UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW JERSEY; COMMONWEALTH OF MASSACHUSETTS; STATE OF CALIFORNIA; STATE OF COLORADO; STATE OF CONNECTICUT; STATE OF DELAWARE; DISTRICT OF COLUMBIA; STATE OF HAWAI'I; STATE OF MAINE; STATE OF MARYLAND; ATTORNEY GENERAL DANA NESSEL FOR THE PEOPLE OF MICHIGAN; STATE OF MINNESOTA; STATE OF NEVADA; STATE OF NEW MEXICO; STATE OF NEW YORK; STATE OF NORTH CAROLINA; STATE OF RHODE ISLAND; STATE OF VERMONT; STATE OF WISCONSIN; and CITY & COUNTY OF SAN FRANCISCO,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF STATE; MARCO RUBIO, in his official capacity as Secretary of State; U.S. DEPARTMENT OF HOMELAND SECURITY; KRISTI NOEM,* in her official capacity as Secretary of Homeland Security; U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; DOROTHY FINK, in her official capacity as Acting Secretary of Health and Human Services; U.S. SOCIAL SECURITY ADMINISTRATION; MICHELLE KING, in her official capacity as Acting Commissioner of Social Security, and UNITED STATES OF AMERICA,

Defendants.

No. 1:25-cv-10139-LTS

Leave to File Granted on January 24, 2025 [ECF No. 71]

REPLY IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

* Automatically substituted for Benjamine Huffman pursuant to Fed. R. Civ. P. 25(d).

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INTRODUCTION

Defendants' responses all suffer the same fatal defect: they conflict with binding precedent. Defendants' claim that Plaintiffs lack standing to challenge a policy that works direct, predictable, and imminent fiscal harm contradicts both Supreme Court and First Circuit decisions. Their view that courts may not enjoin federal officials' unconstitutional acts absent an additional statutory cause of action has been repeatedly rejected. Their claim that the President can exclude, by executive fiat, children born on U.S. soil from the Constitution's promise of citizenship is contrary to caselaw, history, and a federal statute. And their remedial arguments are inconsistent with settled law. This Court need only cite binding and well-reasoned Supreme Court precedents to resolve this dispute—and to invalidate this unprecedented attack on an inviolable constitutional principle.

ARGUMENT

I. PLAINTIFFS HAVE STANDING UNDER SETTLED LAW.

Controlling decisions have consistently held that States may challenge federal actions that increase state spending or deprive the States of federal funds. Recently, for example, the Supreme Court allowed Missouri to challenge a federal student-debt relief plan because its instrumentality would collect fewer fees for servicing federal loans under the plan. *Biden v. Nebraska*, 600 U.S. ___, 143 S. Ct. 2355, 2366 (2023); *accord, e.g.*, *Dep't of Com. v. New York*, 588 U.S. 752, 767 (2019) (States could challenge proposed census question because it would cause them to "lose out on federal funds"). The First Circuit has likewise recognized Massachusetts' standing to challenge a federal regulation allowing health plans to opt out of contraceptive coverage because the Commonwealth would bear the cost of replacing some of that coverage. *Massachusetts v. HHS*, 923 F.3d 209, 222-27 (1st Cir. 2019). Plaintiffs here have established, with ample and undisputed evidence, that the Order will have a similarly direct and imminent effect on their budgets in light of their preexisting policies—an injury this Court can redress. *See* Doc. No. 5 at 14-15, 21-23.

Defendants' responses flout precedent. Defendants first claim that Plaintiffs lack standing because their injuries are "incidental" effects of the Order. They rely on *Texas v. United States*, 599 U.S. 670 (2023), but that case—as the Supreme Court held—was an "extraordinarily unusual lawsuit" in which two States asked "the Federal Judiciary to order the Executive Branch to … make more arrests." *Id.* at 674, 686. The Court ultimately found a lack of standing based on unique concerns about prosecutorial discretion that have no purchase here. *See id.* at 676-81. The *Texas* plaintiffs, moreover, had offered only a vague contention that "the[y] would incur additional costs because the Federal Government [was] not arresting more noncitizens." *Id.* at 676. Here, by contrast, the record shows direct and predictable links between the Order and Plaintiffs' impending financial loss. As *Nebraska* held, that satisfies Article III. *See* 143 S. Ct. at 2366.

Defendants' claim that Plaintiffs lack standing because their injuries are "self-inflicted" is likewise contrary to settled law. *See* Doc. No. 92 at 19-20 (arguing that Plaintiffs "voluntarily chose[] to provide" benefits to noncitizens). If Defendants' characterization were enough to defeat standing, the result in both *Nebraska* and *Massachusetts* would have been different: federal law did not force Missouri to service federal student loans, and Massachusetts had no federal obligation to cover contraceptive care. That both States nevertheless had standing—given the predictable harm to their treasuries based on their preexisting policies—shows that Defendants' sweeping conception of "self-inflicted" injury is inconsistent with settled law. *See, e.g.*, *New York v. Yellen*, 15 F.4th 569, 575-77 (2d Cir. 2021) (standing based on predictable fiscal harm to state taxes).

Finally, Defendants incorrectly argue that Plaintiffs improperly advance the rights of third parties under the Citizenship Clause. In fact, Plaintiffs press their *own* interests in avoiding fiscal harm from an unlawful executive order. Defendants' reference to *parens patriae* suits is thus a non sequitur. So is their reliance on *South Carolina v. Katzenbach*, 383 U.S. 301 (1966), and *Haaland*

v. Brackeen, 599 U.S. 255 (2023): the States in those cases did not suffer concrete harm at all—much less the kind of quintessential fiscal harm here. *See, e.g.*, *Haaland*, 599 U.S. at 296 ("Texas is not injured by the [allegedly unequal] placement preferences [for Indian children].").[1]

II. PLAINTIFFS HAVE VALID CAUSES OF ACTION UNDER SETTLED LAW.

Plaintiffs properly seek declaratory and injunctive relief to avoid injury from an Order that is both *ultra vires* under the Constitution and INA (Counts I-III) and unlawful under the APA (Count IV). Defendants argue that "the Constitution does not generally provide a cause of action to pursue affirmative relief," Doc. No. 92 at 24, but the Supreme Court has repeatedly held that plaintiffs may pursue prospective equitable relief without a separate statutory cause of action to stop government officials from violating the Constitution or exceeding their lawful authority. *See Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 329 (2015) (describing "equitable relief that is traditionally available to enforce federal law"); *Free Enter. Fund v. PCAOB*, 561 U.S. 477, 491 n.2 (2010) (recognizing, "as a general matter," a "private right of action directly under the Constitution"); *Harmon v. Brucker*, 355 U.S. 579, 581-82 (1958) (similar); *Bell v. Hood*, 327 U.S. 678, 684 (1946) (similar).[2] Indeed, the case Defendants cite confirms the point: even as the Court

[1] That one of Plaintiffs' claims rests on the violation of an individual constitutional right does not change that conclusion. Indeed, *Massachusetts* arose in the same posture: the Commonwealth asserted (among other things) that the regulation violated the Equal Protection Clause, *see* 301 F. Supp. 3d 248, 250 (D. Mass. 2018), and the First Circuit held that it had standing to seek relief for its pocketbook injuries, 923 F.3d at 222. Moreover, Plaintiffs are not challenging the constitutionality of federal statutes, as in *Katzenbach* and *Haaland*, but an executive action that violates federal law. *Cf. Massachusetts v. EPA*, 549 U.S. 497, 520 n.17 (2007) (explaining "critical difference between allowing a State 'to protect her citizens from the operation of federal statutes' … and allowing a State to assert its rights under federal law (which it has standing to do)").

