DEPARTMENT OF STATE

BOARD OF APPELLATE REVIEW

June 30, 1982

CASE OF: L[redacted] D[redacted] B[redacted]

This case is before the Board of Appellate Review on appeal from an administrative determination of the Department of State that appellant, L[redacted] D[redacted] B[redacted], expatriated herself on July 20, 1979, under the provisions of section 349 (a)(2) of the Immigration and Nationality Act (hereinafter referred to as "the Act") by making a formal declaration of allegiance to a foreign country, Mexico. 1/

I

Appellant, L[redacted] B[redacted] was born at [redacted] thus acquiring United States citizenship at birth. She also acquired the nationality of Mexico through her Mexican citizen mother. In 1958, appellant was taken by her parents to Mexico where she has since resided. She applied for and was issued passports by the United States Embassy at Mexico, D.F., in 1966 and again in 1973. 2/

1/ Section 349(a)(2) of the Immigration and Nationality Act, 8 U.S.C. 1481(a)(2), provides:

> Sec. 349.(a) From and after the effective date of this Act a person who is a national of the United States whether by birth or naturalization, shall lose his nationality by --
>
> . . .
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> (2) taking an oath or making an affirmation or other formal declaration of allegiance to a foreign state or a political subdivision thereof; . . .

2/ Embassy records show that appellant visited the Embassy in 1974, to inquire about her status as a dual national. Appellant informed the Embassy that her father was born in the United States and became a Mexican citizen when she was about five years old; she did not know whether he was a dual national OK not, but was going to find out. There is no record of what advice the Embassy gave her at that time about her own status as a dual national.

Appellant entered the National University of Mexico in 1971 where she studied veterinary medicine from 1974 to 1978. In April 1978, she obtained employment at the Ministry of Agriculture and Water Resources in order, as she has explained, to earn the tuition she would have to pay as a foreign student. In late 1978 the University sent appellant a bill for 31,000 pesos, payment of which, appellant states, was a precondition to award of her degree as a licensee in veterinary medicine; She alleges that since she could not pay that sum, the University suggested that she might be exempted from payment if she could offer proof of Mexican citizenship.

Accordingly, "at the direction of the University" (her words), appellant applied for a certificate of Mexican nationality on July 13, 1979. 3/ In a letter to the Board dated February 12, 1981, appellant explained why she took this step:

> I wanted to seek advice at the American Embassy before I applied for this document, but my job duties required me to travel very frecuently (sic) out of Mexico City to supervise some cattle ranches and farms. Since my school requirements pressed me to submit the certificate, I had no alternative for economic reasons (family expenses) and applied for it in July 1979.
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> The main reason for doing this was lack of family guidance and legal assistance without knowing the consequences.

3/ In the record there is a copy of an application for a certificate of Mexican nationality which appellant executed several years earlier. The date of this application is illegible, being July 29 of 1973 or possibly 1975. Appellant alleges that her mother prepared this application and that she signed it "without paying any attention to it." There is no indication in the record why appellant did not pursue this earlier application. The renunciatory and declaratory language of this application was identical to that in the application which appellant did perfect in 1979.

In an affidavit dated May 27, 1981, appellant gave the following account of what transpired on July 13, 1979:

> When I went to the Office of Foreign Relations a form was given to me by the clerk. I read it over quickly and gave no real thought to it. I signed it because it was needed for me to, first, submit my thesis and then obtain my degree. No one at the Office of Foreign Relations explained the form to me. No oath was taken by me with reference to to this form. I did not appear before an attorney. I received no independent advice with reference to this matter.

The application for a certificate of Mexican Citiizenship which appellant executed contained the following statement:

> To that end I expressly renounce.... nationality, as well as any submission, obedience, or fidelity to any foreign government of which I may have been a citizen, especially to the Government of .... I renounce any protection alien to the laws and authorities of Mexico, and any right given by treaties or international law to foreigners. I swear allegiance, obedience, and submission to the laws and authorities of the Mexican Republic. 4/

As required, appellant inserted the words "Norte Americana" ("United States") and "Estados Unidos de Norte America" ("the United States of America") in the two blank spaces.

