de la nationalité vietnamienne d'origine aux individus dès leur naissance et l'acquisition de la nationalité vietnamienne après la naissance.

TITRE PRÉLIMINAIRE. — DISPOSITIONS GÉNÉRALES

Art. 2. — Les lois nouvelles relatives à l'attribution de la nationalité vietnamienne, à titre de nationalité d'origine, s'appliquant même aux individus nés avant la date de leur mise en vigueur, si ces individus n'ont pas encore, à cette date, atteint leur majorité.

Art. 3. — Les conditions de l'acquisition et de la perte de la nationalité vietnamienne, après la naissance, sont régies par la loi en vigueur au moment où se réalisent les faits et les actes de nature à entraîner cette acquisition et cette perte.

Art. 4. — Dans toutes les hypothèses où le changement de nationalité doit emporter, selon la loi, des effets rétroactifs, il ne saurait porter atteinte, pour ce seul motif, à la validité des actes antérieurement conclus par l'intéressé ni aux droits acquis par des tiers.

Art. 5. — L'âge de la majorité au sens du présent code est celle de 21 ans révolus. Cet âge se compte par année solaire et de quantième à quantième, le jour de la naissance fixant le premier jour de l'âge.

Art. 6. — Nul ne peut acquérir la nationalité vietnamienne lorsque la résidence au Viet-Nam constitue une condition de cette acquisition s'il ne satisfait aux obligations et conditions imposées par les lois relatives au séjour des étrangers au Viet-Nam.

Est assimilé à la résidence au Viet-Nam le séjour à l'étranger pour l'exercice d'une fonction conférée par le Gouvernement du Viet-Nam.

Art. 7. — Pour la détermination du territoire vietnamien, il est tenu compte à toute époque des modifications résultant des actes de l'autorité publique vietnamienne et des traités internationaux survenus antérieurement.

Art. 8. — Les dispositions relatives à la nationalité contenues dans les traités ou accords internationaux après ratification par les instances nationales qualifiées s'appliquent, même si elles sont contraires aux dispositions de la législation interne vietnamienne.

Art. 9. — Lorsqu'un changement de nationalité est subordonné, dans les termes de la convention, à l'accomplissement d'un acte d'option, cet acte est déterminé dans sa forme par la loi de celui des pays contractants dans lequel il est institué.

Art. 10. — Dans le cas où le traité ne contient pas de telles dispositions, les personnes qui demeurent domiciliées dans les territoires rattachés au Viet-Nam acquièrent la nationalité vietnamienne.

Art. 11. — Sont vietnamiennes quel que soit leur âge et en quelques lieux qu'elles se trouvent, les personnes rentrant dans l'une des catégories suivantes :

- a) Les protégés français et les sujets français d'origine vietnamienne ;
- b) Les personnes considérées comme ayant la nationalité vietnamienne par la législation antérieure du Viet-Nam ;
- c) Les personnes faisant partie des minorités ethniques dont l'habitat se trouve au Viet-Nam et qui relevaient traditionnellement de l'Etat du Viet-Nam ;
- d) Les Minh-Huong (métis nés au Viet-Nam de père chinois et de mère vietnamienne) qu'ils soient porteurs d'une pièce d'identité à titre d'étranger.

En ce qui concerne les citoyens français d'origine vietnamienne, leur situation fera l'objet d'une réglementation spéciale.

TITRE PREMIER. — DE L'ATTRIBUTION DE LA NATIONALITÉ VIETNAMIENNE
A TITRE DE NATIONALITÉ D'ORIGINE

Chapitre premier. — *De l'attribution de la nationalité vietnamienne en raison de la filiation*

Art. 12. — Sont vietnamiennes, les personnes énumérées ci-après :

- 1) L'enfant légitime né d'un père vietnamien ;
- 2) L'enfant légitime né d'une mère vietnamienne et d'un père sans nationalité ou de nationalité inconnue ;
- 3) L'enfant légitime né au Viet-Nam, d'une mère vietnamienne et d'un père chinois.

Art. 13. — Sont vietnamiennes, les personnes énumérées ci-après :

- 1) L'enfant naturel lorsque le père à l'égard duquel la filiation est établie est vietnamien ;
- 2) L'enfant naturel lorsque la mère à l'égard de laquelle la filiation est établie est vietnamienne ; si le père à l'égard duquel la filiation est également établie n'a pas de nationalité ou est de nationalité inconnue ;
- 3) L'enfant naturel lorsque sa filiation est établie seulement à l'égard d'une mère vietnamienne ;
- 4) L'enfant naturel né au Viet-Nam lorsque la mère à l'égard de laquelle la filiation est établie est vietnamienne, si le père à l'égard duquel la filiation est également établie est chinois.

Toutefois, l'enfant naturel est réputé n'avoir jamais été vietnamien si, au cours de sa minorité, sa filiation est établie en second lieu à l'égard du père de nationalité étrangère, à l'exception du cas prévu au paragraphe 4 du présent article relatif aux Minh-Huong ; ces derniers restent vietnamiens même si leur filiation est établie en second lieu à l'égard du père.

Art. 14. — A l'exception des cas des Minh-Huong, est vietnamien, sauf la faculté de répudier cette qualité au moment des opérations de recensement prévues à l'article premier du décret No. 91 du 4 décembre 1953 concernant

le recensement des classes d'âge pour le service militaire, l'enfant légitime né au Viet-Nam d'une mère vietnamienne et d'un père de nationalité étrangère.

Art. 15. — Sont vietnamiens, sans faculté de répudiation les Minh-Huong nés postérieurement à la date de la publication du présent code.

Chapitre II. — De l'attribution de la nationalité vietnamienne en raison de la naissance au Viet-Nam

Art. 16. — Est vietnamien, sans faculté de répudiation, l'enfant né au Viet-Nam de parents chinois dont l'un est lui-même né au Viet-Nam.

