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THE NATIONALITY OF
MARRIED WOMEN

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A short account of the present British Law governing the Nationality of Married Women, with a summary of various arguments for and against. The pamphlet also records the action taken in 1930 by the Imperial Conference and the Codification Conference of the League of Nations, together with a statement of world progress. It includes the text of the Bentham-Cazalet "Nationality of Married Women Bill," promoted in the British Parliament, and a few concrete illustrations.

By

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The Nationality of Married Women.

Present British Law Governing the Nationality of Married Women.

In October 1930, innumerable paragraphs appeared in the Daily Press telling of the adventures of a young man named Jowett. He, having lost his passport, encountered difficulties in getting out of Siberia and returning home to this country. He is a British subject and for this reason the British Government did everything in their power to help him. Mr. Jowett is not yet married, but if he were, the Government would have been no less zealous on behalf of his wife, were she in a like predicament, even if she had been of foreign birth. No such help would be forthcoming, however, were the sufferer a British born woman with an alien husband. Such a woman under British law is treated as an alien and is deprived of the protection of the British Government when abroad. She is refused a passport. Even if she has never left her own country and can speak no word of her husband's language, she is told that she is an alien. When in this country she is required to register as an alien, when she changes her address she must report herself to the police. If she is abroad and wishes to return to this country to take up a post, she may come under the ban forbidding aliens to obtain work in Britain. In many cases under the law of her husband's country a woman may have his nationality imposed on her whether she wants it or not; or her husband's country may be one which does not confer its citizenship on her, when the unfortunate woman has no nationality at all, no consul will be responsible for her, and she has no nationality rights under any law. In this country a woman with an alien husband loses her right to vote both for Parliament and for the municipalities, and she ceases to be eligible for election to these bodies. If she has children born in this country British law gives to them British nationality, but declares that she herself is an alien. Many a British born woman with an alien enemy husband had her own property confiscated by the British Government under the arrangements included in the Peace Treaties.

On the other hand when a foreign woman marries a British subject or her husband naturalises as a British subject, British nationality is imposed upon her whether she wants it or not. Before a man may be admitted to British nationality he must take an oath of allegiance and fulfil certain conditions as to residence on British soil, character and knowledge of the English language. But whatever the character of a woman, no matter how strong her feelings of loyalty to her country of origin, however unwilling

she may be to become a British national, our laws insist on imposing British nationality upon her.

A British man cannot lose his British nationality except by a voluntary and formal act of his own. He can lose it only if he voluntarily applies for and is admitted to naturalisation in another country. Then he ceases to be British. His wishes on the matter are considered. But under our law the married woman's point of view on changing her nationality is not taken into account; she is treated not as a personality but as a chattel.

Any foreign man, whether married or unmarried, may apply for and, at the discretion of the Secretary of State, be admitted to British nationality; and the same is true of the unmarried woman. But a married woman is definitely classed in the British Nationality and Status of Aliens Act (1914, as amended up to 1922)* together with minors and lunatics as a person under a disability—an individual who cannot apply for or be admitted to British nationality in her own person. If her alien husband dies or the marriage is dissolved by divorce the woman is still deemed to be an alien. She does not automatically regain British nationality, but since she then becomes in the legal sense "unmarried," she is no longer classed with minors and lunatics as "under a disability", but is recognised as capable of applying for re-admission to British nationality.

As an applicant for naturalisation she is required to obey the same regulations as an ordinary alien, except that she pays a smaller fee and does not require to fulfil the conditions as to residence.† If however, she is not divorced but separated from her husband or has been deserted by him, it is not possible for her to be admitted to British nationality. She continues to be treated as a foreigner.

A woman who has lost her British nationality by marriage has, moreover, no absolute *right* to be re-admitted on the dissolution of that marriage since the matter is in the *discretion* of the Secretary of State. A very large number of those who are naturalised each year as British subjects are women whose alien husbands have died, but, notwithstanding the provision in the law waiving the condition as to residence, it is the practice of the Secretary of State to refuse naturalisation to a woman unless she is going to settle on British soil.

There are certain **slight modifications of the rigid law** which automatically makes a woman British if her husband is British and alien if her husband is alien, concessions wrung from Parliament as the result of the protests of women's organisations. If a British man changes his nationality during the marriage his

* This is the Act which sets forth completely the conditions under which a person is a British Subject.

† An applicant must have lived for five of the eight years before his application on British soil and for the year immediately preceding his application in the United Kingdom, and he must have the intention of residing within the Empire or working in the employment of the Crown.

wife may declare that she will remain British.* This is a case in which she is recognised as of a different nationality from her husband. In time of war a woman, originally British and whose husband is an enemy alien, may be admitted to British nationality. But this last named change in the law was made so late in the Great War that few women can have taken advantage of it.

As in this connection questions are sometimes asked regarding the **nationality of children** in relation to their mothers, perhaps it is well to state that as a general rule a child born on British soil is British, irrespective of the nationality of his parents, and a legitimate child born of a British father is British. It therefore often happens that a British woman who marries a foreigner and has children born in this country is compelled by British law to be an alien while British citizenship is conferred upon her children. When a British man or a widow naturalises abroad the infant children lose their British nationality if, by the law of the new country, they acquire the parents' nationality. But such children at twenty-one may take British nationality, if they wish. If however, the widow lost her British nationality by marriage the children would retain their British nationality.

Arguments against giving Married Women Independent Nationality.

