

THE LAW RELATING TO FOREIGNERS AND CITIZENSHIP IN BURMA

(Containing the Foreigners, Registration
of Foreigners, Passport, Extradition,
Immigration, Transfer of Immoveable
Property Restriction, Citizenship, Citizenship
Election Acts, Rules and Regulations.)

SECOND ENLARGED EDITION

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WITH A FOREWORD BY
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(မြခပ် - ၁၀၄၇)
ပုံနှိပ်ခြင်းနှင့် ဖြန့်ချိရေး ဝန်ကြီးဌာန
မှတစ်ဆင့်
ဦးစီးဌာန၊ ရန်ကုန်မြို့၊
ဦးစီးဌာန၊ ရန်ကုန်မြို့

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DEDICATED TO
THE MEMORY OF MY MOTHER.

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(Foreword to the First Edition)

FOREWORD

A compendium of the law relating to foreigners and to citizenship matters is a long-felt need in independent Burma. However, as pointed out by the learned author in the preface to his book, there has as yet been no attempt to compile even the bare Acts with the amendments thereto, and the rules relating to these subjects. Although the learned author is very modest in his claims, I can see that with his usual thoroughness he has managed to include in his book as many important case law on the subject as are available at present. His book, although small in size, is yet important enough to be included in the library of all the members of the legal profession in Burma. I have no doubt that it will also be useful to the members of the Bench as well, as it would obviate the necessity of referring to many volumes of the law reports for the purpose of finding the case law on the subject. I have also no doubt that the book will meet the success it deserves.



(SAN MAUNG)

Judge,

High Court of the Union
of Burma.

Rangoon

Dated the 1st March 1960.

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CORRECTIONS:

Page:

4. in 4th line for 'section 1' read 'section 3'.
9. in 11th line from bottom for '22' read '222'.
9. in 7th line from bottom for '131' read '121'.
20. in 9th line from bottom for '1956' read '1958'
22. in 4th line delete the second 'of'.
23. in clause e (ii) for 'snch' read 'such'.
28. in section 7 for 'anythig' read 'anything'.
57. in 9th line for 'fron' read 'from'.
108. in 3rd line for '750' read '7750'.
112. in 18th line from bottom for 'Forntier' read 'Frontier'.
115. in 20th line for 'moher' read 'mother'.
121. in 6th line from bottom for 'sight' read 'sight'.
123. in 16th line for 'in ll' read 'will'.
125. in 11th line for 'nade' read 'made'.
128. in 17th line for 'registrated' read 'registered'.
129. in 5th line for 'revoled' read 'revoked'.
133. in 15th line for 'no' read 'not'.
135. in 7th line from bottom insert 'to' after belong.
151. in 17th line for 'ub' read 'sub'.
155. in 13th line for 'obtaing' read 'obtains'.
156. in 7th line for 'contemplate' read 'contemplated'.
168. in 5th line for 's j-m' read 'j-s-m'
195. in 11th line from bottom for (5) read (4).

PREFACE TO THE SECOND EDITION.

The warm reception accorded to the first edition of the book has encouraged me to enlarge it. Some more reports and commentaries have been included in this edition and the citizenship law has been discussed at length.

Besides the Union Citizenship Act and Regulations in Burmese, forms in Burmese for applications for Union Citizenship have been included. A citizen will appreciate the book better by first reading the part containing the Union Citizenship Act.

I am perfectly aware of the obvious limitations and imperfections that a work such as the one undertaken by me is subject to but I hope the reader will view the book more as a stimulus to the study of this important though new branch of our law rather than as a standard work on a difficult legal subject. It has aptly been said, "An author, feels diffident until his product gains the approval of the learned profession; but when he gains it, he has his reward, which is all that he seeks".

Last but not the least, I must thank the members of the Mandalay Bar for their invaluable suggestions in improving the book.

Mandalay

Dated the 29th January 1961.

S. L. Verma.

PREFACE TO THE FIRST EDITION.

On Burma attaining independence on 4th January 1948, it ceased to be a part of the British Commonwealth which it left of its own choice. However, at that time the inhabitants of the country consisted of persons of indigenous, mixed and foreign stock. Citizenship was partly defined by the Constitution thereby assuring citizenship rights to the indigenous and mixed races, but the task of defining citizenship more completely was left to the Parliament. Laws were promulgated by the Parliament from time to time to define citizenship and to provide for its acquisition and any one who was not a citizen was classified as a foreigner. As the Government gained experience the

law relating to foreigners and citizenship had to be amended and during the span of 12 years many Acts have been passed by the parliament amending these laws. It is noticed that no book containing even the bare Acts with the amendments and rules relating to the subject is available in the market. This work was started merely as a collection of the Acts and Rules on the subject, but some how it has developed to include also the various decisions of the High Court and Supreme Court relating to the law. The work is an unambitious attempt to put the law in a book form. The Acts and Rules have been brought up to date and the case law up to the date of publication has also been included.

The book contains the law relating to foreigners, their entry, registration, stay, departure, deportation, passports and visas, and restrictions regarding their rights to acquire immovable property. Barring these the foreigners resident in the Union enjoy similar rights as citizens. A foreigner having been defined as a person who is not a citizen of the Union, the book would have been incomplete without the inclusion of the citizenship laws, which define citizenship and prescribe the procedure by which a foreigner may acquire citizenship. Citizenship is same as nationality but the Burmese law uses the expression citizenship and not nationality.

The author takes this opportunity of expressing his gratitude to Maha Thray Sithu Hon'ble Justice U San Maung, (retired I. C. S.), Acting Chief Justice of the High Court of the Union of Burma, for kind favour of writing the foreword and also of thanking the members of the Mandalay Bar and Government Advocate U Min Han for their encouragement and assistance in the work.

The book is written for use of the legal profession and for others who may derive some benefit from it.

Mandalay

Dated the 4th January 1960.

S. L. Verma.

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THE FOREIGNERS ACT.

(Indian Act III, 1864) (12th February, 1864)

WHEREAS it is expedient to make provisions to enable
 Preamble. the President of the Union to prevent the sub-
 jects of Foreign States from residing or sojourning
 in the Union of Burma, or from passing through or travelling
 therein, without the consent of the President of the Union, it
 is enacted as follows :-

1. In this Act, unless the context otherwise requires the
 Interpretation word "foreigner" shall denote a person who is not
 "Foreigner." a citizen of the Union.

This Act was adapted by the Union of Burma (Adaptation of Laws) Order 1948 and the following Amending Acts were passed after the adaptation:

1. Act No. XLII of 1948.
2. Act No. VIII of 1953.

The definition of foreigner was first amended by the Union of Burma (Adaptation of Laws) Order 1948 as follows :-

"1. Unless there be something in the subject or context repugnant to such construction—

the word 'foreigner' shall denote a person—

(a) who is not a citizen of the Union, or

(b) who is not entitled to signify his election of citizenship of the Union in the manner and within the time prescribed by law."

and it was subsequently substituted by Act XLII of 1948 as it appears now.

The definition of 'foreigner' as given in section 1 above is a negative definition. This section defines a foreigner as a person who is not a citizen of the Union. In order to know whether a person is a citizen of the Union or not we have to refer to section 11 of the Constitution of the Union of Burma and to the Union

Citizenship Act 1948, which are given elsewhere in this book. In this connection reference to sections 4(1), 4(2), 5, 9 (2) and 11 (4) of the Union Citizenship Act is requested. Section 11 of the Constitution is reproduced in the notes under section 1 of the Union Citizenship Act 1948.

A person may be a citizen of the Union and yet for not complying with certain requirements of the law he may lose his citizenship status. As to when a person may lose his citizenship status see sections 5, 12A, 14, 14A, 19 and 21A of the Union Citizenship Act. A person who loses his citizenship status also becomes a foreigner.

It is not necessary that to be termed a foreigner within the meaning of the definition of the Foreigners Act, a person must be a citizen of a foreign country. If he is not a citizen of the Union he is a foreigner. A Stateless person is also a foreigner according to the above definition.

But if a person who is a citizen of the Union, by mistake obtains a Foreigners Registration Certificate, he does not by that mere fact cease to be a citizen of the Union.¹ It is only when he voluntarily acquires citizenship of another country or registers himself as a citizen of another country with a Foreign Embassy or acquires citizenship of another country by operation of law, that he ceases to be a citizen of the Union. For further details as to when a person may cease to be a citizen or divest himself of his citizenship see notes under section 14A and 15 of the Union Citizenship Act 1948.

It will be noticed that until the passing of the Foreigners (Amendment) Act 1948, Act XLIII of 1948, a person, who was entitled to signify his election of citizenship of the Union in the manner and within the time prescribed by law as referred to in clause (iv) of Section 11 of the Constitution of the Union, was not a foreigner under this Act.

1. 1953 B.L.R. 47 S.C. Tai Yu Han. Vs The Union of Burma; Criminal Revision No. 57B of 1959. High Court Mandalay., Bishna Lal Vs The Union of Bufma.

Same definition of foreigner is given in section 2(e) of the Burma Immigration (Emergency Provisions) Act 1947. The same definition applies to the word foreigner in the Foreigners Registration Act with a few exceptions. See section 2(a) of the Foreigners Registration Act. Under the Transfer of Immoveable Property (Restriction) Act foreigner has been defined differently. In the Union Citizenship Act 1948 the word foreigner is not used, but the word alien is used and the alien referred to therein will be a foreigner as defined in the Foreigners Act.

2. If a question shall arise whether any person alleged to be a foreigner and to be subject to the provisions of this Act is a foreigner or not, or is or is not subject to the provisions of this Act, the onus of proving that such person is not a foreigner, or is not subject to the provisions of this Act, shall lie upon such person.

Proof of being a foreigner.

This section shifts the burden of proof on the alleged foreigner to prove that he is a citizen and not a foreigner. Similar provisions are contained in Section 4 of the Foreigners Registration Act 1940 and Section 13A and 13B of the Burma Immigration (Emergency Provisions) Act 1947. But these presumptions are applicable only to matters arising out of the said Acts respectively.

3. The President of the Union may, by writing—

President may order any Foreigner to remove himself, or to be deported.

(a) order any foreigner to remove himself from the Union of Burma, or to remove himself therefrom by a particular route to be specified in the order, or

(b) order that any foreigner be deported forthwith from the Union of Burma.

This was substituted by Act VIII of 1953. Previously it read as follows :-

"3. The President may, by writing, order any foreigner to remove himself from the Union of Burma or to remove himself therefrom by a particular route to be specified in the order."

The Foreigners Act applies only to foreigners and not to citizens. An order under Section 3 of this Act cannot be passed against a person who is a citizen of the Union. ²

2. Tai Yu Han Vs The Union of Burma and one: 1953 B. L. R. 47 S. C.

Right of the State to deport: This question came up for decision before the Supreme Court in the case of *Kyi Chung York Vs. The Controller of Immigration*.³ In that case the applicant was granted permission to enter Burma and work as an Assistant Editor of a Chinese newspaper for four years, the manager and publisher thereof guaranteeing that the applicant would so work. Before the expiry of the time so fixed, the applicant resigned the post and worked as a teacher, whereupon the guarantors withdrew their guarantee. The Controller of Immigration, acting under orders of the Foreign Office, cancelled the applicant's stay permit and ordered him to leave the country. The Supreme Court held that what the Controller had done was merely to carry out the order of the Government and it further observed as follows:-

Per Sir Ba U, C. J:-

"Every country which extends its hospitality to an alien can terminate the hospitality, and can do so by sending the alien back to his own country. Any other country might refuse to receive him.

This submission apparently found favour with Lord Justice Swinfen Eady who in the course of his judgement said:

'A Secretary of State is not required to justify in a Court of Law his reason for making a deportation order in the case of an alien. In the event of it being disputed that the subject of a deportation order is an alien, the matter must be determined by the Court, and unless it be proved that the person is an alien the order must be quashed as made without jurisdiction; but I am not aware of any other ground upon which such an order can be quashed.'

Similarly, Lord Atkinson, delivering a judgement on behalf of the Board in *Attorney-General for Canada. V. Cain* said:

'One of the rights possessed by the Supreme power in every state is the right to refuse to permit an alien to enter that state, to annex what condition it pleases to the permission to enter it, and to expel or deport from the state, at pleasure, even a friendly alien, especially if it considers his presence in the state opposed by the peace, order, and good government or to its social or material interest.'

The Supreme Court of America adopted the same view as the English Courts in the matter of an expulsion of aliens from its

3. 1951 B. L. R. 197 S. C.

country. In *Mahler V. Eby* quoted by M. R. Konvitz in his book called 'The Alien and the Asiatic in American Law', Chief Justice Taft said that the sovereign power to deport is limited only by treaty obligations. The principle thus enunciated and propounded by the English and American Courts is now in conformity with the practice followed by every sovereign state, as is to be found in every standard book on the International Law. The principle thus asserted, claimed and followed by the comity of nations is found embodied in section 3 of the Foreigners Act which says :-

'The President may, by writing, order any foreigner to remove himself from the Union of Burma, or to remove himself therefrom by a particular route to be specified in the order.'

If such a power is not to be had, the position will become almost intolerable. Every non-citizen is thus liable to be expelled from the Union of Burma, if he is found committing a breach of the condition on which he is allowed to stay in this country or if he is found abusing the hospitality extended to him by the Government.

In expelling the applicant from this country the Government acted within its rights. The application is dismissed and the rule nisi is discharged"

" An alien resides in this country on sufferance and he can be asked at any time to leave. The grant of a visa by the Controller of Immigration to stay for an indefinite period does not give him a right of permanent residence" These observations were made by the High Court in dismissing the application of one V. Soma Sundram Chettyar. The application was under section 45 of the Specific Relief Act and the Court was asked to set aside the expulsion order served on the applicant and to direct legal and proper enquiry into the status of the applicant as a permanent or qualified resident of Burma. According to the applicant, he first came to Burma in 1916 and since then he had been residing off and on in Burma. The Controller had however served on him an order to leave the country by a certain date, although the Immigration department had previously issued a visa for indefinite stay. On the authority of the aforesaid Supreme Court ruling, the High Court observed that an alien is not entitled as of right to stay in Burma and that the stay permit given to him, even though it is stated to be for an indefinite period, could always be withdrawn at the pleasure of the Government. Every country which extends its hospitality to an alien can withdraw it and send him

back to his own country. Every Power has the right to refuse to permit an alien to enter the state and, if it permits an alien to enter, to annex conditions it pleases to such permission and expel or deport him from the state at pleasure. It was also pointed out that the application under section 45 of the Specific Relief Act was unsustainable. Only in cases where a person's property, franchise or personal right was in jeopardy by the forbearing or doing, as the case might be, of any act, would such an application lie. In the present case the applicant had acquired no personal right of stay in Burma. He was merely permitted to reside within the Union of Burma on sufferance by the Union Government.

What has been said of the power to deport may also be said of the power to admit or exclude aliens. The constitutional law with regard to the power of Parliament to admit or exclude or deport aliens is simply that the power is plenary; it is no way restricted. An alien who seeks admission to this country may not do so under any claim of right. Admission of aliens to the Union is a privilege granted by the government. Such privilege is granted to an alien only upon such terms as the Union shall prescribe. The exclusion of aliens is a fundamental act of sovereignty. The right to do so stems not alone from legislative power but is inherent in the executive power to control the foreign affairs of the nation. The power to deport aliens is therefore an implied one. But the right to life and liberty is an express one and even a foreigner is entitled to the constitutional remedies under the constitution of the Union, subject to his being liable to be deported or excluded and subject to certain other rights which are denied to him specifically by provisions of enactments.

In the United States the Chinese exclusion acts of the 1880's presented the first opportunity to its Supreme Court to chart broadly the powers of Congress with regard to immigration and the exclusion from its shores of persons deemed, for one reason or another, or for no reason at all, undesirable. In the Chinese Exclusion case the court, in a unanimous opinion, asserted constitutional propositions that are still judicially unchallenged. The facts of this case were simple; A Chinese labourer had lived in the United States for twelve years, in 1887 he left for China, and he had in his possession when he left a certificate from the government which purported to entitle him to re-enter the United States a certificate which had been issued to him pursuant to 1882 and 1884 statutes. He returned in 1888 and presented his certificate, but he was

refused admission because seven days before his arrival Congress had passed an act by which outstanding certificates were annulled and his right to re-enter was abrogated. In a habeas corpus proceeding, the 1888 act was assailed as being in effect an order of expulsion in violation of treaties between the United States and China and in violation of rights vested in Chinese labourers living in the United States. The Supreme Court of the United States, conceding that the statute was in contravention of express provisions of treaties, upheld its validity. Congress, said Mr. Justice Field for the court, may exclude aliens. If Congress considers the presence of foreigners of a different race in the country to be dangerous to its peace and security though the countries are at peace, they may be excluded. The power to exclude foreigners said the court, is an incident of sovereignty; and this power is not subject to barter or trade; whatever license to return to the United States Chinese labourers might have obtained under treaties or acts of Congress previous to the act of 1888, was held at the will of the government, revocable at any time, at its pleasure. The court in effect held that Congress had the power, unrestricted by constitutional limitations, to suspend or prohibit immigration of all foreigners or of the members of a particular race, nation, or group.

Who may pass the order to deport:

The power of the President under this Act can be exercised by the Ministry of Foreign Affairs. Section 13 of Burma General Clauses Act reads :—

"Where, by an Act of the President or any existing law as defined in section 22 of the Constitution, any power is conferred, or any duty imposed, on the President of the Union, then that power shall be exercisable, or that duty shall be performable, in his name by the Government."

Article 131 (1) and (2) of the Constitution reads :—

(1) All executive action of the Union Government shall be expressed to be taken in the name of the President.

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President and the validity of an order or instrument which is so authenticated shall

not be called in question on the ground that it is not an order or instrument made or executed by the President.

Order No. 1 of 1948 as amended by Order No. 1 of 1949 under section 13 of the Burma General Clauses Act provides for authentication of orders and other instruments made in the name of the President, by the signature of the Chief Secretary, Secretary, Additional Secretary, Deputy Secretary, Under Secretary or Assistant Secretary to the Union Government in the Ministry concerned. *

The Controller of Immigration cannot act under this section of the Foreigners Act. He cannot pass such order against a foreigner who has not ever been granted by him a stay permit or a re-entry visa and who has not infringed any of the provisions of the Burma Immigration (Emergency Provisions) Act 1947. Thus a person who has resided in Burma before the Burma Immigration (Emergency Provisions) Act 1947 came into force (*i.e.* 13th. June 1947) and who has not been out of the Union of Burma even once cannot be asked by the Controller of Immigration under the Foreigners Act to leave the Union of Burma. Action may be taken against him by the President under Section 3 of the Foreigners Act.

One Karam Singh* was born in Burma in 1924 and had never left the country. In 1949 he sought to elect Burma citizenship but before orders were passed he obtained an Indian passport thus indicating that he had chosen to retain Indian nationality. He was ordered by the Controller of Immigration to remove himself from the country by 30th June 1955. As he did not do so he was prosecuted for alleged contravention of Section 4(2) of the Burma Immigration (Emergency Provisions) Act 1947 in that he had not observed the conditions of his stay in Burma. The trial magistrate acquitted him on the ground that he had not entered Burma with a permit or a visa and that therefore there were no conditions attached to his stay. In spite of this the Controller issued an order of deportation under Section 7(1) of the Burma Immigration (Emergency Provisions) Act 1947 giving as his reason that Karam Singh had committed an offence under Section 13(1) of the said Act. The Supreme Court held that the Controller was fully aware of the order of acquittal, and that the statement that Karam Singh had

4. Pazundaung Rice Mill Vs. R. R. Khan Rice Mill and Trading Co. Ltd: 1953 BLR 124 S. C.

5. Karam Singh, John Chew, Tan Choon Chaung Vs. The Union of Burma: 1956 B. L. R. 25 S. C.

committed an offence under Section 13(1) of the Burma Immigration (Emergency Provisions) Act 1947 was totally unwarranted. One John Chew who was born in Burma, evacuated to China in 1942 on an Identity Certificate issued by the Burmese Embassy at Nanking. No restrictions had been placed on his stay in Burma at the time of his re-entry although it was after the enactment of the Act. He was sent up for trial but the Magistrate held that he had committed no offence by not complying with the order to remove himself from the Union of Burma. The Controller nevertheless ignored the acquittal and passed an order similar to the one passed on Karam Singh. The Supreme Court held that the Controller had acted without jurisdiction. Also one Tan Choon Chaung who was born in Burma, spent the war period in China and came back in 1946. The Controller contended that his unauthorised entry was in 1952, and therefore holding that he had committed an offence under Section 13(1) of the Burma Immigration (Emergency Provisions) Act 1947 he ordered his removal from the Union of Burma. The Supreme Court pointed out that the Act did not empower the Controller to decide without recourse to a prosecution, whether a person has in fact committed an offence. Only a Court of Law is competent to give a decision in case of a dispute. The Supreme Court accordingly quashed all three deportation orders.

But these decisions were made before Section 7 of the Burma Immigration (Emergency Provisions) Act was amended by Act XXXIX of 1957. Section 7(2) of the Burma Immigration (Emergency Provisions) Act as amended by Act XXXIX of 1957 now enables deportation to be issued in lieu of prosecution. See notes under the said section.

In case of a stateless person practical difficulty will arise in deporting him and unless a foreign state is willing to accept him deportation may not be possible. As it is against basic human rights to keep a person in custody indefinitely, a stateless person who is apprehended under this Act may apply for a writ to seek relief and it is for the Courts to decide as to his right to personal liberty and continued stay in the Union. Such a question arose in the case of one Sanmukh Singh. ⁶

6. Sunmukh Singh Vs. The Secretary, Ministry of Immigration and National Registration: Criminel Miscellaneous Case No. 73 of 1960 of the Supreme Court.

3A. (1) Whenever the District Magistrate considers that the President of the Union should be moved to issue an order under section 3 in respect of any foreigner who is within the limits of the jurisdiction of such Magistrate, he may report the case to the President of the Union and at the same time issue a warrant for the apprehension of such foreigner.

Foreigner may be apprehended and detained pending order of removal or deportation.

(2) Any officer issuing a warrant under sub-section (1) may, in his discretion, direct by endorsement on the warrant that if such foreigner executes a bond with or without sureties for his attendance at a specified place and time, the person to whom the warrant is directed shall take such security and release such foreigner from custody.

(3) Any person executing a warrant under sub-section (1) may search for and apprehend the foreigner named in such warrant; and, subject to any direction issued under sub-section (2), shall forthwith cause such foreigner when apprehended to be produced before the officer issuing the warrant.

(4) When a foreigner for whose apprehension a warrant has been issued under sub-section (1) is produced or appears before the officer issuing such warrant, such officer may direct him to be detained in custody pending the orders of the President of the Union, or may release him on his executing a bond with or without sureties to appear at a specified place and time and thereafter if and when required until such orders are obtained.

(5) Any officer who has in accordance with the provisions of sub-section (4), ordered a foreigner to be detained or released on his executing a bond shall forthwith report the fact to the President of the Union. On the receipt of a report under this sub-section the President of the Union shall without delay either direct that the foreigner be discharged or make an order for the removal or deportation of such foreigner in accordance with the provisions of section 3.

4. (1) If any foreigner ordered to remove himself from the Union of Burma or ordered to remove himself by a particular route, shall neglect or refuse so to do, or if any foreigner, having removed himself from the Union of Burma in consequence of an order issued

Foreigner refusing to remove, or returning without license after removal, may be apprehended and detained.

under any of the provisions of this Act, or having been removed from the Union of Burma under any of the said provisions, shall wilfully return thereto without a license in writing granted by the President of the Union, such foreigner may be apprehended and detained in safe custody by an order in writing of the District Magistrate, until he shall be discharged therefrom by order of the President of the Union upon such terms and conditions as the President of the Union, shall deem sufficient for the peace and security of the Union of Burma.

(2) Any foreigner who has been ordered to be deported under section 3 (b) may be apprehended without warrant by any police-officer not below the rank of Sub-Inspector and brought before the District Magistrate who shall, by an order in writing, cause the said foreigner to be detained in safe custody pending the completion of arrangements for his removal out of the Union of Burma.

(3) Any foreigner apprehended and detained under the provisions of sub-section (1) may be admitted to bail by the District Magistrate.

5. Whenever the President of the Union shall consider it necessary to take further precautions in respect

President may order all the provisions of the Act to be in force in the Union of Burma or in any part thereof.

of foreigners residing or travelling in the Union of Burma or any part thereof, it shall be lawful for the President of the Union by a notification to order that the provisions of this and the subsequent sections up to and including section 22 of this Act shall be in force in the Union of Burma, or in such part thereof as shall be specified in such notification, for such period as shall be therein declared; and thereupon, and for such period, the provisions of this and the subsequent section up to and including section 22 shall have full force and effect in the Union of Burma or such part thereof as shall have been so specified. The President of the

Union may, from time to time, by a notification, cancel or alter any former notification which may still be in force or may extend the period declared therein.

This section was substituted by Act VIII of 1953 Previously it read as follows :-

"5. Whenever the President shall consider it necessary to take further precautions in respect of foreigners residing or travelling in the Union of Burma or any part thereof, it shall be lawful for the President by a notification to order that the provisions of this and the subsequent sections of this Act shall be in force in the Union of Burma, or in such part thereof as shall be specified in such notification, for such period as shall be therein declared, and thereupon, and for such period, the whole of this Act including this and the subsequent sections shall have full force and effect in the Union or such part thereof as shall have been so specified. The President may, from time to time, by a notification cancel or alter any former notification which may still be in force, or may extend the period declared therein, provided that none of the provisions of this or the subsequent sections of this Act shall extend to any foreign Minister duly accredited by this Government, to any consul or vice-consul, to any person under the age of fourteen years, or to any person in the service of the Government."

6. Every foreigner on arriving in any part of the Union of Burma in which all the provisions of this Act are for the time being in force, under an order issued as provided in the last preceding section from any port or place not within the Union of Burma, or any port or place within the Union of Burma where all the provisions of this Act are not in force, shall forthwith report himself to the District Magistrate, or to such other officer as shall be appointed to receive such reports by the President of the Union.

7. The report shall be in writing, and shall be signed by the person reporting himself, and shall specify his name or names, the nation to which he belongs, the place from which he shall have come, the place of his destination, the object of his pursuit, and the date of his arrival. The report shall be recorded by the officer to whom it is made.

Every foreigner to report his arrival in the Union of Burma in certain cases.

What to be stated in the report.

8. The provisions of the last two preceding sections shall

Foreigners being masters of vessels or employed therein to report themselves when they cease to be so employed.

not extend to any person being the master or commander of a vessel or employed therein, but if any such person shall be in any part of the Union of Burma in which provisions of the Act are for the time being in force, after he shall have ceased to be actually employed

in a vessel, he shall forthwith report himself in the manner aforesaid.

9. If any foreigner shall neglect to report himself as required by this Act, he may be dealt

Foreigners neglecting to report themselves may be dealt with in like manner as foreigners travelling without a license.

with in the manner hereinafter provided in respect of foreigners travelling without a license.

10. No foreigner shall travel in or pass through any part of the Union of Burma in which all the provisions of this Act are for the time being in force without a license.

No foreigners to travel in the Union of Burma without a license.

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12. Every such license shall state the name of the person to whom the license is granted, the

What to be stated in license.

nation to which he belongs, the district or districts through which he is authorized to pass or the limits within which he is authorized to travel, and the period if any during which the license is intended to have effect.

13. The license may be granted subject to such conditions

License may be granted subject to conditions and may be revoked.

as the President of the Union may direct or as the Officer granting the license may deem necessary and may be revoked at any time by the President of the Union or such officer.

14. If any foreigner travel in or attempt to pass through

Foreigner travelling without or contrary to the conditions of license may be apprehended.

any part of the Union of Burma without such license as aforesaid, or beyond the district or limits mentioned therein, or after such license shall have been revoked, or shall violate any of the conditions therein specified,

he may be apprehended without warrant by any officer exercising any of the powers of a Magistrate or by any police-officer.

15. Whenever any person shall be apprehended by or taken before the District Magistrate, such Magistrate shall immediately report the case to the President of the Union and shall cause the person brought before him to be discharged or pending the orders of the President of the Union to be detained.

Procedure upon apprehension. Magistrate to report to the President.

16. Any person apprehended or detained under the provisions of this Act may be admitted to bail by the District Magistrate, or by any officer authorized to grant licenses, and shall be put to as little inconvenience as possible during his detention in custody.

Persons apprehended may be admitted to bail.

17. The President of the Union may order any person apprehended or detained under the provisions of this Act to remove himself from any part of the Union of Burma in which all the provisions of this Act are for the time being in force, by sea or by such route as the President of the Union may direct; or the President of the Union may cause him to be removed from any such part of the Union of Burma by such route and in such manner as to the President of the Union shall seem fit.

Removal of persons apprehended.

18. The President of the Union may by order prohibit any person or any class of persons (not being citizens of the Union) from travelling in or passing through any part of the Union of Burma in which all the provisions of this Act may, for the time being, be in force, and from passing from any part thereof to another without a license to be granted by such officer or officers as shall be specified in the order; and, if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the officers specified in section 14 of this Act, and carried before the District Magistrate, and dealt with under the provisions of section 17 in the same manner as if he were foreigner; and the President of the Union may order such

President may prohibit persons not being citizens of the Union from travelling or passing through any part of the Union of Burma without a license.

a person to be detained in safe custody or under the surveillance of the police so long as it may be deemed necessary for the peace and security of the Union of Burma or any part thereof.

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20. It shall be lawful for the Commissioner of Police, or for the District Magistrate, or for any officer appointed to receive reports as mentioned in the sixth section of this Act, or for any police-officer under the authority of such Commissioner or Magistrate, to enter any vessel in any port or place within the Union of Burma in which all the provisions of this Act may, for the time being, be in force, in order to ascertain whether any foreigner bound to report his arrival under the said section 6 of this Act is on board of such vessel; and it shall be lawful for such Commissioner of Police, Magistrate or officer as aforesaid to adopt such means as may be reasonably necessary for that purpose; and the master or commander of such vessels shall also, before any of the passengers are allowed to disembark, if he shall be required so to do by such commissioner of Police, Magistrate, or other officer

Certain officers may board vessels to ascertain whether foreigners are on board.

Master of vessel to furnish list of passengers, and to give information respecting them.

as aforesaid, deliver to him a list in writing of the passengers on board, specifying the ports or places at which they embarked, and the ports or places of their disembarkation, or intended disembarkation, and answer to the best of his knowledge all such questions touching the passengers on board the said vessel, or touching those who may have disembarked in any part of the Union of Burma, as shall be put to him by the Commissioner of Police, Magistrate, or other officer as aforesaid.

Foreigners refusing to give account of himself not to be allowed to disembark.

If any foreigner on board such vessel in any part of the Union of Burma shall refuse to give an account of his objects of pursuit in the Union of Burma, or if his account thereof shall not be satisfactory, the officer may refuse to allow him to disembark, or he may be dealt with in the same manner as a foreigner travelling in the Union of Burma without a license.

21. If the master or commander of a vessel shall wilfully give a false answer to any question which by section 20 of this Act he is bound to answer, or shall make any false report, he shall be held to have committed the offence specified in Section 177 of the Penal Code.

Penalty for false answer or report.

22. If the master or commander of any vessel shall wilfully neglect or refuse to comply with the requisitions of this Act he shall, on conviction before the District Magistrate, be liable to a fine not exceeding two thousand kyat.

Penalty for neglect by master of vessel to comply with requisitions of Act.

23. Whoever intentionally obstructs any officer in the exercise of any of the powers vested in him by this Act shall be held to have committed the offence specified in section 186 of the Penal Code.

Penalty for obstructing officers.

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25. The President of the Union may exempt any person or any class of persons, either wholly or partially or temporarily or otherwise, from all or any of the provisions of this Act contained in any of the sections subsequent to section 5 and may at any time revoke any such exemption.

Persons may be exempted from provisions of this Act.

26. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Bar to legal proceeding.

THE REGISTRATION OF FOREIGNERS ACT.**CONTENTS**

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THE REGISTRATION OF FOREIGNERS ACT.

(Burma Act VII, 1940) (23rd. March 1940)

Commencement 1. This Act shall come into force on the
28th March 1940.

Definition. 2. In this Act—

(a) "Foreigner" means a foreigner as defined in the Foreigners Act: provided that the following shall not be deemed to be foreigners for the purposes of this Act—

(i) A person duly appointed by a foreign government to exercise diplomatic functions; or

(ii) a consul or a vice-consul;

(b) * "prescribed" means prescribed by the President of the Union or by rules made by the President of the Union;

(c) ‡ "vessel" includes all sea-craft, river-craft and air-craft;

(d) "Immigration Officer" means any official of the Immigration Department including a Junior Assistant.

Sub-clauses (iii) and (iv) to section 2 (a) were omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

* This definition of "prescribed" was substituted by Act XXV of 1956. Formerly it read: prescribed means prescribed by rules made under this Act.

‡ This definition was inserted by Act XVIII of 1956.

A foreigner is defined in the Foreigners Act as a person who is not a citizen of the Union. As to who is a citizen, see the Union Citizenship Act, 1948.

This Act applies only to foreigners and not to citizens. Persons who are citizens or who come within the definition of section 4 (2) of the Union Citizenship Act should not register themselves under the Foreigners Registration Act. But where a citizen has by mistake applied for and obtained a Foreigners

Registration Certificate he does not by that mere fact cease to be a citizen of the Union.'

A person who is a citizen under section 4 (2) of the Union Citizenship Act, does not become a foreigner by obtaining a Foreigners Registration Certificate, nor does he commit any offence under this Act if he fails to renew the Foreigners Registration Certificate, which he has obtained by mistake. One Bishna Lal² a dhobi by profession and admittedly of Indian origin was sent up for trial before the learned third Additional Magistrate, Mandalay, and convicted of an offence under section 5(1) of the Registration of Foreigners Act and directed to pay a fine of K. 20 or in default to suffer one month's rigorous imprisonment for having failed to renew his Foreigners Registration Certificate which expired on the 22nd August 1957. That the applicant had taken out a Foreigners Registration Certificate was admitted but he contended that he is a Burmese citizen by virtue of the fact that both he and his parents were born in Burma and had resided in and made Burma their permanent home vide section 4(2) of the Union Citizenship Act 1948. It was also contended on behalf of the applicant that he had taken out a Foreigners Registration Certificate under the mistaken belief that he was legally bound to do so and that in any case this fact did not divest him of his Burmese citizenship as he had not registered with the Indian Embassy as an Indian or obtained a passport from that quarter. In short, the applicant's defence was that he was a Burmese citizen and thus not required to take out any Foreigners Registration Certificate. The learned trial Magistrate was of the view that as the applicant had taken out a Foreigners Registration Certificate and failed to renew it he must be deemed to have committed an offence under section 5(1) of the Registration of Foreigners Act. The learned Additional Sessions Judge, Mandalay, submitted the proceedings to the High Court with a recommendation that the above conviction and sentence be set aside.

It was held by the High Court :

Per U Thaung Sein, J:—"That as pointed out by the learned Additional Sessions Judge, it had been laid down by the Supreme Court in *Tai Yu Han Vs. The President of the Union of Burma* and one that a Burmese citizen was not automatically divested of his nationality by merely taking out a Foreigners Registration Certificate. If the

1. *Tai Yu Han Vs.. The Union of Burma* and one: 1953 B. L. R. 47 S. C.
2. *Bishna Lal Vs The Union of Burma*, Criminal Revision No. 57 B of 1958 of the High Court sitting at Mandalay.

citizen concerned registered as a foreigner with a Foreign Embassy or obtained a passport from a Foreign Government then indeed he would be be divested of his Burmese citizenship vide section 14A(3) of the Union of Citizenship Act 1948. In the present case, if the applicant was a Burmese citizen then the mere fact that he took out a Foreigners Registration Certificate out of sheer ignorance would not divest him of his citizenship as he had not registered with the Indian Embassy. With regard to his Burmese citizenship, there could be no dispute that both the applicant and his parents were born and bred in Burma and that they had made Burma their permanent home. Hence he was clearly a Burmese citizen vide section 4(2) of the Union Citizenship Act and there was no necessity to take out a Foreigners Registration Certificate." Accordingly the conviction and sentence passed on the applicant Bishna Lal were set aside and he was acquitted.

Also see notes under section 3 of the Foreigners Act in this connection.

- 2A. Fees may be charged for the issue or the annual renewal of Certificate of Registration or for the supply of duplicate copies of Certificate of Registration lost or destroyed at such rates as may be prescribed.**
- Fee.

This section was inserted by Act XXV of 1956. Before the insertion foreigners were not required to renew their foreigners registration certificates annually.

- 2B. Any Immigration Official may enter any place or vessel and arrest without warrant any person whom he may reasonably suspect of contravening or having contravened or being about to contravene any provisions of this Act or the Rules made thereunder.**
- Powers of Immigration official to enter and arrest.

This section was inserted by Act XVIII of 1958.

- 3. The President of the Union may by notification make rules with respect to foreigners for any or all of the following purposes, that is to say:-**
- Power to make rules.

(a) For requiring any foreigner entering, or being present in, the Union of Burma to report his presence to a prescribed authority within such time and in such manner and with such particulars as may be prescribed;

(b) for requiring any foreigner moving from one place to another place in the Union of Burma to report, on arrival at such other place, his presence to a prescribed authority within such time and in such manner and with such particulars as may be prescribed;

(c) for requiring any foreigner who is about to leave the Union of Burma to report the date of his intended departure and such other particulars as may be prescribed to such authority and within such period before departure as may be prescribed;

(d) for requiring any foreigner entering, being present in, or departing from, the Union of Burma to produce, on demand by a prescribed authority, such proof of his identity as may be prescribed;

(e) for requiring any person having the management of any hotel, boarding house, or any other premises of like nature—

(i) to record particulars of any person residing therein, and

(ii) in the case of foreigners, to report such particulars to such authority as may be prescribed, in accordance with prescribed conditions;

(f) for requiring any person in charge of any vessel or other conveyance to furnish to a prescribed authority such information as may be prescribed regarding any person entering, or intending to depart from, the Union of Burma in such vessel or other conveyance, and to furnish to such authority such assistance as may be necessary or prescribed for giving effect to this Act;

(g) for payment of fees by foreigners under section 2A; and

(h) generally for carrying out the purpose of this Act.

Clause (g) above was inserted by Act XXV of 1956.

The Rules made under section 3 of this Act are reproduced hereunder after this Act.

4. If any question arises with reference to this Act or any rule made thereunder whether any person is or is not a foreigner or is or is not a foreigner of a particular class or description, the onus of proving that such person is not a foreigner or is not a foreigner of such particular class or description, as the case may be, shall notwithstanding anything contained in the Evidence Act, lie upon such person.

This section shifts the burden of proof on the alleged foreigner. Similar provisions are contained in section 2 of the Foreigners Act and section 13A and 13B of the Burma Immigration (Emergency Provisions) Act 1947. See *Law Lu Vs. The Union of Burma*,³ where it was observed that the burden of proof does not re-shift on the prosecution.

5. (1) Any person who contravenes, or attempts to contravene, or fails to comply with, any provision of this Act or of any rule made thereunder shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

(2) Any foreigner convicted under sub-section (1) may, in addition to the punishment prescribed in the said sub-section, be deported by an order of the President, or of such authority as may be appointed by him in that behalf.

(3) The President of the Union or such authority as may be appointed by him under this sub-section, may, in lieu of prosecution order any foreigner who contravenes any of the provisions of this Act or of any rule made thereunder to be deported from the Union of Burma and pending orders of deportation such foreigner may be detained in such manner as the President of the Union may direct.

(4) The President of the Union or the authority competent to order deportation under sub-section (3) shall have power to adjudge if any foreigner has in fact contravened any of the provisions of this Act or of any rule made thereunder.

3. Criminal Revision No. 5B of 1959 of the High Court sitting at Mandalay.

(5) Any foreigner who has been ordered to be deported under sub-section (2) may be apprehended without warrant by any Immigration Official and be detained by such authority and in such manner as the President of the Union, may direct pending the completion of arrangements for his removal out of the Union of Burma.

(6) Any foreigner apprehended and detained under the provisions of sub-section (5) may be admitted to bail by such authority and upon such terms and conditions as may be prescribed by the President of the Union.

(7) Every order of deportation made under sub-section (2) or sub-section (3) shall remain in force until it is revoked by the President of the Union.

(8) If any foreigner against whom an order of deportation has been issued fails to comply with the order in any respect, or having left the Union of Burma without the permission in writing of the President of the Union while the order is still in force, he shall be liable to imprisonment for a term which shall not be less than three years or to fine or to both and shall in addition to such penalty be liable to be deported again from the Union of Burma in pursuance of the orders.

Originally this section read as follows :—

"5. Any person who contravenes, or attempts to contravene or fails to comply with, any provisions of this Act or of any rule made thereunder shall be punished, (i) if a foreigner, with fine which may extend to one thousand rupees or with both and shall also be liable to be deported; or (ii) if not a foreigner, with fine which may extend to five hundred rupees."

But this was substituted by Act XXVII of 1952 to read as sub-section 5(1) and (2) above. The present sub-sections (5),(6),(7) and (8) were then inserted by Act L of 1953 as sub-sections (3),(4), (5) and (6.) Act XL of 1957 then inserted sub-sections (3) and (4) as existing and renumbered the subsequent sub-sections as (5), (6) (7) and (8) with other necessary alterations.

A person who is a citizen of the Union under section 11 (i), (ii) or (iii) of the Constitution or under section 4 (2) or other relevant sections of the Union Citizenship Act 1948 cannot be prosecuted under section 5 of the Foreigners Registration Act for failure to renew the foreigners registration certificate which he might have obtained by mistake. He does not cease to be a citizen by merely having obtained a Foreigners Registration Certificate. In the case of one Bishna Lal, who was of Indian origin, but who was a citizen of the Union under section 4 (2) of the Union Citizenship Act it was held that he did not commit any offence for not renewing the Foreigners Registration Certificate which he had obtained by mistake. See notes at page 21 above.

Hpan Pein Hmway⁴ and seven others, who were members of a Chinese family, were sent up for trial before the Western Sub-divisional Magistrate, Mandalay, charged with offences under section 13(1) of the Burma Immigration (Emergency Provisions) Act 1947.

The case against them was tried summarily and as they all pleaded "guilty" they were convicted and the 1st, 2nd 3rd and 4th accused who were adults were directed to pay a fine of K. 40 each or in default one month's rigorous imprisonment, while the remaining 5th to 8th accused whose ages ranged from 7 to 11 years were released after due admonition. Consequent to their convictions, the Deputy Commissioner Mandalay proceeded to take action against them for their deportation to China under section 7 of the Burma Immigration (Emergency Provisions) Act 1947. It was only then that they realised the serious consequences which were likely to ensue as a result of their plea of "guilty" and the convictions which followed on that plea. They pleaded with the Deputy Commissioner that they had been residents of Burma for many years prior to World War II and that they had not in fact entered Burma illegally. But unfortunately for them, their plea was not accepted. They appealed against their convictions. They applied to the court for a revision of the order of the Western Sub-divisional Magistrate but without result and they then applied for a writ of habeas corpus.

— " All that I propose to say is that this is in accordance with the ruling in Sri Sawarmal. Vs. Union of Burma⁵ where it was laid down

⁵ *Sri Sawarmal Vs. Union of Burma*: 1958 B. L. R. 275 H.C.

'Held: Even when an accused person pleads 'guilty' before it accepts the plea and enters a conviction, the trial Court should consider whether the accused fully understands the nature of the charge, the facts of the case and the serious consequences which such a plea would entail.

'Held also: Though the High Court's powers are restricted by S. 412 of the Criminal Procedure Code against entertaining appeals in cases where the accused has been convicted on his own plea of guilt. Yet its revisional powers in such matters are not similarly restricted, and, at the same time its inherent power can be invoked to quash the conviction and sentence.'

In the present case also the applicants four of whom are mere children appear to have been totally ignorant of the serious consequences which might ensue on their plea of guilty nor does it appear that they fully understood the nature or quality of the charge levelled at them". The application was allowed and the convictions and sentences passed on the eight applicants were set aside and they were directed to be retried.

One Moti Maya was prosecuted under section 5 (1) of the Foreigners Registration Act for not obtaining a Foreigners Registration Certificate. She confessed judgment in the trial Court, but she filed an application for revision supported by affidavits that she did not understand the legal implications of her admission of the fact of not having obtained a Foreigners Registration Certificate and that as stated in her and supporting affidavits, she was in fact a citizen of the Union under section 4 (2) of the Union Citizenship Act. The High Court accepted her application and set aside the conviction and ordered a retrial.

6. The President of the Union may, by order, declare that any or all the provisions of the rules made under this act shall not apply or shall apply only with such modifications or subject to such conditions as may be specified in the said order, to or in relation to any class or description of foreigners.

Power to exempt
from application of Act.

6. Moti Maya Vs. The Union of Burma: Criminal Revision No. 106 B of 1959 of the High Court sitting at Mandalay.

As the Inland Water Transport Board is an organisation of the Government, a foreigner employed in the Rangoon Foundry of the Inland Water Transport Board who possesses an Identity Card issued by the Board is exempted from the provisions relating to registration of foreigners contained in the Registration of Foreigners Rules 1948 made under this Act, vide paragraph 4 of the Exemption Order No. 4 of the Foreign Office Notification.⁷

Protection to person
acting under this Act.

Application of other laws not barred

Extend

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THE REGISTRATION OF FOREIGNERS RULES, 1948.

(With subsequent amendments up to 1st. October 1960)

1. (1) These rules may be called the Registration of Short title. Foreigners Rules, 1948.

(2) They shall come into force on 4th January 1949.

2. In these rules unless there is anything repugnant in Definitions. the subject or context:

- (a) "Act" means the Registration of Foreigners Act;
- (b) "Certificate of Registration" means a Certificate of Registration issued in pursuance of Rule 6;
- (c) "district" means a civil administrative district; and for the purpose of these rules, each of the following shall be deemed to be a district :-
 - (i) All that area falling within the jurisdiction of the Resident, Northern Shan State;
 - (ii) All that area falling within the jurisdiction of the Resident, Southern Shan State;
 - (iii) The Karenni State;
 - (iv) The Northern Chin Hills District;
 - (v) The Southern Chin Hills District;
 - (vi) The Bhamo District (the Kachin State);
 - (vii) The Myitkyina District (the Kachin State);
- (d) "Form" means one of the forms appended to these rules;
- (e) "master of the vessel" includes the commander of an aircraft and any person authorized by such master or commander to discharge on his behalf any of the duties imposed upon him by these rules;
- (f) "passenger" means any person travelling or seeking to travel on board a vessel who is not a bonafide seaman or airman;
- (g) "registered address" means a foreigner's address in Burma as reported under Rule 5 and recorded in item 18 of his Certificate of Registration;

- (h) "Registration Officer" means a Registration Officer appointed by the President under the provisions of Rule 3 of these rules;
- (i) "residence" means ordinary dwelling place in Burma;
- (j) "seaman" means a person employed on, or engaged in the working of a vessel;
- (k) "tourist" means a foreigner having no residence or occupation in Burma whose stay in Burma does not exceed three months, who has no other object in visiting Burma than recreation or sight-seeing and whose Certificate of Registration has been endorsed "Tourist" in accordance with the provisions of Rule 7;
- (l) "vessel", for the purpose of these rules, shall include an aircraft.

3. The President may appoint Registration Officers for the purpose of these rules for such areas as he thinks fit.

4. Every passenger who arrives in Burma on board any vessel shall, on being required so to do by or on behalf of, the master of the vessel furnish true particulars as to his name and nationality and, if he is a foreigner, his age, sex, place of birth and address or intended address in Burma, the purpose of his visit and the proposed length of his stay in Burma, and such other particulars as may be prescribed in this behalf.

5. (1) Every foreigner entering, or being present in Burma shall report in person to the appropriate Registration Officer prescribed by Rule 6 the fact of his arrival or presence, as the case may be, in Burma.

Report by foreigner of his address in Burma, etc.

(2) He shall also furnish a true statement of his address in Burma and of the other particulars specified in items 2 to 18 of Form A and, in the case of a foreigner entering Burma, such of the particulars specified in items 19 to 22 thereof as may be appropriate. He shall also, at the same time, furnish to the Registration Officer, three copies of a passport size photograph of himself. Purdahnashin women shall not be required to furnish photographs.

(3) For the purposes of sub-rule (2) a foreigner's address in Burma shall be—

- (a) the place of his residence, or
- (b) if he has no residence, the place at which he is living at the time of making his registration report, or at which he first intends to live after his arrival in Burma.

6 (1) The report referred to in sub-rule 5 (1) shall be made—

- (a) by a foreigner who is present in Burma on the date of commencement of these rules, within three hundred and one days of the said date, to the Registration Officer of the district in which his address in Burma is situated, or, if on the said date and for a period of three hundred days thereafter the foreigner is absent from that district, to the Registration Officer of the district in which the foreigner is for the time being present;
- (b) by a foreigner who enters Burma on Board a vessel at such time and place and to such authority as may be specified for the purpose by general or special direction of the Registration Officer of the port or other place of arrival;
- (c) by a foreigner who enters Burma by land, within seventy-two hours of his arrival at the first land station in Burma to such authority as may be specified for the purpose by the Registration Officer in whose jurisdiction the said land station falls.

(2) Every foreigner making a report shall furnish to the Registration Officer such information as may be in his possession for the purpose of satisfying the said officer as to the accuracy of the particulars specified therein.

The Registration Officer shall thereafter cause Form A in triplicate to be filled in in respect of the foreigner making the report. Each copy of form A shall have affixed to it in such a way as to obviate the possibility of its removal and the

substitution of another, a photograph of the person making the report duly authenticated by the Registration Officer and shall also have affixed to it, a genuine signature of the said person, or in the case of an illiterate, a clear thumb impression in triplicate. The foreigner shall thereupon be entitled to receive from the said Registration Officer a Certificate of Registration in Part III of Form A:

Provided that, in any case in which a report is made by a foreigner who enters Burma on board any vessel to the Registration Officer of the port or other place of arrival and the foreigner's address in Burma is not within the jurisdiction of that Registration Officer, a temporary certificate in Form B shall be issued and the said foreigner shall thereafter comply with the conditions set out in Form B:

Provided also that, if a foreigner, who re-enters Burma during the period of validity of his Certificate of Registration, reports his re-entry to the Registration Officer of the district concerned within thirty days from the date of such re-entry, the said foreigner may be granted his old Certificate of Registration duly re-validated or he may re-register as required by Rule 5 (1).

(3) If in pursuance of clause (a) of sub-rule (1), a foreigner makes a report to the Registration Officer of a district other than the district of his registered address, then for so long as the said foreigner does not return to the district of his registered address, that Registration Officer shall, for the purposes of Rules 10, 11 and 12, be deemed to be the Registration Officer of the district in which his registered address is situated.

(4) A foreigner who is classified under Rule 7 (1) by the Registration Officer as a tourist will be required to furnish only those particulars required under items 2, 16, 17, 19, 20, 21 and 23 of Form A. He is also exempted from the liability to furnish photographs of himself.

(5) (a) The names of children below the age of 18 years shall be entered in the Certificates of Registration of their parents and in the absence of their parents their names should be entered in the Certificates of Registration of their guardians

and in addition Certificates of Identity in Form AA shall be issued to children above the age of 12 and below the age of 18 years. They shall, however, apply for separate Certificates of Registration within thirty days of their 18th birthday and Certificate of Identity in Form AA within 30 days of their 12th birthday.

(b) Children below the age of 18 years who have neither parents nor guardians will be issued Certificate of Registration free of fees, but on attaining the age of 18 years they shall apply for Certificates of Registration on payment of the prescribed fees.

(6) Every foreigner who registered himself prior to 1st October 1956 shall be deemed to have registered in accordance with the provisions of this sub-rule and every such foreigner who is above the age of 18 years shall renew his Certificate of Registration on or after the 1st October 1956, within thirty days from the date on which his Certificate of Registration would cease to be valid had the provisions of sub-rules (2) (a) and (b) of Rule 7 regarding the annual renewal of Certificates of Registration been in force prior to the 1st October 1956.

7. (1) If the Registration Officer is satisfied that any foreigner entering Burma is a bonafide tourist, he will endorse on the Certificate of Registration the word "Tourist" together with the date on which the said certificate shall expire.

Period of validity
of Certificates of
Registration.

Where a tourist enters Burma on the authority of a visa issued to him under the Burma Passport Rules, 1948, or of a temporary immigration permit under the Burma Immigration (Emergency Provisions) Act, 1947, this date shall be the date of expiry of the visa or immigration permit.

(2) (a) The Certificate of Registration issued in respect of any foreigner shall be valid for a period of one year from the date of registration.

(b) Every foreigner shall renew his Certificate of Registration annually. The annual renewal shall be made within thirty days from the date on which the Certificate of Registration would cease to be valid.

(3) Any tourist who is in Burma after the date of the expiry of his Certificate of Registration shall cease to be a tourist within the meaning of these rules.

8. (1) Every foreigner entering Burma shall, on demand being made of him by the Registration Officer, ^{Production of proof of identity} deliver his passport or other proof of identity to that officer and shall thereafter attend at such time and place as the Registration Officer may direct for the purpose of receiving back his passport or other proof of identity.

(2) Where in pursuance of sub rule (1) a foreigner surrenders his passport or other proof of identity he shall be entitled to receive a receipt for it from the Registration Officer.

9. Every foreigner who is by these rules required to have ^{Production of Certificate of Registration.} a Certificate of Registration or Certificate of Identity shall, within twenty-four hours of demand being made of him by any Registration Officer, any Magistrate or any Police Officer or officer of the Immigration Department not below the rank of Sub-Inspector produce or cause to be produced such certificate for the inspection of such Registration Officer, Magistrate or Police Officer or officer of the Immigration Department:

Provided that the Registration Officer, Magistrate or Police Officer or officer of the Immigration Department may, on sufficient cause being shown, extend the aforesaid period of twenty-four hours to such period as, in the circumstances, may be reasonably necessary for the production of the said certificate.

10. (1) If at any time a foreigner is absent from his registered address for a continuous period of ^{Report of temporary absence from registered address.} one month, he shall report to the Registration Officer of the district in which he happens to be residing temporarily, his current address. He shall also thereafter report every change of address to the Registration Officer of the district in which each new address is situated, including his return to his registered address.

(2) Any Registration Officer may either at the time of issue of the Registration Certificate, or at any subsequent time require any foreigner to report every temporary change of address exceeding twenty-four hours to the Registration Officer of the district in which his temporary address is situated. Such a direction shall be made in writing by the foreigner concerned.

11. (1) Every foreigner who effects any change of his address in Burma shall, within seventy-two hours of his arrival in the new address, report his arrival to the Registration Officer of the district of his new address. This report may be made by letter.

Report of change of registered address.

(2) A foreigner shall be deemed to change his registered address—

- (a) if he changes his residence from one place to another place in Burma;
- (b) if having no residence, he leaves his registered address knowing that he is not likely thereafter to return thereto within six months of leaving it.