Art. 17. — Est vietnamien, l'enfant né au Viet-Nam de parents inconnus.

Toutefois, il sera réputé n'avoir jamais été vietnamien, si, au cours de sa minorité, sa filiation est établie à l'égard d'un étranger et s'il a acquis conformément à la loi nationale de cet étranger la nationalité de celui-ci.

L'enfant nouveau-né trouvé au Viet-Nam est présumé jusqu'à preuve du contraire être né au Viet-Nam.

Chapitre III. — Dispositions communes

Art. 18. — L'enfant qui est vietnamien en vertu des dispositions du présent titre est réputé avoir été vietnamien dès sa naissance même si l'existence des conditions requises par la loi pour l'attribution de la nationalité vietnamienne n'est établie que postérieurement à sa naissance.

Art. 19. — La filiation ne produit effet en matière d'attribution de la nationalité vietnamienne que si elle est établie dans les conditions déterminées par la loi civile vietnamienne.

Art. 20. — La filiation de l'enfant naturel n'a d'effet sur la nationalité de celui-ci que si elle est établie durant sa minorité.

Art. 21. — Tout enfant mineur qui possède la faculté de répudier la nationalité vietnamienne dans les cas visés au présent titre peut exercer cette faculté sans aucune autorisation.

Il peut renoncer à cette faculté dans les mêmes conditions s'il atteint l'âge de 18 ans accomplis.

S'il est âgé de 16 ans, le mineur ne peut renoncer à cette faculté que s'il est autorisé par celui de ses père et mère qui a l'exercice de la puissance paternelle ou à défaut par son tuteur après avis conforme du conseil de famille.

Au cas de divorce ou de séparation de corps, l'autorisation sera donnée par celui de ses parents à qui la garde a été confiée, si la garde a été confiée à une tierce personne, l'autorisation sera donnée par celle-ci après avis conforme du tribunal civil de la résidence du mineur statuant en chambre du conseil.

Art. 22. — Dans les cas visés à l'article précédent nul ne peut répudier la nationalité vietnamienne s'il ne prouve qu'il a par filiation la nationalité d'un pays étranger.

Art. 23. — Perd la faculté de répudier la nationalité vietnamienne qui lui est reconnue par les dispositions du présent titre:

- 1) Le vietnamien enfant légitime mineur qui n'a pas encore exercé cette faculté et dont le père étranger acquiert la nationalité vietnamienne;
- 2) Le vietnamien mineur qui a souscrit ou celui au nom de qui a été souscrite une déclaration en vue de renoncer à exercer la faculté de répudier la nationalité vietnamienne;
- 3) Le vietnamien mineur qui contracte un engagement dans l'armée ou celui qui sans exercer sa faculté de répudiation participe aux opérations de recensement en vue du service militaire.

Art. 24. — Toute déclaration en vue:

- 1) De répudier la nationalité vietnamienne;
- 2) De renoncer à la faculté de répudier la nationalité vietnamienne, dans les cas prévus au présent code, est souscrite devant le président du tribunal de première instance ou le juge de paix à compétence étendue du ressort dans lequel le déclarant a sa résidence.

Art. 25. — Lorsque le déclarant se trouve à l'étranger, la déclaration est souscrite devant les représentants diplomatiques ou consulaires vietnamiens ou à défaut de représentation diplomatique ou consulaire une déclaration écrite doit être adressée au Ministère de la justice avec pièces justificatives à l'appui.

Art. 26. — Toute déclaration visée aux articles précédents doit être enregistrée au Ministère de la justice.

Art. 27. — Si le secrétaire d'Etat à la Justice estime que l'intéressé remplit les conditions requises, il ordonnera l'enregistrement de la déclaration, mais il peut par décision motivée refuser l'enregistrement de la déclaration.

Dans ce cas la décision de refus doit être notifiée dans un délai d'un mois à partir du jour de la signature au déclarant qui peut se pourvoir devant le tribunal de première instance ou la justice de paix à compétence étendue.

Art. 28. — Si à l'expiration du délai de six mois après la date de la déclaration, il n'est intervenu aucune décision de refus d'enregistrement, le Secrétaire d'Etat à la justice doit remettre au déclarant, sur sa demande, copie de sa déclaration avec mention de l'enregistrement.

Art. 29. — A moins que le tribunal n'ait déjà statué dans l'hypothèse prévue à l'article 27 par une décision passée en force de chose jugée, la validité d'une déclaration enregistrée peut toujours être contestée par le ministère public et par toute personne intéressée. Dans ce dernier cas, le ministère public doit toujours être mis en cause.

TITRE II. — DE L'ACQUISITION DE LA NATIONALITÉ VIETNAMIENNE

Chapitre premier. — Des modes d'acquisition de la nationalité vietnamienne

Section I. — Acquisition de la nationalité vietnamienne en raison de la filiation

Art. 30. L'enfant naturel légitimé au cours de sa minorité acquiert la nationalité vietnamienne si son père est vietnamien.

Art. 31. — L'enfant adopté par une personne de nationalité vietnamienne n'acquiert pas du fait de l'adoption la qualité de vietnamien.

Section 2. — Acquisition de la nationalité vietnamienne par le mariage

Art. 32. — Sous réserve des dispositions des articles 33 et suivants, la femme étrangère qui épouse un vietnamien acquiert la nationalité vietnamienne au moment de la célébration du mariage.

Art. 33. — La femme étrangère, dans le cas où sa loi nationale lui permet de conserver sa nationalité, a la faculté de déclarer antérieurement ou lors de la célébration du mariage qu'elle décline la qualité de vietnamienne.

Elle peut, même si elle est mineure, exercer cette faculté sans aucune autorisation.

Toute déclaration en vue de conserver la nationalité étrangère est souscrite devant l'office de l'état civil du lieu de la célébration du mariage.