The arguments most commonly brought forward against giving to married women the same choice of nationality as is given to a man are the following:—

(1) **There ought to be only one nationality in the family.** No doubt many persons would prefer, if they are given a right of choice, to decide it in this way. It is common now for a man who settles in a country and marries a woman of that country to take the nationality of his wife. But in so doing he takes all the factors within his knowledge into consideration, comes to his own conclusion and makes the decision at a time which suits himself. He does not have the matter decided for him. And probably when women have a choice many of them will act in the same way and take the husband's nationality on settling in his country. But there is no reason why such a decision should be forced on a woman from outside. All know best their own personal circumstances. This argument, however, is in essence based on the assumption that the woman ought to be the subordinate partner in marriage,—a discredited doctrine. Those who put it forward sometimes assume that this subordination of the wife to her husband should be continued in order that she may be compelled to be of the same nationality as her children. But, as pointed out above,

* If, however, a naturalised British man has his certificate of naturalisation revoked, the Secretary of State may direct that his wife, unless of British birth, shall become an alien: if the wife is British born he can only deprive her of British nationality if he considers she herself has been disloyal. See 7 (1) and 7A (1) Naturalisation and Status of Aliens Act.

the present law fails to produce this result. In any case there is no reason why the nationality of an adult woman should have to follow that of her children. She should be given the same opportunity as her husband of deciding what is best and giving full weight to her own interests and those of her husband and children.

(2) **Were the married woman given the right to her own nationality a British woman married to a foreigner might have two nationalities and a foreign woman married to a British man none.** It is quite true that this may occur under the proposed change in the law, but it also occurs as the law now stands. For example, to-day, the American wife of a British husband may have both American and British nationality, while the British wife of an American husband may have no nationality at all. If this country gives the woman independent nationality, both these particular difficulties would be avoided in the case of the British American mixed marriage. And as the number of countries adopting legislation similar to that of the United States is growing steadily larger the difficulties consequent on giving a married woman independent nationality will diminish rather than increase.

Put in another way this is really the argument that to give the married woman this right will mean increasing conflicts of law. Where a woman has two nationalities lawyers will in some cases be in doubt as to whether she should be dealt with under the law of her own or of her husband's nationality, and when she has no nationality they will not know how to deal with her at all. This is very possibly true. But the argument is based on the assumption that justice to women should be subordinate to the symmetry of international law, that women should be sacrificed to the law and not that the law should be adjusted to the rights of the woman as a human being. This argument is steadily losing force, now that so many countries have adopted more progressive legislation. It is interesting to note that M. Rundstein, the Reporter of the Nationality Committee of the Committee of Experts for the Codification of International Law of the League of Nations recognised this fact. Referring to the increases in the conflicts of law due to recent changes (and this was before Finland, France, Yugo-Slavia, Turkey, China and Cuba had amended their law) he says: These conflicts would, however,

'be solved if the uniform principle were established that a woman retains her nationality after marriage (or in the case of the naturalisation of the husband) unless she explicitly declares that she desires to acquire the nationality of her husband'.*

As the present tendency is strongly in the direction of giving a choice to the married woman, it follows that if certain conflicts

* League of Nations Publications: C. 196, M. 70, 1927, V., p. 16.

increase others will diminish. Moreover, when the British Empire adopts the reform nearly three quarters of the population of the world will be living under such a law and those States which still treat the married woman as a chattel will be exceptions.

(3) **It would be troublesome abroad to give protection to a British woman with an alien husband,** especially in her husband's country where that country imposed his nationality upon her. This is one of the practical reasons why States wish to be rid of their responsibilities regarding their women nationals who have married foreigners. But why should British women be denied this most important of all privileges of nationality because of their sex? The British man and also his alien wife are given passports and have this protection extended to them now. Why is the British woman excluded from this privilege? Other countries accord it. For example: Argentina, whose women retain their nationality on marriage, arranges that Argentine women married to foreigners are entitled to "succour and aid from the representatives of the Republic".*

Argument in Favour of giving Independent Nationality to the Married Woman.

There is no reason why the rights of a woman in connection with nationality should be curtailed because of marriage any more than are those of a man. Under the present law a man never can have his British nationality taken from him unless he voluntarily naturalises in another country or is disloyal, and a woman should receive the same treatment. She, despite her sex, is a human being, and should have the rights enjoyed by male human beings. Marriage should not be a reason for penalising a woman by treating her as a minor and refusing her the status of an adult. Nationality and allegiance are matters of too great importance to be imposed upon or taken away from any adult citizen without consent. It is an indignity to a woman to assume that an outside force shall determine to what country her loyalty is to be directed or that it should be thought unnecessary to require of her an oath of allegiance. The right to nationality in one's own person is the most fundamental political right. It underlies all others and its importance is a measure of the injury done to the women who are excluded from its enjoyment.

Progress in other Countries.

Within the last twelve years immense progress has been made in extending nationality rights to married women. In 1918 the general rule that a woman should follow the nationality of her husband was almost universal in Europe and North America. It had never been the rule in the **great Republics of South America.**

* 1923 Comd. 115 p. 169.

That continent did not follow Europe when the rule was first introduced there in the nineteenth century. In **Russia**, in 1918 married women were given the same nationality rights as men. The **United States of America** (with a small exception) followed in 1922, and **China** in 1929. This means that already in States with in whose territories nearly half the population of the world is comprised, the married woman has full equal rights of nationality. **Roumania** (1924), **Belgium** (1922), **Turkey** (1929), **Yugo-Slavia** (1929) and **Cuba** (1929), have given a married woman the right to retain her nationality on marriage with a foreigner; while with certain exceptions **Sweden** (1924), **Denmark** (1925), **Finland** (1927), **Norway** (1924), **Iceland** (1926), **France** (1927) and her colonies give this right to a woman national. In the five last named countries the woman may retain her own nationality at least so long as she has her permanent residence in her own country. Nor do Belgium (1922), France (1927) and her colonies and Yugo-Slavia automatically impose their nationality on a foreign woman who marries one of their nationals. It is humiliating for us to realise that nowhere in the whole British Empire has this fundamental right been conceded.