12. Without prejudice to the provisions of Rules 10 and 11, every foreigner shall furnish to the Registration Officer of the district in which his registered address is situated particulars of any circumstance affecting in any manner the accuracy of the particulars recorded in his Certificate of Registration within fourteen days after the circumstance has occurred, and generally shall apply to the Registration Officer all such information as may be necessary for maintaining the accuracy of that certificate. This may be done by letter.

Report of change other than of address.

13. Except in regard to tourists who are directed under Rule 10 (2) to report all temporary changes of address exceeding twenty-four hours nothing in Rules 10, 11 and 12 shall apply to any tourist for so long as the period of validity of his Certificate of Registration has not expired.

† 14. (1) Every keeper of a hotel shall require every visitor to the hotel to record legibly, or furnish the particulars necessary for recording, and sign, on his arrival at the hotel, his name and nationality in a register maintained for the purpose and, if any such visitor is a foreigner, shall further require him—

Report to be made to and by hotel keepers.

† (a) on his arrival at such hotel to complete, or furnish the particulars necessary for the completion of Form C; and

(b) at the time of his departure from such hotel to record, or cause to be recorded, in the said register, the date and time of his departure and address to which he is proceeding.

(2) The register prescribed by sub-rule (1) shall at all times be made available for inspection on the demand of any Registration Officer, any Magistrate or any Police Officer or officer of the Immigration Department not below the rank of Sub-Inspector.

(3) Every visitor to any hotel shall, on being required so to do by the keeper of the hotel record legibly or furnish the particulars necessary for recording, and sign his name and nationality, in the register prescribed by sub-rule (1) and, if such visitor is a foreigner, shall also—

(a) on his arrival at such hotel to complete or furnish the particulars required for the completion of Form C;

(b) at the time of his departure from such hotel, record or furnish the particulars necessary for recording in the said register the date and time of his departure and the address to which he is proceeding.

(4) Every particular other than the signature of the keeper of a hotel or a visitor, which is required by this rule to be recorded in the said register in Form C, shall be recorded in Burmese or English.

(5) If a visitor does not understand the Burmese or English language, it shall be the duty of the keeper of the hotel, if so requested, to explain to the visitor the requirements of this rule and Form C.

† (6) The keeper of the hotel shall, as soon as may be, but not later than twenty-four hours after the arrival of any foreigner, transmit a copy of Form C to the Registration Officer.

(7) For the purposes of this rule—

(a) "hotel" includes any boarding-house, club, dakh-bungalow, rest-house or other premises of like nature;

(b) "keeper of a hotel" means the person having the management of a hotel and includes any person authorized by him, and competent, to perform the duties of the keeper of the hotel under this rule;

(c) "sign" includes in respect of a visitor who is unable to write, the making of a thumb impression;

+ (d) "visitor" means a person for whom accommodation is provided at a hotel.

(8) Copies of Form C may be obtained on application from any Registration Officer.

15. (1) Every foreigner who is about to depart from Burma shall produce his Certificate of Registration before the Registration Officer of the district from which he proposes to leave Burma, and such Registration Officer shall make, sign and seal on the said certificate an endorsement to the effect that the said report has been duly made. The Registration Officer shall then retain the certificate and shall provide the foreigner with a temporary certificate stating that the foreigner has surrendered his Registration Certificate as he is about to leave Burma and specifying the period for which the temporary certificate is valid. If for any reason, the foreigner is unable to leave Burma within the period of validity of the temporary certificate, he shall report to the Registration Officer giving full reasons, and the period of validity may thereupon be extended by the Registration Officer.

Always provided that the stay of the foreigner in Burma during the period specified in the temporary certificate, including any extension, is authorized by the Immigration or Passport Regulations.

Surrender of Certificate of Registration on departure.

(2) No such temporary certificate shall be valid for more than thirty days in all, whatever the circumstances, and a foreigner, who is unable to leave Burma during the period of validity of the temporary certificate shall, within seventy-two hours of the expiry of the period of validity of the said temporary certificate, surrender the same to the issuing Registration Officer and the said foreigner shall thereupon be entitled to receive back his old Certificate of Registration with an endorsement that he does not leave Burma.

(3) The temporary certificate shall serve as a registration certificate for the district of issue only and for the period of its validity or until the foreigner's departure, whichever is earlier.

(4) The temporary certificate shall be surrendered—

- (a) when the foreigner leaves Burma on board a vessel, to the master of the vessel ;
- (b) when the foreigner leaves Burma by land, to the last Police or Immigration outpost in Burma.

(5) For the purpose of this rule Mingaladon Airport shall be regarded as falling within both the Rangoon and the Insein Districts.

(6) Every passenger for whom a berth has been engaged by or on behalf of Government who is due to depart from Burma on board any vessel shall furnish in writing to the Registration Officer concerned a true statement of the particulars set out in items 1, 2 and 10 and, if he is a foreigner, also items 3 to 9 of Form D.

Copies of Form D may be obtained on application from any Registration Officer and must be completed before him.

The right of an alien to leave a country provided he has complied with formalities required of him was upheld by the Supreme Court when it dealt with the application of V. E. RM. N. RM. Kasi Vishwanathan Chettiar in the nature of Habeas Corpus and Mandamus against the Official Assignee of the High Court and the Controller of Immigration.*

8. V. E. RM. N. RM. Kasi Vishwanathan Chettiar Vs The Official Assignee and one : 1958 B. L. R. 74 S.C.

The applicant V, E. RM. N. RM. Kasi Vishwanathan Chettiar an Indian subject, came to Burma on a temporary visa in February 1958 and intended to return to India on April 30. When he went for his D form however he was refused. Without this form, no shipping or airline office would sell him a ticket.

Section 15 of the Registration of Foreigners Rules says copies of Form D may be obtained on application from any Registration Officer. Though this would make it appear that the form may be obtained merely for the asking, as one would, a telegraph message form, in practice it is issued only in three places in Burma—Rangoon, Mandalay and Akyab—by the Controller of Immigration. This is to ensure that whoever leaves Burma goes through the formality of surrendering in Registration Certificate before his departure.

In this case, the applicant had complied or was willing to comply with all the formalities but the D form was withheld on the request of the Official Assignee, who had alleged that the applicant's firm had been unauthorisedly credited with the assets of K. E. G. Sundaresan Chettiar in connection with Insolvency case No. 265 of 1933, whose records had been lost during the war. The applicant protested that he was on a visit and in no position to force Sundaresan to do anything. Some records he himself had, were in India. Since his visa was expiring he sought for the D form, only to be told of the Official Assignee's instructions. In the meantime, he had interviewed the Official Assignee at the latter's request and submitted to examination by the Official Assignee's advocate, on the promise that the Official Assignee would withdraw his instructions to the Controller of Immigration.

Next, the Official Assignee made an application to the High Court for permission to examine the applicant under section 36 of the Rangoon Insolvency Act. However the Court observed that it was in no position to justify what had been done prior to the issue of summons, and that the said application therefore had to take its own course.

Learned Counsel for the Official Assignee submitted that the applicant not being a citizen or even a resident of Burma had no right to move the Supreme Court for enforcement of any fundamental right guaranteed only to citizens under the Constitution.

The Supreme Court held :-

Per U Myint Thein, C.J.—It is true that certain fundamental

rights are guaranteed specifically to citizens under chapter II of the Constitution but this does not mean that they are denied to aliens. Full exercise of such rights may be subject to conditions, as in the case of transfer of land to an alien, which requires the permission of the President under the Transfer of Property (Restriction) Act. But most rights are assured to citizen and alien alike and their full enjoyment is unrestricted; and such rights are not to be denied without legal authority. The right of an alien to leave a country is internationally recognised. See Oppenheim's International Law, Volume 1, paragraph 322 which says :-

'Since a State holds only territorial and not personal supremacy over an alien within its boundaries, it can never, in any circumstances, prevent him from leaving its territory, provided he has fulfilled his local obligations, such as payment of rates and taxes, of fines, of private debts and the like.'

We endorse this view and we would only add that the 'local' obligations must refer not to mere claims but to legal obligations such as decrees and orders of Courts and competent authorities. "

The Court declined to accept the contention that the D form was within the discretion of the Controller. The Rules as framed might be stretched to ensure that a person leaving Burma complied with them but if he had done so, the stage was reached for the Controller to perform his duty to issue the form so that the person seeking it might make his final arrangements for departure.

An alien has the right to leave a country. It is a basic human right which should not be denied. In this matter it was in conformity with recognised international practice to lift the ban placed upon the applicant.

The Controller of Immigration was directed to issue a D form to the applicant.

16. (1) The master of any vessel arriving at or leaving any place in Burma shall—

Obligation of master
of vessels, etc.

- (a) before any passenger disembarks or embarks, supply to the Registration Officer of the place of arrival in, or departure from Burma a schedule of

passenger in Form E or Form F as the case may be;

- (b) require every foreign passenger who is about to disembark in Burma to furnish the particulars required for the completion of items 2 to 18 of Form A and such of the particulars specified in items 19 to 22 as may be appropriate and direct him to attend at such place and time as may be specified by the Registration Officer for the purpose of giving him the direction prescribed by clause (b) of sub-rule (1) of Rule (6),
- (c) if so requested by the Registration Officer require any foreign passenger about to depart from Burma to surrender his Certificate of Registration, and deliver such certificate together with the schedule in Form F to the Registration Officer;
- (d) furnish to the Registration Officer on arrival at the said place a true statement in writing showing the name and nationality of every seaman employed on such vessels and at the time of departing from such place take such step as the Registration Officer may specify to ascertain whether or not any such seaman aforesaid who is a foreigner is about to depart on board such vessels; and
- (e) generally, render to the Registration Officer such assistance as he may reasonably require for carrying out the purpose of the Act and these rules.

(2) Every particular, other than the signature of a foreign passenger which is required by this rule to be recorded in Form A, shall be recorded in Burmese or English.

(3) If a foreign passenger does not understand the Burmese or English language, it shall be the duty of the master of the vessel, if so requested, to explain to the foreign passenger the requirements of this rule and Form A.

(4) The person having the management of any vessel, shall—

- (a) require any person who intends to embark on that vessel for the purpose of leaving Burma to produce in writing a true statement of the particulars set

out in the items 1, 2 and 10 and, if he is a foreigner, also items 3 to 9, of Form D;

- (b) cause duly completed Form D to be delivered together with the schedule in Form F to the Registration Officer of the place of departure;
- (c) take steps to ensure that no foreigner embarks until authorized so to do by the Registration Officer.

(5) Forms D, E and F shall be completed in the Burmese or English language.

17 (1) There shall be paid for each Certificate of Registration initially issued or for annual renewal of a
Fees Certificate of Registration a fee of K 50.

(2) (a) If any Certificate of Registration issued under these rules is lost or totally destroyed, the foreigner to whom it was issued shall make to the Registration Officer of the district in which the loss or total destruction has occurred within seventy-two hours a report of the circumstances in which it was lost or totally destroyed. The Registration Officer to whom the report is made shall, if he is satisfied as to the loss or total destruction, issue the foreigner with a temporary permit pending the issue of duplicate copy of the Certificate of Registration.

(b) The foreigner shall also submit within seventy-two hours of the loss or total destruction, an application in writing, accompanied by three copies of passport size photograph of himself, for the issue of a duplicate copy of the Certificate of Registration to the Registration Officer of the district in which his registered address is situated. When the loss or total destruction has occurred in a district other than the district in which his registered address is situated, the application shall be submitted through the Registration Officer of that district.

(c) A fee of K 50 shall be paid for each duplicate copy of Certificate of Registration issued in lieu of the one which is lost or totally destroyed.

(d) A fee K 30 shall be paid for each re-validation made under the second proviso to Rule 6.

(e) A fee of K 10 shall be paid for each duplicate copy of a Certificate of Registration issued in lieu of the one which has become soiled or worn out.

(3) The fee prescribed in sub-rules (1) and (2) is subject to the condition that application, accompanied by the prescribed fee, is made within the period prescribed in the relevant Rules. If this condition is not complied with for the first time and the application is made within one month from the date of expiry of the period prescribed in the relevant Rules, a fee equal to double the amount prescribed shall be charged.

18. No person shall—

- (1) forge or alter or tamper with any entry, endorsement, photograph, signature or seal on a Certificate of Registration, or without lawful authority use or have in his possession any such forged, altered or irregular Certificate of Registration; or
- (2) without reasonable cause, apply for or have in his possession more than one copy of a Certificate of Registration for himself or for any other person; or
- (3) personate or falsely represent himself to be or not to be a person to whom a Certificate of Registration has been issued, or with intent to obtain a Certificate of Registration knowingly make any false statement; or
- (4) allow any other person to have possession of any Certificate of Registration issued for his own use or for the use of some other person or without lawful authority have in his possession any such Certificate issued for the use of some person other than himself; or
- (5) make or cause to be made any false statement or representation in pursuance of these rules; or
- (6) obstruct or impede any person in the exercise of his powers or in the discharge of his duties under these rules.

**EXEMPTION ORDER No. 4 UNDER THE REGISTRATION OF
FOREIGNERS ACT**

AS AMENDED UP TO 1ST OCTOBER 1960.

1. The provisions of the Registration of Foreigners Rules, 1940 (hereinafter in this Order referred to as the rules), shall not apply to, or in relation to, any person who proves to the satisfaction of the Registration Officer that he has not attained the age of eighteen years, provided that the necessary particulars in regard to such person are entered against item 12 of Form A in respect of his parents and that he holds a Certificate of Identity in Form AA.

2. The provisions of the rules shall not apply to—

- (1) members inhabiting areas adjacent to the land border of the Union of Burma, provided that this exemption shall not apply to any such person who proceeds into the Union beyond twenty-five miles from the land border, or remains continuously within the Union for a period exceeding thirty days;
- (2) seasonal labourers and caravan traders, provided that they are in possession of documents issued by the Immigration Department indicating that they belong to these classes, and provided also that they do not proceed beyond the limits of the areas specified in their documents.

2. The provisions of the rules shall not apply to any vessel travelling solely between ports or places in Burma, or to, or in relation to, any person travelling in any such vessel.

4. The provisions of the rules, except Rule 2 and such of the provisions of Rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors who are not foreigners, shall not apply to, or in relation to—

- (a) any foreigner in the service of the Union;
- (b) any Consul-General;

- (c) the wife and any child of any person in categories (a) and (b) above;
- (d) the wife and any child of—
 - (i) any person duly appointed by a foreign Government to exercise diplomatic functions;
 - (ii) any Consul or Vice-Consul;
- (e) the officers and staff of all Diplomatic Missions and their families;
- (f) members of foreign delegations and missions visiting Burma on the invitation of the Government of Burma;
- (g) officials of the United Nations Organization and its specialized agencies who are visiting Burma in the course of their official business;
- (h) foreign Heads of states, Cabinet Ministers of foreign states and other important foreign personages approved by the Foreign Office;
- (i) any foreigner not specified in any of the preceding clauses of this declaration who enters Burma solely in transit to a destination beyond Burma, provided that his entry and stay in Burma is covered by a transit visa or transit permit issued by competent authority;
- (j) domestic servants of Heads of Diplomatic Missions in Burma;
- (k) qualified ground and airborne personnel, of any air crash rescue party, properly accredited by the State of Registry of the aircraft who are allowed to enter the Union of Burma on rescue mission;
- (l) any foreigner who enters Burma for a short visit not exceeding three months but exceeding 30 days; provided his stay in Burma is covered by a valid passport duly visaed or an immigration permit issued by competent authority;
- (m) the wife and children, who are foreigners, of a citizen of the Union in the service of the Union Government;

46 EXEMPTIONS UNDER FOREIGNERS REGISTRATION ACT

Provided that a foreigner mentioned in clause (a) or clause (j) shall, within thirty days from the date on which he ceases to be in the service of the Union or of the diplomatic mission, as the case may be, register as required by Rule 5(1);

Provided also that the foreigners mentioned in clause (e) or clause (m) shall, subject to the provisions in paragraph 1, within thirty days from the date on which the husband or the child's or children's father ceases to be in the service of the Union or of the diplomatic mission, as the case may be, register as required by Rule 5 (1).

5. Subject to the condition that he has obtained permission from the Controller of Immigration to land in Burma, the provisions of the rule except Rules 8 and 14 shall not apply to, or in relation to, any passenger who arrives in Burma on any vessel in transit to a destination beyond Burma and who re-embarks and continues his journey on the vessel on which he arrived in Burma or who enters Burma for a short visit not exceeding 30 days.

6. The provisions of the rules except Rules 8 and 14 and sub-clause (d) of sub-rule (1) of Rule 16 shall not apply, for so long as the vessel on which he is employed remains at a port or airport in Burma to, or in relation to, any seaman or airman as defined in the rules who is not a resident of Burma and does not land in Burma for discharge.

7. This Exemption Order supersedes Exemption Order Nos. 1 to 3 made by the Governor of Burma under section 6 of the Registration of Foreigners Act and published in Home Department (Passport Branch) Notification No. 11, dated the 5th January 1940, No. 92, dated the 31st January 1942, and No. 119, dated the 11th February 1942.

Note: Foreigners who are poor or destitutes or who are unable to pay the fees for registration of foreigners certificate due to old age or infirmity, may apply to the Deputy Commissioner concerned and instructions have been issued by the Government to exempt such persons from payment of the required fees.

THE BURMA PASSPORT ACT.

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THE BURMA PASSPORT ACT.

(India Act XXXIV of 1920) (9th September, 1920)

1. * * *

2. In this Act, unless there is anything repugnant in the subject or context —
Definitions.

“entry” means entry by water, land or air ;

“passport” means a passport for the time being in force issued or renewed by the prescribed authority and satisfying the conditions prescribed relating to the class of passports to which it belongs ; and

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

3. (1) The President of the Union may make rules requiring that persons entering the Union of Burma shall be in possession of passports, and for all matters ancillary or incidental to that purpose.

(2) without prejudice to the generality of the foregoing power such rules may—

(a) prohibit the entry into the Union of Burma or any part thereof of any person who has not in his possession a passport issued to him ;

- (b) prescribe the authorities by whom passports must have been issued or renewed, and the condition with which they must comply, for the purpose of this Act; and
- (c) provide for the exemption, either absolutely or on any condition, of any person or class of persons from any provisions of such rules.

(3) Rules made under this section may provide that any contravention thereof or of any order issued under authority of any such rule shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

(4) All rules made under this section shall be published in the Gazette, and shall thereupon have effect as if enacted in this Act.

The rules were published in Burma Gazette 1948 Part 1, p. 169 and are reproduced hereunder after this Act.

4. (1) Any officer of the police, not below the rank of sub-inspector, and any officer of the Customs Department empowered by a general or special order of the President of the Union in this behalf may arrest without warrant any person who has contravened or against whom a reasonable suspicion exists that he has contravened any rule or order made under section 3.

(2) Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a Magistrate having jurisdiction in the case or to the officer in charge of the nearest police station, and provisions of section 61 of the Code of Criminal Procedure shall, so far as may be, apply in the case of any such arrest.

5. The President of the Union may, by general or special order, direct the removal of any person from the Union of Burma who, in contravention of any rule made under section 3 prohibiting entry into the Union of Burma without a passport, has entered therein, and thereupon any officer of Government shall have all reasonable powers necessary to enforce such direction.

THE BURMA PASSPORT RULES, 1948.

1. (i) These rules may be called the Burma Passport Rules.

(ii) They shall take effect from the date on which the constitution of the Union of Burma comes into force.

2. In these rules unless there is anything repugnant in the subject or context—

“President” means the President of the Union of Burma.

“Union” means the Union of Burma.

3. Subject to the provisions hereinafter contained no person proceeding from any place outside the Union of Burma shall enter the Union by sea or by air or by land unless he is in possession of a passport.

Explanation:— A person entering the Union by sea or by air shall not be deemed to be proceeding from a place outside the Union by reason only of the fact he has traversed extra-territorial waters in the course of his journey.

4. Every such Passport:—

(i) shall have been issued or renewed by or on behalf of the country of which the person to whom it relates is a subject and shall be within the period of its validity;

(ii) shall have the date and place of issue, the issuing authority and the period of validity clearly shown upon it;

(iii) shall have affixed to it in such a way as to obviate the possibility of its removal and the substitution of another, a photograph of the person to whom it relates, duly authenticated by the issuing authority;

(iv) shall contain the description of the person to whom it relates and shall have affixed to it a genuine signature of the said person or, in the case of an illiterate person, a clear thumb impression;

(v) when issued by or on behalf of the Government of a foreign country shall have been endorsed for Burma by

that Government, and visaed for the Union by a proper Burmese Diplomatic, Consular or Passport Authority, or by a British Consular or Passport Control Officer authorized to act on behalf of the Government of the Union. Visas shall be of one of the following kinds, namely:—

(a) an entry visa valid six months or for such shorter period as may be specified therein, for one journey only to the Union for any legitimate purpose;

(b) a transit visa valid for six months, or for such short period as may be specified therein (provided that in no case shall it be valid for a period exceeding the period for which the visa for the country of ultimate destination is valid), for one or more direct journeys through the Union undertaken for the sole purpose of reaching the territory of a foreign state, and occupying in each case not more than ten days in the Union, and

(c) an entry visa valid for six months or for such shorter period as may be specified therein, for a legitimate purpose.

5. The following persons and classes of persons shall be exempted from the provisions of Rule 3:—

(a) Citizens of the Union of Burma:

(b) Indigenous nationals of those countries, whose land borders are co-terminous with the border of the Union, entering the Union by land who are members of hill tribes inhabiting areas adjacent to the land border;

Provided that this exemption shall not apply to any such person who proceeds into the Union beyond twenty-five miles from the land border:

(c) Persons in possession of immigration permits issued by the Controller of Immigration; and

(d) Persons or classes of persons as may be specified in this behalf subject to such conditions as may be specified.

6. Any person who—

(a) enters the Union in contravention of the provisions of Rule 3; or

(b) forges, alters or tampers with any passport, or any visa or endorsement thereon, or without lawful authority uses or has in his possession any such forged, altered or irregular passport, or any passport with any such forged, altered or irregular visa or endorsement ; or

(d) allows any other person to have possession of any passport issued for his use alone, or without lawful authority has in his possession any passport issued for the use of some person other than himself ; or

(e) does any act in contravention of any condition prescribed under Rule 5 (d);

shall be punished with imprisonment for a term which may extend to three months, or with fine or with both.

7. Any person who attempts to commit or abets or attempts to abet the commission of any offence punishable under Rule 6 shall be punishable in like manner as if he had committed the offence.

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THE BURMA EXTRADITION ACT.

(India Act XV OF 1903) (1st June 1904)

CHAPTER 1.**PRELIMINARY.**

1. * * * * *

2. In this Act, unless there is anything repugnant in Definitions. the subject or context—

(a) "extradition offence" means any such offence as is described in the schedule :

(b) "foreign state" means any state beyond the limits of the Union of Burma and includes any person exercising or assuming to exercise the powers of Government in or over any country, colony province or people beyond the limits of the Union of Burma :

(c) "fugitive criminal" means any persons accused or convicted of an extradition offence committed within the jurisdiction of any Foreign State who is in or suspected of being in some part of the Union of Burma whether or not the offence committed by such person is triable by any Court within the Union :

(d) "High Court" means the High Court as defined by the Code of Criminal Procedure for the time being in force :

(e) "rules" include prescribed forms.

The definition of "foreign state" in clause (a) above was substituted by Act XXXIV of 1956. The definition is a wide one and it appears to include even the rule of a country which Burma does not recognize.

The word "fugitive criminal" is defined to include a person accused as well as person convicted.

CHAPTER II.**SURRENDER OF FUGITIVE CRIMINALS IN CASE OF FOREIGN STATES.**

3. (1) Where a requisition is made to the President of the Union by the Government of any Foreign State for the surrender of a fugitive criminal of that State, who is in or who is

Requisition for
surrender.

suspected of being in the Union of Burma, the President of the Union may, if he thinks fit, issue an order to any Magistrate who would have had jurisdiction to enquire into the crime if it had been an offence committed within the local limits of his jurisdiction, directing him to inquire into the case.

(2) The Magistrate so directed shall issue a summons or warrant for the arrest of the fugitive criminal according as the case appears to be one in which a summons or warrant would ordinarily issue.

(3) When such criminal appears or is brought before the Magistrate, the Magistrate shall inquire into the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by the Court of Session or High Court, and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive criminal including any evidence to show that the crime of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition offence.

(4) If the Magistrate is of opinion that a prima facie case is made out in support of the requisition, he may commit the fugitive criminal to prison to await the orders of the President of the Union.

(5) If the Magistrate is of opinion that a prima facie case is not made out in support of the requisition, or if the case is one which is bailable under the provisions of the Code of Criminal Procedure, the Magistrate may release the fugitive criminal on bail.

(6) The Magistrate shall report the result of his enquiry to the President of the Union and shall forward, together with such report, any written statement which the fugitive criminal may desire to submit for the consideration of the President of the Union.

(7) If the President of the Union is of opinion that such report or written statement raises an important question of law, he may make an order referring such question of law to the High Court and the fugitive criminal shall not be surrendered until such question has been decided.

Reference to High Court if President thinks necessary.

(8) If upon receipt of such report and statement or upon the decision of any such question, the President of the Union is of opinion that the fugitive criminal ought to be surrendered, he may issue a warrant for the custody and removal of such criminal and for his delivery at a place and to a person to be named in the warrant.

Warrant for surrender.

(9) It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (8), to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of the Union of Burma may be re-taken upon an escape.

Lawfulness of custody and retaking under warrant for surrender.

(10) If such a warrant as is prescribed by sub-section (8) is not issued and executed in the case of any fugitive criminal, who has been committed to prison under sub-section (4), within two months after committal, the High Court may, upon application made to it on behalf of such fugitive criminal and upon proof that reasonable notice of the intention to make such application has been given to the President of the Union, order such criminal to be discharged unless sufficient cause is shown to the contrary.

Discharge of fugitive criminals committed to prison after two months.

Under this section the request for surrender of the fugitive criminal has to be made to the President, who, if he thinks fit orders a competent magistrate to enquire—

- (i) if a prima facie case is made out,
- (ii) if the offence is extraditable one, and
- (iii) one not of a political character.

The Magistrate makes his report to the President, who decides whether the request is to be acceded.

The schedule annexed to the Act gives a list of extraditable offences. Attempts and abetment of such offences are also considered as extraditable.

The definition of "foreign state" in the Act seems to imply a positive answer regarding the question whether the Union could extradite fugitive criminal even in the absence of a treaty.

While it is universal practise to exempt from extradition offences of a political character, the desideratum in most extradition laws is the precise definition of the phrase. Many attempts have been made to define it. For example, one view is: "There must be two or more parties in the State, each seeking to impose the Government of their own choice on the other and that, if the offence is committed by one side or the other in pursuance of that object, it is a political offence and otherwise not."

The Act is silent as to whether the Union should surrender its national. The relevant law regarding this is given in section 188 of the Criminal Procedure Code which provides inter alia, that when a citizen of the Union commits an offence at any place without and beyond the limits of the Union of Burma, he may be dealt with in respect of such offence as if it had been committed at any place within the Union of Burma at which he may be found.

A person who cannot be extradited, may however be deported under section 3 of the Foreigners Act.

One Sita Ram and Ramdev Ahir¹ were wanted by the Indian police for alleged murders committed many years ago. At the instance of the Indian Embassy in Rangoon they were arrested and detained in the Rangoon Central Jail while extradition proceedings were opened against them under the Burma Extradition Act on the ground that they were fugitive criminals from India. However on applications being filed in the High Court under section 491 of the Criminal Procedure Code for directions in the nature of Habeas Corpus the detenues were directed to be released. The warrant of arrest issued by the District Magistrate, Rangoon, under section 3(2) of the Burma Extradition Act was declared invalid in law as India was not a "foreign state" within the purview of the Act and as no extradition treaties existed between the two countries.

1. Sitaram Vs. The Superintendent, Rangoon Central Jail: 1957 B. L. R. 190 H. C.

The applicants were later served with orders under section 3(b) of the Foreigners Act. It was observed by the High Court that the fact that action had been taken unsuccessfully under the Burma Extradition Act would not preclude an order under section 3(b) of the Foreigners Act which provides that the President of the Union may by writing order that any foreigner be deported from the Union of Burma. The counsel for the detainees argued that it was evident from the preamble of the Act that it was designed to enable the President to prevent the subject of foreign states from residing or sojourning in Burma, and that therefore it was not within the spirit of the law so to use section 3 as to arbitrarily remove from Burma a foreigner who had been residing peacefully therein for many years and was not in any way an undesirable resident of the country.

The High Court however remarked that the preamble cannot either restrict or extend the enacting part of an Act when the language and the object and scope of the Act were not open to doubt. But it might be consulted to solve any ambiguity, or to fix the meaning of words which might have more than one, or to keep the effect of the Act within its real scope, whenever the enacting part was in any of these respects open to doubt. Even if the preamble were relevant, it was added, the words used were wide enough to cover the action of the President in directing a foreigner, many years resident in Burma, to be deported from the country. In their Lordships' opinion so long as the person concerned was a foreigner, was not for the Courts of law to question the desirability or otherwise of his deportation under section 3 (b) of the Foreigners Act. The matter was entirely within the province of the executive authorities as had already been ruled by the Supreme Court. The observations made in an English case that a Secretary of State was not required to justify in a Court of law his reasons for making a deportation order in the case of an alien, was held to apply fully also in Burma under section 3 of the Foreigners Act.² The applications were accordingly dismissed and writs refused.

4. (1) Where it appears to any Magistrate of the first class or any Magistrate specially empowered by the President of the Union in this behalf that a person within the local limits of his jurisdiction is a fugitive criminal of a Foreign State, he may, if he thinks fit, issue a warrant for the arrest of such person, on such information or complaint and

Powers to Magistrate of issue warrant of arrest of in certain cases.

2. Kyi Chung York Vs. the Controller of Immigration: 1951 B L R. 197 S. C.

on such evidence as would, in his opinion, justify the issue of a warrant if the crime of which he is accused or has been convicted had been committed within the local limits of his jurisdiction.

(2) The Magistrate shall forthwith report the issue of a
Issue of warrant to
be reported forthwith. warrant under this section to the President of the Union.

(3) A person arrested on a warrant issued under this
Person arrested not
to be detained unless
order received. section shall not be detained more than two months unless within the period the Magistrate receives an order made with reference to such person under section 3, sub-section(1).

Bail. (4) In the case of a person arrested or detained under this section the provisions of the Code of Criminal Procedure relating to bail shall apply in the same manner as if such person were accused of committing in the Union of Burma the crime of which he is accused or has been convicted.

5. (1) If the President of the Union is of opinion that the crime of which any fugitive criminal of a Foreign State is accused or alleged to have been convicted is of a political character, he may, if he thinks fit, refuse to issue any order under section 3, sub-section (1).
Power of President
to issue order under
section 3 when crime
of political character.

(2) The President of the Union may also at any time stay any proceedings taken under this Chapter and direct any warrant issued under this Chapter to be cancelled and the person for whose arrest such warrant has been issued to be discharged.
Power of President
to discharge any
person in custody at
any time.

6. * * *

CHAPTER III.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF
STATES OTHER THAN FOREIGN STATES AND INDIA
OR PAKISTAN.

7.—10. * * *

11. (1) A person accused of an offence committed in the Union of Burma, not being the offence of which his surrender is asked, or undergoing sentence under any conviction in the Union of Burma, shall not be surrendered in compliance with a requisition by or on behalf of a Foreign State, except on the condition that such person be re-surrendered to the President of the Union on the termination of his trial for the offence for which his surrender has been asked:

Surrender of person accused of or undergoing sentence for offence in the Union of Burma.

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death lawfully passed.

(2) On the surrender of a person undergoing sentence under a conviction in the Union of Burma, his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender.

Suspension of sentence on surrender.

12. The provisions of this Act with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in the territories of any Foreign State, has escaped into or is in the Union of Burma before his sentence has expired.

Application of Act to convicted persons.

13. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed, for the purposes of this Act, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly.

Abetment and attempt.

14.—16. * * *

17. (1) In any proceeding under this Act, exhibits and depositions whether received or taken in the presence of the person against whom they are used or not and copies thereof, and official certificates of facts and judicial documents stating facts, may, if duly authenticated, be received as evidence.

(2) Warrants, depositions or statements on oath which purport to have been issued, received or taken by any Court of Justice outside the Union of Burma or copies thereof, and certificates of, or judicial documents stating the fact of, conviction before such Court, shall be deemed duly authenticated,—

- (a) if the warrant purports to be signed by a Judge, Magistrate or officer of the State where the same was issued or acting in or for such State:
- (b) if the depositions or statements or copies thereof purport to be certified under the hand of a Judge, Magistrate or officer of the State where the same were taken or acting in or for such State, to be the original depositions or statements or to be true copies thereof, as the case may require :
- (c) if the certificate of, judicial document stating the fact of, a conviction purports to be certified by a Judge, Magistrate or officer of the State where the conviction took place or acting in or for such State:
- (d) if the warrants, depositions, statements, copies, certificates and judicial documents, as the case may be, are authenticated by the oath of some witness or by the official seal of a minister of the State where the same were respectively issued, taken or given.

(3) For the purposes of this section, "warrant" includes a requisition and any other judicial document requiring the arrest of any person accused or convicted of an offence.

Definition of
"Warrant"

18. Nothing in this Chapter shall derogate from the provisions of any treaty for the extradition of offenders, and the procedure provided by any such treaty shall be followed in any case to which it applies and the provisions of this Act shall be modified accordingly.

Chapter not to
derogate from treaties.

This section enables the Government to enter into treaties with Foreign states and the provisions of the Act may be modified to conform to those treaties.

CHAPTER IV.

19. * * *

CHAPTER V.

OFFENCES COMMITTED AT SEA.

20. Where the Government of any State outside the Union of Burma makes a requisition for the surrender of a person accused of an offence committed on board any vessel on the high seas which comes into any port of the Union of Burma, the President of the Union and any Magistrate having jurisdiction in such port and authorized by the President of the Union in this behalf may exercise the powers conferred by this Act.

Requisition for
surrender in case of
offence committed at
sea.

CHAPTER VI.

EXECUTION OF COMMISSIONS ISSUED BY CRIMINAL COURTS OUTSIDE THE UNION OF BURMA.

21. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in any Foreign State in like manner as it may be obtained in any civil matter under the provisions of the Code of Civil Procedure with respect to commissions, and the provisions of that Code relating thereto shall be construed as if the term "suit" included a criminal proceeding:

Execution of
commissions issued
by Criminal Courts in
Foreigners States.

Provided that this section shall not apply when the evidence is required in respect of an offence of a political character.

CHAPTER VII.
SUPPLEMENTAL.

22. (1) The President of the Union may make rules to carry out the purposes of this Act.

Power to make
rules.

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

- (a) the removal of prisoners accused or in custody under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as are entitled to receive them;
- (b) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Act applies;
- (c) the pursuit and arrest in the Union of Burma by officer of the Government or other persons authorized in this behalf of persons accused of offence committed elsewhere: and
- (d) the procedure and practice to be observed in extradition proceedings.

(3) Rules made under this section shall be published in the Gazette and shall thereupon have effect as if enacted by this Act.

23. Notwithstanding anything in the Code of Criminal Procedure, any person arrested without an order from a Magistrate and without a warrant, in pursuance of the provisions of section 54, clause seventhly, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested and a warrant issued by such Magistrate under section 4.

Detention of persons
arrested under section
54, clause seventhly
Code of Criminal
Procedure.

THE FIRST SCHEDULE.
EXTRADITION OFFENCE.

See section 2, clause (b) and Chapter III (Surrender of)
Fugitive Criminals in case of States other than Foreign
States and India or Pakistan).

(The sections referred to are the sections of the Penal Code.)

Frauds upon creditors (section 206).

Resistance to arrest (section 224).

Offences relating to coin and stamps (section 230 to 263A).

Culpable homicide (sections 299 to 304).

Attempt to murder (section 307).

Thagi (sections 310,311).

Causing miscarriage, and abandonment of child (sections 312, to
317).

Causing hurt (sections 323 to 333).

Wrongful confinement (section 347,348).

Kidnapping and slavery (sections 360 to 373).

Rape and unnatural offences (sections 375 to 377).

Theft, extortion, robbery, etc (sections 368 to 414).

Cheating (sections 415 to 420).

Fraudulent deeds, etc, (sections 421 to 424):

Mischief (sections 425 to 440).

Lurking house-trespass (sections 443,444).

Forgery, using forged documents, etc, (section 463 to 477).

Piracy by the law of nations.

Sinking or destroying a vessel at sea, or attempting or
conspiring to do so.

Assault on board a ship on the high seas with intent to
destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on
board a ship on the high seas against the authority of the
master.

Any offence against any section of the Penal Code or
against any other law which may, from time to time, be
specified by the President of the Union by notification in
the Gazette either generally for all States or specially for
any one or more States.

**THE BURMA IMMIGRATION
(EMERGENCY PROVISIONS) ACT, 1947.**

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THE BURMA IMMIGRATION (EMERGENCY PROVISIONS) ACT, 1947.

(Burma Act XXXI of 1947, as amended up to 1st
October 1960). (13th June, 1947)

1. (1) This Act may be called the Burma Immigration
Short title. (Emergency Provisions) Act, 1947.

(2) It shall come into force at once.

This Act came into force with effect from the 13th. June 1947, vide Judicial Department Notification No. 214, dated the 13th June 1947. This Act therefore does not affect the entry of persons who entered the Union of Burma prior to this date.¹

This Act was amended and modified by the following Acts:

- (1) Union of Burma (Adaptation of Laws) Order, 1948.
- (2) Act No. XVI of 1948.
- (3) Act No. XL of 1948.
- (4) Act No. XII of 1949.
- (5) Act No. LIII of 1950.
- (6) Act No. LVIII of 1955.
- (7) Act No. XXVI of 1956.
- (8) Act No. XXXIX of 1957.
- (9) Act No. XVI of 1958.

This Act was extended to the Frontier Areas vide Frontier Areas Administration General Department, Judicial Branch Notifications No. 149 dated the 24th October 1947, and No. 16, dated the 3rd January 1948. It was extended to the Karenni State by Act No. XXV of 1949.

2. (1) In this Act unless there is anything repugnant in
Definitions. the subject or context:—

- (a) "carrier" includes the owner or charterer of a conveyance, the agent of such owner or charterer and also the person in charge of the conveyance;
- (b) "controller" means the Controller of Immigration;
- (c) "conveyance" means anything used for transport from one place to another;

1. Karam Singh Vs The Controller of Immigration: 1956 B L. R. 25 S. C.

THE BURMA IMMIGRATION (EMERGENCY PROVISIONS) ACT 67

- (d) "crew" means a person employed on or engaged in the working of a conveyance;
- (e) "foreigner" means a person who is not a citizen of the Union of Burma;
- (f) "immigration official" means any official of the immigration department, including a junior immigration assistant;
- (g) "immigration permit" includes a certificate or pass or any other document, issued to a foreigner under this Act or the rules made thereunder, for entry into or stay in the Union of Burma;
- (h) "passenger" means any person who travels in any conveyance other than members of the crew;
- (i) "prescribed" means prescribed by the President of the Union or by rules made by the President of the Union.

Delegation of powers.

(2). The President of the Union may authorize any officer to exercise any or all of the powers of the Controller under this Act or the rules made thereunder.

(3). The Controller may delegate any of his powers under this Act or the rules made thereunder to any immigration official.

This section was substituted by Act No. LIII of 1950. By Act No. LVIII of 1955, the words 'including an Immigration Constable' were inserted in section 2(1) (f) for the previous words 'who is not below the rank of a Sub-Inspector of Immigration,' and this present words were inserted by Act XVI of 1958.

Prior to 1st October 1957 all immigration matters were dealt with by the Controller of Immigration, who was responsible to the Ministry of Foreign Affairs. Since 1st October 1957 a new Ministry of National Registration and Immigration was formed and Citizenship, National Registration and Foreigners Registration affairs were placed under the new Ministry.

3 (1) No foreigner shall enter the Union of Burma without an immigration permit issued by the Controller or by any Official authorized to issue such permits or a valid passport duly visaed or endorsed by or on behalf of the President:

Prohibition or entry without immigration permit or duly visaed passport.

68 THE BURMA IMMIGRATION (EMERGENCY PROVISIONS) ACT

(2) No citizen of the Union of Burma shall enter the Union without a valid Union of Burma passport, or a certificate in lieu thereof, issued by a competent authority:

Provided that this section shall not apply to a person, who, in proceeding from one place in the Union of Burma to another place in the Union of Burma, traverses in the course of that journey any extra-territorial waters.

This section was substituted by Act No. LIII of 1950.
Formerly it read as follows :-

"No person shall enter the Union of Burma without an immigration permit issued by the Controller or a valid passport duly visaed or endorsed by or on behalf of the President."

Sub-section (1) above prohibits the entry into the Union of any foreigner without an immigration permit or a valid passport duly visaed. Sub-section (2) prohibits the entry into the Union of a citizen without a valid Union of Burma passport or a certificate in lieu thereof.

This section controls the entry into the Union of both foreigners and citizens alike. Sub-section (1) applies to foreigners and sub-section (2) to citizens. The exceptions to the prohibition are mentioned in the proviso which is applicable to both the sub-sections. As to what happens in case of an illegal entry or remaining in the Union territory after the expiry of the period of the visa or stay permit see sections 7 and 13 of the Act.

4. (1) Permits and passport visas shall be subject to such conditions for immigration permits, passport, visa and endorsements. conditions as may be prescribed and also to such conditions as may be set out in the permit or visa.

(2) All such conditions shall be deemed to be conditions for allowing the holder of such permit or visa to enter or remain in the Union of Burma, and a breach of any of these conditions shall render the holder liable to deportation from the Union of Burma if the President of the Union so directs.

Sub-section (2) was substituted by Act No. LIII of 1950.

Sub-section (1) above provides for stay permit and visas. Applications for stay or visa are to be made in prescribed forms. No rules have been made under this section as to what forms are.

prescribed, but certain forms are approved by the Controller of Immigration and they are to be used. The public have to resort to the advice of Licensed Immigration Petition Writers to comply with the requirements of these forms.

One Mrs Kanta Bhai² applied for stay permit and submitted her Indian Passport with it. She was not intimated whether her stay permit was granted nor was her passport returned to her by the Immigration authorities. She could not apply for the permit again without knowing the result of her previous application and without the passport being returned to her. In order to apply for renewal of stay permit, it was necessary that she should refer to her passport and mention its details in the application for further stay. The Immigration authorities prosecuted her for stay without a permit. In the High Court she was acquitted on the ground that the law did not expect any one to do what was impossible and without the passport it was impossible for the applicant to know whether a stay permit had been issued nor was it possible for her to apply for a renewal of that permit.

One Karam Singh³ was born in Burma in 1924 and had never left the country. In 1949 he sought to elect Burmese citizenship but before orders were passed he obtained an Indian passport thus indicating that he had chosen to retain Indian nationality. He was ordered to remove himself from the country by 30th June 1955. As he did not do so he was prosecuted for alleged contravention of section 4(2) of the Act in that he had not observed the conditions of his stay in Burma. The trial magistrate acquitted him on the ground that he had not entered Burma with a permit or a visa and that therefore there were no conditions attached to his stay. In spite of this the Controller issued an order of deportation under section 7(1) giving as his reason that Karam Singh had committed an offence under section 13(1). The Supreme Court held that the Controller was fully aware of the order of acquittal, and his statement that Karam Singh had committed an offence under section 13(1) was therefore totally unwarranted.

2. Mrs. Kanta Bhai Vs. The Union of Burma: 1958 B. L. R. 532 H. C.

3. Karam Singh, John Chew, Tan Choon Chaung Vs. The Union of Burma: 1958 B. L. R. 25 S. C.

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One John Chew, who was born in Burma, evacuated to China in 1942 on an identity certificate issued by the Burmese Embassy at Nanking. No restrictions had been placed on his stay in Burma at the time of his re-entry, although it was after the enactment of the Act. He was sent up for trial but the Magistrate held he had committed no offence by not complying with the order to remove himself from Burma. The Controller nevertheless ignored the acquittal and passed an order similar to the one passed on Karam Singh. The Supreme Court held that the Controller had acted without jurisdiction.

Also one Tan Choon Chaung who was born in Burma, spent the war years in China and came back in 1946. The Controller contended that his unauthorised entry was in 1952, and therefore holding that he had committed an offence under section 13(1), the Controller ordered his removal. The Supreme Court pointed out that the Act did not empower the Controller to decide without recourse to a prosecution, whether a person has in fact committed an offence. Only a Court of Law is competent to give a decision in case of a dispute.

The Supreme Court held: The Act is an emergency measure meant to regulate the entry of foreigners into Burma immediately prior to her emergence as a sovereign state and also to impose conditions if considered necessary on a foreigner's stay in Burma. The Act does not provide in any way for the restriction or for expulsion of foreigners who were born in Burma or who had entered Burma prior to the enactment of the Act and who had continued to reside in Burma.

Held also: Under the Constitution of Burma and her citizenship laws mere birth in Burma or residence in Burma at the time she emerged as a sovereign state does not by itself confer Burmese nationality on a foreigner. It is an internationally accepted principle that a sovereign state has the right to refuse admission to an alien to enter the country, to impose conditions on his entry or stay, and to expel and deport even a friendly alien especially if it is considered that his presence is opposed to its peace, order and good government, or to its social and material interest. The above mentioned principle, followed by the comity of nations, is embodied in section 3 of the Foreigners Act.

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Held also: The Act would not bring within its scope the case of people who were born in Burma before the enactment of the Act. In the case of persons who were already in Burma before the enactment of the Act no question of a permit is involved.

Held also: An order of deportation under section 7(1) must have as its prop a punishment under some section of the Act and in the absence of any conviction or punishment the necessary prop did not exist.

It was contended that the order of deportation was in lieu of punishment.

Held: It is the Court and not the Controller who is competent to decide whether in fact a person has committed an offence or not. The order of deportation could not be "in lieu of or in addition to" what does not exist at all. In the absence of punishment, the deportation order cannot be in lieu of punishment. Section 7(1) can only be invoked in respect of a person brought to trial and punishment under the Act.

Orders of deportation were accordingly quashed.

These decisions were made before section 7 was amended by Act XXXIX of 1957. Section 7(2) as amended by Act XXXIX of 1957 now enables deportation order to be issued in lieu of prosecution. See notes under section 7(2).

In the case of Kyi Chung York. Vs. The Controller of Immigration* the applicant was granted permission to enter Burma and work as an Assistant Editor of a Chinese paper for four years, the manager and publisher thereof guaranteeing that the applicant would so work. Before the expiry of the time so fixed, the applicant resigned the post and worked as a teacher, thereupon the guarantors withdrew their guarantee. The Controller of Immigration, acting under orders of Foreign Office, cancelled the applicant's stay permit and ordered him to leave the country.

Held: That what the Controller had done was merely to carry out the order of the Government. Every country which extends its hospitality to an alien can withdraw it and send him back to his own country.

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"An alien resides in this country on sufferance and he can be asked at any time to leave. The grant of visa by the Controller of Immigration to stay for an indefinite period does not give him a right of permanent residence." These observations were made by the High Court in dismissing the application of one V. Somma Sundram Chettiar. The application was under section 45 of the Specific Relief Act and the Court was asked to set aside the expulsion order served on the applicant and to direct legal and proper enquiry into the status of the applicant as a permanent or qualified resident of Burma. According to the Applicant, he first came to Burma in 1916 and since then he had been residing off and on in Burma. The Controller had however recently served on him an order to leave the country by a certain date, although the Immigration Department had previously issued a visa for indefinite stay. On the authority of the Supreme Court ruling in 1953 B.L.R. 47, the High Court observed that an alien is not entitled as of right to stay in Burma and that the stay permit given to him, even though it is stated to be for an indefinite period, could always be withdrawn at the pleasure of the Government. Every country which extends its hospitality to an alien can withdraw it and send him back to his own country. Every power has the right to refuse to permit an alien to enter the state and, if it permits an alien to enter, to annex what conditions it pleases to such permission and expel or deport him from the State at pleasure. It was also held that the application under section 45 of the Specific Relief Act was unsustainable. Only in cases where a person's property, franchise or personal right was in jeopardy by the forbearing or doing, as the case might be, of any act would such an application lie. In the present case the applicant had acquired no personal right of stay in Burma. He was merely permitted to reside within the Union of Burma on sufferance by the Union Government.

But the Controller of Immigration cannot pass such order against a foreigner who has not ever been granted by him a stay permit or a re-entry visa and who has not contravened any of the provisions of the Burma Immigration (Emergency Provisions) Act 1949. Thus a person who has resided in Burma before the Burma Immigration (Emergency Provisions) Act 1947 came into force and who has not been out of the Union of Burma even once cannot be asked by the Controller of Immigration under the Burma Immigration (Emergency Provisions) Act to leave the Union of Burma. Action may however be taken against such a person under section 3 of the Foreigners Act. See note under section 3 of the Foreigners Act and section 3 of the Burma Extradition Act.

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4.A. Where an affidavit is required for the purpose of issuing an immigration permit, passport or visa, the Controller or such other officer as may be authorized in this behalf by the President, may administer the oath to the deponent.

Administration of oath.

5. (1) The carrier, landing or embarking passengers at any seaport or airport in the Union of Burma shall furnish to such person and in such manner as the President of the Union may prescribe a return giving such particulars in respect of such passengers as may be required for the time being by order of the President of the Union and such passengers shall furnish the carrier with all the information required by him for the purpose of the return.

Supply of information by the master of a ship or captain of an aircraft.

(2) The carrier arriving in any seaport or airport in the Union of Burma shall furnish the Controller with a—

- (a) schedule of expected arrivals and departures of conveyances for each week;
- (b) list of crew on arrival and departure;
- (c) list of crew who are signed on or off;

(3) The President of the Union may by order exempt from the provisions of this section any class of passengers or voyages, or any conveyance or seaports and airports, and any such order may be withdrawn at any time at his discretion.

This section is important for all carriers touching in at any port in the Union of Burma. Every passenger entering the Union whether citizen or foreigner is issued necessary form to fill in and their passports are taken by the carriers to comply with the provisions of this section.

6. (1) No foreigner shall enter or leave the Union of Burma by any means except at such seaport airports or land stations prescribed by the President of the Union.

Prohibition of entry except through prescribed ports and land stations.

(2) It shall be the duty of the carrier who brings a conveyance to any seaport or airport or land station in the Union of Burma,

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(a) to stop the conveyance at such place as may be specified by an immigration official not below the rank of an Immigration Assistant; and

(b) not to remove the conveyance until clearance is granted by an immigration official not below the rank of an Immigration Assistant.

(3) For examination of any conveyance on any official holidays or between 17.00 hours and 7.00 hours on other days, the carrier shall be liable to pay an overtime fee fixed according to the rates that may be prescribed.

In sub-section (1) above the words "or leave" were inserted by Act No. LIII of 1950. Sometimes foreigners used to leave the country by unauthorised routes and these words were inserted requiring them to leave only with the necessary permit and by the prescribed passage. Thus a foreigner may not only not enter the country without a permit, he is required also not to leave the country without a permit.

Sub-section (2) was substituted by Act No. LVIII of 1955.

In the case of V. E. RM. N. RM. Kasi Viswanathan Chettyar⁵ before the Supreme Court it was held that an alien has right to leave the Country if all formalities were fulfilled.

The applicant V. E. RM. N. RM. Kasi Viswanathan Chettyar an Indian subject, came to Burma on a temporary visa in February 1958 and intended to return to India on April 30. When he went for his 'D' form however he was refused. Without this form, no shipping or airline office would sell him a ticket.

Section 15 of the Registration of Foreigners Rules says copies of form 'D' may be obtained on application from any Registration Officer. Though this would make it appear that the form may be obtained merely for the asking, as one would, a telegraph message form, in practice it is issued only in three places in Burma-Rangoon, Mandalay and Akyab-by the Controller of Immigration. This is to ensure that whoever leaves Burma goes through the formality of surrendering his Registration Certificate before his departure.

5. V. E. RM. N. RM. Kasi Viswanathan Chettyar Vs. The Official Assignee and one: 1958 B. L. R. 74 S. C.,

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In this case, the applicant had complied or was willing to comply with all the formalities but the 'D' form was withheld on the request of the Official Assignee, who had alleged that the applicant's firm had been unauthorisedly credited with the assests of K. E. G. Sundaresan Chettiar in connection with Insolvency Case No. 265 of 1933, whose records had been lost during the war. The applicant protested that he was on a visit and in no position to force Sundaresan to do anything. Some records he himself had were in India. Since his visa was expiring he sought for the 'D' form, only to be told of the Official Assignee's instructions. In the meantime, he had interviewed the Official Assignee at the latter's request and submitted to examination by the Official Assignee's advocate, on the promise that the Official Assignee would withdraw his instructions to the Controller of Immigration.

Next, the Official Assignee made an application to the High Court for permission to examine the applicant under section 36 of the Rangoon Insolvency Act. However the Court observed that it was in no position to justify what had been done prior to the issue of summons, and that the said application therefore had to take its own course.

Learned Counsel for the Official Assignee submitted that the applicant not being a citizen or even a resident of Burma had no right to move the Supreme Court for enforcement of any fundamental right guaranteed only to citizens under the Constitution.

The Supreme Court held:

Per U Myint Thein, C. J.— "It is true that certain fundamental rights are guaranteed specifically to citizens under Chapter II of the Constitution but this does not mean that they are denied to aliens. Full exercise of such rights may be subject to conditions, as in the case of transfer of land to an alien, which requires the permission of the President under the Transfer of Property (Restriction) Act. But most rights are assured to citizen and alien alike and their full enjoyment is unrestricted; and such rights are not to be denied without legal authority. The right of an alien to leave a country is internationally recognised. See Oppenheim's International Law, Volume 1, paragraph 322 which says:

'Since a State holds only territorial and not personal supremacy over an alien within its boundaries, it can never, in any circumstances, prevent him from leaving its territory, provided he has fulfilled his local obligations, such as payment of rates and taxes, of fines, of private debts and the like'.

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We endorse this view and we would only add that the local obligations must refer not to mere claims but to legal obligations such as decrees and orders of Courts and competent authorities."

The Court did not accept the contention that the 'D' form was within the discretion of the Controller. The Rules as framed might be stretched to ensure that a person leaving Burma complied with formalities required of him but if he had done so, the stage was reached for the Controller to perform his duty to issue the form so that the person seeking it might make his final arrangements for departure.

The Supreme Court also held that an alien has the right to leave a country. It is a basic human right which should not be denied and that in this matter it was in conformity with recognised international practice to lift the ban placed upon the applicant.

The Controller of Immigration was directed to issue D form to the applicant.

7. (1) The President of the Union or any such authority as may be appointed by him under this sub-section, may order any foreigner who has been convicted under any section of this Act of rules made thereunder to be deported from the Union or Burma and pending orders of deportation such foreigner may be detained in such manner as the President of the Union may direct and whilst so detained shall be deemed to be in legal custody.