Lorsque le mariage a lieu à l'étranger, la déclaration est souscrite devant les représentants diplomatiques ou consulaires du Viet-Nam et à défaut de représentations diplomatique et consulaire l'intéressée doit faire parvenir au Secrétariat d'Etat à la justice une déclaration écrite avec pièces justificatives à l'appui avant la date de la célébration du mariage.

Toute déclaration faite dans les conditions ci-dessus doit être enregistrée au Ministère de la justice, sous réserve des dispositions des articles 27 et 28.

Art. 34. — Au cours du délai de six mois qui suit la célébration du mariage, le gouvernement peut s'opposer par décret à l'acquisition de la nationalité vietnamienne par la femme étrangère.

Dans le cas d'un mariage à l'étranger ce délai court du jour de la transcription de l'acte sur les registres de l'état-civil tenus par les représentants diplomatiques ou consulaires ou à défaut de représentation diplomatique ou consulaire vietnamienne, du jour où l'acte a été transcrit sur un registre spécial tenu à cet effet au Secrétariat d'Etat à la justice.

En cas d'opposition du gouvernement, l'intéressée est réputée n'avoir jamais acquis la nationalité vietnamienne.

Art. 35. — La femme étrangère qui a fait l'objet d'un arrêté d'expulsion ou d'une mesure d'assignation à résidence est exclue du bénéfice de l'article 32.

Art. 36. — Durant le délai de six mois fixé à l'article 34, la femme qui a acquis par le mariage la nationalité vietnamienne ne peut être ni électrice ni éligible lorsque l'inscription sur les listes électorales ou l'exercice de fonctions ou de mandats électifs sont subordonnés à la qualité de vietnamienne.

Art. 37. — La femme n'acquiert pas la nationalité vietnamienne si son mariage avec un vietnamien est déclaré nul par une décision émanant d'une juridiction vietnamienne ou rendu exécutoire au Viet-Nam même si le mariage a été contracté de bonne foi.

Art. 38. — Lorsque le mariage, même contracté de bonne foi, a été déclaré nul dans les conditions prévues à l'article précédent, les enfants issus de l'union annulée sont, en ce qui concerne leur nationalité, dans la situation qu'auraient eue des enfants naturels dont la double filiation serait établie.

Section 3. — Acquisition de la nationalité vietnamienne en raison de la naissance et de la résidence et par déclaration de nationalité

Art. 39. — Tout individu né au Viet-Nam de parents étrangers acquiert par déclaration souscrite dans les formes prévues aux articles 24 et 29 la nationalité vietnamienne s'il remplit les conditions suivantes :

- 1) Avoir sa résidence habituelle au Viet-Nam depuis sa naissance jusqu'au jour où il effectue sa déclaration;
- 2) Avoir sa résidence au Viet-Nam au moment où il fait sa déclaration d'option;
- 3) Etre âgé de 18 ans accomplis.

Art. 40. — Cette déclaration doit être souscrite au plus tard six mois avant l'âge légal d'incorporation dans les mêmes formes que les déclarations de répudiation ou de renonciation à la faculté de répudiation prévues aux articles 24 à 29.

Art. 41. — Est considéré comme déclaration d'option de la nationalité vietnamienne le fait pour l'intéressé de contracter un engagement volontaire dans l'armée vietnamienne, ou si sans opposer son extranéité, il participe aux opérations de recrutement de l'armée vietnamienne.

Art. 42. — Est exclu du bénéfice des dispositions contenues dans la présente section :

- 1) L'individu qui a fait l'objet d'un arrêté d'expulsion non rapporté dans les formes où il est intervenu;
- 2) L'individu condamné ou même acquitté pour défaut de discernement, pour crime ou délit de droit commun, exception des délits d'imprudence et délits contraventionnels où la mauvaise foi n'est pas constitutive de l'infraction;
- 3) Ou l'individu qui a fait l'objet d'une mesure d'assignation à résidence ou de résidence surveillée, non rapportée.

Art. 43. — Le mineur âgé de 18 ans peut réclamer la qualité de vietnamien sans aucune autorisation.

Art. 44. — Sous réserve des dispositions prévues à l'article 45 l'intéressé acquiert la nationalité vietnamienne à la date à laquelle la déclaration a été souscrite.

Art. 45. — Dans le délai de six mois qui suit la date à laquelle la déclaration a été souscrite, le Gouvernement peut, par décret pris après avis conforme du conseil d'Etat, s'opposer à l'acquisition de la nationalité vietnamienne.

Section 4. — Acquisition de la nationalité par décision de l'autorité publique

Art. 46. — L'acquisition de nationalité vietnamienne par décision de l'autorité publique résulte d'une naturalisation ou d'une réintégration accordée à la demande de l'étranger.

Paragraphe 1. — Naturalisation :

Art. 47. — La naturalisation vietnamienne est accordée par décret du Président de la République après enquête.

Art. 48. — Nul ne peut être naturalisé s'il n'a pas au Viet-Nam sa résidence au moment du dépôt de la demande et de la signature du décret de naturalisation.

Art. 49. — Sous réserve des exceptions prévues aux articles 50 et 51, la naturalisation ne peut être accordée qu'à l'étranger justifiant d'une résidence habituelle au Viet-Nam pendant les cinq années qui précèdent le dépôt de la demande.

Art. 50. — Le stage visé à l'article 49 est réduit à trois ans :

- 1) Pour l'étranger né au Viet-Nam de parents étrangers dont l'un est lui-même né au Viet-Nam sauf le cas prévu à l'article 16 du présent code;
- 2) Pour l'étranger marié à une vietnamienne;
- 3) Pour celui qui est titulaire d'un diplôme d'Etat d'études supérieures délivré par une université, une faculté ou un établissement d'enseignement supérieur vietnamien.

