



DATE DOWNLOADED: Tue Jun 28 20:27:45 2022

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Citations:

Bluebook 21st ed.

Richard W. Flournoy, ed.; Hudson, Manley O., ed. Collection of Nationality Laws of Various Countries as Contained in Constitutions, Statutes and Treaties (1929).

ALWD 7th ed.

Flournoy, Richard W., ed.; Hudson, Manley O., ed. Collection of Nationality Ls of Various Countries as Contained in Constitutions, Statutes & Treaties (1929).

APA 7th ed.

Flournoy, R. (1929). Collection of Nationality Laws of Various Countries as Contained in Constitutions, Statutes and Treaties. New York, Oxford University Press.

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Flournoy Richard W., ed.; Hudson, Manley O., ed. Collection of Nationality Laws of Various Countries as Contained in Constitutions, Statutes and Treaties. New York, Oxford University Press.

McGill Guide 9th ed.

Richard W. Flournoy, ed.; Hudson, Manley O., ed., Collection of Nationality Ls of Various Countries as Contained in Constitutions, Statutes & Treaties (New York: Oxford University Press., 1929)

AGLC 4th ed.

Richard W. Flournoy, ed.; Hudson, Manley O., ed., Collection of Nationality Laws of Various Countries as Contained in Constitutions, Statutes and Treaties (Oxford University Press., 1929

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OSCOLA 4th ed.

Flournoy, Richard W., ed.; Hudson, Manley O., ed. Collection of Nationality Laws of Various Countries as Contained in Constitutions, Statutes and Treaties. New York, Oxford University Press.

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URUGUAY

EDITORS' NOTE. The Constitution of September 10, 1829, promulgated July 18, 1830,¹ provided that all free persons born in the republic acquired Uruguayan nationality (Article 7). Children born abroad of a Uruguayan father or mother acquired Uruguayan nationality from the time of their settling in the republic (Article 8). This constitution also provided for naturalization. Its provisions in regard to naturalization were modified by the decree of July 20, 1874.² A new constitution was promulgated on January 3, 1918, which provides for nationality at birth and naturalization. The decree of January 21, 1921³ prescribes the manner in which passports may be issued to alien women married to Uruguayan citizens. The law of February 1, 1928 effects changes in the procedure for naturalization.

BIBLIOGRAPHY: Folleville, 658; Keller-Trautmann, 776; Lehr, 218; Schwartz, 106; Zeballos, I, 664.

For the text of the Constitution of July 13, 1830, in Spanish, see Carranza, *Digesto constitucional americano* (1910) 4; in English, Cit. Bd. Report (1906) 533. For the text of the Constitution of October 15, 1917, in Spanish, see *Diario oficial*, January 16, 1918; *Proyecto de Constitución* (1917); in French, see Clunet (1918) 905; Sarrailh, *Uruguay et sa nouvelle constitution*, 24.

CONSTITUTION OF JANUARY 3, 1918³

[TRANSLATION]

SECTION II

CHAPTER I.—ON CITIZENSHIP, ITS RIGHTS, SUSPENSION AND FORFEITURE

Article 6. The citizens of the Oriental Republic of Uruguay are native (*naturales*) or legal (naturalized).

Article 7. Native citizens are all those men (*hombres*) born in any part of the territory of the republic. The children (*hijos*) of a Uruguayan father or mother, whatever may have been the place of their birth, are also native citizens by residence in the country and registering in the civil register.

Article 8. The following are entitled to legal citizenship: married foreigners practicing any science, art or industry, or possessing some invested capital or property in the country, after three years' residence in the republic; unmarried foreigners filling those requirements and with four years' residence in the country; those on whom it may be conferred as a special privilege by the Assembly for meritorious work or for conspicuous worth.

CHAPTER III

Article 12. Citizenship will be suspended: (1) By reason of physical or mental unfitness, preventing free and reflective action, (2) During service as

¹ Lehr, 218.

