

PART 1

Confidential Filing

The Nationality Bill.

IMMIGRATION

JULY 1979

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
30.7.79		24.4.81					
31.7.79		27.4.81					
23.8.79		7.5.81					
21.9.79		18.6.81					
18.6.80		8.10.81					
23.6.80		16.10.81					
30.6.80		29.10.81					
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12.12.80		- ends -					
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15.1.81							
23.1.81							
6.2.81							
24.2.81							

PREM 19/486

● PART 1 ends:-

29-10-87

PART 2 begins:-

19-11-87

TO BE RETAINED AS TOP ENCLOSURE

Cabinet / Cabinet Committee Documents

Reference	Date
H (79) 44	26.7.79
H (79) 9 th Meeting, Minute 4	31.7.79
H (80) 42	13.6.80
H (80) 13 th Meeting, Minutes	18.6.80
L (80) 86	12.12.80
L (80) 24 th Meeting, Minute 3	17.12.80
CC (80) 45 th Conclusions, Minute 1	18.12.80
L (81) 1	8.1.81
CC (81) 33 rd Conclusions, Minute 1	20.10.81
CC (81) 34 th Conclusions, Minute 1	29.10.81

The documents listed above, which were enclosed on this file, have been removed and destroyed. Such documents are the responsibility of the Cabinet Office. When released they are available in the appropriate CAB (CABINET OFFICE) CLASSES

Signed AWayland

Date 28 April 2011

PREM Records Team

Published Papers

The following published paper(s) enclosed on this file have been removed and destroyed. Copies may be found elsewhere in The National Archives.

1. House of Commons Hansard, 30 July 1980, columns 1516-1518 "British Nationality"
2. Cmnd. 7987 White Paper "British Nationality Law: Outline of Proposed Legislation"
Published by HMSO, 30 July 1980

Signed Wayland Date 28 April 2011

PREM Records Team

CONFIDENTIAL



✓ MA

Inurgent

Foreign and Commonwealth Office
London SW1

16 October 1981

Dear Willie,

BRITISH NATIONALITY BILL : CITIZENS OF THE BRITISH DEPENDENT TERRITORIES

Thank you for your letter of 13 October. I know you will understand that I am now reverting to this subject only because I foresee serious problems for our relations with Hong Kong if things go wrong. I have indeed just received a personal message from the Governor of Hong Kong which underlines his deep concern over the attitude of Unofficials there. He believes that some may be considering resignation on this issue. However, I think that we can deal with the problem without damaging HMG's interests over the Bill.

Let me repeat that I agree that our main objective must be to defeat the Gibraltar amendment. I understand the difficulties of making an advance estimate of the mood of the Commons on this subject. I can see that it would not now be practicable therefore for the Government themselves to introduce an amendment which would offer a fall-back to Hong Kong.

However Lord Geddes has put down another amendment on nomenclature at Third Reading - but this time it seems to me that it is not objectionable or damaging to the purpose of the Bill. Apparently he has been told by Sir Peter Henderson that he cannot put down an amendment,

/as

The Rt Hon William Whitelaw CH MP
Home Secretary
Queen Anne's Gate
London SW1

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as he would have wished, which would have resulted in CBDTs being able to express this status in passports as 'British (name of dependency) Citizen' since a similar amendment was defeated in Committee. So his amendment seeks to use, as a replacement for or alternative to CBDT, the title 'British Dependent Territories Citizen' (that is, a simple re-arrangement of the words to put 'British' first as it is in all other titles).

I very much hope that you will be able to accept this amendment. It seems innocuous so far as the Bill is concerned, and from the Hong Kong angle opposition to it by HMG would weaken confidence in the sincerity of our commitment to the Territory. I recognise that with the overthrow of the Gibraltar amendment in mind you would prefer not to be seen to be making concessions to individual territories. But if you agree, when you see the amendment, that it is acceptable I think it should be possible to deal with it as one that brings all the titles into line rather than makes a concession. It can be treated as quite independent of the Gibraltar amendment. Indeed, it would, I suspect, be very difficult to muster effective arguments against such a change in the word order and it might well be carried in the Lords even if we opposed it. So tactically it should suit our purposes all round to have it played in the lowest possible key. It should then be possible to argue convincingly that, for the sake of uniformity, it remained essential to reverse the Gibraltar amendment.

I am copying this letter to Bertie Denham and Michael Jopling.

Yours ever

CONFIDENTIAL

Prime Minister

1.

Mr Whitelaw proposes to seek to reverse the Lords amendment on Gibraltar, despite the real risk of losing.

QUEEN ANNE'S GATE LONDON SW1H 9AT

October 1981

I understand that the Chief has some doubts about this approach. Would you like to bring this up when you see them on Monday?

Yes not

MAD 16/10

Immigration



Dear Francis

BRITISH NATIONALITY BILL: GIBRALTAR

We must urgently decide whether we should invite the Commons to disagree to the new clause on Gibraltar.

At Report Stage in the Lords, no further amendments were passed against the Government's advice, but the Falklands Islands were only kept out of British citizenship on a tied vote, and an extremely damaging amendment on behalf of Hong Kong which would have declared that holders of all the three new citizenships were "British Nationals" was defeated by only two votes. I am afraid that we may not have heard the last on either front, since the Lords could try to amend the Bill further after Third Reading. Nevertheless, since time is so short, we should try and reach a decision in principle now on Gibraltar one way or the other.