(2) The President of the Union or any such authority as may be appointed by him under this sub-section, may, in lieu of prosecution, order any foreigner who contravenes any of the provisions of this Act, or the rules made thereunder, to be deported from the Union of Burma and pending orders of deportation such foreigner may be detained in such manner as the President of the Union may direct and whilst so detained shall be deemed to be in legal custody.

(3) The President of the Union or the authority competent to order deportation under sub-section (2) shall have power to adjudge if any foreigner has in fact contravened any of the provisions of this Act, or the rules made thereunder.

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(4) Any foreigner ordered to be deported under sub-section (1) or sub-section (2) may be detained by such authority and in such manner as the President of the Union may direct pending the completion of arrangements for his removal out of the Union of Burma and whilst so detained shall be deemed to be in legal custody.

(5) Any foreigner who has been detained under sub-section (1) or sub-section (2) or sub-section (4) may be admitted to bail by such authority and upon such terms and conditions as may be prescribed by the President of the Union.

(6) The carrier who is responsible for the illegal entry of any foreigner against whom any order of deportation is subsequently issued under sub-section (1) or sub-section (2) shall remove such foreigner from the Union of Burma.

This section has been amended from time to time. It was last amended by Acts XXVI of 1956 and XXXIX of 1957.

Please see notes under section 4 of this Act. Under sub-section (2) above a foreigner may now be deported in lieu of being prosecuted for an offence under this Act, and the authority competent to deport has the power to adjudge if the foreigner has in fact contravened the provisions of this Act or the rules made under the Act.

The amendment of section 7(2) above gives powers to the President or the authority appointed by him in this behalf to hear and decide cases like a Court as to whether a person has contravened the provisions of this Act. The President or the specified authority is invested with jurisdiction to decide whether an offence under this Act has been committed and whether any provisions of the Act have been contravened. A decision of the President or the authority appointed by him in this behalf relating to a finding about contravention of this Act is a judicial act and not an administrative act and can therefore be the subject of a writ to the Supreme Court. One Youn Yun Saung⁶ applied for a writ to the Supreme Court against the finding and order of deportation made in respect of Youn Ei Chin. The Supreme Court's jurisdiction to deal with the order was challenged by the Government. But the

6. Youn Yun Saung ..Vs...Immigration Department and 2 others. 1958 B. L R 102. S. C.

objection was over-ruled and the Court held that it had jurisdiction to entertain such applications as the finding to the effect that the provisions of the Act have been contravened was a judicial one and was covered by section 150 of the Constitution. The application was heard and dismissed on merits as the deportee had admitted before the Immigration authorities that he had entered the Union without a permit after the promulgation of the Burma Immigration (Emergency Provisions) Act.

In Criminal Miscellaneous Applications No. 155 and 156 of 1959 of the Supreme Court, Hasan Ali and Meher Ali applied for directions in the nature of a writ of Habeas Corpus. According to the affidavits filed, some two hundred persons of Pakistani origin were rounded up in raids in the Akyab district and detained.

The learned Attorney-General, who appeared for the respondents, requested the Court for inspection of the proceedings of the Immigration Officer Akyab in respect of the applicant Hasan Ali. According to the diary entries Hasan Ali was arrested on the 15th June 1959. On the 22nd June the Deputy Commissioner, Akyab was approached for orders to deport him. Judging by the entry under date 26th June, the Deputy Commissioner demurred. The Ministry of Immigration then stepped in, and under the orders of the Ministry, Hasan Ali and others were sent to Rangoon by steamer for ultimate despatch to Gawduthoung in Pyapon District. On arrival at Rangoon they were lodged in the Rangoon Central Jail under a detention order by an Immigration Officer, presumably of Rangoon. The relevant portion of the detention order filed in the Court by the Superintendent of the Rangoon Central Jail read as follows :-

‘Whereas Hasan Ali, son of Abbas Ali has been subject to an order of deportation under sec. 7 (2) of the Burma Immigration (Emergency Provisions) Act by the Controller of Immigration Burma ;

And whereas it is expedient to detain the said Hasan Ali into your custody pending removal out of Burma, this is to authorised you to receive into your custody and produce him before the 17th August 1959.’

It was held that in the first place the Controller of Immigration was not an authority appointed by the President to exercise the powers of deportation under section 7 (2) of the Act and

secondly that the applicants were not yet subjected to orders of deportation under section 7(2) as recited in the order. On these considerations alone the detention orders were liable to be quashed.

The Supreme Court further held as follows :—

“ However, the question involved goes much deeper. Section 7, under which detention is authorised has so often been amended piecemeal that the position is confusing and it is necessary to determine, at what stage and in what circumstances and at whose behest, a foreigner can be detained under the immigration laws.

Section 7 as it stands today reads :—

7. (1) The President of the Union or any such authority as may be appointed by him under this sub-section, may order any foreigner who has been convicted under any section of this Act or the rules made thereunder to be deported from the Union of Burma and pending orders of deportation he may be detained in such manner as the President of the Union may direct and whilst so detained shall be deemed to be in legal custody.

(2) The President of the Union or any such authority as may be appointed by him under this sub-section, may in lieu of prosecution, order any foreigner who contravenes any of the provisions of this Act or the rules framed thereunder, to be deported from the Union of Burma and pending orders of deportation such foreigner may be detained in such manner as the President of the Union may direct and whilst so detained shall be deemed to be in legal custody.

(3) The President of the Union or the authority competent to order deportation under sub-section (2) shall have power to adjudge if any foreigner has in fact contravened any of the provisions of the Act or the rules made thereunder.

(4) Any foreigner ordered to be deported under sub-section (1) or sub-section (2) may be detained by such authority and in such manner as the President of the Union may direct pending the completion of arrangement for his removal out of the Union of Burma and whilst so detained shall be deemed to be in legal custody.

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(5) Any foreigner who has been detained under sub-section (1) or sub-section (2) or sub-section (4) may be admitted to bail by such authority and upon such terms as may be prescribed by the President of the Union.

(6) The carrier who is responsible for the illegal entry or any foreigner against whom any order of deportation is subsequently issued under sub-section (1) or sub-section (2) shall remove such foreigner from the Union of Burma.

Under sub-section (1) a foreigner who has been convicted under the Immigration laws may be ordered deportation by the President or by some one appointed by him to order such deportation and pending such orders of deportation, the man may be detained in such manner as the President may direct. The purpose of this provision is clear. A magistrate may convict a foreigner but the order for his deportation must emanate from some other authority, and some time may elapse before the actual order of deportation is issued, and therefore it may be necessary to detain the foreigner to ensure that he does not disappear.

Sub-section (2) provides an abnormal procedure, under which a foreigner is not prosecuted but is sent before a competent authority who has to decide if the foreigner had in fact contravened the provisions of the Act or the Rules. If the adjudgment, the exercise of which is vested in the competent authority under sub-section (3), is in the affirmative, in lieu of a prosecution the foreigner's deportation can be ordered. Pending orders of deportation such foreigner may be detained in such manner as the President may direct.

Sub-section (4) deals only with those against whom orders of deportation have already been passed. They may be detained by such authority and in such manner as the President may direct. The purpose of his sub-section is also clear, because some time must elapse for arrangement to be made for the actual removal of the foreigner, such as securing his passage or obtaining the consent of the country to which he is to be sent..

It was urged by the learned Counsel for the applicants that under sub-section (1), it is only after a conviction that a foreigner can be detained and that only it is after an adjudgment that he can be similiary detained under sub-seciion (2). The position, the

learned Counsel submits, is made clearer by the Burma Immigration (Detention) Rules, 1951, under which detention is contemplated only in respect of those liable to be deported (see rule 2). A foreigner, it was submitted, may be liable to a prosecution, but mere prosecution does not render him liable to deportation. It is only when he is convicted or is adjudged under sub-section (2) of having contravened the immigration laws that he becomes liable to deportation. A foreigner may be arrested on suspicion under section 10 and his subsequent detention if he is detained at all, will be under the Criminal Procedure Code and not under the immigration laws. The suggestion therefore is, a detention under sub-section (2) before adjudgment is not authorised by law.

We have given very careful consideration to this suggestion but we find ourselves unable to accept it. The phraseology of sub-section (2) is by no means clear but the fact remains that under this sub-section, proceedings are initiated solely with a view to secure orders of deportation. The competent authority who deals with the case can award no punishment but in lieu of a prosecution, he may order deportation, provided of course, the adjudgment is that the foreigner in fact had contravened either the Act or the Rules. In actual practice the adjudgment would have to be incorporated in the order of deportation itself and there will therefore be time interval between the adjudgment and the orders of deportation. Thus the phrase 'pending orders of deportation' appearing in sub-section (2) must be construed to mean that during the pendency of the proceedings before the competent authority, a foreigner may be detained.

We must now examine the Burma Immigration (Detention) Rules 1951. When they were originally passed, Rule 2 read :—

'2. (1) Any foreigner who is liable to be deported under section 7 (1) of the Burma Immigration (Emergency Provisions) Act 1947 may be detained in police station, police lock up, police outpost, sub-jail, jail or jail annexe by an order in writing of any Deputy Commissioner or of any Resident or of any Immigration official not below the rank of Inspector of Immigration, pending the receipt of orders of the President or of such authority as may be appointed by him in that behalf for the deportation of the foreigner, or for the removal of such foreigner out of the Union of Burma in compliance with the order of deportation.

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(2) Such order of detention of such foreigner under section 7 of the said Act may be issued from time to time for any period not exceeding fifteen days at a time.'

These rules are purported to have been made under section 16(2) (g) of the Act.

When sub-section (2) was added to section 7 by Act XXXIX of 1957, by Notification No. 6 of the Immigration Branch, Ministry of Immigration and National Registration, dated the 5th February 1958, the words 'sub-section (1) or (2) of section 7' and 'Assistant Immigration Officer' were substituted for the words 'section 7 (1)' and 'Inspector of Immigration' respectively.

It will be noticed that the detention, both under sub-section (1) and (2) of section 7 is to be 'in such manner as the President of the Union may direct,' while under sub-section (4) the detention is to be 'by such authority and in such manner as the President of the Union may direct'. The difference in meaning is, in sub-section (1) and (2). The President alone is empowered to order detention, while in sub-section (4) he may name an authority to exercise the power. However, the restriction of authority to the President alone in sub-section (1) is qualified by sub-section (4) under which the President may name the authority under whose orders, a person against whom deportation order have been passed, may be detained. But the restriction under sub-section (2) remains unaffected by sub-section (4), and thus there is no provision under which the President may name any authority to order detention during the pendency of the proceedings, that is to say, before orders of deportation are passed under sub-section (2).

Whatever the wording of rule 2 may be, its scope is limited to detention under sub-section (4) only, and other provision contained in the rule, which is outside the scope of sub-section (4) is ultra vires of the Act. Thus, the detention of the applicants under section 7 (2) pending the proceedings before a competent authority under the orders of an officer mentioned in rule 2 is not authorised by law.

The applicants presumably were arrested under section 10. The normal procedure after such arrest is to prosecute them under section 13(1) and in that extent, in view of section 13A and 13B, the onus of proving that they are legitimate residents or that they are not foreigners, is on them. And since this onus is placed upon

them as a special rule of evidence, a reasonable opportunity must be given to them to discharge the burden. Their detention in Rangoon, when their normal residence is Akyab, might be tantamount to a denial of such an opportunity. The opportunity must be afforded whether the proceedings against them are by way of a prosecution under section 13 (1) or by way of adjudgment under section 7(2).

On the question of adjudgment we desire to observe that this procedure is meant to be confined to cases where there is no room for controversy and where a prosecution would be a waste of time and labour, such as when a foreigner has remained on in Burma under an expired stay permit, or where a stowaway is caught in Burma waters. But where the question of a man's nationality is involved, and where, as in Hasan Ali's case, he is even in possession of a National Registration Certificate recourse to section 7 (2) and (3) would be undesirable.

We note that the 1st respondent in his return, has stated that the applicants are Pakistanis in appearance; that they have no knowledge of the Burmese or the Arakanese languages; and that they are unable to answer questions relating to events which had occurred in Arakan during the past decade. From these, he stated, the immigration authorities were satisfied that the applicants are illegal immigrants of recent origin. It must be born in mind that it is the President or the competent authority that must be satisfied. Further, in applying the tests which the 1st respondent has mentioned, section 4 (2) of the Union Citizenship Act must not be lost sight of. A person descended from ancestors who for two generations have made Burma their permanent home,' and whose parents and himself were born in Burma, is a statutory citizen. Today in various parts of Burma there are people who, because of their origin and isolated way of life, are totally unlike the Burmese in appearance or speak of events which had occurred outside the limits of their habitation. They are nevertheless statutory citizens under the Union Citizenship Act. The applicants claim that they belong to that category. They might be right and therefore the opportunity of proving that they are, should be given to them. To deny them this opportunity would be a violation of their fundamental rights."

The detention of Hasan Ali, and Meher Ali, under section 7 (2) of the Burma Immigration (Emergency Provisions) Act under the

orders of an Immigration Officer were held to be unwarranted in law and therefore the orders under which they were detained in the Rangoon Central Jail were quashed and they were ordered to be released forthwith.

After sometime on 26th October 1960 the Supreme Court again quashed the orders of deportation passed by the Subdivisional Officer, Maungdaw, Akyab district, against 23 Arakanese Muslims who were among those rounded up by the Immigration authorities in 1959 in their drive against illegal immigrants. They had applied to the Court for writs of habeas corpus.

Their Lordships observed that on November 4, 1959, the Supreme Court had passed orders directing the release of Hasan Ali and Meher Ali who were arrested about the same time and on the same grounds. It was pointed out then that as the detenus had claimed Burmese citizenship, the deportation orders passed without having given them opportunity to prove their claims, were illegal. Their Lordships added it was thought that the two cases would have served as test cases to the Immigration Department and the deportation orders against other detenus would have been cancelled. This was not done and the Court had to order the release of 76 more detenus who had subsequently applied for writs of habeas corpus. Still, it was added, the Immigration Department had not taken the guidance given by the Court and had continued to hold the present applicants in detention.

It was pointed out that when the applicants were examined by an Immigration Officer after they had been rounded up, they claimed Burmese citizenship as they were born and bred in Burma and their ancestors had settled down and made Burma their home. Nevertheless the Immigration Officer had filled in printed forms of deportation and the Subdivisional Officer, Maungdaw, had put his signature to them without giving the applicants opportunity to substantiate their claims that they were not foreigners. This it was pointed out was to deny them their rights. Their Lordships reminded the Immigration officers that they had been invested with very wide powers and that they should therefore be extremely careful in their use. The Immigration Act only provided for the expulsion of foreigners and to order the expulsion of a Burmese citizen was a very serious matter and was like sentencing him to the death penalty. It was therefore very improper for the Subdivisional Officer, Maungdaw, to have disposed of the cases in the slipshod manner he adopted by simply signing the deportation forms put up to him by the Immigration Officer.

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It was observed that the Immigration authorities had claimed in their returns that the applicants did not know the Burmese language and that they could not show that they were not illegal entrants. The same defence had been put forward in the previous cases it was pointed out and it had been observed by the Court that in the Union of Burma there were races who could not speak the Burmese language and whose customs were different from the Burmese but who nevertheless were citizens of the Union under the provisions of the Constitution. Under section 4(2) of the Union Citizenship Act also, it was pointed out, those persons whose ancestors had made Burma their home and who and whose parents were all born in Burma were also citizens of the Union.

The detention of the applicants on suspicion that they were foreigners and without giving them an opportunity to establish their claim to Union citizenship being held illegal, their Lordships directed their immediate release.

8. The President of the Union may exempt any person or classes of persons from any or all the provisions of the Act with or without conditions.

Exemption.

9. Nothing in this Act shall apply to any duly accredited head of a foreign diplomatic mission or members of his household, or to members of his official staff and their families, or to any consular representative in the Union of Burma and his family.

Exemption of persons in diplomatic service.

10. Any Immigration Officer or any Police Officer may enter any place or conveyance and arrest without warrant any person whom he may reasonably suspect of contravening or having contravened or being about to contravene any of the provisions of this Act.

Arrest without warrant.

11. Fees may be charged for the issue of immigration permits or passport visas at such rates as may be prescribed.

Fees.

The table of fees prescribed under this section are as follows:—

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				Before 1-10-57	Since 1-10-57
(1)	Transit Visa.	...	...	K. 3.	K. 10.
(2)	Entry visa valid for three months stay from the date of entry into Burma.	...	...	K. 15.	K. 30.
(3)	Permit of extension of stay for a period not exceeding three months.	...	...	K. 15.	K. 30.
(4)	Permit for extension of stay for a period exceeding three months but not exceeding one year.	...	...	K. 50.	K. 100.
(5)	Re-entry visa good for single journey.	...	...	K. 50.	K. 100.
(6)	Multiple-journey re-entry visa valid for one year.	...	...	K. 100.	K. 200.
(7)	Special re-entry visa good for single journey within the validity of the stay permit.	...	...	K. 25.	K. 50.
(8)	Multiple-journey special re-entry visa good for the validity of the stay permit.	...	...	K. 50.	K. 100.
(9)	Multiple-journey entry visa valid for one year.	...	...	K. 50.	K. 100.

12. Any foreigner who has been brought into the Union of Burma and who is not entitled to enter the Union of Burma under the provisions of this Act or the rules made thereunder shall be detained by the carrier, who shall, if required at any time by any immigration official not below the rank of Assistant Immigration officer remove him from the Union of Burma. Such detention shall be deemed to be legal custody.

13. (1) Whoever enters or attempts to enter the Union of Burma or whoever after legal entry remains or attempts to remain in the Union of Burma in contravention of any of the provisions of this Act or the rules made thereunder or any of the conditions

set out in any permit or visa shall be punished with imprisonment for a term not exceeding two years, or with fine, or with both.

(2) Whoever being the carrier knowingly brings or attempts to bring into the Union of Burma any person not authorized to enter the Union of Burma shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding K. 200 for every such person brought or attempted to be brought into Burma or to both.

(3) The carrier who omits to make the return required of him under section 5 (1) of this Act or who makes a false return or who fails to carry out any duty laid upon him by this Act, shall be liable to imprisonment not exceeding three months or to a fine not exceeding K. 200, or to both.

(4) Any passenger refusing to give any information required by the carrier under section 5 of this Act, or who gives false information for the purpose, shall be liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding K. 200 or to both.

(5) Whoever assists or attempts to assist any person to enter the Union of Burma illegally or knowing that a foreigner is remaining in the Union of Burma in contravention of any of the provisions of this Act or the rules made thereunder wilfully assists or attempts to assist him to remain in the Union of Burma shall be punished with imprisonment for a term not exceeding two years, or with fine, or with both.

(6) Whoever wilfully suppresses information or gives false information to prevent the apprehension of any foreigner who has contravened any of the provisions of this Act or the rules made thereunder shall be liable on conviction to imprisonment for a term not exceeding six months or fine or to both.

(7) Whoever:—

(a) impersonates or falsely represents himself to be or not to be a person to whom an immigration permit has been issued, or

(b) makes any false statement with intent to obtain an immigration permit for himself or for any other person, or

(c) forges, alters or tampers with any immigration permit, or

(d) uses or has in his possession any forged immigration permit or any immigration permit which bears any illegal obliteration, tampering or alteration in respect of any material particulars,

shall be punished with imprisonment for a term not exceeding two years, or with fine, or with both.

This section has also been often amended. This section provides for offences and penalties. Contravention of any of the provisions of this Act or rules made under this Act is made punishable by this section. The offence are quoted as offences under this section read with the corresponding section or rules. However no other rules have yet been framed under this Act except the Burma Immigration (Detention) Rules 1951.

The judgment in the case of Abdul Hai Vs. The Union of Burma⁷ which is of importance in prosecutions under this section is reproduced below :—

Per U San Maung, J:— "This is an application in revision against the conviction and sentence passed by the learned 3rd Additional Magistrate, Rangoon in his Criminal Summary Trial No: 862 of 1955 in which the applicant was convicted by the learned Magistrate under section 13(7)(b) of the Burma Immigration (Emergency Provisions) Act, 1947. This trial, as it appears from the record, is full of unsatisfactory features both in regard to procedure and in the way it has been conducted by the learned Magistrate.

First of all, there is a complaint filed in this proceeding at page 2 and the complainant who filed this complaint is the Immigration Officer and according to him, as related in this complaint, the accused committed the offence alleged on or about the 11th December 1953 when he filed an application for issue of re-entry visa stating that he resided in Burma continuously during the period 1st January 1932 to 1st January 1942 without absence. However, it was alleged that the statement of the accused was

7. Abdul Hai: Vs. The Union of Burma: 1957 B. L. R. 118 H. C.

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false as he came to Burma for the first time in 1947. However, when we look at the record of the order of the learned Magistrate, the form used is Criminal Form No. 57 and the first entry relating to the date of commission of the offence alleged appears as 5th July 1955 which is clearly not the date of the alleged offence. Although this particular entry does not, to my mind, vitiate the whole trial there are other aspects which have to be considered.

The learned Advocate appearing for the applicant submitted in the first instance that the trial of this offence by way of a summary trial was not in accordance with law in view of the fact that the Burma Immigration (Emergency Provisions) Act was subsequently amended by Act No. XXVI of 1956 which came into force on the 28th September 1956 and by virtue of this amendment the punishment that could be awarded for an offence under section 13(7) (b) was a term of imprisonment not exceeding two years or with fine or with both; and it is therefore urged that a summary trial was not permissible and that the trial was vitiated. However, the learned Government Advocate contended that when the accused was sent up the original punishment that could be awarded was only one year and therefore, at the time the case was sent up this amendment had not been done and as the substantive law in respect of the offence committed was amended it could have no retrospective effect and the trial therefore was not bad in law. As far as that argument is concerned, I am in entire agreement with the learned Government Advocate and I am prepared to hold that the trial was not vitiated on that ground. However, there is the other aspect to be considered, namely, even assuming that the punishment was imprisonment for a term of one year, this was an appealable case and that therefore under section 264 (1) of the Code of Criminal Procedure, it is imperative on the Magistrate trying such a case summarily to record a judgment embodying the substance of the evidence and also the particulars mentioned in section 263. That aspect of the case seems to have been entirely ignored by the learned Magistrate and all that he has recorded in the order is that the accused pleaded guilty and that therefore he was convicted and sentenced to pay a fine of K 75 or in default to suffer two months' rigorous imprisonment. That to my mind is most unsatisfactory especially as the offence alleged is a serious offence under the immigration law and if an accused is convicted he might even be deported from this country. As the consequences which might follow from such a conviction are of a very serious nature even if the trial had been

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a summary one, the learned Magistrate should have called upon the accused to explain to him explicitly the particulars in regard to the offence with which he has been charged and if the accused comes to understand these particulars then, he might, be called upon to plead whether he is guilty or not. As these were not done in the first instance I am unable to accept this conviction as one being properly awarded under the provisions of the law. The conviction and sentence imposed upon the applicant are therefore set aside and the proceedings are remanded to the Court below to proceed with the trial not in a summary manner but by way of a regular trial and to come to a finding on the merits after he has heard the evidence. The fine, if realized, should be refunded to the applicant."

13A. If any question arises with reference to this Act or rules made thereunder whether a foreigner enters or remains in the Union of Burma legally, the onus of proving that he enters or remains in the Union of Burma legally shall notwithstanding anything contained in the Evidence Act, be upon such foreigner.

13B. If any question arises with reference to this Act or rules made thereunder whether a person is or is not a foreigner, or is or is not a foreigner of a particular class, the onus of proving that such a person is not a foreigner or is not a foreigner of such particular class, as the case may be, shall notwithstanding anything contained in the Evidence Act, be upon such person.

Sections 13A and 13B place the burden of proof on the accused. Similar provisions are contained in section 2 of the Foreigners Act and section 4 of the Foreigners Registration Act.

14. (1) No magistrate other than a first class magistrate or a subdivisional magistrate shall try cases under this Act.

(2) The magistrate trying the case may direct any portion of the fine levied under section 13 to be paid to any person who has contributed in any way to the arrest and conviction.

A case under this Act can be tried only by a Magistrate of the first class or a Subdivisional Magistrate. A second class or third class Magistrate is not competent to try cases under this Act unless he happens to be a Subdivisional Magistrate. Sub-section (2) above makes provision for rewards under the Act to any person who has contributed in any way to the arrest and conviction. Rewards are given out of the fines imposed on conviction.

15. (1) Every order of deportation, made under this Act shall remain in force until it is revoked by the President of the Union or by such authority as the President of the Union may appoint in that behalf.

Duration of order of removal or deportation and punishment for breach of order.

(2) If any foreigner against whom an order of deportation has been issued fails to comply with the order in any respect, or having left the Union of Burma re-enters the Union of Burma without the permission in writing of the President of the Union or of such authority as the President of the Union may appoint in that behalf while the order is in force, he shall be liable to imprisonment for a term which may extend to two years or fine or to both and shall, in addition to such penalty, be liable to be deported again from the Union of Burma in pursuance of the order.

(3) When security has been taken in pursuance of any of the provisions of this Act or rules made thereunder the bond shall be deemed to be a bond taken under the Criminal Procedure Code by the District Magistrate having jurisdiction in the area in respect of which the said security has been taken and the provisions of section 514 of the said Code shall apply accordingly.

16. (1) The President may make rules to carry out the purpose of this Act.

Rule-making power.

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

- (a) the authorities by whom passports may be visaed on behalf of the President under section 3;
- (b) the conditions to which immigration permits and passport visas shall be subject;
- (c) the particulars required in respect of passengers and crew under section 5;
- (d) fees under section 11;
- (e) the condition under which and the authority by whom bail may be granted;

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- (f) persons who shall be permitted to practice as writers of applications for immigration permits or passport visas and regulating the conduct of business of persons so practising; and
- (g) such after matters as may be deemed necessary for the purpose of giving effect to the provisions of the Act.

(3) The President of the Union may direct that a breach of any rule made under sub-section (1) and (2) shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to K. 200, or with both.

THE BURMA IMMIGRATION (DETENTION) RULES 1951.

(As published in the Burma Gazette 1952 Part 1 page 450)

1. These rules may be called the Burma Immigration (Detention) Rules, 1951.

2. (1) Any foreigner who is liable to be deported under section 7(1) of the Burma Immigration (Emergency Provisions) Act, 1947 (hereinafter referred to as the said Act) may be detained in police station, police lock-up, police outpost, sub-jail, jail or jail annex by an order in writing of any Resident or any immigration official not below the rank of inspector of immigration, pending the receipt of orders of the President or of such authority as may be appointed by him in that behalf for the foreigner, or for the removal of such foreigner out of the Union of Burma in compliance with the order of deportation.

(2) Such order for detention of such foreigner under section 7 of the said Act may be issued from time to time for any period not exceeding 15 days at a time.

In connection with this rule please see the case of Hasan Ali referred to at Page 78 of this book.

3. (1) The Deputy Commissioner or the Resident or the immigration official who authorized the detention of such foreigner by order in writing, may release such foreigner on bail on execution of a bond by such foreigner with one or more sureties approved by the Deputy Commissioner or the Resident or the immigration official, as the case may be, for appearance before any of the said officials as may be directed by him.

(2) If, through mistake, fraud or otherwise, insufficient security has been accepted, or if the security afterwards shall become insufficient, the Deputy Commissioner or the Resident or the immigration official who has granted bail, may re-arrest such foreigner and order him to furnish sufficient security, and, on his failing to do so shall detain him under section 7 of the said Act in accordance with the provisions of Rule 2 of these rules.

**THE TRANSFER OF IMMOVEABLE PROPERTY
(RESTRICTION) ACT, 1947.**

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THE TRANSFER OF IMMOVEABLE PROPERTY (RESTRICTION) ACT, 1947.

(Burma Act No. LXXXVI OF 1947) (30th December 1947).
(As amended by Act No. XXXIV of 1949 and Act No. XVII of 1952).

1. This Act may be cited as the Transfer of Immoveable
Short title. Property (Restriction) Act, 1947.

2. In this Act, unless there is something repugnant in the
Definitions. subject or context:—

- (a) "Foreigner" means any person who is not a citizen of the Union and includes any company or association or body of individuals whether incorporated in the Union of Burma or not, whose central management and control are not vested in the hands of the citizens of the Union or whose major interests or shares are not held by the citizens of the Union;
- (b) "Immoveable property" shall have the meaning assigned to it in the Registration Act;
- (c) "Lease", "sale" "gift" and "mortgage" shall have the meanings assigned to them in the Transfer of Property Act.

This Act was amended and modified by the following Acts :—

- 1. The Union of Burma (Adaptation of Laws) Order 1948.
- 2. Act No. XXXIV of 1949.
- 3. Act No. XVII of 1952.

Definition of foreigner under the original Act was :—

"Foreigner" means any person who is not a British subject domiciled in Burma, the United Kingdom, India or Pakistan or is not a subject of an Indian State.

By the Union of Burma (Adaptation of Laws) Order 1948 the definition was altered to :—

"Foreigner" means any person who is not a citizen of the Union.

The present definition was substituted by Act No. XVII of 1952.

SCOPE :— The purpose of this Act is to prevent any immoveable property being transferred to a foreigner. The restriction in this Act, as its name signifies, is for transfer of any immoveable property to a foreigner. The Act does not say that a foreigner may not acquire or own any immoveable property. It will be seen from the notes under section 3 of this Act that the Act does not restrict devolution of immoveable property by inheritance or succession.

FOREIGNER :— A foreigner has been defined under the Foreigners Act as a person who is not a citizen of the Union. This is a negative definition. As to who is a citizen see section 11 (i), (ii) and (iii) of the Constitution and sections 4, 5, 9 and 11 (4) of the Union Citizenship Act 1948. The definition of foreigner in the case of a person under the present Act is therefore the same as under the Foreigners Act. But in the case of a company or association or body of individuals a distinction has been made. Any company or association or body of individuals whether incorporated in the Union of Burma or not, whose central management and control are not vested in the hands of the citizens of the Union or whose major interests or shares are not held by the citizens of the Union has also been described as a foreigner. The effect of this definition for such an organisation is that (i) if its central management and control is vested in the hands of the citizens of the Union, and (ii) if its major interests or shares are held by the citizens of the Union, such a company, association or body will not be a foreigner within the meaning of this Act and a transfer of immoveable property in its favour is not restricted.

It will be noticed that the expression 'company or association or body of individuals' would include a partnership and a religious and charitable society. But this expression has been qualified by the phrase 'whether incorporated in the Union of Burma or not'. The word incorporated is in legal terminology usually used for a joint stock company or a limited liability company. If the reference in the definition is to joint stock companies, there was no necessity to use the expression 'company or association or body of individuals'. Instead the words 'joint stock company' or 'limited liability company' could have been used.

So the following questions arise out of the definition: Whether a partnership firm can be such a company or association or body of individuals? If so, it will follow that the foreigner partners will

become owners of the immoveable property transferred in favour of the firm. The next question that arises is whether the foreigner partners can retain the immoveable property as theirs at the time of the dissolution of the firm and whether it will make any difference to the ownership of the property if the shares of the partners in the original firm are altered after the transfer of the property? Also whether a religious or charitable society registered under the Societies Registration Act can be such an association or body of individuals? and if so, whether on the resignation of the citizen members of the society the non-citizen members can be owners of the property?

A person who has applied for but has not yet received the certificate of citizenship is a foreigner.

If the application is under the Union Citizenship (Election) Act, 1948, he becomes a citizen only when he has been granted a certificate under section 8 (3) of the said Act and the certificate has become effective under section 8(4) of the said Act. If he has applied under the Union Citizenship Act, 1948, he becomes a citizen only on the grant of the certificate and his making a declaration of alienage in respect of any other citizenship and of allegiance to the Union, as laid down in section 7(4) or 12(4) of the said Act.

It was held in *Ko Mya Din and another Vs. Ko Bin Nga*¹ that mere filing of an application under Union Citizenship (Election) Act for citizenship and an enquiry held are not sufficient to make a person a citizen. A person attains the status of a citizen only when he obtains the certificate of citizenship after renouncing any other nationality or status as a citizen of any foreign country.

But when a person applies for and obtains a certificate of citizenship under section 6 of the Union Citizenship Act and the certificate of citizenship specifically mentions that he is a citizen with effect from 4th January 1948, the grant of the certificate will have retrospective effect. It was held in the case of *Maung Tin and one Vs. U Po Nyan and one*² that where the plaintiffs purchased immoveable property on the 23rd March 1949, before they obtained a certificate of citizenship under section 6 of the Union Citizenship Act, 1948, but obtained such certificates during the pendency of the suit which mentioned that they were citizens of the Union from 4th January 1948, the subsequent grant of certificate would have

1. 1951 B. L. R. 240 H. C.

2. 1951 B. L. R. 197 H. C.

retrospective effect and would validate the sale on the 23rd March 1949. In this case the land was purchased in the names of Mg Tin and his wife Ma Kyin Sein who were Sino-Burmese and were therefore citizens under section 11 (ii) of the Constitution. The sale in their favour was held to be validated retrospectively because they were citizens since the date of the commencement of the Constitution i. e. 4th January 1948 and it is not that they acquired citizenship subsequently.

In the case of *Ko Aung Vs. Abdul Lattiff*, it was held that a sale to a foreigner of immoveable property at a time when section 5 of the Transfer of Immoveable Property (Restriction) Act 1947, was in force was void ab initio, and that a transfer of immoveable property obtained by a foreigner who had applied for citizenship, but before the certificate was obtained was void under section 3 and 5 of the Transfer of Immoveable Property (Restriction) Act 1947. The Transfer of Immoveable Property (Restriction) (Amendment) Act 1952, cannot have retrospective effect on the sale which was made when the Transfer of Immoveable Property (Restriction) Act 1947 was in force.

3. Notwithstanding anything contained in any other law for the time being in force, no person shall transfer any immoveable property by way of sale, gift, mortgage, or otherwise, or grant a lease for a term exceeding one year of any immoveable property, in favour of a foreigner or any person on his behalf, and no foreigner shall acquire any immoveable property by way of purchase, gift, mortgage, or otherwise or accept any lease of immoveable property for a term exceeding one year;

Provided that this section shall not apply to any transfer or lease of immoveable property to a foreign Government for the use of its diplomatic mission accredited to the President of the Union of Burma, if the Minister for Foreign Affairs certifies that such transfer or lease shall be exempted from the provisions of this Act:

Provided further that any transaction, whereby an estate consisting of immoveable property held jointly either by co-owners or co-heirs is divided and each one or more of such

co-owners or co-heirs is or are allotted his or their shares to be held thereafter in severalty or where immoveable property devolves on the holder to his heir or heirs shall not be deemed to be a transfer of immoveable property for the purposes of this Act.

Originally this section read as follows :—

"3. Notwithstanding anything contained in any other law for the time being in force, no transfer of any immoveable property for any term exceeding one year shall be made by any person in favour of a foreigner or any person on his behalf, by way of sale, gift, mortgage, or otherwise ; provided that this section shall not apply to any transfer or lease of immoveable property to foreign Government for the purpose of residential or office accommodation for diplomatic missions accredited to the Government of Burma where such transfer or lease is certified by the Minister of Foreign Affairs as being for the said purpose."

The Second proviso was inserted by Act No. XXXIV of 1949. The present section was substituted by Act No. XVII of 1952.

SCOPE :— This section restricts transfer of any immoveable property by any person to a foreigner. Since the promulgation of this Act no person shall transfer immoveable property to a foreigner except with the permission of the President of the Union under section 4 of the Act. As to what happens in case of such transfer to a foreigner without the permission of the President, see sections 5 and 6 of the Act.

This section does not forbid a foreigner from holding immoveable property which he already owned before the promulgation of this Act. Nor does it restrict inheritance of immoveable property by a foreigner. A foreigner heir of a citizen can inherit the estate of a citizen on his death. A foreigner may acquire immoveable property otherwise than by transfer. He may acquire it by adverse possession or by easement. Also under the second proviso if A and B are owners of an estate either as co-owners or as co-heirs and they agree to divide the estate and A and B are allotted shares or certain properties in the estate, though they or any of them may be foreigners, the transfer in their favour will not be a transfer for the purpose of this Act and will therefore be a valid transfer not restricted by this Act.

A mortgage deed contained a personal covenant to repay the loan, and an offer of immoveable property as security for the loan. The respondent, a foreigner waived the security given and claimed the repayment of the loan by enforcement of appellant's personal covenant. The appellant contended that the mortgage deed contained two indivisible covenants and the transaction was void from its inception under section 3 of the Transfer of Immoveable Property (Restriction) Act, 1947. Held that if one part of the contract is found to be legal and the other illegal, the legal part can be enforced. A personal decree was accordingly passed.⁴

In the case of *Ko Aung Vs Abdul Latiff*⁵ it was held that a sale to a foreigner of immoveable property at a time when section 5 of the Transfer of Immoveable Property (Restriction) Act 1947, was in force was void ab initio, and that a transfer of immoveable property obtained by a foreigner who had applied for citizenship, but before the certificate was obtained was void under sections 3 and 5 of the Transfer of Immoveable Property (Restriction) Act 1947. The Transfer of Immoveable Property (Restriction) (Amendment) Act 1952, cannot have retrospective effect on the sale which was done when the Transfer of Immoveable Property (Restriction) Act 1947 was in force.

TRANSFER:— The word transfer has not been defined in this Act. Section 5 of the Transfer of Property Act defines transfer of property thus: "In the following sections transfer of property means an act by which a living person conveys property in present or in future to one or more other living persons or to himself or to himself and one or more other living persons and to transfer property is to perform such act". Thus the term 'transfer' is used in law in the most generic signification comprehending all the species of contract which pass real rights in property. The term 'transfer' does not necessarily import conveyance of all the transferor's interest in the property. Thus a mortgage or a lease is a transfer. A family arrangement or compromise by which the antecedent right of the parties are acknowledged and denied, is not a transfer of property, as it does not convey any new distinct title to either of the parties. A partition between co-owners is not a transfer. A relinquishment is sometimes held to be a transfer and sometimes it is held not to amount to a transfer.

4 *S. Sabir Hussain Vs. R. M. L. Ramanathan Chettiar*: 1955 B. L. R. 211 H. C. and 1957 B. L. R. 172 H. C.

5. 1958 B. L. R. 216 H. C.

The creation of an easement or acquiring immoveable property by adverse possession are not transfers of property and are outside the scope of the Act.

One U Saw and Daw Gun Nu⁶ filed a suit against Loke Mani for possession of a piece of land which they had purchased from Ellerman's Arracan and Rice Trading Co. Ltd., in the Township Court of Bassein West. The defendant Loke Mani pleaded in his defence that he had been staying on the land for over 24 years and set up the plea that the suit was barred by limitation. The plea of adverse possession was accepted by both the Township Court and the District Court. In the High Court it was contended for the plaintiff-appellants that the defendant-respondent Loke Mani being a foreigner was incapable of possessing any land and to allow him to do so would be contravening the provisions of this Act. The High Court held that no transfer of land was ever made to the defendant-respondent and that he had simply been in continuous possession of the land for 24 years and that he had therefore become an owner by adverse possession. The High Court also held that in enacting the Transfer of Immoveable Property (Restriction) Act the legislature could not have intended to deprive foreigners of immoveable property which they had acquired otherwise than by way of transfer. The appeal was accordingly dismissed.

A Court sale must be considered to be a sale by the Bailiff. Such a sale also comes within the mischief of section 3 of this Act.⁷ This was also followed in subsequent cases.⁸

The Act prohibits transfer by way of sale, gift, mortgage or otherwise. The expression 'or otherwise' includes 'exchange'. But whether it will include a will which is a testamentary disposition of property is not very clear as the word transfer implies a contract and there is no contract in case of a will. If a foreigner has 4 heirs who are all foreigners and he makes a will bequeathing all his properties to one of them will such a disposition be prohibited? Will it make any difference if two of the heirs are foreigners and the other two citizens? Will it make any difference if he bequeathed the property to a foreigner non-heir instead of his aforesaid heirs?

6. U Saw and one Vs. Loke Mani: 1949 B. L. R. 221 H. C.

7. Chan Eu Ghai Vs. Lin Hock Seng 1949 B L R. 24 H. C.

8. P. R. P. L. Ramaswamy Chettiar and others Vs. Ma Aye and another: 1951 B. L. R. 320 H. C., and S. R. M. C. T. Annamalai Chettuar Vs. Gor Kyin Sein and others: 1953 B. L. R. 95 S. C.

IMMOVEABLE PROPERTY:— Under the Act immoveable property has been assigned the same meaning as under the Registration Act, the definition wherein is more comprehensive than the definition under other Acts.

Section 2 (6) of the Registration Act defines immoveable property thus:—

'Immoveable property includes land, buildings, hereditary allowances, rights to ways, lights, fisheries, ferries or any other benefit to arise out of land, and things attached to the earth, or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops or grass'.

Immoveable property as defined in Section 3 of the General Clauses Act includes "land, benefits to arise out of land and things attached to the earth, or permanently fastened to anything attached to the earth."

The meaning of the words "things attached to the earth" is given in Section 3 of the Transfer of Property Act as:—

- (a) rooted in the earth as in the case of trees and shrubs ;
- (b) imbedded in the earth as in the case of walls or buildings ; or
- (c) attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached.

Thus it will be noticed that hereditary allowances, rights to ways, lights, fisheries, ferries and all other benefits arising out of land and things attached to the earth or permanently fastened to anything which is attached to the earth except standing timber growing crops or grass are immoveable property.

A petrol pump is a mere mechanical device set up on the road-side pavement for the purposes of retailing petrol under a license, and is therefore not immoveable property.⁹ A hut is immoveable property.¹⁰ Doors and window shutters of a pucca building form part of the immoveable property and have no separate existence.¹¹

9. Kapurchand (Burma) Ltd. Vs. The Burmese National Reforming Co and others: 1955 B. L. R. 278 H. C.

10. Maung Mya Maung Vs. Khin Khin Aye: Civil Second Appeal No. 18 of 1954. High Court Rangoon.

11. Transfer of Property Act, by B. B. Mitra (9th Edition). Page 86.

WHO MAY NOT TRANSFER :— The expression used in this Act is 'no person shall transfer'. The word person is not defined in this Act. The definition of person as given in section 2(44) of the General Clauses Act reads: 'person' shall include any company or association or body of individuals whether incorporated or not. Bindra on Interpretation of Statutes at page 717 says that 'person' does not include 'the State.' Person has also been defined in law as any body capable of acquiring rights, a human being, a corporation or other legal person, also called fictitious person. It may comprise a number of individuals such as a Hindu joint family.¹²

One Noor Mohamed filed a suit for recovery of possession of a piece of leasehold land situate in Meiktila Town, relying on the lease which was issued to him. The defendant-appellant contended before the High Court that the lease granted to the plaintiff-respondent Noor Mohamed was contrary to section 3 of the Transfer of Immoveable Property (Restriction) Act as the respondent had not yet obtained a certificate of citizenship. His Lordship Justice U Aung Khine, held: "I do not think there is any merit in this stand taken. The Government has every right to make a lease of the state land to any body. As long as the lease stands in the name of the respondent, he has a better claim for it than the appellant Sein Chun."¹³

Thus it cannot be said that this section restricts the transfer of immoveable property by the Government to a foreigner. Moreover a lease of leasehold land is usually made by the Government or by the Collector on behalf of the President. The President also cannot be said to be included in the word 'person' used in this section because the President is the authority to grant exemption and if the lease is issued by the President the exemption must be deemed to have been granted. But long term leases are not issued to foreigners now-a-days. They are issued only a year's lease or license, which is in consonance with the spirit of this Act and the Government has issued directions not to issue leases of state lands to foreigners for more than a year.

12. Manual of Law Terms: Aiyer, page 320.

13. Sein Chun and others Vs. Noor Mohamed: Civil Second Appeal No. 35 of 1953 of High Court.

A grant of lease¹⁴ or licanse¹⁵ by the Government is an administrative act.

The definitions of "lease", "sale", "gift" and "mortgage" are given in the Transfer of Property Act as follows:—

LEASE:— A "lease" of immoveable property is a transfer of a right to enjoy such property, made for a certain time, express or implied, or in perpetuity in consideration of a price paid or promised, or of money, a share of crops, service or any other things of value to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms.

The transferor is called the lessor, the transferee is called the lessee, the price is called the premium, and the money, share, service or other things to be so rendered is called the rent.

SALE:— "Sale" is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised. Such transfer, in the case of tangible immoveable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument.

In the case of tangible immoveable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property.

Delivery of tangible immoveable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.

A contract for the sale of immoveable property is a contract that a sale of such property shall take place on terms settled between the parties.

It does not, of itself, create any interest in or charge on such property.

GIFT:— "Gift" is the transfer of certain existing moveable or immoveable property, made voluntarily and without consideration, by one person, called the Donor, to another, called the Donee, and accepted by or of behalf of the Donee.

14 1952 B. L. R. 214 S. C.

15. 1952 B. L. R. 80 S. C.

Such acceptance must be made during the life time of the Donor and while he is still capable of giving.

If the Donee dies before acceptance, the gift is void.

MORTGAGE:— A mortgage is the transfer of an interest in specific immoveable property for the purpose of securing the payment of money advanced or to be advanced by way of loan, an existing or future debt, or the performance of an engagement which may give rise to a pecuniary liability.

The transferor is called a mortgagor, the transferee a mortgagee; the principal money and interest of which payment is secured for the time being are called the mortgage-money, and the instrument (if any) by which the transfer is effected is called a mortgage-deed.

4. Notwithstanding the provisions of section 3, the President may exempt from the operation of this Act, the transfer of any immoveable property or of a lease of immoveable property for a term exceeding one year.

Power of
exemption.

A foreigner desiring to purchase immoveable property or to take a lease for a term exceeding one year may apply for permission to the President and if permission is granted a transfer in his favour can be validly made.

The powers of the President under this Act can be exercised by the Ministry of Foreign Affairs. Section 13 of Burma General Clauses Act reads:—

"Where, by an Act of the President or any existing law as defined in section 222 of the Constitution, any power is conferred, or any duty imposed, on the President of the Union, then that power shall be exercisable, or that duty shall be performable, in his name by the Government."

Article 121 (1) and (2) of the Constitution reads:—

(1) All executive action of the Union Government shall be expressed to be taken in the name of the President.

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President and the

validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

Order No. 1 of 1948 as amended by Order No. 1 of 1949 under section 13 of the Burma General Clauses Act provides for authentication of orders and other instruments made in the name of the President, by the signature of the Chief-Secretary, Secretary, Additional Secretary, Deputy Secretary, Under Secretary or Assistant Secretary to the Union Government in the Ministry concerned.¹⁶

5, (1) Whoever contravenes the provisions of section 3 shall be punishable:—
Penalty for illegal transaction.

(a) in the case of a lease, with a fine not exceeding twice the rent agreed upon for the entire period of the lease;

(b) in the case of any other transfer, with a fine not exceeding twice the market value of such property.

(2) In addition to the penalty imposed under sub-section (1) the immoveable property or any portion thereof in respect of which the transfer or lease is made contrary to the provisions of section 3 shall be liable to confiscation in the manner provided in section 6.

Originally this section read as follows:—

"5. All transfers of immoveable property and of leases of immoveable property contrary to the provisions of this Act shall be void, and the Government may, by order in writing declare such property or any portion thereof to be forfeited to the State:

Provided that the Government may, as an alternative to forfeiture, impose on all or any of the parties to such transaction penalties which in the aggregate shall not exceed the value of the property."

16. Pazundaung Rice Mill Vs. R. R. Khan Rice Mill and Trading Co. Ltd
 1953 B. L. R. 124 S. C.

The present section was substituted by Act No. XVII of 1952, promulgated on 27th September 1952.

Under the original section it was held that a transfer in favour of a foreigner is void *ab initio*. See P. R. P. L. Ramaswamy Chettiar and others Vs. Ma Aye and one¹⁷, Ko Mya Din and another Vs. Ko Bin Nga¹⁸, and SR. M. C. CT. Annamalai Chettiar Vs. Gor Kyin Sein and others.¹⁹ Also in the case of Abdul Latiff Vs. Ko Aung²⁰ it was held that a sale made on 22nd June 1949 was void *ab initio* and the provisions of the amended section did not apply to it.

The effect of the amendment is that the transfer in favour of a foreigner is not void *ab initio* now.

It was held in Hakim M. A. Rahim Vs. Subdivisional Judge, Syriam and others²⁰ that under the Act, as amended by Act No. XVII of 1952, a sale to a foreigner without the necessary permission renders the parties liable to prosecution with the sanction of the President; and only upon conviction being entered, the President may declare, if he should think fit, the transaction to be void. Thus a sale to a foreigner does not appear to be *ab initio* void. A registered sale deed is evidence of change of ownership and a foreigner transferee may ask for permission to file a suit to eject his tenant so long as the deed of transfer is not declared void.

It follows also that a Sub-Registrar of deeds cannot refuse to register a deed of transfer in favour of a foreigner under this Act. His duty is to register the same if the deed is otherwise in accordance with the provisions of the Registration and Stamp Acts.

Where a person took a loan from a foreigner and mortgaged his properties and there was a covenant to pay the debt, the foreigner may file a suit to recover the amount due to him without asking for a mortgage decree. This is based on the principle in section 24 of the Contract Act that where the illegal part of the covenant cannot be separated from the legal, the contract is altogether void but on the other hand where they can be separated the illegal part may be rejected while retaining the good.²¹

17. 1951 B. L. R. 320 H. C.

18. 1952 B. L. R. 240 H. C. and 1953 B. L. R. 95 S. C.

19. 1959 B. L. R. 1 H. C.

20. 1954 B. L. R. 1 S. C.

21. S. Sabir Hussain Vs. R. M. L. Ramanathan Chettiar: 1955 B. L. R. 211 H. C. and 1957 B. L. R. 172 H. C.

One U Khin Maung was said to have sold a house and site to Tan Yee Chai, who was not a citizen of the Union of Burma, for K.750 on April 21, 1953. The Town Committee had warned him that he could not sell the property to a foreigner but in spite of the warning the sale was concluded. The DIG Shan State then prosecuted both U Khin Maung and Tan Yee Chai in the Court of the District Magistrate, Loilem, under section 5 of the Transfer of Immoveable Property (Restriction) Act, 1947, after having obtained the sanction of the President. The District Magistrate fined both the buyer and the seller K. 7,750 each or one year's imprisonment in default and also informed them that the orders of Government would be taken whether the property in question should not be confiscated. The High Court pointed out that under section 4 of the Shan States Registration Act, sale of immoveable property valued at K.100 or over must be registered and that under section 6 of the Act unless there was such registration the ownership would not be considered to have passed. As in the present case there had as yet been no registered deed executed, it was held that the accused had not committed an offence under section 5 of the Transfer of Immoveable Property (Restriction) Act. There had in law been no sale. Both the accused were therefore acquitted.²²

6. Upon conviction in a prosecution under sub-section (1) Property liable of section 5, the President :—
to confiscation.

(i) may by an order in writing declare that the transfer or lease of the immoveable property or any portion thereof contrary to the provisions of section 3 shall be void ;

(ii) may, in addition to the declaration under clause (1), order in writing that the immoveable property or any portion thereof in respect of which a transfer or lease is made contrary to the provisions of section 3 shall be confiscated and upon such declaration being made the immoveable property or any portion thereof which forms the subject matter of the said transfer or lease shall vest in the state.

This section was substituted by Act No. XVII of 1952.

The effect of this section is that the transfer is not void ab initio as held in *Hakim M. A. Rahim Vs The Subdivisional Judge Syriam and others.*²³ See notes under section 5 above.

22. *U Khin Maung and one Vs. The Union of Burma*; High Court Criminal Appeal No 604 of 1954 1951 B. L. R. 1 S. C.

23. 1954 B. L. R. 1 S. C.

7. No Court shall take cognizance of an offence under sub-section (1) of section 5 except upon complaint in writing made by, or with the sanction of the President, and no Court inferior to that of a Sessions Judge or of a Magistrate of the first class specially empowered under section 30 of Criminal Procedure Code shall try such offence.

This section was substituted by Act No. XVII of 1952.

Sanction of the President is necessary before making a complaint under this section.

8. (1) The President may, by notification, make rules for the purpose of carrying out the provisions of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power such rules may prescribe:—

- (a) the authority by whom possession is to be taken on behalf of the State of the immoveable property ordered to be confiscated under section 6;
- (b) the procedure for taking possession of such immoveable property;
- (c) for such other matters as are incidental to the effective taking possession of such immoveable property.

This section was substituted by Act No. XVII of 1952.

The Rules made under the Act appear in the Burma Gazette 1956 Part I page 1511 and they are reproduced hereunder.

**The Transfer of Immoveable Property
(Restriction) Rules 1956.**

1. These rules may be called as the Transfer of Immoveable Property (Restriction) Rules, 1956.

2. In these rules unless there is anything repugnant in the subject or context—

(a) “Act” means the Transfer of Immoveable Property (Restriction) Act, 1947.

(b) “Collector” means the Collector of the District in which an immoveable property or any portion thereof in respect of which a transfer is made contrary to the provisions of section 3 of the Act, is situate and includes an officer authorised by him in this behalf.

3. (1) When the Collector has reason to believe that any person has made a transfer of any immoveable property or any portion thereof in contravention of section 3 of the Act, he shall, if satisfied after holding such enquiry into the matter as the circumstances of the case permit, that there has been a contravention of section 3 of the Act, submit the records of the proceedings to the President for necessary section required under section 7 of the Act.

(2) Upon conviction in a prosecution under sub-section (1) of section 5 of the Act, the Collector shall in due course submit to the President a copy of the judgment in the case.

4. On receipt of an order made by the President under section 6, the Collector shall, in cases where the transfer or lease of the immoveable property has been registered, direct the Registrar or Sub-Registrar to cancel forthwith theregistration and notify the cancellation to the parties concerned.

5. (1) On receipt of an order made by the President under section 6, the Collector shall proceed to take possession of the immoveable property or any portion thereof ordered to be confiscated under section 6 of the Act, on behalf of the State.

(2) The Collector may by order in writing direct any person who is in possession of such immoveable property to surrender possession of it, within twenty-one days of the service of the order on him to such officer as may be specified in the order.

(3) If any person refuses or fails to comply with an order made under sub-rule (2), the Collector may evict that person from, and take possession of, such immoveable property and for the purpose use such force as may be necessary.

(4) The Collector may take such measures as he considers necessary or expedient for the purposes of securing, administering, preserving and improving such immoveable property and of collecting the rents and profits thereof.

6. Any immoveable property or any portion thereof which comes into the possession of the Collector under Rule 5 shall be disposed of with the previous sanction of the President. Such disposal may be by way of sale, auction, or otherwise as the President may direct.

THE UNION CITIZENSHIP ACT, 1948.

၁၉၄၈ ခုနှစ်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံသားဖြစ်မှု အက်ဥပဒေ။

(Act No. LXVI of 1948.)

As amended up to 1st December 1960.

1. (1) This Act may be called the Union Citizenship Act, 1948.

(2) It shall extend to the whole of the Union of Burma and shall be deemed to have come into force on the 4th day of January, 1948, 9th Waning, Pyatho, 1390 B. E.