² Post.

³ Text from enclosure with Despatch of November 21, 1928, from the American Minister to Uruguay to the Secretary of State.

a common soldier, (3) While undergoing legal prosecution in criminal causes from which penal servitude may result, (4) By reason of being under 18 years of age, (5) On account of a sentence imposing the penalty of banishment, imprisonment, penitentiary, or disqualification for the exercise of political rights during the period of the sentence.

CHAPTER IV

Article 13. Citizenship is forfeited by naturalization in another country; for reinstatement it will be sufficient to reside in the republic and inscribe in the civil register.

LAW OF JULY 20, 1874¹

REGULATING CHAPTER I OF THE CONSTITUTION

[TRANSLATION]

Article 12. Public offices may be held by native or naturalized citizens, according to the provisions of the law. Exception is made of offices of a scientific or professional nature not pertaining to the judiciary branch, which may be held by either citizens or aliens alike. School teachers are also included in this exception.

DECREE OF JANUARY 21, 1921²

AUTHORIZING THE MANNER IN WHICH THE RESPECTIVE AUTHORITIES MAY ISSUE PASSPORTS TO AN ALIEN WOMAN MARRIED TO A URUGUAYAN CITIZEN

[TRANSLATION]

Considering that the practice in vogue has proven the necessity of contemplating the situation of the alien woman married to a Uruguayan citizen as regards the issuance of passports;

Whereas: Under express provisions of certain foreign legislation, a woman, at the time of marrying, takes the nationality of the husband, and consequently loses all rights to the aid and protection of the authorities of her country;

Whereas: The persons who have been and are in such circumstances apply to the authorities of the country of which the husband is a citizen for passports, which today are indispensable to travel, the result being that the consular officers of the republic and even the Minister of Foreign Affairs, on

¹ Text from enclosure with Despatch No. 334, November 22, 1924, from the American Minister to Uruguay to the Secretary of State.

This law, with the exception of Article 12, was repealed by Article 30 of the law of February 1, 1928, post, p. 621.

² Text from enclosure with Despatch No. 645, February 17, 1921 from the American Minister to Uruguay to the Secretary of State.

consulting the laws in force, have found that they cannot, according to law, issue said document of nationality, because the Uruguayan law does not recognize any other nationality to the wife than that of her birthplace;

Whereas: Notwithstanding the facts hereinbefore mentioned, the case in question must be solved in favor of the protection requested, because, if the law in force grants the citizen the assurance that, in and out of the country the respective authorities shall watch and protect his interests and even his family, the issuance of a passport may be considered precisely as coming under that heading;

Whereas: By declaring specifically that the passport is issued to the interested party as wife of a Uruguayan citizen (the passport) impliedly carries a record of the fact that the granting of same does not mean a recognition of nationality which, unless expressly determined by law, cannot be made by the administrative authorities.

The President of the republic resolves and decrees:

Article 1. The respective authorities authorized to issue passports may grant said document to an alien woman married to a Uruguayan citizen, and the Ministry of Foreign Affairs shall publish the statement contained in the respective document to the effect that it may not be invoked as a recognition of nationality.

Article 2. The competent authorities shall ascertain the identity of the applicant in the usual manner and besides shall require the furnishing of the necessary documents to prove the nationality of both husband and wife and their marriage certificate.

Article 3. The facility accorded by this decree shall apply to widows and unmarried daughters of Uruguayan citizens, who, due to the legislation of their countries of origin, have no other nationality than that of their husbands or fathers, respectively, and when in any case it is not considered that their former nationality has been restored.

LAW OF FEBRUARY 1, 1928¹

[TRANSLATION]

Article 1. The adoption of legal Uruguayan citizenship does not necessitate the renunciation of the nationality of origin.

Article 2. When the breaking off of diplomatic relations between the republic and another state occurs, the status of the legal citizens who are nationals of that state will be determined by law, without their being compelled to perform military service against it in any instance whatsoever.