The arguments for reversing the Gibraltar amendment are in principle very strong. We have always said that the major aim of the Bill is to create citizenships which indicate unambiguously where a person belongs. It is absolute nonsense in this context to say that citizens of the British Dependent Territories hold a citizenship which, rightly, allocates them to those territories, but that in one case only they can become British citizens too. I ought to add too that the upwards of 25,000 registrations which would be entailed would involve a considerable amount of extra work for my Department.

Another reason for asking the Commons to disagree to the Gibraltar amendment is that subsequent events in the Lords did indicate a great deal of feeling elsewhere in the dependencies that they too should have exceptional treatment. The Falklands Islands were only kept by a tied vote from acquiring British citizenship. And Hong Kong were only three votes short of winning for themselves, and for British Overseas citizens, the title "British National"; if that amendment had been carried it would have completely undermined the whole approach of the Bill.

I think therefore that we would have a very respectable case for putting the matter to the Commons again and I doubt whether we should be short of support, although I accept that we might well lose. But I do not consider that we should be deterred from trying by the prospect of defeat, unless it was certain

Rt Hon Francis Pym

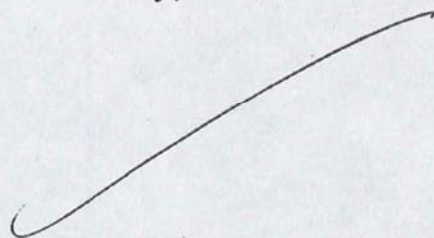
contd.

that such a defeat would be overwhelming.

I am sending copies of this letter to the Prime Minister,
the Lord Privy Seal and the Chief Whip.

Yours
W. L. P.

W. L. P.



Rt Hon Francis Pym

ph Immigration

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RESTRICTED

FM FCO 081500Z OCT 81

TO PRIORITY CERTAIN MISSIONS AND DEPENDENT TERRITORIES
GUIDANCE TELEGRAM NUMBER 140 OF 8 OCTOBER 1981

NATIONALITY BILL

1. A GOVERNMENT AMENDMENT TO THE NATIONALITY BILL, WHICH WAS ACCEPTED BY THE HOUSE OF LORDS ON 6 OCTOBER, REPLACES THE PROVISIONS OF CLAUSE 3 WHICH WOULD HAVE ENTITLED A CHILD TO REGISTRATION AS A BRITISH CITIZEN IF EITHER OF HIS PARENTS HAD MAINTAINED A CLOSE CONNECTION WITH THE UNITED KINGDOM THROUGH EMPLOYMENT. THE NEW PROVISIONS WILL ENABLE CITIZENSHIP TO DESCEND TO THE SECOND GENERATION BORN OVERSEAS PROVIDED ONLY THAT ONE OF THE PARENTS BORN IN THE FIRST GENERATION OVERSEAS HAS LIVED IN THE UNITED KINGDOM FOR THREE YEARS. THE RESIDENCE REQUIREMENT WILL NOT APPLY TO A CHILD BORN STATELESS.

LINE TO TAKE

2. YOU SHOULD NOT INITIATE DISCUSSION ON WHY THIS AMENDMENT HAS BEEN MADE AT THIS LATE STAGE. HOWEVER, IF PRESSED, YOU MAY SAY THAT THE PROVISIONS IN CLAUSE 3 WHICH THE AMENDMENT REPLACES ATTRACTED A GREAT DEAL OF CRITICISM ON THE GROUNDS OF THEIR COMPLEXITY, LACK OF CLARITY, AND THEIR ANOMALOUS EFFECT ON PEOPLE IN DIFFERENT KINDS OF EMPLOYMENT. FOR THESE REASONS THE GOVERNMENT DECIDED TO INTRODUCE NEW PROVISIONS WHICH AVOID THESE DIFFICULTIES.

BACKGROUND (MAY BE USED FREELY)

3. THE GOVERNMENT AMENDMENT TO THE BILL PROVIDES A CLEAR ENTITLEMENT TO REGISTRATION FOR THE CHILD BORN OVERSEAS IN THE SECOND GENERATION. THE APPLICATION FOR REGISTRATION MUST BE MADE WITHIN A PERIOD OF TWELVE MONTHS FROM THE DATE OF THE BIRTH,

RESTRICTED

31084 - 1

ALTHOUGH THE SECRETARY OF STATE WILL HAVE DISCRETION TO EXTEND THAT PERIOD TO SIX YEARS IN THE SPECIAL CIRCUMSTANCES OF ANY PARTICULAR CASE. THE REQUIREMENTS FOR REGISTRATION ARE THAT ONE OF THE PARENTS WAS A BRITISH CITIZEN BY DESCENT AT THE TIME OF THE BIRTH AND THAT THAT PARENT WAS BORN TO A BRITISH CITIZEN OTHERWISE THAN BY DESCENT OR A PERSON WHO BECAME A BRITISH CITIZEN OTHERWISE THAN BY DESCENT AT COMMENCEMENT OR WOULD, BUT FOR HIS OR HER DEATH, HAVE DONE SO. AN ADDITIONAL REQUIREMENT IS THAT THE PARENT WHO IS A CITIZEN BY DESCENT MUST ALSO HAVE RESIDED IN THE UNITED KINGDOM AT ANY TIME BEFORE THE BIRTH OF THE CHILD FOR A PERIOD OF THREE YEARS, SUBJECT TO ABSENCES DURING THAT PERIOD OF NOT MORE THAN TWO HUNDRED AND SEVENTY DAYS. A CHILD WHO IS BORN STATELESS TO A PARENT WHO MEETS THE ABOVE REQUIREMENT WILL BE ENTITLED TO REGISTRATION WHETHER OR NOT THAT PARENT MEETS THE RESIDENCE QUALIFICATION.