Art. 51. — Peut être naturalisé sans condition de stage :

- 1) L'enfant légitime ou naturel mineur, dont la mère a la nationalité vietnamienne d'origine;
- 2) L'individu qui pouvant bénéficier des dispositions de l'article 39 n'a pas souscrit la déclaration prévue à l'article 40. Néanmoins est exclu du bénéfice du présent article l'individu qui, en raison de son âge, n'est pas susceptible d'accomplir dans l'armée vietnamienne une durée de service militaire actif égal à celle qui est imposée aux jeunes gens de sa classe d'âge par la loi vietnamienne sur le recrutement de l'armée;
- 3) L'enfant mineur d'un étranger qui acquiert la nationalité vietnamienne dans le cas où, conformément à l'article 75, cet enfant n'a pas lui-même acquis par l'effet collectif la qualité de vietnamien;
- 4) La femme étrangère mariée à un vietnamien;
- 5) La femme et l'enfant majeur de l'étranger qui acquiert la nationalité vietnamienne;
- 6) L'enfant mineur dont l'un des parents a perdu la qualité de vietnamien pour une cause indépendante de sa volonté, sauf si ce parent a été déchu de la nationalité vietnamienne;
- 7) L'étranger adopté par une personne de nationalité vietnamienne;
- 8) L'étranger qui, en temps de guerre, a contracté un engagement volontaire dans les armées vietnamiennes ou alliées, ou celui qui a servi dans une unité de l'armée nationale vietnamienne et à qui la qualité de combattant a été reconnue conformément aux règlements en vigueur;
- 9) Ou l'étranger qui a rendu des services exceptionnels au Viet-Nam ou celui dont la naturalisation présente pour le Viet-Nam un intérêt exceptionnel. Dans ce cas, le décret de naturalisation ne peut être accordé qu'après avis conforme du Conseil d'Etat, sur le rapport motivé du Secrétaire d'Etat à la justice.

Art. 52. — L'étranger qui a fait l'objet d'un arrêté d'expulsion ou d'une mesure d'assignation à résidence n'est susceptible d'être naturalisé que si ces mesures ont été rapportées dans les formes où elles sont intervenues.

Art. 53. — A l'exception des mineurs pouvant invoquer le bénéfice des dispositions de l'article 51, nul ne peut être naturalisé s'il n'a pas atteint l'âge de 18 ans.

Art. 54. — Le mineur âgé de 18 ans peut demander sa naturalisation sans aucune autorisation.

Le mineur âgé de moins de 18 ans qui peut invoquer le bénéfice des dispositions de l'article 51 doit, pour demander sa naturalisation, être autorisé ou représenté dans les conditions déterminées à l'article 21 du présent code.

Art. 55. — Nul ne peut être naturalisé s'il n'est de bonnes vies et mœurs ou s'il a fait l'objet d'une condamnation supérieure à une année d'emprisonnement non effacée par la réhabilitation pour une infraction de droit commun sanctionnée en droit vietnamien par une peine criminelle ou un emprisonnement correctionnel.

Les condamnations prononcées à l'étranger pourront toutefois ne pas être prises en considération; en ce cas, le décret prononçant la naturalisation ne pourra être pris qu'après avis conforme du Conseil d'Etat.

Art. 56. — Nul ne peut être naturalisé s'il ne justifie de son assimilation à la communauté vietnamienne, notamment par une connaissance suffisante selon sa condition de la langue vietnamienne.

Art. 57. — Nul ne peut être naturalisé:

- 1) S'il n'est reconnu être sain d'esprit;
- 2) S'il n'est reconnu d'après son état physique ne devoir être ni une charge ni un danger pour la collectivité.

Toutefois, cette condition n'est pas exigée de l'étranger susceptible de bénéficier des dispositions du dernier alinéa de l'article 51.

Les dispositions du présent article ne sont pas applicables à l'étranger dont l'infirmité ou la maladie a été contractée au service ou dans l'intérêt du Viet-Nam. La naturalisation dans ce cas ne peut être accordée qu'après avis conforme du conseil d'Etat sur rapport motivé du Secrétaire d'Etat à la justice.

Toutefois la naturalisation des pensionnés de guerre n'est pas soumise à cette formalité.

Art. 58. — Les conditions dans lesquelles s'effectuera le contrôle de l'assimilation et de l'état de santé de l'étranger en instance de naturalisation seront fixées par décret.

Art. 59. — L'étranger qui sollicite la naturalisation doit demander une vietnamisation de ses noms et prénoms soit par modification orthographique, soit par traduction ou transcription phonétique des mots étrangers en vietnamien.

Art. 60. — Cette vietnamisation des noms et prénoms sera accordée par le décret de naturalisation.

Paragraphe 2. — Réintégration:

Art. 61. — La réintégration dans la nationalité vietnamienne est accordée par décret du Président de la République après enquête.

Art. 62. — La réintégration peut être obtenue à tout âge et sans condition de stage.

Toutefois, nul ne peut être réintégré s'il n'a pas au Viet-Nam sa résidence au moment de la réintégration.

Art. 63. — Ne peut être réintégré:

- 1) L'individu qui a été déchu de la nationalité vietnamienne par application de l'article 89 du présent code à moins que, dans le cas où la déchéance a été motivée par une condamnation, il n'ait obtenu la réhabilitation judiciaire;

2) L'individu du sexe masculin qui a répudié la nationalité vietnamienne, à moins qu'il n'ait accompli ou ne soit susceptible, en raison de son âge, d'accomplir dans l'armée vietnamienne une durée de service militaire actif égale à celle qui est imposée aux jeunes gens de sa classe d'âge par la loi vietnamienne sur le recrutement de l'armée.

Art. 64. — Les individus visés à l'article précédent peuvent toutefois obtenir la réintégration :

1) S'ils ont contracté en temps de guerre un engagement volontaire dans les armées vietnamiennes ou alliées ;

2) S'ils ont servi en temps de guerre dans l'armée vietnamienne et si la qualité de combattant leur a été reconnue conformément aux règlements en vigueur ;

3) S'ils ont rendu des services exceptionnels au Viet-Nam ou si leur réintégration présente pour le Viet-Nam un intérêt exceptionnel.