Demand for the Restoration of a Former Right.

Unlike other legal disabilities imposed on married women, many of which have now been removed by legislation, those of nationality are recent. It was not until 1844 that the foreign woman who married a British man had British nationality conferred upon her. Nor was it until 1870 that the British woman who married a foreigner was deprived of her British nationality. But in that year the Naturalisation Act was passed, at one fell stroke providing not only that women who in future married foreigners should have their nationality taken from them, but depriving any British woman with a foreign husband of her nationality. Such callous disregard of the woman's interest is without parallel in our legislation. Thus women are merely asking to have a lost right restored when they urge that a British woman should keep her nationality on marriage with a foreigner. In this connection, however, it should be mentioned that this Act of 1870 was the first measure providing regular machinery for acquiring or giving up British nationality.

Between 1870 and 1914 there was no exception to the rule that a British woman lost her nationality on marriage with a foreigner and that a foreign woman marrying a British national obtained British nationality. But in 1914 organised women in this country first took political action to redress this grievance. In that year—it was before the war—a Bill entitled "The British Nationality and Status of Aliens Bill" was introduced into the House of Commons. This measure proposed to continue to make the wife's nationality depend in every case on that of her husband. The

Bill had been drafted in the Colonial, now the Imperial, Conference, and was designed to become law as it stood both here and in the Dominions. Four women's organisations—the National Council of Women, the National Union of Societies for Equal Citizenship, the Women's National Liberal Federation and the Women's Co-operative Guild protested vigorously and urged its amendment. Championed by Lord Dickinson (then Sir Willoughby Dickinson, M.P.) their efforts resulted in two important modifications being made: one making it less difficult for the woman who had lost her nationality on marriage to regain it after the dissolution of the marriage, the other enabling a woman to retain her own nationality if her husband changed his during the marriage.

Imperial Conference.

Since 1914 British policy has been to encourage the adoption throughout the Empire of similar nationality laws. And, with respect to married women, the same nationality laws have now been in force in all parts of the British Commonwealth for the last three or four years, all the Dominion Parliaments having passed a special act to bring their laws into conformity. In Australia and New Zealand this law resulted in women losing their former right to remain British on their marriage to aliens, and the agreement with the other Dominions has prevented Canada from adopting a measure giving certain nationality rights to married women.

This agreement among the Governments of the various parts of the Empire that they shall take united action has made the work of the women's organisations doubly difficult. They have had to make representations not only to their own Government but also to the Imperial Conference, a body which sits in secret and to which no woman has yet been appointed. Since 1917 the British National Council of Women has approached every Imperial Conference on the subject and they have also been organising support from women's associations throughout the Empire for the following **Memorial**, which in 1918 with the support of some 45 nationally or state-organised women's societies throughout the Empire, was presented to the Imperial Conference.

"We, the undersigned, representing Women's Societies throughout the British Empire, have the honour to submit to you our claim that any amendment of the Nationality Laws should include the grant to women, in those parts of the British Empire where such amendment is necessary, of the right to retain their British nationality on marriage with an alien, a right enjoyed by them under the laws of the United Kingdom until 1870.

We further urge that uniformly throughout the Empire the laws should provide that a woman shall not on marriage with an alien be deprived of her nationality against her will; but that she be given the same choice of nationality as a man."

Since then a number of similar organisations have added their signatures, so that by 1921, 77 had given their support. They now include national or state organisations in this country, Canada, New Zealand, South Africa, Southern Rhodesia, East Africa, Australia (South Australia, Western Australia, Tasmania, New South Wales, Queensland and Victoria), India and other parts of the Empire, and these societies have, each in their own country, brought pressure to bear on their respective governments. The British Commonwealth League also has for many years been steadily organising support for this reform throughout the Empire. In 1918 the then Home Secretary, on behalf of the Imperial Conference, received a deputation in support of this Memorial, organised by the National Council of Women.

The Report of the Conference held in 1926 states that attention had been specially directed to the question by women's organisations throughout the Empire and that "Many members of the Committee were in favour of a change in the law which would provide for the British woman an opportunity of retaining her British nationality".* No far-reaching recommendations however were made by the Conference, which deferred action until after the Imperial Relations Committee and the Conference for the Codification of International Law had met and issued their reports, which are now available.

In 1930 The Nationality of Married Women Pass the Bill Committee† asked to be received in deputation. The present Prime Minister, as Chairman of the Imperial Conference, replied that "While he sympathises with the desire of your Committee to put their views in person to the Conference, he regrets that the Agenda for the deliberations of the Conference is so crowded that he is not in a position to accede to this. . . . He would suggest that you might furnish in writing to him whatever representations you had in mind to make". A memorandum was accordingly submitted, and a copy furnished to every Delegate and to all members of Lord Sankey's Committee to whom the question of Nationality had been referred.

The conclusions of the Conference with regard to Nationality are given below, taken verbatim from the official report.‡ The "common status" referred to is presumably what is generally known as "British Nationality," and the word "Nationals" of a member of the Commonwealth apparently refers to persons having special privileges conferred upon them by a particular Dominion.

* 1927 Cmd. 2769 p. 246.

† This Committee was formed in April, 1930, by the National Council of Women to focus the support for this reform and to approach the Imperial Conference. It includes Members of both Houses of Parliament and representatives of a number of other organisations. See p. 2.

‡ Imperial Conference, 1930. Summary of Proceedings, 1930. Cmd. 3717. At the time of going to press the full report has not been published.

"Nationality.

(1) This Conference affirms paragraphs 73-8 inclusive of the Report of the Conference on the Operation of Dominion Legislation.*

(2) That, if any changes are desired in the existing requirements for the common status, provision should be made

* 1930 Cmd. 3479 p. 24.