4. A CORRESPONDING GOVERNMENT AMENDMENT HAS BEEN MADE TO CITIZENSHIP OF THE BRITISH DEPENDENT TERRITORIES.

CARRINGTON

BY TELEGRAPH:

ATHENS
BONN
BRUSSELS
COPENHAGEN
THE HAGUE
LUXEMBOURG
PARIS
ROME
DUBLIN

JOHANNESBURG(CG)
ISLAMABAD
OTTAWA
CANBERRA
NEW DELHI
DACCA
KUALA LUMPUR
SINGAPORE
LAGOS

DAR ES SALAAM
NAIROBI
SALISBURY
LUSAKA
LILONGWE
BRIDGETOWN
HONG KONG
GIBRALTAR
(PERSONAL)
PORT STANLEY

[ALL PRIORITY]

FCO/WHITEHALL
INFORMATION D

ADDITIONAL DISTRIBUTION
GUIDANCE

-2-

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WR
30/9

From the Secretary of State

The Rt Hon William Whitelaw CH MC MP
Secretary of State for Home Affairs
Home Office
50 Queen Anne's Gate
London, SW1H 9AT

30 September 1981

Dear Willie,

BRITISH NATIONALITY BILL: DESCENT

You sent me a copy of your letter of 19 September to Peter Carrington in which you explained that, mainly because of the critical examination by the Lords of Clause 3 of this Bill, you are contemplating a change in approach to the problems of British citizenship by descent. As you know from my letter of 10 February and discussions at official level, it is the application of these provisions to British businessmen serving overseas that is of particular concern to me.

I can see the attraction of the simpler approach to establishing rights to second generation citizenship as set out on the third page of your letter. The new approach would clarify the situation for the majority of those affected and would solve most of the problems that businessmen have been raising with us, for example ... the enclosed letter from Guy Checketts, Chairman of our South East Asia Trade Advisory Group, who has been pursuing the question of the self-employed.

However, there may be adverse reaction from some businessmen when they learn that, although others will benefit from your new approach, the provisions at the third and subsequent generation stages are more restrictive from them than they had come to expect under Clause 3. I think it would help us to meet such criticism if,



From the Secretary of State

without going into specific detail at this stage of how it would be achieved, we could point to some understanding between our two Departments that, when exercising your discretion, you would take into account the special problems facing British business families on long-term service overseas. I should be grateful to know whether you would be prepared to say this.

I am copying this letter to the recipients of yours.

Yours
John Biffen

JOHN BIFFEN



From the Secretary of State

G T Checketts Esq
Chairman
South East Asia Trade Advisory
Group
1 Victoria Street
London SW1

29 September 1981

Dear Mr Checketts

The Secretary of State has asked me to thank you for your letter of 11 September in which you conveyed to him your members' continuing concern about certain aspects of Clause 3 of the British Nationality Bill. He has written to the Home Secretary sending him a copy of your letter. I know that the Home Secretary is aware of the points you raise and I understand that he will probably be shortly putting forward some amendments to the Bill.

Yours sincerely

Catherine Capon

CATHERINE CAPON
Private Secretary



SMD

Foreign and Commonwealth Office
London WC1

29 September 1981

Dear Willie,

BRITISH NATIONALITY BILL: DESCENT

In Peter Carrington's absence abroad I am writing to say how much we welcome the simplification of the descent provisions outlined in your letter of 19 September, and in particular the new qualification that parents through whom transmission of citizenship is traced to the second generation must themselves have spent a period of residence in the United Kingdom. This does much to alleviate the concern which you know we felt about the consequences for immigration of transmitting citizenship without such a qualification through two generations and through both the male and the female line.

We also recognise the Parliamentary necessity of making special provision for British employees of European Community institutions by equating them with Crown Servants for nationality purposes. This is likely to be unwelcome to British employees of non-European Community international organisations who will not be so favoured in the legislation. It will not be easy to persuade a British employee of, say, the United Nations or NATO, that he is sufficiently different from his EC counterparts to warrant exclusion from their privilege in the descent provisions of the Bill. But if

/we

Secretary of State for Home Affairs
Home Office
Queen Anne's Gate
London SW1H 9AT



we extend the provision wider, and go beyond the relatively clear-cut line between European Community and other international institutions it will become very hard to decide which international organisations to include and which to exclude. We should therefore prefer to restrict the extension of the Crown Servant provision to EC institutions as you propose, and accept the resulting anomaly as part of the price that has to be paid for the success of the Bill.

I am sending copies of this letter to the recipients of yours.

Yours ever

Humphrey



Lord Advocate's Chambers
Fielden House
10 Great College Street
London SW1P 3SL

Telephone: Direct Line 01-212 0515
Switchboard 01-212 7676

The Rt. Hon. William Whitelaw,
CH, MC, MP.,
Secretary of State for the Home
Department,
Home Office,
50 Queen Anne's Gate,
London SW1H 9AT.