Dans ce cas, la réintégration ne peut être accordée qu'après avis conforme du conseil d'Etat sur le rapport motivé du Secrétaire d'Etat à la justice.

Art. 65. — L'étranger qui a fait l'objet d'un arrêté d'expulsion ou d'une mesure d'assignation à résidence n'est susceptible d'être réintégré que si ces mesures ont été rapportées dans les formes où elles sont intervenues.

Paragraphe 3. — *Des décisions et des sanctions relatives aux naturalisations et réintégrations :*

Art. 66. — Les décrets de naturalisation et de réintégration sont publiés au *Journal officiel* du Viet-Nam, ils prennent effet à la date de leur publication.

Art. 67. — Lorsqu'il apparaît, postérieurement au décret de naturalisation ou de réintégration, que l'intéressé ne remplissait pas les conditions requises par la loi pour pouvoir être naturalisé ou réintégré, le décret peut être rapporté dans le délai d'un an à partir du jour de sa publication.

Les décrets de naturalisation et de réintégration entachés d'illégalité peuvent être attaqués par voie de recours en annulation devant le conseil d'Etat.

Art. 68. — Lorsque l'étranger a sciemment fait une fausse déclaration, présenté une pièce contenant une assertion mensongère ou erronée, ou employé des manœuvres frauduleuses à l'effet d'obtenir la naturalisation ou la réintégration, le décret intervenu peut être rapporté par décret pris après avis conforme du conseil d'Etat. L'intéressé averti a la faculté de produire des pièces et mémoires.

Le décret de retrait devra intervenir dans le délai d'un an à partir de la découverte de la fraude.

Art. 69. — Toute personne qui moyennant une rétribution, une promesse ou un avantage quelconque, direct ou indirect, même non convenu à l'avance, aura offert, accepté de prêter ou prêté à un étranger en instance de naturalisation ou de réintégration son entremise auprès des administrations ou des pouvoirs publics en vue de lui faciliter l'obtention de la nationalité vietnamienne sera punie, sans préjudice le cas échéant de l'application des peines plus fortes prévues par d'autres dispositions, d'un emprisonnement d'un an à cinq ans et d'une amende de 1.000 \$ à 30.000 \$.

Art. 70. — Toute convention qui a pour objet de faciliter à un étranger, dans les termes de l'article précédent, l'obtention de la naturalisation ou de la réintégration dans la nationalité vietnamienne est nulle et de nul effet comme contraire à l'ordre public et les sommes payées en exécution de cette convention pourront être répétées.

Tout décret rendu à la suite d'une convention de cette nature sera rapporté dans un délai d'un an à partir du jugement définitif de condamnation prononcé conformément aux dispositions de l'article 69.

Chapitre II. — Des effets de l'acquisition de la nationalité

Art. 71. — L'individu qui a acquis la nationalité vietnamienne jouit à dater du jour de cette acquisition de tous les droits attachés à la qualité de vietnamien, sous réserve des incapacités prévues à l'article 72 du présent code ou dans les lois spéciales.

Art. 72. — L'étranger naturalisé est soumis aux incapacités suivantes :

1) Pendant un délai de cinq ans à partir du décret de naturalisation, il ne peut être investi de fonctions ou de mandats électifs pour l'exercice desquels la qualité de vietnamien est nécessaire;

2) Pendant trois ans à partir du décret de naturalisation il ne peut être électeur lorsque la qualité de vietnamien est nécessaire pour permettre l'inscription sur les listes électorales;

3) Pendant un délai de cinq ans à partir du décret de naturalisation, il ne peut être nommé à des fonctions publiques rétribuées par l'Etat ou être nommé officier public ou ministériel.

Art. 73. — Les incapacités prévues à l'article précédent ne s'appliquent pas :

1) Au naturalisé qui a accompli effectivement dans l'armée vietnamienne le temps de service actif correspondant aux obligations de sa classe d'âge;

2) Au naturalisé qui a servi pendant deux ans dans l'armée vietnamienne, ou à celui qui, en temps de guerre, a contracté un engagement volontaire dans les armées vietnamiennes ou alliées;

3) Au naturalisé qui, en temps de guerre, a servi dans l'armée vietnamienne et à qui la qualité de combattant a été reconnue conformément aux règlements en vigueur.

Art. 74. — Le naturalisé qui a rendu au Viet-Nam des services exceptionnels ou celui dont la naturalisation présente pour le Viet-Nam un intérêt exceptionnel peut être relevé en tout ou en partie des incapacités prévues à l'article 72 par le décret pris après avis conforme du conseil d'Etat sur le rapport motivé du Secrétaire d'Etat à la Justice.

Art. 75. — Devient de plein droit vietnamien au même titre que ses parents à condition que sa filiation soit établie conformément au droit civil vietnamien :

1) L'enfant mineur légitime ou légitimé dont le père ou la mère, si elle est veuve, acquiert la nationalité vietnamienne;

2) L'enfant mineur naturel dont le père à l'égard duquel la filiation a été établie ou la mère survivante acquiert la nationalité vietnamienne.

Art. 76. — Les dispositions de l'article précédent ne sont pas applicables :

1) A l'enfant mineur marié;

2) A celui qui sert ou a servi dans les armées de son pays d'origine.

Art. 77. — Est exclu du bénéfice de l'article 62 :

- 1) L'individu qui a été frappé d'un arrêté d'expulsion ou d'une mesure d'assignation à résidence non expressément rapportés dans les formes où ils sont intervenus;
- 2) L'individu qui, en vertu des dispositions de l'article 57, ne peut acquérir la nationalité vietnamienne;
- 3) L'individu qui a fait l'objet d'un décret portant opposition à l'acquisition de la nationalité vietnamienne en application de l'article 45.