§73. Nationality is a term with varying connotations. In one sense it is used to indicate a common consciousness based upon race, language, traditions, or other analogous ties and interests and is not necessarily limited to the geographic bonds of any particular State. Nationality in this sense has long existed in the older parent communities of the Commonwealth. In another and more technical sense it implies a definite connection with a definite State and Government. The use of the term in the latter sense has in the case of the British Commonwealth been attended by some ambiguity, due in part to its use for the purpose of denoting also the concept of allegiance to the Sovereign. With the constitutional development of the communities now forming the British Commonwealth of Nations the terms "national", "nationhood", and "nationality", in connection with each member, have come into common use.

§74. The status of the Dominions in international relations, the fact that the King, on the advice of his several Governments, assumes obligations and acquires rights by treaty on behalf of individual members of the Commonwealth, and the position of the members of the Commonwealth in the League of Nations, and in relation to the Permanent Court of International Justice, do not merely involve the recognition of these communities as distinct juristic entities, but also compel recognition of a particular status of membership of those communities for legal and political purposes. These exigencies have already become apparent; and two of the Dominions have passed Acts defining their "nationals" both for national and for international purposes.

§75. The members of the Commonwealth are united by a common allegiance to the Crown. This allegiance is the basis of the common status possessed by all subjects of His Majesty.

§76. A common status directly recognised throughout the British Commonwealth in recent years has been given a statutory basis through the operation of the British Nationality and Status of Aliens Act, 1914.

§77. Under the new position, if any change is made in the requirements established by the existing legislation, reciprocal action will be necessary to attain this same recognition, the importance of which is manifest in view of the desirability of facilitating freedom of intercourse and the mutual granting of privileges among the different parts of the Commonwealth.

§78. It is of course plain that no member of the Commonwealth either could or would contemplate seeking to confer on any person a status to be operative throughout the Commonwealth save in pursuance of legislation based upon common agreement, and it is fully recognised that this common status is in no way inconsistent with the recognition within and without the Commonwealth of the distinct nationality possessed by the nationals of the individual states of the British Commonwealth.

for the maintenance of the common status, and the changes should only be introduced (in accordance with present practice) after consultation and agreement among the several Members of the Commonwealth.

(3) That it is for each Member of the Commonwealth to define for itself its own nationals, but that, so far as possible, those nationals should be persons possessing the common status, *though it is recognised that local conditions or other special circumstances may from time to time necessitate divergencies from this general principle.**

(4) That the possession of the common status in virtue of the law for the time being in force in any part of the Commonwealth should carry with it the recognition of that status, by the law of every other part of the Commonwealth.

Nationality of Married Women.

Careful consideration was given to the subject of the nationality of married women. All members of the Commonwealth represented at the Hague Conference of 1930 signed the Nationality Convention there concluded, and will, it is assumed, introduce such legislation as may be necessary to give effect to Articles 8-11 of that Convention.† The Conference was satisfied, however, that any proposals for the further modification of the principle of the existing law would fail to secure unanimous agreement. It followed that the Conference was unable to make any recommendation for the substantive amendment of the law on this subject except to the extent stated above."

When the Nationality of Married Women Bill was discussed in the House of Commons on its Second Reading,‡ the Home Secretary stated that "it was laid down as an axiom in the 1929 Report of the Conference on the Operation of Dominion Legislation that no member of the Commonwealth would or could contemplate seeking to confer on any person a status to be operative

* The italics are ours.

† Art. 8. "If the national law of the wife causes her to lose her nationality on marriage with a foreigner, this consequence shall be conditional on her acquiring the nationality of the husband."

Art. 9. "If the national law of the wife causes her to lose her nationality upon a change in the nationality of her husband occurring during marriage this consequence shall be conditional on her acquiring her husband's new nationality."

Art. 10. "Naturalisation of the husband during marriage shall not involve a change in the nationality of the wife except with her consent."

Art. 11. "The wife, who under the law of her country, lost her nationality on marriage shall not recover it after the dissolution of the marriage except on her own application and in accordance with the law of that country. If she does recover it she shall lose the nationality which she acquired by reason of the marriage."

‡ vide p. 15.

throughout the Commonwealth save in pursuance of legislation passed by common agreement. What happened at the Hague Conference and at the recent Imperial Conference showed that it has not so far been found possible to reach agreement on the proposals embodied in this Bill. It follows that for the Parliament of this country to pass this Bill into law in its present form would be in effect to take independent action, causing a breach in the common status, a breach which, as has been repeatedly declared, is not to be contemplated." He omitted, however, to refer to the further decision of the Conference contained in paragraph (3) of the above quoted conclusions, from which it seems clear that there is no obstacle to Great Britain passing legislation on the lines of the Bentham-Cazalet Bill, such legislation to be operative everywhere except in a Dominion, which has not yet adopted legislation to make such citizenship effective.

Were amendments limited to the proposals of the Hague Convention the only changes in the present law would be the introduction of the following provisions:—

(a) That a British woman who married an alien, or a woman whose British husband changed his nationality during marriage, should not lose her British nationality, unless under the law of her husband's nationality she acquired his.

This provision is to prevent a woman becoming stateless but does not suggest giving her any choice in the matter. It treats her merely as the adjunct of her husband.

The other change necessary to give effect to these proposals is:—

(b) That when an alien man becomes naturalised as a British subject his wife shall not acquire British nationality without her consent.

This is a change in the right direction as it proposes giving the woman a choice before disposing of her nationality. The other proposals already exist in British law, for a woman whose British husband changes his nationality during marriage has the right to choose to keep her British nationality, and a woman who has lost her nationality on marriage may claim to be re-admitted to British nationality on the dissolution of the marriage.