24 September 1981

M.

BRITISH NATIONALITY BILL: DESCENT

Thank you for copying to me your letter of 19th September to Peter Carrington.

I welcome the changes which you propose, and believe that they will be very useful in getting the Bill through the House of Lords.

Copies of this go to the other recipients of your letter.

MACKAY OF CLASHFERN
(Dictated by the Lord
Advocate and signed
in his absence).



(2)

Prime Minister

QUEEN ANNE'S GATE LONDON SW1H 9AT

A substantial change in the bill is proposed to deal with the widely held anxiety about the ability of British citizens to pass on their citizenship to children born abroad.

Dear Peter

19 September 1981
PMB 23/9

ms

BRITISH NATIONALITY BILL: DESCENT

One of the most difficult aspects of the British Nationality Bill now awaiting Report Stage in the Lords has always been the provisions it contains for British citizens to pass on their citizenship to children born abroad. We discussed this matter in H Committee (H(80)13th) before the Bill was introduced, but the proposals on which we then agreed have run into very serious Parliamentary and policy difficulties. The purpose of this letter is to inform you and other colleagues of the present position and how I propose to tackle the problem.

This is a complicated matter, and I apologise for the length of this letter. The background, put as briefly as possible, is this. We are creating in the Bill a new British citizenship which will carry an automatic right of entry to the United Kingdom. Within the category of British citizens, there are two groups: British citizens otherwise than by descent and British citizens by descent.

The first group - British citizens otherwise than by descent - include all those born here. (It also includes those naturalised or, in general, registered in the United Kingdom). A British citizen in this first group passes on his or her British citizenship to any child born overseas. But such a child is a British citizen by descent. A British citizen by descent - as the Bill stands at present - can pass on his or her citizenship to a child born overseas only if certain conditions are met. It is the provisions setting out these conditions - and thus governing the position of children in a second or subsequent generation born abroad - which have come under sustained attack.

The Bill provides for British citizenship to be passed on beyond the first generation to the children of Crown servants. It also provides, in order to meet the claims of our overseas exporters and businessmen, for a process of registration whereby those British citizens in employment overseas with links with the United Kingdom could obtain citizenship for their children born abroad. There is no limit to the number of generations for which citizenship by descent could be passed in this way. During the passage of the Bill through the Commons, the employment links which might qualify a child in the second generation born overseas for registration were greatly widened, but even so some gaps remained and many of our supporters were known to favour more generous provisions. The House of Lords (mainly from our own side) have seized on the descent provisions and criticised them relentlessly. It is quite clear that if we do not

/offer

The Rt. Hon. Lord Carrington K.C.M.G. M.C.

offer changes on Report, we shall suffer damaging defeats. The passage of the Bill through the Lords could even be put seriously at risk.

The main difficulty is that few people accept that employment is really a satisfactory criterion for the passing on of citizenship. Even the C.B.I. take this line, although it was because of the just claims of our overseas exporters and businessmen that the Bill included such provisions in the first place. But many of our critics have argued that one can have strong connections with this country even where working for a foreign firm. Others have pointed out even when working for a British company the employment may not necessarily involve any close connection with the United Kingdom. The Bill demands that such a close connection shall exist, but the whole question of what constitutes a close connection (a term which we have not been able to define satisfactorily) has caused great difficulty. It has been pointed out that a person thinking of taking up an overseas appointment would probably not be able to obtain in advance any guarantee that by the time of the birth of any children abroad he or she would be accepted as meeting the close connection requirement. This has been seen as a damaging point.

Other problems have arisen over the position of partners and the self-employed. The latter in particular cannot readily be fitted into the scheme in the Bill because there is no United Kingdom linked criterion (such as a company or firm established here) on which to base their entitlement. But this very fact has been used by our critics as an indication that our whole approach is wrong.

The European dimension has been peculiarly troublesome. There is a very effective Cross Party community lobby in the Lords and they are quite determined that the EC should receive some kind of special recognition; what they want is for the children of people employed by Community institutions to be treated in the same way as the children of Crown servants. This would make them British citizens otherwise than by descent instead of British citizens by descent only. The same lobby has made good use of the undeniable fact that a child born in some European countries (notably Belgium) to a British citizen by descent only would be stateless unless it had a Belgian father. It has not been possible for the Government to give any wholly satisfactory reply on this point, which also applies outside Europe and worries a good many people.

In the face of all this, it seemed to me essential to change our approach. If the employment provisions of the Bill as introduced were tinkered with still further, clause 3 of the Bill would become so complex as to be virtually unintelligible, and we have already been much criticised for its complexity. This complexity would also add further to the

/difficulties

difficulties of effectively administering the clause. A completely new scheme seems to be called for, with the following main features.

Where a parent is a citizen otherwise than by descent (i.e. has been born, naturalised or, in general, registered, in this country) any children born overseas will be citizens by descent at birth. This is provided for by clause 2 now, but that clause also provides for the children born overseas of Crown servants to be citizens otherwise than by descent and I would like to extend this to cover the children of persons employed by an EC institution. The concession to the EC seems absolutely necessary if the Lords are to pass the Bill.

Instead of the employment criteria in clause 3, I propose to substitute an entitlement to be registered as a British citizen for anyone born to a parent who is a citizen by descent provided that that parent

- (a) was himself or herself born to a citizen otherwise than descent and
- (b) had resided in the United Kingdom at any time for a period of three years subject to absences from the United Kingdom not to exceed 270 days.

