THE LAW OF NATIONALITY

ARTICLE 1

As the terms are used in this convention,

(a) "nationality" is the status of a natural person who is attached to a state by the tie of allegiance;

(b) a "national" of a state is a natural person attached to that state by the tie of allegiance.

(c) "naturalization" is the process by which a state confers its nationality upon a natural person after birth.

ARTICLE 2

Except as otherwise provided in this convention, each state may determine by its law who are its nationals, subject to the provisions of any special treaty to which the state may be a party; but under international law the power of a state to confer its nationality is not unlimited.

ARTICLE 3

A state may not confer its nationality at birth upon a person except upon the basis of

(a) the birth of such person within its territory or a place assimilated thereto (*jus soli*), or

(b) the descent of such person from one of its nationals (*jus sanguinis*).

ARTICLE 4

A state may not confer its nationality at birth (*jure sanguinis*) upon a person born in the territory of another state, beyond the second generation of persons born and continuously maintaining an habitual residence therein, if such person has the nationality of such other state.

ARTICLE 5

A state may not confer its nationality at birth (*jure soli*) upon a person born within its territory if such person is the child of an alien having diplomatic immunity therein, or otherwise not subject to its jurisdiction.

ARTICLE 6

When a state has conferred its nationality at birth (*jure soli*) upon a person born within its territory who is the child of an alien then present therein as an officer of another state but not having diplomatic immunity therein, such state shall provide procedure by which the child may be divested of that nationality during its minority.

ARTICLE 7

A state shall confer its nationality, as of the time of birth, upon a child born within its territory of unknown parents or of parents whose nationality cannot be ascertained; and it shall be presumed that a foundling was born in the territory of the state in which it is first found.

ARTICLE 8

When a person is born of parents who are of different nationalities and are not married to each other, the state of which the mother is a national shall regard the mother as standing in the place of the father for the purpose of determining the descent upon the basis of which its nationality (*jure sanguinis*) may be conferred; if such person is legitimated as the child of its father before it reaches the age of twenty-one years, the state of which the father is a national shall regard the person as the child of the father for that purpose, unless at the time of the legitimation the person is residing in the territory of the state of which the mother only is a national.

ARTICLE 9

A state shall confer its nationality at birth upon a person born within its territory if such person does not acquire another nationality at birth.

ARTICLE 10

A person may have the nationality at birth of two or more states, of one or more states *jure soli* and of one or more states *jure sanguinis*.

ARTICLE 11

A person who has the nationality of two or more states shall not be subject to the obligation of military or other national service in one of these states while he has his habitual residence in the territory of another of these states.

ARTICLE 12

A person who has at birth the nationality of two or more states shall, upon his attaining the age of twenty-three years, retain the nationality only of that one of those states in the territory of which he then has his habitual residence; if at that time his habitual residence is in the territory of a state of which he is not a national, such person shall retain the nationality only of that one of those states of which he is a national within the territory of which he last had his habitual residence.

ARTICLE 13

Except as otherwise provided in this convention, a state may naturalize a person who is a national of another state, and such person shall thereupon lose his prior nationality.

The naturalization of a person does not terminate liability for an offense committed by him against his former state while a national thereof; provided that a person who is naturalized shall not thereafter be subject to punishment by the state of his former nationality for failure to perform military service the liability for which arose after his acquisition of an habitual residence in the territory of the naturalizing state.

ARTICLE 14

Except as otherwise provided in this convention, a state may not naturalize an alien who has his habitual residence within the territory of another state.

ARTICLE 15

Except as otherwise provided in this convention, a state may not naturalize a person of full age who is a national of another state without the consent of such person; but a state may naturalize a person not of full age, in connection with its naturalization of his parent, without the consent of such person.

ARTICLE 16

When a person, after having been naturalized by a state, establishes a residence of a permanent character within the territory of the state of which he was formerly a national, the latter state may re-impose its nationality upon such person without his consent, whereupon he shall lose the nationality acquired by naturalization.

ARTICLE 17

When a person's nationality based upon his alleged naturalization is in question between two states, such naturalization may ordinarily be established by a certificate issued by the competent authority of the naturalizing state; but the validity of such a certificate may be impeached upon the ground that it was procured fraudulently or issued in violation of the provisions of a convention to which the naturalizing state is a party.

ARTICLE 18

(a) When the entire territory of a state is acquired by another state, those persons who were nationals of the first state become nationals of the successor state, unless in accordance with the provisions of its law they decline the nationality of the successor state.

(b) When a part of the territory of a state is acquired by another state or becomes the territory of a new state, the nationals of the first state who continue their habitual residence in such territory lose the nationality of that state and become nationals of the successor state, in the absence of treaty provisions to the contrary, unless in accordance with the law of the successor state they decline the nationality thereof.

ARTICLE 19

A woman who marries an alien shall, in the absence of a contrary election on her part, retain the nationality which she possessed before marriage, unless she becomes a national of the state of which her husband is a national and establishes or maintains a residence of a permanent character in the territory of that state.

ARTICLE 20

A state may not refuse to receive into its territory a person, upon his expulsion by or exclusion from the territory of another state, if such person is a national of the first state or if such person was formerly its national and lost its nationality without having or acquiring the nationality of any other state.

ARTICLE 21

States parties to this convention may conclude special agreements to govern cases in which those states only are specially interested.

ARTICLE 22

Any dispute between states parties to this convention, with respect to the interpretation or application of the provisions of this convention, which is not settled by negotiation and which is not referred to arbitration under a general or special arbitration treaty, shall be referred to the Permanent Court of International Justice, and may be brought before the Permanent Court of International Justice by either party to the dispute.

LA NATIONALITÉ

Traduction Française[1]

ARTICLE 1

Au sens de la présente convention:

(1) la "nationalité" est la qualité d'une personne physique unie à un Etat par un lien d'allégeance.

(2) le "national" d'un Etat est une personne physique unie au-dit Etat par un lien d'allégeance.

(3) La "naturalisation" est le procédé par lequel un Etat confère sa nationalité à une personne physique postérieurement à sa naissance.

ARTICLE 2

Sous réserve des dispositions contraires de la présente convention, chaque Etat peut déterminer par sa législation quels sont ses nationaux, sauf dispositions particulières des traités auxquels il est partie. Mais, le droit qu'a un Etat, d'après le droit international, de conférer sa nationalité n'est pas illimité.

ARTICLE 3

Un Etat ne peut conférer sa nationalité d'origine qu'aux personnes nées sur son territoire ou un territoire assimilé (*jus soli*), ou aux descendants d'un de ses nationaux (*jus sanguinis*).

ARTICLE 4

Un Etat ne peut pas conférer sa nationalité d'origine (*jure sanguinis*) à une personne née sur le territoire d'un autre Etat, dont elle possède la nationalité, au-delà de la seconde génération née et résidant habituellement sur le territoire de celui-ci.

ARTICLE 5

Un Etat ne peut pas conférer sa nationalité d'origine (*jure soli*) à un enfant né sur son territoire d'un étranger jouissant de l'immunité diplomatique ou à d'autre titre non soumis à sa juridiction.

ARTICLE 6

Si un Etat confère sa nationalité d'origine (*jure soli*) à un enfant né sur son territoire d'un étranger qui s'y trouvait alors en tant que fonctionnaire d'un autre Etat, mais sans jouir de l'immunité diplomatique, il doit pourvoir une procédure pour dépouiller l'enfant de cette nationalité pendant sa minorité.

ARTICLE 7

Un Etat doit conférer sa nationalité, à dater de la naissance, à un enfant né sur son territoire de parents inconnus ou dont la nationalité ne peut être établie. Un enfant trouvé sera présumé né sur le territoire de l'Etat où il a d'abord été trouvé.

[1] Traduit par John B. Whitton, *Princeton University*, et R. G. B. Schuman, *Harvard University*.

ARTICLE 8

En ce qui concerne les enfants nés hors mariage de parents de nationalité différente, l'Etat dont la mère est un national doit considérer la mère comme tenant lieu du père pour déterminer la filiation sur la base de laquelle sa nationalité (*jure sanguinis*) peut être conférée. Si un enfant est légitimé comme l'enfant du père avant d'atteindre l'âge de 21 ans, l'Etat dont le père est national devra le considérer comme l'enfant du père, à ces mêmes fins, à moins qu' au moment de la légitimation l'enfant réside sur le territoire de l'Etat dont la mère seule est un national.

ARTICLE 9

Un Etat doit conférer sa nationalité d'origine à une personne née sur son territoire, quand elle n'acquiert pas à sa naissance d'autre nationalité.

ARTICLE 10

Une personne peut avoir la nationalité d'origine de deux ou plusieurs Etats, celle d'un ou plusieurs Etats *jure soli*, et celle d'un ou plusieurs Etats *jure sanguinis*.

ARTICLE 11

Une personne, qui possède la nationalité de deux ou plusieurs Etats, ne pourra être soumise aux obligations du service militaire ou d'autres services nationaux dans un de ces Etats, alors qu'elle réside habituellement sur le territoire d'un autre de ces Etats.

ARTICLE 12

Une personne, qui possède dès sa naissance la nationalité de deux ou plusieurs Etats, conservera exclusivement, en atteignant l'âge de 23 ans, la nationalité de celui où elle a alors sa résidence habituelle. Au cas où à cette époque, sa résidence habituelle serait sur le territoire d'un Etat dont elle n'est point un national, la-dite personne conservera exclusivement la nationalité de celui des Etats, dont elle est un national, où elle a eu sa dernière résidence habituelle.

ARTICLE 13

Sous réserve des dispositions contraires de la présente convention, un Etat peut naturaliser un national d'un autre Etat et ce national de ce fait perdra sa nationalité antérieure.

La naturalisation d'une personne ne met pas fin à sa responsabilité pour un délit commis envers sa précédente patrie pendant qu'elle en était un national. Toutefois, une personne naturalisée ne pourra être ultérieurement l'objet de poursuites de sa précédente patrie pour insoumission quand l'obligation au service militaire a pris naissance après l'acquisition d'une résidence habituelle sur le territoire de l'Etat de naturalisation.

ARTICLE 14

Sous réserve des dispositions contraires de la présente convention, un Etat ne peut pas naturaliser un étranger qui réside habituellement sur le territoire d'un autre Etat.

ARTICLE 15

Sous réserve des dispositions contraires de la présente convention, un Etat ne peut pas naturaliser, sans son consentement, une personne majeure, national d'un autre Etat. Mais un Etat peut naturaliser sans son consentement une personne mineure, correlativement à la naturalisation d'un de ses parents.

ARTICLE 16

Si une personne, naturalisée par un Etat, établit sa résidence permanente dans le territoire de l'Etat dont elle était précédemment un national, ce dernier Etat pourra imposer de nouveau sa nationalité à cette personne sans son consentement, et elle perdra la nationalité de naturalisation.

ARTICLE 17

Quand la nationalité d'une personne, fondée sur sa prétendue naturalisation, est controversée entre deux Etats, la naturalisation peut généralement être établie au moyen d'un certificat délivré par l'autorité compétente de l'Etat de naturalisation. Mais le-dit certificat peut être contesté pour avoir été obtenu par fraude, ou délivré en violation des dispositions d'une convention dont l'Etat de naturalisation est partie.

ARTICLE 18

(a) Si le territoire entier d'un Etat est acquis par un autre Etat, les nationaux du premier deviennent nationaux du second à moins qu'ils ne déclinent sa nationalité conformément à ses lois.

(b) Si une partie du territoire d'un Etat est acquise par un autre Etat ou devient le territoire d'un nouvel Etat, les nationaux du premier Etat qui conservent leur résidence habituelle sur ce territoire perdent la nationalité de cet Etat et deviennent, sauf dispositions contraires des traités, nationaux de l'Etat successeur, à moins qu'ils ne déclinent la nationalité de ce dernier conformément à ses lois.

ARTICLE 19

Une femme qui épouse un étranger conservera, sauf option contraire de sa part, la nationalité qu'elle possèdait avant son mariage, à moins qu'elle ne devienne un national de l'Etat dont son époux est national et établisse ou maintienne une résidence permanente sur le territoire de cet Etat.

ARTICLE 20

Un Etat ne peut refuser d'admettre sur son territoire une personne expulsée ou exclue du territoire d'un autre Etat, si la-dite personne est un national du premier Etat, ou si elle l'a été antérieurement et a perdu sa nationalité sans posséder ou acquérir celle d'un autre Etat.

ARTICLE 21

Les Etats parties à la présente convention peuvent conclure des accords spéciaux pour règler les cas où ils sont seuls à avoir un intérêt spécial.

ARTICLE 22

Tout différend entre Etats, parties à la présente convention, concernant l'interprétation ou l'application de ses dispositions, qui n'est pas réglé par voie diplomatique ou qui n'est pas soumis à l'arbitrage en vertu d'un traité d'arbitrage général ou spécial, sera déféré à la Cour Permanente de Justice Internationale, et la Cour pourra en être saisie par une seule des parties.

THE LAW OF NATIONALITY

Introductory comment

In the preparation of this draft convention the first step was the compiling of the nationality laws of the various states, and the texts of treaties concerning nationality. The compilation is being separately published.

An examination of the nationality laws of various states reveals wide divergencies. From a study of their history it will be seen that, while some provisions are very old, having their origin in social and political conditions which no longer exist, such as the predominance of families and clans at one period and the feudal system at another, others, such as laws designed to promote or impede emigration and naturalization, are due to comparatively modern developments. Thus the nationality laws of states of emigration are found to differ materially from those of states of immigration.

Nationality has no positive, immutable meaning. On the contrary its meaning and import have changed with the changing character of states. Thus nationality in the feudal period differed essentially from nationality, or what corresponded to it, in earlier times before states had become established within definite territorial limits, and it differs now from what it was in the feudal period. It may acquire a new meaning in the future as the result of further changes in the character of human society and developments in international organization. Nationality always connotes, however, membership of some kind in the society of a state or nation.

Treaties concluded in recent times have been designed to settle conflicting claims of the contracting states upon persons having the nationality of two of them at birth or upon persons who emigrate from their native states and are naturalized in other states. Most of those treaties relate largely to obligations of military service.

The need of more comprehensive agreements between states concerning nationality increases with increasing international intercourse, and it is to the common interest of states to promote such intercourse. The accompanying draft convention is based upon the assumption that states, while retaining the power to shape their own nationality laws to fit their peculiar situations and needs, will be willing to make certain changes and concessions, with a view to removing some of the existing conflicts and to preventing, so far as possible, cases of double nationality and of no nationality. Therefore, the draft, while in some of its provisions it declares what is believed to be existing international law, is not limited to a statement of existing law, and attempts to formulate certain provisions which, if adopted, would make new law. An international code on nationality limited to a statement of existing law would be meager and of little practical value. The

injunction of the Eighth Assembly of the League of Nations has been followed that "the spirit of the codification, which should not confine itself to the mere registration of the existing rules, . . . should aim at adapting them as far as possible to contemporary conditions of international life."

The nationality laws of nearly all states have been revised during the past century and in some cases rewritten and radically changed. Just before the outbreak of the World War the nationality laws of Germany, Great Britain, Italy, and some of the British Dominions were completely revised. Shortly thereafter a new nationality law was adopted in China, and since the close of the War new nationality laws have been adopted in most countries of the continent of Europe as well as in Japan. In Turkey a new nationality law containing important changes has just been adopted, and in some other countries projects for revising the nationality laws are now pending. The law of the United States concerning nationality of married women was radically changed in 1922. In fact there seem to be no laws which are more fluid and subject to change than nationality laws.

The draft convention which follows does not deal with so-called "temporary allegiance" which may be owed to a state by aliens in its territory or serving under its flag; nor does it deal with the special rules prevailing in some countries for determining the character of "enemy aliens." It is confined to the subject of nationality itself, without any attempt to deal with the consequences which may follow, such as diplomatic protection.

Simultaneously with the publication of this draft, the Carnegie Endowment for International Peace is publishing a compilation of nationality laws and treaties, edited by Richard W. Flournoy, Jr., and Manley O. Hudson.

ARTICLE 1

As the terms are used in this convention,

(a) "nationality" is the status of a natural person who is attached to a state by the tie of allegiance;

(b) a "national" of a state is a natural person attached to that state by the tie of allegiance;

(c) "naturalization" is the process by which a state confers its nationality upon a natural person after birth.

COMMENT

The definitions of these three terms are for the purpose of their use in this convention; and no attempt has been made to define nationality for more general purposes.

"Nationality" is used in the convention always to indicate the relation between a state and a natural person. It may be proper to speak of the nationality of corporations, but this draft does not deal with them in any way. That subject relates to business organization, and while it may be possible to formulate certain rules governing corporations with regard to their position

in the states under whose laws they are created or in whose territories they operate, this draft is not an attempt to do so.

The relation between a state and a natural person who is its national is based upon the allegiance owed by the natural person to the state. No attempt is made in this draft to define the meaning of allegiance. It may be observed, however, that the "tie of allegiance" is a term in general use to denote the sum of the obligations of a natural person to the state to which he belongs. The draft itself does not spell out these obligations, since they are quite different in different societies. The allegiance mentioned does not include the "temporary allegiance," so called, which is owed by aliens to a state within whose territory they may be residing or sojourning.

The term "nationality" has reference to the position of a natural person from the standpoint of international law. Every person permanently attached to a state has its nationality, whatever may be his particular rights and duties with regard to the state. These are dependent upon the constitution and laws of the state. Nationality does not necessarily involve the right or privilege of exercising civil or political functions. *Minor* v. *Happersett* (1874), 21 Wallace 162. Thus nationality has a broader meaning than "citizenship," for which it is frequently used as a synonym. Field, International Code, pp. 130, 131 note 4, 132; Cogordan, La Nationalité, p. 8. The granting to a Frenchman of "bourgeoisie" in Hamburg was not regarded as naturalization by the French courts. Cogordan, *op. cit.* 175. Other examples of local citizenship, not being equivalent to nationality although a basis thereof, are found in the *droit de cité* of the Swiss cantons, the *indigénat* of Germany and the *heimatrecht* of Austria. The distinction mentioned is expressly recognized in the nationality laws of a number of Latin American countries, and in Article 6 of the General Treaty of Peace and Amity between the Central American Republics, signed at Washington, February 7, 1923. (17 American Journal of International Law, Supplement, 1923, p. 119; Republica de Honduras, Secretaria de Relaciones Exteriores, Tratado y Convenciones de Washington, Edición Oficial 1927, p. 6.) With regard to this point attention is also called to 3 Moore, Digest of International Law, pp. 273 *et seq.* and 315 *et seq.;* Zeballos, La Nationalité, I, pp. 168–171; Weiss, Droit International Privé, I, p. 7 note (2d ed.).

While the term "national" as a synonym for "subject" or "citizen" in the broad sense is of comparatively recent origin, it has come into very general use. It indicates attachment to a state without emphasizing unduly the power of the state on the one hand or the civic rights of the individual on the other. Its use has become common in the United States since the acquisition of the Philippine Islands and other insular possessions having inhabitants who, though they have American nationality and are entitled to full protection abroad by the Government of the United States, have not the status of "citizens of the United States," within the meaning of Article 14 of the Amendments to the Constitution. (3 Moore's International Law Digest,

pp. 372 and 379; *Gonzalez* v. *Williams* (1904) 192 U. S. 1.) The word "national" is used in a number of recent treaties, including the Treaty of Versailles of June 28, 1919; the Naturalization Convention of November 23, 1923, between the United States and Bulgaria, U. S. Treaty Series No. 684; and the Naturalization Treaty of July 16, 1928, between the United States and Czecho-Slovakia, 70 Congressional Record, p. 2373.

"Naturalization," as used in this convention, means the conferring of nationality, not merely limited rights of citizenship, upon an alien after birth. The term has frequently been used with more limited meanings. As it is used in this convention, it refers to any conferring of nationality after birth, whether the conferring be the result of the process of a court or other agency of government, popularly known as "naturalization," or whether it be the result of an operation of law, following the fact of marriage, annexation of territory or otherwise. "Naturalization," as used in this convention, embraces every method of conferring nationality after birth.

ARTICLE 2

Except as otherwise provided in this convention, each state may determine by its law who are its nationals, subject to the provisions of any special treaty to which the state may be a party; but under international law the power of a state to confer its nationality is not unlimited.

COMMENT

The development of international law has not been such as to prescribe for states the conditions on which they may confer their nationality upon natural persons. In general each state has the power to confer its nationality, and whether or not it has done so in a given case, depends upon its own national law. Some states may have obligated themselves through treaties to confer their nationality or to refrain from conferring their nationality, and it is necessary that a recognition of the fact that nationality usually depends upon national law should take into account the provisions of such treaties.

In its Advisory Opinion No. 4, the Permanent Court of International Justice held that the Council of the League of Nations was competent, under the terms of the Covenant, to deal with a dispute laid before it by Great Britain in which the latter complained of the application to children born to British nationals in Tunis and Morocco of certain decrees of the French Government to the effect that every person born in Tunis or Morocco of parents one of whom was also born there should be regarded as a French national. The Court expressed the opinion that, since the power of the French Government to issue the decrees might be limited by treaties to which France and Great Britain were parties, the question was not purely domestic and could properly be brought before the Council. In the course of the opinion the Court observed (Series B, No. 4, p. 24) that "in the present state of international law, questions of nationality are, in the opinion of the Court, in principle

within this reserved domain" of domestic questions, although the exercise of the power to confer nationality might be limited by the necessity of observing treaty obligations. The same Court, in Advisory Opinion No. 7, considered the question of the acquisition of Polish nationality under the Minorities Treaty signed at Versailles June 28, 1919, between the Principal Allied and Associated Powers and Poland, declaring to be Polish nationals persons of German, Austrian, Hungarian or Russian nationality "who were born in the said territory of parents habitually resident there, even if at the date of the coming into force of the present Treaty they are not themselves habitually resident there." In holding that the treaty provision in question was applicable to persons born in the territory in question of parents who were then habitually resident there, even though the parents might have left the territory before the Minorities Treaty went into force, the Court expressed the opinion (Series B, No. 7, p. 16) that "though, generally speaking, it is true that a sovereign state has the right to decide what persons shall be regarded as its nationals, it is no less true that this principle is applicable only subject to the treaty obligations" of the State. Attention is called to the limiting words, "generally speaking," which doubtless have reference not only to the limitations which a state may voluntarily accept through conventions with other states, but also to the limitations placed upon the freedom of a state to claim persons as its nationals by international law.

As the conferring of nationality is primarily a domestic matter, changes in nationality laws are usually made by a state without consultation with foreign states. It remains true, however, that in so far as the nationality laws of a state involve conflicts with the laws of other states, they become fit subjects for international negotiation and agreement. The naturalization treaties between the United States and the German states, commonly known as "the Bancroft treaties," and other similar naturalization conventions served to modify the nationality laws of the states which were parties to them, in that they prescribed a rule for determining when the nationality acquired by naturalization should be regarded as having been abandoned in the cases of naturalized citizens who may have resumed residence in their native lands. In 1906 a multilateral Pan-American convention concerning the same subject was concluded, and a number of bilateral naturalization conventions have been entered into by the United States and Latin American countries.

Not only has the status of naturalized persons been regulated by treaties, but many conventions have been concluded between European states and between states of Europe and Latin America concerning the status and military obligations of persons born with dual nationality. The texts of these treaties may be found in a compilation of laws and treaties concerning nationality, edited by Richard W. Flournoy, Jr., and Manley O. Hudson, and published by the Carnegie Endowment for International Peace (1929).

Of interest in this connection is the General Treaty of Peace and Amity

between the Central American states signed at Washington, February 27, 1923, Article 6 of which stipulates that "the nationals of one of the Contracting Parties, residing in the territory of any of the others . . . shall be considered as citizens in the country of their residence if they manifest their desire to be such and meet the duly prescribed legal requirements."

The statement that each state has the power to determine the conditions upon which it will confer its nationality is usually made with some qualifications, and, as already indicated, it may be subject to some exceptions. Certainly the adoption of the convention here proposed would create exceptions to the general rule (see especially Articles 7, 9, 19 and 20). The provisions contained in Article 18 concerning collective naturalization may be considered to state an exception now existing in international law.

It may be difficult to precise the limitations which exist in international law upon the power of a state to confer its nationality. Yet it is obvious that some limitations do exist. They are based upon the historical development of international law and upon the fact that different states may be interested in the allegiance of the same natural person. If State A should attempt, for instance, to naturalize persons who have never had any connection with State A, who have never been within its territory, who have never acted in its territory, who have no relation whatever to any persons who have been its nationals, and who are nationals of other states, it would seem that State A would clearly have gone beyond the limits set by international law. Thus, if State A should attempt to naturalize all persons living outside its territory but within 500 miles of its frontier, it would clearly have passed those limits; or similarly if State A should attempt to naturalize all persons in the world holding a particular political or religious faith or belonging to a particular race.

The existence of these limitations in international law has often been stated, but occasion has not often arisen in which it was necessary to attempt to apply them. A standard English treatise (W. E. Hall, International Law, 8th edition, c. 5, sec. 66) contains the following statement:

> "It follows from the independence of a state that it may grant or refuse the privileges of political membership, in so far as such privileges have reference to the status of the person invested with them within the country itself, and it may accept responsibility for acts done by any person elsewhere which affect other states or their subjects. Primarily therefore it is a question for municipal law to decide whether a given individual is to be considered a subject or citizen of a particular state. But the right to give protection to subjects abroad, and the continuance of obligation on the part of subjects towards their state notwithstanding absence from its jurisdiction, brings the question, under what circumstances a person shall or shall not be held to possess a given nationality, within the scope of international law. Hitherto nevertheless it has refrained, except upon one point, from laying down any principles, and still more from sanctioning specific usages in the matter. It declares that the quality of a subject must not be imposed upon certain persons with regard to whose position

as members of another sovereign community it is considered that there is no room for the existence of doubt, the imposition of that quality upon an acknowledged foreigner being evidently inconsistent with a due recognition of the independence of the state to which he belongs; but where a difference of legal theory can exist international law has made no choice, and it is left open to states to act as they like.

"The persons as to whose nationality no room for difference of opinion exists are in the main those who have been born within a state territory of parents belonging to the community, and whose connexion with their state has not been severed through any act done by it or by themselves. To these may be added foundlings because, their father and mother being unknown, there is no state to which they can be attributed except that upon the territory of which they have been discovered.

"The persons as to whose nationality a difference of legal theory is possible are children born of the subjects of one power within the territory of another, illegitimate children born of a foreign mother, foreign women who have married a subject of the state, and persons adopted into the state community by naturalization, or losing their nationality by emigration, and the children of such persons born before naturalization or loss of nationality."

ARTICLE 3

A state may not confer its nationality at birth upon a person except upon the basis of

(a) the birth of such person within its territory or a place assimilated thereto (*jus soli*), or

(b) the descent of such person from one of its nationals (*jus sanguinis*).

COMMENT

It will be observed at the outset that this article relates solely to the acquisition of nationality at birth, and has no reference to naturalization. The Article is designed to state the limitations of existing international law as to the grounds upon which a state may confer its nationality upon a person at birth, namely, the fact of birth within its territory or of descent from a national. Both have long been recognized as legitimate grounds for the acquisition of nationality at birth, and each is found, in one form or another, in the nationality laws of many countries. It is believed that no basis other than *jus soli* or *jus sanguinis* can be found upon which nationality at birth can properly be conferred, although laws based upon either principle differ in various ways.

As to the term "place assimilated thereto," it may be noted that this draft does not attempt to define such places. For various purposes, ships, protectorates, mandated territory and leased territory have been assimilated to national territory. This draft does not imply that a state may confer its nationality *jure soli* upon all persons born in such places; it merely declares that it cannot do so with reference to any place which is not thus assimilated. The Council of the League of Nations (Official Journal, 1923, p.

604) has decided that the inhabitants of mandated areas do not have the nationality of the mandatory by reason of their birth in such areas, though they may be given the nationality of the mandatory through naturalization. Of course, however, the inhabitants of a mandated territory might have the nationality of the mandatory *jure sanguinis*.

The fact that both *jus soli* and *jus sanguinis* are recognized in the convention makes it necessary to admit the existence of dual nationality at birth under some circumstances. (See comment under Article 10.) Though the convention has been drafted with a view to abolishing dual nationality where practicable, it must be realized that the complete elimination of dual nationality at birth would require the adoption of a uniform rule and the consequent elimination of either *jus soli* or *jus sanguinis*. In view of the historical antecedents of the two bases and the fact that each is now embedded in the laws and constitutions of many states, the elimination of either seems impracticable at the present time.

While *jus sanguinis* is no doubt the older of the two principles, national character having originated with membership in the family or tribe, and while this principle is now the basis of the nationality laws of most countries of the continent of Europe as well as of Asia, for many centuries *jus soli* was the basis of nationality in all countries in which the feudal system obtained. This system was in effect in France until the adoption of the Code Napoleon in 1803. (Cogordan, La Nationalité au Point de Vue des Rapports Internationaux, pp. 1–28.) The change in the French laws was followed by changes in the laws of other European countries. It seems that in the Council of State, directed by Napoleon Bonaparte to prepare the Code, there was much discussion of the relative merits of the two systems. "Finally," says Weiss, "the First Consul (who seems not only to have presided at the meetings of the Council but to have taken an active part in the drafting of the Code) sought to justify, by the presumed attachment of a child for his native land, the application of *jus soli* to the determination of his nationality of origin; 'it could not but be to the advantage of the state,' said he in the course of the discussion, 'to extend the empire of French laws to sons of foreigners who are established in France and have the French spirit and French habits; they have the attachment which any one naturally bears to the country where he was born.'" (Weiss, Droit International Privé, I, 46–47.) It will be observed that Napoleon did not propose to grant French nationality to all persons born in France of alien parents, but only to those born in France of alien parents established therein. Notwithstanding his proposal, it seems that the contrary views of the members of the Council prevailed and the *jus sanguinis* was adopted as the basis of French nationality. (As to the history of *jus sanguinis*, with regard particularly to the French Laws, see Weiss, *op. cit.* I, c. 1 and 2; Cogordan, *op. cit.* 1–28; de Lapradelle, Nationalité d'Origine, pp. 1–28.)

Jus soli, which is usually regarded as an outgrowth of the feudal system, is

still the basis of the nationality laws of Great Britain and the United States and of most of the Latin American states. Provisions based upon it may also be found, in one form or another, in the laws of most countries of continental Europe. On the history of *jus soli* see Calvin's case (1608) 4 Coke 1; *Lynch* v. *Clarke* (1844) 1 Sandf. p. 583; *United States* v. *Wong Kim Ark* (1898) 169 U. S. 649; Blackstone's Commentaries, Bk. I, c. 10; E. Munroe Smith, The Law of Nationality, Political Science Quarterly, 1891, p. 738; Van Dyne, Citizenship of the United States, c. 1; note in 41 Harvard Law Review, p. 643.

It was not until the passage of the Act of 25 Edward III (1350) concerning the right of children born abroad of British fathers to inherit land in England, that the principle of *jus sanguinis* was introduced into the English law. The retention of *jus soli* in Great Britain was probably due to its insular position and to the fact that its alien population has been comparatively small. While the United States seems to have retained *jus soli* as an inheritance from Great Britain (*Lynch* v. *Clarke, supra; U. S.* v. *Wong Kim Ark, supra*) and no legislation upon the subject was passed until the adoption of the Civil Rights Act of April 9, 1866 (14 Stat. 27), the first nationality act passed by the Congress of the United States, 1790, (1 Stat. 104) contained a provision to the effect that children born abroad of American parents were to be "considered as natural born citizens." This statutory provision has had various mutations. The existing law (Revised Stat., §1993) is based on the Act of Congress of 1855, reading as follows:

> "All children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States."

While *jus soli* became the basis of the law of nationality in the United States from the fact that it was the law in the colonies at the time when they separated from England, it has been retained for practical reasons, because of the fact that the population of the United States is partly composed of persons born in the territory of the United States of alien parents. This also explains its adoption by various Latin American states.

From an examination of the nationality laws of the various states it appears that seventeen are based solely on *jus sanguinis*, two equally upon *jus soli* and *jus sanguinis*, twenty-five principally upon *jus sanguinis* but partly upon *jus soli*, and twenty-six principally upon *jus soli* and partly upon *jus sanguinis*. The nationality law of no country is based solely upon *jus soli*. A combination of the two systems is found in the laws of most countries. Therefore, it is apparent that international law has not adopted either system to the exclusion of the other. Nor does there seem to be in the existing international law any provision for preferring one to the other as the basis of nationality.

ARTICLE 4

A state may not confer its nationality at birth (*jure sanguinis*) upon a person born in the territory of another state, beyond the second generation of persons born and continuously maintaining an habitual residence therein, if such person has the nationality of such other state.

COMMENT

The nationality laws of most states which are based solely or principally on *jus sanguinis* contain no limitation upon the acquisition of their nationality by descendants of their nationals born abroad. Thus the nationality of such states may be transmitted indefinitely to successive generations of persons born and continuing to reside abroad. The French law formerly contained no provision under which succession to French nationality would be terminated in such cases. The French law of 1927 still confers French nationality upon "every legitimate child born of a Frenchman in France or abroad" (Art. I, §1), but it also contains a provision under which the following may lose French nationality:

> "Any Frenchman, even though he be under age, who holding, by the operation of the law and without any expressed will on his part, a foreign nationality, is authorized on his request, by the French Government to maintain it." (Art. IX, §4.)

Provisions following the principle of *jus sanguinis* which have been engrafted upon nationality laws based chiefly on *jus soli* contain in some cases certain limitations. The statute of the United States (R. S. §1993) which declares that persons born "out of the limits and jurisdiction of the United States" whose fathers are citizens thereof, are themselves "citizens of the United States," provides that "the right of citizenship shall not descend to children whose fathers never resided in the United States." This means that the child does not acquire citizenship of the United States unless his father had his residence in the United States at some time before the child's birth. (*Weedin* v. *Chin Bow* (1928), 274 U. S. 657.)

The British law concerning citizenship at birth (British Nationality and Status of Aliens Act, 1914, 4 and 5 Geo. V, c. 17) after providing that British nationality is acquired at birth by any "person born within His Majesty's dominions and allegiance," also confers British nationality upon the following:

> "Any person born out of His Majesty's dominions whose father was, at the time of that person's birth, a British subject, and who fulfills any of the following conditions, that is to say, if either—
>
> (i) his father was born within His Majesty's allegiance; or
>
> (ii) his father was a person to whom a certificate of naturalization had been granted; or
>
> (iii) his father had become a British subject by reason of any annexation of territory; or

(iv) his father was at the time of that person's birth in the service of the Crown; or

(v) his birth was registered at a British consulate within one year or in special circumstances, with the consent of the Secretary of State, two years after its occurrence, or, in the case of a person born on or after the first day of January, nineteen hundred and fifteen, who would have been a British subject if born before that date, within twelve months after the first day of August, nineteen hundred and twenty-two."

The Norwegian law of nationality of August 1, 1924, Sec. 9, reads in part as follows (translation):

"A Norwegian man or Norwegian unmarried woman who was born abroad and who has never resided in Norway, shall be deemed to have ceased to be a Norwegian subject when becoming 22 years of age. The King, or the person authorized thereto by the King, may, however, grant a certificate for the retention of the nationality."

Provisions similar to that last quoted are found in the nationality law of Denmark of April 18, 1925, Section 6, in the law of Finland of June 17, 1926, Section 2, in the law of Iceland of June 15, 1926, Section 6, and in the law of Sweden of May 23, 1924, Article 9.

The laws of the following states provide that their nationality is acquired in cases of children born abroad of their nationals if such children take up their residence in the territories of such states: Brazil, Law No. 904, 1902, Art. 1, 2; Chile, Constitution, of 1925, Art. 5, 2; Colombia, Constitution of 1886, Art. 8, 1; Ecuador, Constitution, Art. 6, 3; Guatemala, Constitution, Art. 5, 2; Paraguay, Constitution, Art. 35, 2.

It seems quite undesirable that the nationality of any state should be acquired *jure sanguinis* by unlimited generations of persons born in the territory of another state, and having the nationality of the latter under its law. While nationality is not necessarily dependent upon domicile, it is self-evident that it can not be completely divorced from it. Under normal conditions most of the nationals of any state will have their habitual residence within its territory; otherwise nationality becomes meaningless.

Professor de Lapradelle, whose book, *Nationalité d'Origine*, contains an argument in support of *jus sanguinis* as the better rule for acquisition of nationality at birth, concedes the desirability of placing some limit upon it. (*Op. cit.*, p. 403.) That there should be a limitation there can hardly be a reasonable doubt, although differences of opinion may exist as to where it should be set. The rule set forth in this article is suggested as a reasonable limitation.

This article does not purport to state the existing international law. It proposes a change in the existing law which will reconcile the interests of the states whose nationals have emigrated and the interests of the states into which they have immigrated. It selects as the point for determining where the first state shall cease to confer nationality *jure sanguinis*, the end of the second generation of persons born abroad. Mention has been made of the fact that the

nationality laws of many states are not so limited. Indeed by the laws of some states, nationality is conferred on descendants of their nationals without any limit as to the number of generations. In cases of persons born in countries having the *jus soli*, such laws not only produce dual nationality but make possible an indefinite condition of dual nationality. This would seem to take insufficient account of the interests of the state to which people may have migrated. Under the proposed rule acquisition of a state's nationality *jure sanguinis* is not interrupted unless two generations following the original emigrant have been born abroad and have at all times maintained their habitual residence in the state in which they were born. This means that if X emigrates from the territory of State A to the territory of State B, X's child and X's grandchild may be given A's nationality *jure sanguinis*, but X's great-grandchild may not be given A's nationality *jure sanguinis* if his father and grandfather were born and habitually resided in the territory of B, and if the great-grandchild has the nationality of B at birth.

In the application of the term "habitual residence" in this article, both the child and the grandchild of the emigrant must have continuously had such residence in the territory of the state of immigration prior to the birth of the person upon whom the original state is prevented by the Article from conferring its nationality. The term "habitual residence" has been used in a number of modern treaties. (See, for example, the Minorities Treaty between the Principal Allied and Associated Powers and Poland, of June 28, 1919.) Perhaps the content of that term cannot be stated very exactly, but it seems a more satisfactory term than any other which might be employed in this connection. Generally speaking it refers to the place where a person has his principal place of abode, or if that cannot be ascertained, the place which is the center of his principal activities and interests. For special definitions, see the German-Czecho-Slovak treaty, signed at Prague, June 29, 1920 (20 L. N. T. S. 98); and the German-Polish treaty, signed at Vienna, August 20, 1924 (32 L. N. T. S., 332).