4/ English translation, Division of Language Servces. Department of State, LS No. 106595, Spanish (1982)

The certificate issued upon this application on July 20, 1979, recited in pertinent part that: 80

> L[redacted] D[redacted] B[redacted] ... took an oath of allegiance, obedience and submission to the laws and authorities of the United Mexican States, and expressly renounced all rights resulting from any other nationality, as well as any submission, obedience or fidelity to any other foreign government, especially to those that recognized her as a national. 5/

Having been informed by diplomatic note of the Department of Foreign Relations on August 2, 1979, that a certificate of Mexican nationality had been issued to appellant on July 20, 1979, the United States Embassy by letter date December 7, 1979, informed appellant that by taking an oath of allegiance to Mexico and obtaining a certificate of Mexican nationality she might have lost her United States citizenship. She was therefore invited to execute the questionnaire enclosed in the letter in order to provide information regarding her possible loss of citizenship, and informed that she might make an appointment to discuss her case. The Embassy stated that if she did not reply within sixty days, it would be assumed that she did not wish to submit any information or evidence for consideration in the determination of whether or not she had forfeited her citizenship. Appellant acknowledged receipt of the Embassy's letter on December 18, 1979, but did not, the Embassy alleges, reply to it,

Accordingly, and as required by section 358 of the Act, 6/ the Embassy on February 11, 1980, prepared a certifi-

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5/ English translation, Division of Language Services. Department of State, LS No. 106597, Spanish (1982)

6/ Section 358 of the Immigration and Nationality Act, 8 U.S.C. 1501, reads:

> Sec. 358. Whenever a diplomatic or consular officer of the United States has reason to believe that a person while in a foreign state has lost his United States nationality under any provision of chapter 3 of this title, or under any provision of chapter IV of the Nationality Act of 1940, as amended, he shall certify the facts upon which such belief is based to the Department of State, in writing, under regulations prescribed by the Secretary of State. If the report of the diplomatic or consular officer is approved by the Secretary of State, a copy of the certificate shall be forwarded to the Attorney General, for his information, and the diplomatic or consular office in which the report was made shall be directed to forward a copy of the certificate to the person to whom it relates.

cate of loss of nationality in the name of appellant. The Embassy certified that: appellant was born at Brooklyn, New York, on December 30, 1954; acquired the nationality of the United States by virtue of her birth therein; acquired the nationality of Mexico by virtue of birth in the United States to a Mexican citizen father (sic); made a formal declaration of allegiance to Mexico on July 13, 1979, obtained a certificate of Mexicn nationality on July 20, 1979; and had thereby expatriated herself under the provisions of section 349(a)(2) of the Act.

In forwarding the certificate to the Department, the Embassy stated that it had followed the prescribed procedures in such cases, i.e. had sent the citizen a uniform loss of nationality letter, but had received no reply; as a result and on the basis of the record, it had prepared a certificate of loss of nationality in appellant's name,

Appellant disputes the Department's contention that she did not reply to the Embassy's letter of December 7, 1979. In an affidavit executed on May 18, 1982, she set out the contacts she had with the Embassy about her case.

> In response to the December 7, 1979 letter from the American Embassy, I did fill out the questionnaire and delivered it to the Embassy. I went there toward the end of January or the beginning of February 1980. I am positive that it was within the sixty days provided in the December 1979 letter.
>
> I contacted Mr. Steele [not otherwise identified] at the Embassy on September 22, 1981. He advised me that they did not have the date recorded that I went to the Embassy, Mr, Steele told me that it was possible that they had already sent the statement to the Department of State but they did not have the date. Mr. Steele also told me that it was probably sent on December 18, 1979, or February 11, 1980, as those are the closest dates they have registered on my record after December 7, 1979.

> After I received the Certificate of Loss of Nationality, I again went to the Consulate and talked to Mr. Maiorino [the Consular Officer who had handled her case] on July 16, **1980**. He advised me of my right of appeal and he requested me (sic) my American passport, which I gave it (sic) to him and was cancelled afterwards, 7/

The record before us contains no questionnaire or copy of a questionnaire executed by appellant; nor does the Embassy's record of contacts with her on consular matters (Form FS-558) show a visit by her to the Embassy in January, February or in July **1980**. The Embassy, however, informed the Department on March 17, **1982**, that appellant called at the Embassy on September **28, 1981**, and stated that she had completed the questionnaire, but was going to send it to her attorney before submitting it. The Embassy further reported that it had nc record cf any other such document which appellant might hav completed.

Vice Consul Maiorino, who issued the certificate of 1 of nationality in this case, executed an affidavit on March **1982**, regarding the procedures followed in loss of national: cases. Conceding that he could not recall appellant's case, he said, however, that "under normal circumstances all visits by recipients of uniform loss of nationality letters were recorded on their FS-558's." He added that following an interview a blank questionnaire would be given to the citizen, which, when completed, would be sent to the Department along with the certificate of loss of nationality for determination, He further stated that where a questionnaire was brought in after a certificate of loss had been forwarded to the Department, a cable would have been sent to the Department advising them that a questionnaire was being pouched.