The child would have to be registered within 12 months, although there would be discretion to accept later applications.

There will of course be objections from those who feel that they are not covered by a provision of this kind but the unremitting criticism of the employment criteria demonstrates that it is simply not possible to define connecting links with the United Kingdom which go beyond citizenship and residence. The Bill contains a discretionary power to register any minor child and it would be further amended to provide that certain registrations (that is to say, registrations of children born to British citizens by descent) would confer citizenship by descent. This makes it possible for the Government to indicate a willingness to exercise this discretionary power for children in the second and subsequent generations who, although their parents cannot meet the criteria which would enable them to have an entitlement, nevertheless might seem to have connections with this country which should be recognised by the grant of citizenship. I believe, however, that it is essential to provide separately for statelessness for the second generation born overseas and accordingly I intend to provide that there shall be an entitlement to registration for any child whose parents do not meet the criteria I have specified, provided that the child would otherwise be stateless.

I should perhaps say that we did consider whether citizenship should not pass automatically to everyone in the second generation born overseas.

/but

but confidential soundings which we took from Government supporters in the Commons indicated that the possible immigration commitment that this might entail would be unacceptable there. They were anxious that citizenship should not descend to the second generation unless there was a clearly defined connection with the United Kingdom and they themselves suggested that a period of residence might be an acceptable way of defining such a connection. Given that the employment criterion has proved too complex, would be almost impossible to administer, and has failed to satisfy even the people for whom it was intended, I see no alternative to amendments on the lines which I have suggested.

I am sending copies of this letter to the Prime Minister, members of H Committee, the Secretary of State for Defence, the Secretary of State for Industry, the Secretary of State for Trade, the Secretary of State for Energy, the Attorney General, the Lord Advocate and Sir Robert Armstrong

W. L. L. L.
W. L. L. L.



DEPARTMENT OF TRADE
1 Victoria Street
London SW1H 0ET

Telephone Direct Line 01-215 5422
Switchboard 01-215 7877

With the Compliments

of the

Secretary of State's
Office

Please substitute the attached
letter for that enclosed with the
Secretary of State for Trade's letter
to the Home Secretary, dated
30 September - British Nationality

CS 57 Bill: Descent
Apologies for this error.

30/9/81

RECEIVED IN

14 SEP 1981

SECRETARY OF STATE FOR
TRADE'S OFFICE

South East Asia Trade Advisory Group
an area advisory group of the British Overseas Trade Board

Chairman: G T Checketts
Secretary: C R H Price

The Right Hon. John Biffen, MP,
Secretary of State for Trade,
Department of Trade,
1, Victoria Street,
London SW1.

1 Victoria Street London SW1H 0ET
Telephone Direct Line 01-215 5747

11th September, 1981

New Secretary of State

BRITISH NATIONALITY BILL

Thank you for your letter of 10th February 1981, which was welcomed by members of SEATAG. We were particularly glad to note your request to Mr. William Whitelaw for further examination of Clause 3 in relation to businessmen not actually "seconded" overseas and also the question of self-employed people.

We have continued to monitor the progress of the new Bill which is now being debated in the House of Lords, and we welcome the fact that amendments in Committee have already been incorporated which remove our concern about the position of children born overseas to employees of subsidiaries of British companies. However, because of the reference in Clause 3 to employment "involving a close connection with the United Kingdom", we still remain concerned at the prospects for self-employed people - doctors, lawyers, accountants, businessmen and so forth - whose presence alongside their countrymen in recognized business houses is so important to the commercial success and financial interests of so many expatriate organisations.

Several of our members have been quite unable to obtain from the Home Office a definition of "close connection with the U.K." and are left wondering how this Department will interpret the phrase should the Bill become law.

There is a strong feeling from some SEATAG members that these vital matters should not be left in doubt and that within the Bill expatriates such as those mentioned above should have a status defined as clearly as that of Crown Servants.

Any further representations you feel you are able to make will surely be most valuable.

G. T. Checketts

G. T. Checketts,
Chairman.

FILE

VLB

CF

15 June 1981

The Prime Minister has seen and noted the Chief Whip's minute of 11 June, following the vote on Gibraltar during the Report Stage of the British Nationality Bill.

M A PATTISON

Murdo Maclean, Esq.,
Chief Whip's Office.

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SECRET



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c TRADE LPSO
FCO LCO
MOD CO
LPO
CDL
HMT

10 DOWNING STREET

Immigration

From the Private Secretary

9 June 1981

Dear John,

u

The Nationality Bill

The Prime Minister has seen the Home Secretary's minute to her of 4 June on the question of whether or not distinctive citizenship could or should be created for a particular dependent territory, such as the Falkland Islands. The Prime Minister agrees with the Home Secretary that we should continue to argue for composite citizenship for all the dependent territories.

I am sending copies of this letter to the Private Secretaries to the Members of OD and to David Wright (Cabinet Office).

Yours sincerely

Michael Alexander

John Halliday, Esq.,
Home Office.

SECRET

SECRET



Prime Minister

(1)

Agree that Home Sec. should continue to argue for composite citizenship for all the dependent territories?

