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Law on the Acquisition and Loss of Chinese Nationality, 1909

SECTION I Nationality by Parentage

Article 1

The following are Chinese, whatever the locality may be in which they are born:

1. A child born of father who at the time of its birth is Chinese
2. A child born after the death of the father, if the father at the time of death was Chinese
3. A child born of a Chinese mother, the father being unknown or without a determinate nationality

Article II

A Child born in China of parents unknown or of parents without a determinate nationality is Chinese.

An abandoned child without ascertainable place of birth takes Chinese nationality, when found on Chinese soil.

SECTION II Naturalization

Article III

Any alien desiring to be admitted to Chinese nationality may apply for naturalization, provided he can comply with all the following requirements:

1. That he has lived uninterruptedly over ten years within the limits of China.
2. That he has passed his twentieth birthday and is sui juris under the law of the country to which he originally belongs.
3. That he is of good moral character.
4. That he possesses so much property or such sources of income or such ability as enables him to live independently according to the circumstances of his place of residence.
5. That he shall, by the law of the country of which he is a subject be deemed to have lost the nationality thereof in consequence of his being naturalized abroad.

An alien without a fixed nationality may become naturalized if he is of full legal age and complies with the requirements enumerated in points 1, 3, and 4.

Article IV

The Waiwupu (the Ministry of Foreign Affairs) and the Min-cheng-pu (the Ministry of the Interior) can jointly propose to His Majesty to confer by a special decree the right of nationality on those foreigners, whether with or without a determinate nationality, who have rendered extraordinary and distinguished meritorious services to the Empire, even when they do not possess the requirements enumerated in points 1, 2, 3, and 4 of Article III.

Article V

The following persons, whether with or without a determinate nationality, are considered to have acquired Chinese nationality:

1. An alien woman who has married a Chinese.
2. An alien child living under the parental care of a Chinese step-father.
3. An illegitimate child born to and acknowledged by a Chinese father.
4. An illegitimate child born of a Chinese mother, when abandoned by the father and acknowledged by the mother.

Point 1 is confined to cases where registry of marriage has been duly made with the proper authorities; and points 2, 3, and 4 apply to those persons only who are either minors or unmarried women by the law of the country of which they are originally subjects.

Article VI.

The Chinese nationality acquired by a man shall extend to his wife and his minor children; but if, by the law of his country, they do not thereby lose the nationality thereof, they shall be deemed to remain aliens.

In case, however, the wife desires to acquire Chinese nationality, or the nationalized person desires to have his minor children possess Chinese nationality they may separately apply for certificates of naturalization, even when they do not fulfil the requirements enumerated in points 1, 2, 3, and 4 of Article III.

Major children of a naturalized person, when residing in China, may also apply for naturalization without being required to fulfil the requirements enumerated in points 1, 2, 3 and 4 of Article III.

Article VII

A married woman can not alone apply for naturalization during the life of her husband.

Article VIII

A naturalized subject is incapable of becoming:

1. An office holder in the Grand Council or in the Privy Council.
2. A provincial officer of above the fourth rank.
3. An officer or soldier in the army.
4. A member of either house of parliament or of a provincial council.

The Ministry of the Interior may propose to His Majesty the removal of this disability from those persons to whom the right of nationality has been conferred by a special decree, when they have resided in China for a period of ten years reckoning from the date of their naturalization; and from those who are naturalized under the ordinary procedure, when they have resided in China for a period of 20 years reckoning from the date of their naturalization.

Article IX

Any alien who applies for naturalization must make and file a petition setting forth that, on his becoming naturalized, he will be faithful to the Constitution and obey the law of China and relinquish absolutely and forever whatever privileges and rights may attach to the nationality of the country to which he, at the time of filing his petition, may belong; and his petition is to

be accompanied by a written joint guarantee of two respectable members of the gentry of his locality as to his faithful adherence to the declaration in the petition.

Article X

The petition for naturalization, together with other papers, is to be addressed to the first officer of that locality in which the petitioner resides. This officer examines the petition and, if satisfied that it is in a proper form, submits it to the highest provincial authority with the request that the latter transmit it to the Ministry of the Interior. The Ministry of the Interior decides upon the petition and posts its decision on the notice-board, and if the petition be granted, issues a certificate of nationality to the petitioner.

The naturalization shall take effect at the moment of issuance of the certificate of nationality.

Persons who have become naturalized in pursuance of Article V must register with the first officer of that locality under whose jurisdiction they reside; and this officer shall submit such registry to the provincial authority with the request that it be forwarded to the Ministry of the Interior.

Likewise such persons, when residing abroad, must register at the Legation either directly or through a consulate; and the Legation shall forward such registry to the Ministry of the Interior.

SECTION III

Loss of Nationality

Article XI

Any Chinese subject intending to acquire an alien nationality must first obtain permission of discharge.

Article XII

The permission of discharge shall be accorded only when the petitioner at the time of filing his petition

1. is not involved in any pending civil or criminal case,
2. is not bound to military duties,
3. is not in arrears with any state or communal tax, and
4. is not holding any governmental position or vested with official rank.

Article XIII

The following persons shall be deemed to have lost Chinese nationality:

1. A Chinese woman who has married a foreigner.
2. A Chinese child living under the parental care of an alien step-father.
3. An illegitimate child born to and acknowledged by an alien father.
4. An illegitimate child born of an alien mother, when abandoned by the father and acknowledged by the mother.

Point 1 is confined to cases where registry of marriage has been duly made with the proper authorities. If by the law of her husband's country she does not acquire its nationality through marriage, she shall be deemed to remain a Chinese.