The proposals of the Convention are applicable only to a system of law in which a married woman is treated as a chattel and become irrelevant where the law treats her as an independent personality in this respect.

Action in the British Parliament.

In this country the question has been raised many times in the House of Commons. In 1922 Lord Danesfort (then Sir John Butcher) introduced a Bill (1922 Bill 68). Had this passed into law it would have placed the married woman with respect to her

nationality in the same position as a man. The Bill was sent to a Select Committee, but a dissolution came before any development occurred. The following year a Joint Select Committee of the Lords and Commons was appointed to consider the nationality of married women, and it is significant that while the Lords opposed giving nationality rights to married women the Commons members were unanimously in favour.

In February 1925, a resolution, promoted by the National Union of Societies for Equal Citizenship, was unanimously adopted in the House of Commons. It affirmed "that in the opinion of this House a British woman shall not lose her nationality by the mere act of marriage with an alien, but that it shall be open to her to make a declaration of alienage". The Australian Parliament also adopted the same resolution in February 1926, by a unanimous vote.

On April 15th, 1929, Mr. Ramsay Macdonald on the eve of the General Election made a statement to a deputation of women's societies organised by the National Union of Societies for Equal Citizenship and the Equal Rights Committee. He said that he agreed with the following proposal that:—

"A British woman who marries an alien shall not automatically lose her nationality; that a foreign woman who marries a British subject shall not have British nationality imposed upon her unless she applies to be admitted as a British subject; and that a married woman shall no longer be classified in the nationality laws with minors and lunatics as a person under a disability, but shall be deemed competent to apply for and to be admitted to British nationality in her own right."

In 1928, on the motion of Miss Ellen Wilkinson, M.P., a Bill which included these three essential points was introduced under the Ten Minutes Rule without a division.

In 1929 the Nationality of Married Women Bill,* which incorporated these three points and proposed to put a married woman in the same position as a man, and which was practically identical with Sir John Butcher's Bill of 1922 was introduced by Captain Cazalet, the dissolution coming before further progress could be made.

In 1930, again on the motion of Captain Cazalet, this same Bill was introduced under the Ten Minutes Rule without a division, and at the close of the Session 241 Members of Parliament, representing all parties, memorialised the Prime Minister asking him to grant the facilities necessary to enable the Bill to become law before the end of the year.

In the 1930 autumn session, the Bill was introduced again on the motion of Dr. Ethel Bentham, seconded by Captain Cazalet, and was read a second time without a division on November 28th. No

* For text see Appendix.

Member opposed the principle of the Bill, adverse criticisms being concerned with legal difficulties and the desirability of unanimity in legislation throughout the Commonwealth and in other countries. The Home Secretary, replying for the Government,* stated that he "would like to express in the most emphatic terms the approval of the Government of the principles embodied in this Bill", and that "if a second reading is given to the Bill I shall regard it as a demonstration in favour of a principle which is acceptable to all". The Government, however, would not adopt the Bill as they considered that its terms conflict with agreements come to at the recent Imperial Conference.† They propose, instead, to introduce a Bill of their own which would give effect to the articles of the Hague Convention,‡ make it possible for a woman deserted by or separated from her husband to regain her British nationality, and also allow that "any woman who becomes an alien by reason of marriage shall in the United Kingdom be entitled to all the rights and privileges she would enjoy if she were still a British subject".

That is to say the Government are prepared to remove certain of the hardships which arise from the present incidence of the law. Their proposals, however, do not touch the essentials with which Mr. Macdonald expressed his agreement.§ The underlying principle is that the woman herself shall be consulted as to any change of nationality and not be treated as a chattel. They leave untouched the indignity imposed on the married woman of denying her British citizenship. Moreover they ignore that most important of nationality rights, the protection by the British Government of the woman outside her own country and its accompanying symbol—a British passport.

The proposal to enjoy British rights within the United Kingdom does benefit those who suffer under the existing law, but they deal only with certain consequences of the injustice and make no attempt to amend the law itself.

The Hague Conference proposal to prevent a woman marrying an alien becoming stateless will in certain cases confer material advantage. But it approaches the question from a wrong angle, regarding the woman as a chattel, whose change of nationality is dependent, not on her own will, but on purely external circumstances.

If the Government at the 1930 Imperial Conference consented to an agreement which would prevent the Parliament of this country from adopting legislation to implement the Prime Minister's pledge, they broke faith with women and with the electorate, who voted in the light of these declarations. It is

* vide p. 12.

† vide pp. 11 and 12.

‡ vide p. 12 footnote.

§ vide p. 14.

difficult to believe this of a Government which, to use the very words employed by Mr. Clynes on speaking of the Dominions, is so determined to avoid committing "a clear breach of faith". These agreements, however, appear open to a more satisfactory interpretation as they deal only with "common status", i.e., a nationality effective not only in the United Kingdom and abroad, but also in the Dominions. **They do not prevent this country adopting legislation which will make a married woman a British subject everywhere except in a Dominion which has not yet adopted legislation to make such citizenship effective.**

When the Nationality of Married Women Bill is in Committee it can be amended in this sense.

Codification Conference of the League of Nations.

On January 13th, 1930, having in view the need to work not only nationally but also in connection with the Codification Conference and the Imperial Conference, the National Council of Women, with the support of a large number of Women's Organisations, took a **deputation** to the Home Secretary. The Deputation reminded Mr. Clynes of the above-quoted declaration of Mr. Ramsay Macdonald and urged the Government officially to declare its intention to do all in its power to promote the adoption in the United Kingdom of legislation based on these principles to urge the Imperial Conference to propose similar legislation for the Empire and to press for the adoption of a similar policy at the Codification Conference of the League of Nations. The Home Secretary, in the absence of the Prime Minister, was unable to make any statement of policy, but on the eve of the Codification Conference the Foreign Secretary stated in writing* that:

"His Majesty's Government in the United Kingdom are, in principle, in favour of the policy with regard to the nationality of married women, with which Mr. Ramsay Macdonald expressed his agreement on the occasion of the deputation of women's societies received by him in April last, and that the Delegation of the United Kingdom will be instructed to endeavour to obtain the adoption of this policy by the Conference."