TITRE III. — DE LA PERTE ET DE LA DÉCHÉANCE DE LA NATIONALITÉ VIETNAMIENNE

Chapitre premier. — De la perte de la nationalité vietnamienne

Art. 78. — Perd la nationalité vietnamienne, le vietnamien majeur qui acquiert volontairement une nationalité étrangère.

Art. 79. — La perte de la nationalité vietnamienne par naturalisation étrangère est subordonnée à l'autorisation du Gouvernement vietnamien.

Cette autorisation est accordée par décret.

Art. 80. — Perd la nationalité vietnamienne, le vietnamien qui exerce la faculté de répudier cette qualité dans les cas prévus à l'article 14.

Art. 81. — Perd la nationalité vietnamienne, le vietnamien même mineur qui, ayant une nationalité étrangère, est autorisé, sur sa demande, par le Gouvernement vietnamien à perdre la qualité de vietnamien.

Cette autorisation est accordée par décret.

Le mineur doit, le cas échéant, être autorisé ou représenté dans les conditions prévues à l'article 21.

Art. 82. — La nationalité vietnamienne se perd :

- 1) Dans le cas prévu à l'article 78 à la date de l'acquisition de la nationalité étrangère;
- 2) Dans le cas de répudiation de la nationalité vietnamienne à la date à laquelle la déclaration a été souscrite;
- 3) Dans le cas prévu à l'article 81 à la date du décret portant autorisation à perdre la qualité de vietnamien.

Art. 83. — Perd la nationalité vietnamienne l'enfant naturel qui, devenu vietnamien à la suite de l'acquisition par sa mère de la nationalité vietnamienne, est, durant sa minorité, légitimé par le mariage de sa mère avec un étranger.

Il conserve toutefois la nationalité vietnamienne, s'il n'a pas acquis la nationalité étrangère de son père.

Art. 84. — La femme vietnamienne qui épouse un étranger en pays étranger perd sa nationalité, à moins qu'elle ne déclare expressément avant la célébration du mariage, dans les conditions et dans les formes prévues aux articles 33 et suivants, qu'elle désire conserver la nationalité vietnamienne.

Si le mariage a lieu au Viet-Nam, la femme vietnamienne conserve sa nationalité à moins qu'elle ne déclare expressément, avant ou au moment de la célébration du mariage, vouloir acquérir la nationalité de son mari; toutefois, elle conserve sa nationalité vietnamienne dans le cas où la loi

nationale de son mari ne lui permet pas d'acquérir la nationalité de ce dernier.

La déclaration peut être faite sans autorisation même si la femme est mineure.

La perte de la nationalité vietnamienne du fait du mariage s'opère à la date de la célébration.

Art. 85. — La femme vietnamienne n'acquiert pas la nationalité étrangère si son mariage avec un étranger est déclaré nul par une décision émanant d'une juridiction vietnamienne ou rendue exécutoire au Viet-Nam même si le mariage a été contracté de bonne foi.

Art. 86. — Lorsque le mariage, même contracté de bonne foi, a été déclaré nul dans les conditions prévues à l'article précédent, les enfants issus de l'union annulée sont, en ce qui concerne leur nationalité, dans la situation qu'auraient eue des enfants naturels dont la double filiation serait établie.

Art. 87. — La femme vietnamienne mariée à un chinois, avant la date de la publication du présent code, conserve sa nationalité vietnamienne.

Art. 88. — Le vietnamien qui réside ou a résidé habituellement à l'étranger, ou les ascendants dont il tient par filiation la nationalité sont demeurés fixés depuis plus d'un demi-siècle, peut être considéré comme ayant perdu la nationalité vietnamienne, à moins que ses ascendants et lui-même aient conservé la possession d'état de vietnamien.

La perte de la qualité de vietnamien ne peut être constatée que par un jugement prononcé conformément aux dispositions prévues au titre IV du présent code. Le jugement indique, s'il y a lieu, la date à laquelle l'intéressé a été libéré de son allégeance à l'égard du Viet-Nam. Il peut également décider que celui-ci n'a jamais été vietnamien, son père ayant cessé d'avoir cette qualité antérieurement à sa naissance.

Art. 89. — Le vietnamien qui se comporte en fait comme le national d'un pays étranger peut, s'il a la nationalité de ce pays, être déclaré par décret avoir perdu la qualité de vietnamien.

L'intéressé perd sa nationalité vietnamienne à la date du décret.

La mesure prise à son égard peut être étendue à sa femme et à ses enfants mineurs s'ils ont eux-mêmes une nationalité étrangère. Elle ne pourra toutefois être étendue aux enfants mineurs si elle ne l'est également à la femme.

Art. 90. — Perd la nationalité vietnamienne, le vietnamien qui remplissant un emploi dans un service public d'un Etat étranger ou dans une armée étrangère le conserve nonobstant l'injonction de le résigner qui lui aura été faite par le Gouvernement du Viet-Nam.

Six mois après la notification de cette injonction l'intéressé sera, par décret, déclaré avoir perdu la nationalité vietnamienne s'il n'a, au cours de ce délai, résigné son emploi à moins qu'il ne soit établi qu'il a été dans l'impossibilité absolue de le faire. Dans ce dernier cas, le délai de six mois court seulement du jour où la cause de l'impossibilité a disparu.

L'intéressé perd sa nationalité vietnamienne à la date du décret.

Art. 91. — Dans tous les cas de perte de la nationalité vietnamienne l'intéressé est libéré de son allégeance à l'égard du Viet-Nam à compter du jour de la perte de la nationalité.