Points 2, 3, and 4 shall apply to those persons only who are either minor children or unmarried women under the law of China.

Article XIV

The discharge acquired by a man extends to his wife and to his minor children, unless the wife desires to retain Chinese nationality or unless the discharged man desires his minor children to retain Chinese nationality in which case they remain Chinese on petition to the authorities.

Article XV

A married woman during the life-time of her husband can not alone apply for a discharge. All persons who, according to the law of China, are either minors or not sui juris likewise can not alone apply for discharge.

Article XVI

Any Chinese who has divested himself of national status as a Chinese subject shall not enjoy any of the special privileges enjoyed by Chinese in the interior.

Article XVII

Any person who applies for discharge must make and file a written statement declaring that he fulfills the requirements enumerated in Article XII and is free from any secret crime.

Article XVIII

The petition for discharge is to be addressed to the first officer of that locality in which the petitioner resides. This officer examines the petition and, if satisfied that it is in a proper form, submits it to the highest provincial authority with the request that it be forwarded to the Ministry of the Interior. The Ministry of the Interior decides upon the petition and posts its decision upon the notice-board.

In case the petitioner resides abroad his petition is to be addressed to the Legation either directly or through a consulate; and the Legation shall forward the petition to the Ministry of the Interior for final decision.

The discharge shall not take effect until the sanction of the Ministry of the Interior has been granted and posted on the notice-board; and all persons who have not filed a petition for discharge or whose petition is not granted remains Chinese for all purposes.

SECTION IV **Readmission**

Article XIX

A Chinese woman who has become an alien by or in consequence of marriage may apply for readmission to Chinese nationality provided she has been judicially divorced from her husband or has become a widow.

Article XX

The wife of a discharged person may, when the marital relations have been terminated by divorce or death, also recover Chinese nationality on petitioning the Chinese authorities.

Any person, who, while a minor, became an alien through discharge of his father, may after he has attained his majority, likewise reacquire Chinese nationality on petitioning the Chinese authorities.

Article XXI

Any Chinese subject who has become an alien with permission of the Chinese authorities but who has since lived uninterruptedly in China for a period of more than three years may petition for readmission to Chinese nationality if he can fulfil the requirements in points 3 and 4 of Article III.

This provision, however, does not apply to any naturalized subject.

Article XXII

Any person seeking readmission shall furnish in support of his petition a written joint guarantee of two respectable members of the gentry of his original native province as to the validity of his claim; and the procedure of forwarding the petition and securing its sanction shall be the same as is provided in Article X.

In case the petitioner resides abroad the guarantee shall be signed by two Chinese merchants residing in the locality and addressed to the Legation for transmission to the Ministry of the Interior.

The readmission shall take effect at the moment when the sanction is granted and posted on the notice-board.

Article XXIII

No person who has reacquired Chinese nationality can, previous to the completion of five years' residence in China, become one of the officers enumerated in Article VIII except by special decree of the Emperor.

Article XXIV

This law shall go into effect immediately on obtaining the Imperial sanction.

Supplemental Provision

1. Any Chinese subject who, prior to the operation of this law, has become naturalized in a foreign state without permission from the Chinese authorities and has since resided abroad must, on returning to China, report at the first port to the consul of the country of his acquired nationality and request the latter duly to communicate his naturalization and the date thereof to the local Chinese authorities, and such communication shall be deemed sufficient proof of his renunciation of his national status as a Chinese subject.

2. Any Chinese subject who, prior to the operation of this law, has become naturalized as an alien subject without permission of the Chinese authorities and has since resided in the settlement of a Chinese treaty port, must within one year of the enactment of this law make known his alienation to the local Chinese authorities who, before recognizing his expatriation

shall first ascertain from the consul who represents his acquired nationality, the time at which such naturalization was effected.

3. Whosoever does not prove the loss of his Chinese nationality in pursuance of the preceding two provisions shall be deemed to have remained a Chinese subject.

4. Any Chinese who, prior to the operation of this law, has acquired an alien nationality without permission of the Chinese authorities but who has since resided, traded and owned immovable property in the interior and enjoyed such special privileges and rights as Chinese are entitled to enjoy shall be deemed to have remained always a Chinese subject.

5. Any Chinese who, prior to the operation of this law, has acquired an alien nationality without permission of the Chinese authorities and yet has since held or is still holding some governmental position shall be deemed to have remained always a Chinese subject.

6. Any Chinese subject who, prior to the operation of this law, has become an alien may at any time petition for readmission to the Chinese nationality in pursuance of Article XXII of this law without being subject to Articles XXI and XXIII.

7. Any Chinese subject who, prior to the operation of this law, has long resided abroad in consequence of his birth and yet is desirous of retaining Chinese nationality shall be deemed to be a Chinese.

8. Any person who has lost Chinese nationality in accordance with this law shall not reside in the interior under penalty of expulsion, and shall be required to sell and give up within one year after naturalization all immovable property and all other interests which he has hitherto acquired and enjoyed as a Chinese, failing which all such property and interests shall be sequestrated.

9. Where a person who has expatriated himself in accordance with this law is discovered at a later time not to have fulfilled all the requirements of Article XII, or to have been involved in a criminal act before or at the time of his expatriation, the permission of alienage already issued to him shall be rescinded and he shall be liable to the prosecution and punishment authorized by Chinese law.

10. Where any person obtains permission of expatriation under pre- tense of acquiring an alien nationality or knowingly makes false statements in his declaration, the permission of expatriation shall be rescinded and he shall be liable to imprisonment for not less than six months nor more than one year.