

Sec. 8—Powers of Congress

Cl. 4—Naturalization and Bankruptcies

Despite these dicta, it is clear that particularly in the past but currently as well a naturalized citizen has been and is subject to requirements not imposed on native-born citizens. Thus, as we have noted above, a naturalized citizen is subject at any time to have his good faith in taking the oath of allegiance to the United States inquired into and to lose his citizenship if lack of such faith is shown in proper proceedings.¹²²⁹ And the naturalized citizen within a year of his naturalization will join a questionable organization at his peril.¹²³⁰ In *Luria v. United States*,¹²³¹ the Court sustained a statute making *prima facie* evidence of bad faith a naturalized citizen's assumption of residence in a foreign country within five years after the issuance of a certificate of naturalization. But in *Schneider v. Rusk*,¹²³² the Court voided a statute that provided that a naturalized citizen should lose his United States citizenship if following naturalization he resided continuously for three years in his former homeland. "We start," Justice Douglas wrote for the Court, "from the premise that the rights of citizenship of the native-born and of the naturalized person are of the same dignity and are coextensive. The only difference drawn by the Constitution is that only the 'natural born' citizen is eligible to be President."¹²³³ The failure of the statute, the Court held, was that it impermissibly distinguished between native-born and naturalized citizens, denying the latter the equal protection of the laws.¹²³⁴ "This statute proceeds on the impermissible assumption that naturalized citizens as a class are less reliable and bear less allegiance to this country than do the native-born. This is an assumption that is impossible for us to make. . . . A native-born citizen is free to reside abroad indefinitely without suffering loss of citizenship. The discrimination aimed at naturalized citizens drastically limits their rights to live and work abroad in a way that other citizens may. It creates indeed a second-class citizenship. Living abroad, whether the citizen be naturalized or native-

¹²²⁹ *Johannessen v. United States*, 225 U.S. 227 (1912); *Knauer v. United States*, 328 U.S. 654 (1946); *Costello v. United States*, 365 U.S. 265 (1961).

¹²³⁰ See 8 U.S.C. § 1451(c).

¹²³¹ 231 U.S. 9 (1913). The provision has been modified to reduce the period to one year. 8 U.S.C. § 1451(d).

¹²³² 377 U.S. 163 (1964).

¹²³³ 377 U.S. at 165.

¹²³⁴ Although there is no equal protection clause specifically applicable to the Federal Government, it is established that the Due Process Clause of the Fifth Amendment forbids discrimination in much the same manner as the Equal Protection Clause of the Fourteenth Amendment. In fact, "[e]qual protection analysis in the Fifth Amendment area is the same as that under the Fourteenth Amendment." *Buckley v. Valeo*, 424 U.S. 1, 93 (1976).