ARTICLE 5

A state may not confer its nationality at birth (*jure soli*) upon a person born within its territory if such person is the child of an alien having diplomatic immunity therein or otherwise not subject to its jurisdiction.

COMMENT

This article expresses what is deemed to be a rule of existing international law. That diplomatic officers are entitled to special privileges and immunity from the jurisdiction of the courts of the states to which they are accredited is a rule of international law long established and generally recognized, although differences of opinion may exist as to the extent and application of the rule in particular circumstances.

In particular, there seems to be a difference of opinion upon the question whether a diplomatic officer is entitled to immunity in a foreign state other than that to which he is accredited. No attempt has been made in Article 5 to define and state the limitations of diplomatic immunity.

It is believed that, under the laws of most if not all states having *jus soli*, the nationality of such states is not conferred upon persons born within their territories to foreign dipomatic officers, at least to such as are accredited to those states. According to the dicta of courts, this seems to be the rule in Great Britain and the United States. *Calvin's case* (1609) 7 Coke 1; *United States* v. *Wong Kim Ark* (1898) 169 U. S., 649, 657. The laws of Argentina (Oct. 8, 1869, Art. I, §1) and Guatemala (Constitution of 1906, Art. V, §1), expressly state that their nationality is not acquired by the fact of birth within their territories in cases of children of foreign diplomatic officers. The laws of Brazil (November 12, 1902, Art. I, par. 1), and Chile (September 18, 1925, Art. V, §1), provide that persons born within their territories to persons in the service of the countries to which they belong do not acquire the nationality of the country of birth.

It should be observed that this article is applicable to a person whose parents enjoy diplomatic immunity in the territory of the state in which such person is born, whether or not the parents are diplomatic officers. Thus, it is applicable to the child of a consul of a foreign state if such consul is entitled to diplomatic immunity under the law of the state of birth or a treaty to which such state is a party.

The expression, "otherwise not subject to its jurisdiction," Article 5 would exempt children of foreign sovereigns, and children born on public ships of foreign states. It would also exempt children born in territory of a state temporarily occupied by the armed forces of a another state, at least if the parents of the child have the nationality of the occupying state.

With reference to this article attention is called to Article 5 of the Treaty of July 30, 1891, between Belgium and France.

ARTICLE 6

When a state has conferred its nationality at birth (*jure soli*) upon a person born within its territory who is the child of an alien then present therein as an officer of another state but not having diplomatic immunity therein, such state shall provide procedure by which the child may be divested of that nationality during its minority.

COMMENT

The growth of international intercourse has involved the sending by states of representatives of various categories to other states, such as consuls and other commercial agents, customs agents, public health officers and representatives of scientific branches of the government sent abroad for

special investigations. The children of such persons would not ordinarily come under Article 5, although under special statutory or treaty provisions in effect in some states they might come under the scope of that article.

Because of constitutional provisions in the law of some states, in which *jus soli* is embedded in the constitution, a provision purporting to exempt children of any foreign officials from the operation of *jus soli* might raise special difficulties. On the other hand, it seems likely that in the great majority of these cases neither the parents nor the child will desire that the latter shall have the nationality of a state where the child happens to be born while his parents are sojourning there for official purposes. It seems desirable, therefore, that, to meet the exigencies of such cases, statutory provisions should be made under which the parents may renounce the nationality of the state of birth in behalf of their children.

It is apparent that the adoption of Article 6 will add a new rule to existing international law.

With reference to this article attention is called to Article 2 of the draft of the League of Nations Committee of Experts for the Progressive Codification of International Law, January 29, 1926, (C. 196, M. 70. 1927, V, p. 27); also to Article 3 of the resolutions adopted by the Institut de Droit International, September 29, 1896, Annuaire de l'Institut, No. 20, p. 289. It will be observed that the provision of the former would in effect be similar to that of Article 6 of this draft. It is applicable to children of any foreign officials exercising official duties in the state, while the provision of the Institute's resolution is applicable only to "children of diplomatic agents or of consuls (*missi*) regularly accredited in the country where they are born." Both of these projects adopt the fiction that the children are born in the country from which their parents come. That fiction would seem to involve an unnecessary circumlocution.

ARTICLE 7

A state shall confer its nationality, as of the time of birth, upon a child born within its territory of unknown parents or of parents whose nationality cannot be ascertained; and it shall be presumed that a foundling was born in the territory of the state in which it is first found.

COMMENT

This provision is intended to prevent statelessness in cases of children born in countries whose nationality laws are based upon *jus sanguinis*, of parents who are unknown or of parents whose nationality cannot for some reason be ascertained. It is not applicable to children of parents who are themselves stateless, but Article 9 would be applicable to such persons. Provisions similar to this, with some variations, are found in the nationality laws of the following countries: Austria, Law of July 30, 1925, Par. 14; Bel-

gium, Law of May 15, 1922, Art. 1, 2 (presumed to be born on Belgian territory until contrary proved); Bulgaria, Law of Dec. 31, 1903, as amended to July 24, 1924, Art. 5, 2; China, Law of Dec. 30, 1914, Art. 1 (d); Costa Rica, Decree of May 13, 1889, Art. 1, 4; Danzig, Law of May 30, 1920, Sec. 1; Denmark, Law of Apr. 18, 1925, Sec. 1; Dominican Republic, Const., Art. 8, 5; Egypt, Law of May 26, 1926, Art. 10, 3; Esthonia, Law 87 of Oct. 27, 1922, Sec. 2 (8); France, Law of Aug. 10, 1927, Art. 1, 7; Germany, Law of July 22, 1913, Sec. 4; Greece, Law of Oct. 29, 1856, as amended by Law of Sept. 13, 1926, Art. 14 (c); Hungary, Law of 1879, Art. 19 (unless foreign citizenship proved); Italy, Law of June 13, 1912, Art. 1, 3; Japan, Law No. 66 of 1899, as amended by Law No. 19 of July, 1924, Art. 4; Latvia, Law of June 2, 1927, Art. VII; Mexico, Law of May 28, 1886, Art. 1, 2; Monaco, Civil Code, Art. 8, 2; Netherlands, Act of Dec. 12, 1892, as amended to Dec. 31, 1920, Art. 2 (b); Norway, Law of Aug. 8, 1924, Sec. 1; Portugal, Civil Code of 1867, Art. 18, 4; Roumania, Law of Feb. 23, 1924, Art. 3.

It is apparent that Article 7 would have no effect in some *jus soli* countries, other than to create the presumption that a foundling is born in the territory of the state in which it is first found. While the laws of most countries of *jus sanguinis* probably coincide with Article 7, it may conflict with some of them. It may be proper to regard this article as making a new rule of international law, and it might require some countries to change their laws.

ARTICLE 8

When a person is born of parents who are of different nationalities and are not married to each other, the state of which the mother is a national shall regard the mother as standing in the place of the father for the purpose of determining the descent upon the basis of which its nationality (*jure sanguinis*) may be conferred; if such person is legitimated as the child of its father before it reaches the age of twenty-one years, the state of which the father is a national shall regard the person as the child of the father for that purpose, unless at the time of the legitimation the person is residing in the territory of the state of which the mother only is a national.

COMMENT

The laws of most countries contain special provisions concerning the nationality of children of their nationals born out of wedlock. See Belgium, Law of May 15, 1922, Art. 2; Bulgaria, Law of Dec. 31, 1903, as amended to July 24, 1924, Art. 5; China, Law of Dec. 30, 1914, 2 (b), (c), 12 (b), (c); Costa Rica, Decree of May 13, 1889, Art. I, 2, 3, Art. III, 4; Danzig, Law of May 30, 1922, Secs. 1, 3, 13; Denmark, Law of Apr. 18, 1925, Sec. 1; Egypt, Law of May 26, 1926, Art. 10; Esthonia, Law No. 87, Oct. 27, 1922, Sec. 2 (2) and (4); France, Law of Aug. 10, 1927, Arts. I and II; Germany, Law of July 22, 1913, Secs. 4 and 5; Greece, Law of Oct. 29, 1856, as amended

by Law of Sept. 13, 1926, Art. 14 (b) and (d); Guatemala, Const., Art. 5, 2; Haiti, Const., Art. 3, 2 and 3; Hungary, Law of 1879, Arts. 3, 4, 33; Iceland, Law of June 15, 1926, Sec. 1; Italy, Law of June 13, 1912, Art. 1, 2 and 3, Art. II; Japan, Law No. 66 of 1899, as amended by Law No. 19 of 1924, Arts. 3, 5 (3); Latvia, Law of Aug. 23, 1919, Art. 7; Lithuania, Law of Jan. 9, 1919, I (f); Mexico, Law of May 28, 1886, Art. I, 2, 4; Monaco, Act of Dec. 18, 1892, as amended to Dec. 31, 1920, Art. I (a), (c), (d); Norway, Law of Aug. 8, 1924, Secs. 1, 7; Poland, Law of Jan. 20, 1920, Arts. 4 (2), 5, 6; Roumania, Law of Feb. 23, 1924, Art. 2 (b) (the illegitimate children of a Roumanian woman, even though born in a foreign country, are Roumanian; children legitimated by a Roumanian father are considered as always having been Roumanian); Salvador, Const., Art. 42, 3; Serbs, Croats and Slovenes, Civil Law of 1844, Par. 44, Note 2; Siam, Nat. Law of Apr. 10, 1913, 3 (2); Sweden, Law of May 23, 1924, Art. I; Switzerland, Lucerne Cantonal Decree of December 29, 1922, Art. I.

The following provisions in the German Nationality Law of 1913 may be regarded as typical:

> "Sec. 4. The legitimate child of a German acquires by birth the citizenship of the father; the illegitimate child of a German woman the citizenship of the mother.
>
> "Sec. 5. The legitimation by a German effective in accordance with German law bestows the citizenship of the father on the child."

It is not clear that the child is regarded by the German law after legitimation as having been born legitimate, and therefore born a German subject. As the usual effect of legitimation is to remove the quality of illegitimacy and to place the child in other respects in the position which it would have held if born in wedlock, it seems reasonable to apply the law retroactively, and Article 8 has been drafted accordingly.

The law of the United States contains no provision relating expressly to children born abroad to American women who are unmarried, and the question as to their nationality has never been finally settled. Moore expresses the view that American nationality is not in such cases derived through the mother (3 Moore, Digest 285); Van Dyne expresses the contrary view (Citizenship of the United States, p. 49). Van Dyne's opinion that the child's nationality follows that of the mother in such a case under "the law of nations" is hard to accept, since the question whether a person is a national of the United States depends upon the municipal law of the United States or a treaty to which it is a party.

Cases involving the nationality of children born out of wedlock do not raise an international problem of great importance, but it is deemed appropriate to include in the convention a provision for the nationality of such children when the father and mother have different nationalities. If the father and mother have the same nationality, there is no reason for dealing with the case in an international convention.

It may be well to point out that this article gives to a child born out of wedlock the nationality of the mother only in a case in which such child, if born legitimate, would have the nationality of the father under the law of the state of the mother's nationality. Thus, limitations on the application of *jus sanguinis* existing in the law of the mother's state would be applicable.

Provisions concerning the nationality of illegitimate children are found in Article 9 of the draft of the League of Nations Committee of Experts (Appendix No. 6); Art. 2 of the resolution of the Institute of International Law (Appendix No. 4); Art. 2 of the Model Statute adopted by the International Law Association at Stockholm September 9, 1924 (Appendix No. 5); Article 4 of the draft of the Kokusaiho-Gakkwai (Association of International Law of Japan), (Appendix No. 7).

While Article 8 seems to coincide in principle with the laws of many countries, its adoption will have the effect of making a new rule of international law.

ARTICLE 9

A state shall confer its nationality at birth upon a person born within its territory if such person does not acquire another nationality at birth.

COMMENT

This article is designed to prevent the existence of statelessness in cases of persons born under certain conditions in countries having *jus sanguinis*. The broader provision contained in it is consistent with the special provisions contained in Article 7.

The laws of some countries as, for example, the Italian Law of June 13, 1912, Art. I, contain provisions under which their nationality is conferred upon children who are born in their territories of parents of foreign nationality if they do not acquire the nationality of their parents under the laws of the states to which the latter belong. An example of cases of the latter kind might also be found in the case of a child born outside of the United States of an American father who was likewise born outside of the United States, and who at the time of the child's birth had never resided in the United States. Such child is not born a national of the United States, because of the special limitation in the American law (R. S. §1993) concerning the nationality of children born abroad of American parents. *Weedin* v. *Chin Bow* (1928), 274 U. S. 657.

A uniform rule to govern cases of the kind covered by this Article would seem desirable, although it is perhaps not of the greatest importance. In states in which the *jus soli* is applicable the above rule would not be needed.

The adoption of this Article would result in modifying the laws of some countries whose laws are based principally upon the *jus sanguinis*.

Provisions similar to Article 9 were included in some of the Peace Treaties

of 1919, and in the Minority Treaties signed by the Allied and Associated Powers and Poland, Czecho-Slovakia, Roumania, the Serb-Croat-Slovene State and Greece.

ARTICLE 10

A person may have the nationality at birth of two or more states, of one or more state *jure soli* and of one or more states *jure sanguinis*.

COMMENT

A typical case of dual nationality is that of a person born in State A, which has the *jus soli*, of parents who are nationals of State B, which has the *jus sanguinis*, such person having at birth the nationality of State A and the nationality of State B. Cases may arise in which a person may acquire at birth multiple nationality, being a national of one or more states *jure soli* and of one or more *jure sanguinis*. It seldom happens that a person acquires the nationality of more than one state *jure soli*, although it is possible that this may happen, as in the case of a person born on a British vessel within the territorial waters of the United States. A case might also occur in which a person born in a territory under a condominium would have dual nationality *jure soli*. Cases of the acquisition of dual nationality at birth *jure sanguinis* occur with some frequency. Such cases may arise from the fact that the father has dual nationality or from the fact that the nationality of the mother's state may be acquired under the law thereof. The Turkish nationality law effective January 1, 1929, Art. 1, provides that "children born in Turkey or abroad of a Turkish father or a Turkish mother are Turkish citizens." It is possible that a child may have at birth, under special circumstances, the nationality of four or more states, although such cases are so rare that they do not require special consideration. It seems sufficient for practical purposes to consider the fact that under the operation of existing nationality laws of various countries, cases of dual nationality arise in large numbers, usually where a person has one nationality *jure soli* and another nationality *jure sanguinis*.

While most writers on nationality express the view that the existence of dual nationality is undesirable, at least in the cases of persons who have reached their majority, and while the laws of a number of states provide expressly that no person can have their nationality who has the nationality of another state, it is necessary to realize the fact that dual nationality does exist and will continue to exist unless all states will agree to adopt a single rule for nationality at birth. If it were possible to adopt such a uniform rule consideration might be given to the rule suggested by Vattel, which is in the nature of a compromise between *jus soli* and *jus sanguinis*. After expressing the opinion that, "by the law of nature alone, children follow the condition of their fathers," with regard to nationality, he adds: "But I suppose that the father has not entirely quitted his country in order to settle elsewhere.

If he has fixed his abode in a foreign country, he is become a member of another society, at least as a perpetual inhabitant and his children will be members of it also." (Vattel, Law of Nations, Chitty's ed., p. 102.) (For discussion of the principle involved in Vattel's rule see de Lapradelle, de la Nationalité d'Origine, 94–105; E. Munroe Smith, "Nationality", Political Science Quarterly, 1891, p. 738.)

With regard to the principle just mentioned, it may be noted that in the laws of Colombia (Const. of 1886, Art. 8, 1), Ecuador (Const. of 1906, Art. 10, 2), and Honduras (Const. of 1904, Art. 7), a person born in the territory of the state of alien parents does not acquire its nationality *jure soli* unless his parents are domiciled or resident therein. This principle is also found in Art. 3 of the resolution adopted by the Institute of International Law, September 29, 1896 (Appendix No. 4).

Each of the two rules for acquisition of nationality at birth, *jus soli* and *jus sanguinis*, is embodied in the constitutions and laws of many countries, while combinations of the two in various forms are found in the laws of most countries. Countries of emigration are inclined to emphasize the *jus sanguinis* for the purpose of retaining the allegiance of descendants of their nationals who have settled in various parts of the world, while countries of immigration, including some countries of Asia and Africa, as well as those in the western hemisphere, are inclined to emphasize the *jus soli*, in order to have the allegiance of persons born within their territories of alien parents. The fact that the laws governing acquisition of nationality at birth are embedded in the constitutions of some countries would make it difficult to obtain general agreement to a single rule. It is interesting to note, however, that an attempt to formulate a uniform rule has been made in some of the draft projects. (See Arts. 1 and 3 of the resolution adopted by the *Institut de Droit International* at Venice, September 29, 1896, and Art. 1 of the resolution adopted by the same body at Stockholm, 1928 (Appendix No. 9); Section (1) (a) of the Model Statute adopted by the International Law Association, Stockholm, 1924 (Appendix No. 5); and Arts. 4 and 5 of the draft rules prepared by the Kokusaiho-Gakkwai (Association of International Law of Japan) 1926 (Appendix No. 7). While, as observed, difficulties would be encountered in attempting to obtain general agreement to any one of the proposed rules, they are doubtless worthy of consideration. The rule proposed by the International Law Association, according to which a child born in the territory of the state to an alien father shall acquire the nationality of that state, provided that the father may have the nationality of the child changed to that of his own state by registering the child as a national thereof within a prescribed period, is interesting. However, it does not seem likely that states having large alien populations will consent to have their nationality withdrawn from children born in their territories while such children continue to be resident therein.

The existence of dual nationality at birth in cases of children born in one

country of parents who are nationals of another, may, indeed, notwithstanding obvious disadvantages, be regarded as having some advantages. Persons born in countries of which their parents are not nationals are in a peculiar position and there may be some advantages in a system under which they may, within certain limitations, be able to choose between the nationality of the country of birth and that of the parents. Writers on international law frequently refer to the election to be exercised by such persons, but no provision of existing international law requires states to provide for an election. Article 12 of this convention would make provision for a practical election, however.

ARTICLE 11

A person who has the nationality of two or more states shall not be subject to the obligation of military or other national service in one of these states while he has his habitual residence in the territory of another of these states.

COMMENT

It may seem that of two states claiming the services of a person who has the nationality of both, the state in which he maintains his residence has a stronger claim upon him than the other. But no such distinction is recognized in existing international law, according to which the claims of the two states are equal.

It is apparent that Article 11 involves a change in the existing international law. It is believed that the proposed change is greatly to be desired. It does not seem reasonable that a young man who happens to have been born under conditions which give him dual nationality should be subject to equal claims by both upon his services as a national. The Congress of the United States recently adopted a Joint Resolution, approved by the President on May 28, 1928, requesting the President to negotiate agreements with the governments of other states under which persons born in the United States of nationals thereof might visit such states temporarily without being held for military or other national service. (H. J. Res. 268, 70th Cong.)

While Article 12 of this Convention provides for the termination of dual or multiple nationality upon a person's attaining the age of twenty-three years, persons born with dual or multiple nationality find it necessary before reaching that age not infrequently to leave the states in which they have their habitual residence and visit other states of which they are nationals, to attend to family matters or to study or for other purposes, and in order that they may be able to do so without molestation the proposed rule seems desirable.

Some states have concluded agreements concerning military service in cases of persons having the nationality of two states. Some of these treaties provide that a person who has done military service in a country of which he is a national shall be exempt from the requirement of military service in the

other country of which he is a national. Thus the treaties between France and the Argentine Republic of January 26, 1927, and the treaty between France and Paraguay of August 30, 1927. The treaty between France and Belgium of July 30, 1891 also provides for exemption under certain circumstances. A French law of November 5, 1928, provides that French nationals born abroad, possessing also the nationality of certain other countries, "shall be released from military service in peace time, provided they shall establish by an official document that they have complied with the military law of the foreign country of which they are nationals, or that there is no compulsory military service in such country." (Article 4 bis, *Journal Officiel*, December 8, 1928.)

ARTICLE 12

A person who has at birth the nationality of two or more states shall, upon his attaining the age of twenty-three years, retain the nationality only of that one of those states in the territory of which he then has his habitual residence; if at that time his habitual residence is in the territory of a state of which he is not a national, such person shall retain the nationality only of that one of those states of which he is a national within the territory of which he last had his habitual residence.

COMMENT

To illustrate:

X is born in state A of parents who are nationals of state B. He remains in A and still has his residence therein when he attains the age of twenty-three years. Thereafter he has the nationality of A and is no longer a national of B.

X, instead of remaining in A, is taken while an infant by his parents to B, where he continues to reside and where he still resides when he reaches the age of twenty-three. Thereafter he has the nationality of B only.

X, in the case last mentioned, instead of remaining in B, goes at the age of nineteen years to state C, where he obtains employment with the intention of remaining there indefinitely. After he has attained the age of twenty-three he is a national of B only, unless during the preceding year he has formally renounced allegiance thereto, in which case he will have the nationality of A.

This article is based upon the assumption that cases of dual or multiple nationality will continue to arise in the future, because of the impossibility of obtaining general agreement to a single rule for acquisition of nationality at birth. The object of the article is to afford a means by which dual nationality may be ended. The time when a person has completed his twenty-third year is taken as the time for the termination of dual or multiple nationality. In connection with the application of this article it will be noted that it is applicable only to persons who, when they reach the age of twenty-three

years, have a dual or multiple nationality. Thus, it has no application to a person born with dual nationality who renounces the nationality of one of the two countries concerned before reaching the age of twenty-three. The laws of some states allow a renunciation of nationality even to persons habitually resident in their territory. It should also be noted that Article 12 does not interfere with the provision of Article 4, inasmuch as children may be born before the father reaches the age of twenty-three years.

It seems reasonable that a person born in a country of which his parents are not nationals should, within certain limitations, be able to choose between the nationality of the country of birth and that of his parents. On the other hand he should be required to make such choice within a limited period after reaching the age of majority, which in most countries would be twenty-one years. Varying ages of majority with reference to naturalization are found in the nationality laws of various countries, but the age of twenty-one is, perhaps, predominant.

It is believed that the actions of the individual upon attaining majority, particularly his choice in maintaining his home in one country or the other, rather than a mere declaration, should determine the nationality which he is to retain thereafter, although he should be allowed a reasonable period within which to make his decision and act accordingly. For this purpose two years seems sufficient.

An examination of the nationality laws of the various states will show that domicile and residence play a very considerable part in determining the nationality of persons born in one state of parents having the nationality of another state. With regard to the nationality of persons born in the territory of a state of parents who are nationals of other states attention is called to the following laws: Belgium, Nationality Law of 1922, Art. 8; Denmark, Law of Apr. 18, 1925, Sec. II; Egypt, Art. 11, Law of May 26, 1926; Greece, Law of Oct. 29, 1856, as amended by law of Sept. 13, 1926, Art 14 (e); Iceland, Law of June 15, 1926; Italy, Law of June 13, 1912, Art. III; Mexico, Const. of 1917, Art. XXX, 1; Norway, Law of Aug. 8, 1924, Sec. 2; Dominican Republic, Const., Art. VIII, 4; Egypt, Law of May 26, 1926, Art. 11; Bulgaria, Law of Dec. 31, 1903, as amended on July 24, 1924, Art. V (3); France, Law of Aug. 10, 1927, Art. IV; Sweden, Law of May 23, 1924, Art. 2.

Article IV of the French law of 1927 reads as follows:

> "Article IV. Any person born in France of an alien becomes a Frenchman at the age of twenty-one if he has his domicile in France, unless, within the year following his becoming of age, he refused to take up the French citizenship in accordance with the prescriptions of Article II." (Under Article II he is required to show that he has preserved the nationality of his parents.)

Provisions similar to that of the French law just mentioned are found in the laws of Denmark, Dominican Republic, Egypt, Iceland, Mexico, Norway, Portugal, and Sweden, although, under the laws of Denmark and

Iceland the decisive age is nineteen, while under the laws of Norway and Sweden it is twenty-two. In the Mexican law the decisive age is the age of majority under the law of the father's state.

Article 11 of the Egyptian law of May 26, 1926, reads in part as follows:

> "Art. 11. Every individual born of a foreigner in Egypt who has his habitual residence there at the time of his majority becomes an Egyptian if, within the year which follows the said majority, he renounces his nationality of origin and makes a declaration of option for Egyptian nationality."

It will be noted that the term "habitual residence," instead of "domicile," is used in the Egyptian law.

With regard to the nationality of children of nationals born abroad, attention is called to the following laws: Brazil, Law No. 904, 1912, Art. I, 2; Chile, Const. of 1925, Art. V, 2; Colombia, Const. of 1886, Art. VIII, 1; Iceland, Law of June 15, 1926, Sec. 6; Ecuador, Const., Art. VI (3); Finland, Law of June 17, 1927, Sec. 2; Guatemala, Const., Art. V, 2; Japan, Law No. 66 of 1899, as amended by Law No. 19 of 1924, Art. 20, Sec. 2; Norway, Law of Aug. 8, 1924, Sec. 9; Panama, Const., Art. VI, 2; Paraguay, Const., Art. XXXV, 2; Portugal, Civil Code, Art. 18, 3; Uruguay, Const., Sec. II, Art. 6.

Article 7 of the Italian nationality law of 1912 (*supra*) contains the following interesting provision for termination of dual nationality:

> "Except in the case of special provisions to be stipulated by international treaties, an Italian citizen born and residing in a foreign nation, which considers him to be a citizen of its own, retains still Italian citizenship, but he may abandon it when he becomes of age."

Article IX of the French nationality law of 1927 (*supra*) provides that French nationality may be lost by the following:

> "Any Frenchman, even though he be under age, who holding, by operation of the law and without any expressed will on his part, a foreign nationality, is authorized on his request, by the French Government to maintain it."

The Chilean law referred to above, according to which persons born abroad of Chilean parents do not become Chilean nationals until they settle in Chile, is, as elsewhere observed, typical of the laws of a number of Latin American countries.

In view of the large number of municipal laws in which domicile or habitual residence is an important element in determining nationality in cases of the kind under consideration it would seem to be within the range of possibility to formulate a generally acceptable rule for the termination of dual nationality upon the basis of habitual residence. It is interesting to note that Bluntschli considered that, in a case of double or multiple nationality, the claim of the state of domicile should have preference. Bluntschli, Le Droit International Codifié, 374.

While the proposed rule might in its operations be unacceptable to some individuals, it may be observed that no restrictive law will be acceptable to all persons under all circumstances. It is also important to bear in mind the fact, already mentioned, that the rule would apply only to persons having the nationality of at least two countries upon reaching the decisive age. Thus it would have no application to a person born with dual nationality who, before reaching the decisive age renounces the nationality of either country under a provision in its law, such as that found in Section 14 of the British Nationality and Status of Aliens Act of 1914, which reads as follows:

> "14.—(1) Any person who by reason of his having been born within His Majesty's dominions and allegiance or on board a British ship is a natural-born British subject, but who at his birth or during his minority became under the law of any foreign state a subject also of that state, and is still such a subject, may, if of full age and not under disability, make a declaration of alienage, and on making the declaration shall cease to be a British subject.
>
> "(2) Any person who though born out of His Majesty's dominions is a natural-born British subject may, if of full age and not under disability, make a declaration of alienage, and on making the declaration shall cease to be a British subject."

It is hardly necessary to add that this Article would not operate in any case to render a person stateless.

Any state adopting Article 12 would be free to make special bilateral agreements with other states concerning the termination of dual nationality. The rule provided for in this Article is a standard, based upon certain principles, which, it is believed, should in general control, but it will not prevent states from adopting different bilateral agreements which may better meet the exigencies peculiar to them.

With reference to this subject attention is called to the analysis of the laws of the various states by the application of which dual nationality may exist (Appendix No. 1). Various treaties provide for the termination of dual nationality arising at birth by some form of election: for example, treaties between Germany and Guatemala, September 20, 1857, Art. 10; Italy and Costa Rica, May 6, 1873, Art. 1; Spain and Salvador, March 2, 1885, Arts. 1, 2; Italy and Mexico, August 20, 1888, Arts. 1, 2; Italy and Bolivia, October 24, 1890, Art. 4; Germany and Bolivia, July 22, 1908, Art. 5; Belgium and Bolivia, April 18, 1912, Art. 5; Italy and Nicaragua, September 20, 1917, Art. 2.

ARTICLE 13

Except as otherwise provided in this convention, a state may naturalize a person who is a national of another state, and such person shall thereupon lose his prior nationality.

The naturalization of a person does not terminate liability for an offense committed by him against his former state while a national thereof; provided that a person who is naturalized shall not thereafter be subject to

punishment by the state of his former nationality for failure to perform military service the liability for which arose after his acquisition of an habitual residence in the territory of the naturalizing state.

COMMENT

The term naturalization as defined in Article 1, is the process by which a state confers its nationality upon a natural person after birth. That process has long been practised in most, if not all countries, and it must be clearly recognized in any restatement of the law of nationality.

Under this article a person who is naturalized by a state *ipso facto* loses his prior nationality, whether or not he has obtained the express consent of the government of the state of which he was formerly a national or has performed military or other services for which he may have become liable under the laws thereof. However, if such person shall have violated the military service laws of his former state before taking up his residence in the naturalizing state his naturalization does not relieve him from liability to punishment for such violation.

This article accords with the principle commonly known as the "right of expatriation."

It appears that the fact of naturalization in a foreign state causes loss of the prior nationality, without conditions under the laws of the following states: Australia, Austria, Belgium, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Denmark, Ecuador, Germany, Great Britain, Guatemala, Haiti, Honduras, Iceland, Italy, Japan, Liberia, Mexico, Monaco, Netherlands, Newfoundland, New Zealand, Palestine, Panama, Peru, Portugal, Roumania, Salvador, Spain, United States of America, Uruguay, Venezuela.

Under the laws of the following states naturalization in a foreign state does not cause loss of the prior nationality unless the express consent of the state of prior nationality has been obtained or unless certain military services, required under the laws thereof, have been performed: Afghanistan, Albania, Bulgaria, China, Danzig, Egypt, Esthonia, Finland, France, Greece, Hungary, Iraq, Latvia, Norway, Persia, Poland, Russia, Kingdom of the Serbs, Croats and Slovenes, Siam, Sweden, Switzerland, Syria, Turkey.

Under the laws of the following states, an alien may not be naturalized unless he has obtained the consent of the state of which he is a national: Austria, Belgian-Congo, Danzig, Ecuador, Japan, Monaco, Norway, Persia, Portugal, Roumania, Spain, Sweden.

For citations of the laws referred to above, see the Analysis of Laws concerning Naturalization and Expatriation (Appendix No. 1).

During the past half century there has been an enormous increase in emigration, especially from European countries to American countries. Such emigration is ordinarily accompanied by naturalization in the countries of immigration. It seems necessary therefore to regard the question of the

status of naturalized citizens as an international problem of considerable magnitude, and it seems entirely fitting that it should be regulated by international agreements.

At present it cannot be said that there is any general agreement upon the "right of expatriation," that is, the right of an individual to cast off allegiance to the state of which he is a national, without obtaining its express consent, when he seeks the nationality of another country. As indicated above, the laws of the various states concerning naturalization and expatriation differ with regard to the question whether naturalization in and of itself, and without conditions, operates to sever the original tie of allegiance. Some recent legislation upon this subject has not been in the direction of a recognition of the "right of expatriation." The express permission of the government to cast off its nationality is required in the laws of the following new states: Danzig (Law of May 30, 1922, Sec. 18); Esthonia (Law of Oct. 27, 1922, Art. 20); Egypt (in case real property is owned in Egypt, Law of May 26, 1926, Art. 15); Latvia (Law of June 2, 1927, Sec. 9); Poland (if liable for military service, Law of June 20, 1920, Art. 11, 2). However, it cannot be said that the general trend of modern opinion, as shown by legislation, is toward a recognition of the theory of indissoluble allegiance. The provision of the new French Nationality Law concerning expatriation through naturalization abroad (Law of Aug. 10, 1927, Art. 9) denies recognition of loss of French nationality, without the express permission of the French Government, until the Frenchman naturalized abroad has reached the age of 31 years, and 10 years have elapsed since his enlistment in the French army or excuse from service therein. The German law, while it provides for the loss of German nationality in the case of a German who has abandoned his residence in Germany and been naturalized in another country, contains a provision under which the individual may retain his German nationality by special permission of the German Government. (Law of July 1913, Sec. 25). The Italian law is unusual, for, while it recognizes loss of Italian nationality in the case of an Italian who establishes a residence and is naturalized abroad, it holds him liable still for service in the Italian army. (Law of June 13, 1912, Art. 8.) The law of the Union of Soviet Socialist Republics (Ordinance of Oct. 29, 1924) seems to be quite as strict as that of the old Russian Empire. It requires the special permission of the Soviet authorities before a Russian can expatriate himself.

The new Austrian law recognizes loss of Austrian nationality through the establishment of a residence and acquisition of naturalization in a foreign country. (Law of July 30, 1925, Par. 10.) The laws of Denmark (Apr. 18, 1925, Sec. V), Norway (Aug. 8, 1924, Sec. 8), and Sweden (May 23, 1924, Art. 8) are similar to that of Austria.

It should be remembered that a century ago all, or nearly all, countries of the world held to the doctrine of indissoluble allegiance. In the United States it was questioned whether the naturalization of an American national

by another country would put an end to his American allegiance. (3 Moore's Int. Law Dig. 552–562; Moore's Principles of American Diplomacy, Ch. VII, The Doctrine of Expatriation; Report of Citizenship Board, 1906, 160 *et seq.*, H. of R. Doc. 326, 59th Cong., 2d Sess.) However, most modern writers on the subject of international law seem to agree that the "right of expatriation," proclaimed by the Government of the United States in the Act of Congress of July 27, 1868 (later embodied in R. S. §§1999 to 2001) is entitled to general recognition. This position of the United States was given formal approval by the International Law Association in its meeting at Stockholm in 1924. The introductory declaration, as included in Sections 1999 and 2000 of the Revised Statutes of the United States, reads as follows:

> Sec. 1999. "Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle this Government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore any declaration, instruction, opinion, order, or decision of any officer of the United States which denies, restricts, impairs, or questions the right of expatriation, is declared inconsistent with the fundamental principles of the Republic."
>
> Sec. 2000. "All naturalized citizens of the United States, while in foreign countries, are entitled to and shall receive from this Government the same protection of persons and property which is accorded to native-born citizens."

Mention may be made of the abandonment by the British Government in 1870 of the common law rule of indissoluble allegiance. On May 21, 1868, a commission was appointed "for enquiring into laws of naturalization and allegiance." It made an exhaustive study of the nationality laws of all countries, and submitted its report on February 20, 1869. The following important statement appears in the report:

> "The allegiance of a natural-born British subject is regarded by the common law as indelible.
>
> "We are of opinion that this doctrine of the common law is neither reasonable nor convenient. It is at variance with those principles on which the rights and duties of a subject should be deemed to rest; it conflicts with that freedom of action which is now recognized as most conducive to the general good as well as to individual happiness and prosperity; and it is especially inconsistent with the practice of a State which allows to its subjects absolute freedom of emigration. It is inexpedient that British law should maintain in theory, or should by foreign nations be supposed to maintain in practice, any obligations which it cannot enforce and ought not to enforce if it could; and it is unfit that a country should remain subject to claims for protection on the part of persons who, so far as in them lies, have severed their connection with it."

The committee advised against inserting in the British law a provision to the effect that "acquisition of a foreign domicile, or a certain length of residence abroad should divest a person of British nationality," out of "regard to the difficulties which attend the definitions of domicile and proof of the fact, and also to the great diversity of circumstances under which men reside in foreign countries." The report of the committee was followed by the passage of the British Naturalization Act of May 12, 1870, section 6 of which provided as follows:

> "Any British subject who has at any time before, or may at any time after the passing of this act, when in any foreign state and not under any disability, voluntarily become naturalized in such state, shall, from and after the time of his so having become naturalized in such foreign state, be deemed to have ceased to be a British subject and be regarded as an alien."

However, Section 7 of the same Act of 1870 reads as follows:

> "An alien to whom a certificate of naturalization is granted shall in the United Kingdom be entitled to all political and other rights, powers, and privileges and be subject to all obligations to which a natural-born British subject is entitled or subject in the United Kingdom, with this qualification, that he shall not, when within the limits of the foreign state of which he was a subject previously to obtaining his certificate of naturalization, be deemed to be a British subject unless he has ceased to be a subject of that state in pursuance of the laws thereof or in pursuance of a treaty to that effect."

The British Nationality and Status of Aliens Act of 1914 (4 and 5 Geo. 5. c. 17) seems to have adopted the principle that naturalization works a complete transformation in the national character of the person naturalized, regardless of whether he has obtained the consent of the Government of his former state to expatriate himself; Section 3 (1) reads as follows:

> "A person to whom a certificate of naturalization is granted by a Secretary of State shall, subject to the provisions of this Act, be entitled to all political and other rights, powers, and privileges, and be subject to all obligations, duties, and liabilities, to which a natural-born British subject is entitled or subject, and, as from the date of his naturalization, have to all intents and purposes the status of a natural-born British subject.

Notwithstanding the fact that the "right of expatriation" has not been recognized in a number of recent nationality laws, including the laws of some of the countries whose independence resulted from the World War, the modern tendency is undoubtedly in the direction of its general recognition. The failure of certain countries to give more complete recognition to the "right of expatriation" may be due in some measure to a desire to maintain their armies at full strength. In this conection, it may be observed that the laws of some states require the express consent of the government before a national can emigrate. (As to control of emigration, see Fauchille, *Traité de Droit International Public,* I, pp. 834, *et seq.*)

It does not seem too much to hope that some countries, which have not

yet admitted the "right of expatriation," may be persuaded that an admission thereof would not result in a serious depletion of man-power and would, on the other hand, tend to promote international intercourse of a beneficial character.

It may be recalled that Germany, Austria, and Hungary, in the peace treaties following the World War, definitely admitted that the naturalization of their citizens or subjects in the allied or associated countries resulted in the loss of their original nationality. Article 278 of the Treaty of Versailles reads as follows:

> "Germany undertakes to recognise any new nationality which has been or may be acquired by her nationals under the laws of the Allied and Associated Powers and in accordance with the decisions of the competent authorities of these Powers pursuant to naturalization laws or under treaty stipulations, and to regard such persons as having, in consequence of the acquisition of such new nationality, in all respects severed their allegiance to their country of origin."