[2] This logic also applies to the INA claim, which is a separation-of-powers claim positing that the Executive contravened the limits Congress placed on it. Notably, the plaintiff states in *Nebraska* brought exactly that kind of *ultra vires* claim. *See* J.A. 36-37, 143 S. Ct. 2355 (2023), www.bit.ly/40YajdR. Nor is there any basis to claim Plaintiffs have some alternative remedy here, *see* Doc. No. 92 at 23-25, because they cannot file challenges to adjudicate an individual's

declined to address whether the Takings Clause permits *damages* claims, it cited numerous cases allowing *injunctive relief* under the Clause. *DeVillier v. Texas*, 601 U.S. 285, 292 (2024).

Defendants also err in arguing that Plaintiffs' APA claims fail on the ground that any agency action is nonfinal. Even assuming Defendants' premise, the APA permits judicial review of nonfinal agency action in the event of an "outright violation of a clear statutory provision." *Ticor Title Ins. Co. v. FTC*, 814 F.2d 731, 749 (D.C. Cir. 1987). Such a clear violation exists here. The President ordered defendant agencies to take blatantly unlawful action by February 19. The illegality of those actions does not depend on any forthcoming decisions. For example, whether the SSA may deny Social Security cards to children born on U.S. soil does not turn on the precise denial process that SSA implements. In those circumstances, an APA suit is appropriate.

III. PLAINTIFFS' CLAIMS PREVAIL ON THE MERITS UNDER SETTLED LAW.

Defendants' interpretation of birthright citizenship is contrary to Supreme Court precedent, centuries of history, and a longstanding federal statute.

While Defendants seek to distinguish *Wong Kim Ark* on its facts, *see* Doc. No. 92 at 30-32, that case provided a considered and detailed analysis of the Fourteenth Amendment's text, common-law backdrop, and originalist sources in holding that U.S.-born children of foreigners have birthright citizenship subject only to certain precisely defined exceptions—none of which is based on the duration or lawfulness of their parents' presence in the country. *See* Doc. No. 5 at 16-17; *United States v. Wong Kim Ark*, 169 U.S. 649, 693 (1898).[3] Indeed, while Defendants' core premise is that whether one is "subject to the jurisdiction" of the United States does not turn on

citizenship. *Cf. South Carolina v. Regan*, 465 U.S. 367, 373 (1984); *New York*, 15 F.4th at 577-79 (rejecting argument that Anti-Injunction Act bars suits by States, who cannot bring their own tax-refund suits and thus lack adequate alternative remedies).

[3] The exception for "alien enemies in hostile occupation," Doc. No. 92 at 38, is plainly inapplicable: neither undocumented nor temporary immigrants exert hostile territorial control.

whether a person must obey U.S. laws, Doc. No. 92 at 26, *Wong Kim Ark* is explicit: "[A]n alien is completely subject to the political jurisdiction of the country in which he resides" because "for so long a time as he continues within the dominions of a foreign government," he "owes obedience to the laws of that government." 169 U.S. at 693-94. Similarly, though Defendants contend that a person is "subject to the jurisdiction" if he is born "in the allegiance" of the United States, Doc. No. 92 at 27-28, the Court explained that "allegiance" in this context means "nothing more than the tie or duty of obedience" to the sovereign's laws. 169 U.S. at 659.[4] Because no one could dispute that noncitizens here with temporary status or without authorization have a "duty of obedience" to U.S. laws, they are subject to U.S. jurisdiction—and their children are citizens.

Defendants seek support from *Elk v. Wilkins*, 112 U.S. 94 (1884), but that case confirms Plaintiffs' position. *Elk* explained that the "evident meaning" of the phrase "subject to the jurisdiction" is "not merely subject *in some respect or degree* to the jurisdiction of the United States, but *completely* subject to their political jurisdiction." *Id.* at 102 (emphasis added); *Wong Kim Ark*, 169 U.S. at 680 (same). That distinction refutes Defendants' surplusage argument, Doc. No. 92 at 27 (asserting that Native Americans and foreign diplomats are "subject, at least to some extent" to the nation's legal authority). The children of Native Americans and diplomats are not "subject to the jurisdiction" within the meaning of the Citizenship Clause because they enjoy substantial—even if not unlimited—immunity. *Elk*, 112 U.S. at 99-100 (Native Americans generally exempt from taxation and federal laws); *Wong Kim Ark*, 169 U.S. at 678-79 (various "immunities" to which foreign ambassadors and ministers are "entitled by the law of nations"). By

[4] *See also id*. at 708 (Fuller, J., dissenting) (using "allegiance" and "obedience" interchangeably); Noah Webster, *An American Dictionary of the English Language* 35 (George & Charles Merriam 1860) (Ex. A) (defining "allegiance" as "[t]he tie or obligation of a subject to his prince or government; the duty of fidelity to a king, government, or state," and noting "[e]very native or citizen owes *allegiance* to the government under which he is born").

contrast, those here without legal authorization or with temporary status are not afforded such broad immunity from our laws—and so are "subject to the jurisdiction" of the United States. Moreover, *Elk* emphasized that the petitioner was born into an "alien nation" within the United States, effectively "within the domain of a foreign government," 112 U.S. at 99—a singular distinction applicable to tribal members that does not apply to the children excluded by the Order.

Defendants' efforts to equate jurisdiction with "domicile" also fail. *See* Doc. No. 92 at 30-31 (claiming "temporary visitors and unlawfully present aliens" lack "allegiance" to the United States absent "domicile"). As *Wong Kim Ark* noted, the English common-law and Founding-era understandings of jurisdiction on which its holding was based were entirely distinct from domicile. *See* 169 U.S. at 657 (noting at common law that "every person born within the dominions of the crown … whether the parents were settled, or merely temporarily sojourning, in the country, was an English subject"); *id.* at 686 (discussing C.J. Marshall's explication of "jurisdiction" in *Schooner Exch. v. McFaddon*, 11 U.S. 116 (1812), when concluding that "private individuals of another nation" who visit a country "for purposes of business or pleasure" are not "exempt[] from the jurisdiction of the country in which they are found"); 11 U.S. at 144 (holding "merchant vessels enter[ing] for the purposes of trade" must "owe temporary and local allegiance" and be "amenable to the jurisdiction of the country," or else they would "subject the laws" of that country "to continual infraction"). As *Wong Kim Ark* put it, whether a person "within the dominions of a foreign government" is subject to that government's jurisdiction operates "[i]ndependently of" their "intention to continue such residence" or "domiciliation." 169 U.S. at 693-94.[5] While *Wong*