Yes

And

PRIME MINISTER

At the meeting of OD on 29 January (OD(81) 1st Meeting, Item 1) I was invited, in consultation with the Foreign and Commonwealth Secretary, to give further consideration to the case for creating a distinctive citizenship for a particular dependent territory, such as the Falkland Islands, and to report.

The whole question of separate citizenships for the dependent territories was clearly going to be a controversial issue during the passage of the British Nationality Bill through its Committee Stage in the Commons. I have therefore postponed my report until I could see what the Standing Committee decided.

There are some attractions in establishing separate citizenships for the dependencies. The problem is that a separate citizenship is not appropriate for every dependency. It was clear in Committee that some members on both sides who saw attractions in separate citizenships for some dependencies favoured different treatment, e.g. incorporation in British citizenship, for others. The dependencies were extremely sensitive about the effect of the Nationality Bill for them and the prospect of different treatment for different dependencies would have exacerbated the situation at this stage.

The Government line at the Committee Stage, which was, of course, agreed between the Foreign and Commonwealth Secretary and myself, was therefore that the Bill's proposals that there should be a composite citizenship to cover all the dependent territories should be adhered to. The reasons that Government spokesmen gave were that there was no expressed desire on the part of the dependent territories (apart from Gibraltar) for a separate citizenship; that there could be problems in some cases (some dependent territories are obviously too small and would have to be left with a residual composite citizenship or taken into British citizenship); and that Hong Kong in particular did not want a separate citizenship if, as seemed inevitable, this would seem to distance her still further from the United Kingdom.

During the Committee proceedings no amendments were tabled which specifically accorded a separate citizenship for the Falkland Islands. The Governor's view was that the Falkland Islands would not want a separate citizenship; and it was believed that the creation of one could cause practical problems with Argentina, who might e.g. refuse to accept passports which described a person as "citizen of the Falkland Islands". An amendment which would have paved the way for the creation of some separate citizenships was defeated by 13 votes to 11.

The Committee then turned its attention to whether the inhabitants of certain dependent territories should be British citizens. Government spokesmen argued that this was bound to be seen as discriminatory by the dependencies (particularly Hong Kong) whose

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inhabitants did not become British citizens. An amendment relating to the Falkland Islands was defeated by 15 votes to 3; one relating to Montserrat was defeated by 18 votes to 5; others relating to St Helena and dependencies and Pitcairn and dependencies were not moved.

In a separate debate on Gibraltar the Committee tied 12 all on an amendment which would have made Gibraltarians British citizens. The amendment was defeated by the Chairman's casting vote. All our supporters except one voted for us. In a further debate on Gibraltar at Commons Report stage a number of our supporters voted against us, but we held the line by a majority of 25.

Obviously I cannot predict what will happen during the Bill's remaining stages, but in the light of what has transpired so far I feel that we should continue to argue for the Bill's provision of a composite citizenship for all the dependent territories.

I am sending copies of this minute to the members of OD, and to Sir Robert Armstrong.

lwllw

4 June 1981

SECRET

CONFIDENTIAL

DSG

SUBJECT

File



10 DOWNING STREET

From the Principal Private Secretary

7 May 1981

BRITISH NATIONALITY BILL: NEW CLAUSE ON NON-DISCRIMINATION

When the Home Secretary called upon the Prime Minister this afternoon, they had a brief discussion on the proposal that there should be a New Clause in the Nationality Bill which provided that, wherever the citizenship of any person might be affected by the exercise of any discretion, that discretion should be exercised without any regard to that person's race, colour or religion.

The Prime Minister said that she had read the Home Secretary's minute of 5 May. Her main concern was that if we put an unnecessary New Clause in the Bill, we might throw doubt on all the Bill's other principles.

The Home Secretary said that he was not at all enthusiastic personally about the proposed New Clause, but he thought that the Government would face more trouble if the Clause was omitted than if it was included. If the Government opposed the New Clause, we might be defeated on the matter in Committee. But even if we avoided that, it was quite likely that a similar Clause would be put into the Bill in the Lords. The Attorney-General's office had been consulted about the Prime Minister's particular concern about the effect of the New Clause on the rest of the Bill and they were of the view that this was not something that would give rise to difficulties.

The Prime Minister said that, in the light of what Mr. Whitelaw had said, she agreed that the Government should accept the principle of the New Clause's provisions but we should table our own New Clause and invite the Committee to vote for it in preference to the one already tabled by the Opposition.

C A WHITMORE

John Halliday, Esq.,
Home Office.

CONFIDENTIAL

JS

The A-G's advice?

Once we put in an unnecessary new clause we throw doubt on PRIME MINISTER all the other ministers in the Bill.



copied to
Parliament
PRIME MINISTER
PC 7
Legislation

MAP
5/1

BRITISH NATIONALITY BILL: NEW CLAUSE ON NON-DISCRIMINATION

The Opposition have tabled a New Clause providing that, wherever the citizenship of any person may be affected by the exercise of any discretion, that discretion shall be exercised without any regard to that person's race, colour or religion.

The New Clause is strictly speaking unnecessary because its principles are of course already observed. We are indeed committed by international convention to their observance. But I believe that to resist the principle enshrined in the New Clause would lead to grave difficulties.

You and I have consistently and constantly maintained, quite rightly, that the British Nationality Bill is not racist in any way. Opposition to the New Clause would, however, give the opponents of the Bill a great deal of ammunition with which to cast doubt on our past statements. It would be said that we were not prepared to see a statement in the Bill that decisions were to be taken without regard to race, colour or religion. It would be said that the Government feared to see such a provision in the Bill in case it could be used against them in situations where they did wish to discriminate in this way. I think that this could be very damaging.