Similar provisions are found in Article 230 of the Treaty of St. Germain-en-Laye, in Article 213 of the Treaty of Trianon, and in Article 158 of the Treaty of Neuilly.

Some authors, while admitting the right of expatriation in a broad sense, insist that it must be subject to regulation by the state of origin, to enable that state to protect its safety and welfare. (See Bar's International Law, Gillespie's Translation, 106; Cogordan, *Op. cit.* 10; Fauchille, *op. cit.*, Vol. I, Paragraph 423; Zeballos, *op. cit.*, Vol. III, 53–79; Fiore, International Law Codified (Borchard's Translation), Paragraph 675; Bluntschli, Droit International Codifié, 5 ed., 370; Bluntschli, De la Qualité de Citoyen d'un Etat au Point de Vue des Relations Internationales, 2 Revue de Droit International, 107, 115; Field's International Code, 137; Westlake, *op. cit.*, I, 237; Hyde's International Law, I, 379; Moore, Principles of American Diplomacy, 1918, p. 294.)

While expressing the view that, in the present state of civilization, men should not be bound always to the states whose nationality they have at birth, several authors pointed out that certain obligations are due to the states of origin which cannot be evaded or dropped at any moment by the national when it suits his convenience, and that states, without going so far as to deny expatriation altogether, may prescribe reasonable regulations under which their allegiance may be renounced. (See for example, Bar., *op. cit.*, 106; Cogordan, *op. cit.*, 10; Field, *op. cit.*, 271; Hall, *op. cit.*, 281–282, 291–293). Even the United States, which has generally taken the position that all persons are free to emigrate and acquire a new nationality, has admitted that this freedom is subject to some limitations; for the Nationality Act of March 2, 1907, while providing in Section 2 that "any American citizen shall be deemed to have expatriated himself when he has been naturalized

in any foreign state in conformity with its laws, or when he has taken an oath of allegiance to any foreign state," also provides "that no American citizen shall be allowed to expatriate himself when this country is at war."

W. E. Hall, who treats the subject of expatriation with much care (Hall, International Law, 281–282, 291–293), observes:

> "International law must either maintain the principle of the permanence of original ties until they are broken with the consent of the state to which a person belongs who desires to be naturalized elsewhere, or it must recognize that the force of this principle has been destroyed by diversity of opinions and practice, and that each state is free to act as may seem best to it. There can be no doubt that the latter view is more in harmony with the facts of practice than the former" (pp. 281–282).

While refusing to admit theoretically the existence of the "right of expatriation," Hall says:

> ". . . It would be a distinct gain if it were universally acknowledged that it is the right of every state to lay down under what conditions its subjects may escape from their nationality of origin, and that the acquisition of a foreign nationality must not be considered good by the state granting it as against the country of origin, unless the conditions have been satisfied. It may at the present day be reasonably expected that the good sense of states will soon do away with such rules as are either vexatious or unnecessary for the safeguarding of the national welfare" (pp. 292–293).

It is not easy to determine precisely where the line should be drawn with regard to the power of the state of origin to punish a former national who has obtained naturalization in another state for failure to perform military or other national service. On the one hand, it would seem contrary to any reasonable standard of justice to require the performance of such service in the case of one who left the state of origin in early childhood and subsequently acquired naturalization in a foreign state and to inflict punishment for failure to perform supposed obligations liability for which could not have arisen until many years after acquisition of a residence in the state of naturalization. On the other hand it would seem equally unreasonable to hold that one who has deserted from the army of his state of origin should be able to obtain immunity from punishment for his offense by acquiring naturalization in another state. The above article is modeled closely upon Article II of the Naturalization Treaty of 1923 between the United States and Bulgaria (U. S. Treaty Series No. 684). The provisions concerning liability to punishment after naturalization for violation of the laws of the country of origin differ in the various naturalization treaties to which the United States is or has been a party. Some of these treaties contain provisions rather more liberal from the standpoint of the person naturalized, but the line seems to be drawn fairly in the treaty with Bulgaria, according to which the claims of the country of origin are regarded as ceasing, not, on

the one hand, at the moment of emigration nor, on the other at the moment of naturalization, but at the time when a permanent residence is acquired in the naturalizing state. Article 2 of the treaty of 1923 with Bulgaria reads as follows:

> "Nationals of either country who have or shall become naturalized in the territory of the other, as contemplated in Article I, shall not, upon returning to the country of former nationality, be punishable for the original act of emigration, or for failure, prior to naturalization, to respond to calls for military service not accruing until after *bona fide* residence was acquired in the territory of the country whose nationality was obtained by naturalization."

Since the naturalization of a person by a state affects the interests of the state of which such person was formerly a national, by depriving it of one of its nationals, it may be thought that neighborly relations between the two states would require the former to notify the latter of its action. Such has not heretofore been the usual practice of states. While such precedure would no doubt have some advantages, it would involve the imposition of a large administrative burden on some states, and for this reason it has not been proposed in this convention. The subject seems to be a proper one for bilateral agreements.

ARTICLE 14

Except as otherwise provided in this convention, a state may not naturalize an alien who has his habitual residence within the territory of another state.

COMMENT

The principle stated in Article 2 concerning the limitation upon the power of a state to confer its nationality is applicable here, and reference is made to the comment under that article. In general, it may be said that a proper regard for other states makes it unreasonable for any state to attempt to extend the operation of its naturalization laws so as to change the nationality of persons at the time resident in other states.

It seems necessary to recognize that there are exceptions to the general rule contained in this article, and such exceptions are made in other articles of the convention. Thus, this article does not prevent a state from conferring its nationality upon a woman through her marriage to one of its nationals. Also it does not prevent the collective naturalization, under the first paragraph of Article 18, of persons residing outside of the territory of the state whose nationality is acquired. The laws of most states conferring their nationality upon alien women through marriage to their nationals make no mention of residence.

Consideration has been given to the question of qualifying the word, "alien" in this article by the addition of the words "of full age," thus making it possible for a state by naturalizing the father of a family to naturalize his

minor children residing in another state. It is realized that there may be a difference of opinion upon this question, and the laws of some states provide for such naturalization. One view is that the desirability of maintaining the unity of the family requires that the minor children should be naturalized with the parent regardless of the place of their residence. Another view is that unity of the family does not really exist when the children remain outside of the country in which their father resides and has been naturalized. A further consideration relates to the question of the reasonable demands of the state of which the children are nationals and in which they may have their residence at the time of the naturalization of their father in another state, especially when they have reached the age when liability for performance of military service may accrue. Altogether there seem to be strong arguments in support of retaining the article in its present form, so that children can not be naturalized through the naturalization of their father until they acquire a residence in the naturalizing state.

With reference to this article attention is called to the following provision of Article 3 of the Resolution of the Institute of International Law, 1928 (see Appendix No. 9):

> "No individual can by naturalization acquire a foreign nationality so long as he resides in the country whose nationality he possesses."

Section (4) of the Model Statute adopted by the International Law Association, 1924, provides as follows:

> "(4) Conditions as to Naturalization. Except in the cases referred to, *sub* (1), (2) and (3), the nationality of a conforming State shall not be acquired otherwise than by naturalization on the application of the person concerned, or, in the case of a minor, of such minor's father (c), and the conditions imposed on applicants for naturalization shall include a condition that the applicant must be domiciled within the State of which he or she desires to become a citizen and must have resided within that State or been in the service of that State during a specified period (d). Provided always that: (a) a woman marrying a national of a conforming State shall be dispensed from the said condition as to domicile and residence: (b) any child of a national of a conforming State who by reason of its birth outside the limits of such State has become a national of another State shall within twelve months after attaining majority be entitled to be naturalized as a national of such first mentioned State without complying with any of the said conditions as to domicile and residence imposed on other applicants for naturalization." (Appendix No. 5.) (The exceptions, (1), (2) and (3) in the provision just quoted relate to (1) nationality acquired at birth, (2) effect of legitimation and (3) effect of marriage.)

With regard to this article it is also of interest to note Article 271 of the Draft Outlines of an International Code, prepared by David Dudley Field, New York, 1872. It is as follows:

> "271. No person can be naturalized who is not at the time actually within the territorial limits of the nation by which he is naturalized. But

this article does not apply to a person whose last allegiance is extinguished pursuant to the second subdivision of article 262." (Article 262 of Field's Code relates to various ways in which expatriation may be effected.)

ARTICLE 15

Except as otherwise provided in this convention, a state may not naturalize a person of full age who is a national of another state without the consent of such person; but a state may naturalize a person not of full age, in connection with its naturalizaton of his parent, without the consent of such person.

COMMENT

While it is recognized that a state has the power to make nationals at birth, within certain limitations, of persons born within their territory or born abroad of their nationals (Article 3), this article expresses a general rule that a state cannot properly naturalize aliens without their consent. This general rule is subject to certain exceptions.

Aside from the question whether international law relates in any case directly to natural persons or whether it relates only to states, the general principle that no state is free to acquire the allegiance of natural persons without their consent is believed to be generally recognized. An attempt to do so would be a disregard of the interests of the state of which the person is a national, particularly in view of the fact that nationality involves obligations as well as rights or privileges.

The United States and certain European states have protested against the application to their nationals of laws and decrees of Peru, Spain (with reference to Cuba) Venezuela, Mexico and Brazil under which it was attempted to impose the nationality of those countries upon aliens within their territories, without their consent, upon various grounds, such as marriage to native women, residence, and acquisition of real property. (3 Moore, Digest of International Law, pp. 302–311.) These cases, however, should be differentiated from certain cases which arose in Haiti in 1899 with regard to Americans who had immigrated into Haiti and obtained from the Haitian Government grants of public lands conditioned upon the assumption by them of Haitian allegiance. Concerning these latter cases, Secretary Hay, in an instruction of December 1, 1899 to Mr. Powell, American Minister to Haiti, said:

> "As the immigration of the persons in question and the acceptance by them of a land grant from the Haytian Government appears to have been expressly conditioned upon their becoming citizens of Hayti, the transaction must be regarded as a voluntary contract whereby the immigrant settler renounced his American citizenship and became merged in the body politic of the Haytian Republic. You will test each individual case by this rule and act accordingly, withholding the passport if the fact of the acquisition of Haytian citizenship appear." (3 Moore, Digest of International Law, 311.)

The "consent" mentioned in this article means express consent or an act which in itself shows unquestionably the desire and intention of a person to take the nationality of a state. The act in such case must have a direct relation to nationality. In an instruction of July 5, 1852, to the American Consul at Havana, Secretary of State Webster said:

> "Change of allegiance, which is manifested by the voluntary action and usually by the oath of the party himself, ought always to be accomplished by proceedings which are understood on all sides to have that effect. It is certainly just that acts which are to be regarded as changing the allegiance of American citizens should be distinctly understood by those to whom they are applied as having that effect; that the practical as well as the theoretical construction of such acts should be unequivocal and uniform, and that no acts should be deemed acts of expatriation except such as are openly avowed and fully understood." (3 Moore, Digest of International Law, 303.)

> "Whatever be the effect of giving to a foreigner the status of a subject or citizen with his own consent, a country has no right to impose the obligations of nationality, still less to insist that this foreign subject shall abandon in its favour his nationality of origin. Consent no doubt may be a matter of inference: and if the individual does acts of a political, or even, possibly, of a municipal nature, without inquiry whether the law regards the performance of such acts as an expression of desire on his part to identify himself with the state, he has no ground for complaint if his consent is inferred, and if he finds himself burdened upon the state territory with obligations correlative to the privileges which he has assumed. But apart from acts which can reasonably be supposed to indicate intention, his national character may with propriety be considered to remain unaltered. It is unquestionably not within the competence of a state to impose its nationality in virtue of mere residence, of marriage with a native, of the acquisition of landed property, and other such acts, which lie wholly within the range of the personal life, or which may be necessities of commercial or industrial business. The line of cleavage is distinct between the personal and the public life. Several South American states have unfortunately conceived themselves to be at liberty to force strangers within their embrace by laws giving operative effects to acts of a purely personal nature." (Hall, International Law, 8th ed., pp. 267, 268.)

The reasons for the exception concerning minor children are apparent. The propriety of naturalizing minor children through the naturalization of their parents arises from the principle of the unity of the family and the headship of the father or of the widowed mother. Such naturalization is provided for in the laws of many states. (See Analysis of Laws concerning Naturalization and Expatriation, Appendix No. 1.)

Perhaps the commonest case of naturalizaton of an adult without consent, is that of the naturalization of married women through the naturalization of their husbands. This raises a problem similar to that which is covered by Article 19 of this Convention, and much of the comment under Article 19 is applicable here. It would seem to be in line with the modern

ideas of the status of married women to require that their consent should be given to their naturalization when their husbands are naturalized, and the text of Article 15 would have this effect. It might have the result in some cases of causing members of one family to have different nationalities, but the cases would probably be few in which this result would follow.

Several draft projects contain provisions relating to this subject. The provision of the Model Statute of the International Law Association concerning naturalization is quoted above. Except in the case of a minor naturalized through the naturalization of his father, naturalization must be "on the application of the person concerned."

The draft of the Association of International Law of Japan (Article 3) reads as follows:

> "A State cannot impose its nationality upon aliens against their will on the sole ground of their having their residence, however permanent, within its territory." (See Appendix No. 7.)

The draft of the League of Nations Committee of Experts (Article 6) reads as follows:

> "Naturalisation may not be conferred upon a foreigner without his having shown the will to be naturalised or at least without his being allowed to refuse naturalisation." (See Appendix No. 6.)

The draft of the *Institut de Droit International* of 1928 provides (Article 3):

> "An individual can not acquire by naturalization a foreign nationality unless he makes application therefor.
>
> "The state of residence may nevertheless impose its nationality, at the expiration of a certain time, fixed so far as possible by convention, and under reserve of a right of option." (See Appendix No. 9.)

ARTICLE 16

When a person, after having been naturalized by a state, establishes a residence of a permanent character within the territory of a state of which he was formerly a national, the latter state may re-impose its nationality upon such person without his consent, whereupon he shall lose the nationality acquired by naturalization.

COMMENT

This article is applicable only to a naturalized person who (1) returns to the territory of the state of which he was formerly a national, and (2) establishes therein a residence of a permanent character. It operates directly upon the naturalized person by terminating his nationality acquired by naturalization, if the state of which he was formerly a national, and to which he has returned, restore its nationality to him. It does not interfere with the power of the naturalizing state to withdraw its nationality when it sees fit.

This article is not designed to penalize the naturalized person nor to interfere with his freedom of movement. So far as this article is concerned he is

free to travel and sojourn where he pleases. It does not interfere with his freedom to visit the territory of the state of which he was formerly a national, or to reside therein temporarily. But if he takes up a permanent residence therein certain results follow. He becomes subject to restoration through legal process to the state in which he has voluntarily reestablished himself, and in that case loses the nationality acquired by naturalization.

The "residence of a permanent character" mentioned in this article requires no prolonged stay in the territory. It merely requires physical presence of a person in the territory at a given time, plus an intent to remain therein for an indefinite time, although such intent may be presumed from actions on his part, such as selling his house of residence and closing out his business in the country of naturalization and purchasing a house and opening up a business in the country of origin. Also the place where he maintains his family, if he has one, is an element to be considered. It will be observed that this "residence of a permanent character" has a different connotation from the term "habitual residence," used elsewhere in this draft. The former relates to the intent of an individual at a particular moment and the latter to the place where he is physically present for the most part over a period of time.

This article coincides with, and is a corollary to, the three preceding articles. It is based upon the theory that naturalization implies a complete transformation of the national character of a person, by which he becomes detached from one state and attached to another. In general, it is designed as a corrective for the cases of persons who seek to obtain the advantages of naturalization without fulfilling its obligations. It proceeds upon the assumption that, as in each case of naturalization two states may be interested, the subject of naturalization may properly be dealt with in treaties, particularly with a view to preventing or correcting abuses and making the national character of persons correspond in general with the facts of their lives.

Since in the past naturalization laws have been subject to much abuse on the part of persons who have taken advantage of them for the purpose of escaping obligations to the countries from which they came and in the territory of which they reestablished themselves after naturalization, agreement upon a rule such as that contained in this article seems necessary in order that there may be agreement upon the very important and basic rule that naturalization effects a complete change of nationality.

This article is proposed for the purpose of protecting the rights of the state of original nationality, rather than those of the naturalizing state, although it will have the effect of protecting both against persons who may attempt to obtain the advantages of the laws of both without fulfilling obligations to either. It does not interfere with the power of the naturalizing states to adopt such domestic legislation as they may desire, for withdrawal of their nationality from persons who, having acquired it through naturalization, have departed from their territories and established themselves abroad.

For example, it would not conflict with the provision of Section 2 of the law of the United States of March 2, 1907 (34 Stat. 1229), which provides for a presumptive loss of the nationality of the United States in the case of a naturalized citizen thereof who resides for two years in the foreign state from which he came or for five years in any other foreign state; nor would it conflict with the laws of certain Latin American states under which their nationality is lost in cases of naturalized persons who reside for protracted periods in the countries from which they came, except as officials, or with the express permission of the naturalizing state. The period is two years in the law of Costa Rica (Law of May 13, 1889, Art. 11), Salvador (Law of Apr. 3, 1900, Art. 10), and Mexico (Law of May 28, 1886, Art. 10), and five years in the laws of Cuba (Const., Art. VII, 4) and Nicaragua (Law of Foreigners, Art. 31). See also Italian Law of Nationality of June 13, 1912, Art. 9, No. 3.

Section 7 of the British Nationality and Status of Aliens Act of 1914 authorizes the Secretary of State to revoke naturalization certificates in certain specified classes of cases, including the case of a naturalized person who "(d) has since the date of the grant of the certificate been for a period of not less than seven years ordinarily resident out of His Majesty's dominions otherwise than as a representative of a British subject, firm, or company carrying on business, or an institution established, in His Majesty's dominions, or in the service of the Crown, and has not maintained substantial connection with His Majesty's dominions."

Section 15 of the Naturalization Act of the United States of June 29, 1906 (34 Stat. 601; U. S. C. Title 8, Sec. 405), contains a provision to the effect that the acquisition by naturalized citizens of a permanent residence abroad within five years after naturalization raises a presumption that the naturalization was procured fraudulently. The statute further provides for the cancellation of the naturalization, when reported by diplomatic or consular officers, through judicial proceedings. The decree of the court in such cases declares that the naturalization was void *ab initio*.

Naturalized persons within the purview of Article 16 may be divided roughly into two classes: first, those who obtain naturalization evidently without an intention of settling permanently in the territory of the naturalizing state and fulfilling the obligations which are supposed to be involved in naturalization, and second, those who, after settling there, are persuaded by one reason or another, to resume residence in their native lands. The Government of the United States has endeavored to cope with the situations presented by cases of both classes, by treaty as well as statutory provisions. The original naturalization conventions with German states, the so-called Bancroft treaties, and most of the naturalization treaties subsequently concluded between the United States and various foreign countries, contain a clause to the effect that, when a naturalized citizen resumes residence of a permanent character in his former country, he shall be deemed to have re-

nounced his naturalization, and that a residence of two years in the former country raises a presumption of permanence. Article 3 of the Naturalization Convention of 1924 between the United States and Bulgaria, which resembles in the main the older conventions, reads as follows:

> "If a national of either country, who comes within the purview of Article I, shall renew his residence in his country of origin without the intent to return to that in which he was naturalized, he shall be held to have renounced his naturalization.
>
> "The intent not to return may be held to exist when a person naturalized in one country shall have resided more than two years in the other."

The Inter-American convention signed at Rio de Janeiro, August 13, 1906, provides (Art. 1) that a naturalized person who resumes a residence of a permanent character in his native country "will be considered as having resumed his original citizenship, and as having renounced the citizenship acquired by the said naturalization"; and (Art. 2) that residence of two years in the native country gives rise to a presumption of permanence, but this presumption may be overcome. The Italian-Nicaraguan treaty signed on September 20, 1917, contains a similar provision (Art. 4).

ARTICLE 17

When a person's nationality based upon his alleged naturalization is in question between two states, such naturalization may ordinarily be established by a certificate issued by the competent authority of the naturalizing state; but the validity of such a certificate may be impeached upon the ground that it was procured fraudulently or issued in violation of the provisions of a convention to which the naturalizing state is a party.

COMMENT

Because of the frequency with which questions concerning naturalization arise before arbitral tribunals and in diplomatic correspondence, it seems desirable to include in the convention this provision for the establishment of nationality where naturalization is in question.

By the law of most countries, certificates of naturalization are issued by the competent authority when nationality is conferred upon the application of an alien. Such certificates are more formal in character than ordinary documents. In the United States, the Act of Congress of June 29, 1906 (34 Stat. 603), provides in Section 27 the form of certificate used by the United States. The same act provides (Section 15) for suits to cancel and set aside "the certificate" of naturalization "on the ground of fraud or on the ground that such certificate of citizenship was illegally procured."

The British Nationality and Status of Aliens Act of 1914 gives similar importance to the certificate of naturalization. Section 7 authorizes the Secretary of State for Home affairs to "revoke the certificate" when it is es-

tablished that it has been "obtained by false representation or fraud, or by concealment of material circumstances."

Article 17 provides that the certificate of naturalization issued by a competent authority will "ordinarily" be sufficient to establish the nationality which may be in question in a given case. It will indicate both the fact of naturalization and the validity thereof. But this is not always true, and the validity of such a certificate may be impeached on the ground that the document was procured by fraud or on the ground that fraud was practised in connection with the issuance of the certificate.

The question of the impeachment of naturalization has been the subject of extensive diplomatic discussion and argument in international arbitral tribunals. (See 3 Moore's International Arbitrations, 2583–2655; 1 Hyde, International Law, Sec. 371; Ralston, Law and Procedure of International Arbitrations, Secs. 314–325; Van Dyne on Naturalization, pp. 142–189.) Van Dyne, pp. 144, *et seq.*, quotes in full the exhaustive opinion rendered by the Spanish Treaty Claims Commission in 1905 in the case of *Ruiz* v. *United States*, in which the question of the right to impeach naturalization certificates was discussed and numerous authorities and decisions in support of such right were cited. The subject was thoroughly threshed out before the United States-Spanish Commission created under the agreement of 1871, and the above article follows in principle the formal agreement entered into by the arbitrators December 14, 1882. (3 Moore's International Arbitrations, 2621.)

It has been asserted that the authorities of one state may not "impeach" a certificate of naturalization issued by the authorities of another state. (Van Dyne on Naturalization, p. 142.) This is correct if it means that no state can properly assume authority to render a final decision *ex parte* upon the question of the validity of a naturalization certificate issued by another state, but this does not mean that the first state cannot question the right of the second state to espouse a claim against it when the first state has positive proof that the certificate of naturalization through which the individual claims the support of the other state was fraudulently procured. In such a case the state against which the claim is made is entitled to demand that proceedings under the claim be suspended until evidence of the alleged fraud shall have been submitted and considered.

The weight of opinion seems to be to the effect that, in order to have a naturalization certificate discredited as invalid, it is not sufficient to show merely that the legal requirements of the state in which it was issued were not complied with, and that proof of actual, wilful fraud in the procurement of the certificate is necessary. However, arbitral tribunals have held that, where the requirements in the naturalization laws concerning residence have been clearly and flagrantly violated, a fraudulent intent will be presumed. Thus in the Buzzi case, No. 22, Spanish Commission, 1871, April 18, 1881, it appeared that the claimant, a native of Cuba alleging citizenship of the United States through naturalization, under a law requiring continuous

residence in the United States for five years immediately preceding the naturalization, had in fact resided in Cuba during about four years and a half of that period. Count Lewenhaupt, the Umpire, dismissed the claim upon the ground that the claimant had "no right to appear as an American citizen before this commission." (3 Moore's Int. Arb. 2613–2618.)

The gist of this matter was aptly stated by Commander Bertinatti, Umpire, in the Medina case, United States-Costa Rican Commission, 1860, when, in dismissing the claim, he said: "The certificates exhibited by them being made in due form; have for themselves the presumption of truth; but when it becomes evident that the statements therein contained are incorrect, the presumption of truth must yield to truth itself." (3 Moore's Int. Arb. 2587.)

It may be noted that Section 4 of the Model Statute of the International Law Association, provides under the heading "conditions as to naturalization," "that the applicant must be domiciled within the state of which he or she desires to become a citizen and must have resided within that state or been in the service of that state during a specified period," and Section 3 of the Resolutions adopted by the Association September 9, 1924, provides that "naturalization obtained by fraud should be capable of cancellation, and upon this happening the individual concerned should revert to his former national status."

The subject of fraudulent naturalization is treated by Cogordan with some care (*op. cit.* 181–185).

ARTICLE 18

When the entire territory of a state is acquired by another state, those persons who were nationals of the first state become nationals of the successor state, unless in accordance with the provisions of its law they decline the nationality of the successor state.

When a part of the territory of a state is acquired by another state or becomes the territory of a new state, the nationals of the first state who continue their habitual residence in such territory lose the nationality of that state and become nationals of the successor state, in the absence of treaty provisions to the contrary, unless in accordance with the law of the successor state they decline the nationality thereof.

COMMENT

The first paragraph of this article relates to the nationals of a state the entire territory of which is acquired by another state, the first state being thereby extinguished. This paragraph would also be applicable in principle to a case in which a state is extinguished by partition and division of the territory among two or more states, although it is altogether unlikely that in a case of partition the national status of the nationals of the extinguished state would not be defined by a treaty between the successor states. The

second paragraph relates to the nationals of a state a part of whose territory is detached from it and added to another state, the first state remaining in existence.

Both paragraphs of this article are applicable to acquisition of territory either as a result of war or of agreements having no reference to war.

The persons affected by this article are nationals of the predecessor state; it is not so broad as to cover all inhabitants, nor so narrow as to be applicable only to natives of the territory transferred. It is applicable to naturalized persons as well as to those who acquired nationality at birth.

In the first paragraph the place of residence at the time of the transfer is not considered; the nationality of the successor state is acquired regardless of residence, to avoid statelessness. In the second paragraph, residence is a necessary element to be considered, and nationals of the predecessor state do not acquire the nationality of the successor state unless they continue their habitual residence in the territory transferred. It is implied in this provision that former residents of the territory, who had abandoned their residence therein at the time of the transfer, are not affected as to their nationality by the transfer.

Under the first paragraph, nationals of the predecessor state become nationals of the successor state unless (1) the latter provides by law a means by which they may decline its nationality, and (2) they take advantage thereof. It will be observed, however, that the article does not require the successor state to make such provision. Under the second paragraph it is also possible, in the absence of a treaty provision to the contrary, though not compulsory, for the successor state to adopt legal means by which nationals having their habitual residence in the territory transferred may decline its nationality. Finally it is important to note that the nationality of persons coming within the scope of the second paragraph is subject to regulation by special treaty provisions between the predecessor and successor states.

This article is believed to express a rule of international law which is generally recognized, although there might be differences of opinion with regard to its application under particular conditions. The cases of collective naturalization, such as those provided for in this article, are the only cases in which international law, without an applicable provision in the municipal law of a state, declares that a person has the nationality of the state. It might be said that international law assumes that the successor state confers its nationality upon the nationals of the predecessor state residing in the annexed territory at the time of the annexation. As expressed by Halleck (*International Law*, 1st ed., p. 816), "it is a general rule of international law that, on the transfer of territory by complete conquest or cession, the allegiance of the inhabitants of the conquered or ceded territory is transferred to the new sovereign."

In the opinion of the Supreme Court of the United States in *American Insurance Company* v. *Canter* (1828), 1 Peters, 511, 542, Chief Justice Marshall said: On the transfer of territory, the relations of its inhabitants with

the former sovereign are dissolved; "the same act which transfers their country, transfers the allegiance of those who remain in it."

In *Shanks* v. *Dupont* (1830), 3 Peters, 242, the Supreme Court of the United States held that a woman who was born in South Carolina of British parents, had married a British subject, had left South Carolina in 1782 upon the evacuation of Charleston by the British forces, and had established herself permanently in England with her husband, was a British subject at the time of her death in England in 1801. In the opinion of the Court, Mr. Justice Story said:

> The treaty of peace of 1783 acted upon the state of things as it existed at that period; it took the actual state of things as its basis. All those, whether natives or otherwise, who then adhered to the American states, were virtually absolved from all allegiance to the British Crown; all those who then adhered to the British crown, were deemed and held subjects of that crown. The treaty of peace was a treaty operating between the states on each side, and the inhabitants thereof; in the language of the seventh article, it was a firm and perpetual peace between his Britannic majesty and the said states, "and between the subjects of the one and the citizens of the other." Who were then subjects or citizens, was to be decided by the state of facts. If they were originally subjects of Great Britain, and then adhered to her, and were claimed by her as subjects, the treaty deemed them such. If they were originally British subjects, but then adhering to the states, the treaty deemed them citizens. Such, I think, is the natural, and indeed, almost necessary meaning of the treaty; it would otherwise follow, that there would continue a double allegiance of many persons; an inconvenience which must have been foreseen, and would cause the most injurious effects to both nations.
>
> It cannot, we think, be doubted, that Mrs. Shanks being then voluntarily under British protection, and adhering to the British side, by her removal with her husband, was deemed by the British government to retain her allegiance, and to be, to all intents and purposes, a British subject.

In *M'Ilvaine* v. *Coxe's Lessee* (1808), 4 Cranch, 209, the Supreme Court of the United States held that a person born in New Jersey and resident there at the time of the Declaration of Independence, became a "subject" of the State of New Jersey under its act of June 5, 1777. See also *Minor* v. *Happersett* (1874), 21 Wallace, 162, and *Boyd* v. *Thayer* (1892), 143 U. S. 135.

As to the persons affected by a change of sovereignty over territory, it seems that differing views have been held in the past, one theory being that the change affected only the natives of the territory; the other being that the persons affected are nationals domiciled or resident in the territory, whether natives or not. The latter view seems to have prevailed. Fauchille, *Traité de Droit international public*, I, p. 856; Westlake, *International Law*, I, p. 72.

In *Tobin* v. *Walkinshaw* (1856), 1 McAllister, 186, Fed. Case No. 14,070, the Court held that a native of Great Britain, who had been naturalized as a Mexican citizen and was residing in California at the time of its annexation to the United States, had not acquired the nationality of the United States

under the provision of the Treaty of Guadalupe Hidalgo. One ground for the decision was that in the transfer of territory persons who have acquired the nationality of the predecessor state through naturalization do not acquire the nationality of the successor state, the transfer affecting only native citizens. The Court expressed the opinion that the effect of the change of sovereignty is merely to cancel the naturalization, so that the person is restored to his original nationality. However, in reaching its conclusion in this case the Court laid much stress upon the fact that the provision of the Treaty of Guadalupe Hidalgo concerning nationality related specifically to "Mexicans," and the Court assumed that this word was intended to be applied only to native Mexicans. The decision, insofar as it relates to the effect of transfer of territory upon the naturalized person, is difficult to support. Assuming that naturalization effects a complete transformation in the national character of a person, there is no reason whatsoever for drawing a distinction between persons who have acquired nationality at birth and those who have acquired nationality through some process of naturalization prior to the transfer.

The change of sovereignty affects only nationals of the predecessor state. The nationality of other persons residing in the territory at the time of the transfer is not affected. *Masson* v. *Mexico*, 3 Moore, *International Arbitrations*, pp. 2542–2543.

Dana, in his note 169 to Wheaton's *International Law*, draws a distinction between the effect of annexation by conquest and annexation as a result of peaceful cession. In the first case he considers that citizens of the conquered country owe absolute allegiance to the new state, whereas in the second case he says that "it is understood that the former citizens have the option to stay or leave the country, and the continuance of their domicile is conclusive on the obligation of permanent allegiance."

Hall (*International Law*, 8th ed., § 205), draws a distinction between nationals of a "wholly conquered" state and those of a "partially conquered" state. As to the first, he says that all subjects become subjects of the annexing state; as to the second, he says that "such subjects of a partially conquered state as are identified with the conquered territory at the time when the conquest is definitively effected" become subjects of the annexing state. Hall's views seem to be in agreement with Article 18, in drawing a distinction between nationals of a "wholly conquered," or extinguished state, and nationals of a state a part of whose territory is annexed to another. See, however, Westlake, *International Law*, I. p. 70–71.

When the United States acquired Hawaii, thereby extinguishing the previously independent state, it provided by statute (Act of April 30, 1900, 31 Stat. 141) that "all persons who were citizens of the Republic of Hawaii on August 12, 1898, are citizens of the United States and citizens of the territory of Hawaii." No condition concerning residence was included in this statute.

While the word "domicile" has sometimes been used in treaties with re-

gard to persons whose nationality is changed through collective naturalization, the word "residence" has also been used, as in the Treaty of Paris of December 10, 1898, between the United States and Spain (30 Stat. 1754). Text writers sometimes speak of "domicile" and sometimes of "residence" within the annexed territory as a condition upon which the nationality of the successor state is acquired. Altogether, it seems proper to use the term "habitual residence."

Under the first paragraph of the article, it is permissible for the annexing state to provide by law a means by which former nationals of the extinct state may decline the nationality of the annexing state, but it does not seem that it is incumbent upon the latter to make such provision. If the former national of the extinguished state chooses to retain his habitual residence within its former territory, it is only reasonable that he should have the nationality of the annexing state; if, on the other hand, he chooses to reside in another country, he may be able to obtain naturalization therein, and pending such naturalization, there is no apparent hardship in his having the nationality of the annexing state.

When a part of the territory of one state is ceded to another, it is doubtless desirable for the annexing state to allow the nationals of the first state an option with regard to acquiring its nationality. The American authorities in the main seem to consider that it is incumbent upon the annexing state to give such option, either by allowing a national to make a formal declaration declining the nationality of the annexing state or by allowing him to depart from the territory. In *Inglis* v. *Sailor's Snug Harbour* (1830), 3 Peters, 99, 122, the Court held that a native of New York who, although present in the state at the time of the Declaration of Independence, had left it in 1783 and taken up his residence in England, had thereby retained his British allegiance. In this connection the Court said: "This right of election must necessarily exist, in all revolutions like ours, and is so well established by adjudged cases, that it is entirely unnecessary to enter into an examination of the authorities. The only difficulty that can rise is to determine the time when the election should have been made."

With regard to this matter Halleck (*Op. cit.*, p. 818), after quoting the opinion of Chief Justice Marshall in *American Insurance Company* v. *Canter* (*supra*), says:

> From the rule of international law, as thus announced by Chief Justice Marshall, it is deduced that the transfer of territory establishes its inhabitants in such a position toward the new sovereignty, that they may elect to become, or not to become, its subjects. Their obligations to the former government are cancelled, and they may, or may not, become the subjects of the new government, according to their own choice. If they remain in the territory after its transfer, they are deemed to have elected to become its subjects, and thus have consented to the transfer of their allegiance to the new sovereignty. If they leave, *sine animo revertendi*, they are deemed to have elected to continue aliens to the new sovereignty. The *status* of

> the inhabitants of the conquered and transferred territory is thus determined by their own acts. This rule is the most just, reasonable and convenient, which could be adopted. It is reasonable on the part of the conqueror, who is entitled to know who become his subjects, and who prefer to continue aliens; it is very convenient for those who wish to become the subjects of the new state; and is not unjust toward those who determine not to become its subjects. According to this rule, *domicil*, as understood and defined in public law, determines the question of transfer of allegiance, or rather, is the rule of evidence by which that question is to be decided.

In *Boyd* v. *Thayer* (1892), 143 U. S. 135, Chief Justice Fuller said: "The nationality of the inhabitants of territory acquired by conquest or cession becomes that of the government under whose dominion they pass, subject to the right of election on their part to retain their former nationality by removal or otherwise, as may be provided."

Fauchille (*op. cit.*, I, p. 857) also expresses the view that, in the case of annexation of a part of the territory of one state by another, respect due to the liberty of persons requires that those residing in the territory may make an option to retain their original nationality.

Provisions concerning the nationality of inhabitants of ceded territory, including provisions concerning option, have been included in most modern treaties of cession. Westlake (*op. cit.*, I, p. 71) states:

> Anciently cessions were carried into effect on the footing that the allegiance both of the present and of the absent was transferred by that means without an option being given, which is said to have been done for the first time by the capitulation of Arras in 1640, but the established practice has long been to fix a time within which individuals may, formally or practically, opt for retaining their old nationality, on condition of removing their residence from the ceded territory. The succession then comprises all those individuals, whether present on the ceded soil or absent from it, who fall within its terms as shaped with the concurrence of the ceding state.

The provisions of treaties concerning collective naturalization are discussed at some length by Fauchille (*op. cit.*, I, pp. 856–879).

With regard to acquisition of the nationality of the United States by inhabitants of annexed territories, see Van Dyne, Naturalization, pp. 266–332; 3 Moore, *Digest of International Law*, pp. 311–327.

Under Article 2 of the Treaty of 1794 between the United States and Great Britain (8 Stat. 116), British subjects residing in Detroit at the time of the British evacuation of the territory of Michigan, and continuing to reside there without declaring their intention within one year to remain British subjects, acquired American nationality. (*Crane* v. *Reeder*, (1872) 25 Mich. 303; Van Dyne, Naturalization, p. 276).

Article 3 of the Treaty of Paris of 1803 (8 Stat. 200), by which France ceded Louisiana to the United States, contained a provision to the effect that "the inhabitants of the ceded territory" should be granted citizenship

of the United States, but contained no provision concerning election. The provisions of the Treaty of 1819 with Spain (8 Stat. 252), by which Florida was ceded to the United States, were similar to those contained in the Treaty of 1803 with France.

The Treaty of February 2, 1848, between the United States and Mexico (9 Stat. 922), by which Mexico ceded California and other territory to the United States, contained in Article 8 the provision that "Mexicans now established in territories previously belonging to Mexico" and ceded to the United States should, if remaining in such territories, elect within one year whether they would "retain the title and rights of Mexican citizens, or acquire those of citizens of the United States," and that those who remained after the expiration of one year without declaring their "intention to retain the character of Mexicans," should "be considered to have elected to become citizens of the United States."