The Department on April **22, 1981**, approved the certificate which had been prepared in appellant's name, such approval constituting an administrative determination of loss of nationality from which an appeal lies to the Board of Appellate Review. Appellant gave notice of appeal from this administrative determination in a letter to the Board dated February 12, **1981**.

7/ The Embassy's Operations Memorandum of February 11, **1980**, transmitting appellant's certificate of loss of nationality to the Department, however, noted that the passport issued to her by the Embassy in **1973** had been sent to the Embassy by the Department of Foreign Relations on August **2, 1979**, and would be held by the Embassy for destruction upon the approval of the certificate of loss.

II

The Department's administrative determination that appellant expatriated herself under section 349(a)(2) of the Act can be sustained only if it is found that her declaration of allegiance to Mexico was a meaningful oath within the purview of the aforesaid section and was performed both voluntarily and with the intent of relinquishing her United States citizenship,

A

Although appellant does not directly attack the legal sufficiency of the oath she took in executing an application for a certificate of Mexican nationality, we believe it important to resolve any possible doubt as to whether the oath met the requirements of United States law.

Appellant acknowledges that she executed an application for a certificate of Mexican nationality on July 13, 1979. She alleges, however, that she took no oath as such; did not appear before an attorney or notary; was given a form by a clerk which I read quickly and signed; and that there were no other formalities, Counsel for appellant adds that "while under certain circumstances, the certificate in itself would be sufficient, we submit that under the circumstances, it is not."

The Board notes that the application which this appellant executed is identical in form and substance to the one executed by plaintiff in Terrazas v. Vance, Memorandum Opinion No. 75 C 2370 (N.D. Ill., Aug 17, 1977). In Terrazas, the District Court judge held, as a matter of law, that Terrazas' declaration of allegiance to Mexico placed him in complete subjection to Mexico and therefore was a meaningful oath within the purview of section 349(a)(2) of the Act. When the Terrazas case was heard on appeal, twice by the Circuit Court of Appeals for the Seventh Circuit, 577 F.2d 7 (1978) and 653 F.2d 285 (1981) by the Supreme Court, 444 U.S. 252 (1980), neither court suggested or found the District Judge in error in concluding that the oath was sufficient under U.S. law.

Appellant's contention that the procedure she was required to follow lacked due formality notwithstanding, the competent Mexican authority deemed the application

and the manner of appellant's execution thereof in conformity with the requirements of Mexican law; it thus sufficed for the issuance of a certificate of Mexican nationality giving legal effect to this appellant's declaration of allegiance.

We accordingly find that appellant made a decfarati-on of allegiance to **a** foreign state that falls within the purview of section 349(a)**(2)** of the Act.

B

Next, we consider whether appellant voluntarily declared allegiance to Mexico by executing an application for a certificate of Mexican nationality.

Technically, section 349(b) of the Act applies to appellant. It provides:

> Any person who commits or performs any act specified in subsection (a) shall be conclusively presumed to have done *so* voluntarily and without having been subjected to duress of any kind, if such person at the time of the act was a national of the state in which the act was performed and had been physically present in such state for a period or periods totalling ten years or more immediately prior to such act.

Appellant was a Mexican as well as United States citizen and had been physically present in Mexico for a period of ten years or more immediately prior to declaring her allegiance to Mexico. She therefore clearly came within the purview of section 349(b) of the Act, and must be adjudged to have performed the alledgedly expatriating act voluntarily.

Even under the provisions of section 349(c) of the Act appellant's act of expatriation is presumed to have been performed voluntarily. 8/ Such presumption, however, may be rebutted by a showing, with a preponderance of the evidence, that it was not done voluntarily. In our opinion, her rebuttal falls short of negating the statutory presumption that her declaration of allegiance to Mexico was voluntarily.

Although raising the money to pay the university fees of a foreign student may have been an economic hardship for appellant, she can hardly contend that it amounted to such extreme duress that it forced her into the only course of action open to her. True duress, the courts have held, must amount to extraordinary circumstances, forcing a United States citizen to follow a course of action against his fixed will. Doreau v. Marshall, 170 F.2d 724 (1948).

Counsel for appellant latterly concedes the issue of voluntariness, stating in appellant's reply brief: "We are raising the issue of voluntariness, although Miss B[redacted] felt she was under certain economic pressures at the time."