I must, however, mention that although some of our supporters would be in favour of the New Clause others would raise strenuous objections to accepting it or anything like it. They would argue that the New Clause was unnecessary, and insulting to the extent that it implied that discrimination was practised already; and that it would also make it difficult to resist further amendments introducing rights of appeal.

There is force in these arguments but they are not conclusive. We shall of course deny strongly that any discrimination at all is practised at present. And the existing safeguards (Parliamentary accountability and the prospect of investigation by the Parliamentary Commissioner for Administration) are sufficient to enable us to argue that acceptance of a non-discrimination clause does not pave the way to a right of appeal.

If we oppose the New Clause we shall, I believe, stand a good chance of being defeated on the matter in Committee. Even if we avoided that, a Clause on similar lines could well be passed against us in the House of Lords in very damaging circumstances politically. Given that there are in any case very real

/presentational difficulties



2.

presentational difficulties in opposing the Clause, I hope that you will agree that in Committee we should accept the New Clause's provisions in principle, although we should table our own New Clause, which would be technically sounder but achieve much the same intended effect, and invite the Committee to vote for that in preference to the one tabled by the Opposition.

We are to talk about this on Thursday 7 May.

~~_____~~
~~_____~~
~~_____~~

W.L.

5 May 1981

Imaginary



HOME OFFICE
QUEEN ANNE'S GATE LONDON SW1H 9AT

27 April 1981

Dear David,

F. Smith

BRITISH NATIONALITY BILL

I mentioned on the telephone that Mr Raison expects to be questioned in Standing Committee tomorrow morning about the Prime Minister's reported remarks in India on there being no further changes to the Nationality Bill. I had earlier had a word with Nick Sanders about this.

You agreed that for the purposes of tomorrow's discussion Mr Raison might say that the Prime Minister was indicating her support for the Bill as a whole and was not, as he fears may be suggested, saying that the existing text must be frozen in its present form.

... I am inviting him to draw upon the attached speaking note, although the nature of the occasion will probably require its style or structure to be changed. I should be glad to know if you are content.

F. Smith
Stegle

(S W BOYS SMITH)

M O'D B Alexander Esq

BRITISH NATIONALITY BILL
CHANGES TO THE BILL: PRIME MINISTER'S REMARKS IN INDIA

The hon Member suggests that the Prime Minister's remarks in India mean she wishes the Bill to remain in exactly its present form. He ought to know better than that.

The Prime Minister had, I do not deny, been questioned in India about the Bill. She indicated on this particular occasion - a Press Conference - her full support for the Bill and the structure of citizenship it creates; she had, of course, made the same point several times before. These remarks cannot seriously be interpreted, and were not intended, that the text we now have (partly amended and partly unamended) should be frozen. The Government itself has undertaken to consider various matters. This is a complex measure; the Committee must give serious thought to the remaining provisions and not be diverted from that work by suggestions of this kind.

cc Mr Ingham Mr Alexander
Mr Whitmore

From: THE PRIVATE SECRETARY

Immigration / 1
PRIME MINISTER

CONFIDENTIAL



The Home Secretary and the Chief Whip will report to you on this when you see them on Monday morning. It

24 April 1981

Dear Dick,
Yes not

has already been widely trailed in the press, but will cause a great (if ephemeral)

BRITISH NATIONALITY BILL: GUILLOTINE MOTION

fuss nonetheless.

Mr Pym may also mention it in Monday's

I write to set out how the Home Secretary is now expecting to proceed with the Nationality Bill.

media meeting. Content with these proposals?

The Home Secretary has agreed with the Chief Whip and the Leader of the House that the Bill must be guillotined. The Leader of the House will announce a change of business on Monday, 27 April and a guillotine debate will take place at 3.30 p.m. on Wednesday, 29 April. The present plan is that the Leader will open and Mr. Raison will wind up. The Home Secretary will formally tell the Opposition of the proposal during the course of Monday morning.

MS
24/4

The guillotine motion will provide for the completion of Committee Stage by 14 May; three Committee sittings per week, which will therefore be in the weeks beginning 4 May and 11 May; and three days for Report Stage and Third Reading. The motion will not provide for Lords amendments. During the course of the debate stress will be laid on the time which has been taken already in consideration of the Bill; up to 16 April the Standing Committee had examined it for some 90 hours, had completed 32 sittings but had disposed of only 13 clauses and two new clauses, leaving 36 clauses and 9 schedules remaining together with a number of other new clauses.

Handwritten signature of S. W. Boys Smith

S. W. BOYS SMITH

N. J. Sanders, Esq.,

CONFIDENTIAL



2.

Immigration

Prime Minister

PRIME MINISTER

MT.

MP 25/2

Edward Gardner, Jock Bruce-Gardyne, Neil Thorne, Tristan Garel-Jones, Robert Cranbourne and John Ward came to see me recently to urge that citizens of the Irish Republic resident here should no longer enjoy the right to vote at our elections. I undertook to let you have their views.