Article 3 of the Treaty of 1867 between the United States and Russia, ceding Alaska to the United States (15 Stat. 542), gave the inhabitants of the territory the right to retain their Russian allegiance and return to Russia within three years, but further provided that if they should remain in the territory beyond that period, "they, with the exception of uncivilized native tribes, shall be admitted to the enjoyment of all the rights, advantages and immunities of citizens of the United States. . . ." This treaty also provided that "the uncivilized tribes will be subject to such laws and regulations as the United States may from time to time adopt in regard to aboriginal tribes of that country."

The Treaty of December 10, 1898, between the United States and Spain (30 Stat. 1754), provided, in Article 9, that "Spanish subjects, natives of the Peninsula, residing in the territory" ceded to the United States might remain or remove therefrom. It was further provided that if they remained in the territory they could preserve their allegiance to Spain by making a formal declaration within one year. This article also contained the provision that "the civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress." It is thus seen that while natives of the Peninsula of Spain residing in the Philippines, Porto Rico and other territory ceded to the United States were given an option to retain Spanish allegiance, upon the conditions mentioned, no such option was given to the "native inhabitants" of the territories mentioned.

The Treaty of August 4, 1916, between the United States and Denmark, by which Denmark ceded to the United States the Danish West Indies (39 Stat. 1706), provided, in Article 6, for the nationality of "Danish citizens residing in said Islands." It stipulated that they might remain therein or remove therefrom at will, and that "those who remained in the Islands may preserve their citizenship in Denmark by making before a court of record, within one year from the date of the exchange of ratifications of this conven-

tion, the declaration of their decision to preserve such citizenship; in default of which declaration they shall be held to have renounced it and to have accepted citizenship in the United States." Under this provision those retaining Danish citizenship were not required to leave the Island.

Some of the principal provisions in the Treaties of Peace terminating the World War which related to the nationality of the inhabitants of ceded territories may also be noted.

Article 79, Annex 1, of the Treaty of Versailles of June 28, 1919, between the Allied and Associated Powers and Germany, related to the nationality of the inhabitants of Alsace-Lorraine, and provided that the following should be reinstated in French nationality: "Persons who lost French nationality by the application of the Franco-German Treaty of May 10, 1871, and who have not since that date acquired any nationality other than German."

In Article 81 of this treaty Germany recognized the independence of the Czecho-Slovak State, and in Article 83 she renounced in favor of the latter all rights and title over the portion of Silesian territory defined therein. Articles 84 and 85 provide as follows:

> Art. 84. German nationals habitually resident in any of the territories recognised as forming part of the Czecho-Slovak State will obtain Czecho-Slovak nationality *ipso facto* and lose their German nationality.
>
> Art. 85. Within a period of two years from the coming into force of the present Treaty, German nationals over eighteen years of age habitually resident in any of the territories recognized as forming part of the Czecho-Slovak State will be entitled to opt for German nationality. Czecho-Slovaks who are German nationals and are habitually resident in Germany will have a similar right to opt for Czecho-Slovak nationality.
>
> Option by a husband will cover his wife and option by parents will cover their children under eighteen years of age.
>
> Persons who have exercised the above right to opt must within the succeeding twelve months transfer their place of residence to the State for which they have opted.
>
> They will be entitled to retain their landed property in the territory of the other State where they had their place of residence before exercising the right to opt. They may carry with them their movable property of every description. No export or import duties may be imposed upon them in connection with the removal of such property.
>
> Within the same period Czecho-Slovaks who are German nationals and are in a foreign country will be entitled, in the absence of any provisions to the contrary in the foreign law, and if they have not acquired the foreign nationality, to obtain Czecho-Slovak nationality and lose their German nationality by complying with the requirements laid down by the Czecho-Slovak State.

In Article 87 of the Treaty of Versailles Germany recognizes the independence of Poland. Article 91 provides as follows:

> German nationals habitually resident in territories recognised as forming part of Poland will acquire Polish nationality *ipso facto* and will lose their German nationality.

This article contains a provision for option of German nationality similar to that contained in Article 85.

In Article 100 Germany recognizes in favor of the Principal Allied and Associated Powers all rights and title over certain territory for the use of the Free City of Danzig. Article 105 provides as follows:

> On the coming into force of the present Treaty German nationals ordinarily resident in the territory described in Article 100 will *ipso facto* lose their German nationality in order to become nationals of the Free City of Danzig.

Article 106 contains provisions for opting German nationality similar to those contained in Article 85.

Article 70 of the Treaty of St. Germain of September 10, 1919, between the Allied and Associated Powers and Austria, reads as follows:

> Every person possessing rights of citizenship (*pertinenza*) in territory which formed part of the territories of the former Austro-Hungarian Monarchy shall obtain *ipso facto* to the exclusion of Austrian nationality the nationality of the State exercising sovereignty over such territory.

Article 78 of this treaty reads as follows:

> Persons over 18 years of age losing their Austrian nationality and obtaining *ipso facto* a new nationality under Article 70 shall be entitled within a period of one year from the coming into force of the present Treaty to opt for the nationality of the State in which they possessed rights of citizenship before acquiring such rights in the territory transferred.
>
> Option by a husband will cover his wife and option by parents will cover their children under 18 years of age.
>
> Persons who have exercised the above right to opt must within the succeeding twelve months transfer their place of residence to the State for which they have opted.
>
> They will be entitled to retain their immovable property in the territory of the other State where they had their place of residence before exercising their right to opt.
>
> They may carry with them their movable property of every description. No export or import duties may be imposed upon them in connection with the removal of such property.

Article 61 of the Treaty of Trianon of June 4, 1920, between the Allied and Associated Powers and Hungary, reads as follows:

> Every person possessing rights of citizenship (*pertinenza*) in territory which formed part of the territories of the former Austro-Hungarian Monarchy shall obtain *ipso facto* to the exclusion of Hungarian nationality the nationality of the State exercising sovereignty over such territory.

Article 63 of this treaty contains a provision similar to that contained in Article 78 of the Treaty of St. Germain.

It will be observed that, while Article 84 of the Treaty of Versailles related to "German nationals *habitually resident*" in the territories in question, and

Article 105 of the same treaty related to "German nationals *ordinarily resident*" in the territory in question, Article 70 of the Treaty of St. Germain and Article 61 of the Treaty of Trianon related to persons "*possessing rights of citizenship* (*pertinenza*) in the territory." No mention is made in the two treaties last referred to concerning residence. However, it seems altogether likely that most persons "possessing rights of citizenship (*pertinenza*) in the territory" were residing therein at the time of the transfer of the territory.

ARTICLE 19

A woman who marries an alien shall, in the absence of a contrary election on her part, retain the nationality which she possessed before marriage, unless she becomes a national of the state of which her husband is a national and establishes or maintains a residence of a permanent character in the territory of that state.

COMMENT

The nationality of married women gives difficulty because of the great divergence in the laws of various states. Recent changes in the laws of some countries may have been the result of the feminist movement which is more or less world-wide. In many western countries, modern legislation has tended toward a greater emancipation of married women, and this tendency has not been without some effect on the law governing the nationality of married women. As a consequence of the retention of the older law by many countries and the enactment of new laws by others, the present situation is very confused. Instances are numerous in which some married women have become stateless, and others have acquired dual nationality. It seems most desirable that a general agreement should be reached on the subject, and the text of Article 19 would seem to afford basis for such an agreement.

When a woman marries a man of different nationality from her own, it might be the simplest solution to say that she will *ipso facto* acquire her husband's nationality and lose the nationality which she possessed before her marriage. It is desirable in some measure that members of a family should have the same nationality, and the principle of family unity is regarded in many countries as a sufficient basis for the application of this simple solution. If it be conceded that both husband and wife should always have the same nationality, it ought to be the husband's and not the wife's nationality which both should have, according to the family system prevailing in most parts of the world. But this has the effect of changing the wife's nationality without her consent, and there is a growing disposition to say that it unnecessarily places her in a position of subordination. The husband and wife may live in the country of which the wife was a national before the marriage; or during the coverture they may live in different countries. Moreover, some states may be reluctant to admit to their nationality by a process of law

women whose knowledge of their national customs might be very limited, and such states may require some period of preliminary residence as a condition. It is some such line of thought which has produced legislation in recent years to the effect that a woman marrying an alien will retain her original nationality and an alien woman marrying a national will not *ipso facto* gain her husband's nationality. The different points of view on this subject are so opposed that it would seem improbable that any simple uniform solution can be adopted, and the text of the convention must take this into account.

Article 19 contains a provision for a woman's retention of the nationality possessed before her marriage. It requires each state to provide for this retention unless the married woman becomes or remains resident in the territory of which her husband is a national and has the nationality of her husband's state conferred upon her. The article would therefore accomplish the following results; it would prevent statelessness in all cases as a result of marriage; it would provide a great range of choice to the wife; it would end the wife's original nationality in cases where she becomes a national of her husband's state and takes up a residence of a permanent character in her husband's state. The article would require states to provide that a woman may in some circumstances continue to be its national after marriage to an alien, but it would not require states to confer their nationality on alien women married to their nationals. The article is consistent with the laws now existing in a number of countries, which provide that the nationality of a woman is lost through marriage to an alien only in case she acquires the nationality of her husband's state. (See Appendix No. 1.)

It is necessary to recognize, however, that Article 19 would represent new legislation, and that it would effect or require a change in the law of almost all if not all countries. As the law stands in more than forty countries today, an alien woman acquires by marriage the nationality of her husband unconditionally. In a few other countries, an alien woman acquires the nationality of her husband conditionally. It seems that only five countries do not give their nationality to alien women who marry their nationals—Argentina, Guatemala, Union of Soviet Socialist Republics, Uruguay and the United States of America. Recent changes must be noticed in the legislation of the United States of America, Belgium, Denmark, France, Norway, Sweden, Turkey, Union of Soviet Socialist Republics.

The Act of Congress of the United States of September 22, 1922 (42 Stat. L. 1021), reads as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the right of any woman to become a naturalized citizen of the United States shall not be denied or abridged because of her sex or because she is a married woman.
>
> Sec. 2. That any woman who marries a citizen of the United States after the passage of this Act, or any woman whose husband is naturalized after the passage of this Act, shall not become a citizen of the United

States by reason of such marriage or naturalization; but, if eligible to citizenship, she may be naturalized upon full and complete compliance with all requirements of the naturalization laws, with the following exceptions:

(a) No declaration of intention shall be required;

(b) In lieu of the five-year period of residence within the United States and the one-year period of residence within the State or Territory where the naturalization court is held, she shall have resided continuously in the United States, Hawaii, Alaska, or Porto Rico for at least one year immediately preceding the filing of the petition.

Sec. 3. That a woman citizen of the United States shall not cease to be a citizen of the United States by reason of her marriage after the passage of this Act, unless she makes a formal renunciation of her citizenship before a court having jurisdiction over naturalization of aliens: *Provided*, That any woman citizen who marries an alien ineligible to citizenship shall cease to be a citizen of the United States. If at the termination of the marital status she is a citizen of the United States she shall retain her citizenship regardless of her residence. If during the continuance of the marital status she resides continuously for two years in a foreign State of which her husband is a citizen or subject, or for five years continuously outside the United States, she shall thereafter be subject to the same presumption as is a naturalized citizen of the United States under the second paragraph of section 2 of the Act entitled "An Act in reference to the expatriation of citizens and their protection abroad," approved March 2, 1907. Nothing herein shall be construed to repeal or amend the provisions of Revised Statutes 1999 or of section 2 of the Expatriation Act of 1907 with reference to expatriation.

Sec. 4. That a woman who, before the passage of this Act, has lost her United States citizenship by reason of her marriage to an alien eligible for citizenship, may be naturalized as provided by section 2 of this Act: *Provided*, That no certificate of arrival shall be required to be filed with her petition if during the continuance of the marital status she shall have resided within the United States. After her naturalization she shall have the same citizenship status as if her marriage had taken place after the passage of this Act.

Sec. 5. That no woman whose husband is not eligible to citizenship shall be naturalized during the continuance of the marital status.

Sec. 6. That section 1994 of the Revised Statutes and section 4 of the Expatriation Act of 1907 are repealed. Such repeal shall not terminate citizenship acquired or retained under either of such sections nor restore citizenship lost under section 4 of the Expatriation Act of 1907.

Sec. 7. That section 3 of the Expatriation Act of 1907 is repealed. Such repeal shall not restore citizenship lost under such section nor terminate citizenship resumed under such section. A woman who has resumed under such section citizenship lost by marriage shall, upon the passage of this Act, have for all purposes the same citizenship status as immediately preceding her marriage.

The Belgian law of May 15, 1922 (Articles 4 and 18), provides as follows:

Art. 4. The foreign woman who marries a Belgian or whose husband becomes a Belgian by option, follows the nationality of her husband.

Art. 18. The following persons lose Belgian nationality: . . . 2. The woman who marries a foreigner of specified nationality if, by virtue of the law in force in her husband's country she acquires his nationality.

The Danish law of April 18, 1925 (Sections 2, 3, 4 and 7), provides as follows:

Sec. II. . . . Danish nationality acquired by a man in accordance with the provision of this paragraph is acquired likewise by his wife and legitimate children. Illegitimate children, in the same manner follow the nationality of their mother.

Sec. III. An alien woman, who marries a man having Danish nationality acquires that nationality by her marriage.

Sec. IV. . . . Naturalization of a man implies the naturalization of his wife and unmarried children, under 18 years of age, unless in special cases it be otherwise established.

Sec. VII. Women, who by the coming into force of this law lose their Danish nationality owing to their being married to a man who is not of Danish nationality, may, by addressing a petition to the Ministry of the Interior, recover their nationality, provided they were Danish nationals by birth and have lived continuously in Denmark since their marriage. If they leave the Kingdom they lose their nationality.

The French nationality law of August 10, 1927 (Article 8), provides as follows:

A foreign woman who marries a Frenchman only becomes a French woman on her express application or when, in accordance with the provisions of the law of her nation, she necessarily is put in the condition of her husband.

A French woman who should marry an alien maintains her French nationality unless she expressly declares a wish to acquire, in accordance with the provisions of the law of the nation of the husband, the said husband's nationality.

She will lose her French citizenship if the couple (spouses) fix their first domicile out of France after the marriage is solemnized and if the wife necessarily acquires the husband's nationality under the law of the latter's nation.

The Norwegian law of August 1, 1924 (Sections 3 and 6), provides:

Sec. 3. A foreign woman who marries a Norwegian subject, acquires Norwegian nationality on her marriage.

Sec. 6. When a person becomes a Norwegian subject in pursuance of section 2 or section 4, his wife, and unmarried children under 18 years of age, born in wedlock, shall also be deemed to be Norwegian subjects, provided they reside in Norway. If they do not reside there, and the wife subsequently, the marriage being in force, or the children, being unmarried and under 18 years of age, take up her (their) residence in Norway, she (they) shall then be deemed to be Norwegian subjects provided the husband still is a Norwegian subject.

The Swedish law of May 23, 1924 (Article 6), provides as follows:

When an alien man becomes a Swedish citizen in accordance with the terms of either 2 or 4 above, it shall follow as a corollary that Swedish

citizenship is also acquired by his wife and by his children, if born in wedlock and unmarried and less than twenty-one years of age, provided they are domiciled in Sweden. If they are not so domiciled, they shall only acquire Swedish citizenship, supposing as regards the wife that she becomes domiciled in Sweden while her marriage still remains undissolved, and as regards a child that it becomes domiciled in Sweden while he or she is still unmarried and under twenty-one years of age and while the father is still alive, all provided the husband and father is still a Swedish citizen himself.

What has been stated above in this paragraph shall not bear application either as respects any child who as a consequence of nullity-of-marriage or divorce proceedings has been assigned to its mother's care, or, while judicial separation obtains, as respects the wife and any child that has been entrusted to her care.

If, on making application in accordance with 5, an alien man has been accorded Swedish citizenship, it shall follow as a corollary, unless a decision to the contrary has been made at the time, that his wife becomes a Swedish citizen and also any child of theirs, if born in wedlock and unmarried and under twenty-one years of age. Unless special reasons otherwise prescribe, an opportunity shall be afforded to the wife to make a declaration with respect to the question.

Article 8 of the Swedish law provides in part as follows:

Swedish citizenship shall be lost by anyone who becomes a citizen of another country by naturalization or by marriage or by any other mode and who is, or subsequent to acquiring the new citizenship, becomes domiciled there.

The Turkish law of 1928 (Article 13), provides as follows:

Alien women married to Turks become Turkish citizens. Turkish women married to aliens remain Turks. The marriage of an alien woman to a Turk does not affect the citizenship of children born to her in a previous marriage with an alien. However should their father not be alive minors follow the citizenship of their mother.

Former alien women who have changed their citizenship by marriage possess the right of recovering their original citizenship within a period of three years from the date of separation due to the termination of the status of marriage for any reason whatsoever. However, such women desirous of recovering their alien citizenship are required to transfer their domicile abroad if they have no child born to them in a marriage with a Turk.

The law of the Union of Soviet Socialist Republics concerning the nationality of married women is found in Article 5 of the Ordinance of December 3, 1924, which provides as follows:

When a marriage is concluded between a person who is of Union citizenship and a person who is of foreign citizenship, each retains his or her own citizenship. Change of citizenship of such persons can take place by means of a simplified form of procedure to be laid down by Union law.

It will be observed that domicile or residence is an important element in determining the nationality of married women under the laws of Denmark, France, Norway, Sweden and Turkey. It will also be observed that in all

of these laws, except the laws of the United States and Russia, the principle that the nationality of a married woman follows that of her husband is retained in whole or in part, although in the French law freedom of choice to a considerable extent is given to the wife. The law of the United States, while providing that an American woman does not lose American nationality by marrying an alien eligible to citizenship in the United States, provides that she does lose her American nationality by marrying an alien ineligible to citizenship. Moreover, Section 2 provides special facilities for naturalization in the case of an alien woman who marries a citizen of the United States, while Section 3 contains a provision to the effect that an American woman who marries an alien eligible to citizenship shall become subject to a presumption of loss of American nationality "if during the continuance of the marital status she resides continuously for two years in a foreign State of which her husband is a citizen or subject, or for five years continuously outside the United States."

The British Nationality and Status of Aliens Act of 1914 (4 and 5 Geo. 5. c. 17), maintains the principle that the nationality of a married woman follows that of her husband, Article 10 declaring that "the wife of a British subject shall be deemed to be a British subject, and the wife of an alien shall be deemed to be an alien." It provides, however, that a British woman whose husband ceases to be a British subject may, by making a declaration, retain her British nationality; and that a native British woman married to an alien may be restored to her British nationality, in the discretion of the Secretary of State, if the state of which her husband is a national is at war with Great Britain.

In 1923 an effort was made to have the British law amended so that the nationality of married women would be independent of that of their husbands. The subject was submitted to a Joint Select Committee on Nationality of Married Women, composed of an equal number of members of the House of Lords and of the House of Commons. From its report, dated July 23, 1923, it appears that the Committee was evenly divided upon the subject, and no action was taken by Parliament.

This subject was again considered at the Imperial Conference of 1926. The Nationality Committee, reporting on November 17, 1926, was divided on the question whether the law should be changed, so that a British woman would not lose British nationality by marrying an alien. Those who were opposed to the change called attention to the difficulties which would arise because of the cases of double nationality which would result. As to this point the report says:

> "When resident in her husband's country her British nationality would as a rule bring her no advantage. For all practical purposes she would be regarded and treated as a national of that country, and His Majesty's representatives would usually be unable to accord her the benefits of protection. Such a situation might be a source of international friction. Difficulties of this nature would be accentuated in the event of war in-

volving either or both of the countries of which the husband and wife are nationals. Concern was also expressed as to the possible effects upon family relations resulting from the possession of different nationality by husband and wife."

The Committee concluded that this question should be given further consideration, but that it would be desirable to defer a decision until after the report of the Conference of Experts on the relations between the legislative powers of the Parliament at Westminster and the Parliaments of the Dominions. Another reason for deferring the decision was the fact that the question would be considered by the Committee on the Progressive Codification of International Law appointed by the League of Nations. The Committee were unanimously of opinion that the principle should be maintained that "the wife of a British subject shall be deemed to be a British subject." (Brit. Parl. Papers, 1926, Cmd. 2769, pp. 243–249).

The following provisions of draft projects for international conventions on nationality may also be noted:

The Draft Convention prepared by the League of Nations Committee of Experts for the Progressive Codification of International Law, January 29, 1926 (Articles 8 to 10 inclusive), reads as follows:

Article 8. A woman who has married a foreigner and who recovers her nationality of origin after the dissolution of her marriage loses through such recovery of the original nationality the nationality which she acquired by marriage.

Article 9. A married woman loses her original nationality in virtue of marriage only if at the moment of marriage she is regarded by the law of the State to which her husband belongs as having acquired the latter's nationality.

Where a change in the husband's nationality occurs during the marriage the wife loses her husband's nationality only if the law of the State whose subject her husband has become regards her as having acquired the latter's nationality.

Article 10. A woman who does not acquire through marriage the nationality of her husband and who, at the same time, is regarded by the law of her country of origin as having lost her nationality through marriage, shall nevertheless be entitled to a passport from the State of which her husband is a national on the same footing as her husband.

The resolution adopted by the Institute of International Law September 29, 1896 (Article 4), reads as follows:

Unless the contrary has been expressly reserved at the time of naturalization, the change of nationality of the father of a family carries with it that of his wife, if not separated from her, and of his minor children, saving the right of the wife to recover her former nationality by a simple declaration, and saving also the right of option of the children for their former nationality, either in the year following their majority, or beginning with their emancipation, with the consent of their legal assistant.

The resolution on nationality adopted by the Institute in its meeting at Stockholm August 21–28, 1928 (Articles 4 and 5), provides as follows:

> Art. 4. The laws of a country of which a woman who marries a foreigner is a national should permit her to preserve her nationality so long as she does not acquire the nationality of her husband.
>
> When the law of the country of the husband gives the wife his nationality, the law of the country of the wife can preserve her original nationality for her only on the double condition:
>
> (1) That the married couple reside in the country of the wife;
>
> (2) That the wife manifests an express wish therefor.
>
> Art. 5. In the case where the laws of a state confer on the wife the nationality of her husband by the sole fact of marriage, this legislation may nevertheless refuse such effect for reasons of general policy.

The model statute adopted by the International Law Association September 9, 1924, Article (3), is as follows:

> (a) A woman national of a conforming State shall not by reason of her marriage with a national of a non-conforming State lose her original nationality, unless or until by reason of such marriage she becomes a national of such other State, either automatically or by naturalisation.
>
> (b) A woman national of a conforming State marrying a national of another conforming State shall acquire her husband's nationality, unless she does, under the law of the State to which she belonged before marriage, retain the nationality of such State, or unless she makes a formal declaration (to be recorded on the register of marriages) to the effect that she wishes to retain her former nationality.

The Association at the same meeting adopted a resolution reading as follows:

> The right to change nationality should be possessed by a married woman who is judicially separated from her husband.

The draft rules prepared by the Kokusaiho-Gakkwai (Association of International Law of Japan), July, 1926 (Article 7), provide as follows:

> Upon the naturalization of a married man, his wife takes the same nationality, unless already judicially separated by a competent court, provided that a wife may exercise the right of retaining her former nationality by a simple declaration in due form. Upon naturalization of a father or of a mother his or her minor children acquire the nationality of their father or of their mother as the case may be; provided that the children after attaining their majority may exercise within a fixed term the right of electing their former nationality.

The International Woman's Suffrage Alliance in its meeting at Rome in 1923 adopted a draft convention on the nationality of married women, which provided in general that the nationality of wives should be independent of that of their husbands. It will be observed that the provision of Article 5 of the Russian law of December 3, 1924, quoted above, follows the same principle.

ARTICLE 20

A state may not refuse to receive into its territory a person, upon his expulsion by or exclusion from the territory of another state, if such person is a national of the first state or if such person was formerly its national and lost its nationality without having or acquiring the nationality of any other state.

COMMENT

To illustrate:

X, a national of state A, emigrates to state B, but upon his arrival is denied admission, under the immigration law of B, upon the ground that he is afflicted with a contagious disease. The immigration authorities of B thereupon deport him to A. The authorities of A cannot refuse to receive him since he still has the nationality of A.

Y, a naturalized subject of state A, resides in state B more than ten years without acquiring naturalization in B and without giving the notice of his desire to retain the nationality of A under a statute of A providing that its nationality is lost by a residence of ten years abroad, in the absence of a formal written declaration of intention to retain it. The authorities of B desire to deport him to A. A has a duty to receive Y.

Z, a native of A, went to B during the recent war and joined the army of B, taking the oath of allegiance to B, thereby losing his original nationality under a statute of A providing that it is lost by the taking of an oath of allegiance to a foreign state. The taking of the oath, however, does not make him a national of B. The government of B, for sufficient reasons, desires to deport him. A has a duty to receive Z.

In either of the two cases last mentioned the stateless person in question may be deported to the country of his former nationality.

In former times it was a common practice for states to banish nationals whom they considered undesirable for political reasons, and that the practice is not wholly obsolete is shown by the banishment of M. Malvy by France in 1920. It would seem to be clear that a state of which the banished person is not and never was a national may refuse to receive such person. Clement L. Bouvé, Exclusion and Expulsion of Aliens (1912), c. 1. And if the banished person gains admission to the territory of another state, it would seem that the latter might deport him to the state from which he is banished.

The deportation of stateless persons has caused some complications, and in recent years the Government of the United States has experienced much difficulty in its attempts to deport to certain other countries their former nationals who have resided for years in the United States without being naturalized therein. It would seem reasonable, at least as a general rule, that the state of which an expatriated stateless person was last a national should assume responsibility for him and receive him back into its territory if he is found undesirable in other countries.

In this connection, attention is directed to the following provision, found in the International Regulations on the Admission and Expulsion of Aliens, recommended by the Institute of International Law in a Resolution of September 9, 1892 (c. 1):

> "Article 2. In principle, a State must not forbid entrance to or sojourn in its territory either to its subjects, or to those who, after having lost their nationality in the said State, have acquired no other." (Resolutions of the Institute of International Law, p. 104. Carnegie Endowment for International Peace.)

In a recent discussion of this subject in the British Yearbook of International Law, 1927, pp. 45, 61, Sir John Fischer Williams says:

> "There will be general agreement that a state cannot, whether by banishment or by putting an end to the status of nationality, compel any other state to receive one of its own nationals whom it wishes to expel from its territory. There will also be general agreement that a state is bound to receive back across its frontiers any individual who possesses its nationality or who is one of its '*ressortissants.*'"

ARTICLE 21

States parties to this convention may conclude special agreements to govern cases in which those states only are especially interested.

COMMENT

It seems necessary to leave to states the possibility of entering into special agreements which may vary the provisions of this convention. It is to be hoped that the general ideas embodied in a general convention will not be widely departed from; but the subject is so complicated and so many of the provisions of any general convention must represent new legislation that some freedom must be left to states which have special problems *inter se*. Recent territorial changes, involving important questions of nationality, seem an additional reason for making this imperative.

ARTICLE 22

Any dispute between states parties to this convention, with respect to the interpretation or application of the provisions of this convention, which is not settled by negotiation and which is not referred to arbitration under a general or special arbitration treaty, shall be referred to the Permanent Court of International Justice, and may be brought before the Permanent Court of International Justice by either party to the dispute.

COMMENT

This is an identic article included in the conventions on nationality, territorial waters and responsibility of states. One of the objects of the codification is to clarify the law which may be applied by international

tribunals. This is the more important because of the extent to which the Optional Clause of the Statute of the Permanent Court of International Justice has been accepted by states. If the object is to be achieved, it would seem that any convention constituting a part of a code of international law should provide for the application of the provisions of the convention by international tribunals.

This article would incorporate such a provision in the convention. It is hardly necessary to say what is a dispute "with respect to the interpretation and application of the provisions of this convention." See, however, Judgment No. 2 of the Permanent Court of International Justice (Publications of the Court, Series A, No. 2, p. 11). Nor is it necessary to say when a dispute "is not settled by negotiation." On this subject reference may be made to Judgment No. 2 of the Permanent Court of International Justice (Publications of the Court, Series A, No. 2, p. 13). In the first instance the parties to a dispute should have the choice of the tribunal to apply the law, but failing that agreement, the Permanent Court of International Justice would seem the tribunal which ought to be given competence.

Similar provisions have been included in many of the multipartite conventions concluded in recent years. For example, the Statute on Freedom of Transit drawn up at Barcelona, April 14, 1921, provides (Art. 13):

> "Any dispute which may arise as to the interpretation or application of this statute, which is not settled directly between the parties themselves, shall be brought before the Permanent Court of International Justice, unless under a special agreement or a general arbitration provision, steps are taken for the settlement of the dispute by arbitration or some other means."

The Slavery Convention, opened for signature at Geneva on September 25, 1926, contains the following provision (Article 8):

> "The High Contracting Parties agree that disputes arising between them relating to the interpretation or application of this Convention shall, if they can not be settled by direct negotiation, be referred for decision to the Permanent Court of International Justice. In case either or both of the States Parties to such a dispute should not be parties to the Protocol of December 16th, 1920, relating to the Permanent Court of International Justice, the dispute shall be referred, at the choice of the Parties and in accordance with the constitutional procedure of each State, either to the Permanent Court of International Justice or to a court of arbitration constituted in accordance with the Convention of October 18th, 1907, for the Pacific Settlement of International Disputes, or to some other court of arbitration."

APPENDIX No. 1

An analysis of the laws of various States [1]

A compilation of the texts of the nationality laws of various states, edited by Richard W. Flournoy, Jr., and Manley O. Hudson, is being published simultaneously with the publication of this draft, by the Carnegie Endowment for International Peace.

I. NATIONALITY AT BIRTH

(1) States whose laws are based solely on *jus sanguinis*

AUSTRIA—Arts. 5, 13, Law of July 30, 1925, Acquisition and Loss of Provincial and Federal Rights of Citizenship.

CHINA—Chap. I, Sec. 1 (a), (b). Revised Law of Nationality of December 30, 1914.

DANZIG—Sec. 1, Law concerning Acquisition and Loss of Danish Nationality of May 30, 1922.

ESTHONIA—Sec. 2 (3) and Sec. 15, Law No. 87 concerning Citizenship of October 27, 1922.

FINLAND—Art. 4, Constitution.

GERMANY—Sec. 4, German Law of Nationality of July 22, 1913. (Effective January 1, 1914.)

HUNGARY—Art. 3, Law of December 20, 1879 concerning the Acquisition and Loss of Hungarian citizenship.

JAPAN—Art. 1, Law No. 66 of March, 1899 as amended by Law No. 27 of March, 1916, and Law No. 19 of July, 1924.

LATVIA—Art. 7, Law of June 2, 1927.

LITHUANIA—Sec. 1, Provisional Law of January 9, 1919, regarding Lithuanian citizenship.

MONACO—Art. 8 (1), Civil Code.

NETHERLANDS—Art. 1 (a), Art. 2 (a), Law of December 12, 1892, as amended.

POLAND—Art. 5, Law of January 20, 1920 regarding Polish citizenship; Art. 88 (1), Constitution (1921).

RUMANIA—Art. 2 (a), Law of February 23, 1924, relative to the Acquisition and Loss of Rumanian nationality.

RUSSIA (U. S. S. R.)—Sec. 4, Ordinance No. 202, regarding Union Citizenship.

SERBS, CROATS, AND SLOVENES—Article 7, Law of September 21, 1928.

SWITZERLAND—Art. 270, Civil Code of December 10, 1907.

(2) States whose laws are based on *jus soli* and *jus sanguinis*

SIAM—Sec. 3 (1), (3), Nationality Law, Buddha Year 2456 (April 10, 1913).

VENEZUELA—Art. 28, Constitution of July 1, 1928.

(3) States whose laws are based principally on *jus sanguinis*, but also contain provisions based on *jus soli*

AFGHANISTAN—Art. 84, 85, Chap. III, Code relating to Certificates of Identity, the Principles of Passports and the Law of Nationality.

ALBANIA—Turkish Law in force.

BELGIUM—Art. 1 (1), Art. 6 Law of May 15, 1922.

BELGIAN CONGO—Art. 1, 5 Decree of December 27, 1892.

BULGARIA—Art. 5, Sec. 1, 3 Law of December 31, 1903, as amended to July 24, 1924. Art. 54, Constitution.

CUBA—Art. 5, Constitution.

[1] This analysis has been made with the assistance of Raymond T. Yingling, Henry B. Hazard, and Eugene C. Rowley, Jr. It is intended to serve merely as a guide and not as an authoritative statement of the effect of the laws referred to. In spite of the care with which it has been prepared, some errors are possible, and some provisions of the laws may have been mistaken.

DENMARK—Sec. I and II, Law of April 18, 1925 concerning Acquisition and Loss of Danish Nationality.
DOMINICAN REPUBLIC—Art. 8 (2), (3), (4), Constitution.
EGYPT—Art. 10 (1), (4), Art. 11 Law of May 26, 1926 on Egyptian Nationality.
FRANCE—Art. I, Par. 1, 2, 3, Art. III, Art. IV Law of August 10, 1927, concerning Nationality.
GREECE—Art. 14 (as amended by decree law of September 13, 1926), 19, 20, Greek Civil Law, Law 391 of October 29, 1856.
HAITI—Art. 3 (1), (3), Constitution; Arts. 2, 4, Nationality Law of August 30, 1907.
ICELAND—Arts. 1 and 2 Law of June 15, 1926.
IRAQ—Arts. 8 and 9, Iraq Nationality Law of 1924, as amended by Law of 1925 and Ordinance No. 81 of 1926.
ITALY—Art. 1 (1), Art. 3, Law of June 13, 1912.
LUXEMBURG—Law of March 14, 1905.
MEXICO—Art. 30 (1), Constitution of 1917. Art. 1 (1), (3); Art. 2 (2), Law of Alienship and Naturalization of May 28, 1886.
NORWAY—Sects. 1 and 2, Law regarding Norwegian Nationality of August 8, 1924.
PERSIA—Sects. I and II, Persian Law concerning Citizenship, August 7, 1894.
PORTUGAL—Art. 18 (1), (2), (3); Sects. 1 and 2 Civil Code of 1867.
SALVADOR—Art. 42, Constitution.
SPAIN—Art. 1 (1), (2), Constitution. Art. 17 (1), (2); Art. 18, Par. 2; Art. 19, Civil Code.
SWEDEN—Arts. 1, 2 Law of May 23, 1924 respecting the Acquirement and Loss of Swedish citizenship.
SYRIA AND LEBANON—Art. 1 (1), (2) Syrian and Lebanese Nationality Law of January 31, 1925.
TURKEY—Art. 88, New Turkish Constitution of May 24, 1924, Arts. 1, 3, 4 Turkish Citizenship Law effective January 1, 1929.

(4) States whose laws are based principally on *jus soli*, but also contain provisions based on *jus sanguinis*

ARGENTINA—Art. 1, Law No. 346 of October 8, 1869.
BOLIVIA—Arts. 31 and 32 (1), Constitution.
BRAZIL—Art. 69, Par. 1, 2, Constitution.
CHILE—Art. 5, Constitution.
GREAT BRITAIN—Part I, British Nationality and Status of Aliens Act August 7, 1914.
AUSTRALIA—Nationality Act of 1920–1925, same as Great Britain.
BRITISH INDIA—British Act applies.
IRISH FREE STATE—Art. 3, Constitution.
CANADA—Naturalization Act 1914, 1920, same as Great Britain.
HONG KONG—British Act applies.
NEWFOUNDLAND—Consolidated Statutes of Newfoundland, Chap. 78.
NEW ZEALAND—British Nationality and Status of Aliens Act in New Zealand, 1923. Provisions in British Act incorporated by reference.
PALESTINE—Sec. 3, Act of July 24, 1925.
CHILE—Art. 5 (1), (2), Constitution.
COLOMBIA—Art. 8 (1), (2), Constitution.
COSTA RICA—Art. 5 (1), (2), (3), Constitution; Art. 1 (1), (6), Law of Alienship and Naturalization, Decree of May 13, 1889.
CZECHOSLOVAKIA—Sec. 2, Law of April 9, 1920.
ECUADOR—Art. 6 (1), (2), (3), Constitution.
GUATEMALA—Arts. 5 and 6, Constitution.
HONDURAS—Art. 7, Constitution (1904); Art. 1 (2), Decree No. 31 of February 4, 1926.
LIBERIA*—See 66, 67 Act. of Feb. 8, 1922.

*Citizenship restricted to persons of negro descent.

NICARAGUA—Art. 8 (1), (2), Constitution.
PANAMA—Art. 122 (1), (2). Title III, Administrative Code. Art. 6 (1), (2) Constitution (1904).
PARAGUAY—Art. 35 (1), (2), Constitution.
PERU—Art. 59, Constitution.
UNITED STATES OF AMERICA—14th Amendment, Constitution; R. S. 1992, Sec. 1, Title 8, U. S. C. A; R. 5.1993, Sec. 6, Title 8, U. S. C. A.
URUGUAY—Art. 7, Constitution.

(5) States whose laws contain provisions relating to

(a) *Children born to diplomatic or other officers*

ARGENTINA—Art. 1 (1), (3), Law No. 346 of October 8, 1896.
BRAZIL—Art. 69, Par. (1), (3), Constitution.
GREAT BRITAIN—Sec. 1 (b), (iv), British Nationality and Status of Aliens Act of 1914.
FRANCE—Art. II, last paragraph. Law of August 10, 1927, concerning Nationality.
GREECE—Art. 14 (c) of Law of Oct. 29, 1856.
GUATEMALA—Art. 1, Law of Foreigners of 1894.
LIBERIA—Sec. 66 Act of Feb. 8, 1922.
MEXICO—Art. 4, Law of Alienship, etc., of May 28, 1886.
PARAGUAY—Art. 35 (3), Constitution.
PORTUGAL—Art. 18 (2), Civil Code of 1867.
SALVADOR—Art. 4, Law of Alienship of April 16, 1900.
TURKEY—Art. 4, Turkish Citizenship Law, effective Jan. 1, 1929.

(b) *Persons born on ships*

ARGENTINA—Art. 1 (3), (5), Law No. 346 of October 8, 1869.
GREAT BRITAIN—Sec. 1 (c), British nationality, etc., Act of 1914.
GUATEMALA—Art. 2, Law of Foreigners of 1894.
HONDURAS—Art. 2, Decree No. 31, February 4, 1926.
MEXICO—Art. 3, Law of Alienship, etc., of May 28, 1886.
SALVADOR—Art. 3, Law of Alienship of April 16, 1900.
SPAIN—Art. 1, last paragraph, Royal Decree of November 17, 1852.