Article 3. Foreigners desirous of obtaining legal citizenship papers will

¹ Text from enclosure with Despatch No. 594, April 13, 1928, from the American Minister to Uruguay to the Secretary of State.

have to prove that they fulfil the conditions exacted by Article 8 of the Constitution by presenting the following proofs:

- (a) Proof of age showing that the applicant is eighteen years of age or will be on the date of or before the next elections.
- (b) Proof of residence showing that the applicant has resided habitually for three years in the country if the applicant proves he is married, or four years if he cannot prove he is married.
- (c) Proof of establishment, showing profession of a given science, art or industry, or the possession of some working capital or property in the country.
- (d) Proof of matrimony if the applicant is married. Lacking this proof, necessarily documentary, the applicant will have to abide by Article 7, final section.
- (e) Proof of identity, showing that the name and patronymic data attributed in the corresponding application are those of the applicant.

Article 4. The proof of age will be by means of authentic documents from the country of origin or by national public instruments with exact data which justify that means. Lacking all or some of these documents a medical certificate will be presented establishing:

- (1) That the applicant shows, without a doubt, to have the age referred to by the former clause, and
- (2) the approximate age attributed to him by the doctor.

Article 5. Proof of residence will be furnished by documents which by precise references show arrival and continuous domicile in the country, such as passports, cedula of denizenship, rent receipts, lease contracts, etc. To this evidence must necessarily be added testimony of the witnesses. The testimony of witnesses will also be considered sufficient if the applicant gives the Court satisfactory reasons for not having submitted documents.

Article 6. Proof of establishment will be by certificates from institutions or corresponding officials which will certify to the profession of some science, art or industry, or the possession of property or working capital. National institutions and officials will be obliged to supply such certificates gratis. In default of documentary proof testimonial evidence will be allowed on the conditions foreseen in the last section of the foregoing article.

Article 7. Proof of marriage will be necessarily documentary. If the marriage has taken place in this country, the proof will consist of a certificate of the State Civil Registry or parish where necessary. If it has taken place in a foreign country the public means which in the country of origin certify marriage will be accepted, the validity of which will be decided by the Court. National public instruments containing precise references to the marriage of the applicant will also be accepted. Lacking sufficient documentary proof the applicant will have to prove that he has resided in the country for more than four years (Article 3, section b).

Article 8. Proof of identity, and testimonial proof in general, will be by declaration of at least two persons, who must be more than twenty-five years of age and registered.¹ The witnesses, on signing the affidavits, will have their right-hand thumb-print impression taken and will state the series and number of their registration.

Article 9. Application for citizenship must be presented to the Secretariat of the Electoral Court in Montevideo, and in the departments they can be presented to the Departmental Electoral Bureaus or to the Justice of the Peace of the section wherein the applicant resides, always provided that the Court of Justice has its seat in a locality other than the capital of the department. The applications, made out on forms supplied by the Electoral Court, will be signed by the applicant, if he knows how, carrying with it in every case the right-hand thumb-print. On the application must be set forth the name of the applicant, those of his parents, documentary proofs offered, and the names of the witnesses proposed. The delegates of the political parties will be allowed to act on behalf of citizens only as regards presentation of application.

The official receiving the application will note on it the date and hour of receipt and will give the applicant a ticket on which the date and hour for the preliminary hearing will be stated. This must be fixed for not sooner than the third and not later than the tenth day following that of the presentation in question. A duplicate of this ticket will be posted on the boards of the office or Court of Justice.

Article 10. The official receiving the application will make known to the local and departmental authorities of the political parties that have complied with Article 29, the date of the preliminary hearing, the name of the applicant, and a statement of the proofs submitted, and invite them to be present.

Article 11. On the date and hour fixed for the hearing the applicant will appear before the Secretariat of the Court, the Departmental Electoral Bureau or the Court of the Justice of the Peace, where necessary, submitting his documentary proofs.