၁။ (၁) ဤအက်ဥပဒေကို ပြည်ထောင်စုမြန်မာနိုင်ငံသားဖြစ်မှု အက်ဥပဒေဟုခေါ်ရမည်။

(၂) ဤအက်ဥပဒေသည်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံတော် တဝှမ်းလုံးနှင့် သက်ဆိုင်ရမည်။ ဤအက်ဥပဒေသည်၊ ၁၉၄၈ ခုနှစ်၊ ဇန်နဝါရီလ (၄) ရက်နေ့ (၁၃၀၉ ခုနှစ်၊ ပြာသိုလ်ပြည့်ကျော် ၉ ရက်နေ့) မှစ၍။ အာဏာတည်သည်ဟုမှတ်ယူရမည်။

Burma including the Forntier Areas and the Karenni States became a Sovereign Independent Republic on 4th January 1948 and under the Constitution it is called "the Union of Burma." The Union of Burma comprises the whole of Burma, including (i) all the territories that were governed by His Britannic Majesty through the Governor of Burma under the Government of India Act 1935 and (ii) the Karenni States.

This Act was signed by the President on 8th November 1948 and it appeared in the Burma Gazette on 20th November 1948, but it has retrospective effect from the 4th day of January 1948, as stated in sub-section (2) above.

The following amendments were made to the original Act:—

- (1) Act XLIII of 1949.
- (2) Act XXIII of 1954.
- (3) Act XVI of 1957.
- (4) Act X of 1958.

As to what is citizenship and who is a citizen see notes under section 4 of this Act.

2. In this Act, unless the context otherwise requires, the expression :—

“Certificate of Citizenship” means a certificate granted under the Union Citizenship (Election) Act, 1948 or under this Act.

“Certificate of Naturalization” means a certificate of naturalization granted under this Act.

“Child” includes a legally adopted child.

“Constitution” means the Constitution of the Union of Burma.

“Consulate of the Union” includes any officer appointed by the President for the purposes of registration under this Act.

“Disability” means the status of being a minor, lunatic or idiot.

“Father” means the father of a child who is legitimate.

“Minister” means a member of the Union Government nominated for the purposes of this Act by the President.

“Parent” shall in any provisions relating to minor children include an adoptive parent and the mother of an illegitimate child, provided that the adoptive parent of the mother has the lawful custody of such child or children.

“Union” means the Union of Burma.

၂။ ။ ရှေးနောက်စကားတို့၏အဓိပ္ပါယ်ကို ထောက်ထားရန် မလိုလျှင်၊ ဤအက်ဥပဒေ၌ပါရှိသည့်—

“နိုင်ငံသားလက်မှတ်” ဆိုသည်မှာ၊ ၁၉၄၈ ခုနှစ်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံသားအဖြစ်ရွေးချယ်ရေး အက်ဥပဒေအရ၊ သို့တည်းမဟုတ်ဤအက်ဥပဒေအရပေးအပ်သောလက်မှတ်ကိုဆိုလိုသည်။

“နိုင်ငံသားပြုမှုလက်မှတ်” ဆိုသည်မှာ ဤအက်ဥပဒေအရ၊ ပေးအပ်သည့် နိုင်ငံသားပြုမှု အခွင့်အရပေးသော လက်မှတ်ကိုဆိုလိုသည်။

“သားသမီး” ဆိုသောစကား၌ တရားဥပဒေအရ၊ မွေးစားသော သားသမီးလည်းပါဝင်သည်။

“အခြေခံဥပဒေ” ဆိုသည်မှာ ပြည်ထောင်စုမြန်မာနိုင်ငံ၏ ဖွဲ့စည်းအုပ်ချုပ်ပုံ အခြေခံဥပဒေကိုဆိုလိုသည်။

“ပြည်ထောင်စုနိုင်ငံ၏ ကောင်စစ်ဝန်ရုံး” ဆိုသောစကား၌ ဤအက်ဥပဒေအရ၊ မှတ်ပုံတင်ရန် နိုင်ငံတော် သမ္မတက ခန့်ထားသော ရုံးလည်းပါဝင်သည်။

“အရည်အချင်းချို့ ဇဲ့သူ” ဆိုသည်မှာ အရွယ်မရောက်သေးသူ၊ သို့တည်းမဟုတ် သူရူး၊ သို့တည်းမဟုတ် ဝမ်းတွင်းရူးကိုဆိုလိုသည်။

“အဘ” ဆိုသည်မှာတရားဥပဒေအရ၊ တရားဝင်သော ကလေး၏ အဘ ကိုဆိုလိုသည်။

“ဝန်ကြီး” ဆိုသည်မှာ၊ နိုင်ငံတော်သမ္မတက ဤအက်ဥပဒေ အလိုငှါ တာဝန်လွှဲအပ်သော ပြည်ထောင်စုအစိုးရအဖွဲ့ဝင် ဝန်ကြီးကို ဆိုလိုသည်။

“မိဘ” ဆိုသောစကား၌၊ အရွယ်မရောက်သေးသော ကလေးနှင့် စပ်လျဉ်းသည့်ပြဋ္ဌာန်းချက်တွင် ထိုကလေးကိုမွေးစားသော မိဘ တပါးပါးနှင့် တရားမဝင်သော ကလေး၏ အမိလည်းပါဝင်သည်။ သို့ရာတွင် ထိုမွေးစားသော မိဘတပါးပါးသည်၊ သို့တည်းမဟုတ် ထိုအမိသည်၊ ထိုကလေးကို တရာ ဥပဒေအရ အုပ်ထိန်းနေသူဖြစ်ရမည်။

“ပြည်ထောင်စု” ဆိုသည်မှာ၊ ပြည်ထောင်စုမြန်မာနိုင်ငံကိုဆိုလိုသည်။

The word 'citizen' has not been defined in this section. Sections 10 and 11 of the Constitution read with section 4 of this Act attempt to define as to who are citizens of the Union of Burma, but to know who are citizens of the Union one has to read almost the whole of this Act. For details please see notes under section 4 of this Act. At the time the Union of Burma emerged as a sovereign state section 11 (i) (ii) and (iii) of the Constitution (which has been reproduced in the notes under section 4 of this Act) conferred citizenship on persons described therein and guaranteed citizenship to those who qualified under section 11 (iv) of the Constitution and who signified their intention to elect for it in accordance with law to be made by the Parliament. The task of further defining citizenship was left to the Parliament. For cases governed by section 11 (iv) of the Constitution the Union Citizenship (Election) Act 1948 was promulgated by the Parliament and the Union Citizenship Act 1948 is the main law regarding citizenship matters.

'Certificate of citizenship' having been defined under this section to include the certificate of citizenship granted under this Act and the certificate of citizenship granted under the Union Citizenship (Election) Act 1948 the provisions of sections 5,9,11,12, 12A, 14 14A, 14B, 15,18,19,21, and 21A of this Act become applicable to a person who has obtained a certificate of citizenship under the Union Citizenship (Election) Act, 1948.

A certificate of naturalization can be issued only under sections 7, 8 and 13 of this Act.

Child ordinarily means a son or a daughter, but this section defines it to include a legally adopted child. It does not say if a stepchild is a child within the meaning of this Act. The word child occurs in this Act in sections 5(a)(b)(c), 9(1)(2)(3), 11(4), 12(1)(2)(3), 12A(1) and 14.

'Father' is defined as a father of a child who is legitimate. It does not therefore include a father of an illegitimate child. The expression father has been used in sections 5(a) and (b) which refer only to a naturally born child and not to an adopted child.

The definition of the word parent also gives the definition of the word mother; and mother includes the mother of an illegitimate child, if she has the custody of the child. The word parent has been used in this Act in sections 4(2), 5(a), 5(c), 11(4), 12(1), 12(3), 12A and 14.

Minister means a member of the Union Government nominated for the purposes by the President of the Union. At one time the Judicial Minister was the minister nominated for the purposes of this Act. Since 1st October 1957 the Minister for Immigration and National Registration is the Minister for the purposes of this Act.

3. (1) For the purposes of section 11 of the Constitution the expression "any of the indigenous races of Burma" shall mean the Arakanese, Burmese, Chin, Kachin, Karen, Kayah, Mon or Shan race and such racial group as has settled in any of the territories included within the Union as their permanent home from a period anterior to 1823 A.D. (1185 B.E.).

(2) For the purpose of section 11 of the Constitution and of section 3 of the Union Citizenship (Election) Act, 1948, the words "His Britannic Majesty's dominions" mean the territories enumerated in section 2(2) of the Burma Independence Act, 1947.

၃။ (၁) အခြေခံဥပဒေပုဒ်မ (၁၁) အလိုငှါ၊ "မြန်မာနိုင်ငံတိုင်းရင်းသားတမျိုးမျိုး" ဆိုသည်မှာ ကချင်၊ ကရင်၊ ကယား၊ ချင်း၊ မြန်မာ၊ မွန်၊ ရခိုင်၊ သို့တည်းမဟုတ် ရှမ်းလူမျိုးတို့ရင်း၊ ၁၈၂၃ ခုနှစ် (မြန်မာသက္ကရာဇ် ၁၁၈၅ ခုနှစ်) မတိုင်မီကာလမှစ၍ ပြည်ထောင်စုတွင် ပါဝင်သောနယ်မြေတခုခု၌ မိမိတို့၏ပင်ရင်းတိုင်းပြည်အဖြစ်ဖြင့် အခြေစိုက်နေထိုင်ခဲ့သော မျိုးနွယ်စုများကိုလည်းကောင်းဆိုလိုသည်။

(၂) အခြေခံဥပဒေပုဒ်မ ၁၁ နှင့် ၁၉၄၈ ခုနှစ်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံသားအဖြစ်ရွေးချယ်ရေးအက်ဥပဒေပုဒ်မ ၃ တို့အလိုငှါ၊ "ဗြိတိသျှဘုရင်မင်းမြတ်၏အာဏာပြန့်နှံ့ရာနယ်မြေ" ဆိုသည်မှာ၊ ၁၉၄၇ ခုနှစ် မြန်မာနိုင်ငံတော် လွတ်လပ်ရေးအက်ဥပဒေပုဒ်မ ၂ (၂) တွင်ဖော်ပြထားသည့် နယ်မြေများကိုဆိုလိုသည်။

'Kayah' was inserted in place of 'Karenni' vide Act XVI of 1957.

Section 11 of the Constitution reads :—

- "11. (i) Every person, both of whose parents belong or belonged to any of the indigenous races of Burma ;
- (ii) every person born in any of the territories included within the Union, at least one of whose grand-parents belong or belonged to any of the indigenous races of Burma ;
- (iii) every person born in any of the territories included within the Union, of parents both of whom are, or if they had been alive at the commencement of this Constitution would have been, citizen of the Union;
- (iv) every person who was born in any of the territories which at the time of his birth was included within His Britannic Majesty's dominions and who has resided in any of the territories included within the Union for a period of not less than eight years in the ten years immediately preceding the date of the commencement of this Constitution or immediately preceding the 1st January 1942 and who intends to

reside permanently therein and who signifies his election of citizenship of the Union in the manner and within the time prescribed by law, shall be a citizen of the Union".

Section 11 of the Constitution did not define the expression 'indigenous races of Burma'. Sub-section (1) above purports to define the same, but this definition is by no means exhaustive. The definition only mentions the major races of Burma. There are several minor races such as Shan-Tayoke, Maru, Naga, Khamwe, Thet, Dine, Net, Palaung, Nung, Padaung, Brek, Wa, Miao, Kaw, Lahu, Lisu, Lisaw, Yawyin, Hkun (Tai), Daru, etc.

Ponnas were classified in the 1931 census into three categories, namely, Bama Ponna, Yakhaing Ponna and Kathe Ponna. Bama Ponnas are descendants of Hindus who came from Manipur to the Court of the Pyu King to Prome (Thirikhetya). The Yakhaing Ponnas seem to have had a similar but less ancient origin and the different environment of Chittagong and Arakan. A large number of Manipuris were brought to Burma after the Burmese invasion of Manipur particularly those of 1758, 1764 and 1819 and it is chiefly to descendants of these that the term Kathe has generally been applied. Thus as Ponnas had immigrated into Burma before 1823 they may be included in the indigenous races of the Union of Burma. They may also claim to be citizens under section 4 (2) of this Act.

The indigenous races referred to in section 11 (i) (ii) and (iii) of the Constitution and in section 3 of this Act are 'indigenous races of Burma'. Chins in India are a race indigenous to India while those in Burma are indigenous to Burma and therefore these Chins who are indigenous to India cannot be regarded as indigenous to Burma.¹

Sub-section (2) above defines the expression 'His Britannic Majesty's dominions' occurring in Section 11 (iv) of the Constitution and section 3 of the Union Citizenship (Election) Act 1948 which was passed to render opportunity to those qualified under section 11 (iv) of Constitution to elect for citizenship.

4. (1) Any person, who under sub-section (i), (ii) and (iii) of section 11 of the Constitution, is a citizen of the Union or who, under sub-section (iv) of section 11 of the Constitution, is entitled to elect for citizenship and who has been granted under the Union Citizenship (Election) Act, 1948 a certificate of citizenship, or who has been granted a certificate of naturalization or a certificate of citizenship or who has otherwise been granted the status of a citizen under this Act, shall continue to be a citizen of the Union, until he or she loses that status under the provisions of this Act.

1. Letto Lal Danga V. The Union of Burma: 1959 B. L. R. 30 H. C.

(2) Any person descended from ancestors who for two generations at least have all made any of the territories included within the Union their permanent home and whose parents and himself were born in any of such territories shall be deemed to be a citizen of the Union.

၄။ (၁) အခြေခံဥပဒေပုဒ်မ ၁၁ (က)၊ (ခ) နှင့် (ဂ) အရပြည်ထောင်စု မြန်မာနိုင်ငံသား ဖြစ်ခဲ့သောသူသည်၊ သို့တည်းမဟုတ်အခြေခံ ဥပဒေပုဒ်မ ၁၁ (ဃ) အရ နိုင်ငံသားအဖြစ်ရွေးချယ်ခွင့်ရရှိ၍၊ ၁၉၄၇ခုနှစ် ပြည်ထောင်စု မြန်မာနိုင်ငံသားအဖြစ်ရွေးချယ် ရေးအက်ဥပဒေအရ၊ နိုင်ငံသားလက်မှတ်ကိုရရှိသောသူသည်၊ သို့တည်းမဟုတ် ဤအက်ဥပဒေ အရ နိုင်ငံသားပြုလုပ်မှုကိုဖြစ်စေ၊ နိုင်ငံသားလက်မှတ်ကိုဖြစ်စေ ရရှိသောသူသည်၊ သို့တည်းမဟုတ် ဤအက်ဥပဒေအရအခြားနည်းဖြင့် ပြည်ထောင်စုနိုင်ငံသားအဖြစ်ကို ပေးအပ် ခြင်းခံရသူသည် ဤအက်ဥပဒေ ပြဋ္ဌာန်းချက်များအရ နိုင်ငံသားအဖြစ်ကို မဆုံးရှုံးလျှင်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံသားအဖြစ် တည်နေသည်ဟုမှတ်ယူရမည်။

(၂) ပြည်ထောင်စုတွင်ပေါ်ဝင်သော နယ်မြေတခုခုတွင် အနည်းဆုံး ဘိုးဘွား အားလုံးလက်ထက်မှစ၍ မိမိတို့၏ပင်ရင်းတိုင်းပြည်အဖြစ်ဖြင့် မျိုးဆက်မပြတ်တာဝန်အခြေ စိုက်နေထိုင်လာခဲ့သည်ပြင်၊ မိမိ၏မိဘနှစ်ပါးနှင့်တကွ မိမိကိုယ်တိုင် ထိုနယ်မြေတခုခုတွင် မွေးဖွားသူဖြစ်လျှင်၊ ထိုသူအား မြန်မာနိုင်ငံသားဖြစ်သည်ဟုမှတ်ယူရမည်။

As stated in the notes under section 2 above the word 'citizen' has not been defined as such in this Act. But section 4 purports to define who all are citizens of the Union.

The Union constitution recognizes only one kind of citizenship. Section 10 of the Constitution of the Union of Burma states :—

"10. There shall be but one citizenship through out the Union; that is to say, there shall be no citizenship of the unit as distinct from the citizenship of the Union".

Also section 11 of the Constitution reads :—

"11. (i) Every person, both of whose parents belong or belonged to any of the indigenous races of Burma ;

(ii) every person born in any of the territories included within the Union, at least one of whose grand-parents belong or belonged to any of the indigenous races of Burma ;

- (iii) every person born in any of the territories included within the Union, of parents both of whom are, or if they had been alive at the commencement of this Constitution would have been, citizen of the Union;
- (iv) every person who was born in any of the territories which at the time of his birth was included within His Britannic Majesty's dominions and who has resided in any of the territories included within the Union for a period of not less than eight years in the ten years immediately preceding the date of the commencement of this Constitution or immediately preceding the 1st January 1942 and who intends to reside permanently therein and who signifies his election of citizenship of the Union in the manner and within the time prescribed by law, shall be a citizen of the Union".

WHO ARE CITIZENS OF THE UNION?

According to section 4 above the following are citizens:—

- (a) any person who is a citizen under sub-sections (i), (ii) and (iii) of section 11 of the Constitution.

- (i) Under sub-section (i) of section 11 of the Constitution every person both of whose parents belong or belonged to any of indigenous races of Burma is a citizen.

The expression indigenous races has been defined in section 3 of this Act. In this case it does not matter where the person is born, if both of his parents belong to the indigenous races of Burma, he is a citizen of the Union. But as to what will be the effect if he has acquired citizenship of another country, please see notes under other relevant sections of this Act.

- (ii) Under sub-section (ii) of section 11 of the Constitution every person born in any of the territories included within the Union, at least one of whose grand-parents belonged to any of the indigenous races of Burma.

In this case if one of the parents or grand-parents of the person belonged to an indigenous race, the person will be a citizen

provided he was born within the territories of the Union. If he was born outside the Union he would not be a citizen under this sub-section. U Sin Koi¹ a Sino-Burman who was born in Burma was held to be a citizen under this sub-section of the Constitution.

- (iii) Under sub-section (iii) of section 11 of the Constitution every person born in any of the territories included within the Union of parents both of whom are, or if they had been alive at the commencement of this constitution would have been citizens of the Union.

(b) any person who under sub-section (iv) of section 11 of the Constitution is entitled to elect for citizenship and who has been granted under the Union Citizenship (Election) Act 1948 a certificate of citizenship.

Under sub-section (iv) of section 11 of the Constitution every person who was born in any of the territories which at the time of his birth was included within His Britannic Majesty's dominions and who has resided in any of the territories included within the Union for a period of not less than 8 years in the 10 years immediately preceding the date of the commencement of the Constitution or immediately preceding the 1st January 1942 and who intends to reside permanently therein and who signifies his election of citizenship of the Union in the manner and within the time prescribed by the law shall be a citizen of the Union. A special enactment called the Union Citizenship (Election) Act 1948 was promulgated by which persons qualified to elect for citizenship under this sub-section could apply for and obtain a certificate of citizenship. The said Act has been dealt with separately in this book. The last date for filing applications under the said Act was 30th April 1950.

(c) any person who has otherwise been granted the status of a citizen under this Act.

Under this Act the following persons have been granted the status of citizenship :—

- (i) Under section 4 (2) of the Act, any person descended from ancestors who for two generations at least have all made any of the territories included within the Union their permanent home and

1. U Sin Koi Vs. U San Win: 1958 Burma Gazette Part 1 page 478.

whose parents and himself were born in any of such territories shall be deemed to be a citizen of the Union.

The Supreme Court held in Karam Singh's case that under the Constitution of Burma and her citizenship laws mere birth in Burma or residence in Burma at the time she emerged a sovereign independent state did not by itself confer Burmese nationality on a foreigner.² Section 4(2) however provides citizenship status to a person who was himself born within the territories of the Union and both of whose parents were also born within the said territories. It also requires that the ancestors of the person must have for two generations at least made any of the territories included within the Union their permanent home. When a person is said to have made a place his permanent home is not defined in the Act. It may be noted that the emphasis is on the ancestors making a permanent home and not the person. In Bishna Lal Vs. The Union of Burma³ It was held that as Bishna Lal was and his parents were born in the Union of Burma and as his ancestors had for two generations made Burma their permanent home he was a citizen of the Union and that he did not commit any offence by his failure to renew his foreigners registration certificate which he had obtained by mistake of law. In the case of Hasan Ali and Meher Ali reported at page 77 of this book their Lordships of the Supreme Court remarked :- 'We note that the 1st respondent in his returns has stated that the applicants are Pakistanis in appearance; that they have no knowledge of the Burmese or the Arakanese languages; and that they are unable to answer questions relating to events which had occurred in Arakan during the past decade. From these, he stated, the Immigration authorities were satisfied that the applicants are illegal immigrants of recent origin. Further, in applying the tests which the 1st respondent has mentioned, section 4(2) of the Union Citizenship Act must not be lost sight of. A person descended from ancestors who for two generations have made Burma their permanent home, and whose parents and himself were born in Burma is a statutory citizen. Today in various parts of Burma there are people who, because of their origin and isolated way of life, are totally unlike the Burmese in appearance or speak

2. Karam Singh Vs The Union of Burma: 1956 B. L. R. 25. S. C.

3. Bishna Lal Vs. The Union of Burma: 1959 B. L. R. 3 H. C.

4. Criminal Miscellaneous Applications No. 155 and 156 of 1959 of Supreme Court.

of events which had occurred outside the limits of their habitation. They are nevertheless statutory citizens under the Union Citizenship Act. The applicants claim that they belong to that category. They might be right and therefore the opportunity of proving that they are, should be given to them. To deny them this opportunity would be a violation of their fundamental right'. Thus mere race or appearance of a person or whether he has a knowledge of any language of the Union is not the test as to whether he is a citizen of the Union.

- (ii) Under section 9 (2) of the Act, any minor child whose name is included in the certificate of citizenship or certificate of naturalization of any of the parents shall be deemed to have become a citizen of the Union.

It does not matter in this case as to where the child was born. It does not matter also whether the child was born before or after the commencement of the Constitution. Once his or her name has been included in the certificate of citizenship or naturalization of one of the parents the child becomes a citizen under this Act.

- (iii) Under section 5 (a) of the Act, a child born in the Union on or after the 4th day of January 1948 one of whose parents is a citizen shall be a citizen provided that if the father is a foreigner, he shall be a citizen only up to the date of his attaining the age of 18 years and a year thereafter, if he does not make a declaration of alienage in respect of any foreign nationality and of election to retain Union citizenship during that year. But if, of the parents, the mother alone is a foreigner he continues to be a citizen by his mere birth in the Union.

This provision applies only to a child born after the commencement of the constitution, that is to say, on or after 4th day of January 1948.

- (iv) Under section 5 (b) of the Act, a child born outside the Union of a father who is a citizen, is a citizen provided that the child's birth was registered in the manner and within the time prescribed under the Act at the proper Consulate of the Union. If the mother only of the child is a citizen and the father is not a citizen then by birth outside the Union after the commencement of the Constitution the child will not ipso facto become a citizen by registration of such birth.

- (v) Under section 5 (c) of the Act, a child born outside the Union of a parent who being a citizen, was at the time of the child's birth in the service of the Union, shall be a citizen provided that if the other parent was an alien and if the child within one year after attaining majority fails to make a declaration of any foreign national status to which he may be entitled and electing to retain Union citizenship, he shall, on the expiry of that year, cease to be a citizen of the Union.
- (vi) Under section 11 (4) of the Act, if the father is a citizen and the mother is a foreigner and she applies for and obtains a certificate of citizenship, on the joint application of the mother and her husband the Minister shall for the purpose of recognising as a citizen include in her rectificate any minor child not already a citizen and born before the date of the grant of citizenship certificate to her. Thereafter the provisions of section 9 (2) of the Act apply to the child, and the child in 11 be a citizen.

A person who is a citizen under section 4 (2), 5 (a), (b) and (c), 9 (2) or 11 (4) of the Act or under sub-section (i) (ii) and (iii) of section 11 of the Constitution may apply for a certificate under section 6 (2) of the Act, in such cases the applicant does not apply for citizenship. He applies for a certificate of citizenship as a proof of the fact that he is already a citizen. As to what happens in case the child fails to make the declaration mentioned in section 5 and 11 (4), please see notes under those sections.

(d) a person who has been granted a certificate of citizenship.

A person may be granted a certificate of citizenship in the following cases :—

- (i) A person may apply for a certificate of citizenship under section 6 (1) of the Act to remove any doubt as to his status and also under section 6 (2) of the Act when he is already a citizen under section 4 (2), 5 (a) (b) (c), 9 (2) or 11 (4) of the Act or section 11 (i) (ii) (iii) of the Constitution.

Certificate under section 6 (1) and (2) can be issued only to a citizen and not to a foreigner.

- (ii) any woman who is married to a citizen may after continuous residence in the Union for at least one year apply to the Minister

for a certificate of citizenship and the Minister may issue her a certificate of citizenship on her complying with the provisions of section 11 of the Act.

- (iii) A child born outside the Union, one of whose parents is a citizen, shall, if the child is not otherwise a citizen, be entitled if still a minor and in the custody of the parent, to the grant of a certificate of citizenship on the application of the parent, on the parent resuming his or her domicile in the Union, provided that if the child within one year after attaining majority fails to make a declaration renouncing any foreign national status to which he may be entitled and electing to retain Union citizenship, he shall cease on the expiry of that year to be a citizen of the Union, as stated in section 12 (1) of the Act.
- (iv) Under section 12 (2) of the Act, if the child contemplated by section 12 (1) above is a major, the Minister may grant him a certificate of citizenship provided that the Minister is satisfied (a) that he is of good character and (b) that he intends either to reside permanently in the Union or to enter or continue in the service of the Union or of the constituent States thereof or of any religious, charitable or commercial organisation established in the Union.
- (v) Under Section 12 (3) of the Act, if a child born in the Union and born of the parents both of whom are not citizens of the Union permanently residing in the Union within jurisdiction thereof is of good character and is not under any disability, he may apply for a certificate of citizenship before the first day of April 1955 or within one year after attaining majority, provided that he is then permanently resident in the Union.
- (vi) Under Section 14B of the Act, if any person who has ceased to be a citizen of the Union under section 14 or section 14A, (a) has the qualifications mentioned in clause (i), (ii) or (iii) of section 11 of the Constitution or section 5 (b) of this Act, and (b) undertakes that he will permanently reside again in the Union, renounce foreign citizenship in accordance with the law of the foreign country concerned and owe allegiance to the Union, the Minister may in his discretion permit him to retain the citizenship of the Union, and his decision shall be final.
- (vii) Under section 12 A of the Act, if one of the parents of the child born in the territories included within the Union before the

commencement of the Constitution is a citizen of the Union under clause (ii) of section 11 of the Constitution, or if one of such parents is living at the commencement of the constitution and is entitled to apply for the citizenship of the Union under clause (ii) or clause (iii) of section 11 of the Constitution and is not under any disability, he may apply for a certificate of citizenship before first day of April 1955 or within one year after attaining majority, but shall be permanently resident in the Union.

(e) a person who has been granted a certificate of naturalization.

For this, provision has been made in this Act in sections 7, 8 and 13. A certificate of naturalization can be obtained only under sections 7, 8 and 13 of this Act.

- (i) Any adult person of any race and no matter where he is born, if he has resided in the territories included within the Union continuously for the period of 5 years, he may apply for a certificate of naturalization under section 7 of the Act.

But if a person is entitled to a certificate of citizenship it is advisable to apply for that and not for a certificate of naturalization, because the Minister may refuse to issue a certificate of naturalization without assigning any reason, For details see notes under section 7 of the Act.

- (ii) Under section 13 of the Act any person who has served honourably at any time in the armed forces of the Union for a period aggregating three years may be naturalized if the petition for naturalization is filed while he is still in the service or within six months after the termination of such service, upon full compliance with all the requirements of section 7 of this Act, except that no notice of intention shall be required and no residence within the Union shall be required.

- (iii) Under section 8 of the Act any person acquiring a Burma Naturalization Certificate issued under section 5 of the Burma Naturalization Act and whose name is included therein shall be of good character and unless such person is under a disability, he may apply for a Burma Naturalization Certificate, if he declares before the first day of April 1955 or within a period of one year after attaining majority, that he would renounce his citizenship of a foreign country

and that he owes allegiance to the Union and that he elects the citizenship of the Union: provided that the provisions of this section shall not apply to any person, who before the promulgation of the Citizenship (Amendment) Act, 1954, acquires the certificate under the original section 8, but shall apply to the children of such person.

It may be noted that by merely applying for the grant of a certificate of citizenship or naturalization a person does not become a citizen. It is only when a certificate is issued to the applicant and he has made a declaration renouncing his status as a citizen of any foreign country and owing allegiance to the Union that the applicant becomes a citizen of the Union. See sections 7(4), 11(4), 12(4), 12A(2) of the Act.

One Tai Yu Han⁵ was served with an order to be deported. He applied for a writ to the Supreme Court claiming that as his mother was Burmese he was a citizen of the Union and being a citizen he was not liable to be deported under the Foreigners Act. As a question of status arose the Supreme Court held that it was competent to take evidence and decide as to whether Tai Yu Han was a citizen of the Union or not. After admitting evidence the Supreme Court quashed the order of deportation holding that Tai Yu Han was a citizen of the Union and that by the mere fact that he had obtained a foreigners registration certificate he was not deprived of his citizenship status.⁶ In the case of Chan Yu Ta Vs. The Permanent Secretary, Foreign Office and one, the applicant applied for a writ on the ground that his maternal grand-mother was a Shan and that he was therefore a citizen of the Union under Section 11(i)(ii) of the Constitution. The Supreme Court dismissed the application as from the records it appeared that the President of the Union was satisfied after due inquiry that the applicant was a foreigner. The applicant was however advised to seek remedy elsewhere in case he still claimed to be a citizen.⁷

The person concerned could in law file a suit for declaration that he was a citizen and for an injunction against the Secretary concerned. He could also apply for a review of the orders to the President or the Secretary concerned and satisfy him of his national status.

5. Tai Yu Han Vs. The Union of Burma: Criminal Miscellaneous Application No. 252 of 1952 of the Supreme Court.

6. Tai Yu Han Vs. The Union of Burma: 1953 B L R. 47 S. C.

7. 1957 B. L. R. 46 S. C.

WHEN MAY A CITIZEN CEASE TO BE A CITIZEN OR LOSE HIS STATUS OF BEING A CITIZEN?

Section 4(1) of this Act states that the persons mentioned therein are citizens of the Union and they shall continue to be citizens of the Union until they lose that status under the provisions of this Act. Hence the question: When may a citizen lose his status of citizenship as provided for under this Act? A person may lose his status as provided in sections 5, 12(1), 14, 14A, 15, 16, 17 18, 19 and 21A of this Act and these are discussed in more detail herein below. But by merely obtaining a foreigners registration certificate a person does not lose his citizenship.^a

(i) **Section 5 (a):**— If the father of the child born in the Union after the commencement of the Constitution is a foreigner, and if the child on attaining the age of 18 years and before he attains the age of 19 years fails to make a declaration of alienage in respect of any foreign citizenship and elects to retain the Union citizenship, he loses the citizenship status.

(ii) **Section 5 (b):**— If the child is born outside the Union of a father who is a citizen, and if the birth of the child is not registered as required by the section 5(b) the child will not be a citizen.

(iii) **Section 5 (c):**— If the child is born outside the Union one of whose parents is a foreigner, and the other is a citizen and the citizen parent is at the time of the child's birth in the service of the Union, and if the child on attaining the age of 18 years and before his next birth day fails to make a declaration of alienage of foreign nationality and electing to retain the Union citizenship he shall lose his citizenship status.

(iv) **Section 12(1):**— A child born outside the Union, one of whose parents is a citizen, shall, if the child is not otherwise a citizen, be entitled if still a minor and in the custody of the parent, to the grant of a certificate of citizenship on the application of the parent, on the parent resuming his or her domicile in the Union; but if the child within one year after attaining majority fails to make a declaration renouncing any foreign national status to which he may be entitled and electing to retain Union citizenship, he shall cease on the expiry of that year to be a citizen of the Union.

8. *Tai Yu Han Vs. The Union of Burma*: 1953 B L. R. 47 S. C. and *Bishna Lal Vs. The Union of Burma*: 1959 B. L. R. 3 H C.

(v) **Section 14:—** A citizen of the Union, not being under a disability, who obtains a certificate of naturalization in a foreign State or by any voluntary or formal act other than marriage becomes naturalized in any other foreign State, shall forthwith be deemed to have ceased to be a citizen of the Union.

(vi) **Section 14A:—** (1) Unless any person who is a citizen of the Union and also acquires the citizenship of a foreign country by operation of any law thereof, submits a report to the Minister that he has renounced his foreign citizenship in accordance with the law of such foreign country (a) before the first day of April 1955, or (b) within one year after attaining majority, or (c) within one year from the date of enactment of that law by such foreign government, whichever period is longest for him he shall be deemed to cease to be a citizen of the Union at the end of such period. (2) Unless any person recognized as a citizen of the Union under clause (i), (ii) or (iii) of section 11 of the Constitution or under section 4 (2) or 5(b) of this Act, has registered as a foreigner in a foreign Embassy or obtained a passport as a foreigner from a Foreign Government concerned, the provisions of sub-section 14A (1) shall not apply to him. (3) Any person referred to in sub-section 14A (2) not being under any disability and having after the first day of April 1955, registered as a foreigner in a Foreign Embassy or obtained a passport as a foreigner from a Foreign Government concerned shall be deemed to cease to be a citizen of the Union forthwith.

(vii) **Section 16:—** Any person who, at the commencement of the constitution, was by virtue thereof, a citizen and who by virtue of subsequent election under section 2 of the Burma Independence Act, 1947, is deemed to be a British subject, shall cease to be a citizen of the Union.

(viii) **Section 17:—** Any person, who by reason of the Constitution, is a citizen of the Union and who, by reason of the provisions of clauses 2 and 3 of the first Schedule to the Burma Independence Act 1947, also retains the status of a British subject, may, if not under disability make a declaration of alienage and on making the declaration he shall cease to be a citizen of the Union.

(ix) **Sections 18, 19 and 21A:—** When the certificate of naturalization or the certificate of citizenship has been revoked, by the Minister under sections 18 or 19 of the Act the holder of the

certificate shall cease to be a citizen of the Union and shall be regarded as the citizen of the country of which he was a subject at the time the certificate was granted to him. Also to when a certificate of citizenship or a certificate of naturalization may be revoked please see notes under section 18 and 19 of this Act.

DIFFERENCE BETWEEN A CERTIFICATE OF CITIZENSHIP AND A CERTIFICATE OF NATURALIZATION?

Section 10 of the Constitution states that there will be only one class of Citizenship. So that there is no difference between a natural born citizen (i. e. a recognized citizen or a person who is given the status of a citizen) or a person who is granted a certificate of citizenship or naturalization. But the difference lies in the procedure as to how one may acquire citizenship. A natural born citizen is one who becomes a citizen by the fact of his birth. The procedure for obtaining a certificate of citizenship is different from the procedure for obtaining a certificate of naturalization. If a person has all the qualifications and he is entitled to a certificate of citizenship, he is entitled to get it as of right while a certificate of naturalization may be issued only in the discretion of the Minister. It may also be mentioned here that the citizenship rights of a natural born citizen may not be revoked, though in case of those to whom a certificate of citizenship or naturalization is granted the Minister may revoke the certificate under sections 18 and 19 of the Act.

WHO CAN APPLY FOR A CERTIFICATE OF CITIZENSHIP AND WHO CAN APPLY FOR A CERTIFICATE OF NATURALIZATION?

For the answer to this question one will have to refer to the question: Who are citizens of the Union? which has been discussed at page 119 of this book. All those who are entitled to a certificate of citizenship under section 6 (2) of the Act are citizens by birth or they may also be called natural born citizens or recognised citizens or persons to whom status of citizenship has been given under the Act. Section 6 (2) refers to section 11 (i), (ii) and (iii) of the Constitution, and sections 4 (2), 5, 9(2) and 11(4) of the Act. All these persons are citizens of the Union and they are entitled to apply for and obtain a certificate of citizenship as proof of the fact that they are citizens. The next category of citizens are persons covered by section 11 (iv) of the Constitution read with the Union Citizenship (Election) Act and sections 12(1), 12(2), 12(3), 12A, and 14B of the Act. As to who all may apply for this certificate see the notes under these sections and the notes above under the heading:

Who are citizens of the Union? A certificate of naturalization can be issued only under sections 7, 8 and 13 of the Act. As to who can apply for this see notes under the said sections and the notes above under the heading: Any person who has been granted a certificate of naturalization.

HOW TO APPLY FOR A CERTIFICATE OF CITIZENSHIP OR NATURALIZATION?

This question will have to be answered according as whether the person is already a citizen of the Union or not and if not whether he is entitled to apply for a certificate of citizenship or a certificate of naturalization.

(a) As to who are citizens please see notes under the said heading. A person who is a citizen may apply for grant of a certificate of citizenship under section 6 (2) of the Act. The grant of such a certificate does not mean that he was not a citizen before the grant. An application for grant of a certificate in this case is made in the application form given as item No. 1 in the forms in the Appendix coupled with an affidavit in form S in the Appendix of this book.

(b) As to which foreigner is entitled to apply for a certificate of citizenship see the notes under the heading who are citizens in section 4 above; the relevant sections are sections 12 (1), 12 (2), 12 (3), 12A and 14B of the Act. Such persons have to apply in the same application form as mentioned above coupled with an affidavit in form A given in the Appendix.

(c) A foreigner who is not possessed of the qualifications to apply for a certificate of citizenship as stated in the foregoing paragraph but has resided in the Union for 5 years continuously may apply for a certificate of naturalization. This is done under section 7 of the Act. The application is to be preceded by a notice in form R given in the Appendix and after the expiry of a year after the notice, he will have to apply for a certificate of naturalization in the application form mentioned in item 3 of the forms in the Appendix and an affidavit in form B. Also an application under section 13 for a certificate of naturalization by a person who has served in the armed forces of the Union has to be made similarly though no notice of intention is necessary.

As for the fees prescribed for these please see the Union Citizenship Regulations. In case of paragraphs (b) and (c) above the

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application has to be made to the District Magistrate of the District where the person resides. For cases referred to in paragraph (a) above, this Act or the Regulations do not specifically say that the application must be made to the District Magistrate. On the other hand Regulation No. 3A says that the application should be made to the Minister. But sometimes it is desirable to apply to the District Magistrate in such cases as the Minister may have to redirect the proceedings to the District Magistrate for enquiry.

5. The following persons, born after the commencement of the Constitution, shall be citizens of the Union, namely:—

(a) a child born in the Union one of whose parents is a citizen;

Provided, that if the father is a citizen of a foreign country, such child shall cease to be a citizen on the expiry of a year after he attains majority unless within that time, he makes a declaration of alienege in respect of any citizenship other than that of the Union and elects to retain the citizenship of the Union.

(b) a child born outside the Union of a father who is a citizen;

Provided that the child's birth was registered in the manner and within the time prescribed under this Act at the appropriate Consulate of the Union; and

(c) a child born outside the Union of a parent who, being a citizen, was at the time of child's birth in the service of the Union;

Provided that if the other parent was an alien and if the child within one year after attaining majority fails to make a declaration of alienage of any foreign national status to which he may be entitled and electing to retain Union citizenship, he shall, on the expiry of that year, cease to be a citizen of the Union.

Explanation I— Birth on board a ship or aircraft registered in the Union, wherever the ship or aircraft was at the time of the birth shall be deemed to be birth in the Union.

Explanation II— Birth on board a ship or aircraft registered elsewhere than in the Union shall not be deemed to be birth in the Union notwithstanding that the ship or aircraft was in the Union at time of the birth.

Explanation III— Any child born out of a wedlock who is legitimated by reason of the subsequent marriage of the parents shall, for the purpose of this section, have all the rights of a child born in lawful wedlock.

၅။ ။ အခြေခံဥပဒေ စတင်အာဏာတည်ပြီးမှ၊ မွေးဖွားသည့် အောက်၌ဖော်ပြသော သူများသည် ပြည်ထောင်စုမြန်မာနိုင်ငံသားများဖြစ်ရမည်။

(က) ပြည်ထောင်စုနိုင်ငံသားဖြစ်သည့် မိဘတပါးပါးမှ၊ ပြည်ထောင်စုနိုင်ငံတွင် မွေးဖွားသောသူ။

သို့ရာတွင် (ထိုသူ၏အဘသည် နိုင်ငံခြားတခုခု၏ နိုင်ငံသားဖြစ်ခဲ့သော်) ထိုသူသည် အရွယ်ရောက်ပြီးနောက် တနှစ်အတွင်းတွင် နိုင်ငံခြားသားအဖြစ်ကို စွန့်လွှတ်ကြောင်းနှင့် ပြည်ထောင်စု နိုင်ငံသားအဖြစ် တည်မြဲတည်စေရန် ရွေးချယ်ကြောင်း ကျေညာခြင်းမပြုလျှင်၊ ထိုသူသည် ထိုတနှစ်ကုန်ဆုံးသောအခါ ပြည်ထောင်စုနိုင်ငံသားအဖြစ်မှ ရပ်စဲရမည်။

(ခ) ပြည်ထောင်စုနိုင်ငံသားဖြစ်သော အဘမှ၊ ပြည်ထောင်စုမြင်ပတွင် မွေးဖွား၊ သောသူ။

သို့ရာတွင် ဤအက်ဥပဒေအရ သတ်မှတ်သည့်နည်းလမ်းအတိုင်း သတ်မှတ်သည့်ကာလ အတွင်းတွင်၊ ပြည်ထောင်စု၏ သက်ဆိုင်ရာနောက်ကောင်စစ်ဝန်ရုံးတွင် မွေးဖွားကြောင်းကို မှတ်ပုံ တင်ခြင်းခံရသူဖြစ်ရမည်။

(ဂ) ပြည်ထောင်စု နိုင်ငံသားလည်းဖြစ်၍၊ ပြည်ထောင်စု နိုင်ငံအစိုးရအမှုကို ထမ်း နေဆဲဖြစ်သော မိဘတပါးပါးမှ၊ ပြည်ထောင်စုမြင်ပတွင် မွေးဖွားသောသူ။

သို့ရာတွင် ထိုသူ၏မိဘတပါးပါးသည် နိုင်ငံခြားသားဖြစ်ခဲ့သော်၊ ထိုသူသည် အရွယ် ရောက်ပြီးနောက် တနှစ်အတွင်း နိုင်ငံခြားသားအဖြစ်ကို စွန့်လွှတ်ကြောင်းနှင့် ပြည်ထောင်စု နိုင်ငံသားအဖြစ် တည်မြဲတည်စေရန် ရွေးချယ်ကြောင်း ကျေညာခြင်းမပြုလျှင်၊ ထိုသူသည် ထိုတနှစ်ကုန်ဆုံးသောအခါ ပြည်ထောင်စုနိုင်ငံသားအဖြစ်မှ ရပ်စဲရမည်။

ရှင်းလင်းချက် (၁)။ ။ ပြည်ထောင်စုတွင် မှတ်ပုံတင်ထားသော သင်္ဘောသည်၊ သို့တည်းမဟုတ် လေယာဉ်ပျံသည် မည်သည့်နေရာ၌ရှိစေကာမူ၊ ထိုသင်္ဘော၊ သို့တည်းမဟုတ် ထိုလေယာဉ်ပျံတို့အပေါ်တွင် မွေးဖွားလျှင် ပြည်ထောင်စု နိုင်ငံတွင်မွေးဖွားသည်ဟု မှတ်ယူရ မည်။

ရှင်းလင်းချက် (၂)။ ပြည်ထောင်စုနိုင်ငံမှတစ်ပါး အခြားအရပ်ဒေသတွင်မှတ်ပုံတင်ထားသော သင်္ဘောသည်၊ သို့တည်းမဟုတ် လေယာဉ်ပျံသည် ပြည်ထောင်စုနိုင်ငံပိုင်နက်တွင် ရှိနေစေကာမူ၊ ထိုသင်္ဘောပေါ်တွင်၊ သို့တည်းမဟုတ် ထိုလေယာဉ်ပျံပေါ်တွင် မွေးဖွားလျှင်၊ ပြည်ထောင်စုနိုင်ငံတွင် မွေးဖွားသည်ဟုမှတ်ယူရမည်။

ရှင်းလင်းချက် (၃)။ ။ တရားဝင်သော အိမ်ထောင်ပြုခြင်းမရှိသည့် မိဘမှမွေးဖွားသောသူသည်၊ နောင်အခါတွင် ထိုမိဘတို့တရားဝင်သော အိမ်ထောင်ခြင်းကိုပြုသောအခါ၊ ဤပုဒ်မအလိုငှါ၊ တရားဝင်သော အိမ်ထောင်ခြင်းကိုပြုသည့် မိဘမှမွေးဖွားသောသားသမီး၏ အခွင့်အရေးအားလုံးကိုရရှိရမည်။

Persons described as citizens under this section are natural born citizens or they may be called persons who are recognised citizens by virtue of their birth under the circumstances mentioned in the section.

It must be noted that as stated in the opening sentence this section refers only to children born after the commencement of the Constitution, that is, on or before 4th January 1948. It does not refer to a child born before the commencement of the Constitution

The section is divided into three sub-sections:—

Sub-section (a):-

Under sub-section (a), the following conditions are necessary:-

- (i) the child must be born after the commencement of the constitution,
- (ii) he must be born in the Union, and
- (iii) one of his parents must be a citizen.

If three conditions are satisfied he is a citizen of the Union. But under the proviso two circumstances may arise, namely, (i) if the father of the child is a foreigner and his mother only is a citizen, then, he will continue to be a citizen up to the age of majority (i.e. age of 18 years) and for a year thereafter. If he desires to continue to remain as a citizen he must during the period of that year make a declaration of alienage in respect of any foreign nationality to which he may be entitled and that he elects to retain the citizenship of the Union. On making such a declaration he will continue to be a citizen, otherwise he will cease to be a citizen on his attaining the age of 19 years; (ii) if his father is a citizen and his mother is a foreigner, he will continue to be a citizen even

after attaining the age of majority or age of 19 years and he is not required to make any further declaration.

A child who is a citizen under section 5(a) of the Act cannot be deprived of his citizenship under sections 18 and 19 of the Act.

Section 9 (1) and (2) applies also to a child born before the commencement of the Constitution.

It will be noted that a child born before the commencement of the Constitution, whose name is entered in the certificate of citizenship or naturalization continues to be a citizen of the Union without any further act of volition on his or her part. But if the child is born after the commencement of the Constitution under the circumstances mentioned in this section and if his father is not a citizen of the Union, he loses his right of citizenship on attaining the age of majority unless he has made a declaration of his intention to continue to be a citizen.

It should also follow from this section, though not expressly stated, that in case both the parents are citizens of the Union, their children born in the Union after the commencement of the Constitution will automatically be citizens of the Union. See also section 11 (4) of this Act in this connection.

Sub-section (b):-

Under sub-section (b), the following conditions are necessary:-

- (i) the child must be born before the commencement of the Constitution,
- (ii) he must be born outside the Union,
- (iii) his father must be a citizen of the Union, and
- (iv) his birth must be registered as provided in regulation 6 given hereinafter at the appropriate Consulate of the Union.

In this case the father must be a citizen. Such a child will not be required to do anything further on attaining the age of majority and will continue to be a citizen on attaining majority. Such a child is also a natural born child and the provisions of sections 18 and 19 of the Act regarding revocation of citizenship do not apply to him. He is a natural born citizen or a recognised citizen.

Sub-section (c):-

Under sub-section (c), the following conditions are necessary:-

- (i) the child must be born after the commencement of the Constitution,
- (ii) he must be born outside the Union,
- (iii) one of his parents, that is either the father or the mother must be a citizen, and
- (iv) the said parent (who is a citizen) was at the time of the child's birth in the service of the Union.

Under this sub-section if both the parents are citizens and one of them is at the time of the child's birth in the service of the Union, the child continues to be a citizen without any further act of volition on his part. But if the parent who was not in the service of the Union was an alien or a foreigner and if the child desires to continue to be a citizen after attaining the age of majority, he is required to make a declaration of alienage of any foreign national status to which he may be entitled and electing to retain the citizenship and if he fails to do so he shall cease to be a citizen on the expiry of that year.

A child who is a citizen under this clause is also a natural born citizen or a recognised citizen and the provisions of sections 18 and 19 for revocation of citizenship do not apply to him.

The above comments have to be read together with the three explanations given in the section.

Also it will be noticed that the law is not clear in the following case. If the father of the child is a foreigner and the mother is a citizen, as she belongs to one of the indigenous races, their children will be citizens under section 11 (ii) of the Constitution. Can section 5 (a) of this Act deprive the children of their citizenship which is conferred by the Constitution. Will the provisions of section 5(a) relating to such children be ultra vires of the Constitution. If so, then section 5 (a) will only relate to cases where the mother is a citizen, but she does not belong to one of the indigenous races of the Union or one of whose parents does not belong one of the indigenous of races the Union.

6. (1) The Minister may in his discretion, grant a certificate of citizenship to any person about whose status as a citizen of the Union a doubt exists or to the representative in interest of such person, and he shall specify on the certificate that the grant thereof is made for the purpose of clearing such doubt.

(2) The Minister may issue a certificate of citizenship to any person who is or who is recognised or deemed to be a citizen of the Union under sections 4 (2), 5, 9 (2) or 11 (4) of this Act or under section 11 (ii) or (iii) of the Constitution, and he shall specify on the certificate that the grant thereof is made under section 6 (2) of this Act.

When a minor child who is granted a certificate of citizenship is under obligation to make a declaration, within one year after attaining majority, renouncing either the citizenship of the Union or any foreign national status to which he is otherwise entitled, the fact that he is required so to do or that he has done so shall be recorded on the certificate.

(3) Such certificate issued under either sub-section (1) or sub-section (2) shall be conclusive evidence as to existence of such citizenship and the person in respect of whom it is granted, shall as from a date for that purpose to be specified in the certificate, be deemed to have been a citizen of the Union; provided that, the certificate, shall not be regarded as an admission that he was not, previous to the date so specified, such a citizen.

၆။ (၁) ဝန်ကြီးသည် မိမိသင့် လျှော်သည် ထင်မြင်သည် ကိစ္စများတွင် ပြည်ထောင်စုနိုင်ငံသား ဟုတ်ဟုတ်နှင့် စပ်လျဉ်း၍ ခွဲဟုတ်ခြင်းခံရသောသူ တဦးဦးအား သော်၎င်း၊ ထိုသူ၏အခွင့်အရေးများကို ဆက်ခံသူအားသော်၎င်း၊ နိုင်ငံသားလက်မှတ်ကို မိမိ၏သဘောအတိုင်း ပေးအပ်နိုင်သည်။ ထို့ပြင်ထိုသူအားလက်မှတ်ပေးခြင်းသည် ခွဲဟုတ် နေသည်ကို ကင်းရှင်းစေလိုသောကြောင့် ပေးအပ်ခြင်းဖြစ်သည်ဟု ထိုလက်မှတ်ပေါ်တွင် ရေးသားဖော်ပြရမည်။

(၂) ဝန်ကြီးသည်၊ ပုဒ်မ ၄ (၂)၊ ပုဒ်မ ၅၊ ပုဒ်မ ၉ (၂) နှင့် ပုဒ်မ ၁၁ (၄) တခုခု အရသော်၎င်း၊ အခြေခံဥပဒေ၏ပုဒ်မ ၁၁၊ အပိုဒ် (ခ) နှင့် (ဂ) တခုခုအရသော်၎င်း၊ ပြည်ထောင်စုမြန်မာနိုင်ငံသားဖြစ်သည်၊ သို့တည်းမဟုတ် ဖြစ်သည်ဟုမှတ်ယူခြင်းခံရမည်၊ သို့တည်းမဟုတ်ဖြစ်သည်ဟု အသိအမှတ်ပြုခြင်းခံရသည်သူအား၊ နိုင်ငံသားလက်မှတ်ထုတ်ပေး နိုင်သည်။ ယင်းသို့ထုတ်ပေးသည် လက်မှတ်ပေါ်တွင်ပုဒ်မ ၆ (၂) အရ၊ ထုတ်ပေးကြောင်းကို ဖော်ပြရမည်။

အရွယ်မရောက်သေးသော ကလေးများ၌၊ အရွယ်ရောက်ပြီးနောက် တနှစ်အတွင်း၊ ပြည်ထောင်စုနိုင်ငံသားအဖြစ် ကိုသော်၎င်း၊ အခြားနည်းမိမိရရှိသော နိုင်ငံခြားသားအဖြစ်

ကိုသော်၎င်း၊ စွန့်လွှတ်ရန်တာဝန်ရှိလျှင်၊ ထိုသို့စွန့်လွှတ်ရမည်ဖြစ်ကြောင်းကို၊ သို့တည်းမဟုတ် စွန့်လွှတ်ပြီးဖြစ်ကြောင်းကို၊ ထိုလက်မှတ်ပေါ်တွင် ရေးသားဖော်ပြရမည်။

(၃) ထိုသူနိုင်ငံသားဖြစ်ကြောင်း အပြီးသတ်သက်သေခံဖြစ်ရမည်။ ထို့ပြင်လက်မှတ်ပေးအပ်ခြင်း ခံရသောသူသည်၊ လက်မှတ်တွင်ထိုကိစ္စအလိုငှါဖော်ပြထားသောနေ့မှစ၍ ပြည်ထောင်စုနိုင်ငံကော်သား ဖြစ်သည်ဟုမှတ်ယူရမည်။ သို့ရာတွင် ထိုလက်မှတ်ကိုအကြောင်း ပြု၍၊ ထိုလက်မှတ်၌ဖော်ပြထားသော နေ့မတိုင်မီကထိုသူသည် နိုင်ငံသားမဖြစ်ဟုဝန်ခံရာမရောက်စေရ။

Sub-sections (2) and (3) above, were inserted by Act XVI of 1957.

Persons who are already citizens of the Union may require to arm themselves with a certificate of citizenship to avoid any controversy as to their status. They may apply for and obtain a certificate of citizenship under this section.

Sub-section (1) refers to any case where there is doubt as to the status of a person. To remove the doubt he may apply for and obtain a certificate of citizenship.

★ Sub-section (2) refers to cases of natural born or recognised citizens. It will be noticed from the notes under Section 4 of the Act that those qualifying under the following provisions of law are natural born or recognised citizens:-

- (i) Section 11 (i) (ii) and (iii) of the Constitution.
- (ii) Sections 4 (2), 5 (a) (b) (c), 9 (2) and 11 (4) of the Act.

Such persons are citizens because of their birth and/or because they have also complied with some other requirement. Such persons may apply for and obtain a certificate of citizenship under Section 6 (2) of the Act.

Under regulation 3A of the Union Citizenship Regulations 1949 a person who is qualified to apply for a certificate of citizenship under section 6(2) of the Act may apply to the Minister supported by an affidavit in Form S. The application accompanying the affidavit will be similar to an application for issue of a certificate of citizenship given in item 1 of the forms in Appendix of this book. The fees are as prescribed in regulation 10A(1)(a).