[5] Defendants' reliance on a hodgepodge of historical sources at odds with *Wong Kim Ark*'s clear rejection of their "domicile" theory, *see* Doc. No. 92 at 32-38, is simply an attempt to relitigate binding precedent. All of these sources predate *Wong Kim Ark*, most are considered in that opinion, and several are featured by the dissent. *Compare* Doc. No. 92 at 32-38 *with Wong Kim Ark*, 169

Kim Ark notes that domicile in a nation would be *sufficient* to require their allegiance and subject that person to the nation's jurisdiction, Doc. No. 92 at 30-31, Defendants make a logical error in claiming domicile is therefore *necessary*. Nor does *Wong Kim Ark* stand alone. *See INS v. Rios-Pineda*, 471 U.S. 444, 446 (1985) (unanimously noting child of undocumented resident was a citizen); *United States ex rel. Hintopoulos v. Shaughnessy*, 353 U.S. 72, 73 (1957) (noting U.S.-born child was "of course, an American citizen by birth," despite parents' "illegal presence").[6]

Defendants cannot overcome Supreme Court precedent, and the text and history underlying it, by citing the 1866 Civil Rights Act, which granted statutory citizenship to persons born in the United States "not subject to any foreign power." Doc. No. 92 at 28-29. Even leaving aside that "one version of a text is shoddy evidence of the public meaning of an altogether different text," *Gamble v. United States*, 587 U.S. 678, 684 (2019), Defendants do not explain why immigrants here with temporary status or without lawful status are subject to a foreign power. Their argument again appears predicated on a vague understanding of "allegiance," *see* Doc. No. 92 at 28-29, but there is no dispute that these groups owe allegiance to—*i.e.*, have a duty to obey the laws of—the United States while here, like lawful permanent residents. In any event, *Wong Kim Ark* carefully considered how the earlier statutory language differed from the Citizenship Clause, and determined that the difference reaffirmed the drafters' intent broadly to confer citizenship to those born on

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U.S. at 661, 679 (citing Story, *Conflict of Laws* § 48); *id.* at 666 (citing Hall, *International Law* § 68 (4th ed.)); *id.* at 692-93 (citing *Benny v. O'Brien*, 32 A. 696 (N.J. 1895)); *id.* at 708 (dissent) (citing Vattel, *Law of Nations* § 212); *id.* at 718 (dissent) (quoting Story); *id.* at 718-19 (dissent) (citing Miller, *Lectures on Constitutional Law* at 279); *id.* at 719 (dissent) (discussing Hausding and Greisser passport denials). The *Wong Kim Ark* majority soundly rejected Defendants' view.

[6] *Plyler v. Doe* also makes clear that there is "no plausible distinction with respect to Fourteenth Amendment 'jurisdiction' can be drawn between resident aliens whose entry into the United States was lawful, and resident aliens whose entry was unlawful." 457 U.S. 202, 211 n.10 (1982). The fact that tribal members are entitled to equal protection when States exercise their limited jurisdiction against them, Doc. No. 92 at 44-45, even though they are not "completely subject" to U.S. jurisdiction under the Citizenship Clause, does not negate *Plyler*'s holding.

U.S. soil. *See* 169 U.S. at 688; *see also* James C. Ho, *Defining "American:" Birthright Citizenship & the Original Understanding of the 14th Amendment*, 9 Green Bag 2d 367, 373 (2006).

Even if this Court were convinced that it could contravene precedent in its construction of the Constitution, Plaintiffs would still prevail on their statutory claim. *See* Doc. No. 1 at 44 (Count III). Although Defendants claim there is no basis to treat the Constitution and statutes differently, laws take their meaning from how they would have been understood at the time of enactment. And as of 1940, *see* Nationality Act of 1940, ch. 876, § 201, 54 Stat. 1137, 1138, there was no doubt that "subject to the jurisdiction" codified birthright citizenship, regardless of the immigration status of the child's parents. *See Lamar, Archer & Cofrin, LLP v. Appling*, 584 U.S. 709, 721-22 (2018) (presuming the enacting Congress is "aware of the longstanding judicial interpretation of [a] phrase" that it codifies "and intend[s] for it to retain its established meaning"); *United States v. Place*, 693 F.3d 219, 229 (1st Cir. 2012). Indeed, when a member of Congress inquired whether the bill could be amended to exclude persons living abroad "who happen to have been born here" to "alien parents" and departed the country "in early infancy" to be "brought up in the countries of their parents," all agreed that "it is not a matter we have any control over" because there was "no proposal … to change the Constitution." Hrgs. Before Comm. on Imm. & Naturalization on H.R. 6127, 76th Cong. 37, 38 (1940) (Ex. B). The INA thus codified Congress's understanding that the length of a parent's stay does not impact a child's birthright citizenship.

Defendants' resort to policy arguments cloaked as "interpretive principles," Doc. No. 92 at 38-41, fares no better. First, Defendants' plea to the President's authority over "status of aliens" begs the question: under the Citizenship Clause, the affected children are not "aliens" in the first place. Nor is the President empowered to re-define them as such because he believes punishing the children of "wrongdoers" will deter illegal entry—a belief neither the Order nor Defendants'

brief substantiates with facts. Second, while Congress may consider various policy concerns when exercising its authority over naturalization rules, *see* Doc. No. 92 at 39-41, no branch can nullify a *constitutional* right to citizenship. *See Nishikawa v. Dulles*, 356 U.S. 129, 138 (1958) (because the "Constitution has conferred" birthright citizenship, "neither the Congress, nor the Executive, nor the Judiciary, nor all three in concert, may strip [it] away"). That was, indeed, the purpose of the Citizenship Clause: having learned the painful lessons of *Dred Scott*, the Framers of the Fourteenth Amendment understood "our country should never again trust to judges or politicians the power to deprive from a class born on our soil the right of citizenship." *Legislation Denying Citizenship at Birth to Certain Children Born in the United States*, 19 Op. O.L.C. 340, 1995 WL 1767990, *6 (1995). Defendants' effort to upend that core principle must be rejected.

IV. PLAINTIFFS' REMEDY FOLLOWS FROM SETTLED LAW.

This Court should grant a preliminary and/or permanent injunction to prevent Defendants from violating the Citizenship Clause and the INA, as they have been directed to do on February 19. Aside from their incorrect argument that Plaintiffs' impending injuries are not attributable to the Order, *but see* Doc. No. 5 at 14-15, 21-23, Defendants' only response to Plaintiffs' irreparable harm is to baselessly speculate that Plaintiffs might remedy their fiscal injuries via administrative processes. Doc. No. 92 at 47. But no such process could compensate Plaintiffs for (i) the burdens and costs incurred to re-design Plaintiffs' eligibility verification systems, (ii) extra payments for at-risk children due to their ineligibility for federal assistance, or (iii) the EAB funding they lose when families do not obtain an SSN at birth. Doc. No. 5 at 11-13.[7] Nor do Defendants offer a legitimate public interest that can outweigh these harms. Any interest in protecting the statutory

[7] And though an HHS appeals board considers specific cost disallowances in certain programs, it does not adjudicate constitutional claims regarding the eligibility of large swaths of the population. *See ChildCareGroup v. Dep't of Health & Human Servs.*, DAB No. 3010, at 11 (2020).