(6) States whose laws require the fulfillment of certain conditions usually after attainment of majority to confirm or decline a status acquired under

(a) *jus soli*

1. To confirm

AFGHANISTAN—Art. 85, Code, etc., *supra.*
BELGIUM—Art. 6 (1), Arts. 8, 9, 10, 21, Law of May 15, 1922, as amended August 4, 1926.
BELGIAN CONGO—Art. 5, Decree of December 27, 1892.
PALESTINE—Sec. 4 (1), Act of July 24, 1925.
BULGARIA—Art. 6, 33, Law of December 31, 1903, as amended.
COSTA RICA—Art. 5 (3), Constitution; Art. 1 (6), Decree of May 13, 1889.
CUBA—Art. 5 (2), Constitution.
EGYPT—Art. 11, Law of May 26, 1926.
FRANCE—Art. III, Law of August 10, 1927.
GREECE—Art. 19, Law 391 of October 29, 1856.
IRAQ—Art. 9, Iraq Nationality Law, *supra.*
ITALY—Art. 3, Law of June 13, 1912.
LUXEMBURG—Law of March 14, 1905.
PERSIA—Sec. II, Persian Law of August 7, 1894.
SPAIN—Art. 19, Civil Code.
TURKEY—Art. 3, Turkish Citizenship Law, effective January 1, 1929.

2. To decline

BULGARIA—Art. 5 (3), Art. 6, 35, Law of December 31, 1903, as amended.
DENMARK—Sec. II, Law of April 18, 1925, *supra.*
DOMINICAN REPUBLIC—Art. 8 (4), Constitution.
FRANCE—Art. IV, Law of August 10, 1927.
GREECE—Art. 14 of the Law of October 29, 1856, as amended.
ICELAND—Art. 2, Law of June 15, 1926.
MEXICO—Art. 2 (2), Law of Alienship, etc., of May 28, 1886. (See Art. 30 (1), Constitution of 1917.)
NORWAY—Sec. 2, Law of August 8, 1924, *supra.*
PORTUGAL—Art. 18 (2), Civil Code of 1867.
SALVADOR—Article 2 (2), Law of Alienship of April 16, 1900.
SWEDEN—Art. 2, Law of May 23, 1924, *supra.* Art. 1, Royal Decree No. 526.
TURKEY—Arts. 4, 8, Turkish Citizenship Law, effective January 1, 1929.

(*b*) *jus sanguinis*

1. To confirm

ARGENTINA—Art. 1 (2); Arts. 5, 12, Law No. 346 of October 8, 1869.
BELGIUM—Art. 6 (2), 8, 9, 10, 21, Law of May 15, 1922, Art. 1, Law of August 4, 1926.
BOLIVIA—Art. 32 (1), Constitution.
BRAZIL—Art. 69, Par. 2, Constitution.
CHILE—Art. 5, Constitution.
GREAT BRITAIN—Sec. 1, British Nationality and Status of Aliens Act August 7, 1914.
GUATEMALA—Art. 5 (2), Constitution.
BULGARIA—Arts. 7, Law of December 31, 1903, as amended.
COSTA RICA—Art. 5 (2), Constitution.
CUBA—Art. 5 (3), Constitution.
ECUADOR—Art. 6 (3), Constitution.
GREECE—Arts. 19, 20, Law 391 of October 29, 1856.
HONDURAS—Art. 1 (2), Decree No. 31 of February 4, 1926.
JAPAN—Art. 20, Sec. 2, Law No. 66, *supra.*
MEXICO—Art. 1 (3), Law of May 28, 1886, *supra.*
NICARAGUA—Art. 8 (2), Constitution.
PANAMA—Art. 6 (2), Constitution (1904); Art. 122 (2), Administrative Code.
PARAGUAY—Art. 35 (2), Constitution.
PERU—Art. 59 (2), Constitution.
PORTUGAL—Art. 18 (3), Civil Code of 1867.
URUGUAY—Art. 7, Constitution.

2. To decline

DENMARK—Sec. VI, Law of April 18, 1925, *supra.*
ESTHONIA—Sec. 15, Law No. 87 of October 27, 1922.
FRANCE—Art. IX, 3, Act of August 10, 1927.
IRAQ—Art. 14, Law of 1924, *supra.*

II. NATURALIZATION AND EXPATRIATION

A. NATURALIZATION

(1) Branch of government by which naturalization is effected

(*a*) *Legislative*

BELGIUM—Arts. 16 and 17, Law of May 15, 1922. [Naturalization acts voted by legislative chambers and sanctioned by the King.] Art. 5 of Constitution of February 7, 1831, with amendments of 1893 and 1921.

BOLIVIA—Sec. 4, Art. 32, Par. 3, Constitution. [Letters of naturalization obtained by favor from Chamber of Deputies, and declarations made before municipality.]
DANZIG, FREE CITY OF—Secs. 8 and 26, Law Concerning Nationality, of May 30, 1922.
LUXEMBURG—Chap. II, Art. 10, Constitution October 17, 1868.
PARAGUAY—Chap. III, Art. 35, Subdiv. 5, Constitution of November 18, 1870. [As a special gift. The President also issues naturalization papers.]
RUMANIA—Chap. II, Par. 2, Arts. 29 to 31, inc., Law of February 23, 1924. [Title of "Honorary Citizen" conferred for exceptional services rendered to the country and nation.] Art. 8, Constitution of July 12, 1866.
SALVADOR—Title II, Art. 43, Par. 3, Constitution. [The executive authority also has power to grant naturalization.]
URUGUAY—Sec. II, Chap. I, Art. 8, Constitution. [Grant by special act authorized for "notable services or relevant merits." The executive and judicial branches also exercise power.]

(*b*) *Executive*

AFGHANISTAN—Chap. III, Art. 98, Code.
ALBANIA—Art. 3, Ottoman Law of Nationality of 1869.
ALGERIA—Arts. 1, 4 and 5, Senatus-Consultum of July 14, 1865; and Chap. I, Arts. 3 to 9, inc., Law of February 4, 1919. [Applications are addressed to, heard, and decided by a court, subject to approval of Governor-General.]
AUSTRALIA—Part III, Secs. 7 to 13, inc., 17 (2) and Part V, Secs. 32, 34 and 36, Nationality Act 1920–1925.
AUSTRIA—Par. 25 (2), Federal Law of July 30, 1925.
BELGIAN CONGO—Chap. 1, Par. 3, Civil Code, Decree of December 27, 1892: Pars. 1 and 3, Arrete of Secretary of State, March, 1901.
BELGIUM—Arts. 17 and 22, Law of May 15, 1922. [Naturalization acts voted by Legislative chambers and sanctioned by the King.]
BOLIVIA—Sec. 4, Art. 32, Par. 2, Constitution. [Declarations made before municipality, and letters of naturalization obtained by favor from Chamber of Deputies.]
BRAZIL—Arts. 2, 3, 6 and 7, Legislative Decree No. 569, of June 7, 1899; Arts. 4, 8 and 9, Legislative Decree No. 904, November 12, 1902; Arts. 4, 7, 10 and 14, Regulations Pertaining to Decree No. 6,948, of May 14, 1908; Art. 3, Legislative Decree No. 2,004, of November 26, 1908.
BULGARIA—Chap. III, Art. 10, Law No. 100, of December 31, 1903, as amended January 12, 1908, December 8, 1911, and July 24, 1924. [Applications are made to a justice of the peace, and authorized by royal decree on proposal of the Minister of Justice.]
CANADA—Part II, Secs. 2 to 8, inc., and Part III, Secs. 24 and 25, The Naturalization Acts, 1914 and 1920, as amended 1923. [Applications are addressed to, heard, and decided by the courts, subject to approval of Secretary of State.]
CHILE—Art. 6 (7), Constitution of 1833. [President issues naturalization papers on declaration by proper municipality that applicant is entitled.] [Superseded by Constitution of 1925, which does not specify branch of government which naturalizes.]
CHINA—Chap. II, Arts. 4 and 8, Revised Law of December 30, 1914.
COSTA RICA—Art. 10, Law of Alienship and Naturalization, Decree of May 13, 1889; Amendments, Decree No. 75, of June 29, 1909.
DOMINICAN REPUBLIC—Art. 2, Law No. 61, of November 18, 1924.
ECUADOR—Chap. VII, Arts. 62 to 64, inc., Decree of October 18, 1921, as amended by decree of September 17, 1925.
EGYPT—Arts. 5 to 7, inc., 17, 22, 23 and 26, Decree Law of May 26, 1926.
ESTHONIA—Pars. 4 and 13 and 20; and III, Pars. 20 and 23, Law No. 87, of October 27, 1922.
FINLAND—Arts. 5 and 6, Law of February 20, 1920; and 3 to 5, inc., Law of June 17, 1927.

FRANCE—Art. VI, Law of Aug. 10, 1927.

FRENCH INDO CHINA (COCHIN CHINA)—Arts. 2 to 4, inc., Decree of May 26, 1913.

GERMANY—Pt. II, Secs. 9, 13 to 16, inc., and 23; Part III, Sec. 35; and Part IV, Sec. 39, Law of Nationality, of July 22, 1913.

GREAT BRITAIN—Part II, Secs. 2 to 8, inc., and Part III, Sec. 19, British Nationality and Status of Aliens Act, 1914, as amended, 1918 and 1922.

GREECE—Book I, Sec. I, Chap. I, Art. 15, and Chap. II, Art. 23 (b), Civil Law, No. 391, of October 29, 1856; and Arts. 1 and 2, Decree Law of September 10, 1925.

GUATEMALA—Art. 6, Constitution; Title I, Art. 3, 5 and 6, Clause 2, and Title VII, Arts. 86 and 87, Law of Foreigners, of 1894. [Proof of qualifications is made to a civil magistrate who transmits it to the President for issuance of naturalization decree.]

HAITI—Art. 14, Civil Code, as modified by Law of September 5, 1860.

HONDURAS—Chap. III, Arts. 10 to 12, inc., Decree No. 31, of February 4, 1926.

HONGKONG—Secs. 2 and 3, Local Ordinance No. 44, of 1902, as amended by No. 50, of 1911, and Nos. 1 and 8, of 1912.

HUNGARY—Arts. 6, 9, to 11, 17, 21, 23, 25, 27, 30, and 50, Law of 1879.

ICELAND—Art. 2, Law of June 15, 1926.

IRAQ (MESOPOTAMIA)—Part II, Art. 11; and Part IV, Art. 22, The Iraq Nationality Law of October 9, 1924, amended by Law of 1925, and Ordinance No. 81, of 1926 I. V.; Arts. 6 and 8, Amendment Law, 1925; and Art. 5, Ordinance for the Amendment of Law, 1924, No. 81 of 1926.

ITALY—Arts. 4 and 16, Law of June 13, 1912; Art. 2, Royal Decree No. 43, of January 29, 1922; Art. 1, Law of September 10, 1922; Art. 3, Royal Decree No. 1245, of June 7, 1923; Royal Decree Law No. 15, of January 10, 1926; and Law No. 108, of January 31, 1926; Art. 1, Royal Decree of March 13, 27; Arts. 7 and 8, Royal Decree of May 12, 1927.

JAPAN—Arts. I and II, Law No. 21, of July 9, 1898; Arts. 7 and 11, Law of Nationality No. 66, of March 1899, revised by Law No. 27 of March, 1916, and Law No. 19, of July, 1924; and Arts. 1 and 8, Regulations of November 17, 1924, for the enforcement of the Nationality Law.

LATVIA—Arts. 2 to 5, inc., Citizenship Law of June 2, 1927.

LITHUANIA—Sec. 3, Law of January 9, 1919.

MADAGASCAR—Title II, Arts. XI and XIII, and Title III, Art. XIX, Decree of February 7, 1897; Arts. 2, 3 to 5, inc., and 7, Decree of March 3, 1909; Arts. 2 and 3, Decree of November 25, 1913; and Art. 17, Decree of November 7, 1916.

MEXICO—Art. 30, Clause 2 (b), Constitution of 1917; Chap. I, Art. 2, Sec. 4; Chap. III, Arts. 12 to 16, Inc., 19 and 27, and Chap. V, Art. 3, Law of May 28, 1886. [Applications for naturalization are presented to, heard, and decided by the courts, which forward the record to the department of foreign affairs for the issuance of naturalization certificates, if there be no legal cause to prevent.]

MONACO—Art. 9, and Art. 10, Sec. (1), Civil Code.

MOROCCO—Art. 2, Decree of November 8, 1921.

NETHERLANDS—Art. 6; Art. 7, Clause 5; Arts. 8 and 10, Act of December 12, 1892, State Journal No. 268, as amended.

NEWFOUNDLAND—Chap. 78, Part II, Secs. 2 (1), and 3 to 8, inc., and Part III, Secs. 19, 20 and 22, Consolidated Statutes of Newfoundland (Third Series).

NEW ZEALAND—Secs. 4, 5, 7 to 12, 14 and 15, inc., British Nationality and Status of Aliens (in New Zealand) Act, 1923.

NICARAGUA—Arts. 3 to 5, inc., Decree of February 18, 1861; Letter of Sept. 25, 1906, Minister of Justice to Minister of Foreign Relations.

NORWAY—Secs. 5 and 15, Law of August 8, 1924.

PALESTINE—Part II, Sec. 4 (1) (c), and Sec. 5 (1); Part III, Sec. 7 (1) amd (3); and Part IV, Secs. 19 and 23, Palestinian Citizenship Order, 1925.

PANAMA—Chap. 2, Arts. 125 and 126; Chap. 3, Art. 130; Chap. 4, Arts. 132 and 133; Chap. 8, Arts. 167, and 169 to 173, inc., Administrative Code. Title II, Art. 6, Par. 3, Constitution of February 13, 1904.

PARAGUAY—Chap. III, Art. 37, Constitution of November 18, 1870. [Congress may also grant naturalization, as a special gift.]

POLAND—Arts. 10, 12, 13 and 15, Law of January 20, 1920; Arts. 7, 8, 13, 14 and 16, Order of the Minister of the Interior Relative to Law of January 20, 1920.

PORTUGUESE EAST AFRICA—Art. 3, Secs. 2, 3 and 6, Governor General's Notice No. 317, January 9, 1917.

RUMANIA—Chap. II, Par. 2, Arts. 11 to 20, 22 to 24, and 26 to 28, inc.; Title II, Art. 41; and Title IV, Art. 55, Law of February 23, 1924. [Naturalization is granted or refused by the Council of Ministers, after an investigation by the Commission which is attached to the Ministry of Justice, is composed of high judicial officers, and is presided over by the Chief Justice of the Capital's Court of Appeal.]

RUSSIA (SOVIET UNION)—Arts. 7, 9 and 10, Ordinance No. 202, of October 29, 1924, Regarding Union Citizenship.

SALVADOR—Title II, Art. 43, Pars. 1 and 2, Art. 44, Constitution. [The legislative body also has power to grant naturalization.]

SERBS, CROATS AND SLOVENES, KINGDOM OF (YUGOSLAVIA)—Arts. 15 and 16, Law of September 21, 1928.

SIAM—Arts. 6 to 8, inc., and 12, Law on Nationality of April 10, 1913; Chap. I, Par. 2, and Chap. II, Par. 9, Naturalization Law, 130.

SPAIN—Arts. 5 to 9, inc., Royal Decree of November 6, 1916. [Applicant for naturalization proceeds in the municipal court of his domicile, the judge of which submits his report for appropriate action by the Ministries of State and Government and the Minister of Grace and Justice; if favorable, the case is returned by the latter to the court with the royal order of approval.]

SWEDEN—Arts. 5 and 12, Law of May 23, 1924; Arts. 1 and 2, Royal Decree No. 526, of December 19, 1924.

SWITZERLAND—III, Art. 10; V, Art. 12; VI, Art. 14, Federal Decree of June 25, 1903; Arts. 1 and 3, Federal Law of June 26, 1920; Arts. 1 and 8; and Par. 4, Art. 23, Instructions of December 29, 1922.

SYRIA—Arts. 3, 7, 8 (1) and 13, Ordinance of January 31, 1925.

TUNIS—Arts. 9 and 12, Law of December 20, 1923.

TURKEY—Art. 3, Ottoman Law of Nationality of 1869; Art. 5, Citizenship Act effective January 1, 1929.

UNION OF SOUTH AFRICA—Chap. II, Art. 2, British Nationality in the Union and Naturalization and Status of Aliens Act, 1926.

URUGUAY—Arts. 1, 2, 4 and 14, Law of July 20, 1874. [The legislative and judicial branches also exercise power.]

VENEZUELA—Arts. 2 and 3, Law of Naturalization of May 24, 1923.

(c) *Judicial*

ALGERIA—Chap. I, Arts. 3 to 9, inc., Law of February 4, 1919. [Applications are addressed to, heard, and decided by a court, subject to approval of Governor-General.]

ARGENTINA—Title 2, Art. 2, Secs. 1 and 2; Art. 3; and Title 3, Arts. 5 and 6, Law No. 346 of October 8, 1869.

BELGIUM—Arts. 10, 16 and 19, Law of May 15, 1922. [The courts enact in cases of certain declarations of intention.]

BULGARIA—Chap. III, Art. 10, and Chap. VI, Arts. 26, and 30 to 33, inc., Law No. 100, of December 31, 1903, as amended January 12, 1908, December 8, 1911, and July 24, 1924. [Applications are made to a justice of the peace, and authorized by royal decree on proposal of the Minister of Justice.]

CANADA—Part III, Secs. 19–24, The Naturalization Acts, 1914 and 1920, as amended 1923. [Applications are addressed to, heard and decided by the courts, subject to approval of Secretary of State.]

LIBERIA—Sec. 1, Subd. 1, and Secs. 2, 4, 5, 6 and 8, Naturalization Act of January 6, 1908. Consular Code, Chap. IV, Sec. 68, Approved by Law of February 8, 1922.

MEXICO—Art. 30, Clause 2 (b), Constitution of 1917; Chap. I, Art. 2, Sec. 4; Chap. III, Arts. 12 to 16, inc., 19 and 27, and Chap. V, Art. 3, Law of May 28, 1886. [Applications for naturalization are presented to, heard, and decided by the courts, which forward the record to the department of foreign affairs for the issuance of naturalization certificates, if there be no legal cause to prevent.]

PHILIPPINE ISLANDS—Sec. 6, Act of March 26, 1920.

RUMANIA—Chap. II, Par. 2, Arts. 11 to 20, 22 to 24, and 26 to 28, inc; Title II, Art. 41; and Title IV, Art. 55, Law of February 23, 1924. [Naturalization is granted or refused by the Council of Ministers, after an investigation by the Commission, which is attached to the Ministry of Justice, is composed of high judicial officers, and is presided over by the Chief Justice of the Capital's Court of Appeal.]

SPAIN—Arts. 5 to 9, inc., Royal Decree of November 6, 1916. [Applicant for naturalization proceeds in the municipal court of his domicile, the judge of which submits his report for appropriate action by the Ministries of State and Government and the Minister of of Grace and Justice; if favorable, the case is returned by the latter to the court with the royal order of approval.]

UNITED STATES OF AMERICA—Sec. 3, Act of June 29, 1906.

URUGUAY—Arts. 5, 7, 8 and 9, Law of July 20, 1874. [The legislative and executive branches also exercise power.]

(2) Legislative restoration of rights of citizenship

ARGENTINA—Title 4, Art. 9, Law No. 346 of October 8, 1869.

CHILE—Art. 9 (11), Constitution of 1883.

COLOMBIA—Title II, Art. 16, Constitution of 1886.

PANAMA—Chap. 5, Arts. 139 to 141, inc., Administrative Code; Title II, Art. 7, Constitution of February 13, 1904.

PARAGUAY—Chap. III, Art. 41, Constitution of November 18, 1870.

(3) Age required for naturalization

(*a*) *Majority (age not stated in years)*

ALBANIA—Art. 3, Ottoman Law of Nationality of 1869.

AUSTRALIA—Part I, Secs. 5 (1), and Part III, 10 (3), Nationality Act 1920–1925. [May be waived in special cases; Part III, Sec. 10 (2), *supra.*]

BRITISH INDIA—Secs. 2 (c), and 31 (a), Indian Naturalization Act, 1926.

CANADA—Part II, Sec. 5, Par. 3, and Part III, Sec. 33 (d), The Naturalization Acts, 1914 and 1920, as amended 1923. [May be waived in special cases; Part II, Sec. 5, Par. 2, *supra.*]

EGYPT—Art 12, Law of May 26, 1926.

GREAT BRITAIN—Part II, Secs. 5 (3), and Part III, 27 (1). British Nationality and Status of Aliens Act, 1914, as amended, 1918 and 1922. [May be waived in special cases; Sec. 5 (2), *supra.*]

GREECE—Book I, Sec. I, Chap. I, Art. 15, Greek Civil Law, No. 391 of October 29, 1856. [Of age according to the law of the applicant's country.]

IRAQ (MESOPOTAMIA)—Preliminary Art. 2 (3), (4), Part I, Arts. 5 and 7 and Part II, Art. 10, The Iraq Nationality Law of October 9, 1924, amended by Law of 1925, and Ordinance No. 81 of 1926. I. V. [Of age according to the law of the applicant's country, except as to Iraquis who attain majority when 18 years of age.]

MEXICO—Chap. III, Art. 13, Sec. 1, Law of May 28, 1886.

NETHERLANDS—Art. 3, Clause 1, Act of December 12, 1892, State Journal No. 268, as amended.
NEWFOUNDLAND—Chap. 78, Part II, Sec. 5 (3), and Part III, Sec. 26 (1), Consolidated Statutes of Newfoundland (Third Series). [May be waived in special cases; Part II, Sec. 5 (2), *supra.*]
NEW ZEALAND—Sec. 8 (3), British Nationality and Status of Aliens (in New Zealand) Act, 1923. [May be waived in special cases; Sec. 8 (2), *supra.*]
PERSIA—Sec. III, Law or Ordinance of August 7, 1894. ["Full age" required.]
PORTUGAL—Title II, Art. 19, Civil Code of 1867, Art. 1, Par. 1, Decree of December 2, 1910. [Applicants must be "of age."]
SIAM—Chap. II, Par. 6 (1), Naturalization Law, 130. [Must be "full age" by the law both of Siam and his country.]
TURKEY—Art. 5, Citizenship Act effective January 1, 1929.

(*b*) *Puberty*

AFGHANISTAN—Chap. III, Art. 86 (1), Code.

(*c*) *18 years*

ARGENTINA—Title 2, Art. 2, Sec. 1, Law No. 346, of October 8, 1869.
BOLIVIA—Sec. 5, Art. 33, Par. 2, Constitution of 1880. [Only if married, otherwise must be 21 years old.]
COSTA RICA—Title II, Sec. 2, Art. 9, Constitution of 1922. [If married, or professor of any science; otherwise the age must be 20 years.]
ECUADOR—Chap. II, Sec. 2, Par. 8, Constitution of 1897.
ESTHONIA—Par. 10, Law No. 87, of October 27, 1922.
FRANCE—Art. VI, Sec. 1, Law of August 10, 1927.
IRAQ (MESOPOTAMIA)—Preliminary Art. 2 (3), (4), The Iraq Nationality Law of October 9, 1924, amended by Law of 1925, and Ordinance No. 81 of 1926. I. V. [As to Iraqui only; as to others, the question what constitutes majority is to be determined by the law of the applicant's country of origin.]
PALESTINE—Part IV, Sec. 21 (4) and (5), Palestinian Citizenship Order, 1925.

(*d*) *20 years*

CHINA—Chap. II, Art. 4 (b), Revised Law of Nationality, of December 30, 1914.
COSTA RICA—Title II, Sec. 2, Art. 9, Constitution of 1922. [Unless married, or professor of any science, when eligible age is 18 years.]
JAPAN—Art. 7 (2), Law No. 66, of March, 1899, revised by No. 27, of March, 1916, and No. 19, of July, 1924. [And legal capacity under the law of applicant's country.]

(*e*) *21 years*

BELGIAN CONGO—Chap. I, on Nationality, Par. 3, Civil Code, Decree of December 27, 1892.
BOLIVIA—Sec. 5, Art. 33, Par. 2 of Constitution of 1880. [18 years only if married.]
FRENCH INDO CHINA (COCHIN CHINA)—Art. 1, Decree of May 26, 1913. Modified by Law of September 4, 1919.
ITALY—Art. 1, Law of September 10, 1922.
LIBERIA—Sec. 1, Naturalization Act of January 6, 1908.
MADAGASCAR—Art. 1, Decree of March 3, 1909.
MONACO—Art. 9 (1), Civil Code.
NORWAY—Sec. 5 (1), Act of August 8, 1924.
PERU—Art. 60, Constitution of December 27, 1919.
PHILIPPINE ISLANDS—Sec. 3, Act of March 26, 1920.
RUMANIA—Chap. II, Par. 1, Art. 7, Clause 1; Par. 2, Art. 25, Law of February 23, 1924.

SERBS, CROATS AND SLOVENES, KINGDOM OF (YUGOSLAVIA)—Art. 12, subdivision 2, Law of September 21, 1928.
SWEDEN—Art. 5, Par. 1, Law of May 23, 1924.
TUNIS—Arts. 3 and 4, Law of December 20, 1923.
UNION OF SOUTH AFRICA—Chap. II, Art. 5, British Nationality in the Union and Naturalization and Status of Aliens Act, 1926.
VENEZUELA—Art. 2, Par. 2, Law of Naturalization of May 24, 1923. [And if he is not considered a minor under the laws of his country.]

(f) 22 years

BELGIUM—Art. 13, Par. 1, Law of May 15, 1922; Par. 1, Instructions in Ministerial Circular of July 31, 1923. [For "ordinary naturalization" (first papers) but 5 years' residence is required, as distinguished from "final naturalization" (second papers) for which 10 years' residence is necessary. While "ordinary naturalization" confers Belgian nationality, it does not confer the political rights for which the Constitution or laws require "final naturalization." Art. 11, Law of May 15, 1922.]

g) 25 years

ALGERIA—Chap. I, Art. 2, Sec. 1, Law of February 4, 1919.
BELGIUM—Art. 12, Par. 1; Art. 15, Law of May 15, 1922; Par. 2 (1), and 2 (2) A, Instructions in Ministerial Circular of July 31, 1923. [For "final naturalization" (second papers).]

(4) Period of residence or domicile required for naturalization in the usual course

(a) 1 year

BOLIVIA—Sec. 4, Art. 32, Par. 2, Constitution.
COSTA RICA—Art. 8, Sec. 3, Decree of May 13, 1889.
ECUADOR—Art. 12, 2, Constitution of 1906.
HONDURAS—Constitution of 1894 Title II, Art. 9, Sec. 1. [Spanish-Americans only. Two years for all other persons.]
VENEZUELA—Art. I, Law of Naturalization of May 24, 1923.

(b) 2 years

ALGERIA—Chap. I, Art. 2, Sec. 4 Law of February 4, 1919.
ARGENTINA—Art. 20, Constitution; Title 2, Art. 2, Sec. 1, Law No. 346 of October 8, 1869.
BRAZIL—Art. 5, III, Legislative Decree No. 904 of November 12, 1902; Art. 4, III, Regulations pertaining to Decree No. 6948 of May 14, 1908; Formulary, etc. (1) (c).
GUATEMALA—Title VII, Art. 86, Law of Foreigners of 1894.
HAITI—Art. 5, Law of August 30, 1907.
HONDURAS—Title II, Art. 9, Sec. 2, Constitution of 1894; Chap. III, Art. 11, Decree No. 31 of February 4, 1926. [One year only for Spanish-Americans.]
NICARAGUA—Title V, Art. 9, Clause 3, Constitution of November 10, 1911. Fifth point in letter of September 25, 1906, from the Minister of Justice to Minister of Foreign Relations.
PALESTINE—Part III, Sec. 7 (1) (a), Palestinian Citizenship Order, 1925.
PARAGUAY—Chap. III, Art. 36, Constitution of November 18, 1870.
PERU—Art. 60, Constitution of December 27, 1919.
SALVADOR—Title II, Art. 43, Par. 2, Constitution of August 13, 1886.
UNION OF SOUTH AFRICA—Art. 3 (a), Naturalization of Aliens Act, 1910.

(c) 3 years

BULGARIA—Chap. III, Art. 9, Par. 1, Law No. 100, of December 31, 1903, amended January 12, 1908, December 8, 1911, and July 24, 1924. [Provided domicile has been established by royal permission.]

ESTHONIA—Par. 8, Law No. 87, of October 27, 1922.
FRANCE—Art. VI, Sec. 1, Law of August 10, 1927.
GREECE—Book I, Sec. I, Chap. I, Art. 15; Greek Civil Law No. 391, of October 29, 1856. [2 years, if of the Greek race.]
IRAQ (MESOPOTAMIA)—Part II, Art. 10 (i), The Iraq Nationality Law of October 9, 1924, amended by Law of 1925, and Ordinance No. 81 of 1926, I. V.
MADAGASCAR—Title I, Art. 8, Par. 3 (1), Title II, Art. VI, Decree of February 7, 1897.
NEW ZEALAND—Secs. 4 (1) (b), 5 (1) (a), and 15 (a), British Nationality and Status of Aliens (in New Zealand) Act, 1923; Par. 1, Regulations of May 13, 1924, under said act.
PORTUGAL—Art. 1, Par. 3, Decree of December 2, 1910.
TUNIS—Art. 3, Law of December 20, 1923.
URUGUAY—Sec. 2, Chap. I, Art. 8, Constitution of January 3, 1928 [married aliens].

(*d*) *4 years*

AFGHANISTAN—Chap. III, Art. 86 (2), Code. [After 5 years' residence, should obtain certificate of nationality within 2 months; otherwise, must sell immovable property, and, if intends to remain in Afghanistan, should obtain certificate of nationality from his own government, or leave the country. Chap. III, Sec. 94.]
AUSTRIA—Par. 4 (1), 4, Federal Law of July 30, 1925.
URUGUAY—Sec. 2, Chap. I, Art. 8, Constitution of January 3, 1918 [unmarried aliens].

(*e*) *5 years*

ALBANIA—Art. 3, Ottoman Law of Nationality of 1869.
AUSTRALIA—Part III, Secs. 7 (1), (a), and 7 (2), Nationality Act 1920–1925.
BELGIUM—Art. 13, Par. 2, Law of May 15, 1922; Par. 1, Instructions in Ministerial Circular of July 31, 1923. [For "ordinary naturalization" (first papers).]
BRITISH INDIA—Sec. 3 (1) (c), Indian Naturalization Act, 1926.
CANADA—Part II, Sec. 2 (2) (a), and Sec. 2, Par. 2; The Naturalization Acts, 1914 and 1920, as amended 1923.
CHINA—Chap. II, Art. 4 (a), Revised Law of Nationality, Dec. 30, 1914. [Continuous domicile for 10 years is required in some cases. Chap. II, Art. 6 (d), *supra*.]
CUBA—Chap. 11, Art. 6, Sec. 3, Constitution.
DANZIG, FREE CITY OF—Sec. 8 (2), Law of May 30, 1922.
FINLAND—Art. 1 (2), Law of February 20, 1920.
GREAT BRITAIN—Part II, Sec. 2 (1) (a); Sec. 2 (2), British Nationality and Status of Aliens Act, 1914, as amended 1918 and 1922.
HONGKONG—Sec. 2, Local Ordinance No. 44 of 1902, as amended by No. 50 of 1911, and Nos. 1 and 8 of 1912.
HUNGARY—Art. 8, Clause 3, Law of 1879.
ITALY—Art. 4, Sec. 2, Law of June 13, 1912.
JAPAN—Art. 7 (1), Law No. 66, of March, 1899, revised by No. 27 of March, 1916, and No. 19, of July, 1924.
LATVIA—Sec. 4, Nationality Law, June 2, 1927.
MEXICO—Art. 30, Clause 2 (b), Constitution of 1917.
NETHERLANDS—Art. 3, Clause 2, Act of December 12, 1892, as amended.
NEWFOUNDLAND—Chap. 78, Part II, Sec. 2 (1) (a), and (2), Consolidated Statutes of Newfoundland (Third Series).
NORWAY—Sec. 5 (2), Law of August 8, 1924.
PERSIA—Sec. III, Law or Ordinance of August 7, 1894.
PHILIPPINE ISLANDS—Sec. 3, Act of March 26, 1920.
SIAM—Par. 6 (3), Chap. II, Naturalization Law, 130.
SWEDEN—Art. 5, Par. 2, Law of May 23, 1924.
SYRIA—Art. 3, Par. 1, Ordinance of January 31, 1925.

TURKEY—Art. 5, Citizenship Act, effective January 1, 1929.
UNION OF SOUTH AFRICA—Chap. II, Art. 2 (1) (a), British Nationality in the Union and Naturalization and Status of Aliens Act of 1926.
UNITED STATES OF AMERICA—Sec. 4, Sub-division 4, Act of June 29, 1906.

(f) 6 years

PANAMA—Title II, Art. 6, Par. 3, Constitution of February 13, 1904 [only if person has family in Panama].
SWITZERLAND—Art. 1, Federal Law of June 26, 1920; Art. 4, Instructions Concerning Acquiring Permission of Federal Council for Naturalization and Renaturalization in Switzerland. [5 years required for "community" citizenship. I Par. B, a, Art. 3, 1.]

(g) 10 years

BELGIUM—Art. 12, Par. 2, Law of May 15, 1922; Par. 2 (2), Instructions in Ministerial Circular July 31, 1923. [For "final naturalization" (second papers).]
BULGARIA—Chap. III, Art. 9, Par. 2; Chap. VI, Art. 28, Law 100, of Dec. 31, 1903, amended January 12, 1908, Dec. 8, 1911, and July 24, 1924 [unless domicile has been established by royal permission when it is reduced to 3 years].
DOMINICAN REPUBLIC—Art. 1, b, Law No. 61, of November 18, 1924. [This period is reduced to 3 years where authority has been secured to establish a domicile in the Republic. Art. 1, a, *supra.*]
EGYPT—Art. 12 (1), Decree Law of May 26, 1926.
FRENCH INDO CHINA (COCHIN CHINA)—Art. 1, Sec. 1, Decree of May 26, 1913, Modified by Law of September 4, 1919.
LITHUANIA—Sec. 2, Par. 9, Constitution of May 15, 1928.
MONACO—Art. 9 (1), Civil Code.
PANAMA—Title III, Chap. I, Art. 122, Clause 3, Administrative Code. Title II, Art. 6, Par. 3, Constitution of February 13, 1904. [Six years only if person has family in Panama and 3 years only if married to a Panaman.]
POLAND—Art. 8, Clause 2, Law of January 20, 1920.
RUMANIA—Chap. II, Par. 1, Art. 7, Clause 3; Par. 2, Art. 20, Law of February 23, 1924; Sec. 1 (b), Constitution of July 12, 1866, as amended.
SERBS, CROATS AND SLOVENES, KINGDOM OF (YUGOSLAVIA)—Art. 12, subdivision 3, Law of September 21, 1928.
SPAIN—Art. 2, Royal Decree, November 6, 1916.

(h) Permanent residence (period not stated in years)

LIBERIA—Sec. 1, Subdiv. 1, and Secs. 2, 5, and 8, Naturalization Act, of January 6, 1908.

(5) Special conditions under which period of residence or domicile is shortened or eliminated

(a) Where applicant was previously a national of the naturalizing country, or is of a particular race or nationality

ALBANIA—Art. 7, Ottoman Law of Nationality of 1869.
AUSTRALIA—Part III, Secs. 7 (5) and 18, and Part IV, Sec. 20 (2), Nationality Act 1920–1925.
BELGIUM—Arts. 9 and 19, Law of May 15, 1922.
BRITISH INDIA—Sec. 3 (1), Indian Naturalization Act, 1926.
BULGARIA—Chap. III, Art. 9, Par. 5, Law No. 100, of December 31, 1903, amended January 12, 1908, December 8, 1911, and July 24, 1924.