7. (1) The Minister may grant a certificate of naturalization to an alien who makes an application setting out and satisfies the Minister—

- (a) that he has completed the age of eighteen years ;
- (b) that for not less than five years before the application he had resided continuously in the Union and subject to its jurisdiction ;
- (c) that he is of good character and can speak any indigenous language; and
- (d) that he intends if a certificate is granted, either to reside in the Union or to enter or continue in the service of the Union or any constituent State thereof or in an undertaking of a religious, charitable or commercial character established in the Union.

Provided that he has, within a period not less than one year and not more than five years before making the application, given notice in writing of his intention to apply for naturalization in the form prescribed by Rules under this Act.

Explanation I: In computing the period of five years, continuous residence for the purposes of this section, allowance for absence out of the Union, if in the service of the Union may be made for the period actually spent outside the Union. In all other cases, the allowance for absence shall be permissible only for a total period of six months.

Explanation II:— Service of the Union as seamen on vessels registered in the Union shall, for the purpose of this section, be deemed to be residence in the Union.

(2) The applicant for a certificate of naturalization who qualifies for the certificate shall reside continuously within the Union from the date of the application to the date of the grant.

Provided that the Minister may for reasons considered by him sufficient, dispense with the provisions of the subsection.

(3) The grant of a certificate of naturalization shall be in the discretion of the Minister and he may, with or without assigning any reason, grant or refuse to grant the

certificate, as in his opinion is conducive to the public good, and no appeal shall lie against his decision.

(4) A Certificate of naturalization shall not take effect until the applicant has made a declaration, either on oath or affirmation, renouncing his status as a citizen of any foreign country and owing allegiance to the Union.

၇။ (၁) နိုင်ငံခြားသားတစ်ဦးသည် နိုင်ငံသားပြုမှုလက်မှတ်ကိုအောက်ပါအကြောင်းများကို ဖော်ပြလျှောက်ထားနိုင်သည်။ ဝန်ကြီးကထိုသို့ဖော်ပြသော အကြောင်းများကို ကျေနပ်လက်ခံလျှင် ထိုလျှောက်ထားသူအား နိုင်ငံသားပြုမှုလက်မှတ်ကို ပေးအပ်နိုင်သည်။

(က) မိမိသည် အသက် ၁၈ နှစ်ပြည့်ပြီးဖြစ်ကြောင်း။

(ခ) မလျှောက်ထားမီက မိမိသည် ငါးနှစ်အောက်မနည်း အဆက်မပြတ် ပြည်ထောင်စုနိုင်ငံအတွင်းတွင် ပြည်ထောင်စုနိုင်ငံ၏ အာဏာအောက်၌ နေထိုင်ခဲ့ကြောင်း။

(ဂ) မိမိသည် အကျင့်စာရိတ္တကောင်းမွန်၍ မြန်မာနိုင်ငံတိုင်းရင်းစာသားစကားတမျိုးမျိုးကို ပြောတတ်ကြောင်း၊ ထို့ပြင်

(ဃ) မိမိအား နိုင်ငံသားပြုမှု လက်မှတ်ပေးအပ်လျှင် မိမိသည် ပြည်ထောင်စုတွင် နေထိုင်ရန်၊ သို့တည်းမဟုတ် ပြည်ထောင်စု အစိုးရ၌သော်လည်း၊ ပြည်နယ်တခုခု၏အစိုးရ၌ သော်လည်း၊ အမှုထမ်းရန်၊ ဆက်လက်အမှုထမ်း၊ သို့တည်းမဟုတ် ပြည်ထောင်စုတွင် တည်ထောင်ထားသော ဘာသာ၊ သာသနာရေး၊ လူ့ဒါနရေး ကုန်သွယ်ရေးဆိုင်ရာလုပ်ငန်း တခုခုတွင်ပါဝင်ဆောင်ရွက်ရန်၊ ဆက်လက်ဆောင်ရွက်ရန် ကြံရွယ်ကြောင်း။

သို့ရာတွင်၊ ထိုသူသည် နိုင်ငံသားပြုမှုလက်မှတ် ရလိုကြောင်းမလျှောက်ထားမီ တနှစ်ထက်မနည်း ငါးနှစ်ထက်မများကြိုတင်၍၊ ဤအက်ဥပဒေအရပြဋ္ဌာန်းထားသော နည်းဥပဒေများ၌ ပါရှိသည့် ပုံစံအတိုင်း၊ နိုင်ငံသားပြုမှုလက်မှတ် တောင်းယူရန်ကြံရွယ်ကြောင်းကို စာဖြင့်အကြောင်းကြားဖူးဖြစ်ရမည်။

ရှင်းလင်းချက် (၁)။ ။ ဤပုဒ်မအလိုငှါ၊ အဆက်မပြတ်နေထိုင်သည့် ငါးနှစ်ကိုရေတွက်ရာတွင်၊ ပြည်ထောင်စုပြင်ပ၌နေထိုင်စေကာမူ၊ ပြည်ထောင်စု အစိုးရအမှုထမ်းအဖြစ် ဖြင့်နေထိုင်လျှင်၊ ထိုသို့နေထိုင်သောကာလကို ထည့်သွင်းရေတွက်ခွင့်ရှိသည်။ ပြည်ထောင်စု အစိုးရအမှုထမ်းအဖြစ်ဖြင့် နေထိုင်ခြင်းမပြုလျှင်၊ ခြောက်လအထိသာထည့်သွင်းရေတွက်ခွင့်ရှိသည်။

ရှင်းလင်းချက် (၂)။ ။ ဤပုဒ်မအလိုငှါ၊ ပြည်ထောင်စုတွင် မှတ်ပုံတင်ထားသော သင်္ဘောပေါ်၌၊ သင်္ဘောသားအဖြစ်ဖြင့်၊ ပြည်ထောင်စုပြင်ပတွင် အမှုထမ်းနေစေကာမူ၊ ထိုသူသည်၊ ပြည်ထောင်စုအတွင်း၌နေထိုင်နေသည်ဟုမှတ်ယူရမည်။

(၂) နိုင်ငံသား ပြုမှုလက်မှတ် ရနိုင်ရန်အရည်အချင်းရှိ၍၊ ထိုလက်မှတ်ကိုရရန် လျှောက်ထားသောသူသည်၊ လျှောက်ထားသည့်နေ့မှစ၍၊ လက်မှတ်ပေးအပ်သည့်နေ့အထိ၊ ပြည်ထောင်စုနိုင်ငံအတွင်းတွင် အဆက်မပြတ်နေထိုင်ရမည်။

သို့ရာတွင်၊ ဝန်ကြီးက လုံလောက်သည်အကြောင်းများရှိသည်ဟုယူဆလျှင်၊ ဤပုဂ္ဂိုလ်မ ခွဲ၏ပြဋ္ဌာန်းချက်များကိုလိုက်နာခြင်းမှ ခွင့်လွှတ်နိုင်သည်။

(၃) ထိုနိုင်ငံခြားသားအား၊ နိုင်ငံသားပြုမှုလက်မှတ်ကိုပေးအပ်ခြင်းသည် ဝန်ကြီး၏ သဘောအကိုင်အခြေစိုက်မှုပေါ်မူတည်သည်။ ဝန်ကြီးသည်အကြောင်းပြချက်ဖြစ်စေ၊ မပြတ်ဖြစ်စေ၊ အများပြည်သူ အတွက် ကောင်းကျိုးဖြစ်စေမည်ဟုထင်လျှင်၊ လက်မှတ်ကိုပေးအပ်နိုင်သည်။ သို့တည်းမဟုတ် ငြင်းဆိုနိုင်သည်။ ဝန်ကြီး၏အဆုံးအဖြတ်ကိုအယူခံခွင့်မရှိစေရ။

(၄) လျှောက်ထားသူသည် ကျမ်းသစ္စာဆို၍သော်၎င်း၊ ကတိသစ္စာဆို၍သော်၎င်း၊ နိုင်ငံခြားသားအဖြစ်ကိုစွန့်လွှတ်ကြောင်းနှင့် ပြည်ထောင်စုမြန်မာနိုင်ငံ၏ ကျေးဇူးသစ္စာတော် ကိုစောင့်သိရှိသေကြောင်း၊ ကျေညာခြင်းမပြုသမျှ ကာလပတ်လုံး၊ နိုင်ငံသားပြုမှုလက်မှတ် သည် အတည်မဖြစ်စေရ။

The words "and owing allegiance to the Union" in section 7 (4) were inserted by Act XXIII of 1954.

A foreigner who is not qualified to apply for and obtain a certificate of citizenship may apply for a certificate of naturalization. But to apply for a certificate of naturalization he must have resided in the Union for 5 years continuously. The section does not say specifically that the foreigner must have resided within the Union for 5 years immediately before the filing of the application. The expression used in clause (b) of Section 7 (1) above only requires the foreigner to have resided in the Union for 5 years before the filing of the application. The absence of the word 'immediately' in the said clause is significant. It will be noticed that the word 'immediately' occurs in Section 11 (2) of the Act which enables the wife of a citizen to apply for and obtain a certificate of citizenship.

To apply for a certificate of naturalization the following qualifications are necessary:-

- (a) the applicant must have completed the age of 18 years.
- (b) he should have resided within the Union continuously for 5 years.
- (c) he should bear a good character.
- (d) he should be able to speak one of the indigenous languages of the Union.
- (e) he should intend to reside within the Union for any one of the purposes mentioned in Section 7(1)(d).

It does not matter where he was born or to what race he belongs, if he has the above qualifications he may apply for a certificate of naturalization.

It was held in the Judicial Minister Vs. Ah Tun^a as follows:—

"It might be said generally that a person who has not attained the age of majority is not competent to act and this principle has been embodied in section 11 of the Contract Act. The election by an applicant to become a citizen of the Union would in effect operate to divest him of his foreign nationality, and if he is still a minor it could be said that he would be unable to appreciate fully the implication which could or might arise, if he were to be permitted to renounce his foreign national status."

Six months exemption out of the Union is granted out of the period of 5 years prescribed. But once the application for naturalization has been made no further absence from the Union is allowed, except with the leave of the Government.

As it is prescribed that at the time the application for naturalization is made, the applicant must have resided within the Union for 5 years before the filing of the application (only 6 months absence being allowed), care should be taken not to go out of the country by which one will increase his period of absence to more than 6 months out of the prescribed period of 5 years.

The provision regarding the undertaking not to leave the Union until the naturalization certificate is obtained may be regarded as rather severe as the disposal of the application may take a long time. To permit the applicant to leave the country for genuine and urgent matters section 7(2) requires permission of the Government. Section 7(3) gives the Government absolute right or discretion to grant or refuse a naturalization certificate. No person has a vested right to obtain naturalization. It is not necessary that the Minister should assign any reason for refusal, but he may review his own orders.

By merely applying for the issue of naturalization certificate or even by an order directing the applicant to deposit or pay the necessary fee a foreigner does not become a citizen. It is only

when the certificate is issued to the applicant and he has made a declaration renouncing his status as a citizen of any foreign country and owing allegiance to the Union that the applicant becomes a citizen of the Union as stated in sub-section (4).

As to the difference between a certificate of citizenship and a certificate of naturalization see notes under section 4.

The application for naturalization must be preceded by a notice of intention to apply for naturalization referred to in the proviso to section 7(1). The notice has to be given in duplicate in form R prescribed by regulation 3 of the Union Citizenship Regulations 1949.

The proviso to section 7(1) also makes it incumbent that the notice shall be given at least one year before the actual application for naturalization. There is no provision in the Act by which this notice can be waived; though in a case covered by section 11 where the person applying for a certificate of naturalization has honourably served in the Armed Forces the notice is not required.

An application for naturalization is made in the form given as item 3 in the forms in the Appendix of this book. The application must be supported by an affidavit in form B prescribed by regulation 9.

The fees are prescribed by regulations 10(1) (d), 10 (3) (b) and 10A (1)(g), 10A (3) (b)

8. Any person acquiring a Burma Naturalization Certificate issued under section 5 of the Burma Naturalization Act and whose name is included therein shall be of good character and unless such person is under a disability, he may apply for a Burma Naturalization Certificate, if he declares before the first day of April 1955 or within a period of one year after attaining majority, that he would renounce his citizenship of a foreign country and that he owes allegiance to the Union and that he elects citizenship of the Union: Provided that the provisions of this section shall not apply to any person, who before the promulgation of the Union Citizenship (Amendment) Act, 1954, acquires the certificate under the original section 8, but shall apply to the children of such person.

၈။ မြန်မာပြည်သားပြုမှုအက်ဥပဒေ (The Burma Naturalization Act) ပုဒ်မ ၅ အရ၊ ထုတ်ပေးခဲ့သော မြန်မာပြည်သားပြုမှုလက်မှတ်ရသည့် သို့လက်မှတ်၌အမည် ပါဝင်သူသည်၊ အကျင့်စာရိတ္တကောင်းသူဖြစ်၍ အရည်အခြင်းချို့တဲ့သူမဟုတ်လျှင်၊ ၁၉၅၅ ခုနှစ်၊ ဧပြီလ ၁ ရက်နေ့မတိုင်မီဖြစ်စေ၊ အရွယ်ရောက်ပြီးတနှစ်အတွင်းဖြစ်စေ၊ နိုင်ငံခြားသား အဖြစ်ကို စွန့်လွှတ်မည်ဖြစ်ကြောင်း၊ ပြည်ထောင်စုမြန်မာနိုင်ငံ၏ ကျေးဇူးသစ္စာတော်ကို စောင့်သိရှိသေမည်ဖြစ်ကြောင်းနှင့် ပြည်ထောင်စုနိုင်ငံသားအဖြစ်ကိုရွေးချယ်ကြောင်းကျေညာ လျှင်၊ ဤအက်ဥပဒေအရ၊ ပြည်ထောင်စုနိုင်ငံသားပြုမှုလက်မှတ်ရလိုကြောင်း လျှောက်ထား နိုင်သည်။

ခြင်းချက်။ ။ ဤပုဒ်မပါပြဋ္ဌာန်းချက်များသည်၊ ၁၉၅၄ ခုနှစ် ပြည်ထောင်စုမြန်မာနိုင်ငံ သားဖြစ်မှု (ပြင်ဆင်ချက်) အက်ဥပဒေထုတ်ပြန် ကျေညာခြင်းမပြုမီ၊ မူလပုဒ်မ ၈ အရ လက်မှတ်ရသည့် သက်ဆိုင်ခြင်းမရှိစေရ သို့ရာတွင်ထိုသူ၏သားသမီးများနှင့်သက်ဆိုင်ရမည်။

It was held in *Saw Chain Poon Vs. The Union of Burma*¹⁰ that a Chinese who was naturalized under the Burma Naturalization Act and obtained a certificate under section 7(1) of the Burma Naturalization Act, was deemed to be a British subject and was entitled to all the rights, privileges and capacities of a British subject born within British Burma. The Burma Naturalization Act was repealed by the Union of Burma (Adaptation of Laws) Order 1948. A person naturalized under the Burma Naturalization Act did not come within clauses (i), (ii) and (iii) of section 11 of the Constitution, Under Section 11 (iv) of the Constitution and section 3 of the Union Citizenship (Election) Act, 1948, a person in order to be entitled to apply for a certificate of citizenship must be a person "born in any of the territories which at the time of his birth was included within His Britannic Majesty's Dominions". As the applicant did not satisfy this test, he was not entitled to apply for the citizenship of the Union of Burma, even though he was naturalized under the Burma Naturalization Act. Section 11 (iv) of the Constitution of Burma and section 3 of the Union Citizenship (Election) Act have abrogated the rights acquired by the applicant under the Burma Naturalization Act.

Subsequent to this decision section 8 of this Act was amended by Act XXIII of 1954 as existing above.

10. 1959 B. L. R. 408 H. C.

9. (1) The Minister may, in granting a certificate of naturalization or a certificate of citizenship to an alien, include in the certificate the names of any or all the minor children of the applicant who were born before the date of the certificate and are not already citizens of the Union if they are (a) either in his sole legal custody or (b) in the legal custody of any person who is a citizen of the Union.

(2) The minor children whose names are so included in the certificate shall be deemed to have become citizens of the Union as from the date of the certificate provided however that any child so included may, within one year of attaining his majority, make a declaration of alienage and he shall thereupon cease to be a citizen of the Union.

(3) A minor child who becomes a citizen under this section may, after attaining his majority, have his citizenship revoked by the Minister on any ground for revocation applicable to a person to whom a certificate of naturalization or a certificate of citizenship has been granted.

၉။ (၁) ဝန်ကြီးသည်၊ နိုင်ငံခြားသားတစ်ဦးအား၊ ပြည်ထောင်စုနိုင်ငံသားပြုမှု လက်မှတ်ကို၊ သို့တည်းမဟုတ်နိုင်ငံသားလက်မှတ်ကိုပေးအပ်ရာ၌၊ ထိုလက်မှတ်ပါနေ့မတိုင်မီက မွေးဖွားသည်လည်းဖြစ်၍၊ ပြည်ထောင်စုနိုင်ငံသား၊ မဟုတ်သေးသည်လည်းဖြစ်သော ထိုလျှောက်ထားသူ၏ အရွယ်မရောက်သေးသည့် အလေးများသည် (က) ထိုသူတစ်ဦးတည်း၏ တရားဥပဒေအရ အုပ်ထိန်းခြင်း ခံရသူများဖြစ်လျှင်၊ သို့တည်းမဟုတ် (ခ) ပြည်ထောင်စုနိုင်ငံ သားတစ်ဦး၏တရားဥပဒေအရ အုပ်ထိန်းခြင်းကိုခံရသူများဖြစ်လျှင်၊ ထိုအလေးများ၏အမည် များကို လက်မှတ်၌ထည့်သွင်းနိုင်သည်။

(၂) လက်မှတ်တွင် အမည်ပါဝင်သော အရွယ်မရောက်သေးသည့်အလေးများသည်၊ လက်မှတ်ပါနေ့ရက်မှအစပြု၍၊ ပြည်ထောင်စုနိုင်ငံသားအဖြစ်ကိုရသည်ဟု မှတ်ယူရမည်။ သို့ရာတွင်၊ ထိုသို့အမည်ပါဝင်သောအလေးတယောက်သည်၊ အရွယ်မရောက်သည့်မှ တနှစ်အ တွင်း၊ ပြည်ထောင်စုနိုင်ငံသားအဖြစ်ကို စွန့်လွှတ်ကြောင်းကျေညာနိုင်သည်။ ထိုသို့ကျေညာ သည့်နှင့်တပြိုင်နက်၊ ထိုသူသည် ပြည်ထောင်စုနိုင်ငံသားအဖြစ်မှရပ်စဲရမည်။

(၃) အရွယ်မရောက်မီက၊ ဤပုဒ်မအရပြည်ထောင်စုနိုင်ငံသားအဖြစ်ကို ရရှိလာ သောသူသည်၊ အရွယ်ရောက်ပြီးသည့်နောက် ထိုသူ၏နိုင်ငံသားအဖြစ်ကို ဝန်ကြီးကရပ်သိမ်း နိုင်သည်။ ထိုသို့ရပ်သိမ်းသောအခါ နိုင်ငံသားပြုမှုလက်မှတ် သို့တည်းမဟုတ်နိုင်ငံသား လက်မှတ် ပေးအပ်ခြင်းခံရသူ၏ နိုင်ငံသားအဖြစ်ကိုရပ်သိမ်းရာတွင် လိုက်နာအပ်သော အ ကြောင်းတရပ်ရပ်ကြောင့်ဖြစ်ရမည်။

This section makes provision for the insertion in the certificate of naturalization or citizenship, of the names of minor children of the applicant born before the date of the certificate. It does not matter whether the child was born before or after the commencement of the Constitution so long as he was born before the issue of the certificate he will be a citizen if his name is entered in the certificate. The section is silent as to where the child must be born. There is no provision in the Act for insertion of names of minor children born after the issue of the certificate and no form is prescribed for such an application under this section. Usually an application supported by an affidavit and birth certificate is made to the Minister who may enter the names of the minor children born of any holder of a certificate of naturalization or citizenship.

The minors whose names appear in the certificate are automatically citizens of the Union."

It is noticed that in the following illustration, the law is not clear :—

W, a wife of H (a foreigner), applies for and obtains citizenship certificate and in the certificate are entered the names of her minor children born after the commencement of the Constitution. According to this section the children remain citizens on attaining the age of majority unless otherwise revoked by the children. But according to sub-section (a) of Section 5, they lose their status of citizenship, if they do not declare to continue to be citizens.

A minor child whose name has been entered in the certificate of citizenship of his parent under this section may have his citizenship revoked under sections 18 and 19 of the Act, as stated in sub-section (3) above. This is because the parent to whom a certificate of citizenship or naturalization has been issued, is also liable to have his citizenship revoked under sections 18 and 19. Persons who are citizens under this section cannot therefore be classified in the category of natural born or recognized citizens.

It will be noticed that section 9(1) refer to an alien and not to a citizen, and therefore section 9(2) also refers to children of a person who was a foreigner before he became a citizen.

11. The Judicial Minister Vs Ah Tun 1951 B. L. R. 121 H. C.

10. Subject to the provisions of the Act a married woman shall be capable of acquiring or divesting herself of citizenship of the Union in all respects as if she were feme sole; and no woman shall acquire or lose such citizenship by marriage.

၁၀။ အိမ်ထောင်ရှိသော မိန်းမသည် အိမ်ထောင်မရှိဘိသကဲ့သို့ နိုင်ငံသားအဖြစ် ရယူခြင်း စွန့်လွှတ်ခြင်းတို့ကို ဤအက်ဥပဒေနှင့် မဆန့်ကျင်စေဘဲ ပြုနိုင်ခွင့်ရှိရမည်။ အိမ်ထောင် ပြုခဲ့ပြီးမှ မည်သည့်မိန်းမမျှ ပြည်ထောင်စုနိုင်ငံသားအဖြစ်ကို ရရှိခြင်း ဆုံးရှုံးခြင်းမဖြစ်စေရ။

This is to allow women to retain their nationality.

11. (1) Any woman, who is married to a citizen of the Union may, after continuous residence in the Union for at least one year, apply to the Minister for a certificate of citizenship.

(2) The Minister, if satisfied that the applicant not being under a disability and not being so bad in character as to prejudice the public interest, has married a citizen of the Union and has been resident in the Union for a period of not less than one year immediately preceding the date of her application, may, on the applicant giving an undertaking to renounce her foreign national status, grant to the applicant a certificate of citizenship.

(3) A certificate of citizenship shall not take effect until the applicant has made a declaration, either on oath or affirmation, renouncing her status as a citizen of any foreign country and owing allegiance to the Union.

(4) On the joint application of a person admitted to citizenship under sub-section (2) and her husband, the Minister shall for the purpose of recognizing as a citizen include in the certificate granted to the mother any minor child not already a citizen and born before the date of grant of citizenship for the mother. The provisions of section 9 shall apply to such child.

၁၁။ (၁) ပြည်ထောင်စုနိုင်ငံသားနှင့် အိမ်ထောင်ပြုသောမိန်းမသည်၊ တနှစ်ကြာ မြင့်အောင် ပြည်ထောင်စုတွင် အဆက်မပြတ်နေထိုင်ပြီးနောက်၊ နိုင်ငံသားလက်မှတ်ရလို ကြောင်း ဝန်ကြီးထံလျှောက်ထားနိုင်သည်။

(၂) ဝန်ကြီးသည်၊ ထိုလျှောက်ထားသူ၌ အောက်ပါအရည်အချင်းများနှင့် ပြည့်စုံကြောင်းကျေနပ်လက်ခံလျှင် ထိုလျှောက်ထားသူအားနိုင်ငံသားလက်မှတ်ကိုပေးအပ်နိုင်သည်။

(က) လျှောက်ထားသူသည် အရည်အခြင်းချို့ငဲ့သူမဟုတ်ခြင်း။

(ခ) ပြည်ထောင်စုနိုင်ငံသားနှင့် အိမ်ထောင်ပြုသူဖြစ်ခြင်း။

(ဂ) လျှောက်လွှာ တင်သွင်းသောနေ့မှ အထက်အခြားမဲ့သော တနှစ်မျှသကာလအတွင်း ပြည်ထောင်စုတွင်နေထိုင်ခဲ့သူဖြစ်ခြင်း။

(ဃ) နိုင်ငံသား လက်မှတ်ကိုရရှိလျှင် လျှောက်ထားသူသည် မိမိ၏အခြားနိုင်ငံခြားသားအဖြစ်ကို စွန့်လွှတ်မည်ဟုဝန်ခံကတိထားရှိခြင်း။

(င) လျှောက်ထားသူသည်၊ အများပြည်သူ၏အကျိုး ထိခိုက်အောင်အကျင့်စာရိတ္တဖျက်ပြားသူမဟုတ်ခြင်း။

(၃) လျှောက်ထားသူသည် ကျမ်းသစ္စာဆို၍သော်လည်းကောင်း၊ ကတိသစ္စာဆို၍သော်လည်းကောင်း၊ နိုင်ငံခြားသားအဖြစ်ကိုစွန့်လွှတ်ကြောင်းနှင့် ပြည်ထောင်စုမြန်မာနိုင်ငံ၏ကျေးဇူးသစ္စာတော်ကို စောင့်သိရှိသေကြောင်း ကျေညာခြင်းမပြုသမျှကာလပတ်လုံး နိုင်ငံသားလက်မှတ်သည် အတည်မဖြစ်စေရ။

(၄) ပုဒ်မ(၂) အရ နိုင်ငံသားလက်မှတ်ပေးအပ်ခြင်းခံရသူနှင့် ထိုသူ၏လင်က လျှောက်ထားလျှင်၊ နိုင်ငံသားအဖြစ်ကို ပေးအပ်ခြင်းခံရသည့် နေ့မတိုင်မီကမွေးဖွား၍၊ ပြည်ထောင်စုနိုင်ငံသား မဖြစ်သေးသော အရွယ်မရောက်သေးသည့်ကလေးကို၊ ပြည်ထောင်စုနိုင်ငံသားအဖြစ်အသိအမှတ်ပြုရန်၊ ထိုကလေး၏အမည်ကို မိခင်အားထုတ်ပေးသောနိုင်ငံသားလက်မှတ်တွင်ထည့်သွင်းရမည်။ ပုဒ်မ(၉) ပါပြဋ္ဌာန်းချက်များသည်၊ ထိုကလေးနှင့် သက်ဆိုင်စေရမည်။

This is to make it easy for foreigner wives of citizens to apply for citizenship. A foreigner wife who has never been to Burma may come to Burma by obtaining an entry visa as a dependent on her husband and when she has resided in the Union for a year she can apply for citizenship under this Act. It does not matter that she was born outside the Union or that she is a citizen of a foreign country and has never been to Burma before. The foreigner wife should not apply for a certificate of naturalization as this section provides the simplest manner of applying. If she were to apply for a certificate of naturalization she will have to reside in the Union for at least 5 years. It may be mentioned here that if a woman citizen marries a foreigner the foreigner husband cannot under this section apply for a certificate of citizenship after residing in Burma for a period of one year. That is the converse of the provisions of sub-section (1) is not permitted.

Sub-section (2) requires that the applicant must have resided in the Union for at least one year immediately preceding the date of her application. Two broken periods of residence aggregating one year is not sufficient to qualify under this section.

Sub-section (4) makes the provisions of section 9 (3) of the Act applicable to the minor children whose names are included in the certificate granted to the wife. It refers to a child born before the grant of the citizenship certificate. It is submitted that a child born after issue of the certificate will also be a citizen.

An application for a certificate under this section is to be made in the application form given in item 1 of the forms in the Appendix of this book and a supporting affidavit in form A. Usually photostat copy of the certificate of citizenship of the husband of the applicant is attached to the application.

12, (1) A child born outside the Union, one of whose parents is a citizen, shall, if the child is not otherwise a citizen, be entitled if still a minor and in the custody of the parent, to the grant of a certificate of citizenship on the application of the parent on the parent resuming his or her domicile in the Union.

Provided that if the child within one year after attaining majority fails to make a declaration renouncing any foreign national status to which he may be entitled and electing to retain Union citizenship, he shall cease on the expiry of that year to be a citizen of the Union. If the parent of the child dies before the application, the guardian of the child may make an application on behalf of the child under this sub-section.

(2) If the child contemplated by sub-section (1) is a major, the Minister may grant him a certificate of citizenship provided that the Minister is satisfied (a) that he is of good character and (b) that he intends either to reside permanently in the Union or to enter or continue in the service of the Union or of the constituent States thereof or of any religious, charitable or commercial organisation established in the Union.

(3) If a child born in the Union and born of the parents both of whom are not citizens of the Union permanently residing in the Union within jurisdiction thereof is of good

character and is not under any disability, he may apply for a certificate of citizenship before the first day of April 1955 or within one year after attaining majority, provided that he is then permanently resident in the Union.

Explanation:— Although both the parents or either of them have acquired the certificate of citizenship or the certificate of naturalization at the time the application is to be made it shall be deemed that he may apply for the certificate of citizenship.

(4) A certificate of citizenship, granted under sub-section (2) or sub-section (3), shall not be valid until the applicant either on oath or affirmation makes a declaration of alienage in respect of any other citizenship and of allegiance to the Union.

၁၂။ (၁) နိုင်ငံသားဖြစ်သော မိဘတပါးပါးမှ၊ ပြည်ထောင်စုပြင်ပတွင် မွေးဖွားသော ကလေးသည်၊ နိုင်ငံသားမဖြစ်သေးလျှင် အရွယ်မရောက်သေးသည်လည်းဖြစ်၍၊ ထိုမိဘ၏အအုပ်အထိန်းကို ခံယူနေသူလည်းဖြစ်လျှင်၊ ထို့ပြင် ထိုကလေး၏မိဘသည်၊ ပြည်ထောင်စုသို့ပြန်လာ၍ ထာဝစဉ်နေထိုင်လျက် လျှောက်ထားသောအခါ၊ ထိုကလေးသည် နိုင်ငံသားလက်မှတ်ကိုရခွင့်ရှိရမည်။ အရွယ်မရောက်သေးသည့်ကလေး၏မိဘသည်၊ ထိုကလေးအတွက်လျှောက်လွှာမတင်သွင်းမီ သေးဆုံးလျှင်၊ ထိုကလေးကိုအုပ်ထိန်းသူက၊ ဤပုဒ်မခွဲအရ လျှောက်လွှာတင်သွင်းနိုင်သည်။

သို့ရာတွင်ထိုကလေးသည်၊ အရွယ်ရောက်ပြီးနောက် တနှစ်အတွင်းတွင်နိုင်ငံခြားသားအဖြစ်ကို စွန့်လွှတ်ကြောင်းနှင့် ပြည်ထောင်စုနိုင်ငံသားအဖြစ်တည်မြဲရေးနှင့် ရွေးချယ်ကြောင်း ကျေညာခြင်းမပြုလျှင်၊ ထိုသူသည်ထိုတနှစ်ကုန်ဆုံးသောအခါ ပြည်ထောင်စုနိုင်ငံသားအဖြစ်မှ ချီပ်စရမည်။

(၂) ပုဒ်မခွဲ (၁)၌ရည်ညွှန်းထားသောကလေးသည် အရွယ်ရောက်သူဖြစ်လျှင်၊ ဝန်ကြီးသည်အောက်ပါအချက်များနှင့် ညီညွတ်သည်ဟုယူဆပါက၊ နိုင်ငံသားလက်မှတ်ကို ထိုသူအားပေးအပ်နိုင်သည်။ (က) အကျင့်စာရိတ္တကောင်းခြင်း၊ (ခ) ပြည်ထောင်စုတွင် ထာဝစဉ်နေထိုင်ရန်၊ သို့တည်းမဟုတ် ပြည်ထောင်စုအစိုးရ၌ဖြစ်စေ၊ ပြည်နယ်အစိုးရ၌ဖြစ်စေ၊ အမှုထမ်းရန်၊ ဆက်လက်အမှုထမ်းရန်၊ သို့တည်းမဟုတ် ပြည်ထောင်စုတွင် တည်ထောင်ထားသော ဘာသာ၊ သာသနာရေး၊ ကုသိုလ်ရေး၊ ကုန်သွယ်ရေးဆိုင်ရာ အဖွဲ့အစည်းပါဝင်ဆောင်ရွက်ရန်၊ ဆက်လက်ဆောင်ရွက်ရန်ကြံရွယ်ခြင်း။

(၃) ပြည်ထောင်စုအတွင်းတွင် ပြည်ထောင်စု၏ အာဏာအောက်၌ထာဝစဉ်နေထိုင်သည့် ပြည်ထောင်စုနိုင်ငံသားမဟုတ်သော မိဘနှစ်ပါးမှပြည်ထောင်စုအတွင်းတွင် မွေးဖွားသူသည်၊ အကျင့်စာရိတ္တကောင်းသူဖြစ်၍၊ အရည်အချင်းချို့တဲ့သူမဟုတ်လျှင်၊ ၁၉၅၅ ခုနှစ်

ဧပြီလ (၁) ရက်နေ့မှတိုင်မီဖြစ်စေ၊ အရွယ်ရောက်ပြီးတစ်နှစ်အတွင်းဖြစ်စေ နိုင်ငံသားလက်မှတ် ရလိုကြောင်း လျှောက်ထားနိုင်သည်။ သို့ရာတွင်ထိုသူသည်ထိုအခါက ပြည်ထောင်စုတွင် ထာဝစဉ်နေသူဖြစ်ရမည်။

ရှင်းလင်းချက်။ ။ လျှောက်ထားရမည့်အချိန်အခါ၌ မိဘနှစ်ဦးလုံးသော်၎င်း၊ တဦးဦး သော်၎င်း နိုင်ငံခြားသားလက်မှတ်၊ သို့တည်းမဟုတ် နိုင်ငံသားပြုမှုလက်မှတ်ကို ရယူပြီးဖြစ် လျှင်လည်း ထိုသူသည်နိုင်ငံသားလက်မှတ်ကို လျှောက်ထားနိုင်သည်ဟုမှတ်ယူရမည်။

(၄) လျှောက်ထားသူသည် ကျမ်းသစ္စာဆို၍သော်၎င်း၊ ကတိသစ္စာဆို၍သော်၎င်း၊ နိုင်ငံခြားသားအဖြစ်ကို စွန့်လွှတ်ကြောင်းနှင့်ပြည်ထောင်စု မြန်မာနိုင်ငံ၏ကျေးဇူးသစ္စာတော် ကိုစောင့်သိရိသေကြောင်း ကျေညာခြင်းမပြုသမျှကာလပတ်လုံး ပုဒ်မခွဲ (၂) အရ၊ သို့တည်း မဟုတ် ပုဒ်မခွဲ (၃) အရ၊ ပေးအပ်သည့်နိုင်ငံသား လက်မှတ်သည်အတည်မဖြစ်စေရ။

Sub-section (1):—

This sub-section refers to the following circumstances :—

- (i) the child must be born outside the Union.
- (ii) one of his parents (father or mother) must be a citizen of the Union.
- (iii) the child must still be a minor and not yet a citizen of the Union.
- (iv) the child must be in custody of the parent who is a citizen.
- (v) the said parent must have resumed his or her domicile in the Union.

Where a person has acquired citizenship rights, and he desires his minor child born outside the Union to become a citizen he may resort to section 12 (1) of the Act. For example, in case of a child born after the 4th January 1948 outside the Union, if the birth was not registered with the Embassy of the Union of Burma, an application for the child may still be made under sub-section (1) at any time before he attains majority.

But the proviso to this sub-section requires the child to make the necessary declaration on attaining the age of majority failing which he will cease to be a citizen on attaining the age of 19 years. This sub-section also permits the guardian of the child to apply for citizenship for the child if the said (citizen) parent dies before making such an application. But in such case the said parent must have resumed his or her domicile in the Union before death.

Sub-section (2):—

This sub-section refers to the same circumstances as in sub-section (1) above, except that:—

- (i) the child is a major.
- (ii) that the Minister is satisfied as to the child's good character and his intention to reside in the Union as stated therein.

Thus under this sub-section a major child of a citizen, who was born outside the Union may apply for a certificate of citizenship at any time.

Though the section does not say so specifically, it should also follow that a major child of a citizen, which child is born in the Union may also apply for citizenship at any time. If such a major child born outside the Union can apply for a certificate of citizenship, the major child born within the Union is all the more qualified for it.

No time limit is prescribed in sub-sections (1) and (2) except that the application under sub-section (1) must be made when the child is still a minor. But under sub-section (3) of section 12 there is a limitation as to time.

Sub-section (3):—

Under sub-section (3) the first day of April 1955 was the last date for making the application for those who had already attained the age of 18 years on that date. Foreigners who were born in the Union and whose parents are permanently residing in the Union may apply under this sub-section within one year of their attaining the age of 18 years.

It will be noticed that though mere birth in the Union does not confer citizenship on a foreigner, this sub-section gives him a right to apply for citizenship within a year of his attaining the age of majority. The only limitations are:—

- (i) both his parents being permanently resident in the Union or having died while permanently resident therein.
- (ii) that he bears a good moral character and.
- (iii) is not under a disability.

One Hashim Ahmed Wahid¹² applied for grant of a certificate of citizenship under section 12(3) of the Act. In support of the plea that his parents were permanently resident in Burma, he asserted in his application and affidavit that his father had lived in Burma from 1890 to 1942, when he evacuated to India due to circumstances arising out of the war; that when in 1946 his father was arranging to return to Burma he died in India, and that his mother was still residing in Burma. The Secretary to the Ministry of Immigration and National Registration refused to grant him a certificate of citizenship on the ground that as his father died in India his father was not permanently resident in Burma. On a writ for certiorari the Supreme Court held that he was entitled to apply for a certificate of citizenship. The mere fact that his father died in India was not sufficient to prove that his father was not permanently resident in Burma. If a foreigner who is permanently resident in the Union, happens to go abroad on a temporary visit or if he had to evacuate out of Burma due to circumstances arising out of war but while having the intention to return to Burma he does not cease to be permanently resident in Burma.

12A. (1) If one of the parents of the child born in the territories included within the Union before the commencement of the Constitution is a citizen of the Union under clause (ii) of Section 11 of the Constitution, or if one of such parents is living at the commencement of the Constitution and is entitled to apply for the citizenship of the Union under clause (ii) or clause (iii) of Section 11 of the Constitution and is not under any disability, he may apply for a certificate of citizenship before first day of April 1955 or within one year after attaining majority, but shall be permanently resident in the Union.

(2) Unless and until the applicant declares on oath or affirmation, that he renounces the citizenship of any foreign country and that he owes allegiance to the Union, the certificate of citizenship granted under sub-section (1) shall not take effect.

12. Hashim Ahmed Wahid Vs. The Secretary Ministry of Immigration and National Registration: 1958 B. L. R. 198 S. C.

၁၂-က။ (၁) အခြေခံဥပဒေ စတင်အာဏာမတည်မီက ပြည်ထောင်စုနိုင်ငံတွင် ပါဝင်လတ္တံ့သော အာဏာပိုင်နက်အတွင်း မွေးဖွားသူ၏၊ မိဘတပါးပါးမှ အခြေခံဥပဒေ ပုဒ်မ ၁၁၊ အပိုဒ် (ခ) အရ၊ ပြည်ထောင်စုမြန်မာနိုင်ငံသားဖြစ်လျှင်၊ သို့တည်းမဟုတ် ထိုမိဘ မှာ၊ အခြေခံဥပဒေစတင်အာဏာမတည်သည့်နေ့တွင် အသက်ရှင်နေသည်ဖြစ်ပါက၊ အခြေခံ ဥပဒေပုဒ်မ ၁၁၊ အပိုဒ် (ခ) အရသော်၎င်း၊ အပိုဒ် (ဂ) အရသော်၎င်း၊ ပြည်ထောင်စု မြန်မာနိုင်ငံသားအဖြစ်ကို ရယူခွင့်ရှိလျှင်၊ ထိုသူသည် အရည်အချင်းချို့ ၇ သူမဟုတ်လျှင်၊ ၁၉၅၅ ခုနှစ်၊ ဧပြီလ ၁ ရက်နေ့မှတိုင်မိဖြစ်စေ၊ အရွယ်ရောက်ပြီးတနှစ်အတွင်းဖြစ်စေ၊ နိုင်ငံ သားလက်မှတ်ရလိုကြောင်း လျှောက်ထားနိုင်သည်။ သို့ရာတွင် ထိုသူသည် ပြည်ထောင်စုတွင် ထာဝစဉ်နေသူဖြစ်ရမည်။

(၂) လျှောက်ထားသူသည်၊ ကျမ်းသစ္စာဆို၍သော်၎င်း၊ ကဘိသစ္စာဆို၍သော်၎င်း၊ နိုင်ငံခြားသားအဖြစ်ကို စွန့်လွှတ်ကြောင်းနှင့် ပြည်ထောင်စုမြန်မာနိုင်ငံ၏ ကျေးဇူးသစ္စာတော် ကို စောင့်သိရှိသေကြောင်း ကျေညာခြင်းမပြုသမျှကာလပတ်လုံး ပုဒ်မခွဲ (၁) အရ၊ ပေးအပ် သည့်နိုင်ငံသားလက်မှတ်သည် အတည်မဖြစ်စေရ။

Under this section the following conditions are required:—

- (i) the child must be born in the Union.
- (ii) one of his parents (father or mother) must be a citizen of the Union under section 11 (ii) of the Constitution, or is entitled to apply for citizenship of the Union under section 11 (ii) or (iii) of the Constitution.
- (iii) the child is not under a disability.
- (iv) he must be permanently resident in the Union.

This Act was inserted by Act XXIII of 1954 and for those who had already attained the age of majority, an application under this section had to be made before 1st April 1955 whereas minors were required to file the application within a year of their attaining the age of majority.

12B. The certificate of naturalization or the certificate of citizenship granted before the promulgation of the Union Citizenship (Amendment) Act, 1954, shall not be deemed to be null and void for not bearing the declaration that he owes allegiance to the Union.

၁၂-ခ။ ၁၉၅၄ ခုနှစ်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံသားဖြစ်မှု (ပြင်ဆင်ချက်) အက်ဥပဒေ ထုတ်ပြန်ကျေညာခြင်းမပြုမီက၊ ထုတ်ပေးပြီးဖြစ်သော နိုင်ငံသားပြုလက်မှတ်တွင် သို့တည်းမဟုတ် နိုင်ငံသားလက်မှတ်တွင် ပြည်ထောင်စုမြန်မာနိုင်ငံ၏ ကျေးဇူးသစ္စာတော်ကို

စောင့်သိရှိသေပါမည်ဟူသော ကျေညာချက်မပါသောကြောင့် ထိုလက်မှတ်သည် ပျက်ပြယ်သည်ဟု မမှတ်ယူရ။

Sections 12A and 12B were inserted by Act XXIII of 1954. Previous to the amendment there was no time limit for an application under section 12(3). The amendment of section 12(3) enjoined those who were already above the age of 18 years to apply for citizenship before first April 1955. Similarly sections 12A and 12B which were inserted by the amendment limited the time to first April 1955 or within one year after attaining majority, after the expiry of which period the application will have to be made under some other relevant provisions.

13. A person who has served honourably at any time in the Armed Forces of the Union for a period aggregating three years may be naturalized if the petition for naturalization is filed while he is still in the service or within six months after the termination of such service, upon full compliance with all the requirements of this Act, with the following exceptions—

- (i) no notice of intention shall be required; and
- (ii) no residence within the Union shall be required.

၁၃။ ။ ပြည်ထောင်စုနိုင်ငံ၏ လက်နက်တိုင်အဖွဲ့များတွင်၊ ကာလအပိုင်းအခြားဆက်လျက်ဖြစ်စေ၊ မဆက်တဲဖြစ်စေ စုစုပေါင်းသုံးနှစ်ထက်မနည်း၊ သန္ဓာ၌စွာအမှုထမ်းခဲ့သောသူသည်၊ အမှုထမ်းနေစဉ်၌သော်၎င်း၊ အမှုထမ်းရပ်စဲပြီးနောက်၊ ခြောက်လအတွင်း၌သော်၎င်း နိုင်ငံသားပြုစေလိုကြောင်း လျှောက်ထားလျှင် ထို့ပြင် အောက်ပါခြွင်းချက်များမှတစ်ပါး ဤအက်ဥပဒေရှိအခြားပြဋ္ဌာန်းချက် အားလုံးကို အပြည့်အစုံလိုက်နာလျှင် ထိုသူအားနိုင်ငံသားပြုမှုလက်မှတ်ကိုပေးအပ်နိုင်သည်။

- (၁) ကြိုရည်ရွယ်ခြင်းကို တင်ကြိုအကြောင်းကြားရန်မလို၊
- (၂) ပြည်ထောင်စုအတွင်းတွင် နေထိုင်ခဲ့ရန်မလို။

This section provides a simpler procedure for those serving in the armed forces of the Union, to apply for and acquire naturalization rights.

Sections 7, 8 and 13 of the Act are the only provisions in this Act whereby an application for the grant of a certificate of naturalization can be made. As to the difference between a certificate of naturalization and a certificate of citizenship please see

notes under section 4 of the Act. Section 8 of the Act was specifically inserted by an amendment to include cases of persons who had been granted a certificate of naturalization under the Burma Naturalization Act 1926 which ceased to operate on the commencement of the Constitution. But the last date for an application under it was fixed at 1st April 1955.

So the only provisions now left for fresh application for a certificate of naturalization are sections 7 and 13 of the Act. Section 7 is the main provision. Section 13 is meant for those who have honourably served in the armed forces of the Union. For further details please see notes under section 7 of the Act.

14. A citizen of the Union, not being under a disability, who obtaining a certificate of naturalization in a foreign State or by any voluntary or formal act other than marriage becomes naturalized in any other foreign State, shall forthwith be deemed to have ceased to be a citizen of the Union.

Provided that the loss of citizenship by the parent or parents under this section shall not, ipso facto deprive the children, who, prior to that loss, were citizens, of their status as such.

၁၄။ ။ အရည်အချင်းချို့တဲ့သူမဟုတ်သော ပြည်ထောင်စုနိုင်ငံသားသည်၊ နိုင်ငံခြား၏ နိုင်ငံသားပြုလက်မှတ်ကိုရလျှင်၊ သို့တည်းမဟုတ် အိမ်ထောင်ပြုခြင်းကြောင့် မဟုတ်ဘဲ၊ မိမိအလိုအတိုင်းပြုမူသောကြောင့်ဖြစ်စေ၊ နည်းလမ်းတကျပြုမူသောကြောင့်ဖြစ်စေ၊ နိုင်ငံခြား၏ နိုင်ငံသားပြုခြင်းကိုခံရလျှင်၊ ထိုသူသည် ပြည်ထောင်စုနိုင်ငံသားအဖြစ်မှ ရပ်စဲသည်ဟုမှတ်ယူရမည်။

သို့ရာတွင် ဤပုဒ်မအရ မိဘတပါးပါးက၊ သို့တည်းမဟုတ် မိဘနှစ်ပါးစလုံးက ပြည်ထောင်စုနိုင်ငံသားအဖြစ်ကို ဆုံးရှုံးသောအကြောင်းကြောင့် သားသမီးများပါ၊ မိမိတို့၏ ပြည်ထောင်စုနိုင်ငံသားအဖြစ်ကို မဆုံးရှုံးစေရ။

Sections 14, 14A, 15, 16 and 17 refer to cases when a person may renounce or lose his citizenship. Sections 18 and 19 refer to cases where his certificate may be revoked or cancelled.

It will be noticed from this Act that it does encourage dual citizenship. Under section 14 if a person has acquired citizenship of any foreign state he ceases to be a citizen of the Union; Under this Act there are several instances where a person may cease to be a citizen of the Union.

When may a person cease to be a citizen of the Union?

Section 4 of this Act says that a person who is a citizen under this Act will continue to be so unless he loses that status under the provisions of this Act. In short the following are the provisions of the Act by which a person may lose his citizenship status:-

- (1) If the child contemplate in provisoes to sections 5 (a), 5 (b) and 12(1) fails to make a declaration of alienage in respect of any foreign national status to which he may be entitled and electing to retain citizenship of the Union.
- (2) If the child contemplated in section 9 (2) makes a declaration of alienage within a year on attaining the age of majority.
- (3) Under sections 14 and 14A when he becomes a citizen of another country.
- (4) Under section 15 if the citizen leaves the country and renounces his citizenship.
- (5) Under sections 16 and 17 of the Act by remaining or becoming a British subject,
- (6) When his certificate of citizenship or naturalization is revoked under sections 18, 19 and 21A of the Act.

For details please see the notes at page 127 of this book.

14A. (1) Unless any person who is a citizen of the Union and who also acquires the citizenship of a foreign country by operation of any law thereof submits a report to the Minister that he has renounced his foreign citizenship in accordance with the law of such foreign country,

- (a) before the first day of April 1955, or
- (b) within one year after attaining majority, or
- (c) within one year from the date of enactment of that law by such foreign government,

whichever period is longest for him he shall be deemed to cease to be a citizen of the Union at the end of such period;

Provided that if the Minister is of opinion that such person is for sufficient reason, unable to submit the report in time to the Minister, the Minister may grant him reasonable extension of time.

(2) Unless any person recognized as a citizen of the Union under clause (i), (ii) or (iii) of section 11 of the Constitution or under section 4(2) or 5(b) of this Act, has registered as a foreigner in a Foreign Embassy or obtained a passport as a foreigner from a Foreign Government concerned, the provisions of sub-section (1) shall not apply to him.

(3) Any person referred to in sub-section (2) not being under any disability and having after the first day of April 1955, registered as a foreigner in a Foreign Embassy or obtained a passport as a foreigner from a Foreign Government concerned shall be deemed to cease to be a citizen of the Union forthwith.

၁၄-က။ ။(၁) ပြည်ထောင်စုနိုင်ငံသားဖြစ်လျက်၊ နိုင်ငံခြားတခု၏ တရားဥပဒေကြောင့်ထိုနိုင်ငံ၏ နိုင်ငံသားအဖြစ်ကိုလည်း ရရှိသူသည်—

(က) ၁၉၅၅ ခုနှစ်၊ ဧပြီလ ၁ ရက်နေ့မှတိုင်မီဖြစ်စေ၊

(ခ) အရွယ်ရောက်ပြီးတနှစ်အတွင်းဖြစ်စေ၊

(ဂ) နိုင်ငံခြားအစိုးရက ထိုတရားဥပဒေကို ပြဋ္ဌာန်းသည့်နေ့မှ တနှစ်အတွင်းဖြစ်စေ။

ဤသုံးရပ်အနက် မိမိအတွက်အချိန်အများဆုံးရသည့် ကာလအတွင်း၊ ထိုနိုင်ငံခြားသားအဖြစ်ကို၊ သက်ဆိုင်ရာနိုင်ငံခြား၏ တရားဥပဒေနှင့်အညီ စွန့်လွှတ်ပြီးကြောင်းဝန်ကြီးထံသို့ အစီရင်ခံစာတင်သွင်းခြင်းမရှိလျှင်၊ ထိုကာလကုန်ဆုံးသည့်အခါ၌၊ ထိုသူသည်၊ ပြည်ထောင်စုနိုင်ငံသားအဖြစ်မှ ရပ်စဲသည်ဟုမှတ်ယူရမည်။

သို့ရာတွင် တဦးတယောက်သောသူသည်၊ လုံလောက်သော အကြောင်းကြောင့် အချိန်မီအစီရင်ခံစာတင်သွင်းနိုင်ဟု ဝန်ကြီးကထင်မြင်လျှင်၊ ဝန်ကြီးသည်၊ ထိုသူအတွက် သင့်လျော်သော အချိန်တိုး၍ပေးနိုင်သည်။

(၂) အခြေခံဥပဒေပုဒ်မ ၁၁၊ အပိုဒ် (က)၊ (ခ) နှင့် (ဂ) တခုအရသော်၎င်း၊ ဤအက်ဥပဒေပုဒ်မ ၄ (၂) နှင့် ပုဒ်မ ၅ (ခ) တခုအရသော်၎င်း၊ ပြည်ထောင်စုမြန်မာနိုင်ငံသားဖြစ်သည်ဟု အသိအမှတ်ပြုခြင်းခံရသူသည်၊ နိုင်ငံခြားသံရုံးတွင် နိုင်ငံခြားသားအနေနှင့် မှတ်ပုံတင်ခြင်း၊ သို့တည်းမဟုတ် သက်ဆိုင်ရာနိုင်ငံခြားအစိုးရထံမှ နိုင်ငံခြားလားအနေနှင့် နိုင်ငံကူးလက်မှတ်ရယူခြင်းမရှိလျှင်၊ ပုဒ်မခွဲ (၁) ပါပြဋ္ဌာန်းချက်များသည်၊ ထိုသူနှင့်သက်ဆိုင်ခြင်းမရှိစေရ။

(၃) ပုဒ်မခွဲ (၂) ၌ ရည်ညွှန်းသောသူသည်၊ အရည်အချင်းချို့တဲ့သူလည်းမဟုတ်မှီ၍ ၁၉၅၅ ခုနှစ်၊ ဧပြီလ(၁)ရက်နေ့ဆိုက်ရောက်ပြီးသည်နောက်နိုင်ငံခြားသံရုံးတွင်နိုင်ငံခြားသားအနေနှင့် မှတ်ပုံတင်သွင်းခြင်း၊ သို့တည်းမဟုတ် သက်ဆိုင်ရာနိုင်ငံခြားအစိုးရထံမှ နိုင်ငံခြားသားအနေနှင့် နိုင်ငံကူးသန်းလက်မှတ် ရယူခြင်းကိုပြုလျှင်၊ ယင်းသို့ပြုသည်နှင့်တပြိုင်နက် ပြည်ထောင်စုမြန်မာနိုင်ငံသားအဖြစ်မှ ရပ်စဲပြီဟုမှတ်ယူရမည်။

For those who had already attained the age of majority and who had acquired citizenship of any foreign country this section afforded an opportunity to make a declaration renouncing his foreign national status. This section required such a person to make the declaration before 1st April 1955. If he has not made such a declaration he will not be citizen of the Union, because as stated in section 14 he would have ceased to be a citizen of the Union. This provision was inserted to avoid dual citizenship.

A person who is a citizen of the Union under section 11 (i) (ii) (iii) of the Constitution and section 4 (2) or 5 (b) of the Union Citizenship Act, does not lose that status by merely taking out a foreigners registration certificate. It is only when he has registered himself as a foreigner in a Foreign Embassy or obtained a passport as a foreigner from a foreign Government concerned that he ceases to be a citizen of the Union. See notes under section 4 of this Act in this connection.

One U Sin Koi¹³ was elected to the Chamber of Deputies at the general elections from Tavoy north by securing a larger number of votes than his rival U San Win. U Sin Koi was admittedly a Sino-Burmese whose grand-father was a Chinese born in China. His mother and grand-mother were Burmese. It was contended on behalf of U San Win that a Sino-Burmese resident in Burma possesses dual nationality of Burmese and Chinese citizenship and that he was entitled to apply for the rights and privileges of Chinese citizenship from the Chinese Government. Therefore, in view of section 74(1) (i) of the Union Constitution, which provides that any person who is under any acknowledgement of allegiance or adherence to a foreign power or is a subject or citizen or entitled to the rights and privileges of a subject or a citizen of a foreign power, shall be disqualified from being chosen as and for being a member of either Chamber. It was contended that U Sin Koi should be unseated.

