

The Isaac Brock Society
Reports by persons who relinquished US citizenship upon taking government employment
Immigration and Nationality Act, s. 349(a)(4)(A)

Reports are in chronological order by date of consulate meeting

Prairie Girl, Calgary, 2012.06

I was born in the US to Canadian parents, and registered as a Canadian Birth Abroad. At age 6 my family moved back to Canada, where I have lived since then. I have never had a Social Security number nor a US passport. I knew growing up that I was a dual citizen, but thought I had given up US citizenship at age 21 when I voted in my first national election. Many years later the US border officials started to press the point that I was still considered an American, and in 2011 when Canadians were being scared into filing US returns, I knew that I needed to carefully consider my options and move towards expatriation.

I have been lurking on IBS since its inception (and before that on the Expat Forum), spending hundreds of hours becoming familiar with the issues, and filling a binder with printouts of articles and comments I felt were pertinent to me. And, thanks to the information found on this site, I had courage to arrange a one-day trip from Winnipeg to Calgary in June of 2012, to document my voluntary relinquishment. I had a fairly weak case, citing only voting in my first national Canadian election in 1972 (which was an expatriating act until 1978 and ex post facto laws being unconstitutional), and accepting a government job in 1994 (administrative secretary in a local hospital). My experience in Calgary was consistent with reports from others, except for the clear message from the Consul that he would NOT be recommending my application, and that I should just renounce and be done with it. I chose to stand firm, as I knew what would be required of me if I obtained a current-dated CLN. It took almost 18 months from my appointment to receive the coveted CLN, and only after I made inquiry at the 12-month point and then being asked if I had signed an oath of allegiance when I accepted my government job. I could only locate a confidentiality agreement sample of what I may have signed. My documents obviously sat on a pending pile for many months, as I was a rather unusual case, and I think they finally signed just to get rid of me.

So, there are two myths seemingly disproven in my case:

- that dual citizens MUST renounce, as relinquishment is not an option
- that if the Consul advises that he cannot recommend an applicant for CLN, that Washington never overturns that directive.

I am so pleased and relieved to finally have resolved the nightmare that has been a major part of daily life for the last few years. And, as good fortune would have it, I can also say that I relinquished before February 6, 1995, the icing on the cake!

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Thanks to each of the regular IBS contributors! There are likely many of us minnows hiding in the weeds, but taking in all the information we can find on FATCA and expatriation issues. This site has been my best resource all along, and I am eternally grateful!

--- Prairie Girl, 2013.12 Consulate Meeting 2012.06 *CLN received 2013.12*

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Authentic, Halifax 2013.04

I feel blessed to have stumbled on this site back in mid December 2012 when I was searching for more info after calling a US accounting firm and finding out my situation for filing obligations, FBAR, etc....(a few sleepless night). Then I started asking questions on IBS and began receiving key information for my case, ex...Immigration and Nationality Act section 349 (a) (4),searching for my Oath of Allegiance from Archives in Ottawa (pleasantly surprised it was there in my personal file since 1972),also found out I didn't really need to have my " Supplementary Statement Letter" notarized.

To give some history here are some main points which are part of my "Supplementary Statement":

I was born in USA to Canadian parents (lived close to the border) in 1952 and was baptised 3 days later in Canada. I have a "Certificate of Birth Abroad" from Canada from 1953. I have always lived in Canada. I have worked for the Government of Canada for 36 years since 1972. After accepting this job I had to swear an Oath of Allegiance to the Queen and Canada. Before going to swear this Oath in front of a lawyer, my boss told me that by doing this I would be breaking all links I had with the United States. I told him that this was all right because I wanted to keep this job. This was my first job. In 1973 I swore another Oath of Allegiance when I changed jobs to a different Division in the department. I retired from the Government job in 2008.

I have never lived in the US, never worked there, never voted, filed taxes or owned property there, never had any bank accounts or income there and I don't have any family or social ties there.