C

Finally, we reach the dispositive issue in this case: whether at the time appellant performed a statutory act of expatriation she intended to divest herself of United States citizenship.

8/ Section 349(c) of the Act provides:

> (c) Whenever the loss of United States nationality is put in issue in any action or proceeding commenced on or after the enactment of this subsection under, or by virtue of, the provisions of this or any other Act, the burden shall be upon the person or party claiming that such loss occurred, to establish such claim by a preponderance of the evidence, Except as otherwise provided in subsection (b), any person who commits or performs, or who has committed or performed, any act of expatriation under the provisions of this or any other Act shall be presumed to have done so voluntarily, but such presumption may be rebutted upon a showing, by a preponderance of the evidence, that the act or acts committed or performed were not done voluntarily.

Performance of an expatriating act and intent to relinquish citizenship must be proved by a preponderance of the evidence. When one of the statutory expatriating acts is proved, it may be presumed to have been a voluntary act, until or unless proved otherwise by the actor. If he succeeds, there can be no expatriation. If he fails, the question remains whether on all the evidence the Government has satisfied the burden of proof that the expatriating act was performed with the necessary intent to relinquish citizenship. Vance v. Terrazas, 444 U.S. 252 (1980). In affirming and extending the reach of its holding in Afroyim v. Rusk, 387 U.S. 253 (1967), the Court in Terrazas, stated:

> It is difficult to understand that "assent" to loss of citizenship would mean anything less than an intent to relinquish citizenship, whether the intent is expressed in words or is found as a fair inference from proven conduct. Id.

Further, the Court noted with approval the 1969 opinion of the Attorney General interpreting Afroyim, which reads in pertinent part:

> Voluntary relinquishment is not confined to a written renunciation but can also be manifested by other actions declard expatriative under the Act, if such actions are in derogation of allegiance to this country. Even in these cases, however, the issue of intent is deemed to be open; once raised, the burden of proof on the issue is on the party asserting that expatriation has occurred. 9/

9/ Expatriation of United States Citizens, Attorney General's Statement of Interpretation. 42 Op. Atty. Gen. 397 (1969).

The Court also commented favorably on one of the State Department's administrative guidelines to detemine intent:

> In light of Afroyim and the Attorney General's statement of interpretation of that decision, the Department now holds that the taking of a meaningful oath of allegiance to a foreign state is highly persuasive evidence of an intent to transfer or abandon allegiance, 10/

The burden of proof therefore rests on the Department to show by a preponderance of the evidence that appellant intended to abandon her United States citizenship by declaring allegiance to Mexico.

The record shows that appellant lived in Mexico from the age of four: that she received a Mexican education, and planned to practice veterinary medicine in that country. This pattern of life is at least suggestive of a primary if not exclusive loyalty to Mexico. Appellant contends, however, that certain other facts show her continuing attachment to the United States and her intention to preserve her United States citizenship.

Appellant places heavy stress on the fact that in **1973** when she applied for a United States passport, she had made clear she was a United States citizen; planned to return to the united States to visit; intended to continue to live abroad to finish her studies: and gave as her permanent address the home of her grandmother in Texas.

The following year, again proclaiming her United States citizenship, appellant inquired at the Embassy about her status as a national of both the United States and Mexico, but, as noted above, the record does not disclose what advice she might then have been given.

The record shows no evidence of further contact by appellant with the Embassy (or any other conduct manifesting an intent to maintain her United States citizenship) until December 18, **1979,** when she acknowledged receipt of the Embassy's letter of December **7, 1979,** inviting her to submit information relating to her application for a certificate of Mexican nationality,

Thereafter 'the next recorded dealing appellant had with the Embassy was not until February **12,** 1981, when she asked the Embassy to forward her letter of appeal to this Board. Therein appellant asserted that she did not intend to

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10/ 8 Foreign Affairs Manual, section **224.20,**

relinquish her United States citizenship by applying for a certificate of Mexican nationality, explained why she had felt compelled to seek the certificate, and asserted, in effect, that in light of her limited and specific purpose in seeking the certificate, she had not shown an intent to surrender her United States citizenship.