13. The Burma Gazette 1953 Part I, page 478.

The Election Tribunal observed that the question involved was of vital importance to the members of the Sino-Burmese nationals of mixed blood, as it affected their status as citizens of the Union of Burma. It then proceeded to state the case law on the subject of 'nationality' and said that nationality in the sense of citizenship of a certain state must not be confused with 'nationality' meaning membership of a certain nation in the sense of race. So far as the Union of Burma is concerned, it was pointed out, the law relating to citizenship is section 11 of the Constitution and the Union Citizenship Act. Under section 11 (ii) every person born in any of the territories of the Union of Burma at least one of whose grandparents belongs or belonged to any of the indigenous races of Burma, shall be a citizen of the Union.

The Tribunal however recognised that this provision did not preclude other States from legislating in any manner they deemed fit regarding the status of the descendants of their nationals in foreign lands. Thus an individual may possess double nationality knowingly, and with or without intention. Many States, the Tribunal pointed out, were alive to the complications of dual nationality and therefore have passed laws insisting on the renunciation or divestment of one nationality or the other. Burma is one of those States which strongly disapproves of their citizens possessing dual nationality and section 14A of the Union Citizenship Act was obviously designed for this purpose.

The question whether a Burmese citizen possesses dual nationality or not, i. e. the nationality of another state in addition to Burmese nationality, will have to be judged primarily in accordance with the law of Burma and not the law of any other State, the Tribunal ruled. Section 14A of the Union Citizenship Act sets out the position of those Burmese nationals who may have acquired dual nationality owing to the Acts of foreign Governments. As and when a Burmese national acquires dual nationality, the Act proceeds to divest him of Burmese citizenship unless he takes steps as provided to renounce the nationality of the foreign state concerned. But so far as Burmese nationals covered by section 11 of the Constitution and Section 4(2) and 5 (b) of the Union Citizenship Act are concerned, it was pointed out they are expressly excluded except where such individuals have registered as foreigners with a foreign Government. In that case they lose the Burmese citizenship.

U Sin Koi, the Tribunal added, had not registered with the Chinese embassy and had not obtained any passport from that quarter. He could not, therefore be said to have acquired dual nationality. So far as the law in force in the Union was concerned, he would appear to be entitled to the rights and privileges of a Chinese national only when he obtained a passport from the Chinese Government or registered himself as a Chinese national with the Chinese embassy. The moment he obtained such rights he would be divested of his Burmese citizenship and will cease to be a member of Parliament. At present the question did not arise and U Sin Koi was a Burmese citizen.

One Mohamed Rahu Amin¹⁴ was granted visa and he entered the Union of Burma holding a Pakistani passport issued in 1955. As he exceeded the period restricted for his stay in the Union of Burma, he was prosecuted and convicted under section 13(1) of the Burma Immigration (Emergency Provisions) Act and was ordered to leave the country under section 7(1) of the said Act. He contended that his maternal grandmother Daw May belonged to the indigenous Burmese race and he was therefore a citizen of the Union under section 11(ii) of the Constitution and that the provisions of section 7(1) of the Burma Immigration (Emergency Provisions) Act did not therefore apply to him. Relying on sub-sections (1) and (3) of section 14A of the Union Citizenship Act, the Supreme Court dismissed his application for a writ holding that even if the facts stated by the applicant were true, he had ceased to be a citizen of the Union on his own showing because he failed to renounce his foreign (Pakistani) citizenship on or before 1st April 1955 and because he had obtained a Pakistani passport after the 1st day of April 1955.

One Maung Ko Gyi¹⁵ was the son of Kashmir Singh an Indian national, but his mother Daw Mya Sein's parents were U Paw Wa and Daw Aye Khin both Burmese. His father Kashmir Singh was in possession of a foreigners registration certificate. While Mg Ko Gyi was still a minor he was taken to India by his father and was brought back to Burma during his minority and at that time his name was entered in the Indian passport of his father. The trial Court erroneously held that as Mg Ko Gyi was competent to apply for Indian citizenship having entered Burma with his father's passport and he having not declared that he had renounced Indian

14. Mohamed Rahu Amin. Vs. The Union of Burma: 1957 B. L. R. 25 S. C.

15. Criminal Revision No. 72-B of 1959 of the High Court sitting at Mandalay.

citizenship, he must be held to be an Indian citizen. The High Court held that it was quite clear that Mg Ko Gyi was a citizen of the Union of Burma under section 11 (ii) of the Constitution and that there was no evidence to the contrary to show that he had given up his Burmese citizenship. He was therefore directed to be acquitted.

14B. If any person who has ceased to be a citizen of the Union under section 14 or section 14A—

- (a) has the qualifications mentioned in clause (i), (ii) or (iii) of section 11 of the Constitution or section 5 (b) of this Act, and
- (b) undertakes that he will permanently reside again in the Union, renounce foreign citizenship in accordance with the law of the foreign country concerned and owe allegiance to the Union,

the Minister may in his discretion permit him to retain the citizenship of the Union, and his decision shall be final.

၁၄ ခ။ ။ ပုဒ်မ ၁၄ အရသော်၎င်း ပုဒ်မ ၁၄-က အရသော်၎င်း ပြည်ထောင်စုနိုင်ငံသားအဖြစ်မှ ရပ်စဲခြင်းခံရသူသည်—

(က) စွဲစည်းအုပ်ချုပ်ပုံ အခြေခံဥပဒေပုဒ်မ ၁၁ အပိုဒ် (က) သို့တည်းမဟုတ် အပိုဒ် (ခ) သို့တည်းမဟုတ်အပိုဒ် (ဂ) သို့တည်းမဟုတ်ဤအက်ဥပဒေ ပုဒ်မ ၅ (ခ) ပါအရည်အချင်းနှင့်ပြည့်စုံလျှင် ထို့ပြင်

(ခ) ပြည်ထောင်စုမြန်မာနိုင်ငံအတွင်း ထာဝစဉ်ပြန်လည်နေထိုင်ပါမည်၊ နိုင်ငံခြားသားအဖြစ်ကို သက်ဆိုင်ရာနိုင်ငံခြား၏ တရားဥပဒေနှင့်အညီ စွန့်လွှတ်ပါမည်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံ၏ ကျေးဇူးသစ္စာတော်ကို စောင့်သိရုံသေပါမည်ဟူ၍ ခံဝန်ချက်ပေးလျှင်၊

ဝန်ကြီးကမိမိသဘောအတိုင်း ထိုသူအားပြည်ထောင်စု မြန်မာနိုင်ငံသားအဖြစ်ကိုပြန်လည်ရယူစေရန်ခွင့်ပြုနိုင်သည်။ ဝန်ကြီး၏ဆုံးဖြတ်ချက်သည်၊ အပြီးအပြတ်အတည်ဖြစ်စေရမည်။

A person who has ceased to be a citizen under section 14 or 14A of this Act may apply for and re-acquire his status of citizenship by complying with the provisions of this section.

15. No citizen while resident in the Union or during any war in which the Union may be engaged, shall be entitled to divest himself of the citizenship of the Union.

၁၅။ ။ မည်သည့်ပြည်ထောင်စု နိုင်ငံသားမျှ ပြည်ထောင်စုတွင် နေထိုင်လျက်ရှိစဉ် သို့တည်းမဟုတ် ပြည်ထောင်စုပါဝင်နေသော စစ်မက်ကာလအတွင်းတွင် ပြည်ထောင်စုနိုင်ငံ သားအဖြစ်ကို စွန့်လွှတ်ခွင့်မရှိစေရ။

CAN CITIZENSHIP BE SURRENDERED, IF SO HOW?

A citizen may divest himself of his citizenship by acquiring citizenship of another country or he may make a declaration of alienage in respect of the Union Citizenship and inform the Government of his having surrendered his citizenship. Under section 15 of the Act no person while resident in the Union or during any war in which the Union may be engaged, shall be entitled to divest himself of the citizenship of the Union. Thus a citizen may not surrender his citizenship so long as he is residing in the country. He must first leave the country and then divest himself of his citizenship. Also if the country is at war he cannot divest himself of his citizenship. This applies to all kinds of citizens natural born and holders of certificates of citizenship or naturalization. As to what happens when a person acquires citizenship of a foreign country see notes under section 4 above under the heading: When may a person cease to be a citizen.

This section and section 14A, which was inserted by Act XXIII of 1954, are conflicting. Under section 14A (3) a citizen may cease to be a citizen if while resident in the Union, he registers himself with a foreign embassy as a citizen of a foreign country. But this section says while resident in the Union he cannot divest himself of his citizenship of the Union.

16. Any person who, at the commencement of the Constitution, was by virtue thereof, a citizen and who by virtue of subsequent election under section 2 of the Burma Independence Act, 1947, is deemed to be a British subject, shall cease to be a citizen of the Union.

၁၆။ ။ အခြေခံဥပဒေအာဏာစတင် တည်သည့်နေ့တွင် ထိုအခြေခံဥပဒေကြောင့် ပြည်ထောင်စု နိုင်ငံသားဖြစ်ခဲ့သော်လည်း ၁၉၄၇ ခုနှစ် မြန်မာနိုင်ငံတော်လွတ်လပ်ရေး အက်ဥပဒေပုဒ်မ (၂) အရ မြီတိသျှနိုင်ငံသားအဖြစ်ကို နောက်မှရွေးချယ်သောကြောင့် မြီတိသျှနိုင်ငံသားဖြစ်သည်ဟု မှတ်ယူခြင်းခံရသောသူသည် ပြည်ထောင်စု၏နိုင်ငံသားအဖြစ်မှ ရပ်စဲရမည်။

17. Any person who, by reason of the Constitution, is a citizen of the Union and who, by reason of the provisions of clauses 2 and 3 of the First Schedule to the Burma Independence Act, 1947, also retains the status of a British subject, may, if not under disability make a declaration of alienage and on making the declaration he shall cease to be a citizen of the Union.

၁၇။ ။ အခြေခံဥပဒေအရ ပြည်ထောင်စုမြန်မာနိုင်ငံသားဖြစ်လျက် ၁၉၄၇ ခုနှစ် မြန်မာနိုင်ငံတော်လွတ်လပ်ရေးအက်ဥပဒေ၏ ပဌမဇယားအပိုင်း ၂ နှင့် ၃ ပါပြဋ္ဌာန်းချက်များ အရ ဗြိတိသျှနိုင်ငံသားအဖြစ်လည်း တည်ရှိသောသူသည် အရည်အချင်းမျိုး သူမဟုတ်လျှင် ထိုသူသည်ပြည်ထောင်စုနိုင်ငံသားအဖြစ်ကို စွန့်လွှတ်ကြောင်းကျေညာနိုင်သည် ထိုသို့ကျေညာ သည်နှင့်တပြိုင်နက် ထိုသူသည် ပြည်ထောင်စုနိုင်ငံသားအဖြစ်မှ ရပ်စဲရမည်။

18. When the Minister is satisfied that a certificate of naturalization or a certificate of citizenship granted by him had been obtained by false representation or fraud or by concealment of material circumstances or that the person to whom the certificate was granted has shown himself by act or speech to be disaffected or disloyal to the Union, the Minister may after calling upon the said person to show cause why the certificate obtained by him should not be revoked and after causing an inquiry to be held in such manner as he deems fit, pass an order revoking the certificate, if he considers it fit and proper to do so.

၁၈။ ။ ဝန်ကြီးကပေးအပ်သည့် ပြည်ထောင်စုနိုင်ငံသားဖြစ်မှုလက်မှတ်ကို သို့တည်းမဟုတ်နိုင်ငံသားလက်မှတ်ကို မဟုတ်မှန်ဖော်ပြခြင်းဖြင့်ဖြစ်စေ လှည့်ဖြားခြင်းဖြင့်ဖြစ်စေ အရေးပါသော အကြောင်းများကို ဖုံးကွယ်ထားခြင်းဖြင့်ဖြစ်စေ ရရှိခဲ့သည်ဟုသော်ရင်း ထိုလက်မှတ်ရရှိသောသူသည် ပြည်ထောင်စုကို အကြည်အညိုမကြောင်း သို့တည်းမဟုတ် သစ္စာမကြောင်း ကိုယ်အမူအရာဖြင့်ဖြစ်စေ နှုတ်အမူ မရာဖြင့်ဖြစ်စေ ပြသည်ဟုသော်ရင်း ဝန်ကြီးကထင်မြင်ယူဆလျှင် ထိုလက်မှတ်ရရှိသူအား မိမိရရှိထားသောလက်မှတ်ကိုမည်သည့် အကြောင်းကြောင့်ပြန်လည် မရပ်သိမ်းသင့်ကြောင်းအကြောင်း ပြရန်ဆင့်ဆို၍ ထိုအကြောင်း ပြချက်အပေါ်တွင် သင့်တော်သည်ထင်မြင်သည့်အတိုင်း စုံစမ်းစစ်ဆေးစေပြီးလျှင် ထိုလက်မှတ်ကိုဝန်ကြီးက ရပ်သိမ်းသင့်သည်ဟုထင်မြင်ယူဆပါက ပြန်လည်ရပ်သိမ်းရန် အမိန့်ချနိုင် သည်။

This section was substituted by Act X of 1968.

Under section 18 of the original Act only a certificate of naturalization could be revoked, but by the amendment in 1949 the

words 'or a certificate of citizenship' were inserted and Act X of 1958 reworded the entire section as existing now.

This section mentions in general the cases when a certificate of citizenship or a certificate of naturalization may be revoked. Under this section if the Minister is satisfied after due enquiry as to one of the conditions mentioned below he may revoke the certificate:-

- (i) where the certificate was granted on false representation or fraud or by concealment of material circumstances, or
- (ii) the certificate holder has shown by act or speech to be disaffected or disloyal to the Union.

Section 19 of the Act gives specific instances of cases when the Minister may revoke a certificate of citizenship or naturalization. As to further details as to when a certificate of citizenship or naturalization may be revoked please see notes under section 19 of the Act.

19. Without prejudice to the powers under section 18, the Minister may revoke a certificate of naturalization or a certificate of citizenship in any case in which the person to whom the certificate was granted either—

(a) during any war in which the Union is engaged has unlawfully traded or communicated with the enemy or with a national of the enemy state or has been engaged in or associated with any business which to his knowledge was carried on in such manner as to assist an enemy in such way; or

(b) had, within five years of the date of the grant of the certificate, been convicted of an offence involving moral turpitude sentenced by any Court in the Union to imprisonment for a term not less than twelve months or fine not less than one thousand kyat; or

(c) has since the date of grant of the certificate been for a continuous period of not less than five years voluntarily resident out of the Union otherwise than in the service of the Union or of an international organization of which the Union is a member, and while so resident outside the Union has failed to register at the appropriate Consulate of the Union annually after residence of one year outside the Union; or

(d) has failed to make a declaration of alienage in respect of any other citizenship within the period prescribed; or

(e) has so bad a character as to prejudice the public interest at the time he was granted the certificate of naturalization or the certificate of citizenship; or

(f) would injure the safety, public order or interest of the Union, if the person who was granted the certificate of naturalization or the certificate of citizenship is allowed to retain such certificate; or

(g) has ceased to be a citizen of the Union at any time after he has been granted a certificate of naturalization or a certificate of citizenship;

Provided that after three years from the date of grant of the certificate of naturalization or the certificate of citizenship no action shall be taken for purposes of clause (e);

Provided further that after five years from the date of grant of the certificate of naturalization or the certificate of citizenship, no action shall be taken for purposes of clause (f).

၁၉။ ပုဒ်မ ၁၀ အရ၊ ရရှိသောအာဏာများကို မထိခိုက်စေဘဲ၊ အောက်ပါကိစ္စ တရပ်ရပ်ဖြစ်ပေါ်လာလျှင်၊ ဝန်ကြီးသည်ပြည်ထောင်စု နိုင်ငံသားပြုမှုလက်မှတ်ကို သို့တည်းမဟုတ် နိုင်ငံသားလက်မှတ်ကို ရုပ်သိမ်းနိုင်မည်။

(က) နိုင်ငံသားပြုမှုလက်မှတ် သို့တည်းမဟုတ် နိုင်ငံသားလက်မှတ်ပေးအပ်ခြင်းခံရသူ သည်၊ ပြည်ထောင်စုပါဝင်နေသော စစ်မက်ကာလအတွင်းတွင် ရန်သူနှင့်ဖြစ်စေ၊ ရန်သူနိုင်ငံ၏ နိုင်ငံသားနှင့်ဖြစ်စေ၊ တရားဥပဒေနှင့်မညီသောကုန်သွယ်ခြင်း၊ ဆက်သွယ်ခြင်းကို၊ သို့တည်းမဟုတ် ထိုကဲ့သို့သော စစ်မက်ကာလအတွင်းတွင် ရန်သူကိုအကူအညီပေးရာရောက်အောင် ဆောင်ရွက်နေသည်ဟု ထိုသူကိုယ်တိုင် သိရှိသောလုပ်ငန်းတခုခုပါဝင်ခြင်း၊ ဆက်ဆံခြင်း၊ သို့တည်းမဟုတ်

(ခ) နိုင်ငံသားပြုမှုလက်မှတ် သို့တည်းမဟုတ် နိုင်ငံသားလက်မှတ် ပေးအပ်ခြင်းခံရသူ သည်၊ လက်မှတ်ပေးအပ်သည့်နေ့မှစ၍၊ ငါးနှစ်အတွင်းတွင် ကိုယ်ကျင့်တရားပျက်ယွင်းသော ပြစ်မှုတခုခုကြောင့်၊ ပြည်ထောင်စုရှိတရားရုံးတခုခုက ပြစ်မှုထင်ရှားစီရင်၍ ၁၂ လအောက် မနည်းသည့် ထောင်ဒဏ်သော်ငိုင်း၊ ကျပ်ငွေ ၁,၀၀၀ အောက်မနည်းသည့်ငွေဒဏ်သော်ငိုင်း၊ အပြစ်ပေးခံရခြင်း၊ သို့တည်းမဟုတ်

(ဂ) နိုင်ငံသားပြုမှုလက်မှတ် သို့တည်းမဟုတ် နိုင်ငံသားလက်မှတ် ပေးအပ်ခြင်းခံရသူသည်၊ လက်မှတ်ပေးအပ်သည့်နေ့မှစ၍၊ ပြည်ထောင်စုပြင်ပတွင်၊ ပြည်ထောင်စုအစိုးရ၌ သော်၎င်း၊ အသင်းဝင်အဖြစ်ဖြင့် ပြည်ထောင်စုဝါငင်သော ပြည်ထောင်စုချင်းချင်း အဖွဲ့တခုခုသော်၎င်း၊ အမှုထမ်းလျက်မဟုတ်ဘဲ၊ မိမိအလိုအလျောက်ပြည်ထောင်စုပြင်ပ၌ အနည်းဆုံးငါးနှစ် အဆက်မပြတ်နေထိုင်ရာတွင်၊ တနှစ်ကြာနေထိုင်ပြီးနောက်၊ ပြည်ထောင်စု၏သက်ဆိုင်ရာကောင်စစ်ဝန်ရုံး၌ နှစ်စဉ်မှတ်ပုံတင်ရန်ပျက်ကွက်ခြင်း၊ သို့တည်းမဟုတ်

(ဃ) နိုင်ငံသားပြုမှုလက်မှတ်၊ သို့တည်းမဟုတ် နိုင်ငံသားလက်မှတ်ဝေးအပ်ခြင်းခံရသူသည်၊ သတ်မှတ်ထားသည့်အချိန်ကာလအတွင်း နိုင်ငံခြားသားအဖြစ်စွန့်လွှတ်ရန် ပျက်ကွက်ခြင်း၊ သို့တည်းမဟုတ်

(င) နိုင်ငံသားပြုမှုလက်မှတ်၊ သို့တည်းမဟုတ် နိုင်ငံသားလက်မှတ်ပေးအပ်ခြင်းခံရသူသည်အခါ၌၊ ထိုသူသည် အများပြည်သူ၏အကျိုးထိခိုက်အောင် အကျင့်စာရိတ္တပျက်ပြားခြင်း၊ သို့တည်းမဟုတ်၊

(စ) နိုင်ငံသားပြုလက်မှတ်၊ သို့တည်းမဟုတ် နိုင်ငံသားလက်မှတ်ပေးအပ်ခြင်းခံရသူအား ဆက်လက်၍ထိုလက်မှတ်ပေးအပ်ထားလျှင်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံ၏ လုံခြုံမှုကို သော်၎င်း၊ ငြိမ်ဝပ်ပိပြားရေးကိုသော်၎င်း၊ အကျိုးစီးပွားကိုသော်၎င်း ပျက်ပြားနှစ်နာစေမည်ဖြစ်ခြင်း၊ သို့တည်းမဟုတ်

(ဆ) နိုင်ငံသားပြုမှုလက်မှတ် သို့တည်းမဟုတ် နိုင်ငံသားလက်မှတ်ပေးအပ်ခြင်းခံရသူသည်၊ ထိုနိုင်ငံသားပြုမှုလက်မှတ် သို့တည်းမဟုတ် နိုင်ငံသားလက်မှတ် ပေးအပ်သည့်နေ့မှစ၍ မည်သည့်အချိန်တွင်မဆို ပြည်ထောင်စုနိုင်ငံသားအဖြစ်မှရပ်စဲခြင်း။

ခြင်းချက်။ ။ သို့ရာတွင် နိုင်ငံသားပြုမှုလက်မှတ်၊ သို့တည်းမဟုတ် နိုင်ငံသားလက်မှတ် ပေးအပ်သည့်နေ့မှစ၍ သုံးနှစ်ကျော်လွန်ပြီးနောက်၊ အပိုင်း (င) ပါ ကိစ္စကြောင့် အရေးယူခြင်း မရှိစေရ။

။ ။ သို့ရာတွင် နိုင်ငံသားပြုမှုလက်မှတ်၊ သို့တည်းမဟုတ် နိုင်ငံသားလက်မှတ်ပေးအပ်သည့်နေ့မှစ၍ ငါးနှစ်ကျော်လွန်ပြီးနောက်၊ အပိုင်း (စ) ပါ ကိစ္စကြောင့် အရေးယူခြင်းမရှိစေရ။”

The two provisos were inserted by Act XXIII of 1954.

The words 'or a certificate of citizenship' were inserted by Act XXXIII of 1949 and the provisos were inserted by Act XXIII of 1954. As stated in the notes under section 18, section 19 mentions the specific instances when a certificate of citizenship or a certificate of naturalization may be revoked. Section 4 of the Act says that persons who are citizens will continue to be so until they lose their status under the provisions of this Act. The cases where a person may lose his citizenship status have been discussed at page

127 of this book and the last instance quoted therein refers to cases where a certificate of citizenship or naturalization is revoked. Sections 18 and 19 have to be read with section 21A of the Act.

WHEN CAN A CERTIFICATE OF CITIZENSHIP OR A CERTIFICATE OF NATURALIZATION BE REVOKED?

A certificate of citizenship or a certificate of naturalization may be revoked in the following cases:-

- (i) under section 18 of the Act.
- (ii) under section 19 of the Act.

Sections 18 and 19 empower the Minister to revoke a certificate of citizenship or a certificate of naturalization. These sections apply only to persons who acquire citizenship by voluntary acts on their own application or on the application of their parent or guardian. They do not apply to persons who are citizens under section 11 (i), (ii) and (iii) of the Constitution and sections 4 (2) and 5 of the Citizenship Act. They apply to cases covered by sections 7, 8, 9 (2), 11 (4), 12 and 14B of the Act and also to those who have elected for and obtained citizenship under the Union Citizenship (Election) Act, 1948.

If a holder of a certificate of citizenship or naturalization is convicted of an offence under section 8(1) of the Essential Services and Supplies Act, it is submitted that he cannot be deemed to have been convicted of an offence involving moral turpitude,

20. Deleted.

There is no right of appeal now against cancellation or revocation of the certificate under sections 18 and 19. Section 20 which provided the right of appeal was deleted by Act X of 1958.

21. When the Minister revokes a certificate of naturalization or a certificate of citizenship, the revocation shall have effect from such date as the Minister may appoint and thereupon the certificate shall be given up as cancelled, and any person refusing without reasonable cause or neglecting to give up the certificate shall be liable to imprisonment for a term not exceeding six months or fine.

၂၁။ လူဝင်္ကျားက ပြည်ထောင်စုနိုင်ငံသားပြုလက်မှတ်ကို သူတည်းမဟုတ် နိုင်ငံသားလက်မှတ်ကို ပြန်လည်ရပ်သိမ်းသောအခါ၊ ထိုသို့ရပ်သိမ်းခြင်းသည် လူဝင်္ကျားကညွှန်ကြားသည့်နေ့မှစ၍ အတည်ဖြစ်စေရမည်။ ထိုအခါထိုလက်မှတ်ကို ဖျက်သိမ်းပြီးဖြစ်သောလက်မှတ်အဖြစ်ဖြင့်၊ ပြန်၍အပ်နှံစေရမည်။ ထိုလက်မှတ်ကိုအကြောင်းယူ၍မရှိဘဲ၊ ပြန်၍အပ်နှံရန်ငြင်းပယ်လျှင်၊ သူတည်းမဟုတ် ပြန်၍အပ်နှံရန်ဖျက်ကွက်လျှင်၊ ထိုသူကိုခြောက်လထက်မမျှားသောထောင်ဒဏ်၊ သူတည်းမဟုတ် ငွေဒဏ်ထိုက်သင့်စေရမည်။

21A. When the certificate of naturalization or the certificate of citizenship has been revoked, the holder of the certificate shall cease to be a citizen of the Union and shall be regarded as the citizen of the country of which he was a subject at the time the certificate was granted to him.

၁၂-က။ ပြည်ထောင်စုနိုင်ငံသား ပြုမူလက်မှတ်၊ သို့တည်းမဟုတ် နိုင်ငံသား လက်မှတ်ကိုပြန်လည်ရုပ်သိမ်းသည့်အခါ၊ ယခင်ထိုလက်မှတ်ရရှိသည့် ပြည်ထောင်စုနိုင်ငံသားအဖြစ်မှ ရပ်စဲရမည်ဖြစ်၍ ထိုသူသည်ထိုလက်မှတ် ပေးအပ်စဉ်က ထိုသူအားစိုးပိုင်သည့်နိုင်ငံ၏ နိုင်ငံသားဖြစ်သည်ဟုမှတ်ယူရမည်။”

By this section the certificate holder will cease to be a citizen. But though it says that he shall be regarded as a citizen of the country of which he was a subject at the time the certificate was granted to him, the person does not automatically become a citizen of that country. For a person to re-acquire citizenship rights of his original country, he must comply with the laws of that country. The Government of the Union of Burma cannot confer citizenship rights of other countries. The section therefore says that he will be deemed to be a citizen of the country of which he was a subject originally. When a certificate is revoked, the erstwhile certificate holder becomes a Stateless subject until he acquires citizenship rights of his original country.

Also there may be cases of persons who had not acquired citizenship rights of any foreign country nor had they obtained foreign passport, but had applied for and obtained a certificate of naturalization or citizenship of the Union only. On the citizenship rights of such persons being cancelled or revoked they will become stateless subjects.

22. Whoever for the purposes of this Act makes any representation or statement false in a material particular, knowing or having reason to believe it to be false, or conceals any material circumstance, shall be punished with imprisonment for a term which may extend to seven years and may also be liable to fine.

၂၂။ မည်သူမဆို၍ အက်ဥပဒေ၏ ကိစ္စများအလို့ငှါ၊ အရေးပါသော အကြောင်းတရားနှင့်စပ်လျဉ်း၍ မဟုတ်မမှန်ကြောင်းကိုသိလျက်နှင့်ဖြစ်စေ၊ ယုံကြည်ရန်အကြောင်းရှိလျက်နှင့်ဖြစ်စေ၊ မဟုတ်မမှန်ဖော်ပြထွက်ဆိုလျှင် သို့တည်းမဟုတ် အရေးပါသော အကြောင်းတရားကိုဖုံးကွယ်ထားလျှင် ထိုသူကိုခန့်နှစ်ထက်မများသော ယောင်ဒဏ်ထိုက်သင့်စေရမည့်အပြင် ငွေဒဏ်လည်းထိုက်သင့်စေနိုင်သည်။

This section provides for punishment for making false statements or representations or for concealing material facts or circumstances in connection with the proceedings for the issue of certificate of citizenship or naturalization.

23. The President may make rules for carrying into effect the object of this Act, and, in particular, with reference to the following matters—

- (a) the form of application for and the form and registration of certificate of naturalization or citizenship;
- (b) the form of renunciation of foreign citizenship and the time within which the renunciation is to be made after the grant of a certificate of naturalization or a certificate of citizenship and all matters relating to the administration of oath or affirmation; and
- (c) the imposition and amount of fees in respect of any registration of citizenship or in respect of the making of any declaration or the grant of any certificate of citizenship or naturalization that is to be made or granted under this Act and in respect of the administration of any oath or affirmation.

၂၃။ ။ နိုင်ငံတော်သမ္မတသည် ဤအက်ဥပဒေ၏ ရည်ရွယ်ချက်များပြီးမြောက်အောင် ဆောင်ရွက်စေရန်၎င်း၊ အထူးသဖြင့်အောက်ပါကိစ္စများနှင့်စပ်လျဉ်း၍၎င်း၊ စည်းမျဉ်းဥပဒေများပြုလုပ်နိုင်သည်။

(က) နိုင်ငံသားလက်မှတ်၊ သို့တည်းမဟုတ် နိုင်ငံသားပြုလုပ်မှုတံဆိပ်နှင့် မှတ်ပုံတင်ခြင်း၊ ထိုလက်မှတ်များအတွက်လျှောက်သွားပုံစံ၊

(ခ) နိုင်ငံခြားသားအဖြစ်၊ ဧည့်သည်သောပုံစံ၊ နိုင်ငံသားပြုလုပ်မှုတံဆိပ်ကို သို့တည်းမဟုတ် နိုင်ငံသားလက်မှတ်ကို ပေးအပ်ခြင်းနောက်၊ နိုင်ငံခြားသားအဖြစ်ကို ဧည့်သည်မဟုတ်ကာလအပိုင်းအခြား၊ ကျင်းသစ္စာကို၊ သို့တည်းမဟုတ် ကတိသစ္စာကိုဆိုရမည့်ကိစ္စ၊

(ဂ) နိုင်ငံသားအဖြစ် မှတ်ပုံတင်ခြင်းနှင့် စပ်လျဉ်း၍၊ သို့တည်းမဟုတ် ကျေညာရက်ပြုခြင်းနှင့်စပ်လျဉ်း၍၊ သို့တည်းမဟုတ် ဤအက်ဥပဒေအရ၊ ပြုလုပ်ပေးအပ်ရမည့် နိုင်ငံသားလက်မှတ်ကိုဖြစ်စေ၊ နိုင်ငံသားပြုလုပ်မှုတံဆိပ်ကိုဖြစ်စေ ပေးအပ်ခြင်း၊ ထို့ပြင်ကျင်းသစ္စာ ကတိသစ္စာတို့နှင့်စပ်လျဉ်း၍၊ အခကြေးငွေစည်းကြပ်ကန့်သတ်ခြင်း။

The Union Citizenship Regulations 1949, as amended from time to time make provisions as to the form of the application and as to the fees prescribed. There are 18 regulations and forms A to T attached to the Regulations. The fees are mentioned in regulations 9, 10 and 10A.

၁၉၄၉ ခုနှစ်၊ ဖြည်ထောင်စု မြန်မာနိုင်ငံသားဖြစ်မှုစည်းမျဉ်း ဥပဒေများ။

THE UNION CITIZENSHIP REGULATIONS, 1949.

နိုင်ငံတော်သမ္မတသည်၊ ၁၉၄၇ ခုနှစ်၊ ဖြည်ထောင်စုမြန်မာနိုင်ငံသားဖြစ်မှု အက်ဥပဒေပုဒ်မ ၂၃ အရ၊ အောက်ပါစည်းမျဉ်း ဥပဒေများကိုပြုလုပ်သည်။

၁။ ဤစည်းမျဉ်းဥပဒေများကို ၁၉၄၉ ခုနှစ်၊ ဖြည်ထောင်စုမြန်မာနိုင်ငံသားဖြစ်မှု အမည်၊ စည်းမျဉ်းဥပဒေများဟုခေါ်ရမည်။

၂။ ဤစည်းမျဉ်းဥပဒေများ၌ပါရှိသည့်—

အဓိပ္ပါယ်ဖော်ပြချက်၊ “အက်ဥပဒေ” ဆိုသည်မှာ ၁၉၄၇ ခုနှစ်၊ ဖြည်ထောင်စုမြန်မာ နိုင်ငံသားဖြစ်မှု အက်ဥပဒေကိုဆိုလိုသည်။

“ခရိုင်ရာဇဝတ်တရားသူကြီး” ဆိုသော စကားရပ်တွင် တွဲဘက်ခရိုင် ရာဇဝတ် တရားသူကြီး၊ ပြည်နယ်များအတွက် “ရယ်ဆီဒင်း” ခေါ် အရေးပိုင်၊ သို့တည်းမဟုတ် “ရယ်ဆီဒင်း” မရှိသောပြည်နယ်အတွက် “လက်ထောက်ရယ်ဆီဒင်း” ခေါ် ဝန်ထောက်တို့ပါဝင် ရောက်စေရမည်။

၃။ အက်ဥပဒေအရ၊ နိုင်ငံသားလက်မှတ်၊ သို့တည်းမဟုတ် နိုင်ငံသားပြုမှု လက်မှတ်၊ သို့ တည်းမဟုတ် နိုင်ငံသားအဖြစ်ရပ်သိမ်းခွင့် လက် မှတ်ကို လျှောက်ထားပိုင်ခွင့်ရှိသူသည်၊ မိမိနေထိုင်ရာခရိုင်ရှိ ခရိုင် ရာဇဝတ်တရားသူကြီးထံသို့၊ သို့တည်းမဟုတ် ဖြည်ထောင်စုနိုင်ငံ၏ ပြင်ပမှာနေထိုင်လျှင်၊ ဖြည်ထောင်စုနိုင်ငံ၏ ကောင်စစ်ဝန်ရုံးသို့ ထိုလက်မှတ်ရလိုကြောင်း လျှောက်ထားနိုင်သည်။

သို့ရာတွင် အက်ဥပဒေပုဒ်မ ၇၊ ပုဒ်မခွဲ (၁) အရ နိုင်ငံသားပြုလက်မှတ်ရလိုကြောင်း လျှောက်ထားသူသည်၊ မိမိထာဝစဉ်နေထိုင်ရာခရိုင်ရှိ ခရိုင်ရာဇဝတ်တရားသူကြီးထံသို့ အဆိုပါ ပုဒ်မခွဲ၏ ခြွင်းချက်အရ လိုအပ်သည့်အတိုင်း ပုံစံ (၅) ဖြင့်ကြိုတင်၍ အကြောင်းကြားစာ ပေးပို့ ပြီးဖြစ်ရမည်။

၃-က။ အက်ဥပဒေ၏ ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၂) အရ၊ နိုင်ငံသားလက်မှတ်ရရန် လျှောက်ထားပိုင်ခွင့်ရှိသူသည်၊ ပုံစံ ၁ ဖြင့်ကျန်းကျန်လွှာတစောင်ကို လျှောက်လွှာနှင့်ပူးတွဲလျက်၊ ဝန်ကြီးထံသို့ လျှောက်ထားနိုင်သည်။

နိုင်ငံသားလက်မှတ်များ ရ လိုလျှင် မည်သူ့ထံ လျှောက်ထားရန်။

THE UNION CITIZENSHIP REGULATIONS, 1949.

1. These regulations shall be called the Union Citizenship Regulations, 1949.

Title.

2. In these regulations —

Definition. "Act" means the Union Citizenship Act, 1948.

"District Magistrate" includes "Additional District Magistrate," in the States "the Resident," or when there is no Resident, "the Assistant Resident."

3. A person who is competent to apply for a certificate of citizenship or a certificate of naturalization or revocation of certificate under the Act, may make an application to the District Magistrate of the area in which he resides or to an appropriate Consulate of the Union if he resides out of the Union at the time of application.

Authority to which application for a certificate of citizenship or a certificate of naturalization to be made.

Provided that a person applying for a certificate of naturalization under sub-section (1) of section 7 of the Act shall have given prior notice in Form R to the District Magistrate of the area in which he permanently resides as required by the proviso to the said sub-section.

3A. A person who is qualified to apply for a certificate of citizenship under section 6 (2) of the Act may apply to the Minister supported by an affidavit in form S.

This regulation was inserted vide The Burma Gazette 1957. Part 1, page 2291, dated 7-9-1957. The above is a rough translation of the Burmese text.

4. The District Magistrate or the Consulate receiving the application shall after due inquiry transmit the application to the Minister together with his or its recommendation.

Procedure on receipt of application.

၄။ ။ခရိုင်ရာဇဝတ်တရားသူကြီးသည်၊ သို့တည်းမဟုတ် ပြည်ထောင်စုနိုင်ငံ၏
 လျှောက်လွှာရှိသည့် ကောင်စစ်ဝန်ရုံးသည်၊ လျှောက်လွှာကိုရရှိသောအခါသေချာစွာ
 အခါပြုလုပ်ရမည့်လုပ်ငန်း စုံစမ်းပြီးနောက် မိမိ၏ထောက်ခံချက်များနှင့်အတူလျှောက်လွှာကို
 ဝန်ကြီးထံသို့ပေးပို့ရမည်။

၅။ ။(၁) နိုင်ငံသားလက်မှတ်ရလိုကြောင်း လျှောက်လွှာကို စာဖြင့်ရေးသား၍
 လျှောက်ထားသူ သိရှိယုံကြည်သမျှ အောက်ပါအကြောင်းအရာ
 နိုင်ငံသားလက်မှတ်ရလို ကြောင်းလျှောက်လွှာတွင်
 ပါရှိရမည့် အကြောင်းအ
 ရာများ။

- (က) လျှောက်ထားသူအမည်။
- (ခ) ခွေးဖွားသောအရပ်နှင့် နေ့ရက်။
- (ဂ) ထာဝစဉ်နေထိုင်ရာအရပ်။
- (ဃ) အလုပ်အကိုင်။
- (င) လူမျိုး။
- (စ) အိမ်ထောင်ရှိ၊ မရှိ၊ မုဆိုးဖို၊ သို့တည်းမဟုတ် မုဆိုးမ။
- (ဆ) လင်၊ သို့တည်းမဟုတ် မယား၏အမည်။
- (ဇ) အမိအဘအမည်များလူမျိုးနှင့်ထိုသူတို့မှမည်သည့်နိုင်ငံသားဖြစ်ကြောင်း။
- (ဈ) နားလည်တတ်မြောက်သည့် တိုင်းရင်းသားဘာသာစကား။
- (ည) ရင်ရည်သဏ္ဌာန်ဖော်ပြချက်နှင့် ထင်ရှားပေါ်လွင်စွာမြင်နိုင်သည့် အထူး
 အမှတ်အသားများ။
- (ဋ) ပြည်ထောင်စုမြန်မာနိုင်ငံအတွင်း၌ဖြစ်စေ၊ ပြင်ပ၌ဖြစ်စေ၊ လျှောက်ထား
 သူပိုင် မရှေ့မပြောင်းနိုင်သည့် ပစ္စည်းနှင့်တည်ရှိရာအရပ်။
- (ဌ) အရွယ်မရောက်သေးသည့် သား သမီးများအမည်၊ အသက်၊ ကျား၊ မ၊
 ကာဝ၊ နေရပ်။
- (ဍ) ပြည်ထောင်စုမြန်မာနိုင်ငံတွင် ပါဝင်သော အာဏာပိုင်နက်အတွင်း၌၊
 မည်သည့်နှစ်၊ လ၊ ရက်မှမည်သည့် နှစ်၊ လ၊ ရက်ထိနေထိုင်ဘူးကြောင်း။
- (ဎ) အကျင့်စာရိတ္တ ကောင်းမွန်၍ ပြည်ထောင်စုမြန်မာနိုင်ငံတွင် ထာဝစဉ်
 နေထိုင်ရန် ကြံရွယ်ကြောင်းနှင့် ပြည်ထောင်စုမြန်မာနိုင်ငံ၏ကျေးဇူးသစ္စာ
 တော်ကို စောင့်သိရှိသောကြောင်း [အက်ဥပဒေပုဒ်မ ၁၂၊ ပုဒ်မခွဲ (၂)
 အရ လျှောက်ထားသူနှင့် ပတ်သက်၍ ထိုပုဒ်မခွဲရှိ အခြားအကြောင်း
 အရာများ]။
- (ဏ) အက်ဥပဒေပုဒ်မ ၁၁၊ ပုဒ်မခွဲ (၁) အရ၊ လျှောက်ထားသူနှင့်ပတ်သက်
 ၍ ပြည်ထောင်စုမြန်မာနိုင်ငံသားနှင့် အိမ်ထောင်ပြုသည့်နေ့ရက်နှင့် ထိုသူ
 ၏အမည်၊ အလုပ်အကိုင်နှင့်နေရပ်၊ ထိုပြင်မိမိ၏ အခြားနိုင်ငံခြားသား
 အဖြစ်ကို စွန့်လွှတ်မည်ဟုဝန်ခံကတိ ထားခြင်းနှင့် အရည်အချင်းချိုးငံ့

5. (1) The application for a certificate of citizenship shall be made in writing and shall set out to the best of the applicant's knowledge and belief the following particulars:—

Contents of application for a certificate of citizenship.

- (a) Name of applicant.
- (b) Date and place of applicant's birth.
- (c) Applicant's permanent residence.
- (d) Applicant's occupation or profession.
- (e) Applicant's race.
- (f) Applicant's matrimonial status, i. e. whether a bachelor, spinster, widower or widow.
- (g) Name of applicant's husband or wife.
- (g) Name of applicant's parents, their race and their national status
- (i) Indigenous language or languages in which applicant claims proficiency.
- (j) Physical description of applicant and other distinguishing marks.
- (k) Place, whether inside or outside the Union, where the applicant holds immoveable property and particulars thereof.
- (l) Names of minor children, their ages, sexes and residence.
- (m) Periods of residence within the area forming part of the Union.
- (n) That applicant is of a good character, that he intends to reside within the Union permanently and that he owes allegiance to the Union, (or other particulars in section 12 (2) of the Act in the case of the applicant under that section).
- (o) In the case of an applicant under section 11 (1) of the Act, the date of her marriage to a citizen of the Union giving his name and address and her undertaking to renounce her foreign national status and the statement that she is not under a disability and she is not of such character as is prejudicial to the public interest.

သူတည်းမဟုတ်၍၊ အများပြည်သူ၏အကျိုးထိခိုက်အောင် အကျင့်စာရိတ္တ ပျက်ပြားသူမဟုတ်ခြင်း။

- (တ) အက်ဥပဒေပုဒ်မ ၁၂၊ ပုဒ်မခွဲ (၂) အရ၊ လျှောက်ထားသူနှင့်ပတ်သက်၍ ပြည်ထောင်စုနိုင်ငံသား လူကြီးလူကောင်း နှစ်ဦးထံမှ အကျင့်စာရိတ္တ ကောင်းမွန်ကြောင်းလက်မှတ်များ။
- (ထ) အက်ဥပဒေပုဒ်မ ၄၊ ပုဒ်မခွဲ (၂) အရ၊ သို့တည်းမဟုတ် ပုဒ်မ ၁၂၊ ပုဒ်မခွဲ (၃) အရ၊ လျှောက်ထားလျှင်၊ ထိုပုဒ်မခွဲအရလိုအပ်သော အကြောင်းအရာများ။
- (ဒ) ရှေးကလျှောက်ထားဘူးလျှင်၊ လျှောက်ထားဘူးသော လျှောက်လွှာနှင့် လျှောက်ထားသည့်နေ့ရက်။

(၂) စည်းမျဉ်းဥပဒေခွဲ (၁) ရှိ၊ အကြောင်းအရာများအပြင် နိုင်ငံသားလက်မှတ် ပေးအပ်ရန် အထောက်အထားဖြစ်သည့် အရေးပါအရာရောက်သော အခြားဖော်ပြချက်များ လည်း လျှောက်လွှာတွင်ပါဝင်ရမည်။

၅-က။ ။ အက်ဥပဒေ၏ ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၂) အရ၊ နိုင်ငံသားလက်မှတ်ရလို ကြောင်း လျှောက်ထားသူသည်၊ လျှောက်လွှာကိုစာဖြင့်ရေးသား၍၊ လျှောက်ထားသူ သိရှိ ယုံကြည်သမျှ အရေးပါအရာရောက်သော အကြောင်းအရာများကို လျှောက်လွှာတွင်ဖော်ပြ ရမည်။

၆။ ။ (၁) အက်ဥပဒေပုဒ်မ ၅(ခ) နှင့်သက်ဆိုင်အကျုံးဝင်သောကလေး မွေး ဖွားခြင်းကို၊ မွေးဖွားသည့်နေ့ရက်မှ တနှစ်အတွင်း ၎င်းကလေး၏ မိဘတဦးဦးကသော်၎င်း၊ မိဘနှစ်ပါးသေဆုံးပြီးဖြစ်လျှင်၊ ၎င်း ကလေးအား စောင့်ရှောက်အုပ်ထိန်းသူကသော်၎င်း၊ ပြည်ထောင် စု၏ သက်ဆိုင်ရာကောင်စစ်ဝန်ရုံး၌ မှတ်ပုံတင်ရမည်။ ယင်းသို့ မှတ်ပုံတင်ရန်အတွက် ပုံစံ (၃) ပါ မှတ်ပုံတင်စာအုပ်ကိုကောင်စစ်ဝန်ရုံးတွင်ထားရှိရမည်။

(၂) အက်ဥပဒေပုဒ်မ ၅ (ဂ) နှင့်သက်ဆိုင် အကျုံးဝင်သောကလေး မွေးဖွား ခြင်းကို မှတ်ပုံတင်ရန်မလိုသော်လည်း၊ မှတ်ပုံတင်လိုပါက၊ ၎င်းကလေးအရွယ်မရောက် မီအတွင်း မည်သည့်အချိန်အချိန်မဆို မိဘတဦးဦးကသော်၎င်း၊ မိဘနှစ်ပါးမှသေဆုံးပြီး ဖြစ်လျှင်၊ ၎င်းကလေးကိုစောင့်ရှောက် အုပ်ထိန်းသူကသော်၎င်း၊ မှတ်ပုံတင်နိုင်ခွင့်ရှိသည်။ ယင်းသို့မှတ်ပုံတင်ခြင်းကို ပုံစံ (၁) မှတ်ပုံတင်စာအုပ်တွင် ထည့်သွင်းရေးမှတ်ထားရမည်။

၇။ ။ (၁) နိုင်ငံသားပြုမှု လက်မှတ်ရလိုကြောင်းလျှောက်လွှာကိုစာဖြင့်ရေးသား ၍ အောက်ပါအကြောင်းအရာများကို၊ လျှောက်ထားသူသိရှိယုံ ကြည်သမျှ၊ လျှောက်လွှာတွင်ဖော်ပြရမည်။

- (က) လျှောက်ထားသူအမည်။
- (ခ) မွေးဖွားသောအရပ်နှင့်နေ့ရက်။

နိုင်ငံသားပြုမှုလက်မှတ် ရလိုကြောင်း လျှောက် လွှာတွင် ပါရှိရမည့် အ ကြောင်းအရာများ။

- (p) Certificate of good character from two citizens of the Union of good standing in the case of an applicant under section 12 (2) of the Act.
- (q) If the application is under section 4 (2) or section 12 (3) of the Act all particulars required therein.
- (r) Previous application, if any, together with the date of application.

(2) In addition to the particulars in sub-regulation (1), the application shall include averments of all other facts which may be material and required to be provided for the grant of the certificate of citizenship.

(3) One who is desirous of obtaining a certificate of citizenship under section 6 (2) of the Act shall apply in writing and his application shall state all the material facts and details known to him personally or to the best of his information.

Sub-regulation (3) was inserted vide The Burma Gazette 1957, Part 1, page 2291, dated 7-9-1957. The above is its rough translation from Burmese.

6. (1) Registration of the birth of a child coming within section 5 (b) of the Act shall be made by either parent or, if both parents are dead, by its guardian, within one year of its birth at the appropriate Consulate of the Union. A register in Form M shall be maintained at the Consulate for recording such registration.

Regulation of
child born outside
the Union.

(2) Registration of the birth of a child coming within section 5 (c) of the Act is not compulsory but may be made by either parent or, if both parents are dead by its guardian, at any time before the child attains majority. Such registration shall be recorded in Register Form N.

7. (1) The application for a certificate of naturalization shall be made in writing and shall set out to the best of the applicant's knowledge and belief the following particulars:-

Contents of appli-
cation for a certificate
of naturalization.

- (a) Name of applicant (in full).
- (b) Date and place of applicant's birth.
- (c) Applicant's permanent residence.

- (ဂ) ထာဝစဉ်နေထိုင်ရာအရပ်။
- (ဃ) အလုပ်အကိုင်။
- (င) နိုင်ငံသား။
- (စ) အိမ်ထောင်ရှိ မရှိ၊ မုဆိုးမို့၊ သို့တည်းမဟုတ် မုဆိုးမ။
- (ဆ) လင်၊ သို့တည်းမဟုတ် မယား၏အမည်။
- (ဇ) အမိအဘအမည်နှင့် ထိုသူတို့မှာ မည်သည့်နိုင်ငံသားဖြစ်ကြောင်း။
- (ဈ) နားလည်တတ်မြောက်သည့် တိုင်းရင်းသားဘာသာစကား။
- (ည) ရုပ်ရည်သဏ္ဌာန်ဖော်ပြချက်နှင့် ထင်ရှားပေါ်လွင် တွေ့မြင်နိုင်သည့်အထူး အမှတ်အသားများ။
- (ဋ) ပြည်ထောင်စုမြန်မာနိုင်ငံအတွင်းဖြစ်စေ၊ ပြင်ပဖြစ်စေ လျှောက်ထားသူပိုင် မရွှေ့မပြောင်းနိုင်သည့်ပစ္စည်းနှင့် တည်ရှိရာအရပ်။
- (ဌ) အရွယ်မရောက်သေးသည့်သား သမီးများအမည်၊ အသက်၊ ကျား၊ မ၊ ဘာဝ၊ နေရပ်။
- (ဍ) ပြည်ထောင်စု မြန်မာနိုင်ငံတွင် ပါဝင်သော အာဏာပိုင်နက်အတွင်း၊ မည်သည့်နှစ်၊ လ၊ ရက်မှမည်သည့်နှစ်၊ လ၊ ရက်ထိ နေထိုင်ဘူးကြောင်း။
- (ဎ) ပြည်ထောင်စု မြန်မာနိုင်ငံတွင် ထာဝစဉ်နေထိုင်ရန် ကြံရွယ်ကြောင်း၊ သို့တည်းမဟုတ် ပြည်ထောင်စုအစိုးရသော်၎င်း၊ ပြည်နယ်တခုခု၏အစိုးရ သော်၎င်း၊ အမှုထမ်းရန်၊ ဆက်လက်အမှုထမ်းရန်၊ သို့တည်းမဟုတ် ပြည်ထောင်စုတွင် တည်ထောင်ထားသော ဘာသာ၊ သာသနာရေး၊ ဂျာဗီနီးရေး၊ ကုန်သွယ်ရေးဆိုင်ရာ လုပ်ငန်းတခုခုတွင် ပါဝင်ဆောင်ရွက် ရန်၊ သို့တည်းမဟုတ် ဆက်လက်ဆောင်ရွက်ရန် ကြံရွယ်ကြောင်း၊ ထို့ပြင်ပြည်ထောင်စုမြန်မာနိုင်ငံ၏ ကျေးဇူးသစ္စာတော်ကို စောင့်ယိရိသေ ကြောင်းနှင့် အကျင့်စာရိတ္တကောင်းကြောင်း။
- (ဏ) အက်ဥပဒေပုဒ်မ ၇၊ ပုဒ်မခွဲ (၁) ခြွင်းချက်အရ၊ နိုင်ငံသားပြုမှုအတွက် လျှောက်ထားရန်ကြံရွယ်ကြောင်း နှိုက်စာ၏မိတ္တူတစောင်။
- (တ) ပြည်ထောင်စုနိုင်ငံသား လူကြီးလူကောင်း နှစ်ဦးထံမှ၊ အကျင့်စာရိတ္တ ကောင်းမွန်ကြောင်းလက်မှတ်များ။
- (ထ) အက်ဥပဒေပုဒ်မ ၈ အရ၊ လျှောက်ထားလျှင်၊ အရည်အချင်းချို့တဲ့သူ မဟုတ်ကြောင်းနှင့် နိုင်ငံခြားသားအဖြစ်ကို စွန့်လွှတ်ရန်သဘောတူ၍၊ ပြည်ထောင်စုနိုင်ငံသားအဖြစ်ကိုရွေးချယ်ကြောင်း။
- (ဒ) အက်ဥပဒေပုဒ်မ ၁၃ အရ၊ လျှောက်ထားလျှင်၊ ပြည်ထောင်စုနိုင်ငံ၏ လက်နက်ကိုင်အဖွဲ့များတွင်၊ မိမိအမှုထမ်းခဲ့သည့်နေ့ရက်များနှင့်အကြောင်း၊ အရာများ။

(၂) စည်းမျဉ်းဥပဒေခွဲ (၁) ရှိ အကြောင်းအရာများအပြင်၊ နိုင်ငံသားပြုမှုလက် မှတ်ပေးအပ်ရန် အထောက်အထားဖြစ်သည့် အရေးပါအရာရောက်သော အခြားဖော်ပြချက် များလည်း လျှောက်လွှာတွင်ပါဝင်ရမည်။

- (d) Applicant's occupation or profession.
- (e) Applicant's nationality.
- (f) Applicant's matrimonial status, i. e. whether a bachelor, spinster, widower or widow.
- (g) Name of applicant's husband or wife.
- (h) Names of applicant's parents and their national status.
- (i) Indigenous language or languages in which applicant claims proficiency.
- (j) Physical description of applicant and other distinguishing marks.
- (k) Place whether inside or outside the Union, where the applicant holds immovable property and particulars thereof.
- (l) Names of minor children, their ages, sexes and residence and in whose custody.
- (m) Period of residence within the area forming part of the Union.
- (n) Applicant's intention as to residence in the Union permanently or to enter or continue in the service of the Union or any constituent State or in any undertaking of a religious, charitable or commercial character established in the Union and the statement that he owes allegiance to the Union and that he is of good character.
- (o) A copy of the notice of applicant's intention to apply for naturalization given under the proviso to section 7 (1) of the Act.
- (p) Certificates of good character from two citizens of the Union of good standing.
- (q) That he is not under a disability, that he elects to be a citizen of the Union and that he is willing to renounce any other citizenship, if the application is under section 8 of the Act.
- (r) If the application is under section 13 of the Act the particulars and dates of his service in the armed forces of the Union.