CANADA—Part II, Sec. 2, Par. 5, and Part III, Secs. 10, and 12, Par. 2, The Naturalization Acts, 1914, and 1920 as amended 1923.
CHINA—Chap. IV, Arts. 17 and 19, Revised Law of Nationality, December 30, 1914.
COSTA RICA—Art. 4, Sec. 5, and Art. 5, Sec. 5, Decree of May 13, 1889.
DANZIG, FREE CITY OF—Sec. 10 (a), Law of May 30, 1922.
EGYPT—Arts. 17, 18 and 19, Decree Law of May 26, 1926.
ESTHONIA—Pars. 9, 14 and 16, Law No. 87, of October 27, 1922.
FINLAND—Art. 1, Law of February 20, 1920; Art. 7, Law of June 17, 1927.
FRANCE—Art. 6, Par. 3, Law of August 10, 1927.
GERMANY—Part II, Sec. 31, Law of July 22, 1913.
GREAT BRITAIN—Part II, Secs. 2 (5), Part III, 10 and 12 (2), British Nationality and Status of Aliens Act, 1914, as amended, 1918 and 1922.
GREECE—Book I, Sec. I, Chap. I, Art. 15, Greek Civil Law, No. 391, of October 29, 1856.
GUATEMALA—Art. 6, Constitution; Title I, Art. 3, Clause 2; and Art. 4; Title VII, Art. 87, Law of Foreigners of 1894.
HONDURAS—Title II, Art. 9, Sec. 1, Constitution of 1894; Chap. III, Art. 10, Decree No. 31, of February 4, 1926.
HUNGARY—Arts. 37, 39 and 41, Law of 1879.
ICELAND—Art. 8, Law of June 15, 1926. [Women who lost nationality by marriage.]
IRAQ (MESOPOTAMIA)—Part IV, Art. 18 (2). The Iraq Nationality Law of October 9, 1924, amended by Law of 1925, and Ordinance No. 81 of 1926, I. V.
ITALY—Art. 9, Secs. 1, 2 and 3; Arts. 10 and 11, Law of June 13, 1912.
JAPAN—Arts. 9 (1), (2), (3), 10 and 14, Law No. 66, of March, 1899, revised by No. 27, of March, 1916, and by No. 19, of July, 1924.
MADAGASCAR—Art. 18, Title I, Decree February 7, 1897.
MONACO—Chap. II, Sec. I, Art. 18, Civil Code.
NETHERLANDS—Art. 3, Clause 2; Art. 8, Act of Dec. 12, 1892, State Journal No. 268, as amended.
NEWFOUNDLAND—Chap. 78, Part II, Sec. 2 (5); and Part III, Sec. 12 (2), Consolidated Statutes of Newfoundland (Third Series).
NEW ZEALAND—Sec. 3 (1), British Nationality and Status of Aliens (in New Zealand) Act. 1923; and Part III, Secs. 10, and 12 (2), British (Imperial) Act, *supra.*
NICARAGUA—Title V, Art. 9, Pars. 1 and 3, Constitution of November 10, 1911.
NORWAY—Sec. 4, Law of August 8, 1924.
PALESTINE—Part III, Secs. 7 (4), and 14, Palestinian Citizenship Order, 1925.
PARAGUAY—Law No. 559 of November 12, 1923.
PERSIA—Sec. V, Law or Ordinance of August 7, 1894.
PERU—Art. 64, Constitution of December 27, 1919.
PHILIPPINE ISLANDS—Secs. 1 and 3 Act of March 26, 1920.
POLAND—Art. 10, Law of January 20, 1920.
PORTUGAL—Art. 1, Sec. 2, Decree of December 2, 1910.
SIAM—Chap. II, Par. 7 (2) (3), Naturalization Law, 130.
SPAIN—Vol. 1, Chap. 1, Arts. 21 and 22, Civil Laws.
SWEDEN—Arts. 4 and 5, Law of May 23, 1924.
SWITZERLAND—Chap. III, Art. 10, Pars. (a), (b) and (c), Federal Decree of June 25, 1903.
SYRIA—Art. 7, Ordinance of Jan. 31, 1925.
TURKEY—Art. 7, Ottoman Law of Nationality of 1869; Art. 14, Citizenship Act, effective Jan. 1, 1929.
UNITED STATES OF AMERICA—Secs. 2 and 4, Act. of September 22, 1922; Sec. 4, Subdiv. 12 of Act of June 29, 1906 as amended by the Act of May 9, 1918.
URUGUAY—Sec. II, Chap. IV, Art. 13, Constitution of January 3, 1918.

(b) *Marriage or other family relationship to a National of the naturalizing country*

ARGENTINA—Title 2, Art. 2, Sec. 2, Par. 7, Law No. 346 of October 8, 1869.
BELGIUM—Art. 12, Par. 2; Art. 13, Par. 2; and Art. 15, Law of May 15, 1922; Par. 1 (2), 1 (7) A, 1 (7) B, 2 (2), 2 (2) A, and 2 (2) B, Instructions in Ministerial Circular of July 31, 1923.
BRAZIL—Art. 6, I and V, Legislative Decree No. 904, Nov. 12, 1902; Art. 5, I and V, Regulations Pertaining to Decree No. 6, 948, of May 14, 1908; Formulary, etc., (1) (c).
BULGARIA—Chap. III, Art. 9, Par. 4, and Art. 14; Chap. IV, Art. 16; Chap. V, Art. 18, Law No. 100 of December 31, 1903, amended January 12, 1908, December 8, 1911, and July 24, 1924.
CHINA—Chap. II, Art. 2 (a), (b), (c), and (d), Art. 6 (a), (b), Art. 10, Revised Law of Nationality, December 30, 1914.
DANZIG FREE CITY OF—Sec. 9 (a) and (b). Law of May 30, 1922.
DOMINICAN REPUBLIC—Art. 1, c, Law No. 61, of November 18, 1924.
ECUADOR—Chap. VII, Art. 75, Decree of October 18, 1921.
FRANCE—Art. VI, Sec. 2; Arts. 7 and 11, Law of August 10, 1927.
GREECE—Book I, Sec. 1, Chap. II, Arts. 25 to 27, inc., Greek Civil Law, No. 391, of October 29, 1856.
HAITI—Art. 6, Law of August 30, 1907.
ITALY—Art. 4, Sec. 3, Law of June 13, 1912.
JAPAN—Arts. I and II, Law of Japan, No. 21, of July 9, 1898; Art. 9 (1) and (2) and Arts. 10 and 14, Law No. 66, of March, 1899, revised by No. 27, of March, 1916, and by No. 19 of July, 1924.
MADAGASCAR—Title I, Art. 8, Par. 3; Arts. 10 and 19; Title II, Art. VII, Decree of February 7, 1897.
MEXICO—Chap. I, Art. 1, Secs. 5 and 6; Art. 2, Secs. 2 and 4, Law of May 28, 1886.
MONACO—Art. 10 (2) and (3). Civil Code.
NETHERLANDS—Art. 10, Act of December 12, 1892, State Journal No. 268, as amended.
PANAMA—Title III, Chap. 1, Clause 3, Administrative Code. Title II, Art. 6, Par. 3, Constitution of February 13, 1904.
PARAGUAY—Chap. III, Art. 36, Constitution of November 18, 1870.
PHILIPPINE ISLANDS, Sec. 4, Act of March 26, 1920.
POLAND—Art. 10, Law of January 20, 1920.
PORTUGAL—Art. 1, Sec. 2, Decree of December 2, 1910.
RUMANIA—Chap. II, Par. 1, Arts. 8 (b) and 9 (b); Par. 2, Art. 17, Law of February 23, 1924.
SIAM—Chap. II, Art. 7 (3) Law No. 130.
SPAIN—Art. 3, Par. 1, Royal Decree of November 6, 1916.
SYRIA—Art. 3, Par. 2, and Art. 4, Ordinance of January 31, 1925.
TUNIS—Art. 5, Law of Dec. 20, 1923.
UNITED STATES OF AMERICA—Sec. 2, Act of September 22, 1922.
VENEZUELA—Art. 1, Law of Naturalization of May 24, 1923.

(c) *Performance of military or other special service to the Government of the naturalizing country*

ARGENTINA—Art. 20, Constitution; Title 2, Art. 2, Sec. 2, Pars. 1 and 2, and Sec. 4, Law No. 346, of October 8, 1869.
BELGIUM—Art. 12, Par. 2, Law of May 15, 1922; Par. 2 (2), Instructions in Ministerial Circular of July 31, 1925.
BULGARIA—Chap. III, Art. 9, Par. 3, Law No. 100, of December 31, 1903, amended January 12, 1908, December 8, 1911, and July 24, 1924.
CHINA—Chap. II, Art. 8, Revised Law of Nationality, December 30, 1914.
COSTA RICA—Art. 3, Decree of July 6, 1888.
DANZIG, FREE CITY OF—Secs. 5 (1), and 6, Law of May 30, 1922.

EGYPT—Art. 14, Decree Law of May 26, 1926.
ESTHONIA—Par. 9, Law No. 87, of October 27, 1922.
FRANCE—Art. VI, Sec. 2, Law of August 10, 1927.
GERMANY—Part II, Secs. 12, 14 and 15, Law of July 22, 1913.
GREAT BRITAIN—Part II, Sec. 2 (6), British Nationality and Status of Aliens Act, 1914, as amended 1918 and 1922.
GREECE—Book I, Sec. I, Chap. I, Art. 22, Greek Civil Law, No. 391 of October 29, 1856.
HAITI—Sec. 6, Law of August 30, 1917.
HUNGARY—Art. 17, Law of 1879.
ITALY—Art. 4, Secs. 1 and 3; Art. 6; Art. 9, Sec. 1, Law of June 13, 1912.
JAPAN—Art. 11, Law No. 66 of March, 1899, revised by No. 27 of March, 1916, and by No. 19 of July, 1924.
LATVIA—Art. IV, Observation 2, and Art. V of Citizenship Law, June 2, 1927.
MADAGASCAR—Title I, Art. 8, Par. 2, Decree of February 7, 1897.
MEXICO—Chap. I, Art. 1, Sec. 12 and Chap. III, Art. 17, Law of May 28, 1886.
PARAGUAY—Chap. III, Art. 36, Constitution of November 18, 1870.
PHILIPPINE ISLANDS—Sec. 4, Act of March 26, 1920.
POLAND—Art. 4, Clause 5, Law of January 20, 1920.
PORTUGAL—Title II, Art. 20, Civil Code of 1867 and Art 1, Sec. 2, Decree of December 2, 1910.
RUMANIA—Chap. II, Par. 1, Art. 8 (a); Par. 2; Art. 17, Law of February 23, 1924; Sec. 2 (c), Constitution of July 12, 1866.
SALVADOR—Title IV, Art. 48, Par. 2, Constitution of August 13, 1886.
SERBS, CROATS AND SLOVENES, KINGDOM OF (YUGOSLAVIA)—Art. 4, subdivision 3, Law of September 21, 1928.
SIAM—Chap. II, Par. 7 (1), Naturalization Law 130.
SPAIN—Art. 3, Par. 4, Royal Decree of November 6, 1916.
SYRIA—Art. 3, Par. 3, Ordinance of January 31, 1925.
TUNIS—Art. 3, Law of December 20, 1923.
UNION OF SOUTH AFRICA—Art. 3 (b) Naturalization of Aliens Act 1910.
UNION OF SOUTH AFRICA—Chap. II, Art. 2 (1), British Nationality in the Union and Naturalization and Status of Aliens Act, 1926.
UNITED STATES OF AMERICA—Sec. 4 Subdivisions 7 and 13, Act of June 29, 1906 as amended by the Act of May 9, 1918; Act of May 22, 1917; Act of July 19, 1919.
URUGUAY—Sec. II, Chap. I, Art. 8, Constitution (By special act of Congress); and Arts. 1 and 2, Law of July 20, 1874.
VENEZUELA—Art. 1, Law of Naturalization of May 24, 1923.

(d) *Assistance rendered the commercial, industrial, agricultural or other material interests of the country or its colonies, or a new invention introduced*

ARGENTINA—Title 2, Art. 2, Sec. 2, Pars. 3 to 6, inc., Law No. 346, of October 8, 1869.
BRAZIL—Art. 6, III, Legislative Decree No. 904, of Nov. 12, 1902; Art. 5, III, IV, Regulations Pertaining to Decree No. 6,948 of May 14, 1908; Formulary, etc., (1) (c).
BULGARIA—Chap. III, Art. 9, Par. 3, Law No. 100 of December 31, 1903, amended January 12, 1908, December 8, 1911, and July 24, 1924.
DOMINICAN REPUBLIC—Art. 1, c and d, Law No. 61 of November 18, 1924.
FRANCE—Art. VI, Sec. 2, Law of August 10, 1927.
GREECE—Book I, Sec. I, Chap. 1, Art. 22, Greek Civil Law No. 391, of October 29, 1856.
HAITI—Art. 6, Law of August 30, 1907.
MADAGASCAR—Title I, Art. 8, Par. 2, Decree of February 7, 1897.
PHILIPPINE ISLANDS—Sec. 4, Act of March 26, 1920.
RUMANIA—Sec. 2 (a), Constitution of July 12, 1866.
SPAIN—Art. 3, Pars. 2 and 3, Royal Decree of November 6, 1916.

(e) *Possession of unusual talents or professional ability*

ARGENTINA—Title 2, Art. 2, Sec. 2, Par. 8, Law No. 346 of October 8, 1869.
BRAZIL—Art. 6, IV, Legislative Decree No. 904, November 12, 1902.
BULGARIA—Chap. III, Art. 9, Par. 3, Law No. 100, of December 31, 1903, amended January 12, 1908, December 8, 1911 and July 24, 1924.
ESTHONIA—Par. 9, Law No. 87, of October 27, 1922.
GREECE—Book I, Sec. I, Chap. I, Art. 22, Greek Civil Law, No. 391, of October 29, 1856.
MADAGASCAR—Title I, Art. 8, Par. 2, Decree of February 7, 1897.
PHILIPPINE ISLANDS—Sec. 4, Act of March 26, 1920.
RUMANIA—Sec. 2 (a). Constitution of July 12, 1866.
SERBS, CROATS AND SLOVENES, KINGDOM OF (YUGOSLAVIA)—Art. 14, subdivision 1, Law of September 21, 1928.

(f) *Possession of real property in the naturalizing country*

BRAZIL—Art. 6, II, Legislative Decree No. 904, November 12, 1902; Art. 5, II, Regulations Pertaining to Decree No. 6,948, of May 14, 1908. Formulary, etc., 1 (ė).
DOMINICAN REPUBLIC—Art. 1, d, Law No. 61, of November 18, 1924.
MEXICO—Chap. I, Art. 10, Law of May 28, 1886.

(g) *Discretionary with the government of the naturalizing country*

AFGHANISTAN—Chap. III, Sec. 87, Code.
ALBANIA—Art. 4, Ottoman Law of Nationality of 1869.
AUSTRIA—PAR. 4 (1), 4, Federal Law of July 30, 1925.
FINLAND—Art. 1, Law of February 20, 1920.
GREECE—Art. 1, Decree Law of September 10, 1925.
HONDURAS—Chap. III, Art. 12, Decree No. 31, of February 4, 1926.
IRAQ (MESOPOTAMIA)—Part II, Art. 11, The Iraq Nationality Law of October 9, 1924, amended by Law of 1925, and Ordinance No. 81, of 1926. I. V.
ITALY—Art. 4, Sec. 4, and Art. 9, Law of June 13, 1912.
LATVIA—Art. 1-1, Supplement of October 7, 1921, to the Citizenship Law of August 23, 1919.
LITHUANIA—Sec. 3, Provisional Law of January 9, 1919; and No. 304, Supplement of March 29, 1920, to the Provisional Law.
MONACO—Arts. 9 (2), 10 (1), Civil Code.
NETHERLANDS—Art. 4, Act. of Dec. 12, 1892, as amended.
PERSIA—Sec. IV, Law or Ordinance of August 7, 1894.
POLAND—Art. 9, Law of January 20, 1920.
SALVADOR—Title II, Arts. 43, 44, and Title IV, 48, Constitution.
SERBS, CROATS AND SLOVENES, KINGDOM OF—Art. 14, Law of September 21, 1928.
SIAM—Chap. II, Par. 7, Naturalization Law, 130.
SWEDEN—Art. 5, Law of May 23, 1924.
TURKEY—Art. 4, Ottoman Law of Nationality of 1869. Art. 6, Citizenship Act, effective January 1, 1929.

(6) Where the wife is naturalized through the naturalization of the husband or by her marriage to a citizen

See analysis of laws regarding MARRIED WOMEN

(7) Where the minor children are naturalized through the naturalization of the father

AFGHANISTAN—Chap. III, Art. 92, Code. [Provided children accept father's nationality on coming of age.]
ARGENTINA—Title 2, Art. 3, Law No. 346, of October 8, 1869. [Sons become citizens if they enlist in National Guard at proper age.]

AUSTRALIA—Part III, Sec. 10 (1), Nationality Act 1920–1925. [In discretion of Governor-General, with right of child to make declaration of alienage within one year after majority.]

AUSTRIA—Par. 5 (1), Federal Law of July 30, 1925. [Only those children follow the father's status as the grant expressly covers. Par. 5 (2), *supra*.]

BELGIAN-CONGO—Chap. I, on Nationality, Par. 2, Civil Code, Decree of December 27, 1892. [If their nationality has been lost by his act.]

BELGIUM—Art. 5, Law of May 15, 1922 (with option to renounce it).

BRAZIL—Art. 4, Legislative Decree No. 569, of June 7, 1899. [Provided law of the country to which they have belonged permits it. Applies only to children of Brazilians who reacquire that nationality.]

BRITISH INDIA—Secs. 5 (2) and 7 (1), (2), Indian Naturalization Act, 1926. [If mentioned in naturalization certificate. May make declaration of alienage when he attains majority.]

BULGARIA—Chap. III, Art. 11; Chap. V, Art. 18, Law No. 100 of December 31, 1903, amended January 12, 1908, December 8, 1911, and July 24, 1924. [They may decline Bulgarian citizenship during the year following coming of age.]

CANADA—Part II, Sec. 5, Par. 1, The Naturalization Acts, 1914 and 1920, as amended 1923. [In discretion of Secretary of State, with right of child to make declaration of alienage within one year after majority.]

CHINA—Chap. II, Art. 10, Revised Law of Nationality, December 30, 1914 [unless there is a contrary provision in the law of the country to which the children belong].

COLOMBIA—Art. 17, Law 145 of 1888.

CZECHOSLOVAKIA—Chap. II, 16, Constitution Law No. 236, of April 9, 1920. [The status of children up to 18 years of age follows that of the parents.]

DANZIG, FREE CITY OF—Secs. 4, 7 and 11, Law of May 30, 1922. [Provided that they are released from their former nationality. Sec. 8, Subsec. (7) *supra*.]

DENMARK—Sec. II, Par. 3, and Sec. IV, Law of April 18, 1925 [as to legitimate, unmarried children under 18 years of age].

ECUADOR—Chap. VII, Art. 71, Law of Oct. 18, 1921 as amended by decree of Sept. 17 1925 [except for their right of option upon arriving at the age of twenty-one].

EGYPT—Arts. 8 and 20, Decree Law of May 26, 1926. [Unless they have their habitual residence abroad and retain their foreign nationality in accordance with the law of the country of origin.]

ESTHONIA—Par. 2 (7), Law No. 87 of Oct. 27, 1922. [Up to the age of 18 years, except daughters who are or have been married.]

FINLAND—Art. 2, Law of February 20, 1920.

FRANCE—Art. VII, Law of August 10, 1927 [the unmarried natural children under age].

FRENCH INDO-CHINA (COCHIN CHINA)—Art. 5, Decree of May 25, 1913 modified by Law of September 4, 1919, Circular of Minister of Colonies Concerning Decree [unless there is a special reserve in the decree].

GERMANY—Part II, Art. 16, Law of July 22, 1913. [Unless a reservation is made in the certificate of naturalization. Daughters who are or have been married are excepted.]

GREAT BRITAIN—Part II, Art. 5 (1), British Nationality and Status of Aliens Act, 1914, as amended, 1918 and 1922. [In discretion of Secretary of State, with right of child to make declaration of alienage within one year after majority.]

GREECE—Book I, Sec. I, Chap. I, Arts. 17 and 18, Greek Civil Law, No. 391, of October 29, 1856, as amended by Law of September 13, 1926. [May decline Greek Nationality in year following attainment of majority.]

HUNGARY—Arts. 7 and 12, Law of 1879. [The naturalization papers must include the names of the minor children.]

ICELAND—Articles 2 and 4, Law of June 15, 1926.

IRAQ (MESOPOTAMIA)—Part IV, Art. 18 (1), The Iraq Nationality Law of October 9, 1924, amended by Law of 1925, and Ordinance No. 81 of 1926, I. V.

ITALY—Art. 12, Law of June 13, 1912. [Except that if residing abroad, they retain the foreign citizenship, in conformity to the law of the state to which they belong.]

JAPAN—Art. 15, Law No. 66 of March, 1899, revised by No. 27 of March, 1916, and by No. 19 of July 1924. [If they are minors under the law of their country and such law contains no contrary provisions.]

LATVIA—Sec. VII, Citizenship Law of June 2, 1927.

LUXEMBURG—Chap. II, Art. 10, Constitution of October 17, 1868. [Must claim privilege within two years after attaining majority.]

MADAGASCAR—Title I, Arts. 12 and 18, Decree of February 7, 1897 [with right of declination during the year following their majority].

MONACO—Art. 10 and Chap. II, Sec. 1, Art. 18, Civil Code. [Unless within a year of attaining majority they decline the status by a declaration.]

NETHERLANDS—Art. 6, Act of December 12, 1892, State Journal No. 268, as amended. [Unless he declares to the contrary within a year after his majority.]

NEWFOUNDLAND—Chap. 78, Part. II, Sec. 5 (1), Consolidated Statutes of Newfoundland (Third Series). [In discretion of Colonial Secretary, with right of child to make declaration of alienage within one year after majority.]

NEW ZEALAND—Sec. 8 (1), British Nationality and Status of Aliens (in New Zealand) Act, 1923. [In discretion of Minister of Internal Affairs, with right of child to make declaration of alienage within one year after majority.]

NORWAY—Sec. 6, Law of Aug. 8, 1924. [Comprises unmarried children under 18 years of age, born in wedlock, provided it is not necessary to make an exception.

PALESTINE—Part IV, Sec. 30. Palestinian Citizenship Order, 1925. [Where names are included in certificate.]

PANAMA—Title III, Chap. 8, Art. 168, Administrative Code.

PHILIPPINE ISLANDS—Secs. 5 and 13, Act of March 26, 1920.

POLAND—Art. 13, Law of January 20, 1920. [As to children up to 18 years, unless the Minister of the Interior decides otherwise.]

PORTUGUESE EAST AFRICA—Art. 4, Governor-General's Notice No. 317, of January 9, 1927. [Male children until the age of 18 years.]

RUMANIA—Ch. II, Par. 3, Art. 34, Law of February 23, 1924.

RUSSIA (SOVIET UNION)—Art. 6 and Note 1, Ordinance No. 202, of October 29, 1924. [Affects only children under 14 years of age, and only in the event both parents become citizens.]

SERBS, CROATS AND SLOVENES, KINGDOM OF (YUGOSLAVIA)—Art. 19, Law of September 21, 1928.

SIAM—Chap. III, Par. 13, Naturalization Law, 130. [May resume his former nationality by a declaration of alienage within a year after attaining full age.]

SPAIN—Vol. 1, Chap. 1, Art. 18, Civil Laws of Spain.

SWEDEN—Art. 6, Law of May 23, 1924. [Comprises unmarried children born in wedlock.]

SWITZERLAND—I., Art. 3, Federal Decree of June 25, 1903; I., C., II., Art. 15, Federal Law of December 29, 1922. [If according to the laws of the native country, they are under his paternal authority, and if no specific exception is made in the permission of the Federal Government.]

SYRIA—Art. 4, Ordinance of January 31, 1925. [Unless during the year following their majority they refuse it.]

TUNIS—Arts. 6 and 7, Law of December 20, 1923.

TURKEY—Art. 5, Citizenship Act, effective January 1, 1929.

UNION OF SOUTH AFRICA—British Nationality in the Union and Naturalization and Status of Aliens Act, 1926. [In discretion of minister, with privilege of child to make declaration of alienage within one year after attaining majority.]

VENEZUELA—Art. 4, Par. 1, Law of Naturalization of May 24, 1923. [Unless they manifest to the contrary within one year following their becoming of age.]

(a) Residence or domicile of the minor children required

BRITISH INDIA—Sec. 5 (2), Indian Naturalization Act, 1926.
FINLAND—Art. 2, Law of February 20, 1920.
LIBERIA—Chap. IV, Sec. 72, Law of February 8, 1922.
NORWAY—Sec. 6, Law of August 8, 1924. [Unmarried children under 18.]
SPAIN—Vol. 1, Chap. 1, Art. 18, Civil Laws of Spain.
SWEDEN—Art. 6, Law of May 23, 1924. [Comprises if the father was born in Sweden unmarried children born in wedlock.]
UNITED STATES OF AMERICA—Sec. 5, Act of March 2, 1907.

(8) Where the major children are naturalized through the naturalization of the father

BULGARIA—Chap. III, Art. 11; Chap. V, Art. 18, and Chap. VI, Art. 29, Law No. 100, of December 31, 1903, amended January 12, 1908, December 8, 1911, and July 24, 1924. [If they so desire.]
FRENCH INDO CHINA (COCHIN CHINA)—Art. 5, Decree of May 26, 1913, Modified by Law of September 4, 1919; Circular of Minister of Colonies Concerning Decree. [If they request it.]
MADAGASCAR—Title I, Art. 12, Decree of February 7, 1897. [On their application.]
MONACO—Chap. II, Sec. I, Art. 18, Civil Code. [May apply for it on regaining of Monegasque status by parent.]
PERSIA—Sec. X, Law or Ordinance of August 7, 1894. [Only those who elect to change their nationality.]
TUNIS—Arts. 5 and 7, Law of December 20, 1923. [If they request it.]
VENEZUELA—Art. 4, Par. 2, Law of Naturalization of May 24, 1923.

(9) Comparative status of the naturalized and the native citizen

(a) Where the naturalized citizen is placed on an equal footing

ALGERIA—Art. 3, Senatus-Consultum of July 14, 1865.
BULGARIA—Chap. I, Art. 1; Chap. III, Art. 13, Law No. 100, of December 31, 1903, amended January 12, 1908, December 8, 1911, and July 24, 1924.
CANADA—Part II, Sec. 3, The Naturalization Acts, 1914 and 1920, as amended 1923.
DANZIG, FREE CITY OF—Art. 72 of Constitution of November 17, 1920.
GREAT BRITAIN—Part II, Sec. 3 (1), British Nationality and Status of Aliens Act, 1914, as amended, 1918 and 1922.
HONGKONG—Sec. 6, Local Ordinance No. 44, of 1902, as amended by No. 50 of 1911, and Nos. 1 and 8 of 1912.
NEWFOUNDLAND—Chap. 78, Part II, Sec. 3, Consolidated Statutes of Newfoundland (Third Series).
NEW ZEALAND—Sec. 6, British Nationality and Status of Aliens (in New Zealand) Act, 1923.
PALESTINE—Part III, Secs. 8 and 9, Palestinian Citizenship Order, 1925.
RUMANIA—Chap. II, Par. 3, Art. 33, Law of February 23, 1924.

(b) Where the naturalized citizen is not placed on an equal footing

AUSTRALIA—Part III, Sec. 11, Nationality Act 1920-1925.
BELGIUM—Art. 11, Law of May 15, 1922. ["Ordinary" naturalization (first papers) does not confer political rights.] Art. 5, of Constitution of February 7, 1831, with Amendments of 1893 and 1921.
BRAZIL—Art. 2, I, Legislative Decree No. 904, November 12, 1902; Art. 2, I, Regulations Pertaining to Decree No. 6, 948, of May 14, 1908.
BRITISH INDIA—Secs. 5 (1), 7 (1), and 14, Indian Naturalization Act, 1926.

CHINA—Chap. II, Art 11, Revised Law of Nationality, December 30, 1914.
COLOMBIA—Title III, Art. 11, Constitution.
COSTA RICA—Art. 13, Decree of May 13, 1889.
GUATEMALA—Title VII, Art. 94, Law of Foreigners of 1894.
HAITI—Title II, Chap. II, Arts. 8 and 9, Constitution.
JAPAN—Arts. 16 and 17, Law No. 66, of March, 1899, revised by No. 27 of March, 1916, and by No. 19, of July, 1924.
LITHUANIA: Sec. 2, par. 9, Const. of May 15, 1928.
MEXICO—Chap. III, Art. 29, Law of May 28, 1886.
PARAGUAY—Chap. III, Art. 35, Subdiv. 4, Constitution of November 18, 1870.
SALVADOR—Chap. II, Art. 20, Law of April 16, 1900.
UNITED STATES OF AMERICA—Second par. Sec. 2, Act of March 2, 1907. Art. II, Sec. 1, fifth paragraph, Constitution.

(c) Holding of specified public offices prohibited

BRAZIL—Art. 2, I, Legislative Decree No. 904, November 12, 1902; Art. 2, I, Regulations Pertaining to Decree No. 6, 948, of May 14, 1908.
CHINA—Chap. II, Art. 11, Revised Law of Nationality, December 30, 1914.
PARAGUAY—Chap. III, Art. 35, Par. 4, Constitution of November 18, 1870.
UNITED STATES OF AMERICA—Art. 2, Sec. 1, fifth Par. Constitution.

(d) Holding of specified public offices permitted after lapse of a certain period from naturalization

BRAZIL—Art. 2, II, Legislative Decree No. 904, November 12, 1902; Art. 2, II, Regulations Pertaining to Decree No. 6, 948, of May 14, 1908.
BULGARIA—Chap. III, Art. 13, Law No. 100, of December 31, 1903, amended January 12, 1908, December 8, 1911, and July 24, 1924.
CHILE—Chap. II, Art. 5, Sec. 4, Constitution, September 18, 1925.
CHINA—Chap. II, Art. 11, and Chap. IV, Art. 20, Revised Law of Nationality, December 30, 1914.
CUBA—Temporary Provisions, 3rd, Art. 49 (1), Sec. 1, Constitution.
FRANCE—Art. VI, Law of August 10, 1927.
HUNGARY—Arts. 15, 17, and 44, Law of 1879.
JAPAN—Arts. 16 and 17, Law No. 66, of March, 1899, revised by No. 27 of March, 1916, and by No. 19, of July, 1924.
MADAGASCAR—Title I, Art II, Decree of February 7, 1897.
PORTUGAL—Art 1, Decree March 28, 1911.

10 Where consent of country of origin is required prior to naturalization

AUSTRIA—Par. 4 (1) 3, Federal Law of July 30, 1925. [Unless the law of the country of origin permits the retention of its national status.]
BELGIAN-CONGO—Par. 2, Clause 4, Arrete of the Secretary of State, March, 1901 [As to having satisfied military service.]
DANZIG, FREE CITY OF—Sect. 8 (7) Nationality Law May 30, 1922.
ECUADOR—Chap. VII, Art. 63, Law of October 18, 1921, as amended by Decree of September 17, 1925.
JAPAN—Article 7, Clause 5, of Law No. 66 of March, 1899. [Must lose citizenship of country of origin.]
MONACO—Art. 9 Civil Code.
NORWAY—Sec. 5, Law of August 8, 1924 (If the legislation of his home country requires it, though it may be waived for special reasons.)
PERSIA—Sec. III, Law or Ordinance of August 7, 1894. [Not a fugitive from military service.]
PORTUGAL—Title II, Art. 19, Civil Code of 1867. [Must be naturalized "in accordance with the laws of their country," as well as of Portgual.]

RUMANIA—Chap. II, Par. 1, Art. 7, Subdiv. 6, Law of February 23, 1924. [Must have lost or lose his previous nationality, by the laws of his country.]
SERBS, CROATS AND SLOVENES, KINGDOM OF (YUGOSLAVIA)—Art. 12, subdivision 4, Law of September 21, 1928.
SPAIN—Art. 4, Royal Decree of November 6, 1916.
SWEDEN—Art. 5, Law of May 23, 1924. [May be waived for special reasons.]

B. EXPATRIATION

(1) Unconditional

(a) By naturalization abroad

AUSTRALIA—Part IV, Div. 2, Sec. 21, The Nationality Act 1920–1925.
AUSTRIA—10 (1), Federal Law of July 30, 1925.
BELGIUM—Arts. 5, 18 and 22, Law of May 15, 1922. [Belgian nationality must be renounced before a municipal officer in Belgium, or a Belgian diplomatic or consular agent abroad.] Art. 16, Law of August 4, 1926. [If liable for military service must obtain consent of King.
BOLIVIA—Sec. 5, Art. 35 (1), Constitution.
BRAZIL—Title IV, Art. 71, Sec. 2 (a), Constitution; Art. 1, Par. 1, Legislative Decree No. 569, June 7, 1899.
CANADA—Part III, Sec. 13, The Naturalization Acts, 1914 and 1920, as amended 1923.
CHILE—Chap. II, Art. 6, Subdiv. 1, Constitution of September 18, 1925.
COLOMBIA—Title II, Art. 9, Constitution. [And establishing a domicile in the foreign country.]
COSTA RICA—Art. 4, Sec. 1, Decree of May 13, 1889.
CUBA—Chap. 11, Art. 7, Sec. 1, Constitution.
DENMARK—Sec. V, Law of April 18, 1925. [If a Dane by birth, loss of nationality does not take effect until he leaves Denmark.]
ECUADOR—Art. 14, 2, Constitution of 1906.
GERMANY—Part. I, Sec. 25, Law of July 22, 1913.
GREAT BRITAIN—Part III, Sec. 13, British Nationality and Status of Aliens Act, 1914, as amended, 1918 and 1922.
GUATEMALA—Title I, Arts. 1, 4 and 8, Law of Foreigners of 1894. [Apparently suspends nationality only while abroad.]
HAITI—Title II, Chap. II, Art. 10, Sec. 1, Constitution.
HONDURAS—Chap. I, Art. 1, Sec. (6), Decree No. 31 of Feb. 4, 1926. [And transfer of place of residence to the new country.]
ICELAND—Article 5, Law of October 6, 1919.
ITALY—Art. 8, Sec. 1, Law of June 13, 1912. [And establishes residence abroad. Does not exempt from liability for military service.]
JAPAN—Art. 20, Law No. 66, of March, 1899, revised by No. 27 of March, 1916, and by No. 19 of July, 1924.
LIBERIA—Art. I, Sec. I, General Statutes; Sec. 73, Chap. IV, Consular Code, approved Feb. 8, 1922. [Provided that country is not at war.]
MEXICO—Art. 37, Clause 1, Constitution; Chap. II, Art. 6, Law of May 28, 1886.
MONACO—Chap. II, Sec. I, Art. 17 (1), Civil Code.
NETHERLANDS—Art. 7, Subheads 1 and 3, Act of Dec. 12, 1892, as amended.
NEWFOUNDLAND—Chap. 78, Part III, Sec. 13, Consolidated Statutes of Newfoundland (Third Series).
NEW ZEALAND—[See Citation to British Imperial Act (Great Britain, *supra*), with which the pertinent provisions are identical.]
PALESTINE—Part IV, Art. 15, Palestinian Citizenship Order, 1925.

PANAMA—Title III, Chap. 5, Art. 136, Subhead 1, Administrative Code. [And establishing residence in the foreign country.] Title II, Art. 7, Par. 1, Constitution of February 13, 1904.
PERU—Art. 64, Constitution.
PORTUGAL—Title III, Art. 22, Par. 1, Civil Code of 1867.
RUMANIA—Title II, Art. 36 (a), Law of February 23, 1924.
SALVADOR—Title V, Art. 53, Par. 3, Constitution; Chap. 1, Art. 2, Par. 4, Law of April 16, 1900. [Males: and transferring residence to the foreign country.]
SPAIN—Chap. I, Art. 1, Constitution; Vol. 1, Chap. 1, Art. 20, Civil Laws of Spain.
UNION OF SOUTH AFRICA—Chap. II, Art. 15, British Nationality in the Union and Naturalization and Status of Aliens Act, 1926.
UNITED STATES OF AMERICA—Sec. 2, first Par., Act of March 2, 1907. [Unless the United States is at war.]
URUGUAY—Sec. II, Chap. IV, Art. 13, Constitution.
VENEZUELA—Art 7, Law of Naturalization of May 24, 1923.

(b) *By the marriage of a woman national to an alien, or the loss of her husband's national status*

See analysis of laws concerning MARRIED WOMEN

(c) *By employment in the military or civil service of a foreign government, or the acceptance of honors or protection from it, without permission of the home government*

AUSTRIA—Par. 10 (1), 2, Federal Law of July 30, 1925.
BOLIVIA—Sec. 5, Art. 35 (4), Constitution.
BRAZIL—Title IV, Art. 71, Sec. 2 (b), Constitution; Art. 1, Par. 2; Art. 5, Par. 2, Legislative Decree No. 569, June 7, 1899.
COSTA RICA—Art. 4, Secs. 2, 3, Decree of May 13, 1889.
CUBA—Chap. 11, Art. 7, Secs. 2 and 3, Constitution.
GUATEMALA—Title I, Art. 7, Law of Foreigners of 1894.
HAITI—Chap. II, Art. 17, Sec. 3, Law August 30, 1907.
HONDURAS—Title IV, Art. 22, Sec. 7, Constitution of October 14, 1894. Chap. I, Art. 1, Sec. (7), Decree No. 31 of February 4, 1926.
MEXICO—Art. 37, Clause 2, Constitution of 1917; Chap. I, Art. 2, Pars. 6 and 7, Law of May 28, 1886.
NETHERLANDS—Art. 7, Clause 4, Act of December 12, 1892, State Journal No. 268, as amended.
PANAMA—Title III, Chap. 5, Art. 136, Subhead 2, Administrative Code; Title II, Art. 7 (2) Constitution of February 13, 1904.
PARAGUAY—Chap. III, Art. 40, Subhead 2, Constitution of November 18, 1870.
POLAND—Art. 11, Clause 2, Law of January 20, 1920.
PORTUGAL—Title III, Art. 22, Par. 2, Civil Code of 1867.
RUMANIA—Title II, Art. 36 (d), (e), (g) and Art. 37, Law of February 23, 1924.
SALVADOR—Title V, Art. 53, Par. 4, Constitution; Chap. 1, Art. 2, Par. 5, Law of April 16, 1900.
SPAIN—Chap. I, Art. 1, Constitution of June 30, 1876; Art. 20, Civil Code.

(d) *Withdrawal of rights of citizenship, on the ground of misrepresentation, fraud, disloyalty, or bad character*

AUSTRALIA—Part III, Sec. 12 (1), (2), (a), Sec. 12 (2), (b), The Nationality Act, 1920–1925.
BELGIUM—Transitory Provision 6 (1), Law of May 15, 1922.
BOLIVIA—Sec. 5, Art. 35 (2) and (3), Constitution.
BRITISH INDIA—Sec. 8 (1), (2) (a), (2) (b), (2) (c), Indian Naturalization Act, 1926.
CANADA—Part II, Secs. 7 (1), 7 (2) (a), (2) (b), (2) (c), The Naturalization Acts, 1914 and 1920, as amended 1923.