Chapitre II. — De la déchéance de la nationalité vietnamienne

Art. 92. — L'individu qui a acquis la qualité de vietnamien peut être déchu de la nationalité vietnamienne :

- 1) S'il est condamné pour un acte qualifié crime ou délit contre la sûreté intérieure ou extérieure de l'Etat;
- 2) S'il est condamné pour s'être soustrait aux obligations résultant pour lui de la loi sur le recrutement de l'armée;
- 3) S'il s'est livré au profit d'un étranger à des actes incompatibles avec la qualité de vietnamien et préjudiciables aux intérêts du Viet-Nam;
- 4) S'il a été condamné au Viet-Nam ou à l'étranger par un acte qualifié crime par la loi vietnamienne et ayant entraîné une condamnation à une peine d'au moins cinq années d'emprisonnement.

Art. 93. — La déchéance n'est encourue que si les faits reprochés à l'intéressé et visés à l'article 92 se sont produits dans le délai de 10 ans à compter de la date de l'acquisition de la nationalité vietnamienne.

Elle ne peut être prononcée que dans le délai de 10 ans à compter de la perpétration desdits faits.

Art. 94. — La déchéance peut être étendue à la femme et aux enfants mineurs de l'intéressé à condition qu'ils soient d'origine étrangère et qu'ils aient conservé une nationalité étrangère.

Elle ne pourra toutefois être étendue aux enfants mineurs si elle ne l'est également à la femme.

Art. 95. — Lorsque le Secrétaire d'Etat à la justice décide de poursuivre la déchéance de la nationalité vietnamienne à l'encontre d'un individu tombant sous le coup des dispositions de l'article 92, il notifie la mesure envisagée à la personne de l'intéressé ou à son domicile, à défaut de domicile connu, la mesure envisagée est publiée au *Journal officiel* du Viet-Nam.

L'intéressé a la faculté, dans le délai d'un mois à dater de l'insertion au *Journal officiel* ou de la notification, d'adresser au Secrétaire d'Etat à la justice des pièces et mémoires.

Art. 96. — La déchéance de la nationalité vietnamienne est prononcée par décret pris sur le rapport du Secrétaire d'Etat à la justice et après avis conforme du conseil d'Etat.

Le décret qui, dans les conditions prévues à l'article 94 étend la déchéance à la femme et aux enfants mineurs de la personne déchue, est pris dans les mêmes formes.

Art. 97. — Les décrets de déchéance sont publiés et produisent leurs effets dans les conditions visées à l'article 66.

TITRE IV. — DU CONTENTIEUX DE LA NATIONALITÉ

Chapitre premier. — De la compétence des tribunaux judiciaires

Art. 98. — La juridiction civile de droit commun est seule compétente pour connaître des contestations sur la nationalité, qu'elles se produisent isolément ou à l'occasion d'un recours pour excès de pouvoir contre un acte administratif.

Art. 99. — L'exception de nationalité vietnamienne et l'exception d'extranéité sont d'ordre public, elles doivent être soulevées d'office par le juge.

Elles constituent, devant tout autre juridiction que la juridiction civile de droit commun, une question préjudicielle qui oblige le juge à surseoir à statuer jusqu'à ce que la question ait été tranchée selon la procédure réglée par les articles 102 et suivants du présent code.

Art. 100. — Si l'exception de nationalité vietnamienne ou d'extranéité est soulevée devant une juridiction répressive, celle-ci doit renvoyer à se pourvoir dans les trente jours devant le tribunal civil compétent soit la partie qui invoque l'exception soit le ministère public dans le cas où l'intéressé est titulaire d'un certificat de nationalité délivré conformément aux articles 122 et suivants.

La juridiction répressive sursoit à statuer jusqu'à ce que la question de nationalité ait été tranchée ou jusqu'à ce que soit expiré le délai ci-dessus imparti dans le cas où le tribunal civil n'a pas été saisi.

Art. 101. — L'action est portée devant le tribunal du domicile ou, à défaut, devant le tribunal de la résidence de celui dont la nationalité est en cause ou, s'il n'a au Viet-Nam ni domicile, ni résidence, devant le tribunal de Saigon.

Chapitre II. — De la procédure devant les tribunaux judiciaires

Art. 102. — Le tribunal civil est saisi par voie de requête.

Art. 103. — Tout individu peut intenter devant le tribunal civil une action dont l'objet principal et direct est de faire juger qu'il a ou qu'il n'a pas la nationalité vietnamienne. Il doit faire citer, à cet effet, le procureur de l'Etat qui nonobstant toutes dispositions contraires antérieures au présent code, a seul qualité pour défendre à l'action, sans préjudice du droit d'intervention des tiers intéressés.

Art. 104. — Le procureur de l'Etat a seul qualité pour intenter contre tout individu une action dont l'objet principal et direct est d'établir si le défendeur a ou n'a pas la nationalité vietnamienne sans préjudice du droit qui appartient à tout intéressé d'intervenir à l'action ou de contester, conformément à l'article 29, la validité d'une déclaration enregistrée.

Art. 105. — Le procureur est tenu d'agir s'il en est requis par une administration publique ou par une tierce personne ayant soulevé l'exception de nationalité devant une juridiction qui a sursis à statuer en application de l'article 99. Le tiers requérant devra être mis en cause et, sauf s'il obtient l'assistance judiciaire, fournir caution de payer les frais de l'instance et les dommages; intérêts auxquels il pourrait être condamné.

Art. 106. — Lorsque l'Etat est partie principale devant le tribunal civil où une question de nationalité est posée à titre incident, il ne peut être représenté que par le procureur de l'Etat en ce qui concerne la contestation sur la nationalité.

Art. 107. — Lorsqu'une question de nationalité est posée à titre incident entre parties privées devant le tribunal civil, le ministère public doit toujours être mis en cause et être entendu en ses conclusions motivées.

Art. 108. — Lorsque le tribunal civil statue en matière de nationalité dans les cas prévus à l'article 98 du présent code, le ministère public doit être entendu en ses conclusions motivées.

Art. 109. — Dans toutes les instances qui ont pour objet, à titre principal ou à titre incident, une contestation sur la nationalité, conformément aux dispositions contenues dans le présent chapitre, une copie de la requête est déposée au Secrétariat d'Etat à la justice.