I have a Canadian passport only. I have always maintained ownership of a house in Canada since 1976. I am married to a Canadian and all my immediate family and friends live in Canada. I have voted in most Canadian elections at the federal, provincial and municipal levels. Preponderance of evidence shows that I have been a Canadian citizen only. Based on reading the rules governing loss of US citizenship as laid out in the Immigration and Nationality Act, section 349 (a) (4), it is my firm belief that on January 24, 1972, I had voluntarily and with full intent relinquished any US citizenship and that I took this action of my own free will.

I am therefore seeking a backdated Certificate of Loss of Nationality by virtue of having relinquished my US citizenship back when I swore this Oath of Allegiance in 1972.

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About the Consulate:

Finally on March 19th I felt ready and I e-mailed the Halifax Consulate for an appointment. Received feedback on March 21st with forms to be completed and necessary documents and guidelines. I faxed the forms back on the 22nd along with my Supplementary Statement and photocopies of Birth cert., Canadian passport, etc.

On March 27th I e-mailed again to ask for acknowledgment of receipt of my forms. I received an answer right away confirming this and that I would be receiving a phone call in the near future. I got the call on April 5th from a very polite and professional lady from the Consulate asking if I could make it for an appointment on April 8th. I said yes. (I was pleasantly surprised with the quick scheduling). She went over some of the forms with me on a couple of items (nothing major). She asked if I could bring the Originals and the Cert. of Birth Abroad, Passport, proof of my gov't job, etc....I also reminded her that it was for a Relinquishment because on their e-mail correspondence they would only say Renunciation. She understood why I wanted to clear that up. So then I said I will not have to pay 450 dollars. She said: "That's right".

The meeting was scheduled for 3:30 pm. I arrived there at 3:00. Went through security no problem; sat down and waited for 10 minutes; A woman (not the same that had called me) who was behind a bullet proof window asked for me and took all my Originals and Birth cert., passport, etc...; waited back in the chair for 15 minutes; another lady asked for me (she was the one that had called). She gave me back some forms, ex...proof of gov't job and pension, 35 years Recognition Certificate signed by Stephen Harper, she gave back one of my Oaths,(said she only needed the first one from 1972), she got me to sign my Statement Letter and she talked about my CLN being dated back to 1972. She said it should take at least 3 months for me to receive it. I then asked her if I was going to get any proof on paper that I was there at the Consulate. She said yes I would be receiving a receipt with 0.00 owed to have if needed until I receive the CLN. But anyway she said since they had received my faxed forms she had already put in a lot of info on their site so the border Officials would have it. She told me to wait again and the Consul would ask for me shortly; waited another 15 minutes; When he came it only took about 10 minutes.

He gave me back my Passport, got me to sign DS-4079 and before making me sign DS-4081 he said " it appears you know all about this", I said yes. When he pushed it over to me I thought he must have noticed that I had crossed out in blue ink the word "renunciation" everywhere it said "renunciation/relinquishment". Then he handed me the receipt and commented it was for 0.00 owed. He then said that it should be 3 months before I get the CLN but that lately they were better than in the past for time. He said to give them a call if I didn't receive it in 3 months. I then told him that this was their approval and that Washington will approve it also. Well he said that he had never seen a refusal since he had been there. I then said: And you have been here for a long time. He said: Well not

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that long. We laughed. I thanked him and I was out in just about an hour (which was half an hour after my scheduled time).

Walking slowly away from those twin towers, Purdy's Wharf, taking it all in, it would not have taken much more for my wet eyes to run tears down my cheeks. There is no price we could put on Freedom. I will be forever indebted and grateful to everybody on this site. Yes to everyone who answered my questions but also to all who posted anything at all. I read during almost 4 months here and it paid off. Big Time. I acquired a lot more knowledge on this site than any high priced accountant would have given me. I will try and do the same and help others as much as I can.
THANKS AGAIN EVERYBODY.