All original documents presented as proofs will be returned to the applicant, always provided that he asks for them and has supplied copies of them.

If the documents are not in Spanish, translations will be attached, and they will not be returned until the proceedings have ended.

If the applicant or his witnesses do not appear, the office, on request, will be allowed to arrange a preliminary hearing up to three times, in accordance with Articles 9 and 10.

Article 12. The Secretariat of the Court, represented by the officials appointed by the Court, the Chief of the Departmental Electoral Bureau who must be assisted by the clerk of the Court, or, where necessary, the Jus-

¹ This refers to their having obtained voting permission.—TRANSLATOR.

tice of the Peace, and with the assistance of two witnesses to the proceedings, will receive the declarations of the applicant in accordance with the following questionnaire:

- (a) Name of applicant.
- (b) Names of parents, if he knows them.
- (c) Country of origin, and, if he remembers, exact place of birth.
- (d) Age, stating, if he remembers, exact date of birth.
- (e) Period of residence in this country, stating whether continuous or interrupted, indicating in the second case the date and duration of interruptions.
- (f) Date, place and manner of entry into country, indicating last place of residence.
- (g) Present domicile and places in the country where he has resided since entry.
- (h) Science, art, industry, or commerce he may practice, indicating where and when he has followed it.
- (i) If married, name and nationality of wife.
- (j) Name, age, and nationality of children, if any.
- (k) If he cannot present documents referred to in Articles 5 and 6, an explanation of failure to present same.

Article 13. Following this, and in accordance with interrogatories to be made by the Court, the witnesses will declare as to the identity, and, when necessary, as to residence or establishment, stating in writing their names, domiciles, series and numbers of their registrations, giving their right-hand thumb-prints, and signing, provided they can do so.

Article 14. The applicant and the witnesses will be heard separately, no interruptions to be made by the delegates of the political parties, notwithstanding the provisions of Article 16. They will only be allowed to ask the officials to make the interrogations in accordance with this law.

Article 15. There will immediately be filled out a file card whose form will be drafted by the Court. This card will bear on the back the right thumb-print of the applicant.

Article 16. Observations made by the Delegates of the Parties will be made out in writing on separate pages which will be added to the record. They must be signed by the Delegate and the acting officials.

Article 17. The Secretariat of the Court, the Departmental Electoral Bureau, or, when it is necessary, the Justice of the Peace will give the applicant a document to certify that he has presented proof to justify his right to legal citizenship.

Article 18. Once the dossier has been initiated in this manner, it will be made public in the office for a period of ten days and put at the disposal of the Party Delegates, who will be able to make any observations which they deem advisable. In order to support their observations, the Delegates can ask the Police Courts through the medium of the Bureau, for the police records of the applicant or his witnesses. Upon the expiration of the period

the dossier will be sent to the Electoral Court within the following forty-eight hours.

Article 19. When the applications for legal citizenship have been received, the Electoral Court must state within twenty days whether the applicant has fulfilled the constitutional conditions and legal requirements for citizenship. The Electoral Court will be able at its discretion to consider its enlargement, will be able to order inquiries for further data and, if necessary, send back the applications to the Bureau that despatched them, and which within three days of receiving them will summon the interested parties to produce the new proofs required, and the procedure for obtaining citizenship will all be gone through again.

Article 20. Citizenship papers will be issued by the Secretariat of the Electoral Court of Montevideo, which will remit, against receipt, those corresponding to the other departments. Citizenship papers will be delivered to the bearer of the receipt referred to in Article 17 or to the applicant for the papers who appears personally.

Article 21. The dossiers of applications for citizenship papers will be kept by the Electoral Court, which will make two files of them; one of applications of persons who have obtained their papers and the other of applications refused.