CHILE—Chap. II, Art. 6, Secs. 2 and 3, Constitution of Sept. 18, 1925.
COLOMBIA—Title II, Art. 16 (1), (2), (3), (4), (5), Constitution of 1886.
ECUADOR—Art. 14, Constitution of 1906; Chap. VII, Art. 67, Law of October 18, 1921, as amended.
EGYPT—Art. 13, Decree of May 26, 1926.
FRANCE—Art. IX, Sect. 5, Law of August 10, 1927.
GERMANY—Part. II, Sec. 16, Par. 3; Secs. 23, 26 to 29, incl., 32, Law of July 22, 1913.
GREAT BRITAIN—Part II, Sec. 7 (1), (2) (a), (2) (b), (2) (c), British Nationality and Status of Aliens Act, 1914, as amended, 1918 and 1922.
HAITI—Title II, Chap. II, Art. 10, Secs. 2, 4 and 5, Constitution.
HONGKONG—Sec. 7, Local Ordinance No. 44, of 1902, as amended by No. 50, of 1911, and Nos. 1 and 8 of 1912.
ITALY—Law No. 108 of January 31, 1926.
LIBERIA—Sec. 2, Act of January 6, 1908.
MEXICO—Chap. III, Art. 22, Law of May 28, 1886; Art. 37, Par. 3, Constitution of 1917.
NEWFOUNDLAND—Chap. 78, Part II, Sec. 7 (1), Consolidated Statutes of Newfoundland (Third Series).
NEW ZEALAND—Sec. 11 (1), (2), British Nationality and Status of Aliens (in New Zealand) Act, 1923.
PALESTINE—Part III, Secs. 10 (1), 11 (1), Palestinian Citizenship Order, 1925.
PANAMA—Title III, Chap. 5, Art. 136, Subhead 4, Administrative Code; Title II, Art. 7, Par. 4, Constitution of February 13, 1904.
PARAGUAY—Chap. III, Art. 40, Subhead 1; Constitution.
PHILIPPINE ISLANDS—Sect. 14, Act of March 26, 1920.
RUMANIA—Title II, Art. 41, Law of Feb. 23, 1924. ["Withdrawal" of naturalization by royal decree acting as a perpetual bar.]
SALVADOR—Title V, Art. 53, Pars. 1, 2, 5 to 7, inc., Constitution; Chap. II, Art. 14, Law of April 16, 1900.
SERBS, CROATS AND SLOVENES, KINGDOM OF (YUGOSLAVIA)—Art. 33, Law of September 21, 1928.
TURKEY—Article 11, Citizenship Act effective Jan. 1, 1929.
UNION OF SOUTH AFRICA—Chap. II, Art. 7, British Nationality in the Union and Naturalization and Status of Aliens Act, 1926.
UNITED STATES OF AMERICA—Section 15 of Act of June 29, 1906. Section 1996 of Revised Statutes of the United States and Section 1998 of Revised Statutes of the United States as amended by Act of August 22, 1912.

(2) Conditional Expatriation*

(a) By naturalization abroad, provided express consent of country of origin obtained

AFGHANISTAN—Chap. III, Art. 91, Code.
ALBANIA—Arts. 5 and 6, Ottoman Law of Nationality of 1869.
BULGARIA—Chap. V, Art. 17, Par. 1; Arts. 20 and 21; Law of December 31, 1903, amended January 12, 1908, December 8, 1911, and July 24, 1924. [If living in Bulgaria. If living abroad, loses citizenship if, in case of war, he fails to return to Bulgaria within period stated in notice sent him.]
CHINA—Chap. III, Arts. 12 (d) and 13, Revised Law of Nationality of December 30, 1914.
DANZIG, FREE CITY OF—Secs. 16 and 18, Law of May 30, 1922.
EGYPT—Art. 15, Decree Law of May 26, 1926.
ESTHONIA—III, Par. 20, Law No. 87, of October 27, 1922.

*Involving consent of government.

FINLAND—Arts. 1 and 4, Law of June 17, 1927.
FRANCE—[Unless certain requirements concerning military service fulfilled. Act of August 10, 1927, Art. IX, Par. 1.]
GREECE—Book I, Sec. I, Chap. II, Art. 23 (a) Civil Law 391 of October 29, 1856.
HUNGARY—Arts. 20, 21, 22, 25, 28 and 29, Law of 1879.
IRAQ (MESOPOTAMIA)—Part III, Art. 13, The 'Iraq Nationality Law of October 9, 1924, amended by Law of 1925, and Ordinance No. 81 of 1926, Q. V.
LATVIA—Arts. VIII and IX, Citizenship Law, June 2, 1927.
MADAGASCAR—Title I, Art. 17, Par. 1, Decree of February 7, 1897; Arts. 1, 2 and 3, Decree of November 25, 1913.
NORWAY—Secs. 8 and 10, Law of August 8, 1924. [If residing in Norway, expatriation effective only when he leaves the Kingdom.]
PERSIA—Secs. VIII and IX, Persian Law or Ordinance of August 7, 1894.
POLAND—Art. 11, Law of January 20, 1920.
RUSSIA (SOVIET UNION)—Art. 13, Ordinance No. 202, of October 29, 1924.
SERBS, CROATS AND SLOVENES, KINGDOM OF (YUGOSLAVIA)—Art. 29, Serbian Constitution of June 5, 1903; Arts. 22-26, Law of September 21, 1928.
SIAM—Secs. 5 to 10, inc., Law of April 10, 1913.
SWEDEN—Arts. 8 and 10, Law of May 23, 1924. [Must become domiciled in the new country.]
SWITZERLAND—II, Arts. 7, 8 and 9. Federal Decree of June 25, 1903.
SYRIA—Art. 8 (1), Ordinance of January 31, 1925.
TURKEY—Arts. 5 and 6, Ottoman Law of Nationality of 1869; Art. 7, Citizenship Law, effective January 1, 1929.

(*b*) *Performance of military service required*

BULGARIA—Chapter XII, Art. 56, Constitution.
CHINA—Chap. III, Art. 13, Revised Law of Nationality of December 30, 1914.
ESTHONIA—Art. III, Par. 20, Law No. 87, of October 27, 1922.
FINLAND—Art. 1, Law of June 17, 1927.
FRANCE—Art. IX, Par. 1, Law of August 10, 1927.
GREECE—Book 1, Sec. 1, Chap. II, Art. 23 (a), of Civil Law 391 of October 29, 1856.
HUNGARY—Art. 22, Law of 1879. [Unless released from military service by the military authorities.]
MADAGASCAR—Title I, Art. 17, Par. 1, Decree of February 7, 1897. [If still subject to military service in the active army.]
PERSIA—Secs. VIII, and IX, Persian Law or Ordinance of August 7, 1894.
POLAND—Art. 11, Law of January 20, 1920.
SERBS, CROATS AND SLOVENES, KINGDOM OF (YUGOSLAVIA)—Art. 29, Serbian Constitution of June 5, 1903; Art. 23, subdivision 1, Law of September 21, 1928.
TURKEY—Art. 7, Citizenship Act, effective January 1, 1929.

(*c*) *Assurance of acceptance by country in which naturalization is contemplated is required*

ESTHONIA—Art. III, Par. 20, Law No. 87 of Oct. 27, 1922.
LATVIA—Art. 9, Citizenship Law, June 2, 1927.
SERBS, CROATS AND SLOVENES, KINGDOM OF (YUGOSLAVIA)—Art. 25, Law of September 21, 1928.

(*d*) *By marriage of a woman national to an alien or the naturalization of her husband in a foreign country, provided she acquires his nationality under the law of his country or provided that certain other conditions exist*

See analysis of laws concerning MARRIED WOMEN, p. 106 *post.*

(e) *By employment in the military or civil service of a foreign government, or the acceptance of honors or protection from it, without permission of the home government*

BULGARIA—Chap. V, Art. 17, Secs. 3 and 4, Decree No. 100, December 31, 1913, as amended. [Unconditional under some circumstances.]

DANZIG, FREE CITY OF—Sec. 15, Law of May 30, 1922.

FRANCE—Art. IX, Sec. 4, Law of August 10, 1927.

GERMANY—Part II, Sec. 28, Law of July 22, 1913.

GREECE—Book I, Sec. I, Chap. II, Art. 23 (b), Civil Law No. 391, of Oct. 29, 1856.

HUNGARY—Article 30, Law L. of 1879.

IRAQ—Art. 15, Par. 3, Nationality Law of October 9, 1924, as amended by Law of 1926 and Ordinance No. 81 of 1926.

ITALY—Art. 8, Sec. 3, Law of June 13, 1912.

MADAGASCAR—Title I, Art. 17 (3 and 4) Decree of Feb. 7, 1897. [Unconditional under some circumstances.]

MONACO—Chap. II, Sec. 1, Art. 17 (3), (4), Civil Code. [Unconditional under some circumstances.]

SERBS, CROATS AND SLOVENES, KINGDOM OF (YUGOSLAVIA)—Art. 32, Law of September 21, 1928.

TURKEY—Arts. 9 and 10, Citizenship Act effective January 1, 1929.

UNITED STATES OF AMERICA—Sec. 2, Act of March 2, 1907. [If an oath of allegiance to a foreign country is taken and if the United States is not at war.]

(f) *By extended residence abroad*

AUSTRALIA—Par. III, Sec. 12 (2) (d), The Nationality Act, 1920-1925. [Naturalized citizens only. Seven years outside of British Empire.]

BRITISH INDIA—Sec. 8 (2) (d), Indian Naturalization Act, 1926. [Naturalized citizens only. Seven years outside of British Empire.]

CANADA—Part II, Sec. 7 (2) (d), The Naturalization Acts, 1914 and 1920, as amended 1923. [Naturalized citizens only. Seven years outside of British Empire.]

COSTA RICA—Art. 11, Decree of May 13, 1889. [Naturalized citizens, only. Two years in native country.]

CUBA—Chap. II, Art. 7, Sec. 4, Constitution. [Naturalized citizens. Five years in native country.]

EGYPT—Art. 17, Decree of May 26, 1926. [All citizens. Habitual residence abroad.]

GREAT BRITAIN—Part II, Sec. 7 (2) (d). British Nationality and Status of Aliens Act, 1914, as amended, 1918 and 1922. [Naturalized citizens only. Seven years outside of British Empire.]

GREECE—Law of September 13, 1926, Art. 4. [Subjects of foreign race who have left without intention of returning.]

HONGKONG—Sec. 4, Local Ordinance No. 44, of 1902, as amended by No. 50 of 1911, and Nos. 1 and 8 of 1912. [Naturalized citizens are supposed to reside in Hongkong permanently.]

HUNGARY—Art. 31, Law of 1879. [All citizens 10 years.

LIBERIA—Sec. 73, Chap. IV, Law of Feb. 8, 1922. [Naturalized citizens. 2 years in native country, 5 years in another country.]

MEXICO—Chap. I, Art. 2, Sec. 3 and Chap. II, Art. 10, Law of May 28, 1886. [Naturalized citizens two years in native country. All citizens 10 years in any country.]

NETHERLANDS—Art. 7, Par. 5, Act of Dec. 12, 1892, as amended by Acts of July 8, 1907, February 10, 1910, July 15, 1910 and December 31, 1920. [Persons not born in Netherlands or colonies, 10 years.]

NICARAGUA—2nd Point, Par. 2, and 4th Point, Letter of the Minister of Justice to the Minister of Foreign Relations, September 25, 1906; Art. 31, Law of Foreigners. [Naturalized citizens 5 years in native country.]

RUSSIA—Par. 1 (a), Law No. 11, Bulletin No. 1, "Collection of Laws, 1922." [All citizens 5 years.]

SALVADOR—Chap. II, Art. 10, Law of April 16, 1900. [Naturalized citizens, 2 years in native country.]

SERBS, CROATS AND SLOVENES, KINGDOM OF (YUGOSLAVIA)—Art. 28, Law of September 21, 1928. [All nationals, 30 years abroad.]

TURKEY—Art. 10, Citizenship Act effective January 1, 1929.

UNITED STATES OF AMERICA—Sec. 2, Par. 2, Act of March 2, 1907. [Naturalized citizens 2 years in native country, 5 years in any other country.] Sec. 3, Act of September 22, 1922. [Women married to aliens, 2 years in country of which husband is a citizen or five years continuously outside of United States.]

(g) *In the case of a minor, by naturalization of parent in a foreign country or by marriage of mother to an alien*

AFGHANISTAN—Sec. 92, Code. [Lose only by option upon attaining majority.]

ARGENTINE—Title II, Art. 4, Law of 1869. [May re-acquire nationality by enlisting in National Guard at proper age.]

AUSTRALIA—Part IV, Sec. 20 (1). Nationality Act of 1920–1925. [Unless child does not acquire foreign nationality by act of parent. Does not apply to children by former husband of a widow marrying an alien.]

AUSTRIA—Par. 8 (1) of the Law of July 30, 1925. [Lose unless citizen in own right.]

BELGIUM—Article 18, Par. 4, Law of May 15, 1922. [Children of woman marrying alien; only if she acquires nationality of her husband.]

CANADA—Par. III, Sec. 12, Naturalization Acts of 1914 and 1920 as amended, 1923. [Unless the child does not acquire foreign nationality by the act of its parent. Does not apply to children, by former husband, of woman marrying an alien.]

CHINA—Chap. III, Art. 15, Revised Nationality Law of 1914. [Only if child acquires foreign nationality.]

COSTA RICA—Art. 2, Decree of May 13, 1889. [May regain on reaching majority.]

EGYPT—Art. 20, Decree of May 26, 1926. [If they acquire foreign nationality.]

GERMANY—Part II, Sec. 29, Law of July 22, 1913. [If under tutelage of expatriated parent. Daughter married or who has been married excepted.]

GREAT BRITAIN—Part III, Sec. 12 (1) Nationality Act of 1914 as amended by Acts of 1918 and 1922. [Unless child does not acquire other nationality. Does not apply to children, by former husband, of woman marrying an alien.]

HUNGARY—Art. 26 of the Law of 1879. [Provided that they follow him abroad.]

ICELAND—Arts. 5, 6 and 7 of Law of Oct. 6, 1919; Art. 6 of Law of June 15, 1926. [Unless they retain home in Iceland or unless they do not acquire another nationality; does not apply to children, by previous marriage, of woman who marries alien.]

ITALY—Art. 12, of the Law of June 13, 1912. [If they reside in common with the parent and acquire the citizenship of the foreign country. Does not apply to children, by previous marriage of widow who marries alien.]

JAPAN—Art. 21 of Law No. 66 of April 1, 1899. [Only if they acquire parents' new nationality.]

LATVIA—Art. VII, Nationality Law of June 2, 1927.

MEXICO—Chap. I, Art. 2, Sec. 4. Law of May 28, 1886. [Provided they reside in country in which father was naturalized.]

NETHERLANDS—Art. 7, Clause 1, Act of December 12, 1892, as amended. [If they acquired foreign nationality.]

POLAND—Art. 13, Law of January 20, 1920. [Children under 18 years of age, unless excepted for special reason.]

RUSSIA (SOVIET)—Art. 6 and Note 1, Ordinance No. 202, of October 29, 1924. [Affects only children 14 years, and only if both parents are expatriated.]

SALVADOR—Chap. I, Art. 3, Law of April 16, 1900. [Provided that they acquire nationality of father and that they reside in his country.]
SIAM—Art. 10, Law of April 10, 1913. [If they acquire foreign nationality.]
SWEDEN—Art. 8, Law of May 23, 1924. [If they become domiciled in foreign country and become citizens under laws of that country.]
UNION OF SOUTH AFRICA—Chap. III, Art. 14 (1), British Nationality in the Union and Naturalization and Status of Aliens Act, 1926. [Unless the child does not acquire other nationality by the act of its parent. Does not apply to children by former husband, of women marrying an alien.]

III. NATIONALITY OF MARRIED WOMEN

A. EFFECT OF MARRIAGE OF AN ALIEN WOMAN TO A NATIONAL, AND ACQUISITION OF NATIONALITY BY AN ALIEN HUSBAND

(1) An alien woman acquires nationality unconditionally through marriage to a national

AFGHANISTAN—Chap. III, Sec. 89, of Code Relating to Certificates of Identity, the Principles of Passports and the Law of Nationality.
AUSTRALIA—Part IV, Div. I, Sec. 18, Nationality Act 1920–1925.
AUSTRIA—Par. 6, Sec. 1, Federal Law of June 30, 1925.
BOLIVIA—Art. 8 of Civil Code.
BRITISH INDIA—Law same as Great Britain, *infra*.
BULGARIA—Chap. IV, Art. 15, Law of December 13, 1903, as amended by Laws of 1908, 1911 and 1924.
CANADA—Act 1914–1920, Part III, Sec. 10. [Same as Great Britain, *infra*.]
CHINA—Chap. II, Sec. 2 (2), Law of December 30, 1914.
COSTA RICA—Art. 6, Sec. 2, Constitution 1922 and Art. 3, Sec. 3, Law of May 13, 1889.
CUBA—Art. 22 of the Civil Code.
CZECHOSLOVAKIA—Art. 16, Constitutional Law No. 236 of April 9, 1920.
DANZIG, THE FREE CITY OF—Section IV, Nationality Law, May 30, 1922.
DENMARK—Sec. III, Nationality Law, April 18, 1925.
EGYPT—Art. 18, Decree Law of May 26, 1926.
ESTHONIA—Art. II, Sec. 5, Law No. 87 of October 27, 1922.
FINLAND—Art. 4 of Constitution of July 17, 1919.
GERMANY—Sec. 6, Nationality Law of July 22, 1913.
GREAT BRITAIN—Part III, Sec. 10, British Nationality and Status of Aliens Act of 1914.
GREECE—Art. 21, Greek Civil Law, Law No. 391 of October 29, 1856.
HAITI—Art. 9, Law of August 30, 1907.
HUNGARY—Art. 5, Law L of 1879.
ICELAND—Art. 3, Law October 6, 1919, and Art. 3 of Law of June 15, 1926.
IRAQ—Part IV, Art. 17, Law of October 9, 1924, and Art. 20 of Regulations of 1926.
ITALY—Art. 10, Nationality Law of June 13, 1912.
JAPAN—Art. 5, Sec. 1, of Nationality Law No. 66 of March, 1899, Revised by Law No. 27 of March, 1916, and by Law No. 19 of July, 1924.
LATVIA—Sec. VII, Act of June 2, 1927.
LITHUANIA—Art. 1 (e), Law of January 9, 1919.
MEXICO—Art. I, Sec. 6, Law of May 28, 1886.
MONACO—Art. 12, Civil Code.
NETHERLANDS—Art. 5, Act of December 12, 1892, as amended by Acts of 1907, 1910 and 1920.
NICARAGUA—Art. 9 (2), Constitution of 1911. See also Communication from the Minister of Justice to the Minister of Foreign Relations, dated September 25, 1906.
NORWAY—Sec. 3, of Nationality Law of August 8, 1924.

PALESTINE—Art. 12, Sec. I, Part IV, of Order of July 24, 1925.
PERSIA—Sec. VI of Law of August 7, 1894.
POLAND—Art. 7 of Law of January 20, 1920.
PORTUGAL—Title II, Art. 18, Sec. 6, of Civil Code of 1868.
RUMANIA—Chap. I, Art. 4, Law of February 23, 1924.
SIAM—Sec. 3 (4), Law of Nationality, April 10, 1913.
SPAIN—Art. 22 of Civil Laws of Spain.
SWEDEN—Art. 3 of Law of May 23, 1924.
SWITZERLAND—Par. II, Art. 15 of Law Relative to the Acquisition and Loss of Cantonal Citizenship of December 29, 1922. [Art. 161, Swiss Fed. Code.]
SYRIA—Art. 5, Law of Nationality of January 31, 1925.
TURKEY—Art. 13 of Law effective January 1, 1929.
VENEZUELA—Art. 29, Sec. 4, Constitution, 1928, and Art. 21 of Civil Code of 1922.

(2) An alien woman by marriage to a national acquires under certain conditions the nationality of her husband

BELGIUM—Art. IV, Law of 1922, as amended by Art. 12 of Law of 1926. [If wife does not renounce Belgian nationality within six months after marriage.]
ECUADOR—Chap. VII, Art. 72, Naturalization Law of October 18, 1921. [Wife must be domiciled in Ecuador and then only in the event former nationality is lost.]
FRANCE—Art. VIII, Law of August 10, 1927. [Only if she makes application or her former nationality is lost.]
LIBERIA—Sec. 70, Consular Code, Chap. XI, Approved by Act of February 8, 1922. [Woman must be of African descent.]
SERBS, CROATS AND SLOVENES, KINGDOM OF—Art. 10, Law of September 21, 1928. [Unless prior to marriage she has by declaration retained her original nationality and provided such declarations are valid under the laws of her own country.]

(3) Nationality is not gained by marriage of an alien woman to a national.*

ARGENTINA—Executive Decree No. 99 bis of October 8, 1920.
GUATEMALA—Art. 151, Civil Code, 1926. [Unless wife so desires and provisions are made therefor in marriage documents.]
UNION OF SOCIALIST SOVIET REPUBLICS—Sec. V of Ordinance No. 202 of Collection of Laws and Orders No. 23 of December 3, 1924, and Art. 8 of Law of 1926.
UNITED STATES—Sec. 2, Act of September 22, 1922.
URUGUAY—Decree of Ministry of Foreign Affairs, January 21, 1921.

(4) Acquisition of nationality by a husband confers nationality upon his wife, unconditionally

AUSTRALIA—Part IV, Sec. 18.
AUSTRIA—Par. 6, Sec. I, Federal Law of June 30, 1925.
BRITISH INDIA—Sec. 7 (1), Naturalization Act of 1926.
CANADA—Part 3, Secs. 10 and 11, Act 1914–1920, as amended.
COLOMBIA—Art. 17, Law of November 26, 1888.
COSTA RICA—Chap. 3, Art. 40 (5), Constitution, 1917.
CUBA—Art. 22 of Civil Code.
CZECHOSLOVAKIA—Title II, Sec. 16, Constitutional Law No. 236 of April 9, 1920.
DENMARK—Sec. II, Par. 3 and Sec. IV, Nationality Law of April 18, 1925.
ECUADOR—Art. 71, Naturalization Law of October 18, 1921, as amended by Decree September 17, 1925.
HAITI—Art. 14 of Law of August 22, 1907.
GREAT BRITAIN—Part III, Secs. 10 and 11 of British Nationality Act of 1914.

* It is important to note that the laws of a number of States, including several South and Central American countries, contain no express provisions concerning the status of alien women who marry their nationals.

HUNGARY—Art. 7 of Law L of 1879.
ICELAND—Art. 4, Law of October 6, 1919, and Art. 4 of Law of 1926.
NETHERLANDS—Art. 5 of Act of December 12, 1892, as amended by Acts of July 8, 1907, February 10, 1910, July 15, 1910, and December 31, 1920.
PALESTINE—Part II, Sec. 6, of Order of July 24, 1925.
PANAMA—Art. 168 of Administrative Code.
POLAND—Art. 13 of Law of January 20, 1920.
SIAM—Sec. 12, Chap. III, Naturalization Law No. 130.
SPAIN—Art. 22, Civil Laws of Spain.

(5) Acquisition of nationality by a husband confers same upon his wife, conditionally

BELGIAN CONGO—Decree of December 27, 1892, Sec. 2. [If wife loses her nationality under the laws of her own country.]
CHINA—Law of December 30, 1914, Art. 10. [If laws of wife's country do not conflict.]
DANZIG, FREE CITY OF—Sec. 11, Law of May 30, 1922. [If so requested and wife is released of her own nationality under law of her country.]
EGYPT—Art. 19 of Law of May 26, 1926. [Unless wife within one year declares her wish to to preserve her own nationality under law of her country.]
FINLAND—Sec. 2, Law of February 20, 1920. [Wife must reside in Finland.]
GERMANY—Sec. 16, Law of July 22, 1922. [Reservations may be made in certificate.]
GREECE—Art. 17 of Civil Code as amended 1926. [Unless within one year wife renounces and shows that she may keep her own nationality under law of her own country.]
ITALY—Art. 11 (eleven) of Law of June 13, 1912. [If wife has residence in common with husband; when separated she may declare wish to retain own nationality unless there are children of the marriage.]
JAPAN—Art. 13, Nationality Law No. 66 of March, 1899, as revised by Laws of 1916 and 1924. [If to do so does not conflict with laws of country to which wife owes allegiance.]
LATVIA—Sec. 70 of Consular Code approved 1922. [Wife must be of negro descent.]
NORWAY—Sec. 6 of Law of August 8, 1924. [If no exception is made and wife takes oath of allegiance.]
MADAGASCAR—Art. X, Title II, Decree Law of February 7, 1897. [Wife must request to be included.]
RUMANIA—Art. 34 of Law of February 23, 1924. [Unless wife renounces.]
SERBS, CROATS AND SLOVENES, KINGDOM OF (YUGOSLAVIA)—Art. 19, Law of September 21, 1928. [Unless she declines and provided she may retain the nationality of her own country under its laws.]
SWEDEN—Art. 6 of Law of May 23, 1924.
SWITZERLAND—Art. 3 of Law of June 25, 1903 [If wife lives with husband and if Federal Council makes no exception.]
TUNIS—Art. 5, Law of December 30, 1923. [Wife must request to be included.]
VENEZUELA—Art. 4 (2) Law of October 1928.

(6) Acquisition of nationality by a husband does not confer same upon his wife *

ALGERIA—See France.
BELGIUM—Art. 15 of Law of 1922.
BULGARIA—Art. 11 of Law of December 31, 1903.
FRANCE—Art. 7 of Law of August 10, 1927.
GUADALUPE—See France.
MARTINIQUE—See France.
MONACO—Art. 10 of Civil Code.
SYRIA—Art. 4 of Law of January 19, 1925.
UNITED STATES—Sec. 2 of the Act of September 22, 1922.

*The laws of some States contain no specific provisions concerning this subject.

(7) Special provisions, not covered by above classification, such as laws under which the naturalization of alien men or women is facilitated when they are married to nationals

ARGENTINA—Title 2, Art. 2 (7), Law No. 346 of October 8, 1869.
BELGIUM—Art. 12 (2) and Art. 13, Law of 1922, also Part 2, Ministerial Circular of July 31, 1923, E. C/N No. 1644.
BRAZIL—Legislative Decree No. 904 of November 12, 1902, Art. 1 (5) and Art. 6 (1).
BULGARIA—Chap. III, Art. 9 (4) and Art. 11 of Law of December 31, 1903, as amended by Laws of 1908, 1911 and 1924.
CHINA—Chap. II, Sec. 6 (b), Law of December 30, 1914.
DANZIG, THE FREE CITY OF—Sec. 9 (a), Nationality Law, May 30, 1922.
DOMINICAN REPUBLIC—Law No. 61 of November 18, 1924, Art. 1 (c).
FRANCE—Art. VII, Law of August 10, 1927.
JAPAN—Art. 9 (2) and Art. 14 of Nationality Law No. 66 of March, 1899, and Revised by Law No. 27 of March, 1916, and by Law No. 19, 1924. [See also Art. 8 of same.]
MONACO—Art. 10 of Civil Code.
PANAMA—Title III, Art. 122, Sec. 3, Administrative Code.
PARAGUAY—Chap. III, Art. 36, Constitution Ratified November 18, 1870.
PORTUGAL—Art. 20, Civil Code of 1867.
RUMANIA—Chap. II, Art. 8 (b) of Law of February 23, 1924.
RUSSIA (SOVIET UNION)—Sec. 5, Ordinance No. 202, of Collections of Laws and Orders No. 23 of December 3, 1924.
SPAIN—Art. 3, Sec. 1, Royal Decree of November 6, 1916.
SYRIA—Arts. 3 and 4 of Law of Nationality of January 31, 1925.
UNITED STATES—Sec. 2, Act of September 22, 1922.
URUGUAY—Sec. II, Chap. 1, Art. 8 of Constitution.

B. MARRIAGE OF A WOMAN NATIONAL TO AN ALIEN AND LOSS OF NATIONALITY OR ACQUISITION OF FOREIGN NATIONALITY BY THE HUSBAND OF A WOMAN NATIONAL

(1) Nationality lost unconditionally by a woman national through marriage to an alien *

AFGHANISTAN—Sec. 90, Chap. III of Code Relating to Certificates of Identity, the Principles of Passports and the Law of Nationality.
ALBANIA—Ottoman Law of Nationality of 1869, Art. 7.
AUSTRALIA—Law same as Great Britain, *infra.*
BOLIVIA—Art. 11 of Civil Code.
BRITISH INDIA—Law same as Great Britain, *infra.*
CANADA—Law same as Great Britain, *infra.*
CUBA—Art. 22 of Civil Code.
CZECHOSLOVAKIA—Art. 16, Constitutional Law of April 9, 1920.
GERMANY—Sec. 16 (6), Law of Nationality of July 22, 1913.
GREAT BRITAIN—Part III, Sec. 10, Nationality Act, 1914.
HAITI—Art. 9 of Act of August 30, 1907.
HUNGARY—Art. 34 of Law L of 1879.
IRAQ—Part IV, Art. 17, Law of October 9, 1924.
LATVIA—Sec. 71 of Consular Code Approved by Act, 1922.
NETHERLANDS—Art. 5 and Sec. 2 of Art. 7 of Act of December 12, 1892, as amended by Acts of 1907, February 10, 1910, July 15, 1910, and December 31, 1920.
PALESTINE—Part IV, Art. 12, Sec. 1, of Act of July 24, 1925.
PERSIA—Sec. XII of Law of August 7, 1894.

*The laws of some states, such as Denmark and Norway, contain no specific provision that nationality is lost by a woman through marriage to an alien, but certain broad provisions that nationality is lost upon the acquisition of the nationality of another state.

SPAIN—Art. 22, Civil Laws of Spain.
SWITZERLAND—Par. 11, Art. 15 of Law Relative to Cantonal Nationality of December 29, 1922. [Art. 161, Swiss Federal Code.]
VENEZUELA—Art. XXII, Civil Code, 1922.

(2) Nationality of a woman lost through marriage to an alien only under certain conditions *

BELGIUM—Art. 18 of Law of 1922, as amended.
BULGARIA—Art. 16 of Law of December 31, 1903, as amended by laws of 1908, 1911 and 1924.
CHINA—Chap. III, Sec. 12 (a), Law of December 30, 1914.
COSTA RICA—Art. 4, Sec. 5, of Law of May 13, 1889.
DANZIG, THE FREE CITY OF—Sec. 14, Law of May 30, 1922.
DOMINICAN REPUBLIC—Title III, Sec. 1 (8), Subdiv. 6 of Constitution.
EGYPT—Art. 18, Decree Law of May 26, 1926.
ESTONIA—Part III, Art. 19, Law of October 27, 1922.
FINLAND—Art. 7, Law of June 17, 1927.
FRANCE—Art. VIII, Law of August 10, 1927.
GREECE—Civil Code, 1926, Art. 25.
GUATEMALA—Art. 151, Civil Code, 1926.
ITALY—Sec. 10, Law of June 13, 1912.
JAPAN—Art. 18, Law No. 66, of March, 1899, as revised by Law of July, 1924.
LATVIA—Observation I, Art. VII, Act of June 2, 1927.
MEXICO—Sec. 4, Art. 2, Law of May 28, 1886.
MONACO—Art. 19, Civil Code.
NICARAGUA—Subdiv. 2, Art. 10, Constitution, 1911.
POLAND—Arts. 10 and 11, Law of January 20, 1920.
PORTUGAL—Title III, Art. 22 (4), Civil Code of 1867.
RUMANIA—Art. 38 of Law of February 23, 1924.
SALVADOR—Chap. I, Art. 2 (3), Law of April 3, 1900.
SERBS, CROATS AND SLOVENES, KINGDOM OF—Art. 29, Law of September 21, 1928.
SWEDEN—Art. 8, Law of May 23, 1924.
SYRIA—Art. 6, Law of January 31, 1925.
UNITED STATES—Sec. 3, Act of September 22, 1922.

(3) Nationality not lost in any case by a woman national through marriage to an alien

ARGENTINA—Executive Decree No. 99 bis., October 8, 1920.
RUSSIA (SOVIET UNION)—Section 5 of Ordinance No. 202 of Collection of Laws and Orders No. 23 of December 3, 1924.
TURKEY—Art. 13 of Law effective January 1, 1929.
URUGUAY—Decree Ministry of Foreign Affairs, January 21, 1921.

(4) The acquisition of a foreign nationality by a husband expatriates his wife, unconditionally **

HUNGARY—Arts. 26 and 32 of Law L of 1879.
NETHERLANDS—Art. 5 of Act of 1892 as amended.

* Under the laws of the states listed under this heading, with the exception of the United States and Esthonia, a woman does not lose her nationality by marriage to an alien in any case unless she gains the nationality of her husband.

** It is important to note that the laws of a number of States, including several South and Central American countries, contain no express provisions concerning the status of a woman national whose husband acquires the nationality of a foreign State. However, a number of such States have laws with provisions to the effect that the acquisition of the nationality of a foreign State by their nationals results in their expatriation.

(5) Acquisition of a foreign nationality by a husband expatriates his wife only when under law of country of which he becomes a national his wife also becomes a national of that country

AUSTRIA—Par. 9, Sec. 2, Federal Law of June 30, 1925.
BELGIUM—Art. 18, Sec. 3, of Law of 1922.
CHINA—Chap. III, Sec. 15, of Law of December 30, 1914.
COSTA RICA—Art. 6 of Decree of May 13, 1889.
EGYPT—Art. 19, Law of May 26, 1926.
ITALY—Art. 11 of Law of June 13, 1912. [Wife must also maintain her residence in common with her husband.]
ICELAND—Art. 5, Law of October 6, 1919. [And not then if wife continues to live in Iceland.]
JAPAN—Art. 21 of Law No. 66 of March, 1899, as revised by laws of 1916 and 1924.
MEXICO—Sec. 4, Art. 2, Law of May 28, 1886. [Wife must also reside with husband.]
SALVADOR—Sec. 3, Art. 2, Chap. I, Law of April 3, 1900.

(6) Acquisition of a foreign nationality by a husband does not of itself necessarily expatriate his wife

AUSTRIALIA †—Sec. 18, Laws of 1920–1925. [She may elect to retain her own nationality.]
BULGARIA—Art. 22, Law of 1903, as amended in 1908, 1911 and 1924.
CANADA—Acts of 1914, 1920, as amended Part III, Sec. 10 (2). [See Great Britain, *infra.*]
DANZIG, THE FREE CITY OF—Arts. 17 and 19, Law of May 30, 1922. [Wife must consent to relinquish her own nationality.]
DENMARK—Sec. VI of Law of April 18, 1925. [If the husband was born abroad and never domiciled in Denmark.]
ESTHONIA †—Par. 22 of Law of October 27, 1922. [Not unless wife expresses wish to give up her own nationality.]
GREAT BRITAIN—Sec. 10, Nationality Act of 1914. [Wife may elect to retain own nationality.]
GREECE—Art. 24 of Law of October 29, 1856, as amended by Decree Law of September 13, 1926.
HAITI—Art. 15 of Law of October 12, 1907. [Not unless she causes herself to be naturalized.]
NEWFOUNDLAND—Law same as Great Britain, *ibid.* [Wife may elect to retain her own nationality.]
NEW ZEALAND—Same as Great Britain. [Wife may elect to retain own nationality.]
PALESTINE—Order of July 24, 1925, Sec. 12. [Wife may elect to retain own nationality.]
PORTUGAL †—Civil Code, Art. 22, Sec. 1.
SERBS, CROATS AND SLOVENES, KINGDOM OF (YUGOSLAVIA)—Art. 37, Law of September 21, 1928. [Only if she acquires her husband's nationality or they depart permanently from the Kingdom.]
UNITED STATES—Sec. 3, Act of September 22, 1922. [By Construction.]

(7) Loss of nationality by a husband does not of itself divest his wife of her nationality

ALGERIA—See France.
AUSTRALIA—Sec. 13, Laws of 1920–1925. [See also Great Britain.]
BELGIUM—Temporary provisions, 6 (6), Law 1922.
BRITISH INDIA—Sec. 10, Law of February 26, 1926.
BULGARIA †—Art. 23 of Law of January 5, 1904.
CANADA—Acts of 1914–1920, as amended Part III, Sec 10 (2). [See also law of Great Britain.]
ESTHONIA—Par. 22, Law, October 27, 1922. [Unless wife expresses wish to do so.]
FINLAND—Sec 2 of Law of 1927 [Unless wife became Finnish through marriage.]

FRANCE—Art. 9 (4), Law of August 10, 1927. [Only under special proceedings.]
GERMANY—Sec. 29, Law of 1913. [If wife not living with husband.]
GREAT BRITAIN—Sec. 7a, Law of 1914–1920. [Unless so ordered; but no order may be made for woman of British birth unless subject to loss for her own fault.]
GREECE—Art. 24, Civil Code.
GUADALUPE—See France.
HUNGARY—Pars. 26 and 32, Law of 1879. [If wife is not living with husband.]
ITALY—Law 108 of January 31, 1926.
JAPAN—Art. 21, Law No. 66 of 1899, as amended by Law of 1916 and 1924. [Only if wife acquires new nationality.]
MARTINIQUE—See France.
NEW ZEALAND—Sec. 12, Law, 1923. [Same as Great Britain.]
PALESTINE—Sec. 12 (1), Order, July 24, 1925. [Same as Great Britain.]
POLAND—Par. 13, Law of January 20, 1920. [If Minister of Interior so decides.]
RUMANIA—Art. 42, Law of February 23, 1924. [Not unless expressly included.]
SWEDEN—Par. 9, Act of May 23, 1924. [Only if husband born out of Sweden.]
SWITZERLAND—Art. 9, Law of June 25, 1903. [Formal exception may be made.]
TUNIS—Art. 5, Law of December 20, 1923.
UNITED STATES—Sec. 3, Act of September 22, 1922.

C. RECOVERY OF ORIGINAL NATIONALITY LOST THROUGH MARRIAGE OF WOMEN NATIONALS TO ALIENS

AFGHANISTAN—Art. 90, Law of Nationality. [On application will be accepted as subject.]
ALGERIA—As in France.
AUSTRALIA—Art. 7 (5), Act of 1920–1925. [Same as Law of Great Britain.]
AUSTRIA—Par. 11 (2), Law of July 30, 1925. [On application within 2 years if assured of reception into Austrian commune.]
BELGIUM—Law of May 15, 1922, as amended, Art. 19.
BOLIVIA—Art. 11 of Civil Code. [Provided she resides in or returns to Bolivia and declares her intention of living there.]
BRITISH INDIA—Sec. 3, Law of February 26, 1926. [By naturalization, but residence and intention to reside waived.]
BULGARIA—Art. 16, Law of January 5, 1904. [By special decree on return or continued residence.]
CANADA—Acts of 1914–1920, Part II, Sec. 2 (5). [See Great Britain.] [By naturalization, residence requirement waived.]
CHINA—Art. 17, Law of 1914. [By authorization if resident.]
COSTA RICA—Art. 5 (5) Law of May 13, 1889. [By return with intention to remain and renunciation of foreign nationality.]
CUBA—Art. 22 of Civil Code.
DANZIG—Sec. 10, Law of May 30, 1922. [By meeting naturalization requirements except 5-year period of residence.]
ECUADOR—Art. 75, Law of October 18, 1921. [By declaration of wish to recover before diplomatic or consular agent.]
EGYPT—Art. 18, Law of May 26, 1926. [By residence and declaration of wish to recover.]
ESTHONIA—Par. 14, Law of October 27, 1922. [By application either at home or abroad.]
FINLAND—Sec. 1, Law of February 20, 1920. [By meeting requirements for naturalization, except 5-year residence period.]
FRANCE—Arts. XI and XIV of Law of February 20, 1920. [By decree if resident.]
GERMANY—Sec. 10, Law of July 22, 1912. [By naturalization if resident and of legal capacity and good repute.]
GREAT BRITAIN—Sec. 2 (5), Law of 1914. [By naturalization, residence requirement waived.]