"discretion exercised by immigration officials," *Arizona v. United States*, 567 U.S. 387, 396 (2012), is not at issue here, where the Executive seeks to trample over constitutional and statutory dictates—on the precise issue the Fourteenth Amendment's framers removed from the political process entirely. *See OLC Op.* at *6. And on the other side of the ledger is the abrogation of a 127-year-old precedent and practice, the loss of citizenship for millions of American-born children, and the chaotic disruption of Plaintiffs' critical child health and welfare programs.[8]

Plaintiffs' injuries could only be remedied with a nationwide injunction because children and families can and do move from one jurisdiction to another—a key factual point Defendants do not deny. Doc. No. 5 at 25-26. Defendants brush this aside, without any explanation, as a "spillover effect." Doc. No. 92 at 49-50. But the harms to Plaintiffs from allowing the Order to take effect in other jurisdictions are the exact same harms of allowing it to take effect within their borders—the loss of federal funding for serving the affected children and the administrative cost and burdens of standing up new eligibility verification systems. Thus, if the Court concludes that injunctive relief is needed to remedy Plaintiffs' injuries, that injunction necessarily must be nationwide. Nor is that burdensome for Defendants, as the Federal Government has for over a century (and until just weeks ago) complied with this understanding nationwide—just as *Wong Kim Ark* commands.

CONCLUSION

For the above reasons, the Court should grant Plaintiffs' motion for injunctive relief.

[8] Defendants are also wrong that Plaintiffs may not obtain declaratory relief against the President. *See CREW v. Trump*, 302 F. Supp. 3d 127, 139 n.6 (D.C. Cir. 2018) (rejecting government's claim). Courts routinely enjoin the enforcement of executive orders. *See, e.g.*, *Kentucky v. Biden*, 23 F.4th 585, 612 (6th Cir. 2022) (enjoining enforcement of EO mandating certain vaccinations); *State v. Nelson*, 576 F. Supp. 3d 1017, 1040 (M.D. Fla. 2021) (granting injunction "prohibiting enforcement of" EO). And when an injury cannot be "redressed fully" by enjoining other federal defendants, an injunction against the President can also be appropriate. *Hawai'i v. Trump*, 859 F.3d 741, 788 (9th Cir. 2017); *Missouri v. Biden*, 738 F. Supp. 3d 1113, 1145 (E.D. Mo. 2024).

February 4, 2025

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EXHIBIT A

AN

AMERICAN DICTIONARY

OF THE

ENGLISH LANGUAGE;

CONTAINING

THE WHOLE VOCABULARY OF THE FIRST EDITION IN TWO VOLUMES QUARTO; THE ENTIRE CORRECTIONS AND IMPROVEMENTS OF THE SECOND EDITION IN TWO VOLUMES ROYAL OCTAVO;

TO WHICH IS PREFIXED

AN INTRODUCTORY DISSERTATION

ON THE ORIGIN, HISTORY, AND CONNECTION, OF THE LANGUAGES OF WESTERN ASIA AND EUROPE, WITH AN EXPLANATION OF THE PRINCIPLES ON WHICH LANGUAGES ARE FORMED.

BY NOAH WEBSTER, LL.D.,

Member of the American Philosophical Society in Philadelphia; Fellow of the American Academy of Arts and Sciences in Massachusetts; Member of the Connecticut Academy of Arts and Sciences; Fellow of the Royal Society of Northern Antiquaries in Copenhagen; Member of the Connecticut Historical Society; Corresponding Member of the Historical Societies in Massachusetts, New York, and Georgia; of the Academy of Medicine in Philadelphia, and of the Columbian Institute in Washington; and Honorary Member of the Michigan Historical Society.

GENERAL SUBJECTS OF THIS WORK.

I.—ETYMOLOGIES OF ENGLISH WORDS, DEDUCED FROM AN EXAMINATION AND COMPARISON OF WORDS OF CORRESPONDING ELEMENTS IN TWENTY LANGUAGES OF ASIA AND EUROPE.
II.—THE TRUE ORTHOGRAPHY OF WORDS, AS CORRECTED BY THEIR ETYMOLOGIES.
III.—PRONUNCIATION EXHIBITED AND MADE OBVIOUS BY THE DIVISION OF WORDS INTO SYLLABLES, BY ACCENTUATION, BY MARKING THE SOUNDS OF THE ACCENTED VOWELS, WHEN NECESSARY, OR BY GENERAL RULES.
IV.—ACCURATE AND DISCRIMINATING DEFINITIONS, ILLUSTRATED, WHEN DOUBTFUL OR OBSCURE, BY EXAMPLES OF THEIR USE SELECTED FROM RESPECTABLE AUTHORS, OR BY FAMILIAR PHRASES OF UNDISPUTED AUTHORITY.

REVISED AND ENLARGED,

BY CHAUNCEY A. GOODRICH,

PROFESSOR IN YALE COLLEGE.

WITH PRONOUNCING VOCABULARIES OF SCRIPTURE, CLASSICAL, AND GEOGRAPHICAL NAMES.

TO WHICH ARE NOW ADDED

PICTORIAL ILLUSTRATIONS,

TABLE OF SYNONYMS, PECULIAR USE OF WORDS AND TERMS IN THE BIBLE, APPENDIX OF NEW-WORDS, PRONOUNCING TABLE OF NAMES OF DISTINGUISHED PERSONS, ABBREVIATIONS, LATIN, FRENCH, ITALIAN, AND SPANISH PHRASES, ETC.

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ALL-COM-PRE-HEN'SIVE, *a.* Comprehending all things. *Glanville.*

ALL-CON-CEAL'ING, *a.* Hiding or concealing all. *Spenser.*

ALL-CON'QUER-ING, (-konk'er-ing,) *a.* That subdues all. *Milton.*

ALL-CON'SCIOUS, *a.* Conscious of all; all-knowing. *Drayton.*

ALL-CON-STRAIN'ING, *a.* Constraining all. *Drayton.*

ALL-CON-SUM'ING, *a.* That consumes or devours all. *Pope.*

ALL-CON-TROLL'ING, *a.* Controlling all. *Everett.*

ALL-DAR'ING, *a.* Daring to attempt every thing. *Jonson.*

ALL-DE-SIGN'ING, *a.* Designing all things.

ALL-DE-STROY'ING, *a.* Destroying every thing. *Fanshaw.*

ALL-DEV'AS-TĀ-TING, *a.* Wasting every thing.

ALL-DE-VOUR'ING, *a.* Eating or consuming all. *Pope.*

ALL-DIM'MING, *a.* Obscuring every thing. *Marston.*

ALL-DI-RECT'ING, *a.* Directing all; governing all things.

ALL-DIS-CERN'ING, *a.* Discerning every thing.

