

#### § 4. Citizenship.

That all persons who were citizens of the Republic of Hawaii on August twelfth, eighteen hundred and ninety-eight, are hereby declared to be citizens of the United States and citizens of the Territory of Hawaii.

And all citizens of the United States resident in the Hawaiian Islands who were resident there on or since August twelfth, eighteen hundred and ninety-eight and all the citizens of the United States who shall hereafter reside in the Territory of Hawaii for one year shall be citizens of the Territory of Hawaii.

**Historical note.** - This section was supplemented by the Act of July 2, 1932, 47 Stat. 571, amended by the Act of July 1, 1940, 54 Stat. 707, providing that for purposes of the Act of Sept. 22, 1922, 46 Stat. 1511, women born in Hawaii prior to June 14, 1900, were deemed U.S. citizens at birth. But the Act of Sept. 22, 1922 was repealed by the Act of Oct. 14, 1940, 54 Stat. 1137, which in turn was repealed by the Act of June 27, 1952, 66 Stat. 166 (the McCarran-Walter Act), and the present provisions are contained in 8 U.S.C. § 1435(a).

Under art. 17, § 1, of the Const. of 1894 (adapted from the 14th Am. of the U.S. Const.) all persons born or naturalized in the Hawaiian islands and subject to the jurisdiction of the Republic of Hawaii were citizens thereof. Between 1842 and 1892, 731 Chinese persons and three Japanese persons were naturalized in Hawaii.

The secretary of Hawaii may issue to persons born in Hawaii certificates of Hawaiian birth, which are prima facie evidence.

See §§ 338-41 to 44. See also former law: L. 1905, c. 64; am. L. 1907, c. 79; rep. L. 1909, c. 15; R.L. 1915, p. 1487; R.L. 1925, c. 21; R.L. 1935, c. 247. See also §§ [100](#) and [101](#) of the Organic Act. Also see the note to Joint Resolution of annexation, RLH 1955, page 13.

#### CASE NOTES

Citizenship extended to persons born in Hawaiian Islands. - A person born in the Hawaiian Islands of British parents domiciled in this country is subject to the jurisdiction of this country and is a Hawaiian subject or citizen. *In re Macfarlane*, 11 Haw. 166 (1897).

The framers of the Act of Congress providing a government for the Territory of Hawaii approved April 30, 1900, intended to refer to the geographical limits of the Hawaiian Islands rather than to any political conditions existing therein; and that the Hawaiian and American citizenship was to be extended to all persons born in the Islands, excepting only those born of persons engaged in the diplomatic service of foreign governments, such as ministers and ambassadors, whose residence by a fiction of public law is regarded as the place of their own country. *United States v. Sai*, 1 U.S.D.C. Haw. 118 (1901).

The fact that two Chinese persons were born in the Hawaiian Islands while the same was a monarchy known as the Kingdom of Hawaii did not deprive them of their status as American citizens, it being proven that they were born in the Hawaiian Islands, sons of a domiciled Chinese laborer, in view of the provisions of Art. 17, § 1, of the Constitution of the Republic of Hawaii, and of the provisions of this section of the Act of Congress, approved April 30, 1900, to provide a government for the Territory of Hawaii, that all persons who were citizens of the Republic of Hawaii on August 12, 1898, were declared to be citizens of the United States and citizens of the Territory of Hawaii. *United States v. Sai*, 1 U.S.D.C. Haw. 118 (1901).

**Naturalization.** - The circuit courts of the Territory had power to naturalize. *Territory of Haw. v.*

Kaizo, 17 Haw. 295, aff 'd, 18 Haw. 28 (1906), aff 'd, 211 U.S. 146, 29 S. Ct. 41, 53 L. Ed. 125 (1908).

Hawaiian citizenship by naturalization did not extend to the nonresident minor children of the persons so naturalized, nor were such children, while still nonresident, made citizens of the United States by the provision contained in this section. *In re Ko*, 3 U.S.D.C. Haw. 623 (1910).

**Deportation proceedings.** - See *United States v. Yong*, 1 U.S.D.C. Haw. 104 (1901).

**Cited in** *In re Loucks*, 13 Haw. 17 (1900); *Ex parte Ah Oi*, 13 Haw. 534 (1901); *In re Sai*, 1 U.S.D.C. Haw. 234 (1902); *United States v. Dang Mew Wan Lum*, 88 F.2d 88 (9th Cir. 1937); *United States v. Rodiek*, 117 F.2d 588 (2nd Cir. 1941); *Wong Kam Wo v. Dulles*, 236 F.2d 622 (9th Cir. 1956).