GUADALUPE—As in France.

GUATEMALA—Art. 152, Civil Code 1926. [By residence if foreign nationality given up, or if abroad, by declaration before diplomatic or consular official.]

HAITI—Arts. 10, 11, Law of August 22, 1907. [By naturalization and renunciation of foreign nationality.]

HUNGARY—Pars. 37 and 41 of Law of December 20, 1879. [On request.]

IRAQ—Art. 17 (ii), Law of 1924 and Section 21 Regulations of 1926. [By grant of certificate of nationality after a declaration within 3 years either at home or abroad.]

ITALY—Art. 10, Law of June 13, 1912. [By declaration and residence. Residence of 2 years is equivalent to declaration if there are no children.]

JAPAN—Art. 26, Nationality Law. [On permission of Minister of Interior if domiciled in Japan.]

LATVIA—Pars. 2 and 7, Law of June 2, 1927. [By registering or declaring wish at any time either at home or abroad before proper officials.]

LEBANON—Art. 7, Law of January 19, 1925. [By decree if (Syria) resident or returning to permanent residence.]

LIBERIA—Sec. 71, Consular Code approved by Act of 1926.

MARTINIQUE—As in France.

MEXICO—Art. 2 (4), Law of May 28, 1886. [By residence and declaration of wish to recover.]

MONACO—Arts. 18 and 20, Civil Code. [By sovereign ordinance if resident.]

NETHERLANDS—Sec. 8, Law of December 12, 1892. [By declaration within one year before proper official at home or abroad.]

NEWFOUNDLAND—See Great Britain.

NICARAGUA—Art. 10 of Constitution. [Automatically if she loses husband's nationality or by residence.]

NORWAY—Sec 4, Law of August 8, 1924. [By establishing domicile and ceasing to be of foreign nationality if natural-born Norwegian.]

PERSIA—Art. 11, Law of August 7, 1894. [On application.]

POLAND—Par. 10, Law of January 20, 1920. [By residence and declaration before proper officials.]

PORTUGAL—Art. 22 (1), Civil Code. [By residence and declaration before proper authority.]

RUMANIA—Art. 39, Law of February 23, 1924. [By declaration before proper official at home or abroad.]

SALVADOR—Art. 2 (3), Law of April 3, 1900. [By residence and declaration of wish to recover.]

SERBS, CROATS AND SLOVENES, KINGDOM OF (YUGOSLAVIA)—Art. 40, Law of September 21, 1928.

SIAM—Sec. 11, Law of April 10, 1913. [By automatic resumption.]

SPAIN—Arts. 21 and 22, Civil Code. [By residence and declaration before proper official.]

SWEDEN—Sec. 4, Law of May 23, 1924. [By residence and ceasing to be of foreign nationality if Swedish by birth.]

SWITZERLAND—Art. 10 (b), Law of June 25, 1903. [On application within 10 years.]

SYRIA—Art. 8, Law of January 19, 1925. [By decree when resident.]

TUNIS—Art. 8, Law of December 20, 1923. [By decree when resident.]

TURKEY—Art. 13, Law effective January 1929.

UNITED STATES—Sec. 4, Act of September 22, 1922.

APPENDIX No. 2

Code of Private International Law ("Bustamante Code"), annexed to the convention signed at Havana, February 20, 1928.[1]

(Final Act of the Sixth International Conference of American States, pp. 21–23.)

BOOK I

INTERNATIONAL CIVIL LAW

TITLE I—PERSONS

Chapter I. Nationality and Naturalization

ARTICLE 9

Each contracting party shall apply its own law for the determination of the nationality of origin of any individual or juristic person and of its acquisition, loss and recuperation thereafter, either within or without its territory, whenever one of the nationalities in controversy is that of the said state. In all other cases the provisions established in the remaining articles of this chapter shall apply.

ARTICLE 10

In questions relating to nationality of origin in which the state in which they are raised is not interested, the law of that one of the nationalities in issue in which the person concerned has his domicile shall be applied.

ARTICLE 11

In the absence of that domicile, the principles accepted by the law of the trial court shall be applied in the case mentioned in the preceding article.

ARTICLE 12

Questions concerning individual acquisition of a new nationality shall be determined in accordance with the law of the nationality which is supposed to be acquired.

ARTICLE 13

In collective naturalizations, in case of the independence of a state, the law of the acquiring or new state shall apply, if it has established in the territory an effective sovereignty which has been recognized by the state trying the issue, and in the absence thereof that of the old state, all without prejudice to the contractual stipulations between the two interested states, which shall always have preference.

ARTICLE 14

In the case of loss of nationality, the law of the lost nationality should be applied.

ARTICLE 15

Resumption of nationality is controlled by the law of the nationality which is resumed.

ARTICLE 16

The nationality of origin of corporations and foundations shall be determined by the law of the state which authorizes or approves them.

ARTICLE 17

The nationality of origin of associations shall be the nationality of the country in which they are constituted, and therein they shall be registered or recorded if such requisite is demanded by the local legislation

[1] On February 1, 1929, this convention had been ratified by Brazil Costa Rica, Cuba, Dominican Republic, Peru and Panama.

ARTICLE 18

Unincorporated civil, commercial, or industrial societies or companies shall have the nationality provided by the articles of association, or, in an applicable case, that of the place where its principal management or governing body is habitually located.

ARTICLE 19

With respect to stock corporations, nationality shall be determined by the articles of incorporation or, in an applicable case, by the law of the place where the general meeting of shareholders is normally held, and in the absence thereof, by the law of the place where its principal governing or administrative board or council is located.

ARTICLE 20

Change of nationality of corporations, foundations, associations and partnerships, except in cases of change of territorial sovereignty, should be subject to the conditions required by their old law and by the new.

In case of change in the territorial sovereignty, owing to independence, the rule established in Article 13 for collective naturalizations shall apply.

ARTICLE 21

The provisions of Article 9, in so far as they concern juristic persons, and those of Articles 16 and 20, shall not be applied in the contracting states which do not ascribe nationality to juristic persons.

APPENDIX No. 3

Outlines of an International Code by David Dudley Field.

(Field, Outlines of an International Code (1876), pp. 129–140.)

CHAPTER XIX. NATIONAL CHARACTER OF PERSONS

SECTION I—GENERAL PROVISIONS

"National character" defined

247. The national character of a person is his connection with a nation, being one of its members, as explained in this Chapter.

Every person has one national character

248. Every person has a national character. No person is a member of two nations at the same time; but any nation may extend to a member of another nation, with his consent, the rights and duties of its own members, within its own jurisdiction, in addition to his own national character.

Effect of marriage

249. Except as provided in article 260, marriage does not change the national character of the wife.

Legitimate child of a member of the nation

250. A legitimate child, wherever born, is a member of the nation of which its father at the time of its birth was a member; or, if he was not then living, of the nation of which he was at the time of his death a member, except as provided in the next article.

Legitimate child of a foreigner

251 A legitimate child, born within the jurisdiction of a nation of which its father was not a member at the time of his death or of its birth, is a member of such nation, if its father was also born therein.

Illegitimate children

252. Except as provided in article 255, an illegitimate child is a member of the nation of which its mother is a member at the time of its birth.

Effect of recognition

253. An illegitimate child, recognized by its father, becomes a member of the nation of which he is then a member. Such recognition has no retroactive effect.

Mode of recognition

254. The recognition mentioned in the last article must be made in the manner provided by the law of the nation to which the father then belongs, and at a time when, by the law of that nation, the child is still a minor.

Illegitimate child born abroad

255. An illegitimate child, born within the jurisdiction of a nation of which its mother is not a member at the time of its birth, is a member of such nation, if its mother was also born therein.

Parents of unknown national character

256. A child, the national character of neither of whose parents is known, is a member of the nation within whose jurisdiction it is born. If its birthplace is also unknown, such child is a member of the nation within whose jurisdiction it is first found.

Presumption of membership

257. A person actually within the jurisdiction of a nation, is presumed to be a member of such nation, until the contrary is shown.

Change of national character

258. The national character of any person may be changed by expatriation and naturalization.

Political privileges unaffected by marriage

259. Marriage gives to the wife the privileges of the national character of her husband, but does not deprive her of the privileges of that which she had before marriage, except as prescribed by the next article.

Effect of marriage and removal

260. If, before or after her marriage, the domicile of a woman is permanently removed from the territory of the nation to which she previously belonged, she acquires by such marriage and removal the national character of her husband.

SECTION II—ALLEGIANCE

"Allegiance" defined

261. Allegiance is the obligation of fidelity and obedience which a person owes to the nation of which he is a member, or to its sovereign.

Extinguishment of allegiance

262. Allegiance is extinguished:

1. By expatriation, and a formal act of renunciation,
2. By discharge therefrom by the nation or sovereign entitled thereto;
3. By change of national character, in the case mentioned in article 260.

Renewal of allegiance

263. Allegiance is revived by the voluntary return of the person to the territorial limits of his former country, and there acquiring a domicile, before naturalization elsewhere.

SECTION III—EXPATRIATION

"Expatriation" defined

264. Expatriation is the act of abandoning the territory of the nation of which the person is a member, with intent to become naturalized elsewhere.

Intent

265. The intent mentioned in the last article may be formed at the time of the abandonment or afterwards, and may be proved like any other similar fact.

Expatriation a right

266. Subject to the laws defining civil incapacities depending upon age, mental condition, personal domestic relations, and public service, every member of a nation, however his national character may have been acquired, has the right of expatriation, which cannot be impaired or denied.

Effect of expatriation

267. Expatriation does not change the national character of the person until completed by naturalization, but meantime he is entitled to be protected by the country whose naturalization he is seeking.

SECTION IV—NATURALIZATION

"Naturalization" defined

268. Naturalization is the act by which membership in one nation, however acquired, is renounced, and membership in another is assumed.

Neither the acceptance by a foreigner of the rights and duties of a member of the nation, under article 248, nor the declaration of intention to acquire a new national character, constitutes naturalization, within the meaning of this section.

Naturalization not obligatory

269. Each nation is to judge for itself whom it will receive into naturalization.

Effect of naturalization

270. A person naturalized according to the provisions of this Section, becomes immediately a member of the nation by which the naturalization is conferred, but he must, within a reasonable time thereafter, send a copy of the record of naturalization to a public minister or consul of the nation to which he previously belonged, resident in the territory of the nation which thus adopts him. Till this is done, the nation or sovereign which he has left may reclaim him.

Absentees cannot be naturalized

271. No person can be naturalized who is not at the time actually within the territorial limits of the nation by which he is naturalized. But this article does not apply to a person whose last allegiance is extinguished pursuant to the second subdivision of article 262.

Liability to justice on return

272. A naturalized person, who voluntarily returns within the territorial limits of the nation of which he was a member before his naturalization, remains liable to trial and punishment for an act punishable by its laws, and committed before his expatriation. But this article does not apply to a case where, by the laws of such nation, the liability is extinguished by limitation or otherwise.

APPENDIX No. 4

Resolutions adopted by the Institute of International Law, Venice, 1896.

(20 Annuaire de l'Institut, p. 289.)

L'Institut de droit international recommande aux divers gouvernements, soit dans la confection des lois internes, soit dans la conclusion des conventions diplomatiques, les principes suivants:

ARTICLE 1

L'enfant légitime suit la nationalité dont son père était revêtu au jour de la naissance ou au jour où le père est mort.

ARTICLE 2

L'enfant illégitime qui, pendant sa minorité, est reconnu par son père seul, ou simultanément par son père et par sa mère, ou dont la filiation est constatée par le même jugement au regard de tous deux, suit la nationalité de son père, au jour de la naissance; s'il n'a été reconnu que par sa mère, il prend la nationalité de cette dernière, et il la conserve alors même que son père viendrait à le reconnaître par la suite.

ARTICLE 3

L'enfant né sur le territoire d'un Etat, d'un père étranger qui lui-même y est né, est revêtu de la nationalité de cet Etat, pourvu que, dans l'intervalle des deux naissances, la famille à laquelle il appartient y ait eu son principal établissement, et à moins que, dans l'année de sa majorité, telle qu'elle est fixée par la loi nationale de son père et par la loi du territoire où il est né, il n'ait opté pour la nationalité de son père.

Pour les cas de naissances illégitimes, non suivies de reconnaissaince de la part des pères respectifs, la règle précédente s'applique également par analogie.

Elle ne s'applique pas aux enfants d'agents diplomatiques ou de consuls envoyés, régulièrement accrédités dans le pays où ils sont nés; ces enfants sont réputés nés dans la patrie de leur père.

ARTICLE 4

A moins que le contraire n'ait été expressément réservé au moment de la naturalisation, le changement de nationalité du père de famille entraîne celui de sa femme, non séparée de corps, et de ses enfants mineurs, sauf le droit de la femme de recouvrer sa nationalité primitive par une simple déclaration, et sauf aussi l'exercice du droit d'option des enfants pour leur nationalité antérieure, soit dans l'année qui suivra leur majorité, soit à partir de leur émancipation, avec le consentement de leur assistant légal.

ARTICLE 5

Nul ne peut être admis à obtenir une naturalisation en pays étranger qu'à la charge de prouver que son pays d'origine le tient quitte de son allégeance ou tout au moins qu'il a fait connaître sa volonté au gouvernement de son pays d'origine et qu'il a satisfait à la loi militaire pendant la période du service actif conformément aux lois de ce pays.

ARTICLE 6

Nul ne peut perdre sa nationalité ou y renoncer que s'il justifie qu'il est dans les conditions requises pour obtenir son admission dans un autre Etat. La dénationalisation ne peut jamais être imposée à titre de peine.

APPENDIX No. 5

Report of the Committee on Nationality and Naturalization, adopted by the International Law Association, Stockholm, September 9, 1924.

(Report of Thirty-Third Conference of the International Law Association, pp. 28–32.)

. . . . . .

The International Law Association should, in the opinion of the Committee, suggest: (1) A model statute to be recommended for incorporation into municipal legislation so far as is necessary. (2) Certain contractual provisions to be recommended for insertion in International Conventions.

The following proposals are submitted on each of these heads:

A. Model Statute

It cannot be expected that the authorities of any country will modify their laws as completely as would be desirable for the purpose of avoiding the evils of double nationality and statelessness, but as these evils are the same in all countries it may be hoped that the recommendations will be considered and, at least, partly adopted in their original or some modified form, in so far as they are not already embodied in the existing law.

It must be remembered in this connection that some of the municipal statutes do not in themselves facilitate the creation of statelessness or of double allegiance and that these evils arise mainly through the conflict between the several municipal laws coming into question with reference to a particular individual. If the laws on this subject were more homogeneous many of the evils referred to above would be avoided. From this point of view the formulation of a model statute to which all Governments should be invited to assimilate their respective nationality laws, in so far as they now differ from it, might be of considerable advantage.

The following sketch indicates the main principles which, in the opinion of the Committee, should be embodied in such a statute: (The expression "a conforming State" is for the sake of brevity used to indicate a State adopting such a statute).

(1) *Nationality Acquired on Birth*

(a) Every child born within the territory of a conforming State shall become a national of that State. Provided always that in any case in which the father * of such child, being a national of another State, shall within a specified prescribed period register such child as a national of the State to which he belongs, such child shall cease to be a national of such conforming State and shall become a national of the State to which its father belongs.

(b) Every child born within a conforming State which has, pursuant to the proviso contained in sub-section (a), become the national of its father's State, who shall within a year after attaining the age of twenty-one years claim to be re-admitted as a national of such conforming State, shall be so re-admitted without having to comply with any other conditions.

(2) *Effect of Legitimation*

Legitimation shall have no effect as to the nationality of the legitimated person, unless such person, before being legitimated, was stateless, in which case the legitimated person shall acquire the father's nationality.

* The expression "father" is, for the sake of brevity, used throughout this memorandum as indicating the person for the time being acting on behalf of his child or children. It will be understood that, in any case in which there is no father or in which the father is incapable of acting on behalf of his minor child or children, the word "mother" or "guardian" (as the case may be) must, wherever the context admits, be substituted for the word "father." The mother of an illegitimate child must for this purpose be recognised as its mother even in countries in which an illegitimate child is deemed a *filius nullius*.

(3) Effect of Marriage

(a) A woman national of a conforming State shall not by reason of her marriage with a national of a non-conforming State lose her original nationality, unless or until by reason of such marriage she becomes a national of such other State, either automatically or by naturalization.

(b) A woman national of a conforming State marrying a national of another conforming State shall acquire her husband's nationality, unless she does, under the law of the State to which she belonged before marriage, retain the nationality of such State, or unless she makes a formal declaration (to be recorded on the register of marriages) to the effect that she wishes to retain her former nationality.

(4) Conditions as to Naturalization

Except in the cases referred to, *sub* (1), (2) and (3), the nationality of a conforming State shall not be acquired otherwise than by naturalization on the application of the person concerned, or, in the case of a minor, of such minor's father, and the conditions imposed on applicants for naturalization shall include a condition that the applicant must be domiciled within the State of which he or she desires to become a citizen and must have resided within that State or been in the service of that State during a specified period.† Provided always that: (a) a woman marrying a national of a conforming State shall be dispensed from the said condition as to domicile and residence: (b) any child of a national of a conforming State who by reason of its birth outside the limits of such State has become a national of another State shall within twelve months after attaining majority be entitled to be naturalized as a national of such first mentioned State without complying with any of the said conditions as to domicile and residence imposed on other applicants for naturalization.

(5) Conditions as to Loss of Nationality

The nationality of a conforming State shall be lost by naturalization in another State or (subject to the provisions mentioned above *sub* (2) and (3) by legitimation or marriage, but not otherwise).

B. International Conventions

The following clauses in international conventions are recommended:

(1) Where any person is a national of two contracting Powers by reason of a conflict between their respective laws such person shall, while resident within the territory of either Power, be treated as exclusively under allegiance to the Power within whose territory such person is resident, and shall, while such residence continues, cease to be subject to any duties or liabilities affecting the nationals of the other Power as such nationals.

(2) Where any person is a national of two contracting Powers as aforesaid, such person shall, while residing within the territory of any third Power, be treated as exclusively under the allegiance of the contracting Power whose protection has been claimed by application for a passport, certificate of origin, or other document identifying the national status of such person.

(3) Where any person, having been a national of one of the contracting Powers, has before the coming into force of the Convention been denationalized without acquiring another nationality, such person shall, while residing within the territory of the other contracting Power, be treated as if the original nationality had been retained. Provided always that such a person shall not be entitled to any privileges accorded by treaty to the nationals of the Power to which he or she was originally subject.

† In the case of countries having colonies, residence in the colony may be considered as equivalent.

Married Women

At a subsequent meeting the following resolution was adopted:

The right to change nationality should be possessed by a married woman who is judicially separated from her husband

EXPATRIATION

The following resolutions were passed:

1. This Committee approves the preamble of the Act of Congress of July 27, 1868: "Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty and the pursuit of happiness; and whereas, in recognition of this principle, this Government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign States, owing allegiance to the Governments thereof; and whereas it is necessary to public peace that this claim of perpetual allegiance should be promptly and finally disavowed; therefore, be it enacted that any declaration, instruction, opinion, order or decision of any officers of this Government which denies, restricts, impairs, or questions the right of expatriation is hereby declared inconsistent with the fundamental principles of this Government."

2. A national should not be deprived, by administrative or judicial order, of his nationality, whether original or acquired.

3. Naturalization obtained by fraud should be capable of cancellation, and upon this happening the individual concerned should revert to his former national status.

4. No individual should be made an outlaw, or should be expelled from the territories of a State of which he is a national.

5. Nationality should only be lost as the effect of the acquisition of another nationality.

6. The acquisition of a new nationality should *ipso facto* cancel any former nationality theretofore existing.

APPENDIX No. 6

Draft of a convention communicated to various governments by the League of Nations Committee of Experts for the Progressive Codification of International Law, with Questionnaire No. 1, January 29, 1926.

(League of Nations Document, C. 196. M. 70. 1927. V, p. 27.)

ARTICLE 1

The High Contracting Parties undertake not to afford diplomatic protection to and not to intervene on behalf of their nationals if the latter are simultaneously considered as its nationals from the moment of their birth by the law of the State on which the claim would be made.

ARTICLE 2

The children of persons who enjoy diplomatic privileges and immunities, of consuls who are members of the regular consular service, and, in general, of all persons who exercise official duties in relation to a foreign Government shall be considered to have been born in the country of which their father is a national. Nevertheless, they shall have the option of claiming the benefit of the law of the country in which they were born, subject to the conditions laid down by the law of their country of origin.

ARTICLE 3

A child born of parents who are unknown or whose nationality cannot be ascertained acquires the nationality of the State in which it was born or found when it cannot claim another nationality in right of birth, proof of such other nationality being admissible under the law in force at the place where it was found or born.

ARTICLE 4

A child born outside the State of which its parents are nationals has the nationality of the State where it was born if the State of origin does not give the parent's nationality to such child.

ARTICLE 5

A person possessing two nationalities may be regarded as its national by each of the States whose nationality he has. In relation to third States, his nationality is to be determined by the law in force at his place of domicile if he is domiciled in one of his two countries.

If he is not domiciled in either of his two countries, his nationality is determined in accordance with the law in force in that one of these two States in which he was last domiciled.

ARTICLE 6

Naturalisation may not be conferred upon a foreigner without his having shown the will to be naturalised or at least without his being allowed to refuse naturalisation.

Naturalisation acquired without the applicant being released from his allegiance by the State of origin does not give to the State according such naturalisation the right to give diplomatic protection to, and to intervene on behalf of, the person naturalised as against the State whose subject he originally was.

ARTICLE 7

A release from allegiance (permit of expatriation) shall produce loss of the original nationality only at the moment when naturalisation is actually obtained in one of the Contracting States. Such release shall become null and void if the naturalisation is not actually granted within a period to be determined.

ARTICLE 8

A woman who has married a foreigner and who recovers her nationality of origin after the dissolution of her marriage loses through such recovery of the original nationality the nationality which she acquired by marriage.

ARTICLE 9

A married woman loses her original nationality in virtue of marriage only if at the moment of marriage she is regarded by the law of the State to which her husband belongs as having acquired the latter's nationality.

Where a change in the husband's nationality occurs during the marriage the wife loses her husband's nationality only if the law of the State whose subject her husband has become regards her as having acquired the latter's nationality.

ARTICLE 10

A woman who does not acquire through marriage the nationality of her husband and who, at the same time, is regarded by the law of her country of origin as having lost her nationality through marriage, shall nevertheless be entitled to a passport from the State of which her husband is a national on the same footing as her husband.

ARTICLE 11

An illegitimate child does not lose its nationality of origin in consequence of the change in its civil status (legitimation, recognition) unless at that moment it is considered by the law of the State to which the father or the mother, as the case may be, belongs as having acquired the nationality of the parent in question.

ARTICLE 12

An adopted child who does not by the fact of adoption acquire the nationality of the person adopting it retains its original nationality.

ARTICLE 13

As between the Contracting Parties, nationality shall be proved by a certificate issued by the competent authority and confirmed by the central authority of the State. The certificate shall show the legal grounds on which the claim to the nationality attested by the certificate is based. The Contracting Parties undertake to communicate to each other a list of the authorities competent to issue and to confirm certificates of nationality.

APPENDIX No. 7

Draft Rules prepared by the Kokusaiho-Gakkwai (l'Association de Droit International du Japon) in conjunction with the Japanese Branch of the International Law Association.

(25 Revue de Droit International et Diplomatie, July, 1926.)

I. PRINCIPLES CONCERNING THE ACQUISITION AND LOSS OF NATIONALITY

Every State accepts the following principles concerning the acquisition and loss of nationality, and should modify as soon as possible all existing laws which are contrary to them.

ARTICLE 1

Every person should possess one and only one nationality.

ARTICLE 2

Every person may freely change his nationality, subject to any limitation and condition put upon such expatriation by the State to which he belongs.

ARTICLE 3

A State cannot impose its nationality upon aliens against their will on the sole ground of their having their residence, however permanent, within its territory.

ARTICLE 4

A legitimate child acquires the nationality of the State to which its father belongs at the date of its birth.

An illegitimate child acquires the nationality of its mother; provided that if it has been legitimated by its father, it shall thenceforth acquire the nationality of that State to which the father belongs at the time of legitimation.

ARTICLE 5

Notwithstanding the provisions of the foregoing Article the nationality of a child which was acquired by the fact of its birth in the territory of a particular State, shall be recognized by all States.

A person who has acquired the nationality of the territory of his birth under the preceding paragraph, may elect to assume the nationality of his father or of his mother within a fixed term after attaining his majority, provided that he has acquired domicile in the latter country before making such election. In such a case the country of his birth shall recognize the change of his nationality.

ARTICLE 6

A State shall not make any discrimination between individuals on the ground of race, nationality or religion, in the matter of naturalization or other mode of the acquisition of nationality.

ARTICLE 7

Upon the naturalization of a married man, his wife takes the same nationality, unless already judicially separated by a competent court provided that a wife may exercise the right of retaining her former nationality by a simple declaration in due form. Upon naturalization of a father or of a mother his or her minor children acquire the nationality of their father or of their mother as the case may be; provided that the children after attaining their majority may exercise within a fixed term the right of electing their former nationality.

ARTICLE 8

No one may lose or renounce his nationality without acquiring another.

ARTICLE 9

A person may recover the nationality which he has lost or renounced upon fulfillment of the conditions prescribed for its recovery.

APPENDIX No. 8

Provisional Draft Convention on the Nationality of Married Women, approved by the International Woman's Suffrage Alliance, Rome, 1923.

(Report of the Committee on Nationality of Married Women, submitted to the Alliance at Paris, 1926.)

The High Contracting Parties (here name the States signatory to the Convention) recognizing the undesirability of treating as of little importance the privileges and responsibilities of nationality by imposing upon married women a nationality without their consent; and further desiring as far as possible to prevent the hardships arising from conflicts of law, hereby resolve to adopt, each in their own State, legislation on the Nationality of Married Women, as indicated in the following General Principles and Particular Applications thereof.

A. GENERAL PRINCIPLES

(a) *Effect of marriage*

The nationality of a woman shall not be changed by reason only of:

I. Marriage, or

II. A change during marriage in the nationality of her husband.

(b) *Retention or change*

The right of a woman to retain her nationality or to change it by naturalization, denationalization or denaturalization shall not be denied or abridged because she is a married woman.

(c) *Absence of consent*

The nationality of a married woman shall not be changed without her consent except under conditions which would cause a change in the nationality of a man without his consent.

B. PARTICULAR APPLICATIONS

(a) *Retention of nationality*

A woman shall not lose her nationality by reason only:

I. That she marries a foreigner, or

II. That during marriage her husband loses his nationality by naturalizing in another country or otherwise.

(b) *Loss of nationality*

A married woman shall lose her nationality only:

I. Under the conditions which cause a married man to lose his nationality, or

II. If she on marriage or during marriage is deemed by the laws of the State of which her husband is a national, to have acquired his nationality, and she makes a declaration of alienage.

(c) *Acquisition of nationality*

I. A foreign woman shall not by reason of marriage only acquire the nationality of her husband.

II. A wife shall not by reason only of her husband's naturalization be naturalized.

III. A married woman shall be naturalized under the conditions which naturalize a married man.

IV. Special facilities shall be given to a woman to acquire the nationality of her husband; and special facilities may be given to a man to acquire the nationality of his wife.

(d) *Reacquisition of nationality*

A married woman who has lost her nationality to acquire that of her husband shall on the dissolution of marriage by death or divorce be given special facilities to re-acquire her own nationality if she returns to her own country.

(e) *Retrospective provisions*

I. Loss of nationality by or through marriage.—Where before the adoption of legislation based on this Convention a woman has lost her nationality by reason only (1) that she married a foreigner, or (2) that during marriage her husband changed his nationality, she shall after the adoption of such legislation re-acquire her nationality, if she makes a declaration to this effect.

II. Acquisition of nationality by or through marriage.—Where before the adoption of legislation based on this Convention a woman by marriage or by the naturalization of her husband acquired his nationality she shall retain it unless she makes a formal declaration of alienage.

(f) *Protection for the stateless woman*

If a woman by the laws of her own State should by marriage lose her nationality, she shall be entitled to a passport and to protection from her husband's State.

(g) *Additional article applicable only to States where the rights and duties of spouses in personal relations and as regards their property depend on nationality*

In marriages which take place after the adoption of legislation based on this Convention, the rights and duties of spouses in their personal relations and as regards their property shall be dependent on the law of the nationality either of the husband or of the wife, at the time of their marriage, as they shall both agree at that time.

But there shall be no change in the law of marriages which took place before.

C. RENUNCIATION

The Convention shall remain in force for five years, and unless renounced shall be tacitly renewed every five years.

APPENDIX No. 9

Resolutions adopted by the Institute of International Law, Stockholm, 1928.

L'INSTITUT

Réservant, quant à présent, l'examen des principes et règles sur la nationalité, posés par l'Institut dans les sessions de Cambridge en 1895 et de Venise in 1896;

Considérant que, depuis ce moment, de nouvelles questions se sont posées, qui en elles-mêmes appellent une solution, déclare adopter les résolutions suivantes:

ARTICLE 1

Nul Etat ne doit appliquer, pour l'acquisition et la perte de sa nationalité, des règles qui auraient pour conséquence la double nationalité ou l'absence de nationalité, si les autres Etats acceptaient les mêmes règles.

ARTICLE 2

Nul individu ne peut perdre sa nationalité sans acquérir une nationalité étrangère.

ARTICLE 3

Nul individu ne peut acquérir, par naturalisation, une nationalité étrangère, tant qu'il réside dans le pays dont il possède la nationalité.

Un individu ne peut acquérir, par naturalisation, une nationalité étrangère, que s'il en fait la demande.

L'Etat de la résidence peut néanmoins imposer sa nationalité, à l'expiration d'un certain délai, fixé autant que possible par une convention; et sous réserve d'un droit d'option.

ARTICLE 4

La législation du pays dont une femme, qui se marie avec un étranger, possède la nationalité doit lui permettre de la conserver tant qu'elle n'a pas acquis la nationalité du mari.

Lorsque la loi du pays du mari donne à la femme sa nationalité, la loi du pays de la femme ne peut maintenir celle-ci dans sa nationalité d'origine qu'à la double condition:

(1) Que les époux résident dans le pays de la femme;

(2) Que la femme en manifeste la volonté expresse.

ARTICLE 5

Dans le cas où la législation d'un Etat confère à la femme la nationalité de son mari par le seul fait du mariage, cette législation peut néanmoins refuser cet effet pour des raisons de police générale.

ARTICLE 6

Si les époux n'ont pas la même nationalité, et dans la mesure où l'enfant suit la nationalité de ses parents, il prend la nationalité de sa mère, lorsque:

(1) Le père a abandonné la mère avant la naissance de l'enfant;

(2) L'enfant est né dans le pays dont le mère, a depuis le mariage, conservé ou recouvré la nationalité, sous réserve dans ce cas d'un droit d'option pour la nationalité du père.

VOEU ANNEXE

L'Institut de Droit International exprime le voeu que, dans leur législation sur la nationalité, les Etats respectent et maintiennent l'unité de la famille autant que le permettent les circonstances.

APPENDIX No. 10

Schedule of Points drawn up by the League of Nations Preparatory Committee, February 15, 1928.

(League of Nations Document, C. 44. M. 21. 1928. V.)

A. NATIONALITY

I. The general principle that the acquisition and loss of its nationality are matters which, by international law, fall solely within the domestic jurisdiction of each State.

It appears necessary to take as the point of departure the proposition that questions of nationality are in principle matters within the sovereign authority of each State and that in principle a State must recognise the right of every other State to enact such legislation as the latter considers proper with regard to the acquisition and loss of its nationality. The consequence should be that any question as to the acquisition or loss of a particular nationality by any person is to be decided by application of the law of the State of which the person is claimed to possess, or not to possess, the nationality.

Are there, however, limits to the application of these two principles? Is there no limit to the right of the State to legislate in this matter? Is a State bound in every case to recognise the effects of the law of the other State?

II. Case of a person who possesses two nationalities.

It appears that three cases must be distinguished:

1. The question may arise before the authorities and courts of a State which attributes its nationality to the person concerned. The first sentence of Article 5 of the preliminary draft drawn up in 1926 in the course of the discussions of the Committee of Experts for the Codification of International Law recognises the right of each State to apply exclusively its own law.

2. The question may arise directly between two States each of which considers the person to be its national. The point to be determined is whether either of these States is entitled to exercise the right of diplomatic protection on behalf of the person as against the other State (see Articles 1, 5 and 6 of the preliminary draft of the Committee of Experts). If no answer covering all cases can be given, certain subsidiary questions should be considered. Can such diplomatic protection be exercised as against a State of which the person concerned has been a national since his birth, or as against a State of which he is a national through naturalisation, or in which he is domiciled or on behalf of which he is or has been charged with political functions? Or, finally, is the admissibility or inadmissibility of the exercise of diplomatic protection as between the two States governed by other considerations capable of being formulated?

3. The question may present itself to a third State. What principle decides which nationality is to prevail over the other? Should preference be given to the nationality which corresponds to the domicile of the person concerned (the criterion adopted in the preliminary draft of the Committee of Experts and by the International Committee of Jurists which met at Rio de Janeiro in 1927), or to the nationality which corresponds to the person's habitual residence (the criterion adopted by the Conference on Private International Law at The Hague in 1928), or to the nationality last acquired; or should account be taken of the person's own choice; or should preference be given as between the conflicting laws to the one most closely resembling the law of the third State itself; or should some other element of the case determine which nationality is to prevail?

III. Loss of nationality through naturalisation abroad and authorisation to renounce nationality.

Does the loss of nationality result directly from the naturalisation in the foreign country? Or, on the contrary, is it the authorisation to renounce the former nationality which causes

that nationality to be lost, and, if so, how and at what date? Is there an exact correspondence between the loss of the former nationality and the acquisition of the new nationality by naturalisation, especially as regards date? If such correspondence does not exist, is it desirable to establish it by an international convention?

IV. Effect of naturalisation of parents upon the nationality of minors.

V. Application of laws conferring the nationality of the State on persons born within its territory to the case of children of persons enjoying diplomatic privileges, and, in general of persons exercising official functions on behalf of a foreign Government, such as consuls, financial agents, members of a military or commercial mission, etc.

If these laws are applicable to such children, should the cases of double nationality which result be treated in accordance with the rules ordinarily applicable or in accordance with different rules?

If these laws do not automatically apply to such children, are they given the opportunity of claiming the benefit of them?

VI. Application of laws conferring the nationality of the State on persons born in its territory to the case of a child born in the territory while the parents were merely passing through.

VII. Nationality of a child of unknown parents, of parents having no nationality, or of parents of unknown nationality.

VIII. Nationality of a child to whom the parents' nationality is not transmitted by operation of law.

The Committee has in mind the case of a child born abroad the law of whose parents makes transmission of their nationality conditional upon their birth on the national territory, or, again, the case of an illegitimate child whose parents are of different nationalities and who, under the national law of the father, should possess the mother's nationality, and, under the national law of the mother, should possess the father's nationality.

In cases of this nature, should the child be considered to possess the nationality of the parents, or one of them, or the nationality of the State of birth?

IX. Is birth on board a merchant ship to be assimilated, as regards acquisition of nationality in virtue of birth, to birth on the territory of the State whose flag the ship flies:
(*a*) When the birth occurs while the ship is on the high sea?
(*b*) When it occurs while the ship is in the territorial waters of a foreign State?
(*c*) When it occurs while the ship is in a foreign port?

X. Option by a person entitled to double nationality. Conditions governing such option. Is there an option between the two nationalities or a power to renounce one of them and, if so, which? Can the system of option be made general or be extended and, if so, to what extent?

XI. Loss of nationality by a woman as the result of marriage with a foreigner.

Assuming such loss of nationality to be the rule of the woman's national law, is it conditional on the national law of the husband conferring his nationality on the woman?

In like manner, if during the period of married life a change occurs in the nationality of the husband, is loss of nationality by the woman, assuming it to be the rule of her national law, conditional upon the new national law of the husband giving her the husband's new nationality?

XII. Status of a woman who, after acquiring the nationality of her husband in consequence of or during her marriage, recovers her original nationality after dissolution of the marriage.

Does the woman in such a case lose the nationality which she acquired in consequence of or during the marriage? It seems necessary to consider separately: (*a*) the case where the recovery of the original nationality occurs automatically by operation of law; (*b*) the

case where the recovery results from the decision of a public authority; and (c) the case where the recovery results from a declaration of intention by the woman herself.

XIII. Other effects of marriage upon nationality.

XIV. Effect of a change in the status of an illegitimate child (recognition, legitimisation) upon the child's nationality.

In what cases and to what extent is there such an effect? More particularly, if the illegitimate child loses the former nationality, is such loss conditional upon acquisition of another nationality (that of the father or of the mother, as the case may be)?

XV. Effect of adoption upon the nationality of the adopted child.

In what cases and to what extent is there such an effect? More particularly, if the adopted child loses the former nationality, is such loss conditional upon acquisition of the nationality of the adoptive parent?

PART II

The Law of Responsibility of States for Damage Done in Their Territory to the Person or Property of Foreigners

Reporter

EDWIN M. BORCHARD, *Professor of Law*
Yale University, New Haven, Connecticut

Advisers

PHILIP MARSHALL BROWN, Princeton University
CHARLES K. BURDICK, Cornell Law School
WILLIAM C. DENNIS, Washington
CLYDE EAGLETON, New York University
MANLEY O. HUDSON, Harvard University
CHARLES E. HUGHES, New York City
CHARLES CHENEY HYDE, Columbia University
ELLERY C. STOWELL, American University
GEORGE W. WICKERSHAM, New York City
QUINCY WRIGHT, University of Chicago