ALL-DIS-COV'ER-ING, *a.* Discovering or disclosing every thing. *More.*

ALL-DIS-GRĀ'CED, *a.* Completely disgraced. *Shak.*

ALL-DIS-PENS'ING, *a.* Dispensing all things; affording dispensation or permission. *Milton.*

ALL-DI-VINE', *a.* Supremely excellent. *Howell.*

ALL-DI-VIN'ING, *a.* Foretelling all things. *Fanshaw.*

ALL-DREAD'ED, *a.* Dreaded by all. *Shak.*

ALL-EF-FI-CĀ'CIOUS, *a.* Having all efficacy. *Everett.*

ALL-EF-FI''CIENT, *a.* Of perfect or unlimited efficacy or efficiency.

ALL-EL'O-QUENT, *a.* Eloquent in the highest degree. *Pope.*

ALL-EM-BRĀ'CING, *a.* Embracing all things. *Crashaw.*

ALL-END'ING, *a.* Putting an end to all things. *Shak.*

ALL-EN-LIGHT'EN-ING, *a.* Enlightening all things. *Cotton.*

ALL-EN-RĀG'ED, *a.* Highly enraged. *Hall.*

ALL-ES-SEN'TIAL, *a.* Wholly essential. *Everett.*

ALL-FLAM'ING, *a.* Flaming in all directions. *Beaumont.*

ALL-FOOLS'-DAY, *n.* The first of April.

ALL-FOR-GIV'ING, *a.* Forgiving or pardoning all. *Dryden.*

ALL-FOURS', *n.* [*all* and *four.*]

A game at cards, played by two or four persons; so called from the four chances of which it consists, viz. High, Low, Jack, and the Game.

To go on all fours, is to move or walk on four legs, or on the two legs and two arms.

ALL-GIV'ER, *n.* The giver of all things. *Milton.*

ALL-GLO'RI-OUS, *a.* Glorious to the full extent.

ALL-GOOD', *a.* Completely good. *Dryden.*

ALL-GOOD', *n.* The popular name of the plant Good-Henry, or English Mercury, *Chenopodium bonus Henricus.*

ALL-GRA'CIOUS, *a.* Perfectly gracious.

ALL-GUID'ING, *a.* Guiding or conducting all things. *Sandys.*

ALL-HAIL', *excl.* [*all* and Sax. *hæl*, health.]

All health; a phrase of salutation, expressing a wish of *all health*, or safety, to the person addressed.

ALL-HAL'LOW, } *n.* All-Saints-day, the first of
ALL-HAL'LOWS, } November; a feast dedicated to all the saints in general. [*Colloquial.*]

ALL-HAL'LOW-TIDE, *n.* [*Tid*, in Sax., is *time.*]

The time near All-Saints, or November first.

ALL-HAP'PY, *a.* Completely happy.

ALL-HEAL', *n.* The popular name of several plants.

ALL-HEAL'ING, *a.* Healing all things. *Selden.*

ALL-HELP'ING, *a.* Assisting all. *Selden.*

ALL-HID'ING, *a.* Concealing all things. *Shak.*

ALL-HOL'LOW, *adv.* Entirely; completely; as, to beat any one *all-hollow.*

ALL-HO'LY, *a.* Completely, perfectly holy.

ALL-HONOR-ED, (-on'ord,) *a.* Honored by all.

ALL-HURT'ING, *a.* Hurting all things. *Shak.*

ALL-I'DOL-IZ-ING, *a.* Worshiping every thing. *Crashaw.*

ALL-IL-LŪ'MIN-Ā-TING, *a.* Enlightening every thing.

ALL-IM'I-TA-TING, *a.* Imitating every thing. *More.*

ALL-IM-POR'TANT, *a.* Important above all things; extremely important. *Everett.*

ALL-IM-PRESS'IVE, *a.* Impressive to the utmost extent.

ALL-IN-FORM'ING, *a.* Actuating all by vital powers. *Sandys.*

ALL-IN'TER-EST-ING, *a.* Interesting in the highest degree.

ALL-IN-TER'PRET-ING, *a.* Explaining all things. *Milton.*

ALL-JUDG'ING, *a.* Judging all; possessing the sovereign right of judging. *Rowe.*

ALL-JUST', *a.* Perfectly just.

ALL-KIND', *a.* Perfectly kind or benevolent.

ALL-KNOW'ING, *a.* Having all knowledge; omniscient. *Atterbury.*

ALL-LI'CENS-ED, *a.* Licensed to every thing. *Shak.*

ALL-LŌV'ING, *a.* Of infinite love. *More.*

ALL-MAK'ING, *a.* Making or creating all; omnific. *Dryden.*

ALL-MA-TŪR'ING, *a* Maturing all things. *Dryden.*

ALL-MER'CI-FUL, *a.* Of perfect mercy or compassion.

ALL-MUR'DER-ING, *a.* Killing or destroying every thing. *Fanshaw.*

ALL-O-BĒ'DI-ENT, *a.* Entirely obedient. *Crashaw.*

ALL-O-BEY'ING, *a.* [See OBEY.] Receiving obedience from all. *Shak.*

ALL-OB-LIV'I-OUS, *a.* Causing total oblivion. *Shak.*

ALL-OB-SCŪR'ING, *a.* Obscuring every thing. *King.*

ALL-PĀ'TIENT, *a.* Enduring every thing without murmurs. *Mitford.*

ALL-PEN'E-TRĀ-TING, *a.* Penetrating every thing. *Stafford.*

ALL-PER'FECT, *a.* Completely perfect; having all perfection.

ALL-PER'FECT-NESS, *n.* The perfection of the whole; entire perfection. *More.*

ALL-PER-VAD'ING, *a.* Pervading every place. *Allen.*

ALL-PIĒR'CING, *a.* Piercing every thing. *Marston.*

ALL-PŌ'TENT, *a.* Having all power. *Irving.*

ALL-POW'ER-FUL, *a.* Almighty; omnipotent. *Swift.*

ALL-PRAIS'ED, *a.* Praised by all. *Shak.*

ALL-PRES'ENT, *a.* Omnipresent.

ALL-PRO-TECT'ING, *a.* Furnishing complete protection.

ALL-RŪL'ING, *a.* Governing all things. *Milton.*

ALL-SA-GĀ'CIOUS, *a.* Having all sagacity; of perfect discernment.

ALL-SAINTS'-DAY, *n.* The first day of November, called, also, *All-hallows*; a feast in honor of all the saints.

ALL-SANC'TI-FY-ING, *a.* Sanctifying the whole. *West.*

ALL-SAV'ING, *a.* Saving all. *Selden.*

ALL-SEARCH'ING, (-serch'ing,) *a.* Pervading and searching every thing. *South.*

ALL-SEE'ING, *a.* Seeing every thing. *Dryden.*

ALL-SEER', *n.* One that sees every thing. *Shak.*

ALL-SHAK'ING, *a.* Shaking all things. *Shak.*

ALL-SHROUD'ING, *a.* Shrouding; covering all things.