(2) In addition to the particulars in sub-regulation (1), the application shall include averments of all other facts which may be material and required to be proved for the grant of the certificate of naturalization.

၈။ လျှောက်ထားသူသည် စာတတ်သူဖြစ်လျှင်၊ လျှောက်လွှာတွင်မိမိလက်မှတ်ရေးထိုးရမည်။ စာမတတ်သူဖြစ်လျှင်၊ မိမိ၏လက်ဝဲ လက်မအမှတ် ခေါက်ပုံများ၊ ကျန်းကျိန် လွှာနှင့် လျှောက်လွှာများကို ဝန်ခံချက်၊ နိုင်ငံသားလက်မှတ်ကိုရလိုကြောင်း လျှောက်ထားလျှင်၊ ပုံစံ-က ဖြင့်၎င်း၊ နိုင်ငံသားပြုမှုလက်မှတ်ကို ရလိုကြောင်းလျှောက်ထားလျှင်၊ ပုံစံ-ခ ဖြင့်၎င်း၊ ရာဇဝတ်တရားသူကြီး တဦးရှေ့တွင် ကျိန်ဆိုပြုလုပ်ရမည်။ ထိုကျန်းကျိန်လွှာတွင်ပါရှိသည့် အချက်များသည် မိမိသိရှိယုံကြည်သမျှ ဟုတ်မှန်ကြောင်း၊ သို့တည်းမဟုတ် သတင်းအရဟုတ်မှန်သည်ဟု ငြိမိယုံကြည်ကြောင်း ဝန်ခံလက်မှတ်ရေးထိုးရမည်။ လျှောက်ထားသူသည် ၁၂ လက်မ x ၂ လက်မအရွယ်ရှိသော ခေါက်ပုံနှစ်ခုပေးရမည်။ ထိုခေါက်ပုံနှစ်ခု၏ ကျောဘက်တွင်လျှောက်ထားသူ၏လက်မှတ်သော်၎င်း၊ လက်ဝဲလက်မအမှတ်သော်၎င်းပါရမည်။ ခေါက်ပုံတခုကို လျှောက်ထားသူအား ထုတ်ပေးသည့်လက်မှတ်တွင်ကပ်၍၊ အခြားတခုကို မှတ်ပုံတင် စာအုပ်တွင်ကပ်ထားရမည်။

၉။ နိုင်ငံသားလက်မှတ်၊ သို့တည်းမဟုတ် နိုင်ငံသားပြုမှုလက်မှတ်၊ သို့တည်းမဟုတ် နိုင်ငံသားအဖြစ် ရပ်သိမ်းခွင့်လက်မှတ်ရလိုကြောင်း လျှောက်ထားလျှောက်လွှာတွင်ခေါင်းကပ်ခြင်း၊ သူသည်၊ လျှောက်လွှာပေါ်တွင်၊ နှစ်ကျပ်တန် ရုံးခွန်တော် တံဆိပ်ခေါင်းကပ်ရမည်။

၁၁။ (၁) အောက်ပါအခွန်အခများကို ကောက်ခံရမည်။
(က) အက်ဥပဒေပုဒ်မ ၁၁၊ ပုဒ်မခွဲ (၂) အရ၊ မယားကိုဖြစ်စေ၊ ပေးဆောင်ရမည့်အခွန် ပုဒ်မ ၁၂ ပုဒ်မခွဲ (၁) အရ၊ ကလေးကိုဖြစ်စေ၊ နိုင်ငံသားလက်မှတ်အခများ၊ ပေးအပ်ရန်—၅။

- (ခ) အခြားကိစ္စတွင်၊ နိုင်ငံသားလက်မှတ်ပေးအပ်ရန်—၃၀။
- (ဂ) အက်ဥပဒေပုဒ်မ ၈ အရ၊ သို့တည်းမဟုတ် ပုဒ်မ ၁၃ အရ၊ နိုင်ငံသားပြုမှုလက်မှတ်ပေးအပ်ရန်—၅။
- (ဃ) အခြားကိစ္စတွင်၊ နိုင်ငံသားပြုမှုလက်မှတ်ပေးအပ်ရန်—၅၀။
- (င) အက်ဥပဒေပုဒ်မ ၅၊ သို့တည်းမဟုတ် ပုဒ်မ ၁၂ အရ၊ ပြည်ထောင်စု နိုင်ငံသားအဖြစ် တည်မြဲတည်စေရေးအတွက် ရွေးချယ်ကြောင်း ကျေညာခြင်းပြုရန်—၅။
- (စ) အက်ဥပဒေပုဒ်မ ၅၊ ၇၊ ၈၊ ၉၊ ၁၁၊ ၁၂၊ သို့တည်းမဟုတ် ၁၇ အရ၊ ကျေညာခြင်းပြုရန်—၂။
- (ဆ) ပြည်ထောင်စုနိုင်ငံသားအဖြစ် တည်မြဲတည်စေရေးအတွက် ကျေညာခြင်းကို မှတ်ပုံတင်ရန်—၅။
- (ဇ) နိုင်ငံခြားသားအဖြစ်ကျေညာခြင်းကို မှတ်ပုံတင်ရန်—၅။
- (ဈ) ကျေညာချက်၏၊ သို့တည်းမဟုတ် လက်မှတ်၏ တာဝန်ခံမိတ္တူတစောင် အတွက်—၁၀။
- (ည) အက်ဥပဒေပုဒ်မ ၄၊ ပုဒ်မခွဲ (၂) အရဖြစ်စေ၊ ပုဒ်မ ၆ အရဖြစ်စေ၊ နိုင်ငံသားလက်မှတ်ပေးအပ်ရန်—မရှိ။

8. The applicant, if literate, shall affix his signature to the application; and if illiterate, shall affix the impression of his left thumb thereto. The application shall be accompanied by an affidavit specified in Form A in the case of an application for a certificate of citizenship or in Form B in the case of an application for a certificate of naturalization under the Act sworn before a Magistrate; the deponent shall verify which of the particulars stated therein are true to the deponent's knowledge and which are upon information believed by him to be true. The applicant shall also furnish two photographs of the size of 1 $\frac{1}{2}$ " x 2" and these photographs shall bear on the back his signature or left thumb impression, one copy to be attached to the certificate issued to him and the other to be pasted in the register.

9. A Court-fee stamp of the value of K. 2 shall be affixed to every application for a certificate of citizenship, or a certificate of naturalization or for revocation, of citizenship.

Application to
be stamped

10. (1) The following fees shall be levied:—

Fees.

- | | |
|---|-------|
| (a) The grant of a certificate of citizenship to a wife under section 11 (2) or child under section 12 (1) of the Act. .. | K. 5 |
| (b) The grant of a certificate of citizenship in any other case. | K. 30 |
| (c) The grant of certificate of naturalization under section 8 or 13 of the Act. .. | K. 5 |
| (d) The grant of a certificate of naturalization in any other case. | K. 50 |
| (e) For making a declaration to retain Union citizenship under section 5 or 12 of the Act. | K. 3 |
| (f) For making a declaration under section 5, 7, 8, 9, 11, 12 or 17 of the Act. .. | K. 3 |
| (g) For the registration of a declaration of retention of Union citizenship. .. | K. 5 |
| (h) For the registration of a declaration of alienage. | K. 5 |
| (i) For a certificate copy of any declaration or certificate. | K. 10 |

(၂) လျှောက်ထားသူသည်၊ ပြဋ္ဌာန်းထားသော အခွန်အခများကို နိုင်ငံတော်အစိုးရ
ငွေတိုက်တွင်သွင်း၍ ချလန်ကို မိမိ၏လျှောက်လွှာနှင့်ပူးတွဲ၍ တင်ရမည်။
သို့ရာတွင်—

- (က) နိုင်ငံသားလက်မှတ် ထုတ်ပေးရန် ဆုံးဖြတ်ချက်ကို ရရှိသောအခါမှသာ
နိုင်ငံသားလက်မှတ်အတွက် အခွန်အခကို နိုင်ငံတော်အစိုးရ ငွေတိုက်သို့
သွင်းရမည်။
- (ခ) နိုင်ငံသားပြုမှု လက်မှတ်ပေးအပ်ရန်အတွက် ပေးသွင်းရမည်ဖြစ်သော
အခွန်အခငွေ ၅၀ အနက် ငွေ ၁၅ ကို လျှောက်လွှာတင်သွင်းသည့်အခါ၌
ပေးသွင်းရမည်ဖြစ်၍၊ ထိုငွေ ၁၅ မှာ မည်သည့် အကြောင်းကြောင့်မှ
လျှောက်ထားသူအား မြန်လည်မပေးရ၊ ကျန်ငွေ ၃၅ မှာ နိုင်ငံသားပြုမှု
လက်မှတ်ထုတ်ပေးရန် ဆုံးဖြတ်ချက်ရရှိသောအခါမှသာ ပေးသွင်းရမည်။

၁၀-က။ (၁) နိုင်ငံသားလက်မှတ်၊ သို့တည်းမဟုတ် နိုင်ငံသားပြုမှုလက်မှတ်
ရလိုကြောင်း အက်ဥပဒေအရ၊ ၁၉၅၇ ခုနှစ်၊ အောက်တိုဘာလ ၁ ရက်နေ့တွင်ဖြစ်စေ၊
ထိုနေ့ရက်နောက်ဖြစ်စေ၊ လျှောက်ထားလျှင်၊ ထိုလက်မှတ်အသီးသီးအတွက် အောက်ပါ
အခကြေးငွေများကို ကောက်ခံရမည်။

		ကျပ်
(က) အက်ဥပဒေပုဒ်မ ၄၊ ပုဒ်မခွဲ (၂)၊ သို့တည်းမဟုတ် ပုဒ်မ ၆ အရ၊ နိုင်ငံသားလက်မှတ်ပေးအပ်ရန် (ပုံစံ-ဂ)...		မရှိ
(ခ) အက်ဥပဒေပုဒ်မ ၁၁၊ ပုဒ်မခွဲ (၁) အရ၊ မိန်းမအား၊ သို့တည်းမဟုတ် ပုဒ်မ ၁၂၊ ပုဒ်မခွဲ (၁) ကလေးအား၊ နိုင်ငံသားလက်မှတ်ပေးအပ်ရန် (ပုံစံ-င) နှင့် (ပုံစံ-ဆ)		၂၅
(ဂ) အက်ဥပဒေပုဒ်မ ၁၂၊ ပုဒ်မခွဲ (၂) အရ၊ နိုင်ငံသားလက် မှတ် ပေးအပ်ရန် (ပုံစံ-စ)		၅၀
(ဃ) အခြားကိစ္စတွင်၊ နိုင်ငံသားလက်မှတ်ပေးအပ်ရန် (ပုံစံ-စ)		၁၀၀
(င) အက်ဥပဒေပုဒ်မ ၁၂-က အရ၊ နိုင်ငံသားလက်မှတ် ပေး အပ်ရန် (ပုံစံ-စ)		၁၀၀
သို့ရာတွင် လုံလောက်သော အကြောင်းရှိသည်ဟု ထင်မြင်လျှင်၊ အခကြေးငွေကို လုံးဝသော်ငြင်း၊ အချို့ အဝက်သော်ငြင်း၊ လွတ်ငြိမ်းခွင့်ပြုနိုင်သည်။		
(စ) အက်ဥပဒေပုဒ်မ ၀၊ သို့တည်းမဟုတ် ပုဒ်မ ၁၃ အရ၊ နိုင်ငံသားပြုမှုလက်မှတ်ပေးအပ်ရန် (ပုံစံ-ဆ)		၅
(ဆ) အခြားကိစ္စတွင် နိုင်ငံသားပြုမှုလက်မှတ် ပေးအပ်ရန် (ပုံစံ-ဆ)		၂၅၀

- (j) The granting of a certificate of citizenship under section 4 (2) or section 6 of the Act. K. Nil.

(2) The applicant shall pay the prescribed fees into the Government Treasury and shall attach the receipted chalan to his application:

(3) Provided that:-

- (a) the fees a certificate of citizenship shall be paid into the Government Treasury only on receipt of the decision to grant a certificate; and
- (b) of the fee of K. 50 payable in respect of the grant of a certificate of naturalization, K. 15 shall be payable on the submission of the application for certificate and shall in no circumstances be returned, the remaining K. 35 shall be payable on the receipt of the decision to grant a certificate

10A. (1) For every application made on or after the 1st day of October 1957 for the grant of a certificate of Citizenship or Naturalization the following fees shall be levied:-

- (a) The grant of a certificate of citizenship under section 4 (2) or 6 of the Act: ... K. Nil.
- (b) The grant of a certificate of citizenship to a wife under section 11 (1) or child under section 12 (1) of the Act: K. 25
- (c) The grant of a certificate of citizenship under section 12 (2) of the Act: K. 50
- (d) The grant of a certificate of citizenship in any other case: K. 100
- (e) The grant of a certificate of of citizenship under section 12A of the Act: K. 100
(But if reasonable grounds exist half the fees may be levied or the fees may be exempted.)
- (f) The grant of a certificate of naturalization under section 8 or 13 of the Act: K. 5
- (g) The grant of a certificate of naturalization in any other case: K. 250

		ကျပ်
(ဇ)	အက်ဥပဒေပုဒ်မ ၅၊ ၇၊ ၀၊ ၁၁၊ ၁၂၊ သို့တည်းမဟုတ် ပုဒ်မ ၁၃၊ အရ၊ ကျေညာခြင်းပြုရန် (ပုံစံ-ဇဇ)	မရှိ
(ဈ)	အက်ဥပဒေပုဒ်မ ၉၊ သို့တည်းမဟုတ် ပုဒ်မ ၁၇ အရ၊ ကျေညာခြင်းပြုရန် (ပုံစံ-ဈဈ)	၁၀
(ည)	အက်ဥပဒေပုဒ်မ ၅၊ သို့တည်းမဟုတ် ပုဒ်မ ၁၂ အရ၊ ပြည်ထောင်စုနိုင်ငံသား၊ အဖြစ်တည်မြဲတည်စေရေး အတွက် ရွေးချယ်ကြောင်းကျေညာခြင်းပြုရန် (ပုံစံ-ညည)	မရှိ
(ဋ)	ပြည်ထောင်စုနိုင်ငံသားအဖြစ်တည်မြဲတည်စေရေးအတွက် ရွေးချယ်ကြောင်းကျေညာခြင်းကို မှတ်ပုံတင်ရန်	မရှိ
(ဌ)	နိုင်ငံခြားသားအဖြစ် ကျေညာခြင်းကို မှတ်ပုံတင်ရန်	၁၀
(ဍ)	ကျေညာချက်၏၊ သို့တည်းမဟုတ် လက်မှတ်၏တာဝန် ခံမိကြူတစောင်အတွက်	၂၀

(၂) လျှောက်ထားသူသည် ပြဋ္ဌာန်းထားသောအခကြေးငွေများကို နိုင်ငံတော် အစိုးရငွေတိုက်တွင်သွင်း၍ ချလန်ကိုမိမိလျှောက်လွှာနှင့်ပူးတွဲ၍တင်ရမည်။
သို့ရာတွင်—

- (က) နိုင်ငံသားလက်မှတ် ထုတ်ပေးရန်ဆုံးဖြတ်ချက်ကို ရရှိသောအခါမှသာ နိုင်ငံသားလက်မှတ်အတွက်အခကြေးငွေကို နိုင်ငံတော်အစိုးရငွေတိုက်သို့ သွင်းရမည်။
- (ခ) နိုင်ငံသားပြုမှုလက်မှတ် ပေးအပ်ရန်အတွက် ပေးသွင်းရမည်ဖြစ်သော အခကြေးငွေ ၂၅၀ အနက်၊ ငွေ ၂၅ ကို လျှောက်လွှာတင်သွင်းသည့်အခါ၌ ပေးသွင်းရမည်ဖြစ်၍၊ ထိုငွေ ၂၅ မှာ မည်သည့်အကြောင်းကြောင့်မျှ လျှောက်ထားသူအား ပြန်လည်မပေးရ၊ ကျန်ငွေ ၂၂၅ ကိုနိုင်ငံသားပြုမှု လက်မှတ်ထုတ်ပေးရန် ဆုံးဖြတ်ချက်ရရှိသောအခါမှသာ ပေးသွင်းရမည်။

၁၁။ ။ နိုင်ငံသားလက်မှတ်ကို၊ သို့တည်းမဟုတ် နိုင်ငံသားပြုမှုလက်မှတ်ကို စည်းမျဉ်းဥပဒေများ၏ နောက်တွင်ပါရှိသော ပုံစံများအနက် သက်ဆိုင်ရာပုံစံအတိုင်းထုတ်ပေးရမည်။
လက်မှတ်ပုံစံ။

၁၂။ ။ လက်မှတ်ထုတ်ပေးသည့်လျှောက်လွှာ၊ ထို့ပြင် ထိုလျှောက်လွှာနှင့်ပူးတွဲ ပါရှိသော ကျမ်းကျိန်လွှာအပြင်၊ အခြားစာရွက်စာတမ်းများနှင့် အတူတကွလက်မှတ်၏ မိတ္တူကိုအက်ဥပဒေအလို၌၊ နိုင်ငံတော် သမ္မတက တာဝန်လွှဲအပ်သော အစိုးရအဖွဲ့ဝင် ဝန်ကြီးဌာန၏ အတွင်းဝန်က မှတ်သားထားရမည်။
လက်မှတ်၏ မိတ္တူနှင့် ထိုလက်မှတ်များယူတ်ပေး သူများ၏စာရင်း။

- (h) For making a declaration to retain Union citizenship under sections 5, 7, 8, 11, 12, or 13 of the Act: K. Nil.
- (i) For making a declaration under section 9 or 17 of the Act: K. 10
- (j) For making a declaration to retain Union citizenship under section 5 or 12 of the Act: K. Nil.
- (k) For registration of a declaration of retention of Union Citizenship: K. Nil.
- (l) For registration of a declaration of citizenship: K. 10
- (m) For a certified copy of any declaration or certificate: K. 20

(2) The applicant shall pay the perscribed fees into the Government Treasury and shall attach the receipted chalan to his application:

(4) Provided that:-

- (a) the fee for a certificate of citizenship shall be paid into the Government Treasury only on receipt of the decision to grant a certificate; and
- (b) of the fee of K. 250 payable in respect of the grant of a certificate of naturalization, K. 25 shall be payable on the submission of the application for a certificate and shall in no circumstances be returned, the remaining K. 225 shall be payable on the receipt of the decision to grant a certificate.

This rule as given above is the rough translation of the text appearing in Burmese in The Burma Gazette 1957, Part I, Page 2291 dated 7-9-57.

11. A certificate of citizenship or a certificate of naturalization shall be issued in one of the appropriate forms annexed to these regulations.

12. A duplicate copy of the certificate, together with the application upon which the certificate was issued and the affidavit and other papers which accompanied the application, shall be recorded by the Secretary to the Ministry

Record of duplicate copy of a certificate and list of persons to whom issued.

ထို့ပြင်ဝန်ကြီးက နိုင်ငံသားလက်မှတ်ကို၊ သို့တည်းမဟုတ် နိုင်ငံသားပြုလက်မှတ်ကို ထုတ်ပေးသောသူများအားလုံး၏ အမည်များကိုအဆိုပါအတွင်းဝန်က အကွရာစဉ်ပြု၍ထိန်းသိမ်းထားရမည်။

၁၃။ ။အက်ဥပဒေအရ၊ နိုင်ငံခြားသားအဖြစ် ကျေညာခြင်းကို၊ သို့တည်းမဟုတ် ပြည်ထောင်စုနိုင်ငံသားအဖြစ် တည်မြဲတည်စေရန်ကျေညာခြင်းကို ကျေညာချက်ပုံစံ၊ ဤစည်းမျဉ်းဥပဒေများ၏ နောက်တွင်ပါရှိသော သက်ဆိုင်ရာပုံစံအတိုင်းပြုလုပ်ရမည်။

၁၄။ ။(၁) ခရိုင်ရာဇဝတ်တရားသူကြီး ရှေ့တွင်ဖြစ်စေ၊ ပြည်ထောင်စု၏ သက်ဆိုင်ရာကောင်စစ်ဝန်ရုံး၌ဖြစ်စေ၊ အက်ဥပဒေအရ၊ ကျေညာခြင်းပြုရမည်။ ထိုရာဇဝတ်တရားသူကြီးသည်၊ သို့တည်းမဟုတ် ထိုပြည်ထောင်စုကောင်စစ်ဝန်ရုံးသည် ကျေညာချက်ကိုမှတ်ပုံတင်စေရန်နှင့် မှတ်တမ်းတင်စေရန် အက်ဥပဒေအလို၌ နိုင်ငံတော်သမ္မတက တာဝန်လွှဲအပ်သောအစိုးရအဖွဲ့ဝင် ဝန်ကြီးဌာန၏ အတွင်းဝင်သို့ပေးပို့ရမည်။

(၂) ကျေညာခြင်းပြုသည်ကို လက်ခံသောသူသည်၊ ကျေညာခြင်းပြုသူအား ကျမ်းသစ္စာအဆိုခိုင်းနိုင်သည်။

၁၅။ ။(၁) ခရိုင်ရာဇဝတ်တရားသူကြီး နှင့် ခရိုင်ရဲဗိုလ်မှူးတို့သည်၊ မိမိတို့ သက်ဆိုင်ရာခရိုင်အတွင်း နေထိုင်သူတိုင်းတယောက်အား ၊ ထုတ်ပေးထားသည့် နိုင်ငံသားလက်မှတ်ကို၊ သို့တည်းမဟုတ် နိုင်ငံသားပြုလက်မှတ်ကို ဖျက်သိမ်းရန်ဖြစ်စေ၊ ရုပ်သိမ်းရန်ဖြစ်စေ၊ အရေးယူစဉ်းစားအပ်သော အကြောင်းတရပ်တရပ်သိရှိရသော်၊ ထိုအကြောင်းကို ဝန်ကြီးအားကြားသိစေရန် ၎င်းတို့၏တာဝန်ဝတ္တရားဖြစ်သည်။

(၂) ခရိုင်ရာဇဝတ်တရားသူကြီးသည်၊ သို့တည်းမဟုတ် ကောင်စစ်ဝန်ရုံးသည် ၎င်းကြည့်ရှုရသည့်နယ်မြေဒေသတွင် နေထိုင်သူများ အား၊ နိုင်ငံသားလက်မှတ်ဖြစ်စေ၊ နိုင်ငံသားပြုမှု လက်မှတ်ဖြစ်စေ၊ ထုတ်ပေးရန်အမိန့်ချထားပြီးဖြစ်သော်လည်း၊ အက်ဥပဒေအရ လိုအပ်သောကျေညာချက်ကို သတ်မှတ်ထားသည့်အချိန်ကာလအတွင်းမပြုမူ၍ ပျက်ကွက်ခြင်းရှိလျှင်၊ ထိုပျက်ကွက်သူများ၏ အမည်များကို ဝန်ကြီးထံသို့၊ ကာလအပိုင်းအခြားအလိုက်၊ အစီရင်ခံစာပေးပို့ရမည်။ ၎င်းအစီရင်ခံစာနှင့်အတူ ခရိုင်ရာဇဝတ်တရားသူကြီး၊ သို့မဟုတ် ကောင်စစ်ဝန်ရုံးသည်၊ မိမိထံမှတဆင့်ထုတ်ပေးခဲ့သော နိုင်ငံသားလက်မှတ်နှင့် နိုင်ငံသားပြုလက်မှတ်များကိုပါ ဝန်ကြီးထံသို့ပြန်ပို့ရမည်။

၁၆။ ။ဝန်ကြီးသည်၊ အက်ဥပဒေပြဋ္ဌာန်းချက်များ အရ၊ နိုင်ငံသားလက်မှတ်ရသင့်လက်မှတ်ဖျက်သိမ်းခြင်း ရထိုက်သောအခွင့်အရေး ရပ်စဲကုန်ဆုံးပြီဖြစ်သူထံမှ လက်မှတ်ကို ပြန်အပ်ရန် ဆင့်ဆိုခွင့်ရှိသည့်ပြင်၊ ၎င်းလက်မှတ်ကို ဖျက်သိမ်းပိုင်ခွင့်လည်းရှိသည်။

of the Union Government specified by the President of the Union in this behalf, who shall also keep an alphabetical list of all persons to whom certificate of citizenship or certificates of naturalization have been issued by the Minister.

13. A declaration of alienage or a declaration of retention of Union citizenship under the Act shall be made in an appropriate form annexed to these regulations.

Form of declarations.

14 (1) A declaration under the Act may be made before a District Magistrate or an appropriate Consulate of the Union. The Magistrate before whom or Consulate before which such declaration is made shall forward it to the Secretary to the Ministry of the Union Government specified by the President of the Union in this behalf, for registration and record.

Report of case for cancellation or revocation of certificate.

(2) The person before whom declarations may be made, may administer the oath or affirmation.

15 (1) It shall be the duty of the District Magistrate and District Superintendent of Police of the respective district to bring to the notice of the Minister any fact which has come to their knowledge relevant for consideration in the matter of cancellation or revocation of a certificate of citizenship or of naturalization of any person living within that district.

Report of cases for cancellation or revocation of certificate.

(2) The District Magistrate or the Consulate concerned shall report periodically to the Minister the names of persons with the area under his or its charge to whom certificates of citizenship or naturalization had been directed to be issued and who had failed to make within the time prescribed the declaration necessary under the Act. The District Magistrate or the Consulate concerned shall also forward with such report the certificates of citizenship and of naturalization, which had been issued through them, to the Minister.

၁၇။ ။အက်ဥပဒေအရ၊ မူခင်းကိစ္စအရပ်ရပ်တွင် နိုင်ငံတော်ရှေ့နေချုပ်ကသော်
 ပြည်ဆောင်စုနိုင်ငံတော် အစိုးရ ကိုယ်စား တက် ရောက်ဆောင်ရွက်ခြင်း။
 ။ နိုင်ငံတော်ရှေ့နေချုပ်လွှဲထားသော လွှတ်တော်ရှေ့နေက၊
 သို့တည်းမဟုတ် ရှေ့နေကသော်၎င်း၊ ပြည်ထောင်စု နိုင်ငံတော်
 အစိုးရကိုယ်စား တက်ရောက်ဆောင်ရွက်နိုင်သည်။

၁၈။ ။သက်ဆိုင်ရာတရားမခရိုင် တရားသူကြီးရှေ့တွင်၊ သို့တည်းမဟုတ် ရန်ကုန်မြို့
 စရိတ်ဌေးများ။ တော်တရားမရုံးတရားသူကြီးချုပ်ရှေ့တွင်၊ သို့တည်းမဟုတ်တရား
 လွှတ်တော်ရှေ့တွင် အက်ဥပဒေအရ စုံစမ်းစစ်ဆေးရာ၌သော်၎င်း၊
 မူခင်းကိစ္စများ၌သော်၎င်း၊ လျှောက်ထားသူနှင့် ပြည်ထောင်စုနိုင်ငံတော်အစိုးရသည် မိမိနှင့်
 သက်ဆိုင်ရာရှိတစ်စာ၊ သမ္မာန်စာ၊ စရိတ်များကို၎င်း၊ သက်သေစရိတ်များကို၎င်း၊ တရားမ
 ကျင့်ထုံးဥပဒေအရ သတ်မှတ်ထားသည့် နှုန်းထားအတိုင်းပေးဆောင်ရမည်။ အမှုပြီးပြတ်
 သောအခါ၊ တဘက်မှကုန်ကျသောစရိတ်ကို အခြားတဘက်က ခံထိုက်သည်ဟု သက်ဆိုင်ရာ
 တရားမခရိုင်တရားသူကြီးကသော်၎င်း၊ ရန်ကုန်မြို့တော်တရားမရုံး တရားသူကြီးချုပ်ကသော်
 ၎င်း၊ တရားလွှတ်တော်က သော်၎င်း၊ ထင်မြင်လျှင် ယင်းသို့ထင်မြင်သည့်အတိုင်း အမိန့်ချ
 မှတ်နိုင်သည်။

16. The Minister may call for the certificate of citizenship in respect of any person who, under the provisions of the Act has ceased to be entitled to such a certificate and may cancel such certificate.

Cancellation of certificate.

17. The Attorney-General or an Advocate or Public Prosecutor appointed by him shall be entitled to take part on behalf of the Union Government in any proceedings under the Act.

Appearance on behalf of Union.

18. The applicant and the Union Government shall for the purposes of any enquiry or proceedings under the Act before the District Judge concerned or before the Chief Judge of the City Civil Court of Rangoon or before the High Court, pay such process-fees for notices and summonses applied for by them and expenses for their witnesses according to the scale under the Code of Civil Procedure. At the close of the enquiry or proceedings, before the District Judge concerned or before the Chief Judge of the City Civil Court of Rangoon or before the High Court, the High Court may, in its discretion, direct by whom the cost of the proceedings including the process-fees and witness expenses shall be paid.

Costs.

Regulation 18 is now redundant as Section 20 of the Union Citizenship Act has been deleted.

THE UNION CITIZENSHIP (ELECTION) ACT, 1948.

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**THE UNION CITIZENSHIP (ELECTION) ACT, 1948.
(Act No XXVI of 1948)**

Whereas it is necessary to make provision for the election of citizenship by persons qualified under section 11 (iv) of the Constitution :

It is hereby enacted as follows:—

1 This Act may be called the Union Citizenship (Election) Act, 1948.

This Act was amended by Acts XXVII of 1954 and XXXII of 1957.

This Act is a special Act and was enacted to enable persons qualified under section 11 (iv) of the Constitution of the Union of Burma to elect for citizenship.

There were several persons of races other than the indigenous, who had made Burma their permanent home or who had resided in Burma before the attainment of independence. They had not asked for any safeguards from the British Government at the time of transfer of power to the Union Government but the Constitution provided that those who had resided in Burma for at least 8 years out of 10 between 1st January 1932 and 1st January 1942 or between 4th January 1938 and 4th January 1948 shall have the right to elect for and obtain citizenship in the manner and within the time prescribed by law. This Act is meant for such persons only. The last date for filing applications under this Act was extended to 30th April 1950. But by leave of the President an application may still be filed under section 10 of the Act. The Union Citizenship Act, 1948 (Act LXVI of 1948) is the Act for those who have not applied or who are not qualified to apply under the Union Citizenship (Election) Act.

Section 11 (iv) of the Constitution of the Union of Burma reads:—

- (iv) Every person, who was born in any of the territories which at the time of his birth was included within His Britannic Majesty's dominions and who has resided in any of the territories included within the Union for a period of not less than eight years in the ten years immediately preceding the date of the commencement of this Constitution or immediately preceding the 1st January 1942 and who intends to reside permanently therein and who signifies his election of the citizenship of the Union in the manner and within the time prescribed by law, shall be a citizen of the Union.

This Act provides for election of citizenship as permitted by section 11 (iv) of the Constitution. The Legislature regarded the citizenship as a matter of most importance, as it involves rights and duties on the part of the Citizen and the State¹. As stated in section 11 (iv) of the Constitution election of citizenship of the Union must be signified in the manner and within the time prescribed by law and they have been prescribed in this Act.

Section 3 of the Act prescribes the officers to whom, those who possess the necessary qualifications may apply for certificate of citizenship. Section 4 prescribes the particulars which they must furnish in their applications and section 10 prescribes the time limit within which they must apply. Sections 5 and 6 prescribe the procedure to be followed by officers at the hearing of the applications. Section 7 (a) provides that an officer who decides that an applicant has established his right to elect for citizenship of the Union must forthwith transmit to the Minister a certified copy of his decision together with the application for the certificate and the affidavit annexed thereto. Section 7 (2) provides that if the officer decides that the applicant is not entitled to elect, the applicant may file an application in revision in the High Court. Section 8 (1) and (2) provide that on receipt of the decision the Minister must issue a certificate of citizenship in the prescribed form unless he is in doubt of the correctness of the decision in which case he may refer the application to the High Court. Section 8 (3) provides that the Minister shall issue a certificate of citizenship if the High Court finds that the applicant has established his right to elect for citizenship of the Union². Section 8 (4) and (5) prescribe the manner for issue of the certificate and its effect. Section 9 provides penalty for false averments relating to the proceedings for grant of the certificate. Section 11 provides for making of rules for carrying into effect the objects of the Act.

2. In this Act, unless the context otherwise requires:-

- (a) "Officer" means any Officer nominated for the purposes of this Act by the President.
- (b) "Minister" means a member of the Government nominated by the President for the purposes of this Act.
- (c) "Deputy Commissioner" includes "The District Magistrate, Rangoon," in the State "the Resident", or when there is no Resident, "Assistant Resident."

1. Union Government of Burma. Vs. Quah Chun Bee: 1950 B. L. R. 14 H. C.

2. P. K. Dutta. Vs. The Superintendent Central Jail, Rangoon and two others: 1953 B. L. R. 83 S. C.

The presiding judges of the lowest Courts of civil jurisdiction were appointed 'Officers' under this Act. At the time of passing of the Act they were called Subordinate Judges and later by Courts Act LV of 1950, they are called Township Judges. In Rangoon the 3rd and 4th Judges of the City Civil Court were appointed as the 'Officers' under this Act.

3. Any person:—

- (a) who was born in any of the territories which, at the time of his birth, was included in His Britannic Majesty's dominions;
- (b) who had resided in any of the territories included in the Union for a period of not less than eight years in the ten years immediately preceding either the first day of January 1942 or the fourth day of January 1948;
- (c) who is of good character;
- (d) who has not done any act prejudicial to the security, peace or interest of the Union; and
- (e) who is not disqualified as defined in section 2 of the Union Citizenship Act, 1948, may apply to the officer in the district in which he resides for a certificate of citizenship.

Section 3 was substituted by Act XXVII of 1954.

The wordings of section 3(a) and (b) are mere reproduction of section 11 (iv) of the Constitution.

Only those who qualify under section 3 can elect and apply for a certificate of citizenship under this Act. In the case of the Union Government of Burma Vs. U Ah Tun³ it was held that as the applicant was born in Hong Ngo village in Hoiksan Township, Hoiksan District, Canton, China, he was not born in any of the territories included in His Britannic Majesty's Dominions and so he had failed to establish his right to elect citizenship of the Union under this Act. The emphasis in this Act is on the words 'elect' and 'election'.

Two conditions are necessary to be fulfilled before a certificate of citizenship can be issued under section 3 of the Act. The first is that the applicant must be born within the territories specified and the second that he should also possess the residential qualifications prescribed in the section.⁴

3. 1948 B. L. R. 541 H. C.

4. The Union of Burma. Vs Ebrahim Suleman Variava: 1952 B. L. R. 6 H. C.

In the case of Union Government of Burma. Vs. Quah Chun Bee, the respondent was born at Tavoy on 27th December 1923 where he resided till 1935 and went to Penang for further study. He used to come back to Tavoy for one month every half year up to 1941 and was out of Burma from 1941 till 23rd June 1946. It was held that he was not entitled to elect for citizenship under the Act. It was held that the meaning of the word 'reside' has to be gathered from the intention of the legislature in section 3. Such intention is obtained by interpreting the language according to its obvious meaning. The legislature has used the word 'reside' instead of the word 'domicile.' The phrase 'has resided' for a period of not less than 8 years must mean actual residence. This is further strengthened by the fact that the legislature has allowed the choice of two different periods as also a margin of two years out of 10 years absence from Burma. Judged in this way the respondent was not entitled to elect for citizenship under this Act.

The expression 'His Britannic Majesty's Dominions' has been defined by section 3 (2) of the Union Citizenship Act, 1948 (Act LXVI of 1948) to mean 'the territories enumerated in section 2 (2) of the Burma Independence Act 1947.'

4. The application shall be made by petition which shall be accompanied by an affidavit of the applicant stating:—

- (a) the place of his birth, and the time or approximate thereof;
- (b) the period or periods he had resided in the territories included in the Union prior either to the first day of January 1942 or to the fourth day of January 1948;
- (c) that he is of good character and that he has not done anything prejudicial to the security, peace or interest of the Union, and that he is not disqualified as defined in Section 2 of the Union Citizenship Act, 1948.
- (d) his intention to reside permanently in the territories included in the Union and that he owes allegiance to the Union; and
- (e) the name, sex, place of birth and time of birth, exact or approximate, of each of his minor children, alive at the date of the application.

5. (1) On an application made for a certificate of citizenship, the officer shall direct notice of such application to be issued to the Deputy Commissioner of the district where the applicant resides and shall also have a copy of the notice pasted in some conspicuous place in the office of the Deputy Commissioner.

(2) The application shall not be heard by the officer before four weeks after the service of the notice on the Deputy Commissioner have expired.

(3) At any time, previous to the hearing of the application, the Deputy Commissioner may file with the officer an objection, stating the grounds of such objection.

Any person, knowing of, or having evidence of a disqualification in the applicant, may communicate his knowledge or the evidence to the Deputy Commissioner.

The notice under this section has to be issued to the Deputy Commissioner of the place where the applicant resides, and not where the applicant is born. In the case of Ah Fat (a) U Aung Thein Vs. U Tha Win and one the grant of the certificate was set aside because the notice was issued to the Deputy Commissioner of Rangoon, whereas the applicant resided in Mergui⁶.

6. (1) At the hearing, the applicant for a certificate shall, subject to the provisions of section 132 of the Code of Civil Procedure, personally appear before the officer for examination unless the officer for sufficient reason to be recorded in writing, dispenses with his personal attendance. The applicant shall produce before the officer, at such hearing such evidence as he may desire to establish that he is qualified under section 3 to elect for citizenship.

(2) The Deputy Commissioner shall be entitled to adduce, at such hearing, such evidence as he may desire in disproof of the applicant's claim.

(3) At the hearing, the officer shall not be bound by the Civil Procedure Code or any other enactment but shall be guided by rules of natural justice.

7. (1) The officer shall, after careful inquiry as to whether the applicant possesses the necessary qualifications

6. 1950 B. L. R. 53 S. C.

or not, submit forthwith his recommendation together with the inquiry proceedings to the Minister; and

(2) Any person who has acquired a certificate of citizenship before the promulgation of the Union Citizenship (Election) (Amendment) Act, 1954, shall be deemed to have also possessed the qualifications provided in clauses (c) and (d) of section 3 without prejudice to the provisions of section 19 of the Union Citizenship Act, 1948:

Provided that of the cases submitted under section 7 by the officer to the Minister before the promulgation of the Union Citizenship (Election) (Amendment) Act, 1954, those cases which appear to the Minister that they should be heard with respect to clauses (c) and (d) of section 3, may be sent back for further hearing to the officer concerned.

Section 7 was amended by Act XXVII of 1954 and Act XXXII of 1957.

The officer must examine the applicant as to each of the qualifications necessary for election of citizenship under this Act and satisfy that the applicant is a qualified person before he recommends the applicant for grant of a certificate.

8. (1) When the Minister receives the recommendation of the officer made under section 7, he shall, if he accepts the recommendation issue a certificate of citizenship in the prescribed form and shall send such certificate to the recommending officer.

(2) The issue of a certificate of citizenship shall be in the discretion of the Minister and he may, with or without assigning any reason, issue or refuse to issue the certificate, as in his opinion is conducive to the public good.

(3) The Officer shall, on receipt of the certificate, call upon the applicant to appear before him on a date fixed by him and to subscribe a declaration on oath or affirmation renouncing any other nationality or status as citizen of any foreign country and owing allegiance to the Union and, on the applicant making and subscribing such declaration, the Officer shall deliver to him the certificate after having endorsed thereon the date of the making of and subscribing the said declaration.

(4) The certificate shall not take effect unless the applicant makes and subscribes the declaration under the last preceding section.

(5) Those certificates which had been issued before the promulgation of the Union Citizenship (Election) (Amendment) Act, 1954, shall not be deemed to be null and void for not bearing the declaration that he owes allegiance to the Union.

This section was amended by Acts XVII of 1954 and XXXII of 1957. Before these amendments section 8 read as follows :-

8. (1) When the Minister receives a decision of the officer under section 7, he shall, unless he is in doubt to the correctness of the decision of the officer, issue a certificate of citizenship in such form as may be prescribed and shall send the certificate to the officer by whom the decision was made.
- (2) If the Minister is in doubt of the correctness of the decision of the officer he may refer the application to the High Court on the appellate side. To such a reference by the Minister or the application under section 7(2) the provisions of Order XLI of the Civil Procedure Code shall apply.
- (3) If the High Court, on a reference, confirms the decision of the officer under section 7(1), or set aside the order under section 7(2), the Minister shall issue a certificate of citizenship and transmit it to the officer by whom the decision was made.
- (5) The officer shall, on receipt of the certificate, call upon the applicant to appear before him on a date fixed by him and to subscribe a declaration on oath or affirmation renouncing any other nationality or status as citizen of any foreign country, and on the applicant making and subscribing such declaration, the officer shall deliver to him the certificate after having endorsed thereon the date of the making of and subscribing the said declaration.
- (5) The certificate shall not take effect unless the applicant makes and subscribes the declaration under the last preceding section.

Before these amendments it was held that section 8 (2) did not prescribe any period of limitation within which the Minister must refer the application to the High Court, such omission was deliberate. Therefore there is no period of limitation prescribed for reference by the Minister⁷.

Once the certificate is issued and provisions of clause (3) and (4) of this section are complied with, it becomes fully effective and the officer granting the same has no authority to review his order and cancel the certificate on review to hold a de novo enquiry⁸.

A person who applies for a certificate of citizenship merely 'applies' to signify his intention to elect for citizenship under this Act. There is nothing to prevent him from changing his mind before he signs the declaration under section 8 (4) on oath or affidavit renouncing any other nationality or status as citizen of foreign country. He signifies his election of citizenship of the Union only when he signs such a declaration. Until then he still remains a foreigner and does not become a citizen⁹. Thus the word 'signify' does not mean mere filing of the application, but to 'signify in accordance with law.' The legislature can make law requiring a foreigner who wants to become a citizen to renounce any other nationality or status as citizen of any foreign country as section 12 of the Constitution provides:—

'12. Nothing contained in section 11 shall derogate from the power of the Parliament to make such laws as it thinks fit in respect of citizenship and alienage.....'

9. If any petition or affidavit, which is required to be filed under this Act, contains any averment which the person making the same knows or believes to be false, such person shall be deemed to have committed an offence under section 193 of the Penal Code.

10. Except with the prior leave of the President, no officer or court shall entertain an application under section 4 if filed after the expiry of one year from the commencement of this Act.

7. Union Government of Burma Vs. Quah Chun Bee 1950 B. L. R. 14 H. C.

8. Ah Fat (a) U Aung Thein. Vs. U Than Win and another: 1950 B. L. R. 53 S. C.

9. P. K. Dutta Vs. The Superintendent, Central Jail, Rangoon and two others: 1953 B. L. R. 83 S. C.

The last date for filing applications under this section was extended to 30th April 1950. But by leave of the President an application may still be filed under this section. As an application can always be filed under the Union Citizenship Act 1948, this section it is considered may rarely be used.

11. (1) The President may, from time to time, make rules for carrying into effect the objects of this Act.

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

- (a) the presentation at the enquiry on behalf of the Union of Burma;
- (b) the fees payable by the applicant in the proceedings for the grant of a certificate;
- (c) the forms to be used under the Act including the certificate of citizenship; and
- (d) the forms of declaration renouncing any foreign nationality or status and owing allegiance to the Union.

The Rules made under this Act are given hereinafter.

THE UNION CITIZENSHIP (ELECTION) RULES, 1948.

In exercise of the powers under section 11 of the Union Citizenship (Election) Act, 1948, the President hereby makes the following Rules:—

1. These Rules shall be called the Union Citizenship
Title (Election) Rules, 1948.

2. In these Rules:—

“Definition” “Act” means the Union Citizenship (Election)
Act, 1948.

“Officer” shall mean, for the town of Rangoon the 3rd or 4th Judge of the Rangoon City Civil Court, and, for the other parts of the Union the Subordinate Judge or such other officer as the President in this behalf may appoint.

"Minister" means the Minister nominated in this behalf by the President.

3. Any person who under section 3 of the Act is competent to elect for Union citizenship may make an application to the officer having jurisdiction over the area in which he resides for a certificate of citizenship, within the time prescribed by section 10 of the Act.

" Authority to which application for citizenship to be made.

4. (1) The application for a certificate of citizenship shall be made in writing and shall set out to the best of the applicant's knowledge and belief the following particulars:-

" Contents of application "

- (a) Name of applicant.
- (b) Date and place of applicant's birth.
- (c) Applicant's permanent residence.
- (d) Applicant's occupation or profession.
- (e) Applicant's race.
- (f) Applicant's matrimonial status, i. e. whether a bachelor, spinster, widower or widow.
- (g) Name of applicant's husband or wife.
- (g) Name of applicant's parents, their race and their national status.
- (i) Indigenous language or languages in which applicant claims proficiency.
- (j) Physical description of applicant and other distinguishing marks.
- (k) Place, whether inside or outside the Union, where the applicant holds immovable property and particulars thereof.
- (l) Names of children, their ages, sexes and residence.
- (m) Periods of residence within the area forming part of the Union.
- (n) Applicant's intention to reside within the Union permanently.

(2) The applicant, if literate, shall affix his signature to the application; and if illiterate, shall affix the impression of his left thumb thereto. The application shall be accompanied by an affidavit specified in Form A under section 4 of the Act sworn before a Magistrate; the deponent shall verify which of the particulars stated therein are true to the deponent's knowledge and which are upon information believed by him to be true.

(3) The applicant shall also file with his application three copies of his photograph 1 $\frac{1}{2}$ " by 2 " in size; and these photographs shall bear on the back his signature or left thumb impression.

Provided that if the applicant is a pardanashin woman, she may file with her application three sheets of paper of the size of passport photograph bearing her left thumb impression, and the impression thus submitted will be used as and in the same manner as the photographs:

Provided also that in the frontier and hill districts where facilities for taking photographs at the place of residence of the applicant and at the headquarters of the officer do not exist a description of the applicant in triplicate containing distinctive marks of identification and his left thumb impression duly taken and attested by the officer may be accepted in lieu of the photographs.

The provisoes were inserted by Ministry of Judicial Affairs Notification No. 222 dated the 28th October 1949.

Exemption accorded to pardanashin ladies from personal appearance in Court under section 6(1) of the Union Citizenship (Election) Act 1948 is restricted to the hearing stage only and they are not exempted from personal appearance in Court for the purpose of declaration of renunciation of foreign nationality under section 8(4) of the Act.

5. A Court-fee stamp of the value of K. 2 shall be affixed to every application for a certificate of citizenship.
Fees. The Court-fees payable on an appeal to the High Court under section 7 (2) of the Act shall be K. 3.

The applicant shall, on receipt of an intimation from the officer that his application for a certificate of citizenship is granted, furnish the officer with a non-judicial stamp paper of the denomination of kyats thirty, for the purposes of the issue of the certificate.

The second part of the above rule was amended by the notification of Judicial Ministry dated 14th January 1949. Formerly it read as follows:—

"The applicant shall pay into either the Union Bank or any Union Treasury a sum of Rs. 30 to be expended in the purchase of revenue stamp paper to be used in preparing the certificate of citizenship and shall attach the receipted chalan to his application for the certificate."

6. The officer who receives the application shall under section 5 of the Act send an intimation to the Deputy Commissioner concerned and shall cause to have affixed in a public place at his office and at the office of the Township Officer concerned a copy thereof. He shall also have entered in the Register (in Form E) the particulars set out therein in respect of the application.

7. On appeal to the appellate side of the High Court under section 7 (2) of the Act by the applicant whose claim for citizenship has been rejected or on a reference under section 8 (2) of the Act at the instance of the Minister questioning the grant of a certificate of citizenship, the Attorney-General or an Advocate appointed by him shall be entitled to take part in the proceedings on behalf of the Union Government.

8. The applicant and the Union Government shall, for the purposes of the enquiry into the application for citizenship before the officer appointed, or for the purposes of the appeal or reference before the High Court, pay such process-fee for notices and summonses applied for by them and expenses for their witnesses according to the scale under the Code of Civil Procedure. At the close of the enquiry, appeal or reference, the officer or the High Court may, in his or its discretion, direct by whom the cost of the proceedings including the process fees and witness expenses shall be paid.

The former Rule 9 was deleted by Ministry of Judicial Affairs notification dated 14th January 1949 and Rules 10 to 14 were re-numbered as Rules 9 to 13.

9. (1) The Officer, on the Minister's approval to the issue of the certificate of citizenship being communicated to him, call upon the applicant to furnish him with a non-judicial stamp paper of the denomination of kyats thirty for the purposes of the issue of the certificate and shall, on being so furnished, forward the stamp paper to the Minister.

(2) The Minister shall cause to have prepared on the same stamp paper a certificate in Form B and shall issue the said certificate under his hand. A copy of the photograph of the applicant shall be affixed to the certificate and the same shall be forwarded to the officer concerned. One photograph shall be affixed in the register maintained in the office of the Minister and the other photograph shall be affixed in the register maintained by the officer concerned.

Sub-rule (1) above was substituted by Ministry of Judicial Affairs notification dated 14th January 1949.

10. The certificate of citizenship shall be in Form B annexed to these Rules. The declaration under section 8 (4) of the Act renouncing any foreign national status shall be as provided in Form C.

11. After the certificate of citizenship has been issued to the applicant a copy of the same together with the relevant application affidavits and declaration of renunciation of foreign national status shall be kept in the custody of the Secretary to the Ministry nominated in this behalf by the President. The Secretary shall also cause to have entered in the register (in Form D) in alphabetical order the name of persons to whom certificates of citizenship have been issued. The officer for each local area shall also maintain a similar register.

12. On receipt of a certificate of citizenship from the Minister the officer concerned shall call upon the applicant to appear before him within such time as may be specified by the said officer and, under section 8 (4) of the Act, either to take

Registration of citizenship.
Renunciation of foreign natural status.

an oath or to make an affirmation of renunciation of foreign national status and of allegiance to the Union. The officer shall enter in the certificate the date on which the said oath or affirmation was made and shall deliver the same to the applicant and the officer shall then submit to the Minister the declaration together with the report of the issue to the applicant of the certificate. The Minister shall cause to have filed the said declaration with the copy of the certificate of citizenship maintained in his office. If the applicant fails within such further time as may be granted to him to appear before the officer and to make the necessary declaration renouncing his foreign natural status and of allegiance to the Union, the officer shall return the certificate of citizenship to the Minister to have it cancelled.

13. The Minister shall cancel the certificate of citizenship if the applicant fails to make a declaration on oath or affirmation renouncing his foreign national status and of allegiance to the Union and to subscribe the same or if the applicant is convicted of an offence under section 193 of the Penal Code in respect either of the application for a certificate of citizenship or the declaration of renunciation of his foreign national status.

Cancellation of certificate.

14. (1) Notwithstanding anything contained in Rule 5 or Rule 9 if the applicant is serving or has served in the armed forces of the Union or if he is a labourer employed in essential services in the Union, he shall be required to pay a nonjudicial stamp of the value of kyats five only for the purpose of issuing a citizenship certificate.

(2) If through poverty and on account of more than one member of the household having to apply for citizenship certificate there is hardship in paying the full amount of fees prescribed by either Rule 5 or clause (1) of this rule, or if it appears that there are sufficient grounds otherwise so to do, the President may remit in whole or in part the fees for issue of citizenship certificate.

(3) The fact that a privileged rate of fees has been granted to be paid under clause (1) of this rule or that a total or partial remission of fees has been given under clause (2) of this rule shall be entered on the certificate issued in Form B.

This rule was added by Judicial Department notification No. 13 dated 4th August 1949.

APPENDIX. I. **Forms**

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—x—

APPLICATION FOR CITIZENSHIP CERTIFICATE UNDER THE UNION CITIZENSHIP ACT, 1948.

To
The District Magistrate,

The humble petition of _____

_____ by occupation _____

residing at _____

Most Respectfully Showeth :-

1. That the applicant begs to apply for issue of a certificate of citizenship under section _____ of the Union Citizenship Act and the following are the necessary particulars for issue of the same:-

- (a) Name of applicant:
- (b) Date and place of applicant's birth:
- (c) Applicant's permanent residence:
- (d) Applicant's occupation or profession:
- (e) Applicant's race:

- (f) Applicant's matrimonial status, i.e. whether a bachelor, spinster, widower or widow:
- (g) Name of applicant's husband or wife:
- (h) Name of applicant's parents, their race and their national status:
- (i) Indigenous language or languages in which applicant claims proficiency:
- (j) Physical description of applicant and other distinguishing marks:
- (k) Places, whether inside or outside the Union, where the applicant holds immoveable property and particulars thereof:
- (l) Names of minor children, their ages, sexes and residence:
- (m) Period of residence within the area forming part of the Union:
- (n) That applicant is of good character, that he intends to reside within the Union permanently and that he owes allegiance to the Union: (or other particulars in section 12(2) of the Act in case of the application under that section):
- (o) In the case of an application under section 11(1) of the Act, the date of her marriage to a citizen of the Union giving his name and address and her undertaking to renounce her foreign national status and the statement that she is not under a disability and she is not of such character as is prejudicial to the public interest:
- (p) Certificate of good character from two citizens of the Union of good standing in the case of an application under section 12(2) of the Act:
- (q) That the application is under section 4(2) or section 12(3) of the Act all particulars required therein:
- (r) Previous application, if any, together with the date of application:

2. That the applicant undertakes to be loyal and faithful to the Union of Burma.

3. That the applicant begs to submit herewith an affidavit duly affirmed before a Magistrate.

4. That the applicant also begs to attach herewith three copies of his photographs duly signed by him.

Wherefore prays that the petitioner
may be granted citizenship certificate
under section _____ of the said Act.
AND SHALL EVER PRAY,

Dated:—

Petitioner.

FOR APPLICATION FOR CITIZENSHIP UNDER
THE UNION CITIZENSHIP ACT, 1948.

I, _____ by occupation _____
son/ daughter of _____ and by religion a
_____, make oath /affirmation and state as follows :-

- (a) I was born at _____ on _____
- (b) I had resided continuously within the territories forming part of the Union of Burma for the periods mentioned below :-
From _____ 19 _____, to _____ 19 _____ at _____
The total period of such residence being _____ years.
- (c) My father was / is _____ by nationality and an
_____ by race and his name was / is _____
- (d) My mother was / is _____ by nationality and an
_____ by race and her name was / is _____
- (e) I intend to reside permanently within the Union of Burma.
- (f) I shall owe allegiance to the Union of Burma.
- (g) I am of good character.
- (h) The names, sex, place of birth and dates or approximate dates of birth of my minor children who are not already citizens of the Union living under my sole lawful guardianship or under the lawful guardianship of _____ who is a citizen of the Union are stated below :-

No. Name. Sex. Place of birth. Date of birth. Lawful guardianship.

1.
2.

- (i) I claim that I am entitled to a certificate of citizenship under section _____ of the Union Citizenship Act, 1948. because _____
- (j) I undertake to be loyal to the Union of Burma and to take oath of allegiance to the Union of Burma and to live peacefully and faithfully in the Union of Burma.

I declare upon oath/affirmation that the particulars stated in clauses _____ to _____ above are true to my knowledge and that the particulars stated in clauses _____ and _____ above are upon information believed to be true.