That appellant in **1973** applied for a United States passport and made certain statements about her attachment to the United States and familial ties to this country, and in **1974** again stated she considered herself a United States citizen hardly offer highly persuasive evidence of her intentions in July **1979.** It is the individual's intent at the time her or she committed the voluntary expatriating act that must be established. Terrazas v. Vance, 653 F.2d 285 **(1980).** Remote by six and five years respectively from the allegedly expatriating act, and standing without evidence of contemporaneous words or proven conduct attesting to her determination to remain a United States citizen, appellant's conduct in **1973** and **1974** casts no meaningful light on her true state of mind in **1979.** Even granting that appellant's contacts with the Embassy in **1973** and **1974** manifested a measure of continuing interest in United States citizenship, her apparent failure to renew her United States passport when it expired in **1978** and the fact that she executed an application for a certificate of Mexican nationality in **1973** or a year or so after raise a question about the consistency of her professions of fealty to the United States.

Nor may we deem appellant's letter of appeal written on February **12, 1981,** probative of her intent one and one half years earlier. The following statement of the District Judge in Terrazas v. Muskie, **494** F. Supp. **1017 (1980)** seems relevant to this appellant's February 12, **1981,** letter.

> Plaintiff argues that the fact that he has now for several years fought to retain his citizenship is persuasive of his lack of intention to ever abandon his citizenship. The relevant inquiry, however, is plaintiff's state of mind in **1970-71** [when he executed the application for a certificate of Mexican nationality and received the certificate] and therefore plaintiff's argument misses the point. Rather, plaintiff's struggle to retain his citizenship is likely evidence of his realization of the gravity of his earlier decision to relinquish his citizenship.

Turning to the months immediately preceding appellant's declaration of allegiance to Mexico, we note that she did not seek the advice of the Embassy about the effect on her United States citizenship of declaring such allegiance, In 1974 she had been sufficiently interested in knowing the implications of her dual citizenship status at least to raise the matter at the Embassy, but not apparently equally concerned in 1979. Her excuse that she was too busy to make an inquiry hardly lends weight to her contention that she did not intend to relinquish her United States citizenship.

Between the date of appellant's allegedly expatriating act and her letter of appeal of February 12, 1981, there is no documentary evidence of record which bears on her intention on or about July 13, **1979**. Why there is none is **a** matter about which there is a sharp difference of view between the Department and appellant.

The Department alleges that appellant did not reply to the Embassy's letter of December **7, 1979,** pointing out that there is no record of a reply or of the questionnaire appellant had been asked to fill out. Had there been a reply and/or a questionnaire, they or evidence of them would have been put in the administrative record by the officials concerned, because, argues the Department, in the absence of contrary evidence, officials are presumed to have executed their public responsibilities in accordance with law and regulations. Boissonas v. Acheson, 101 F. Supp. 138 (1951). The Department therefore contends that appellant's evident failure to reply to the December 7 letter is one further element of proof that she intended to relinquish her United States citizenship.

Appellant rejects the Department's assertions and contends that the Department is not entitled to infer her intent from the fact that there is nothing in the record to indicate that she replied to the December 7, letter. She asserts that she did reply and delivered the questionnaire to the Embassy within the stipulated deadline. She denies both the inferred fact and the presumed fact,

The Board is unwilling to infer appellant's intent or lack of intent to relinquish her citizenship from either of these diametrically opposed contentions. To apply the rule of presumed official regularity in the face of appellant's sworn statement and court decisions that ambiguities should be construed **as** far as is reasonable possible in favor of the citizen, (e.g., Nishikawa v. Dufles, 356 U.S. **129 (1958))** would not, in our view, be equitable, given the important individual rights here at issue.

By the same token, we cannot, however, accept appellant's repeated but completely undocumented assertions made at a considerable remove from the expatriating event, that she did not intend to divest herself of United States citizenship.

In brief, appellant's words prior to and after her declaration of allegiance to Mexico as evidenced by the record before us do not permit us to draw sustaninable conclusions about whether or not she intended to relinquish her United States citizenship. In order to determine her intent we must examine the application she executed and the legal consequences appellant might reasonably have expectd to flow from its execution.

The application form is short, Although it is preprinted, an applicant is required to fill in the two blanks of the renunciatory clause identifying the country the nationality of which he or she renounces. In the instant case appellant filled in those blanks by writing "Norte Americana" and "Estados Unidos de Norte America," respectively,

The renunciatory language is clear and explicit. And it should not have been unfamiliar to appellant, for as noted abcve, she had signed an identical form when she was at least nineteen years of age. Legally competent, literate and conversant with the language of the form, she cannot prevail by arguing that she acted so casually that she did not understand renunciation of her United States citizenship was a condition precedent to acquiring a certificate of Mexican nationality conferring on her the prerogatives of Mexican citizenship.