--- Authentic, 2013.04

CLN received 2013

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BenedictArnoldBeMe, Calgary, 2013.04

I received my CLN this week.

I was notified by email that it had been received by Calgary on Dec 6th while I was in Las Vegas to attend the Andrea Bocelli Concert...

Since I was travelling to Mexico through Christmas, I asked them to hold it until my return home so as I could sign the registered mail receipt.

I originally requested an appointment in Feb 2013 after having my investment accounts frozen because TD Waterhouse noticed my US birthplace on my Canadian Passport. My appointment in Calgary was April 10th 2013. I argued that since I was naturalized in 1967 at the age of 10 WHEN the 1952 INA rules in effect suggested this was an expatriation act where a parent COULD expatriate a minor so long as dual citizenship was maintained until age 21 and THEN if the minor did not take the US oath by age 22 nor take up permanent residence in the US by age 25, US Citizenship was lost. The consulate did not agree at first. They suggested I confirm the second method of expatriation applicable to me: ie. I worked for the BC Government.

I insisted on setting a precedent as the INA rules were not changed until 1986, at which time I was already 28 years old and had completed the requirements of expatriation (and was verbally recognized as such in 1979). ie: TEST CASE.

After waiting for 6 months, I insisted on some resolution as we were due to travel to the US and Mexico in December. I finally got a response in October. The OCS Lawyer insisted that "as a minor" I had no understanding of the ramifications of losing US citizenship at the age of 10, regardless of the fact that I never returned to the US nor did anything to suggest US affiliation once I turned 21. I then set my Lawyer into action to provide proof of my BC Government employment including the starting date of employment as the OCS Lawyer insisted this was the date of an ACT OF EXPATRIATION as required to issue a CLN. Difficult a this was after 35 years, I was able to collect the proof and provided it under affidavit.

They accepted the proof of BC government employment and issued a CLN with a relinquishment date of MAY 1st, 1978.

They operate using the 1986 INA rules which eliminated the PARENT rule and lowered the age of adulthood to age 18, and apparently they apply this retroactively which creates conflicts such as in my case where I had clearly lost US citizenship based on the 1952-1986 rules. While I do not agree with this and had my lawyer include a demand that they recognize my failure to take up permanent residency by age 25 (section 1, 1952 INA rules) in case I had to take this to a higher court, they did accept the proof he provided of my BC Government employment (section 4A of the 1986 INA) as the ACT of EXPATRIATION. The end result is my CLN was issued based on my government

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employment. I will have to leave it to someone else to take them to task on the improper “retroactive” application of the 1986 rules.

I also want to make people aware that my daughter (born in 1983) was never at risk of US citizenship since I only lived in the US until age 5 1/2 while the applicable rules say that US citizenship cannot be passed on if the parent did not live in the US for at least 10 years with 5 of those years being after the age 14 (obviously not applicable to me). This is now further reinforced by the fact that I lost my citizenship in 1978 before her birth.

I strongly suggest that people facing this situation spend time looking at all avenues available to them before succumbing to the pressure of RENOUNCING (as RENOUNCING was repeatedly suggested to me by the consulate when they thought I wouldn't be able to provide proofs).

--- Benedict Arnold Be Me, 2014.01 Consulate Mtg 2013.04 *CLN received 2013.12*

In reply to a question on the website, Benedict followed up with:

I believe the answer lies in the interpretation of Section INA 349 4A and 4B.
4A states working for the Government AND having that nationality (thus start date)
4B states working for the Government AND taking the required OATH (thus likely OATH date or start date)

I was confronted with an OCS Lawyer who at first questioned photographic proof of my public employment records, but then insisted on having the start date as a requirement to issuing a CLN as that was in accordance to him the date of the ACT of EXPATRIATION and then they would issue it based on 4A (as I was clearly a Canadian Citizen since age 10).