ALL-SHUN'NED, *a.* Shunned by all. *Shak.*

ALL-SOULS'-DAY, *n.* The second day of November; a feast or solemnity held by the Roman Catholic church, to supplicate for the souls of the faithful deceased.

ALL'SPICE, *n.* The berry of the pimento, a tree of the West Indies; a spice of a mildly pungent taste, and agreeably aromatic. It has been supposed to combine the flavor of cinnamon, nutmegs, and cloves; and hence the name. *Encyc. of Dom. Econ.*

ALL-SUB-MIS'SIVE, *a.* Wholly submissive.

ALL-SUF-FI''CIEN-CY, *n.* Complete or infinite ability. *Hall.*

ALL-SUF-FI''CIENT, *a.* Sufficient to every thing; infinitely able. *Hooker.*

ALL-SUF-FI''CIENT, *n.* The all-sufficient Being; God. *Whitlock.*

ALL-SUR-ROUND'ING, *a.* Encompassing the whole.

ALL-SUR-VEY'ING, (-sur-vā'ing,) *a.* [See SURVEY.] Surveying every thing. *Sandys.*

ALL-SUS-TAIN'ING, *a.* Upholding all things. *Beaumont.*

ALL-TELL'ING, *a.* Telling or divulging every thing. *Shak.*

ALL-TRI'UMPH-ING, *a.* Triumphant every where or over all. *Jonson.*

ALL-WATCH'ED, *a.* Watched throughout. *Shak.*

ALL-WISE', *a.* Possessed of infinite wisdom. *South.*

ALL-WIT'TED, *a.* Having all kinds of wit. *Jonson.*

ALL-WOR'SHIP-ED, (-wur'shipt,) *a.* Worshiped or adored by all. *Milton.*

ALL-WOR'THY, *a.* Of infinite worth; of the highest worth.

AL'LA-GITE, *n.* An impure, brownish variety of manganese spar. *Dana.*

AL'LAH, *n* The Arabic name of the Supreme Being.

AL'LAN-ITE, *n.* An ore of the metals cerium and lanthanum, having a pitch-black or brownish color. It was first discovered, as a species, by Mr. Allan, of Edinburgh. *Dana.*

AL-LAN-TŌ'IC, *a.* Pertaining to or contained in the allantois.

AL-LAN-TŌ'IC AC'ID, *n.* An acid of animal origin, found in the liquor of the allantois of the fetal calf. [See ALLANTOIS.] This is the same acid which was formerly called *amniotic acid.*

AL-LAN-TOIS', } *n.* [Gr. αλλας, a sausage, and
AL-LAN-TOID', } εἰδος, form.]

A thin membrane, situated between the chorion and amnion in quadrupeds, and forming one of the membranes which invest the fetus in those animals. *Ed. Encyc.*

AL'LA-TRATE, *v. t.* [L. *allatro.*]

To bark, as a dog. [*Not used.*] *Stubbes.*

AL-LAY', *v. t.* † [Sax. *alecgan*, *alegan*, to lay, to set, to depress, *lecgan*, to lay, to cast or strike down; G. *legen*, D. *leggen*, to lay; Gr. λεγω. The Fr. *allier*, to alloy, Sp. *ligar*, seems to be directly from the L. *ligo*, to bind; but this may be the same word differently applied, that is, to set, to fix, to make fast, to unite. *Allay* and *alloy* were formerly used indifferently; but I have recognized an entire distinction between them, applying *alloy* to metals.]

1. To make quiet; to pacify or appease; as, to *allay* the tumult of the passions, or to *allay* civil commotions.

2. To abate, mitigate, subdue, or destroy; as, to *allay* grief or pain.

Females, who soften and *allay* the bitterness of adversity. *Rowe.*

3. To obtund or repress, as acrimony; as, to *allay* the acrid qualities of a substance.

4. *Formerly*, to reduce the purity of; as, to *allay* metals. But in this sense *alloy* is now exclusively used. [See ALLOY.]

AL-LAY', *n. Formerly*, a baser metal mixed with a finer; but in this sense it is now written ALLOY, *which see.*

2. That which allays, or abates the predominant qualities; as, the *allay* of colors. *Newton.*

Also, abatement; diminution by means of some mixture; as, joy without *allay*. But *alloy* is now more generally used.

AL-LAY'ED, *pp.* Layed at rest; quieted; tranquilized; abated; [reduced by mixture. *Obs.*]

AL-LAY'ER, *n.* He or that which allays.

AL-LAY'ING, *ppr.* Quieting; reducing to tranquillity; abating; reducing by mixture. [*Obs.*]

AL-LAY'MENT, *n.* The act of quieting, or a state of tranquillity; a state of rest after disturbance; that which allays; abatement; ease; as, the *allayment* of grief. *Shak.*

AL'LE, (al'ly,) *n.* The little auk, or black and white diver.

AL-LECT-Ā'TION, *n.* Enticement; allurement. [*Not used.*] *Coles.*

AL-LECT'IVE, *a.* Alluring. [*Not used.*] *Chaucer.*

AL-LECT'IVE, *n.* Allurement. [*Not used.*] *Eliot.*

AL-LEDGE'. See ALLEGE. [This spelling, corresponding to *abridge*, was once the prevailing one, and would still be preferable.]

AL-LE-GA'NE-AN, *a.* Pertaining to the mountains called Allegany, or Alleghenny.

AL'LE-GA-NY, *n.* The chief ridge of the great chains of mountains which run from N. East to S. West, through the Middle and Southern States of North America; but, *more appropriately*, the main or unbroken ridge, which casts all the waters on one side to the east, and on the other side to the west. This ridge runs from Pennsylvania to Georgia, and chains extend through the United States.

This name is given also to the River Ohio, above its confluence with the Monongahela; but improperly, as the Indian name of the river to its source is Ohio.

AL-LE-GĀ'TION, *n.* Affirmation; positive assertion or declaration.

2. That which is affirmed or asserted; that which is offered as a plea, excuse, or justification.

3. In *ecclesiastical courts*, a formal complaint, or declaration of charges.

AL-LEGE', *v. t.* [L. *allego*, *ad* and *lego*, to send; Fr. *alleguer*; Sp. *alegar*; Port. *allegar*; It. *allegare*. This is only a modified application of the Eng. *lay*; L. *loco*, to set, or throw. See Class Lg.]

1. To declare; to affirm; to assert; to pronounce with positiveness; as, to *allege* a fact.

2. To produce, as an argument, plea, or excuse; to cite or quote; as, to *allege* the authority of a judge.

AL-LEGE'A-BLE, *a.* That may be alleged or affirmed. *Brown.*

AL-LEG'ED, *pp.* or *a.* Affirmed; asserted, whether as a charge or a plea.

AL-LEGE'MENT, *n.* Allegation. [*Not in use.*]

AL-LEG'ER, *n.* One who affirms or declares.

AL-LĒ'GI-ANCE, *n.* † [old Fr., from L. *alligo*, of *ad* and *ligo*, to bind. See LIEGE and LEAGUE.]