Article 22. The Electoral Court, before giving a decision on applications for citizenship, will order to be attached to the dossier any data there might be regarding the person in question from the file of applications refused, and in its decision will take those data into account.

Article 23. The Electoral Court will publish a monthly list of the applications which have been acted upon during the month and will set forth the following information therein:

- (1) Name of applicant.
- (2) Age and civil status.
- (3) Nationality of origin.
- (4) Profession and domicile.
- (5) Decision.

Article 24. Electoral officials or Justices of the Peace who do not comply with the obligations expressly stated in Articles 9, 10, 12, 13, and 18, will be punished, upon complaint, by fines of from 100 to 500 pesos, which will be imposed on the former by the Electoral Court which will order the General Accounting Office of the state to deduct the fines from their respective salaries, and, on the latter, by the High Court of Justice.

Electoral officials who again do not comply with the regulations will be dismissed, and Justices of the Peace will not be allowed to be reelected.

Article 25. Failure to comply with any of the obligations expressly imposed by the present law, the declaration of false statements, the furnishing of false proofs regarding identity, residence, profession, denizenship, or age,

for obtaining or cancelling citizenship papers or for application for same, the furnishing of the same proofs made by third persons, false testimony or certifying regarding identity, domicile, profession, age, or civil status of the persons that obtain or try to obtain citizenship papers, deliberate obstruction to the despatching of the applications for citizenship papers or cancellation of same, physical or moral violence exercised with a view to restraining or impeding the obtaining of citizenship papers, or the cancellation of same, the seizure, destruction, hiding, or alteration of archives, registers or documents of legal citizenship, will be misdemeanors comparable with those of the electoral misdemeanors as set forth in Article 194 of the Law of National Civil Registry, and will therefore be punished in the manner provided by Articles 195, 196, 197, 198, 199, 200, 201, 202, and 203 in conformity with the said Law of National Civil Registry.

Article 26. Articles 133 and 134 of the Law of National Civil Registry are amended to read as follows: "Article 133. With regard to Section 6 of Article 125, judgment for reconsideration of citizenship papers will be allowed to be initiated by petition." The applications to be sent in to the Secretariat of the Court (or?) the Electoral Bureaus which will deal with them in accordance with Articles 136 and 137 of the Law of National Civil Registry, transmitting them to the Electoral Court on expiration of the period of ten days referred to by Article 138. The Court must give its decision within twenty days. "Article 134. If as a result of the judgment it is evident that the beneficiary at the time of issue of the citizenship papers was not of the status decreed by Article 8 of the Constitution, the Court will declare his citizenship papers annulled, and its decision may not be appealed. This decision will be sufficient proof for the exclusion of the false citizen. In this case it will also be assumed that the beneficiary has committed the misdemeanor set forth in Article 1924, clauses Nos. 3 and 4, and he will be liable to the penalties prescribed by Article 195."

Article 27. The procuring of citizenship papers will be absolutely gratis as well as the obtaining of the certification of the documentary proofs required, on which it will be specified that they are valid only for that purpose. Articles 204 and 211 of the Law of National Civil Registry will apply to pertinent points of this matter.

Article 28. The Electoral Court is authorized to organize the system (*servicios*) necessitated by this law, arranging for the necessary employees and offices for complying with this law.

Article 29. At the offices of the Justices of the Peace a Register will be kept where the political parties will register their party denominations and the names of their local and departmental representatives appointed to carry out Article 10.

Article 30. The Law of July 20, 1874, with the exception of Article 12, and all provisions which are contrary to the present law, are repealed.

TEMPORARY PROVISION

Persons who have taken steps to obtain citizenship before the promulgation of the present law may opt between continuing by judicial means or proceeding under the provisions of the present law. If this option is not availed of within a period of sixty days, it will be assumed that they have elected to follow the judicial procedure.

Applications for citizenship already filed and which are not acted on within a period of three months from the date of promulgation of this law, will be considered as renounced and will be filed in the respective Courts.