Toute demande à laquelle n'est pas jointe la justification de ce dépôt est déclarée irrecevable.

Aucune décision au fond ne peut intervenir avant l'expiration du délai de 30 jours à dater dudit dépôt. Exceptionnellement ce délai est réduit à 10 jours lorsque la contestation sur la nationalité a fait l'objet d'une question préjudicielle devant une juridiction statuant en matière électorale.

Les dispositions du présent article sont applicables à l'exercice des voies de recours.

Art. 110. — Toutes les décisions définitives rendues en matière de nationalité par les juridictions de droit commun dans les conditions visées aux articles précédents, ont, à l'égard de tous, l'autorité de la chose jugée.

Chapitre III. — De la preuve de la nationalité devant les tribunaux judiciaires

Art. 111. — La charge de la preuve, en matière de nationalité, incombe à celui qui, par voie d'action ou par voie d'exception, prétend avoir ou non la nationalité vietnamienne.

Toutefois cette charge incombe à celui qui, par les mêmes voies, conteste la qualité de vietnamien à un individu titulaire d'un certificat de nationalité vietnamienne délivré conformément aux articles 122 et suivants.

Art. 112. — La preuve d'une déclaration acquisitive de nationalité résulte de la production d'un exemplaire enregistré de cette déclaration.

Lorsque cette pièce ne peut être produite, il peut y être suppléé par la production d'une attestation délivrée par le Secrétaire d'Etat à la justice à la demande de tout requérant et constatant que la déclaration a été souscrite et enregistrée.

Art. 113. — Dans le cas où la loi donne la faculté de souscrire une déclaration en vue de répudier la nationalité vietnamienne ou d'acquérir ou de conserver la qualité de vietnamien, la preuve qu'une telle déclaration n'a pas été souscrite ne peut résulter que d'une attestation délivrée par le Secrétaire d'Etat à la justice à la demande de tout requérant.

Art. 114. — La preuve d'un décret de naturalisation ou de réintégration résulte de la production soit de l'ampliation de ce décret soit d'un exemplaire du *Journal officiel* où le décret a été publié.

Lorsque cette pièce ne peut être produite, il peut y être suppléé par une attestation constatant l'existence du décret et délivré par le Secrétaire d'Etat à la justice à la demande de tout requérant.

Art. 115. — Lorsque la nationalité vietnamienne est attribuée ou acquise autrement que par déclaration, naturalisation, réintégration ou annexion de territoires, la preuve ne peut être faite qu'en établissant l'existence de toutes les conditions requises par la loi.

Art. 116. — Néanmoins lorsque la nationalité vietnamienne ne peut avoir sa source que dans la filiation, elle est tenue pour établie sauf la preuve contraire, si l'intéressé et les ascendants qui ont été susceptibles de la lui transmettre, ont joui de la possession d'état de vietnamien pendant trois générations.

Art. 117. — Lorsqu'un individu réside ou a résidé habituellement à l'étranger, où les ascendants dont il tient par filiation la nationalité sont demeurés fixés pendant plus d'un demi siècle, cet individu ne sera pas admis à faire la preuve qu'il a par filiation la nationalité vietnamienne si lui-même et ses ascendants n'ont pas eu depuis trois générations la possession d'état de vietnamien.

Le tribunal devra, dans ce cas, constater la perte de la nationalité dans les termes de l'article 88.

Art. 118. — La preuve d'une déclaration de répudiation de la nationalité vietnamienne résulte de la production soit d'un exemplaire enregistré de cet acte, soit, à défaut, d'une attestation délivrée par le Secrétaire d'Etat à la justice à la demande du requérant, constatant que la déclaration de répudiation a été souscrite et enregistrée.

Art. 119. — Lorsque la perte ou la déchéance de la nationalité vietnamienne résulte d'un décret pris conformément aux dispositions des articles 81, 89, 90, 92 et suivants, la preuve de ce décret se fait dans les conditions prévues à l'article 114.

Il en est de même du décret pris en application de l'article 79.

Art. 120. — Lorsque la nationalité vietnamienne se perd autrement que par l'un des modes prévus aux articles 118, 119 la preuve n'en peut résulter qu'en établissant l'existence des faits et des actes qui ont pour conséquence la perte de la nationalité vietnamienne.

Art. 121. — En dehors des cas de perte ou de déchéance de la nationalité vietnamienne, la preuve de l'extranéité peut être faite par tous les moyens.

Néanmoins la preuve de l'extranéité d'un individu qui a la possession d'état de vietnamien peut seulement être établie en démontrant que l'intéressé ne remplit aucune des conditions exigées par la loi pour avoir la qualité de vietnamien.

Chapitre IV. — Des certificats de nationalité vietnamienne

Art. 122. — Le président du tribunal de première instance ou le juge de paix à compétence étendue a seul qualité pour délivrer un certificat de nationalité vietnamienne à toute personne justifiant qu'elle a cette nationalité.

Art. 123. — Le certificat de nationalité indique, en se référant aux titres I^{er} et II du présent code, la disposition légale en vertu de laquelle l'intéressé a la qualité de vietnamien, ainsi que les documents qui ont permis de l'établir. Il fait foi jusqu'à preuve du contraire.

Art. 124. — Lorsque le président du tribunal de première instance ou le juge de paix à compétence étendue refuse de délivrer un certificat de nationalité, l'intéressé peut saisir le Secrétaire d'Etat à la justice qui décide s'il y a lieu de procéder à cette délivrance.

Dans l'affirmative, il donnera des instructions au juge compétent pour procéder à cette délivrance.

Art. 125. — Sont abrogées toutes dispositions antérieures contraires au présent code.

Art. 126. — La présente ordonnance sera publiée au *Journal officiel* de la République du Viet-Nam et sera exécutée comme loi de l'Etat.