In consequence the representative of the Government did publicly state at the Codification Conference that the British Government was strongly of opinion "That a woman ought not on marriage to lose her nationality or to acquire a new nationality without her consent".

When the Codification Conference convened by the League of Nations met at the Hague in March and April, 1930, the International Alliance of Women for Suffrage and Equal Citizenship

* Letter to the Six Point Group dated March 10th, 1930.

and the International Council of Women organised in the Hague a big Demonstration in support of the resolution that:

"A woman should have the same right as a man to retain or to change her nationality." This Demonstration was supported by the following International Organisations:

The International Council of Women,
The International Alliance of Women for Suffrage and Equal Citizenship,
The International Federation of University Women,
The International Co-operative Women's Guild,
The Women's Committee of the Labour and Socialist International,
The Bureau of the International Social Democratic Party,
The Women's International League for Peace and Freedom,
Le Fédération International des Femmes Avocats et Magistrats,
The World's Young Women's Christian Association,
Le Secrétariat International de l'Enseignement,
The Open Door International for the Economic Emancipation of the Woman Worker,
Le Confédération International des Travailleurs Intellectuels,

and by prominent persons and national organisations in Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Czecho-Slovakia, Denmark, Estonia, Finland, France, Germany, Great Britain, Greece, Hungary, India, Iceland Italy, Japan, Latvia, Lithuania, Netherlands, Norway, Palestine, Poland, Portugal, Roumania, Spain, Sweden, Switzerland, Syria, Ukraina, the Union of South Africa, the Union of Socialist Soviet Republics and the United States of America.

The Council and Alliance were received in deputation by the Bureau of the Codification Conference and later by its Nationality Committee, and laid before these bodies the above quoted resolution and also urged that "with respect to the derivation of nationality from a parent the nationality of one parent should be given no preference over that of the other". A separate deputation from the Inter-American Commission of Women, a body representative of North and South America, was also received on the second occasion and laid before the Conference a proposal that the Convention of the Conference should include an article to the effect that in the laws of nationality there should be no distinction based on sex.

The women's organisations were not successful in inducing the Codification Conference to embody their proposals in the Convention on Nationality adopted by the Conference, which included the four articles referring to married women mentioned above,* articles applicable only to a system of law in which the married woman's nationality is derived from that of her husband, and irrelevant in a system of law which treats her as an independent person.

But the activity of the women's organisations was not without

(*) See footnote, page 12.

effect, since the Codification Conference adopted as a recommendation the following resolution:

"This Conference recommends to the States the study of the question whether it would not be possible

1. To introduce into their law the principle of the equality of the sexes in matters of nationality, taking particularly into consideration the interests of the children, and
2. Especially to decide that in principle the nationality of the wife shall henceforth not be affected without her consent either by the mere fact of marrying or by any change in the nationality of her husband."

The Assembly adjourned to its 1931 session consideration of the work of the Codification Conference, which includes the above recommendation.*

The Assembly of the League of Nations at the meeting in the autumn of 1930 adopted the Report of its First Committee. This set forth among other things (possibly meriting discussion at the next Assembly) a resolution proposed by Cuba.†

This resolution asked whether, considering that some states represented at the Hague had not approved the Nationality Convention in its entirety; that no state had hitherto ratified it; and that the Codification Conference had made the above quoted recommendation on equality between the sexes, the question should be examined of taking up again in view of the next Codification Conference the question of the nationality of married women.

It would seem therefore, that the Assembly does not consider the Convention as adopted to have settled the matter, and makes it very important that all possible pressure be brought to bear on the Governments of the various self-governing units of the British Commonwealth, so as to ensure that their Delegates go to Geneva in 1931 with instructions to support the principle referred to in the recommendation.

Numerous hard cases arise and some typical ones are sub-joined.

Mrs. A. married an American in business in this country. She has lost her British nationality, but as she cannot acquire American without residing at least twelve months in that country she is stateless and has no legal status. She pays rates and taxes, but has neither municipal nor Parliamentary vote. Neither the United States nor Britain will provide her with a passport and when she goes abroad she must travel on her husband's as his

* It is of interest that one country, the United States of America, did not sign that Convention, one of her reasons being that while the Convention did something to ameliorate the position of women, it did not offer sufficient advantages to make it satisfactory, and at the same time she called attention to the fact that in United States law there are relatively few differences as to the rights of men and women in matters of nationality.

† Full text on p. 23.

appendage, or with an "identification paper" issued by the Home Office on which she is stated to be an American, a statement which the American authorities deny. If she wishes to take her small sons, aged two and five respectively, she has to leave them in the hands of any kindly Briton at the Customs barrier, to be taken in the British queue, while she herself must walk among the aliens. While abroad British Consuls give her no assistance.

Mrs. B. married an American in 1917 and so lost her British nationality. Her husband deserted her in 1923 and is living in California. In 1928 she applied to the Home Office for permission to re-acquire British nationality, but was told that this could not be granted until she had divorced her husband, which she cannot do either in England or America. To quote her own words: "As both my parents are British and I am British born, as my whole income is derived from property in Scotland and from British stocks, as I have a home in Wiltshire and therefore pay income tax, it seems a little hard to have to register with the police as an "alien," and be subjected to much unpleasantness . . . I have given up all hope of being anything but an "alien" and a "woman living apart from her husband".