That is when I engaged my lawyer to act on my behalf and provide the proof that I was able to obtain as follows:

- 1) A blank copy of the BC Provincial Employees OATH (from the 1970's)
- 2) A letter from the BC Provincial Government acknowledging that I worked for a specific program of a specific Ministry in 1978 and 1979 as provided in the Public records and that an OATH was required by all BC Provincial Employees.
- 3) A letter provided by my hiring supervisory manager confirming my hire date.

This was all provided by affidavit and submitted by my lawyer directly to the Calgary consulate.

--- Benedict Arnold Be Me, 2014.01 Consulate Mtg 2013.04 *CLN received 2013.12*

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MyKitty, Toronto, 2014.01

I had my appointment at the Toronto Consulate on in January. I received a back-dated CLN based on Section 349 (4) five months later. My expatriating act was working for the Canadian Federal Government in the late 1980's.

I was born in the US to Canadian parents, and lived there for 6 months as a newborn baby. I was a dual citizen at birth.

I only had a hospital birth notice, so I ordered an official birth certificate. When it arrived, it didn't have my parents full names, so I had to order a long form birth certificate.

I contacted the National Archives in Ottawa and requested a copy of the oath that I signed when I accepted employment with the Federal Government of Canada. I also requested anything in my employee file that contained a start/end date. Eventually I received an email containing scanned copies of the oath of allegiance that I signed, my letter of offer, my letter of resignation, and my employee record.

I arrived a few minutes early but I wasn't allowed inside the building until exactly 2PM. I had to show the guard outside of the building, the email with my appointment time and a picture ID (I used my drivers license since I didn't have a US passport). I walked through the waiting room filled with VISA applicants, and took the elevator up to the US Citizen Services floor.

When I got off the elevator I saw a row of bullet proof glass wickets.

I can't remember exactly what happened at this stage. I know that I saw an initial intake person who asked me why I was there. I told her I was there to inform counsel that I relinquished my citizenship in the late 1980's when I began working for the Canadian Federal Government, and that I wanted a back-dated CLN. I gave her all of my documentation and then sat down and waited to see counsel.

At 2:25 I was called up to a wicket. Within 3 minutes, she told me my oath was not applicable because it did not change my citizenship. She gave me a photocopy explaining that I could not expatriate using (2) of section 349. I explained that my expatriating act was working for the Canadian Federal Government (not section 2). She said that she was recommending that my case be denied.

We did not go through my employee file documentation. She said that the only way for a dual citizen by birth to get rid of U.S. citizenship was to a) renounce or b) commit an act of treason (NOT TRUE). She told me I could renounce that day.

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I was intimidated and completely taken aback. I explained that I gave up my U.S. Citizenship in the late 1980's. I explained that my supervisor told me that working for the Canadian Federal Government could cause me to lose my U.S. citizenship, and that I voluntarily gave up my U.S. citizenship.

She told me my oath was invalid, and that she had denied 3 of these cases recently. I insisted my case be sent to Washington anyway and that it wasn't necessarily the oath that I was claiming as my expatriating act, it was my Canadian Federal Government employment.

She told me to sit down at 2:30.

At 4PM I was called back to the wicket. I was the last one left in the waiting room, and the janitorial staff were cleaning up. I think she hoped I would change my mind, and renounce.

She gave my long form birth certificate back and asked if I knew if anyone typed my first name on the certificate after the fact. I told her that I had never had a birth certificate before, and I had ordered this for my consulate appointment. I showed her my birth notice, and explained that the birth notice was adequate for all Canadian authorities. Once again I felt intimidated and that she was accusing me of falsifying my birth certificate.

I left the consulate at 4:05PM.

The following day, I sent an email to the consulate asking for confirmation that they were going to send my documentation to Washington. I received an email back confirming that my records were being sent to Washington.

Five months later, I received my CLN.

--- MyKitty, 2014.07 Consulate meeting 2014.01 *CLN received 2014.06*

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Pacifica's Friend, Ottawa, 2014.03

I'm very happy to report that a friend, who was born dual when his parents were temporarily in the US, phoned me in good spirits after his consulate meeting at Ottawa. His relinquishment is based on his taking government employment 30 years ago, which he believed at the time he had terminated his US citizenship. Then came 2014 and OMG day ...

