

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) It has become necessary to reflect upon the Apology Act for the 1930s Mexican Repatriation Program within which the Legislature noted in Section 8721 of the Government Code:

- (i) Beginning in 1929, government authorities and certain private sector entities in California and throughout the United States undertook an aggressive program to forcibly remove persons of Mexican ancestry from the United States.
- (ii) In California alone, approximately 400,000 American citizens and legal residents of Mexican ancestry were forced to go to Mexico.
- (iii) In total, it is estimated that two million people of Mexican ancestry were forcibly relocated to Mexico, approximately 1.2 million of whom had been born in the United States, including the State of California.
- (iv) Throughout California, massive raids were conducted on Mexican-American communities, resulting in the clandestine removal of thousands of people, many of whom were never able to return to the United States, their country of birth.
- (v) These raids also had the effect of coercing thousands of people to leave the country in the face of threats and acts of violence.
- (vi) These raids targeted persons of Mexican ancestry, with authorities and others indiscriminately characterizing these persons as “illegal aliens” even when they were United States citizens or permanent legal residents.
- (vii) Authorities in California and other states instituted programs to wrongfully remove persons of Mexican ancestry and secure transportation arrangements with railroads, automobiles, ships, and airlines to effectuate the wholesale removal of persons out of the United States to Mexico.
- (viii) As a result of these illegal activities, families were forced to abandon, or were defrauded of, personal and real property, which often was sold by local authorities as “payment” for the transportation expenses incurred in their removal from the United States to Mexico.
- (ix) As a further result of these illegal activities, United States citizens and legal residents were separated from their families and country and were deprived of their livelihood and United States constitutional rights.
- (x) As a further result of these illegal activities, United States citizens were deprived of the right to participate in the political process guaranteed to all citizens, thereby resulting in the tragic denial of due process and equal protection of the laws.

(b) It has become necessary to reflect upon Section 6711 of the Government Code which created a State of California Holiday on February 19 as a day to remember the actions which resulted in The Civil Liberties Act of 1988, "Restitution for World War II internment of Japanese-Americans and Aleuts," passed by Congress and signed into law by President (and former California Governor) Ronald Reagan on August 10, 1988 which in part states that it is intended to:

- (i) acknowledge the fundamental injustice of the evacuation, relocation, and internment of United States citizens and permanent resident aliens of Japanese ancestry during World War II;

- (ii) apologize on behalf of the people of the United States for the evacuation, relocation, and internment of such citizens and permanent resident aliens;
- (iii) provide for a public education fund to finance efforts to inform the public about the internment of such individuals so as to prevent the recurrence of any similar event;
- (iv) make restitution to those individuals of Japanese ancestry who were interned; discourage the occurrence of similar injustices and violations of civil liberties in the future; and
- (v) make more credible and sincere any declaration of concern by the United States over violations of human rights committed by other nations.

(c) As noted by Assistant Solicitor of the Department of State of the United States Frederick Van Dyne in his widely recognized *Citizenship of the United States* :

“There are two kinds of citizenship in this country, —state and national,—each distinct from the other. A person may be a citizen of a state, and not a citizen of the United States. He may be a citizen of the United States without enjoying the rights and privileges conferred by state citizenship.”

In a widely recognized 1966 decision *Crosse v. Board of Supervisors of Elections of Baltimore City*, 221 A.2d. 431, 243 Md. 555, the Court of Appeals of Maryland explained:

“Both before and after the Fourteenth Amendment to the federal Constitution, it has not been necessary for a person to be a citizen of the United States in order to be a citizen of his state. *United States v. Cruikshank*, 92 U.S. 542, 549 (1875); *Slaughter-House Cases*, 83 U.S. (16 Wall.) 36, 73-74 (1873); and see *Short v. State*, 80 Md. 392, 401-02, 31 Atl. 322 (1895). See also Spear, *State Citizenship*, 16 Albany L.J. 24 (1877). Citizenship of the United States is defined by the Fourteenth Amendment and federal statutes, but the requirements for citizenship of a state generally depend not upon definition but the constitutional or statutory context in which the term is used. *Risewick v. Davis*, 19 Md. 82, 93 (1862); *Halaby v. Board of Directors of University of Cincinnati*, 162 Ohio St. 290, 293, 123 N. E. 2d 3 (1954) and authorities therein cited.

“Other jurisdictions have equated residence with citizenship of the state for political and other non-commercial purposes. *In re Wehlitz*, 16 Wis. 443, 446 (1863), held that the Wisconsin statute designating "all able-bodied, white, male citizens" as subject to enrollment in the militia included an unnaturalized citizen who was a resident of the state. "Under our complex system of government," the court said, "there may be a citizen of a state, who is not a citizen of the United States in the full sense of the term." *McKenzie v. Murphy*, 24 Ark. 155, 159 (1863), held that an alien, domiciled in the state for over ten years, was entitled to the homestead exemptions provided by the Arkansas statute to "every free white citizen of this state, male or female, being a householder or head of a family * * *" The court said: "The word 'citizen' is often used in common conversation and writing, as meaning only an inhabitant, a resident of a town, state, or county, without any implication of political or civil privileges; and we think it is so used in our constitution." *Halaby v. Board of Directors of University, supra*, involved the application of a statute which provided free university instruction to citizens of

the municipality in which the university is located. The court held that the plaintiff, an alien minor whose parents were residents of and conducted a business in the city, was entitled to the benefits of that statute, saying: "It is to be observed that the term, 'citizen,' is often used in legislation where 'domicile' is meant and where United States citizenship has no reasonable relationship to the subject matter and purpose of the legislation in question."

It is clear from a long history of court decisions across the many States that the Legislature of each State must establish rules to recognize who is a citizen of the State separate from, and not dependant upon, United States citizenship status.

(d) As reflected in (a) and (b) above and in violation of the Constitution of the United States, the Government of the United States has a history of systematically violating the civil liberties of citizens of California as guaranteed by the Constitution of the State of California which states in Article 1, Section 24: "Rights guaranteed by this Constitution are not dependent on those guaranteed by the United States Constitution." Section 270 of the Government Code states: "Every person while within the State is subject to its jurisdiction and entitled to its protection." It is clear that the citizens of the State of California expect the officers and employees of the State of California and its political subdivisions to protect the civil liberties of all California citizens.

SECTION 2. Section 241 of the Government Code is amended to read as follows:

241. The citizens of the State are:

(a) All persons born in the State ~~and residing within it, except the children of transient aliens and of alien public ministers and consuls~~ *whose domicile is within the State.*

(b) All persons born out of the State *whose domicile is within the State and (1) who are citizens of the United States* ~~and residing within the State~~ *or (2) who acknowledge Section 271 of this Code.*

(c) For purposes of this section, "domicile" is defined as the place where a person voluntarily establishes oneself and one's cohabitants, not merely for a special or limited purpose, but with a present intention of making it one's true, fixed, permanent home and the place where, whenever one is absent, one intends to return. A change of domicile requires all of the following:

- 1. Abandonment of one's prior domicile.*
- 2. Physically moving to and residing in the new locality.*
- 3. Intent to remain in the new locality permanently or indefinitely as demonstrated by one's actions.*

(d) All federal, state, and local officers and public employees shall respect and defend the rights of all citizens of the State as enumerated in the Constitution and laws of the State of California. When such rights are threatened or deprived, the Attorney General of the State of California shall pursue all remedies pursuant to Sections 52.1 and 52.3 of the Civil Code in addition to any other remedies allowed by law.