Mrs. C. a young and very pretty woman, was seduced in her teens by an elderly Spaniard, a paying guest in her father's house. Her parents insisted on marriage and, after the birth of the child, the man returned to Spain, taking his wife with him. She there discovered that her husband was concerned in very questionable traffic and was determined to add to his income the immoral earnings of his pretty wife. Though penniless and ignorant of the language, she saved herself by flight, and, aided by a British official, reached the French coast. Had she not lost her British nationality she would have had no difficulty in crossing the Channel, but her husband having, in revenge, falsely declared that she had left him in order to lead an immoral life, she was for a long period regarded as an undesirable alien and not allowed to return to her parents' home in England. Finally, after much wire pulling, she was allowed to land, but she can not regain her nationality and owing to her husband's false representations, is liable at any moment to deportation as "undesirable".

Mrs. D. is the daughter of one British officer and the widow of another. She married a second time a Frenchman, and on his death came to live in England, where not having yet been readmitted to British nationality she is regarded as a foreigner who has to report regularly to the police. Her French maid, who cannot speak one word of English, married a British soldier and is regarded as British. When they go abroad the maid joins the British passport queue, her mistress the alien.

Mrs. E. before the War married a man who had been in England since he was two months old but was born in Germany. She had no idea he was not British, and the question never arose until

the war broke out, when he was interned and his business ruined. The wife was compelled to endure all the hardship inflicted on Germans at that time, although she had never been out of the country. After the war the man was taken to a lunatic asylum and the wife has to bring up the children unaided, being heavily handicapped by her alien nationality in obtaining paid work, yet while her husband is alive she is not allowed to regain her British nationality.

Mrs. F., an Englishwoman of considerable wealth, married a German after the Armistice, and so lost her British nationality. Under certain of the provisions of the Treaty of Versailles, which authorised the confiscation of private property, the British Government deprived her of her possessions on the ground that she was an enemy alien.

Mrs. G., an Englishwoman married to an Italian, no longer dares to go to Italy, lest being legally an alien and being considered by the law of Italy an Italian, she may not be allowed to return to this country.

APPENDIX I.

TEXT OF THE NATIONALITY OF MARRIED WOMEN BILL SPONSORED BY THIS COMMITTEE AND SUPPORTED BY THE FOLLOWING ORGANISATIONS:—

- Amalgamated Union of Building Trade Workers.
- Association of Headmistresses.
- Association for Moral and Social Hygiene.
- Association of Women Clerks and Secretaries.
- British Federation of University Women.
- Conservative Women's Reform Association.
- Equal Rights Committee.
- Federation of Working Girls' Clubs.
- Girls' Friendly Society.
- Iron and Steel Trades Confederation.
- London Congregational Union, Women's League.
- London and National Society for Women's Service.
- National Amalgamated Furnishing Trades Association.
- National Amalgamated Society of Operative House and Ship Painters and Decorators.
- National Amalgamated Union of Shop Assistants, Warehousemen and Clerks.
- National Asylum Workers' Union.
- National Citizens' Union.
- National Council of Women.
- National Sisterhood Movement.
- National Union of Agricultural Workers.
- National Union of Boot and Shoe Operatives.
- National Union of Blastfurnacemen, Ore Miners, Coke Workers, and Kindred Trades.
- National Union of Clerks and Administrative Workers.
- National Union of Distributive and Allied Workers.
- National Union of Foundry Workers.
- National Union of Societies for Equal Citizenship.
- National Union of Soroptimist Clubs of Great Britain.
- National Union of Teachers.
- National Union of Women Teachers.
- National Women Citizens' Associations.
- Open Door Council.
- St. Joan's Social and Political Alliance.
- Six Point Group.
- Society for Promoting the Training of Women.
- Standing Joint Committee of Industrial Women's Organisations.
- Theosophical Order of Service.
- Transport and General Workers' Union.
- Union of Jewish Women.
- United Pattern Makers' Association.
- Women's International League.
- Women's Freedom League.
- Women's National Liberal Federation.
- Women's Unionist Organisation.
- Young Women's Christian Association.

NATIONALITY OF MARRIED WOMEN BILL.

EXPLANATORY MEMORANDUM.

By the common law the nationality of a woman was not affected by her marriage. If a British woman subject married an alien she remained British. If an alien woman married a British subject she remained an alien.

By an Act of 1844 an alien woman on marrying a British subject became a British subject. By the Naturalisation Act, 1870, a British woman for the first time in British history on marrying an alien lost her nationality and became an alien; and these provisions were continued in the British Nationality and Status of Aliens Act, 1914.

This Bill restores to a British woman the right she lost in 1870 of retaining her British nationality on marriage with an alien; and provides that a woman who has already lost her British nationality by marriage shall regain it, unless she makes a declaration of alienage.

It further provides that an alien woman shall not, as heretofore, acquire British nationality by marriage with a British subject. It requires her, in case she desires to obtain British nationality, to satisfy the same conditions as to residence, oath of allegiance, &c., as are required before an alien man is naturalised. At the same time, it safeguards the position of alien women who have already been recognised as British on their marriage with British subjects.

It removes the married woman from the category of persons under a disability, gives her the same right as a man to apply for naturalisation in her own right, and provides that, as in the case of a natural British-born man, a natural British-born woman, notwithstanding marriage, shall not lose her nationality except by acquiring a new nationality by a voluntary act of her own.

TEXT OF BILL.