Deponent

The above affidavit was sworn/affirmed before me by _____, who has been identified before me by _____

Magistrate.

Identified by me,

Dated:-

—x—

APPLICATION FOR A CERTIFICATE OF NATURALIZATION
UNDER SECTION 7(1) OF THE UNION CITIZENSHIP ACT, 1948.

To

The District Magistrate,

The humble petition of _____

_____ resident of _____

Most Respectfully Sheweth :-

1. That the applicant begs to apply for issue of a certificate of naturalization under section 7 (1) of the Union Citizenship Act and the following are the necessary particulars for issue of the same:-

- (a) Name of applicant:
- (b) Date and place of applicant's birth:
- (c) Applicant's permanent residence:
- (d) Applicant's occupation or profession:
- (e) Applicant's nationality:
- (f) Applicant's matrimonial status,
i.e. whether a bachelor, spinster, widower or widow:
- (g) Name of applicant's husband or wife:
- (h) Name of applicant's parents, and their national status:
- (i) Indigenous language or languages in which applicant claims proficiency:

- (j) Physical description of applicant and other distinguishing marks:
- (k) Places, whether inside or outside the Union, where the applicant holds immoveable property and particulars thereof:
- (l) Names of minor children, their ages, sexes and residence and in whose custody:
- (m) Period of residence within the area forming part of the Union:
- (n) Applicant's intention as to residence in the Union permanently or to enter or continue in the service of the Union or any constituent state or in any undertaking of a religious, charitable or commercial character established in the Union and the statement that he owes allegiance to the Union and that he is of good character:
- (o) A copy of the notice of applicant's intention to apply for naturalization given under the proviso to section 7 (1) of the Act:
- (p) Certificates of good character from two citizens of the Union of good standing:
- (q) That he is not under a disability, that he elects to be a citizen of the Union and that he is willing to renounce any other citizenship:
- (r) If the application is under section 13 of the Act the particulars and dates of his service in the armed forces of the Union:
- (s) Whether desirous of making a declaration of alienage in respect of any other citizenship and of allegiance to the Union of Burma:

2. That the applicant begs to submit that he has not been disloyal to the Government of the Union of Burma nor acted in any manner prejudicial to the Union Government of Burma and desires to reside peacefully within the Union of Burma.

3. That the applicant begs to submit herewith an affidavit as required by law.

4. That the applicant also begs to attach herewith three copies of photographs duly signed by him.

Wherefore prays that the applicant
may be granted a certificate of naturalization
under section 7 (1) of the Union Citizenship Act
AND SHALL EVER PRAY,

Dated:—

APPLICANT.

Form B

Regulation 9

AFFIDAVIT.FOR APPLICATION FOR NATURALIZATION CERTIFICATE UNDER
THE UNION CITIZENSHIP ACT, 1948.

I, _____ aged _____ years, son/daughter of _____
by religion _____ by occupation _____
resident of _____ do on oath/solemn
affirmation state as follows:—

1. I say that I was born at _____ on _____
2. I say that I had resided continuously within the territories forming part of the Union of Burma for the periods mentioned below:—

Form _____ to _____ at _____

Form _____ to _____ at _____

The total period of such continuous residence being _____ years.

3. I say that I am of good character.
4. I say that I can speak and understand the Burmese/Chin/Kachin/Karen/Shan language.
5. I say that I intend to reside permanently within the Union of Burma and to enter or continue in the service of the Union of any constituted State thereof or in an undertaking of a religious, charitable or commercial character established in the Union and shall declare that I shall owe allegiance to the Union and that I shall elect to be a citizen of the Union if a certificate of naturalization is granted.
6. I say that I have given notice in writing of my intention to apply for certificate of naturalization in the form prescribed by regulations under the Union Citizenship Act 1948 on _____ as required by section 7(1) of the Act.
7. I say that I shall reside continuously within the Union from the date of the application for the certificate of naturalization to the date of grant. And I will renounce any foreign national status to which I may originally be entitled and I will reside peacefully and faithfully in the Union of Burma.
8. I say that the names, sex, place of birth and dates or approximate dates of birth of my minor children who are not already citizens of the Union living under my sole legal charge or in the

legal custody of _____ of _____
 who is a citizen of the Union are as stated below:—

No. Names. Sex. Date of birth, Place of birth, Lawful Guardianship.

- 1.
- 2.

I declare upon oath/affirmation that the particulars stated in clause _____ to _____ above are true to my knowledge and that the particulars stated in clauses _____ and _____ above are upon information believed to be true.

Deponent.

The above affidavit was duly sworn/affirmed before me by _____, who has been identified before me by _____

Magistrate.

Identified by me

Dated:—

—x—

Form. S.

AFFIDAVIT.

Regulation 3-A

UNDER SECTION 6(2) OF THE UNION CITIZENSHIP ACT.

I, _____ aged _____ son / daughter of _____, by religion _____, and by occupation _____, resident of _____ do on oath/affirmation state as follows:—

1. I say that I was born at _____ on _____
2. I say that I have resided continuously within the territories forming part of the Union of Burma for the periods stated below:—

From _____ to _____ at _____
 From _____ to _____ at _____

The total period of such residence being _____ years.

3. I say that my father is/was _____ by race and _____ by nationality and his name is/was _____

4. I say that my mother is/was _____ by race and _____ by nationality and her name is/was _____
- 4A. Particulars of grand parents, if necessary.
5. I say that I am married/bachelor/spinster/widow/widower.
6. I say that my wife/husband's name is _____
7. I say that I can speak and understand Burmese/Chin/Kachin/Karen/Shan language.
8. I say that my identification marks are as follows:—
Height :—
Colour of Eyes :—
Colour of Hair :—
Other distinguishing marks :—
9. I say that I will owe allegiance to the Union of Burma.
10. I say that I declare that I elect to retain citizenship of the Union.
11. I say that I declare on oath/affirmation that I am willing to renounce any other citizenship to which I may originally be entitled. I herewith surrender my Foreigners Regulation Certificate (if any).
12. I say that I bear a good character.
13. I say that I have not committed any act prejudicial to the security, peace or interest of the Union of Burma.
14. I say that I am not under a disability mentioned in section 2 of the Union Citizenship Act, 1948.
16. I say that I intend to reside permanently within the territories of the Union of Burma.
16. I say that the names, sexes, places of birth and dates or approximate dates of births of my minor children who are not already citizens of the Union living under my sole lawful guardianship or under the lawful guardianship of _____

_____ of _____ who is a citizen of the Union are as stated below:-

Names.	Sex.	Place of birth.	Date of birth.	Residence.
1.				
2.				

17. I say that the two copies of photographs attached herewith are mine and are duly signed by me.
18. I say that I claim that I am entitled to get a certificate of citizenship of the Union of Burma because, _____

I declare upon oath/affirmation that the particulars stated in clauses _____ above are true to my knowledge and that the particulars stated in clauses _____ above are upon information believed to be true.

Dated:-

19

Identified by me,

Deponent.

The above affidavit was duly sworn/affirmed before me by _____ who has been identified before me by _____

Magistrate.

—X—

Form R.
Regulation 3

NOTICE OF INTENTION TO APPLY FOR NATURALIZATION.
(Under proviso to section 7(1), Union Citizenship Act, 1948.)

To

The District Magistrate,

I, _____ son/daughter of _____ by occupation _____ and by religion _____ residing at _____ hereby give notice in writing of my intention to apply for a certificate of naturalization as required by the proviso to section 7 (1) of the Union Citizenship Act, 1948, and state as follows :-

- (a) I was born at _____ on _____
- (b) I am a _____ national.
- (c) I came from _____ arriving Burma on _____ .
- (d) I have resided at _____ within the territories forming part of the Union of Burma as follows :-

From _____ to _____ at _____ .

The total period of such continuous residence being _____ years

(e) I am of good character and reference may be made to :-

(1)

(2)

(f) I can speak the Burmese language.

(g) I intend to reside permanently within the Union of Burma or to enter or continue in the service of the Union or any constituent state thereof or in an undertaking of a religious, charitable or commercial character established in the Union if a certificate of naturalization is granted.

(h) I undertake to furnish promptly any change of address.

(i) I shall be true, loyal and faithful to the Government of the Union of Burma.

Dated:-

APPLICANT.

—x—

Form H.

DECLARATION OF ALIENAGE OF FOREIGN NATIONALITY.
(Under section 5(a),5(c),7,8,11(3),12(1) of the Union Citizenship Act, 1948).

I, _____ son/daughter of _____ lately
a _____ national and on this _____ day of
_____ 19 _____, having become a citizen of the Union of
Burma. do declare on oath/affirmation that I do hereby renounce
any foreign national status to which I may originally be entitled,
and that I will owe allegiance to the Union of Burma.

Deponent.

The above declaration was sworn/affirmed before me at _____
on the _____ day of _____ 19 _____
(Fees K. /- paid at _____ Treasury by chalan No. _____
dated _____

District Magistrate.

—x—

Form. I.

DECLARATION OF ALIENAGE OF THE CITIZENSHIP OF THE UNION.
(Under section 9 (2)/17 of the Union Citizenship Act, 1949.)

I, _____ son/daughter of _____ to whom a certificate of naturalization/citizenship (No. _____) has been granted, having attained my majority within one year before the present date (having retained the status of a British Subject), do declare on oath/affirmation that I do hereby renounce my nationality as a citizen of the Union of Burma.

Deponent.

The above declaration was sworn/affirmed before me
at _____ on the _____ day of _____ 19 .

Fees K /-paid.

Official Title

—x—

Form J.

DECLARATION OF ELECTION TO RETAIN UNION CITIZENSHIP.
(Under section 5(a),5(c), 12(1) of the Union Citizenship Act, 1948)

I, _____ son/daughter of _____ for the purposes of asserting my Union Citizenship, do declare on oath/affirmation that I elect to retain the citizenship of the Union of Burma.

Deponent.

The above declaration was sworn/affirmed before me
at _____ on the _____ day of _____ 19 .

(Fees K. /-paid)

District Magistrate.
Consulate.

ပုံစံများ

စာမျက်နှာ

- (၁) မြည်ထောင်စုမြန်မာနိုင်ငံသားဖြစ်မှုအက်ဥပဒေအရ နိုင်ငံသားဖြစ်မှုအတွက် လျှောက်လွှာ။ ၂၁၄
- (၂) အထက်ပါလျှောက်လွှာအတွက် ကျမ်းကျိန်ချက် (ပုံစံ-က) ၂၁၆
- (၃) အဆိုပါအက်ဥပဒေပုဒ်မ ၇-(၁)အရ နိုင်ငံသားပြုမှုအတွက်လျှောက်လွှာ။ ၂၁၈
- (၄) အထက်ပါလျှောက်လွှာအတွက်ကျမ်းကျိန်ချက် (ပုံစံ-ခ) ၂၂၀
- (၅) အဆိုပါအက်ဥပဒေပုဒ်မ ၆-(၂)အရ ကျမ်းကျိန်ချက်(ပုံစံ-ခ) ၂၂၃
- (၆) နိုင်ငံသားပြုလက်မှတ်တောင်းယူရန် ကြံရွယ်ကြောင်း အကြောင်းကြားစာ (ပုံစံ-ဂ) ၂၂၅

—x—

ခရိုင် ရာဇဝတ်တရားသူကြီးမင်းရုံးထောင်၌

၁၉၆ -ခုနှစ်၊ နိုင်ငံသားဖြစ်မှု လျှောက်လွှာအမှတ်

(၁၉၄၈-ခုနှစ်၊မြည်ထောင်စုမြန်မာနိုင်ငံသားဖြစ်မှု အက်ဥပဒေပုဒ်မ....အရလျှောက်လွှာ။)

မြို့

ရပ်နေ

လျှောက်ထားသူ

က ရိုသေစွာလျှောက်ထားပါသည်။

(၁) လျှောက်ထားသူသည်-မြည်ထောင်စု မြန်မာနိုင်ငံသားဖြစ်မှု ဥပဒေပုဒ်မ အရ နိုင်ငံသားဖြစ်မှုလက်မှတ်ထုတ်ပေးပါရန် လျှောက်ထားရာလိုအပ်သောအချက်အလက်များကို အောက်ပါအတိုင်းဖော်ပြအပ်ပါသည်။

- (က) လျှောက်ထားသူအမည် -
- (ခ) မွေးဖွားသော အရပ် နှင့် နေရက် -
- (ဂ) ထာဝစဉ်နေထိုင်ရာအရပ် -
- (ဃ) အလုပ်အကိုင် -
- (င) လူမျိုး -
- (စ) အိမ်ထောင်-ရှိ၊ မရှိ၊ မုဆိုးဖို၊ သို့တည်း -
မဟုတ်၊ မုဆိုးမ၊

- (ဆ) လင်/မယား ၏အမည် -
- (ဇ) အမိအဘအမည်များ၊ လူမျိုး နှင့် --အဘ၊
ထိုသူတို့မှာ မည်သည့်နိုင်ငံသား
ဖြစ်ကြောင်း
အမိ၊
- (ဈ) နားလည်တတ်မြောက်သည် -
တိုင်းရင်းသားဘာသာစကား
- (ည) ရုပ်ရည်သဏ္ဌာန်ဖော်ပြချက် နှင့် --အရပ်-အမြင့်၊
ထင်ရှားပေါ်လွင်စွာမြင်နိုင်သည့် မျက်လုံးအရောင်၊
အထူးအမှတ်အသားများ။ အထူးအမှတ်အသား။
- (ဋ) ပြည်ထောင်စုမြန်မာနိုင်ငံတော်အတွင်း -
ဖြစ်စေ၊ မြင်ပဖြစ်စေ၊ လျှောက်ထားသူ
ပိုင်၊မရှေ့၊ မြောင်းနိုင်သည့်ပစ္စည်းနှင့်
တည်ရှိရာအရပ်။
- (ဌ) အရွယ်မရောက်သေးသည့် သား-သမီးများအမည်၊ အသက်၊ ကျား၊မ၊ ဘာဝ၊နေရပ်၊
အမည် | ကျား၊မ၊ | အသက် | နေထိုင်ရာအရပ် | အုပ်ထိန်းသူအမည်

- (၃) ပြည်ထောင်စုမြန်မာနိုင်ငံတွင်ပါဝင်သော-
အာဏာပိုင်နယ်အတွင်း၌ မည်သည့်၊ နှစ်
လ၊ ရက်မှာ၊ မည်သည့် နှစ်၊ လ၊ ရက်ထိ၊
နေထိုင်ဘူးကြောင်း။
- (စ) အဖျင့်စာရိတ္တကောင်းမွန်၍ပြည်ထောင်စု-
မြန်မာနိုင်ငံတွင်၊ ထာဝစဉ် နေထိုင်ရန်၊
ကြံရွယ်ကြောင်း၊ နှင့် ပြည်ထောင်စု
မြန်မာနိုင်ငံ၏၊ ကျေးဇူး သစ္စာတော်ကို
စောင့်သိ ရိသေကြောင်း၊ [အက်ဥပဒေ
ပုဒ်မ ၁၂-ပုဒ်မခွဲ(၂)အရ လျှောက်ထား
သူနှင့် ပတ်သက်၍ ထိုပုဒ်မခွဲရှိ အခြား
အကြောင်းအရာများ။]
- (ဏ) အက်ဥပဒေပုဒ်မ -၁၁- ပုဒ်မခွဲ (၁) အရ-
လျှောက်ထားသူ နှင့် ပတ်သက်၍
ပြည်ထောင်စု မြန်မာနိုင်ငံသားနှင့် အိမ်
ထောင်ပြုသည့်နေ့ရက်နှင့်ထိုသူ၏ အသေ၊

အလုပ်အကိုင် နှင့် နေရပ်၊ ထို့ပြင် မိမိ၏ အခြား နိုင်ငံခြားသားအဖြစ်ကို စွန့်လွှတ် မည်ဟု၊ ဝန်ခံကတိထားခြင်းနှင့် အရည် အချင်းချို့ ခဲ့သူမဟုတ်၍ အများပြည်သူ၏ အကျိုး ထိခိုက်အောင် အကျင့်စာရိတ္တ ပျက်ပြားသူမဟုတ်ခြင်း။

- (တ) အက်ဥပဒေပုဒ်မ - ၁၂ - ပုဒ်မခွဲ (၂) အရ-
လျှောက်ထားသူ နှင့် ပတ်သက်၍၊
ပြည်ထောင်စုနိုင်ငံသားလူကြီးလူကောင်း
နှစ်ဦးထံမှ၊ အကျင့်စာရိတ္တ ကောင်းမွန်
ကြောင်း လက်မှတ်များ။
- (ထ) အက်ဥပဒေပုဒ်မ - ၄ - ပုဒ်မခွဲ (၂) အရ-
သို့တည်းမဟုတ်၊ ပုဒ်မ-၁၂-ပုဒ်မခွဲ (၃)
အရ၊ လျှောက်ထားလျှင်၊ ထိုပုဒ်မခွဲအရ
လိုအပ်သောအကြောင်း အရာများ။
- (ဗ) ရှေးက လျှောက်ထားဘူးလျှင်၊ လျှောက်
လွှာနှင့်လျှောက်ထားသည့် နေ့ရက်။

သို့ပါ၍၊ ၁၉၄၀-ခုနှစ်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံသားဖြစ်မှု
အက်ဥပဒေပုဒ်မ ၁၂-ပုဒ်မခွဲ (၂) အရ၊ နိုင်ငံသားလက်မှတ်ထုတ်ပေး
ပါရန်ရှိသောစွာလျှောက်ထားပါသည်။

နေ့စွဲ၊

လျှောက်ထားသူ

—x—

ပုံစံ-က၊

စည်းမျဉ်းဥပဒေ ၉၊

ကျမ်းကျိန်လွှာ၊

(၁၉၄၀ ခုနှစ်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံသားဖြစ်မှု အက်ဥပဒေအရ နိုင်ငံသားဖြစ်မှုအတွက်
လျှောက်ရန်၊)

ရပ်နေ _____ ၏ _____
_____ တာသာဝင် _____ လုပ်စားသူ _____
_____ က၊ ကျမ်းသစ္စာကျိန်ဆိုပြီးလျှင် ထွက်ဆိုသည်မှာ—

- (က) ကျွန်တော် _____ ၏ မွေးဖွားရာအရပ်သည် _____ ဖြစ်ပါသည်။
မွေးဖွားသောနေ့စွဲသည် _____ ဖြစ်ပါသည်။
- (ခ) ကျွန်တော် _____ သည် ပြည်ထောင်စု မြန်မာနိုင်ငံတွင် ဝါဝင်သော _____

_____ အရပ်ဒေသ၌၊ _____ ခုနှစ်၊
 _____ လ _____ ရက်နေ့မှစ၍၊ _____ ခုနှစ်၊
 _____ လ _____ ရက်နေ့ထိစုစုပေါင်း _____ နှစ်၊
 _____ လ _____ ရက်နေ့ထိုင်ခဲ့ပါသည်။

- (ဂ) $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ ၏ အဘသည်၊ လူမျိုးအားဖြင့် _____ ဖြစ်ပါသည်။
- (ဃ) $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ ၏ အမိသည်၊ လူမျိုးအားဖြင့် _____ ဖြစ်ပါသည်။
 အမိအမည်သည် _____ ဖြစ်ပါသည်။
- (င) $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ သည်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံ၏ အာဏာပိုင်နယ်အတွင်း၌ ထာဝစဉ်နေထိုင်ရန်ကြံရွယ်ပါသည်။
- (စ) $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ သည်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံ၏ ကျေးဇူးသစ္စာတော်ကို စောင့်သိရိသေပါမည်။
- (ဆ) $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ သည်၊ အကျင့်စာရိတ္တကောင်းမွန်ပါသည်။
- (ဇ) $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ တဦးတည်း၏၊ တရားဥပဒေအရ အုပ်ထိန်းခြင်းကိုခံရ၍၊ သို့တည်းမဟုတ် ပြည်ထောင်စုနိုင်ငံသားဖြစ်သော _____ နေ _____

၏ တရားဥပဒေအရ အုပ်ထိန်းခြင်းကိုခံ၍၊ ပြည်ထောင်စုနိုင်ငံသား မဟုတ်သေးသည့်အမြင်၊ အသက်ရှင်လျက်၊ အရွယ်မရောက်သေးသော $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ ၏ သားသမီး အသီးသီး၏ အမည်၊ ကျား၊ မ၊ ဘာဝ၊ မွေးဖွားရာအရပ်၊ မွေးဖွားသောနေ့ရက်၊ သို့တည်းမဟုတ် ထိုကဲ့သို့သော မှန်းခြေနေ့ရက်မှာ အောက်ပါအတိုင်းဖြစ်ပါသည်။

- (ဈ) ၁၉၄၀ ခုနှစ်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံသားဖြစ်မှု အက်ဥပဒေ ပုဒ်မ၊ _____ အရ၊ $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ သည်၊ နိုင်ငံသားလက်မှတ်ရထိုက်ခွင့်ရှိပါသည်။
 အဘယ်ကြောင့်ဆိုသော် _____
- _____

အဆက်ဖော်ပြပါအချက် _____ တို့သည်၊ ကိုယ်တိုင်
 သိရှိသမျှ ဟုတ်မှန်ကြောင်း၊ အချက် _____ တို့သည်
 သတင်းအရ ဟုတ်မှန်သည်ဟုယုံကြည်ကြောင်း ကျင်းသစ္စာကျိန်ဆိုလျက်၊
 ဝန်ခံလက်မှတ်ရေးထိုးပါသည်။
 _____ ခုနှစ်၊ _____ လ၊ _____ ရက်။
 ကျင်းသစ္စာကျိန်ဆိုသူ။
 ကျွန်ုပ်ကိုယ်တိုင်သိသော/ ကျွန်ုပ်ရှေ့တွင် _____ က ဟုတ်မှန်
 ကြောင်းပြသသော _____ သည်၊ ကျွန်ုပ်ရှေ့တွင် _____
 _____ ခုနှစ်၊ _____ လ၊ _____ ရက်
 နေ့၌၊ အထက်ပါ ကျမ်းကျိန်လွှာမှန်ကန်ကြောင်း ကျင်းသစ္စာဆိုသည်။
 ရာဇဝတ်တရားသူကြီး။
 _____ ခုနှစ် _____ လ _____ ရက်။

—x—

ခရိုင်ရာဇဝတ် တရားသူကြီးမင်းရုံးထောင်၌

၁၉၆ -ခုနှစ်နိုင်ငံသားပြုမှုလျှောက်လွှာအမှတ်
 (၁၉၄၈-ခုနှစ်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံသားဖြစ်မှုအက်ဥပဒေပုဒ်မ....၇-သို့မဟုတ်
 ၁၃-အရံလျှောက်လွှာ)

မြို့ _____ ရပ်နေ _____ လျှောက်ထားသူ
 က မူသေစွာလျှောက်ထားပါသည်။

(၁) လျှောက်ထားသူသည်-ပြည်ထောင်စု မြန်မာနိုင်ငံသားဖြစ်မှု ဥပဒေပုဒ်မ....အရ
 နိုင်ငံသားပြုမှုလက်မှတ်ထုတ်ပေးပါရန် လျှောက်ထားရာ လိုအပ်သော အချက်အလက်များကို
 အောက်ပါအတိုင်းဖော်ပြအပ်ပါသည်။

- (က) လျှောက်ထားသူအမည် _____
- (ခ) မွေးဖွားသောအရပ် နှင့် နေရက် _____
- (ဂ) ထာဝစဉ်နေထိုင်ရာအရပ် _____
- (ဃ) အလုပ်အကိုင် _____
- (င) နိုင်ငံသား _____
- (စ) အိမ်ထောင်-ရှိ၊ မရှိ၊ မုဆိုးဖို၊ သို့တည်း _____
 မဟုတ်၊ မုဆိုးမ၊
- (ဆ) လင်/မယား၏ အမည် _____
- (ဇ) အမိအဘအမည်များ၊ လူမျိုး နှင့် _____ -အဘ
 လိုသူတို့မှမည်သည့်နိုင်ငံသား
 ဖြစ်ကြောင်း

အမိ

- (ဈ) နားလည်တတ်မြောက်သည့်
တိုင်းရင်းသားဘာသာစကား
- (ည) မူရည်သဏ္ဌာန်ဖော်ပြချက်နှင့်
ထင်ရှားပေါ်လွင်ထွေမြင်နိုင်သည့်
အထူးအမှတ်အသားများ
- (ဋ) ပြည်ထောင်စုမြန်မာနိုင်ငံအတွင်း
၌ဖြစ်စေ၊ မြင်ပ၌ဖြစ်စေ၊ လျှောက်ထားသူ
ပိုင်၊ မရှေ့မပြောင်းနိုင်သည့် ပစ္စည်းနှင့်
တည်ရှိရာအရပ်။
- (ဌ) အရွယ်မရောက်သေးသည့် သား-သမီးများ အမည်၊ အသက်၊ ကျား၊မ၊ ဘာဝ၊ နေရပ်၊
အမည် ၊ ကျား၊မ၊ အသက် နေထိုင်ရာအရပ် အုပ်ထိန်းသူအမည်

- (၃) ပြည်ထောင်စုမြန်မာနိုင်ငံတွင် ပါဝင်သော အာဏာပိုင် နယ်အတွင်း၌
မည်သည့်နှစ်၊ လ၊ ရက်မှ၊ မည်သည့် နှစ်၊ လ၊ ရက်ထိ၊ နေထိုင် ဘူး
ကြောင်း။
- (၁) အကျင့်စာရိတ္တကောင်းမွန်၍ ပြည်ထောင်စုမြန်မာနိုင်ငံတွင်း၊ ထာဝစဉ်
နေထိုင်ရန်၊ ကြံရွယ်ကြောင်းနှင့် ပြည်ထောင်စုမြန်မာနိုင်ငံ၏၊ ကျေးဇူး
သစ္စာတော်တို့စောင့်သိရှိသေကြောင်း၊ [အက်ဥပဒေပုဒ်မ ၁၂-ပုဒ်မ ၃
(၂) အရလျှောက်ထားသူနှင့် ပတ်သက်၍ ထိုပုဒ်မ၌ရှိ အခြားအ
ကြောင်းအရာများ။]
- (ဏ) အက်ဥပဒေပုဒ်မ (၇) ပုဒ်မ ၃ (၁) ၏ခွင်းချက်အရ၊ နိုင်ငံသားပြုမှုအ
တွက်၊ လျှောက်ထားရန်ကြံရွယ်ကြောင်း၊ နို့တစ်စာ၏မိတ္တူတစောင်။
- (တ) ပြည်ထောင်စု နိုင်ငံသားလူကြီးလူကောင်း ၂ ဦးထံမှ အကျင့်စာရိတ္တ
ကောင်းမွန် ကြောင်းလက်မှတ်များ။
- (ထ) အက်ဥပဒေပုဒ်မ (၈) အရ လျှောက်ထားလျှင်၊ အရည်အချင်းချို့ နှင့်သူ
မဟုတ်ကြောင်းနှင့် နိုင်ငံခြားသားအဖြစ်ကို၊ စွန့်လွှတ်ရန်သဘောတူ၍
ပြည်ထောင်စုမြန်မာနိုင်ငံသားအဖြစ်ကို၊ ရွေးချယ်ကြောင်း။
- (ဒ) အက်ဥပဒေ ပုဒ်မ-၁၃-အရ လျှောက်ထားလျှင် ပြည်ထောင်စုနိုင်ငံ၏
လက်နက်ကိုင်အဖွဲ့များတွင် မိမိအမှုထမ်းခဲ့သည့် နေ့ရက်များနှင့် အ
ကြောင်းအရာများ။

သို့ဖြစ်ပါ၍၊ ၁၉၄၈-ခုနှစ်၊ ပြည်ထောင်စု မြန်မာနိုင်ငံသားပြုမှု
အက်ဥပဒေပုဒ်မ (၇) သို့မဟုတ်-၁၃-အရ နိုင်ငံသားပြုမှု လက်
မှတ်ထုတ်ပေးပါရန် ရိုသေစွာလျှောက်ထားပါသည်။
လျှောက်ထားသူ၊

ကျမ်းကျိန်လွှာ။

(၁၉၄၈ ခုနှစ်၊ မြည်ထောင်စု မြန်မာနိုင်ငံသားဖြစ်မှုအက်ဥပဒေအရ၊ နိုင်ငံသားပြုလက်မှတ်အတွက် လျှောက်ထားရန်။)

_____ ရပ်နေ _____ ၏ _____ သား
 _____ ဘာသာဝင် _____ လုပ်စားသူ
 ကျွန်တော် _____ က၊ ကျမ်းသစ္စာကျိန်ဆိုပြီးလျှင် ထွက်ဆိုသည်မှာ—
 ကျွန်ုပ် _____

(က) ကျွန်တော် ကျွန်ုပ် ၏ မွေးဖွားရာအရပ်သည် _____ ဖြစ်၍၊
 _____ မွေးဖွားသောနေ့စွဲသည် _____
 ဖြစ်ပါသည်။

အက်ဥပဒေပုဒ်မ ၇ အရ၊ လျှောက်လွှာတွင်ဖြည့်စွက်ရန်။

(ခ) ကျွန်တော် ကျွန်ုပ် သည်၊ မြည်ထောင်စုမြန်မာနိုင်ငံတွင် ပါဝင်သော
 _____ အရပ်ဒေသ၌၊ _____ ခုနှစ်၊
 _____ လ _____ ရက်နေ့မှစ၍၊ _____ ခုနှစ်၊
 _____ လ _____ ရက်နေ့ထိ ဥပဒေပုဒ်မ _____ ခုနှစ်၊
 _____ လ _____ ရက်နေ့ထိုင်ခဲ့ပါသည်။

(ဂ) ကျွန်တော် ကျွန်ုပ် သည်၊ အကျင့်စာရိတ္တကောင်းမွန်ပါသည်။

(ဃ) ကျွန်တော် ကျွန်ုပ် သည်၊ မြန်မာစကား/ရှမ်းစကား/ကရင်စကား/ကချင်စကား
 ချင်းစကားပြောတတ်ပါသည်။

(င) နိုင်ငံသားပြုလက်မှတ်ပေးအပ်လျှင် ကျွန်တော် ကျွန်ုပ် သည်၊ မြည်ထောင်စု
 မြန်မာနိုင်ငံ၏ အာဏာပိုင်နယ်အတွင်း၌၊ ထာဝစဉ်နေထိုင်ရန် (သို့တည်း
 မဟုတ် မြည်ထောင်စု နိုင်ငံတော်အစိုးရ၌သော်၎င်း၊ ဖြည့်နယ်တခုခု၏
 အစိုးရ၌သော်၎င်း အမှုထမ်းရန်၊ ဆက်လက်အမှုထမ်းရန်၊ သို့တည်းမဟုတ်
 မြည်ထောင်စုတွင် တည်ထောင်ထားသော ဘာသာ သာသနာရေး၊
 ဂူဒါနိယရေး၊ ကုန်သွယ်ရေးဆိုင်ရာလုပ်ငန်းတခုခုတွင် ပါဝင်ဆောင်ရွက်
 ရန်၊ ဆက်လက်ဆောင်ရွက်ရန်) ကြံရွယ်ပါသည်။ ထို့ပြင်မြည်ထောင်စု
 မြန်မာနိုင်ငံ၏ ကျေးဇူးသစ္စာတော်ကို စောင့်ထိခိုင်းသောကြောင့်နှင့်
 မြည်ထောင်စုနိုင်ငံသားအဖြစ်ကို ရွေးချယ်ကြောင်းကျေညာပါမည်။

(စ) $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ သည်၊ ၁၉၄၈ ခုနှစ်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံသား ဖြစ်မှု အက်ဥပဒေအရ၊ စည်းမျဉ်းဥပဒေများဖြင့် ပြဋ္ဌာန်းထားသောပုံစံဖြင့်၊ အက်ဥပဒေပုဒ်မ ၇၊ ပုဒ်မခွဲ (၁) အရ လိုအပ်သည်အတိုင်း _____ ခုနှစ်၊ _____ လ _____ ရက် နေ့တွင်၊ နိုင်ငံသားပြုမှုလက်မှတ် လျှောက်ထားရန် ကြံရွယ်ကြောင်း နို့တစ်စာပေးပို့ခဲ့ပါသည်။

(ဆ) $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ သည်၊ လျှောက်ထားသည့်နေ့မှစ၍၊ လက်မှတ်ပေးအပ်သည့် နေ့အထိ၊ ပြည်ထောင်စု နိုင်ငံအတွင်းတွင် အဆက်မပြတ်နေထိုင်နေည် ဖြစ်ပါသည်။
အက်ဥပဒေပုဒ်မ ၈ အရ၊ လျှောက်လွှာတွင်ဖြည့်စွက်ရန်၊

(ဇ) $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ အား၊ မြန်မာပြည်သားပြုမှု အက်ဥပဒေပုဒ်မ ၅ အရ၊ _____ ခုနှစ်၊ _____ လ _____ ရက် နေ့စွဲပါအမှတ် _____ ဖြင့် မြန်မာပြည်သားပြုမှု လက်မှတ်ကို ပေးအပ်ခဲ့ပါသည်။ ထို့ပြင် $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ သည် အရည်အချင်းချို့တဲ့သူမဟုတ် ပါ။

အက်ဥပဒေပုဒ်မ ၁၃ အရ၊ လျှောက်လွှာတွင်ဖြည့်စွက်ရန်။

(ဈ) $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ သည်၊ ပြည်ထောင်စုနိုင်ငံ၏ လက်နက်ကိုင် အဖွဲ့များတွင် _____ ခုနှစ်၊ _____ လ _____ ရက်နေ့ မှစ၍၊ _____ ခုနှစ် _____ လ _____ ရက်နေ့ထိ၊ စုစုပေါင်း _____ နှစ်၊ _____ လ _____ ရက်၊ သစ္စာရှိစွာအမှုထမ်းခဲ့ပါသည်။ ထို့ပြင် $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ သည်၊ ယခုတိုင်အမှုထမ်း လျက်ရှိပါသည် (သို့တည်းမဟုတ် _____ ခုနှစ်၊ _____ လ _____ ရက်နေ့တွင် ပြည်ထောင်စုနိုင်ငံ၏ _____ အမှုထမ်းမှထွက်ခဲ့ပါသည်။)

အက်ဥပဒေပုဒ်မ ၉ အရ ဖြည့်စွက်ရန်။

(ည) $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ တဦးတည်း၏ တရားဥပဒေအရ အုပ်ထိန်းခြင်းကိုခံ၍၊ သို့တည်းမဟုတ် ပြည်ထောင်စုနိုင်ငံသားဖြစ်သော _____ နေ

၏ တရားဥပဒေအရ အင်ထိန်းခြင်းကိုခံ၍၊
ပြည်ထောင်စုနိုင်ငံသား မဟုတ်သေးသည့်အပြင်၊ အသက်ရှင်လျက်အရွယ်
မရောက်သေးသော ကျွန်တော်၏ သားသမီး အသီးသီး၏အမည်၊
ကျား၊ မ၊ ဘဝ၊ မွေးဖွားရာအရပ်၊ မွေးဖွားသောနေ့ရက်၊ သို့တည်းမဟုတ်
ထိုကဲ့သို့သောမှန်းခြေနေ့ရက်မှာ အောက်ပါအတိုင်းဖြစ်ပါသည်။

အထက်ဖော်ပြပါအချက် _____ တို့သည်၊ ကိုယ်တိုင်သိရှိသမျှ
ဟုတ်မှန်ကြောင်း၊ အချက် _____ တို့သည် သတင်း
အရ ဟုတ်မှန်သည်ဟုယုံကြည်ကြောင်း ကျွမ်းသစ္စာကျိန်ဆိုလျက် ဝန်ခံ
လက်မှတ်ရေးထိုးပါသည်။
ခုနှစ်၊ _____ လ _____ ရက်နေ့၊

ကျမ်းသစ္စာကျိန်ဆိုသူ။

ကျွန်ုပ်ကိုယ်တိုင်သိသော / ကျွန်ုပ်ရှေ့တွင် _____ က ဟုတ်မှန်
ကြောင်းပြသသော _____ သည်၊ ကျွန်ုပ်ရှေ့တွင် _____ ခုနှစ်၊
_____ လ _____ ရက်နေ့၌ အထက်ပါကျမ်းကျိန်လွှာမှန်ကန်
ကြောင်းကျမ်းသစ္စာဆိုသည်။

_____ ခုနှစ်၊ _____ လ _____ ရက်နေ့၊ ရာဇဝတ်တရားသူကြီး။

ပုံစံ-ခ၊

စည်းမျဉ်းဥပဒေ ၃-က။

ကျမ်းကျိန်လွှာ။

[၁၉၄၈ ခုနှစ်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံသားဖြစ်မှု အက်ဥပဒေ၏ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၂) အရ၊
နိုင်ငံသားလက်မှတ်အတွက် လျှောက်ထားရန်၊)

_____ ရပ်နေ၊ _____ ၏သား/သမီး၊
_____ ဘာသာဝင်၊ _____ လုပ်စားသူ ကျွန်တော်/
ကျွန်မ _____ က၊ ကျမ်းသစ္စာကတိသစ္စာဆိုပြီးလျှင် ထွက်ဆိုသည်မှာ—

(က) ကျွန်တော် ကျွန်မ ၏ မွေးဖွားရာအရပ်သည် _____ ဖြစ်ပါသည်၊
မွေးဖွားသောနေ့ရက်သည် _____ ဖြစ်ပါသည်။

(ခ) ကျွန်တော် ကျွန်မ သည်၊ ပြည်ထောင်စု မြန်မာနိုင်ငံတွင် ပါဝင်သော

_____ အရပ်ဒေသ၌ _____ ခုနှစ်
 _____ လ _____ ရက်နေ့မှစ၍ _____ ခုနှစ်
 _____ လ _____ ရက်နေ့အထိ၊ စုစုပေါင်း
 _____ နှစ်၊ _____ လ _____ ရက်မျှနေထိုင်ခဲ့ပါသည်။

- (ဂ) ကျွန်တော်
ကျွန်မ ၏ အဘသည်၊ လူမျိုးအားဖြင့် _____ ဖြစ်ပါသည်။
 အဘအမည်သည် _____ ဖြစ်ပါသည်။
- (ဃ) ကျွန်တော်
ကျွန်မ ၏ အမိသည်၊ လူမျိုးအားဖြင့် _____ ဖြစ်ပါသည်။
 အမိအမည်သည် _____ ဖြစ်ပါသည်။
- (င) ကျွန်တော်
ကျွန်မ သည်၊ အိမ်ထောင်ရှိသူ/အိမ်ထောင်မရှိသူ/မုဆိုးဖို/မုဆိုးမ
 ဖြစ်ပါသည်။
- (စ) ကျွန်တော်
ကျွန်မ ၏ လင်/မယား၏အမည်သည် _____
 ဖြစ်ပါသည်။
- (ဆ) ကျွန်တော်
ကျွန်မ နားလည်တတ်မြောက်သော မြန်မာနိုင်ငံတိုင်းသား ဘာသာ
 စကားသည် _____ စကားဖြစ်ပါသည်။
- (ဇ) ကျွန်တော်
ကျွန်မ ၏ ရပ်ရည်သဏ္ဌာန်ဖော်ပြချက်နှင့် ထင်ရှားပေါ်လွင်တွေ့မြင်
 နိုင်သည့် အထူးအမှတ်အသားများမှာ အောက်ပါအတိုင်းဖြစ်ပါသည်။
 အရပ်အမြင့်—
 မျက်လုံးအရောင်—
 ဆံပင်အရောင်—
 အထူးအမှတ်အသားများ—
- (ဈ) ကျွန်တော်
ကျွန်မ သည်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံ၏ ကျေးဇူးသစ္စာတော်ကို
 စောင့်ထိရိသေပါမည်။
- (ည) ကျွန်တော်
ကျွန်မ သည်၊ ပြည်ထောင်စုနိုင်ငံသားအဖြစ်၌ တည်မြဲတည်စေရန်၊
 ရွေးချယ်ကြောင်း ကျင်းသစ္စာ/ကတိသစ္စာဆို၍ ကျေညာပါသည်။
- (ဋ) ကျွန်တော်
ကျွန်မ သည်၊ မူလကရခိုင်ရှိနိုင်သော နိုင်ငံခြားသားအဖြစ်ကို စွန့်လွှတ်
 ကြောင်း ကျင်းသစ္စာ/ကတိသစ္စာဆို၍ ကျေညာပါသည်။ ကျွန်တော်/

ကျွန်မသည်၊ _____ နေ့စွဲပါ နိုင်ငံခြားသား မှတ်ပုံတင်
လက်မှတ်အမှတ် _____ နှင့် _____ နေ့စွဲပါ နိုင်ငံကူး
လက်မှတ်အမှတ် _____ ထို့ကိုပေးအပ်ပါသည်။

- (၆) $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ သည်၊ အကျင့်စာရိတ္တကောင်းမွန်ပါသည်။
- (၇) $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ သည်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံ၏ လုံခြုံမှုကိုသော်၎င်း၊ ငြိမ်ဝပ်
ပိပြားရေးကိုသော်၎င်း၊ အကျိုးစီးပွားကိုသော်၎င်း၊ ပျက်ပြားနှစ်နာအောင်
မပြုလုပ်ခဲ့ဘူးပါ။
- (၈) $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ သည်၊ ၁၉၄၀ ခုနှစ်၊ ပြည်ထောင်စု မြန်မာနိုင်ငံသားဖြစ်မှု
အက်ဥပဒေ၏ ပုဒ်မ ၂ တွင် အဓိပ္ပါယ်ဖော်ပြထားသည့် ‘အရည်အချင်း
ချို့ ငဲ့သူ’ မဟုတ်ပါ။
- (၉) $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ သည်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံ၏ အာဏာပိုင်နက်အတွင်း
၌ ထာဝစဉ်နေထိုင်ရန်ကြံရွယ်ပါသည်။
- (၁၀) $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ တဦးတည်း၏ တရားဥပဒေအရ အုပ်ထိမ်းခြင်းကိုခံ၍၊
သို့တည်းမဟုတ် ပြည်ထောင်စုနိုင်ငံသားဖြစ်သော _____
နေ _____ ၏ တရားဥပဒေအရ အုပ်ထိမ်းခြင်းကိုခံ၍၊
ပြည်ထောင်စုနိုင်ငံသား မဟုတ်သေးသည့်အပြင်၊ အသက်ရှင်လျက်
အရွယ်မရောက်သေးသော $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ ၏ သား သမီး အသီးသီး၏ အမည်
ကျား၊ မ၊ မွေးဖွားရာအရပ်၊ မွေးဖွားသောနေ့ရက်၊ သို့တည်းမဟုတ် မှန်း
ခြေနေ့ရက်မှာ အောက်ပါအတိုင်းဖြစ်ပါသည်။

အမည်များ	ကျား၊မ	မွေးဖွားရာအရပ်	မွေးဖွားသော နေ့ရက်	နေထိုင်ရာ အရပ်
(၁)	(၂)	(၃)	(၄)	(၅)

(ထ) ပူးတွဲပါမိတ်ပုံ ၂ ခုသည်၊ ကျွန်တော်/ကျွန်မ၏ ဓါတ်ပုံများဖြစ်၍၊ ထို ဓါတ်ပုံများ၏ ကျောဘက်တွင် ကျွန်တော်/ကျွန်မ၏ လက်မှတ်/လက်ခံ လက်မအမှတ်ဖြစ်ပါသည်။

(ဒ) ၁၉၄၀ ခုနှစ်၊ ပြည်ထောင်စုနိုင်ငံသားဖြစ်မှုအက်ဥပဒေ၏ ပုဒ်မ ၆၊ ပုဒ်မခွဲ

(၂) အရ၊ $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ သည်၊ နိုင်ငံသားလက်မှတ်ကို ရထိုက်ခွင့်ရှိပါသည်။

အဘယ်ကြောင့်ဆိုသော် _____

အထက်ဖော်ပြရာပါ အချက် _____ တို့သည်၊ ကိုယ်တိုင်သိရှိသမျှ ဟုတ်မှန် ကြောင်း၊ အချက် _____ တို့သည်၊ သတင်းအရ ဟုတ်မှန်သည်ဟုယုံကြည် ကြောင်း၊ ကျမ်းသစ္စာ/ကတိသစ္စာဆိုလျက် ဝန်ခံလက်မှတ်ရေးထိုးပါသည်။

_____ ခုနှစ်၊ _____ လ _____ ရက်။

ကျမ်းသစ္စာ/ကတိသစ္စာဆိုသူ။

ကျွန်ုပ်ကိုယ်တိုင်သိသော/ကျွန်ုပ်ရှေ့တွင် _____ က ဟုတ်မှန်ကြောင်း ပြသသော _____ သည်၊ ကျွန်ုပ်ရှေ့တွင် _____ ခုနှစ်၊ _____ လ _____ ရက်နေ့၌ အထက်ပါကျမ်းကျိန်လွှာမှန်ကန်ကြောင်း

ကျမ်းသစ္စာ/ကတိသစ္စာဆိုသည်။

ရာဇဝတ်တရားသူကြီး။

_____ ခုနှစ်၊ _____ လ _____ ရက်။ _____ မြို့။

ပုံစံ-ဒ။

နိုင်ငံသားပြုမှုလက်မှတ်တောင်းယူရန် ကြံရွယ်ကြောင်း အကြောင်းကြားစာ။

[၁၉၄၀ ခုနှစ်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံသားဖြစ်မှု အက်ဥပဒေပုဒ်မ ၇ (၁) ၏ ခြင်းချက်အရ၊]

_____ မြို့၊ ခရိုင်ရာဇဝတ် တရားသူကြီးထံ အကြောင်းကြားအပ်ပါသည်။

_____ ရပ်နေ _____ ၏ $\frac{\text{သား}}{\text{သမီး}}$

_____ ဘာသာဝင်၊ _____ လုပ်စားသူ _____

(ည) $\frac{\text{ကျွန်တော်}}{\text{ကျွန်မ}}$ က၊ ၁၉၄၀ ခုနှစ်၊ ပြည်ထောင်စု မြန်မာနိုင်ငံသားဖြစ်မှု

အက်ဥပဒေပုဒ်မ ၇၊ ပုဒ်မခွဲ (၁) ၏ ခြင်းချက်အရ လိုအပ်သည့်အတိုင်း နိုင်ငံသားပြုမှုလက်မှတ်လျှောက်ထားရန် ကြံရွယ်ကြောင်း၊ ဤအကြောင်း ကြားစာကိုပေးပို့၍၊ အောက်ပါအတိုင်းဖော်ပြပါသည်။

- (က) ကျွန်တော် ကျွန်ုပ် အား၊ _____ အရပ်တွင်မွေးဖွား၍၊ မွေးဖွားသည် နေ့မှာ _____ ဖြစ်ပါသည်။
- (ခ) ကျွန်တော် ကျွန်ုပ် သည်၊ _____ နိုင်ငံသားဖြစ်ပါသည်။
- (ဂ) ကျွန်တော် ကျွန်ုပ် သည်၊ _____ မှလာရာ၊ မြန်မာနိုင်ငံသို့ နေ့တွင် ဆိုက်ရောက်ပါသည်။
- (ဃ) ကျွန်တော် ကျွန်ုပ် သည်၊ ပြည်ထောင်စု မြန်မာနိုင်ငံတွင် ပါဝင်သော _____ အရပ်ဒေသ၌၊ _____ ခုနှစ်၊ _____ လ _____ ရက်နေ့မှစ၍၊ _____ ခုနှစ်၊ _____ လ _____ ရက်နေ့ထိ၊ စုစုပေါင်း _____ နှစ်၊ _____ လ _____ ရက်မျှ အဆက်မပြတ် နေထိုင်ခဲ့ပါသည်။
- (င) ကျွန်တော် ကျွန်ုပ် သည်၊ အကျင့်စာရိတ္တကောင်းမွန်ပါသည်။ ကျွန်တော် ကျွန်ုပ် ၏ အကြောင်းကို (၁) _____ နှင့် (၂) _____ ထံမှစစ်း နိုင်ပါသည်။
- (စ) ကျွန်တော် ကျွန်ုပ် သည်၊ မြန်မာစကား/ရှမ်းစကား/ကရင်စကား/ကချင်စကား/ ချင်းစကားပြောတတ်ပါသည်။
- (ဆ) နိုင်ငံသားပြုလက်မှတ်ပေးအပ်လျှင်၊ ကျွန်တော် ကျွန်ုပ် သည်၊ ပြည်ထောင်စုမြန်မာ နိုင်ငံအတွင်း၌ ထာဝစဉ်နေထိုင်ရန် (သို့တည်းမဟုတ် ပြည်ထောင်စုအစိုးရ ၌ သော်၎င်း၊ ပြည်နယ်တခုခု၏အစိုးရ၌သော်၎င်း၊ အမှုထမ်းရန်၊ ဆက်လက် အမှုထမ်းရန် သို့တည်းမဟုတ် ပြည်ထောင်စုတွင် တည်ထောင်ထားသော ဘာသာ သာသနာရေး၊ ဌာနီနီးရေး၊ ကုန်သွယ်ရေးဆိုင်ရာ လုပ်ငန်း တခုခုတွင် ပါဝင်ဆောင်ရွက်ရန်၊ ဆက်လက်ဆောင်ရွက်ရန်) ကြံရွယ်ပါ သည်။
- (ဇ) ကျွန်တော် ကျွန်ုပ် သည်၊ နေထိုင်ရာအရပ်ပြောင်းရွှေ့တိုင်း၊ ချက်ချင်းအကြောင်း ကြားရန် ဝန်ခံပါသည်။

လျှောက်ထားသူ၊

နေ့စွဲ၊ _____ ခုနှစ်၊

လ၊ _____ ရက်၊

APPENDIX II.

SECTION 2 AND FIRST SCHEDULE OF THE BURMA INDEPENDENCE ACT, 1947.

Section 2. (1) Subject to the provisions of this section, the persons specified in the First Schedule to this Act, being British subjects immediately before the appointed day, shall on that day cease to be British subjects:

Provided that a woman who immediately before the appointed day is the wife of a British subject shall not cease by virtue of this sub-section to be a British subject unless her husband ceases by virtue of this sub-section to be a British subject.

(2) A person who by virtue of sub-section (1) of this section ceases to be a British subject on the appointed day and is immediately before that day domiciled or ordinarily resident in either—

- (a) any part of the United Kingdom;
- (b) any of the Channel Islands;
- (c) the Isle of Men;
- (d) Newfoundland;
- (e) any colony;
- (f) any territory in respect of which a mandate from the League of Nations was accepted by His Majesty, being a territory under the sole administration of His Majesty's Government in the United Kingdom;
- (g) any territory administered under the trusteeship system of the United Nations, being a territory under the sole administration of His Majesty's Government in the United Kingdom;
- (h) any British protectorate;
- (i) any British protected state outside Burma; or
- (k) any other place outside Burma in which, by treaty, capitulation, grant, usage, sufferance or other lawful means, His Majesty has jurisdiction over British subjects,

may, by a declaration made before the expiration of the two years beginning with the appointed day to such person and in such manner as may be prescribed, elect to remain a British subject, and if he so elect, the provisions of sub-section (1) of this section (including the proviso thereto) shall be

deemed never to have applied to or in relation to him or, except so far as the declaration otherwise provides, any child of his who is under the age of eighteen years at the date of the declaration:

Provided that a declaration under this sub-section shall be of no effect unless it is registered in the prescribed manner in pursuance of an application made within, or within the prescribed period after the expiration of the said two years.

In this sub-section, the expression "prescribed" means prescribed by regulations of the Secretary of State or of such Government, authority or person as may be authorised in that behalf by the Secretary of State, and different provision may be made under this sub-section for different clauses of cases.

(3) A person who by virtue of sub-section (1) of this section ceases to be British subject on the appointed day, not being such a person as is mentioned in sub-section (2) of this section shall, if on that day he neither becomes nor becomes qualified to become, a citizen of the independent country of Burma for which provision is made by section one of this Act, have the like right of election as is provided for by sub-section (2) of this section, and the said subsection (2) shall have effect accordingly.

(4) If provision is made by the law of any part of His Majesty's dominions not mentioned in sub-section (2) of this section for the exercise by any persons, being persons domiciled or in any territory administered by the Government thereof, of a right to elect not to cease to be British subjects on the appointed day by reason of Burma becoming an independent country on that day, then so far as is necessary to give effect under the law of the United Kingdom to the results flowing under the law of that part of His Majesty's dominions from the exercise of the right of election, the provisions of sub section (1) of this section shall be deemed never to have applied to or in relation to, or to or in relation to the children of, the persons who duly exercise that right.

(5) Save as provided in this section, no person who is a British subject immediately before the appointed day shall cease to be a British subject by reason of Burma ceasing on that day to be part of His Majesty's dominions.

(6) The exercise by a person of any such right of election as is referred to in sub-section (2), sub-section (3) and sub-section (4) of this section shall not render unlawful anything done before the date of the election which would have been lawful if the election had not been made.

THE FIRST SCHEDULE.

(PERSONS WHO CEASE TO BE BRITISH SUBJECT.)

1. The persons who, being British subjects immediately before the appointed day, are, subject to the provisions of section two of this Act, to cease on that day to be British subjects are the following persons, that is to say—

- (a) persons who were born in Burma or whose father or paternal grandfather was born in Burma, not being persons excepted by paragraph 2 of the Schedule from the operation of this sub-paragraph; and
- (b) women who were aliens at birth and became British subjects by reason only of their marriage to any such person as is specified in sub-paragraph (a) of this paragraph.

2. (1) A person shall be deemed to be excepted from the operation of sub-paragraph (a) of paragraph 1 of this Schedule if he or his father or his paternal grandfather was born outside Burma in a place which, at the time of the birth,—

- (a) was within His Majesty's dominions, was a British protected state, was a territory in respect of which a mandate from the League of Nations had been accepted by His Majesty and which was under the administration of the Government of any part of His Majesty's dominions or was a territory under the trusteeship system of the United Nations which was under the administration of the Government of any part of His Majesty's dominions; or
- (d) was a place where, by treaty, capitulation, grant, usage, sufferance or other lawful means, His Majesty had jurisdiction over British subjects:

Provided that a person shall not be excepted under this sub-paragraph from the operation of the said sub-paragraph (a) by virtue of the place of birth of his father or paternal

grandfather unless the father or, as the case may be, his paternal grandfather, was at some time before the appointed day a British subject.

(2) A person shall also be deemed to be excepted from the operation of the said sub-paragraph (a) if he or his father or his paternal grandfather become a British subject by naturalization or by annexation of any territory which is outside Burma.

(3) Where, in pursuance of the British Nationality and Status of Aliens Act, 1914, the name of a child has been included in a certificate of naturalization granted to his parent, or where, in pursuance of any Act repealed by that Act, any child has been deemed to be a naturalised British subject by reason of residence with his parent, that child shall, for the purposes of this paragraph, be deemed to have become a British subject by naturalization.

3. For the purposes of this Schedule, a person born in a ship, other than an unregistered ship, shall be deemed to have been born in the country in which the ship was registered.

4. In this Schedule the expression "Burma" means the territories which, immediately before the appointed day, were included in Burma.

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