

# The Problem of dual nationality

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## THE PROBLEM OF DUAL NATIONALITY.

We have much pleasure to publish herewith a survey given by Monsieur P. H. Aubaret, of the Swiss Legation, on the occasion of the Open Meeting of the Nouvelle Société Helvétique on June 17th, 1947.

Monsieur Aubaret said: "The Government is contemplating a revision of our dispositions about Swiss citizenship and nationality. My task to-night, at the request of our Chairman, is not to begin discussing the various possibilities, but mainly to try to make clear the problem, we Swiss, are facing. Allow me, therefore, to summarize first the rules now in force, and to enumerate the possibilities open to the Swiss Parliament.

Some writers, to underline the particular structure of the Swiss nationality, used to say that there is no Swiss nationality, but only a "droit de cité communal" entitling its holder to Cantonal citizenship and therefore to Swiss citizenship. This may appear almost as a joke now that everybody is used to the expression of "Swiss nationality," but it actually corresponds to the reality and the principle, which is still in force, could hardly be modified having regard to the federal structure of our Confederation. Ways of acquiring and losing Swiss nationality have, however, since 1848, been a matter for federal legislation according to article 44 of our Constitution, slightly modified in 1874. The main purpose of our Parliament was then to make statelessness impossible and, according to the liberal principles of the time, to proclaim that Swiss Citizenship could not be lost except in some special cases, such as Swiss women marrying aliens and acquiring their husbands' nationality by marriage. The trend of the time was to make it impossible for the State to deprive a citizen from his Swiss nationality and so, to ensure his protection and that of his descendants. The result is that hundreds of thousands of Swiss by descent are spread all over the world although most of them certainly ignore their Swiss citizenship and have long ago acquired a foreign nationality. This fact, which deprives the notion of Swiss nationality of its real value, has already led to a first revision of article 44 of our Constitution when, on May 20th, 1928, the Swiss people enabled the Parliament to pass bills for deprivation of Swiss nationality in certain cases (de-nationalisation).

Apart from this article 44 of our Constitution, our main federal laws date back to June 1903, but for some complementary decrees taken by the Government in November 1941 and May 1943. Finally, our Code Civil also regulates the acquisition and the loss of nationality in certain cases like marriage, illegitimate births, etc.

In short, the basic principles of our Swiss legislation for the last century have tended to avoid statelessness with the then unforeseen result, that they have provoked a good many cases of dual nationality. There is no doubt that, if not for the first generation of dual national, at least later on, those who have decided for the allegiance to another country than Switzerland, do not count quite in the same way, with regard to their rights and obligations, as ordinary Swiss nationals do. Henceforth, the idea has spread more and more in our country to modify our regulations regarding both the acquisition and the loss of Swiss citizenship. Regarding the loss of Swiss nationality, I have already indicated to you the modifications effected in our Constitution; it was an im-

portant event in our national life, even if not much use has been made of them up to now. As to the acquisition of Swiss nationality, it is noticeable that especially since the war 1914/18, *assimilation* (and not only the requisite of a long stay in Switzerland) has become one of the more and more decisive conditions. This makes it clear that to-day, only those applying for Swiss nationality will be accepted who have proved their assimilation to our Swiss life and traditions. Therefore, the opinion is gaining more and more strength in Switzerland that those Swiss citizens whose attachment to the Mother Country, its life, traditions and customs, is loosening to a great extent, should not be considered anymore as being Swiss nationals. This would of course only be possible according to strict legal rules providing the necessary protection for deserving cases.

The difficulty is obviously for our authorities, and then for our people who will have to vote, to find the right limit to be fixed between the old principle forbidding the loss of Swiss citizenship and the extreme opposite principle. Hence the four possibilities mentioned in the circular-letter of the "Secrétariat des Suisses à l'étranger" as published in the last issue of the "Swiss Observer." These four possibilities are not the only ones which may be considered and any other suggestion or any other kind of compromise any of us may be able to put forward will be considered in their present enquiries. This is where our authorities are anxious to know the point of view of the Swiss colonies abroad. There is, however, one point I should like to make here quite clear, if our discussions are to serve any purpose: nationality and citizenship involve as consequences rights and obligations, say for instance, the right to vote in Switzerland, the right for assistance, the right for diplomatic protection and the obligation of doing military service, paying military taxes, etc.

As a purely tentative indication, allow me in conclusion to give you an idea of one of the solutions likely to be considered in parliamentary circles in Switzerland:

The child of the Swiss citizen is Swiss wherever he may be born, according to our old principle. However, if born abroad from a father who was already born abroad, and if in possession of a foreign nationality, this child would automatically be considered as having lost his Swiss nationality. This would mean that Swiss abroad would lose their Swiss nationality by the third generation, exception being foreseen for those (the child itself or his parents or custodian) who would formally apply to be maintained in their Swiss nationality. The same right to apply for maintenance in the Swiss nationality would also be made possible for the Swiss Consulates abroad on behalf of the person who would otherwise lose his Swiss nationality, so that cases in which, as it is the case already now, the new country of origin prevents its citizens from making such an application for maintenance in a foreign nationality, would be taken into account. Such a solution would settle numerous cases of dual nationality where the Swiss citizenship has no more significance whatsoever, but involve inconveniences for all parties concerned, and would at the same time allow those double nationals who are still attached to the Mother Country and who express their willingness and determination to keep their allegiance to Switzerland, to remain Swiss.