The tie or obligation of a subject to his prince or government; the duty of fidelity to a king, government, or state. Every native or citizen owes *allegiance* to the government under which he is born. This is called *natural* or *implied* allegiance, which arises from the connection of a person with the society in which he is born, and his duty to be a faithful subject, independent of any express promise. *Express* allegiance, is that obligation which proceeds from an express promise or oath of fidelity.

EXHIBIT B

TO REVISE AND CODIFY THE NATIONALITY LAWS OF THE UNITED STATES INTO A COMPREHENSIVE NATIONALITY CODE

HEARINGS

BEFORE THE

COMMITTEE ON IMMIGRATION AND NATURALIZATION HOUSE OF REPRESENTATIVES

SEVENTY-SIXTH CONGRESS

FIRST SESSION

ON

H. R. 6127

SUPERSEDED BY

H. R. 9980

A BILL TO REVISE AND CODIFY THE NATIONALITY LAWS OF THE UNITED STATES INTO A COMPREHENSIVE NATIONALITY CODE

JANUARY 17, FEBRUARY 13, 20, 27, 28, MARCH 5, APRIL 11, 16, 23
MAY 2, 3, 7, 9, 13, 14, AND JUNE 5, 1940

Printed for the use of the
Committee on Immigration and Naturalization

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TO REVISE AND CODIFY THE NATIONALITY LAWS OF THE UNITED STATES INTO A COMPREHENSIVE NATIONALITY CODE

WEDNESDAY, JANUARY 17, 1940

HOUSE OF REPRESENTATIVES,
COMMITTEE ON IMMIGRATION AND NATURALIZATION,
Washington, D. C.

The Committee on Immigration and Naturalization met in the hearing room, Old House Office Building, at 10:55 a. m., Hon. Samuel Dickstein (chairman of the committee) presiding.

The CHAIRMAN. The committee now has under consideration H. R. 6127, a bill to revise and codify the nationality laws of the United States into a comprehensive nationality code.

Without objection the bill will be made a part of the record and inserted at this point.

(The bill above referred to is as follows:)

[H. R. 6127, 76th Cong., 1st sess.]

A BILL To revise and codify the nationality laws of the United States into a comprehensive nationality code

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the nationality laws of the United States are revised and codified as follows:

TITLE I

SECTION 1. This Act may be cited as the Nationality Act of 1939.

CHAPTER I—DEFINITIONS

SEC. 101. For the purposes of this Act—

(a) The term "national" means a person owing permanent allegiance to a state.

(b) The term "national of the United States" means (1) a citizen of the United States, or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(c) The term "naturalization" means the conferring of nationality of a state upon a person after birth.

(d) The term "United States" when used in a geographical sense means the continental United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

(e) The term "outlying possessions" means all territory, other than as specified in subsection (d), over which the United States exercises rights of sovereignty.

(f) The term "parent" includes in the case of a posthumous child a deceased parent.

(g) The term "minor" means a person under twenty-one years of age.

SEC. 102. For the purposes of chapter III of this Act—

(a) The term "State" includes (except as used in subsection (a) of section 301), Alaska, Hawaii, the District of Columbia, Puerto Rico, and the Virgin Islands of the United States.

(b) The term "naturalization court," unless otherwise particularly described, means a court authorized by subsection (a) of section 301 to exercise naturalization jurisdiction.

(c) The term "clerk o fcourt" means a clerk of a naturalization court.

(d) The terms "Commissioner" and "Deputy Commissioner" mean the Commissioner of Immigration and Naturalization and a Deputy Commissioner of Immigration and Naturalization, respectively.

(e) The term "Secretary" means the Secretary of Labor.

(f) The term "Service" means the Immigration and Naturalization Service of the United States Department of Labor.

(g) The term "designated examiner" means an examiner or other officer of the Service designated under section 332 by the Commissioner.

(h) The term "child" includes a child legitimated under the law of the child's residence or domicile, whether in the United States or elsewhere; also a child adopted in the United States, provided such legitimation or adoption takes place before the child reaches the age of sixteen years and the child is in the legal custody of the legitimating or adopting parent or parents.

SEC. 103. For the purposes of subsections (a) and (b) of section 402 of this Act, the term "foreign state" includes outlying possessions of a foreign state, but does not include self-governing dominions or territory under mandate, which, for the purposes of these subsections, shall be regarded as separate states.

SEC. 104. For the purposes of section 201, 402, 403, 404, and 405 of this Act, the place of general abode shall be deemed the place of residence.

CHAPTER II—NATIONALITY AT BIRTH

SEC. 201. The following shall be nationals and citizens of the United States at birth:

(a) A person born in the United States, and subject to the jurisdiction thereof;

(b) A person born in the United States to a member of an Indian, Eskimo, Aleutian, or other aboriginal tribe: *Provided*, That the granting of citizenship under this subsection shall not in any manner impair or otherwise affect the right of such person to tribal or other property;

(c) A person born outside of the United States and its outlying possessions of parents both of whom are citizens of the United States and one of whom has resided in the United States or one of its outlying possessions, prior to the birth of such person;

(d) A person born outside of the United States and its outlying possessions of parents one of whom is a citizen of the United States who resided in the United States or one of its outlying possessions prior to the birth of such person, and the other of whom is a national, but not a citizen of the United States;

(e) A person born in an outlying possession of the United States of parents one of whom is a citizen of the United States who resided in the United States or one of its outlying possessions prior to the birth of such person;

(f) A child of unknown parentage found in the United States, until shown not to have been born in the United States;

(g) A person born outside the United States and its outlying possessions of parents one of whom is a citizen of the United States who has had ten years' residence in the United States or one of its outlying possessions, the other being an alien: *Provided*, That, in order to retain such citizenship, the child must reside in the United States or its outlying possessions for a period or periods totaling five years between the ages of thirteen and twenty-one years, and must within six months after his twenty-first birthday take an oath of allegiance to the United States: *Provided further*, That if the child has not taken up a residence in the United States or its outlying possessions by the time he reaches the age of sixteen years, or if he resides abroad for such a time that it becomes impossible for him to complete the five years' residence in the United States or its outlying possessions before reaching the age of twenty-one years, his American citizenship shall thereupon cease.

The preceding provisos shall not apply to a child born abroad whose American parent is at the time of the child's birth residing abroad solely or principally to represent the Government of the United States or a bona fide American educational, scientific, philanthropic, religious, commercial, or financial organization, having its principal office or place of business in the United States, or an international agency of an official character in which the United States participates, for which he receives a substantial compensation;

(h) The foregoing provisions of subsection (g) concerning retention of citizenship shall apply to a child born abroad subsequent to May 24, 1934.

SEC. 202. All persons born in Puerto Rico on or after April 11, 1899, subject to the jurisdiction of the United States, residing on the effective date of this Act in Puerto Rico or other territory over which the United States exercises rights of sovereignty and not citizens of the United States under any other Act, are hereby declared to be citizens of the United States.