A Bill to allow women marrying foreigners freedom to retain their nationality.*

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. There shall be substituted for sections ten and eleven of Part III of the British Nationality and Status of Aliens Act, 1914, the following sections:—

- (1) A woman who is a British subject shall not lose or be deemed to lose her British nationality by reason of her marriage with an alien:
- (2) A woman who at the time of her marriage was a natural born or naturalised British subject and who by or in consequence of her marriage with an alien is at the time of the coming into force of this Act deemed to be an alien, shall be deemed to be a natural born or a naturalised British subject, as the case may be, unless she makes a declaration of alienage within one year after this Act comes into force, or, being outside the United Kingdom at the time this Act comes into force, within one year after she returns to the United Kingdom:
- (3) An alien woman who after the coming into force of this Act shall marry a British subject shall not by reason of such marriage be deemed to be a British subject:

* In the Bill as introduced by Dr. Bentham the word "married" is omitted from the title and the object is defined as "to amend the law relating to the nationality of women."

- (4) A woman who was an alien at the time of her marriage to a British subject and who at the time of the coming into force of this Act is by or in consequence of such marriage deemed to be a British subject shall continue to be a British subject unless she makes a declaration of alienage.

2. A woman, notwithstanding marriage, shall be competent to apply for and receive a grant of a certificate of naturalisation under the same conditions as a man.

3.—(1) The conditions under which a married woman who is a British subject shall be deemed to have ceased to be a British subject shall, irrespective of her marriage, be the same as those under which a man is deemed to have ceased to be a British subject and under no others.

(2) A woman who at the time of her marriage is a British subject and who by or in consequence of such marriage to a national of a foreign state and without a voluntary and formal act on her part is deemed under the laws of such state to be one of its nationals shall not be deemed to have been naturalised in such state by a voluntary and formal act within the meaning of section thirteen of the British Nationality and Status of Aliens Act, 1914.

4. A woman shall not be under a disability by reason of marriage, and the enactments mentioned in the schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

5. In this Act, unless the context otherwise requires, the expression "British Subject" shall have the same meaning as in the British Nationality and Status of Aliens Act, 1914, as amended by the British Nationality and Status of Aliens Acts 1918 and 1922.

6. This Act may be cited as the Nationality of Married Women Act, 1931, and the British Nationality and Status of Aliens Acts, 1914, 1918 and 1922, and this Act may be cited together as the British Nationality and Status of Aliens Acts, 1914 to 1931.

APPENDIX II.

DRAFT RESOLUTION SUBMITTED BY M. ORESTES FERRARA (CUBA) TO THE FIRST COMMITTEE OF THE ASSEMBLY OF THE LEAGUE OF NATIONS 1930.

Whereas the Conference on the Codification of International Law, held at the Hague in 1930, adopted a Convention on nationality, and some States represented at the Conference did not accept it in its entirety, or submitted reservations in respect of certain articles thereof, and, further, no state has hitherto ratified this Convention.

Whereas the same Conference, after approving the Convention on nationality, adopted a resolution recommending the States to study the possibility of introducing into their respective legislations the principle of the equality of the sexes in matters of nationality;

Whereas the First Commission is instructed by the Assembly to consider item 19 of the agenda regarding the Progressive Codification of International Law;

The Cuban delegation proposes to the Commission to submit to the Assembly, among other points dealt with in its decisions on Codifications, the following resolution:

"The Assembly begs the Council to examine whether it would be desirable to take up again with a view to the next Conference for the codification of International Law, the question of the nationality of married women. (League of Nations Publications. A.82. 1930, V.).

1. A woman who at the time of the coming into force of this Act is subject and who at the time of the coming into force of this Act is by or in consequence of such marriage deemed to be a British subject shall continue to be a British subject unless she makes a declaration of alienage.

2. A woman, notwithstanding marriage, shall be competent to acquire for and receive a grant of naturalization under the same conditions as a man.

3. The conditions under which a married woman who is a British subject shall be deemed to have ceased to be a British subject, in consequence of her marriage, by the same as those under which a man is deemed to have ceased to be a British subject and under which a man is deemed to be a British subject shall apply to a woman who at the time of her marriage is a British subject and who by or in consequence of such marriage is a British subject and without a voluntary and formal act on her part is deemed under the law of such state to be a British subject and shall not be deemed to have been naturalized in such state by a voluntary and formal act within the meaning of section thirteen of the British Nationality and Status of Aliens Act, 1914.

4. A woman shall not be under a disability by reason of marriage, and the enactments mentioned in the schedule to this Act which relate to the extent specified in the third column of that schedule.

5. In this Act, unless the context otherwise requires, the expression "British subject" shall have the same meaning as in the British Nationality and Status of Aliens Act, 1914, as amended by the British Nationality and Status of Aliens Act, 1915 and 1919.

6. This Act may be cited as the Nationality of Married Women Act, 1921, and the British Nationality and Status of Aliens Act, 1914 and 1915 and this Act may be cited together as the British Nationality and Status of Aliens Act, 1914 to 1921.

APPENDIX II

DRAFT RESOLUTION SUBMITTED BY MARGUERITE TERRARA (FRANCE) TO THE FIRST COMMITTEE OF THE ASSEMBLY OF THE LEAGUE OF NATIONS

PAMPHLET

1. The Commission on the Progress of the Codification of International Law, held in London in 1920, and the Commission on the Progress of the Codification of International Law, held in London in 1921, have reported to the Assembly of the League of Nations in respect of certain articles thereof, and further, no state has thereto ratified the Convention.

2. Whereas the same Commission, after approving the Convention on Nationality, adopted a resolution recommending the States to study the possibility of introducing into their respective legislations the principle of the equality of the sexes in matters of nationality; and

3. Whereas the First Commission is instructed by the Assembly to consider items of the agenda regarding the Progress of the Codification of International Law;

4. The Commission proposes to the Assembly to submit to the Assembly, among other points dealt with in its decisions on Codification, the following resolution:

5. The Assembly begs the Council to examine whether it would be desirable to take up again with a view to the next Conference for the Codification of International Law, the question of the nationality of married women. (League of Nations Publication, A. 82, 1920, V.)