**THE XIXth INTERNATIONAL P.E.N. CLUB****Congress at Zürich/Bâle, June, 1947.***By* ANDREW GUERSHOON COLIN.**An Internationale of Writers and Poets.**

Those who have seen a copy of the "*Schweizer Illustrierte Zeitung*" of the 11th of June last, will have noticed the prominent position given by that journal to the pictures and the text dealing with the last P.E.N. Congress. No wonder! It was an event of world-wide importance. Switzerland had opened its hospitable doors to the second International Congress of the P.E.N., to be held since V.E. day. The first post-war Congress was held in Stockholm last summer, but the time was so soon after the conclusion of military operations that the 1946 Congress could hardly claim to be a peace-time gathering, although its arena was the capital of neutral Sweden.

The Zürich Congress, however, was almost like a pre-war affair. I was there, as a member of the English Centre of the P.E.N.

Of course, the P.E.N. stands for what it means — the PEN: but it is also an abbreviation for Poets, Playwrights, Publishers, Essayists, Editors and Novelists. Well, there were over 300 members of the various P.E.N. world centres who came to the Zürich Congress, the 19th International meeting of the P.E.N. Practically every country in the world was represented, except those few countries which have no P.E.N. Club, or those who had not been able to send a delegate, or a member. Every country which was represented had at least one official delegate, sometimes several, and there were also guests of honour. The remainder were members who had come at their own expense, some all the way from such places as Rio, Helsinki and Los Angeles.

The largest contingent was from Switzerland — which is quite natural; it included both Centres — the Zürich and the Bâle ones, Mr. R. Faesi and Mr. E. Stichelberger being among the prominent hosts,

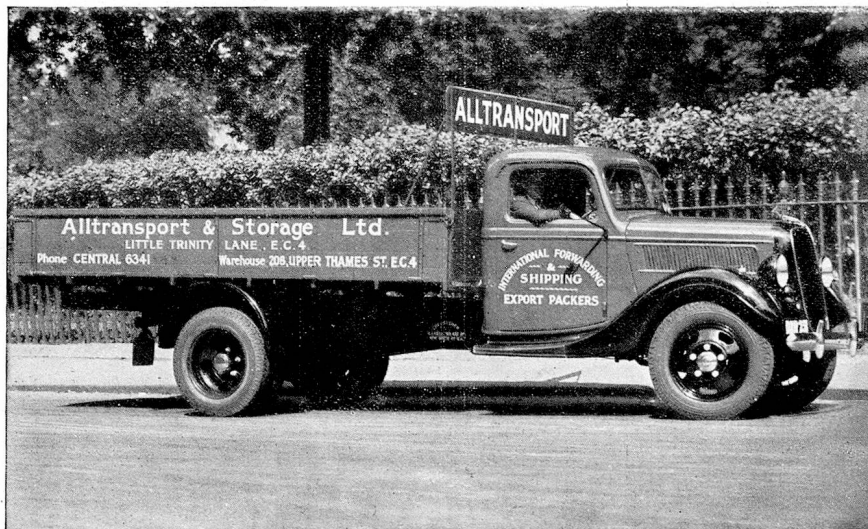
ably assisted by the untiring Secretary of the Zürich P.E.N., Dr. R. P. Hafter.

The next group, to go by numbers, was that from these islands: — the English, Scottish, Northern Ireland and Eire Clubs. The guests of honour were Desmond MacCarthy (The English President), Hermon Ould, the General Secretary (not only of the English Centre, but of the International P.E.N., one of the oldest and best known officers of the P.E.N.), Denis Saurat and Margaret Storm Jameson — a past-president and a standard bearer throughout the darkest days of the war; the guest of honour from Scotland was Eric Linklater. Ireland sent the following delegates: Dr. D. A. Chart and Patricia O'Connor, from the Belfast Centre; and D. Sears and D. J. Siltman — from Dublin.

Quite numerous and correspondingly vocal was the French contingent. The two delegates struck us with their passionate eloquence. They were Henri Membree and Vercors; the latter became famous thanks to his "*Silence de la Mer*," written and circulated in secret during the occupation of France. France's neighbours, Belgium, and Holland were also well represented, and usually voted on the same lines as their French colleagues; but so did the delegates of the other victims of German occupation — Czechoslovakia and Poland. Yugoslavia was supposed to be represented, but I failed to find a single representative from their P.E.N.

As to Poland, no doubt the Warsaw Government wanted the world to see that, although the eyes of the new Poland looked east, they should also behold the other side of the horizon, at least in matters cultural. Hence the presence of several Polish writers, who had actually arrived from Poland for the Congress.

As I said, the Czechs and the Poles usually voted as the French, the Belgians, the Dutch and the Norwegians did, to say nothing of the delegates from the Hebrew Centre in Palestine. Their reserved voting applied in the first instance to the most important question of re-admitting the German P.E.N., which

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