Back to his consulate meeting, I hadn't heard anything at all about Ottawa since last summer (at which time things sounded fine as they had since Jan 2013) but the silence felt a little ominous to me because they had such a bad reputation back in 2011-12.

However, Ottawa appears to have stayed on the positive track it took in 2013. He found the staff both pleasant and aware that s. (4) applies to any US citizen, including those who were born dual. He said the meeting took about 10 minutes and there were no problems whatsoever.

He had put together a very well prepared and well documented file and he asked me to thank Brockers because the information here was a really big help. PrairieGirl, BenedictArnold and WhatAmI particularly for their knowledge/experience with s. (4), and everybody for general information and support.

--- Pacifica (reporting for a friend), 2014.03

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Kathy, Toronto, 2014.06: Part I

Well, here's a new one for the books, or at least the Consulate Directory... I went to document my past relinquishment today at the Toronto consulate based on my employment with a municipal government. I'm a dual citizen from birth, so before mykitty got her CLN this week, I had some concerns.

Absolutely no concerns about dual citizenship from birth today. A question about the last time I was at the consulate (I only had a hospital birth certificate which they wouldn't accept), but that was cleared up quickly. The problem I had was with the municipal government aspect.

Hold on for the kicker here folks...they were not sure if anything other than federal government could be considered as a "political subdivision thereof" from 349 (a) (4A). They couldn't find any clarification of what that actually meant. The young gentleman I talked to seemed very wet behind the ears and he said that he had not dealt with a relinquishment based on government employment and asked if I would wait until his supervisor came in.

After consulting with the supervisor, it seemed she had only dealt with federal employees and she wasn't sure if Provincial or Municipal governments fell under this or not. I knew Provincial certainly did as I knew there were IBS people who got their CLN based on Provincial employment and one even from hospital employment.

So my documentation is being sent to Washington with a big question mark on it. Six to nine months wait is to be expected he said.

On the plus side, I did include in my documentation a letter from the City Clerk explaining that the Municipality is a political subdivision of the Canadian government.

Another thing that is odd is that the first time I was filling out the forms, I emailed just to make sure that municipal government did fall under that government employment section and they had replied "yes". Unfortunately, that person isn't at the consulate any more. But I guess the important part is in Washington either way.

So, here I'll sit in limbo for another six to nine months. At least I'm feeling a bit better that that part is done, that they didn't say "no" and that there is still hope that I can cleanly cut ties with the US .

--- Kathy, 2014.06 Consulate meeting 2014.06 *CLN received 2014.12*

Kathy, Toronto, 2014.06: Part II – see next page

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Kathy, Toronto, 2014.06: Part II

I was born in 1959 in the US to Canadian parents. My Canadian birth abroad was registered in 1961 and my family moved back to Canada in 1962 where I have lived ever since. I have never had a US passport, earned US income, filed US taxes or voted in any US election. I have always considered myself solely Canadian.

When I first learned of FATCA in early 2014, I contacted the US consulate in Toronto for more information. It was difficult getting a straight answer to my questions. I felt I was in a weird version of “Who’s on first.”

When my Canadian birth and was registered and my family moved back to Canada, Canada did not allow dual citizenship and the US did not recognize it. I wanted to know from the consulate whether that was a loss of US citizenship or not. Answer: The law changed.

OK, so I work for a municipal government. That causes loss of citizenship, right? Answer: You can only relinquish once.

So you’re saying that lost my US citizenship in 1962? Answer: The law changed.

After a very frustrating few rounds of this, I decided to try to get my relinquishment act of 1962 documented. I applied for an appointment and filled out the forms. My appointment was on Mar 20 2014 at the Toronto consulate. (I also had a “Who’s on first” email version of my question about back dated CLNs)

I won’t go into the details about the security and such as it’s already been documented by many others. As soon as I got to the window and passed over my unsigned documents, Canadian passport and hospital birth certificate, they informed me that only a state issued birth certificate is acceptable. I looked back at the information they emailed me and that fact was included, but I missed it. I missed the part about the XpressPost envelope too!