SEC. 203. Unless otherwise provided in section 201, the following shall be nationals, but not citizens, of the United States at birth:

(a) A person born in an outlying possession of the United States of parents one of whom is a national, but not a citizen, of the United States;

(b) A person born outside the United States and its outlying possessions of parents both of whom are nationals, but not citizens, of the United States, and have resided in the United States or one of its outlying possessions prior to the birth of such person;

(c) A child of unknown parentage found in an outlying possession of the United States, until shown not to have been born in such outlying possession.

SEC. 204. The provisions of section 201, subsections (c), (d), (e), and (g), and section 203, subsections (a) and (b), hereof apply, as of the date of birth, to a child, born out of wedlock, provided the paternity is established during minority, by legitimation, or adjudication of a competent court.

In the absence of such legitimation or adjudication, the child, if the mother had the nationality of the United States at the time of the child's birth, and had previously resided in the United States or one of its outlying possessions, shall be held to have acquired at birth her nationality status.

CHAPTER III—NATIONALITY THROUGH NATURALIZATION

GENERAL PROVISIONS

JURISDICTION TO NATURALIZE

SEC. 301. (a) Exclusive jurisdiction to naturalize persons as citizens of the United States is hereby conferred upon the following specified courts: District Courts of the United States now existing, or which may hereafter be established by Congress in any State, District Courts of the United States for the Territories of Hawaii and Alaska, and for the District of Columbia and for Puerto Rico, and the District Court of the Virgin Islands of the United States; also all courts of record in any State or Territory now existing, or which may hereafter be created, having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited. The jurisdiction of all the courts herein specified to naturalize persons shall extend only to such persons resident within the respective jurisdictions of such courts, except as otherwise specifically provided in this chapter.

(b) A person may petition for naturalization in any court within the State judicial district or State judicial circuit in which he resides, whether or not he resides within the county in which the petition for naturalization is filed.

(c) The courts herein specified, upon request of the clerks of such courts, shall be furnished from time to time by the Commissioner or a Deputy Commissioner with such blank forms as may be required in naturalization proceedings.

(d) A person may be admitted to become a citizen of the United States in the manner and under the conditions prescribed in this chapter, and not otherwise.

SUBSTANTIVE PROVISIONS

ELIGIBILITY FOR NATURALIZATION

SEC. 302. The right of a person to become a naturalized citizen of the United States shall not be denied or abridged because of sex or because such person is married.

SEC. 303. The right to become a naturalized citizen under the provisions of this chapter shall extend only to white persons and persons of African nativity and persons of African descent, except that this section shall not apply to descendants of races indigenous to the Western Hemisphere, nor to native-born Filipinos hav-

ing we have thousands of persons living in foreign countries, usually in the foreign countries where they were born, or where their parents were born, having all their interests there, and their family connections, and yet they are citizens of the United States, and they may call on our Government for protection.

I refer not only to the naturalized citizens who have gone back to their native lands or gone to other countries—and there are many thousands of them—but to their children, born in those countries, who are alien in all their characteristics and connections and interests, yet have the right to enter the United States as citizens. We cannot keep them out; they are born citizens.

Another class is composed of those persons who are born in the United States of alien parents and are taken by their parents to the countries from which the parents came and of which they are nationals. That is a dual nationality.

Many of them are taken in early infancy. There are hundreds of thousands of those persons living around different parts of the world who happen to have been born here and acquire citizenship under the fourteenth amendment, but they are brought up in the countries of their parents and they are in no true sense American, and yet they may not only enter this country themselves as citizens, but may marry aliens in those countries and have children and those children are born citizens.

Mr. REES. Pardon me. Do I understand that a person born of alien parentage who goes abroad before he reaches the age of majority, lives in a foreign country for many, many years, marries a native of that country, can come to the United States and bring his family here?

Mr. FLOURNOY. Yes, sir.

Mr. REES. As a citizen of the United States?

Mr. FLOURNOY. Certainly. He can live all he pleases in his father's country, and if he does not take the oath of allegiance, if he avoids doing that, he remains a citizen of the United States.

Furthermore, if he marries a woman of that country he breeds citizens of the United States. In reality they are no more citizens, in character, than all the other inhabitants of that country.

There are not a few of these cases; there are hundreds of thousands of them.

Mr. REES. Is there anything in this measure before us to change that situation?

Mr. FLOURNOY. We have tried to do it. We have done something I think. We might have done more, probably, but we could not get complete agreement. We have gotten something, I think, better than what the law is now.

Mr. POAGE. Isn't that based on the constitutional provision that all persons born in the United States are citizens thereof?

Mr. FLOURNOY. Yes.

Mr. POAGE. In other words, it is not a matter we have any control over.

Mr. FLOURNOY. No; and no one wants to change that.

Mr. POAGE. No one wants to change that, of course.

Mr. FLOURNOY. We have control over citizens born abroad, and we also have control over the question of expatriation. We can provide

for expatriation. No one proposes to change the constitutional provisions.

Mr. REES. We cannot change the citizenship of a man who went abroad, who was born in the United States.

Mr. FLOURNOY. You can make certain acts of his result in a loss of citizenship.

Mr. REES. Surely, that way.

Mr. FLOURNOY. For instance, the act of 1907 has a provision that if he takes the oath of allegiance to a foreign state, he loses his citizenship.

Then we have a provision in the old act with regard to desertion from the Army, conviction of desertion, which results in loss of citizenship, although there again there is some question as to what the law meant. But we have construed it in the State Department to mean loss of citizenship. There is no proposal, as I say, to change the Constitution.

Mr. REES. No; of course not.

Mr. FLOURNOY. That would be absurd.

If you want me to, I think we will get along better with the various provisions if we take them up seriatim.

Mr. REES. I think that would be better.

Mr. FLOURNOY. I don't think it is necessary, unless you think so, Mr. Chairman, to go into these various provisions of chapter I which are definitions and are self-explanatory.

Mr. POAGE. Any of them you think you ought to discuss, do so, and if we want to ask you about any of the others when you get through, we can.

Mr. BUTLER. How about the specific changes? Do you care to have those discussed?

Mr. REES. I think if you can tell us just what changes have been made as you go along it would be well.

Mr. FLOURNOY. That begins with chapter II.

Mr. REES. Go ahead.

Mr. FLOURNOY. Chapter II is "Nationality at birth". Section 201 provides that the following shall be nationals and citizens of the United States at birth:

(a) A person born in the United States and subject to the jurisdiction thereof.

That is taken of course from the fourteenth amendment to the Constitution.

(b) A person born in the United States to a member of an Indian, Eskimo, Aleutian, or other aboriginal tribe: *Provided*, That the granting of citizenship under this subsection shall not in any manner impair or otherwise affect the right of such persons to tribal or other property.

It is probable the court held years ago that provisions of the fourteenth amendment did not apply to Indians living in their tribal relationship, but this does not give them citizenship.

Mr. REES. Tell us how this law is changed insofar as it affects the people of Alaska, Hawaii, and Puerto Rico.

Mr. FLOURNOY. Those people in Alaska and Hawaii are citizens of the United States under the law as it now exists. We have not changed that at all.

Mr. REES. And (b) is just with reference to Indians and Eskimos.

Mr. FLOURNOY. Yes, sir.