As a further step in the process, an applicant must surrender the passport issued by the country of his or her other nationality. Appellant thus delivered her United States passport to the Mexican Department of Foreign Relations, an act which also should have borne in on her the implications of executing the application. Under such circumstances it is hard to accept her contention that filling in the application seemed to her to be a mere administrative matter whereby she was availing herself of the prerogative of the Mexican aspect of her dual nationality.

Absent contrary evidence, we may assume that appellant received and accepted the certificate of Mexican nationality which issued on July 20, 1979. Had she before then not fully appreciated the consequences of her act, the recital in the certificate that she had renounced allegiance to the United States should have brought them home to her. Since apellant has not contended otherwise, we may further assume that she used the certificate to obtain exemption from her university fees. By thus accepting and availing herself of the benefits conferred by the certificate, appellant ratified her act of declaring allegiance to Mexico with its concomitant renunciation of allegiance to the United States. Here we find highly persuasive evidence of intent to forsake United States citizenship. Her statement in her affidavit of May 27, 1981, that "I am willing to withdraw or rescind the Mexican Certificate of Nationality and pay whatever amount the University requires to obtain my veterinary degree" simply lends weight to the strong presumption that she intentionally performed an expatriating act which she now rues.

The courts have recognized that by their very nature dual citizenshp cases present special difficulties not present in cases where the individual is only a citizen of the United States. For, as has been stated, one may be simultaneously a citizen of the United States and of another country; neither status is inconsistent with the other. Jalbuena v. Dulles, 254 F.2d 379 (1958)

The decisive point (in determining whether an allegedly expatriating act has been accompanied by an intent to give up one's United States citizenship), the court said in Jalbuena, citing Kawakita v. United States, 343, U.S.717 (1952), is that conduct merely declaratory of what one national aspect of dual citizenship connotes cannot reasonably be construed as an act of renunciation of the other aspect of the actor's dual status. In Jalbuena, the court held that appellant, a dual national, did not expatriate himself by taking an oath to the Government of the Philippines which did not require that he renounce his United States citizenship. What the appellant did, the court stated, was to exercise a routine privilege; none of this clashed with his responsibilities of his United States citizenship. The court stated, however, that where the nature and circumstances of the allegedly expatriating act have been such as to indicate some flouting of the obligations inherent in United States citizenship, if not an implied renunciation of the tie, forfeiture of American citizenship results.

Similarly, in the United States v. Matheson, 400 F. Supp. 1241 (1975), Aff'd 532 F.2d 809 (1976), decedent, a United States citizen in 1944 took an oath to Mexico which did not require renunciation of one's other nationality. (It was not until the 1949 Amendment of the Mexican Law of Nationality and Naturalization that renunciation of one's other nationality was made a condition precedent to issuance of a Certificate of Mexican Naitonality.) Therefore, and since decedent's pattern of conduct before and after the event clearly showed positive and continuing allegiance to the United States, the Court found that decedent had not expatriated herself. It did, however, hold that a declaration of allegiance to a foreign state in conjunction with language renunciatory of United States citizenship "would leave no room for ambiguity as to the intent of the applicant," Id.

In the instant case appellnt's act of renunciation was short of formal renunciation of United States citizenship which may only be accomplished in conformity with section 349(a)(5) of the Act by making a formal renunciation of nationality before a diplomatic or consular office of the United States in a foreign country in such form as may be prescribed by the Secretary of State, Yet, in contrast to both Matheson and Jalbuena, her oath of allegiance to Mexico in conjunction with a renunciation of her United States citizenship clearly constituted a "flouting of her obligations to the United States, if not an implied renunciation of the tie."

In our view, it would be an inherent contradiction to hold that one who has voluntariy and unequivocally renounced all allegiance to her other country intended at the same time to retain the citizenship of that country. We find nothing of record in appellant's words and proven conduct to lead us to a different conclusion.

III

In consideration of the entire record, we view appellant's declaration of allegiance to Mexico and her concurrent repudiation of any and all submission, obedience or fidelity to the United States as compelling evidence of a specific intent to relinquish her United States citizenship. The Department has therefore sustained its burden of proving by a preponderance of the evidence that appellant's voluntary act of declaring allegiance to Mexico was accompanied by an intention to relinquish her United States citizenship.

Accordingly, we affirm the Department's administrative holding of April 22, 1981.

Alan G. James, Chairman

Edward G. Misey, Member

J. Peter A. Bernhardt, Member