So the rest of the appointment was only done “as a courtesy” since I couldn’t prove that I was a US citizen in their eyes. During that appointment, it became clear that I could not base a past relinquishment on my registration of Canadian birth abroad, so I just packed up my stuff and left.

After more investigation (and with MUCH help from Isaac Brock Society), it became clear that I would be able to get a past relinquishment documented based on my government employment. The only problem was that it wasn’t clear whether they consider municipal level government “a political subdivision” of the government of Canada. There were even some bad experiences documented from other consulates about recommended

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denials for those with dual citizenship at birth when basing a relinquishment on government employment.

I got my letter of employment (Jan 1995), applied for and received a state issued birth certificate, got an XpressPost envelope, refilled all the forms with government employment as the basis of relinquishment and even got a signed letter from the City Clerk explaining how the municipal level of government is a “a political subdivision” of the government of Canada. I applied for a new appointment and emailed the forms. My new appointment was set for June 12, 2014.

In Toronto in June, I talked to a new person at the consulate. He was rather young and I’m guessing a little inexperienced as he had to wait for his boss to come back to the office before he would make a decision. Even after he conferred with his boss, they were not sure whether anything other than federal government employment was acceptable. I was given the choice of coming back at another time after they do some research, renounce or send my case Washington with no recommendation. As I knew of relinquishments which had gone through based on provincial and even hospital employment, I felt somewhat confident about my case and asked that it be sent to Washington as is.

During the interview, I was asked “you took the job with the intention to relinquish your citizenship?” I just replied that it obviously wasn’t the reason I took the job (it was for a paycheque), but that I had intended to lose my US citizenship.

I was also asked about my previous appointment as the details were on file. I told him about the confusion about two relinquishing acts and that with my lack of the proper birth certificate, it was a moot point anyway. I never signed any of the previous documents, so I was only a little concerned about this.

NOTE: On the DS-4079, there is a question about swearing an oath which has been part of a large discussion at IBS:

11. (c) Did you take an oath, affirmation, declaration or allegiance in connection with the job?

I answered No and added in the comment section that no oath was necessary as I was already a Canadian citizen.

As they didn’t give my case a clear cut recommendation, I decided to just forget about it as much as I could (ha, ha, ha!). They told me it would likely take 6-9 months to get a response. I wasn’t expecting to hear anything until well into spring 2015, so I was very surprised to hear a voicemail in Dec 2014 from the consulate saying that my CLN had arrived and they wanted to double-check my mailing address.

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When I called the consulate to confirm my address, they had already mailed it. It was the correct address, so there was no concern there. I had to wait a few days for it to arrive (XpressPost did not meet the guaranteed delivery date) and I was anxiously tracking my envelope until it was delivered (Dec 17, 2014).

My CLN has Jan 23 1995 as the date I relinquished my US citizenship, which is the date I started my job. The CLN was received almost six months to the day from my second appointment. All in all, it was a very tense and worrisome procedure. I could have saved myself a bunch of worry and stress if I had taken some more time to find out all the facts before jumping into that first appointment.

I think I'm the first confirmed case on IBS of receiving a CLN based on INA 349 (a) (4) (A) at the municipal level of government:

INA 349 (a) (4) (A) accepting, serving in, or performing the duties of any office, post, or employment under the government of a foreign state or a political subdivision thereof, after attaining the age of eighteen years if he has or acquires the nationality of such foreign state;

I do want to express my sincere thanks to all the folks at IBS for all your help and advice. There is no way I could have done this without you.

And to all of those still deciding what to do and those in the midst of the process – the best of luck to you!

--- Kathy, 2014.06

Consulate meeting 2014.06

CLN received 2014.12