Their immediate objective was to try to persuade me that the Nationality Bill should include a provision disfranchising Irish citizens living here, but I think that they now accept that it would not be appropriate to use this Bill to make such a change in our electoral arrangements. They made it clear, however, that they attach much importance to this matter and that they do not believe that it would affect our relations with the Republic. Finally, they asked me to let you know that they intend to continue to press for this and that they would not regard reciprocity (which they fear might emerge from the present joint Anglo-Irish talks) as an acceptable alternative.

I am sending a copy of this minute to the Lord Privy Seal, the Secretary of State for Northern Ireland, the Chief Whip and Sir Robert Armstrong.

hw

24 February 1981



✓ MAF Immigration
Home Office

NEWS RELEASE

50 Queen Anne's Gate London SW1H 9AT
Telephone 01-213 3030/4050/5050

213 3000 (Night line)

February 6, 1981

BRITISH NATIONALITY BILL

Following representations made both in the House of Commons and by a number of bodies and individuals, the Home Secretary has decided to amend the Nationality Bill in two important instances.

An amendment to Clause 1 which has been tabled will allow any child born in the United Kingdom who does not acquire British citizenship at birth the right to acquire British citizenship after ten years' continuous residence here from the time of his birth irrespective of his parents' status. The Bill proposes that British citizenship should be acquired automatically at birth only by children born here, one of whose parents was himself or herself a British citizen, or who was settled here. The proposed change will help children who at a later stage might find it difficult to produce evidence of their parents' status at the time of their birth.

The second amendment will be made to Clause 2. The Bill as introduced would have meant that people who acquired British citizenship by naturalisation or registration would have been unable to transmit British citizenship to their children born abroad. The change now proposed would, broadly speaking, enable these citizens by registration or naturalisation to transmit their citizenship to their children born overseas in the same way as people who are citizens by birth.

Immigration
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THE BRITISH NATIONALITY BILL

Conservative Research Department,
32 Smith Square, London, S.W.1

NT/sh
23.1.81

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THE BRITISH NATIONALITY BILL

1. On 30th July 1980, Mr Whitelaw introduced a White Paper (Cmd 7987) on "British Nationality Law : Outline of Proposed Legislation". (Hansard, 30th July 1980, col. 1516).

In doing so he was fulfilling a clear promise in the 1979 General Election Manifesto. The Queen's Speech of 20th November 1980 went on to pledge that:

"A Bill will be introduced to change the law on nationality on the lines of the White Paper published last July."

This has now been done.

The concept of a reform in Nationality Law has in recent years been supported by all major parties.

In April 1977 the last Labour Government produced a Green Paper on the subject (Cmd.6795). That paper stated:

"There have been many changes in British society and in this country's role in the world since the British Nationality Act which provides the basis of our citizenship was passed in 1948..... Because Britain is no longer an Imperial power the all-embracing concept of nationality associated with this role, including the citizenship of the United Kingdom and Colonies, is no longer appropriate. It follows there is need now to examine how our nationality law can be simplified and brought up to date" (Cmd.6795, p.4).

This declared Labour position was confirmed by the Opposition Spokesman on Home Affairs, Mr Roy Hattersley, in a speech to the Co-ordinating Committee of Pakistani and Kashmiri Organisations:

"No one doubts that we need a new Nationality Act. The world has changed since 1948 and many of the changes (particularly the transition from colony to independent nation that so many countries have made) have left our present definition of nationality confused and inadequate" (Small Heath, 18th January 1981).

Mr Hattersley's support for the concept of a reform in Nationality Law does not extend to support for the Bill. There will be consideration later in this brief of the stated objections of the Labour Party to the Bill, many of whose proposals originated in the Labour Government's own 1977 Green Paper.

2. History of Nationality Law

At present the basis of British Nationality Law is the British Nationality Act 1948. Before that time, everyone who owed

perpetual allegiance to the British Monarch (by being born in the United Kingdom, a Dominion, or a Colony) was a British Subject. But as time went by the Dominions felt the need to create their own citizenships (beginning with Canada in 1946). The status of British subjects within different Commonwealth countries thus began to vary.

The Act of 1948 created a Citizenship of the United Kingdom and Colonies, (CUKC) with the continuing status of British subject, and laid down rules for its acquisition. The citizenship was given not only to British subjects with ties with the UK and Colonies but also to some British subjects living in Commonwealth countries, who did not, for one reason or another, acquire the citizenship of another Commonwealth country. As it proved, as various Commonwealth countries became independent, citizenship was withheld from, or not automatically bestowed on, significant numbers of British subjects living in those countries. There thus came to be sizeable numbers of people in independent Commonwealth countries who were either Citizens of the United Kingdom and Colonies, British Protected Persons, or British Subjects without Citizenship.

The British Nationality Act 1948 also provided that all those with CUKC status or citizenship of a Commonwealth country should be regarded in United Kingdom Law as British Subjects and exempted from the disabilities of aliens. Citizens of Eire were similarly exempted. Commonwealth citizens were given the right to acquire CUKC status after being ordinarily resident in the UK for 12 months.

This 1948 Act reflected Britain's Imperial Status, with her direct responsibility for very large Commonwealth populations. Great changes have since occurred. It has been recognised that it would be impossible for the UK to fulfil all the obligations inherent in the 1948 Act. Immigration by Commonwealth citizens, even by those who were of CUKC status, caused problems. As a result in 1962, 1968 and 1971, Parliament passed legislation which circumscribed the rights of entry into the UK of very large numbers of British subjects and Citizens of the United Kingdom and Colonies.

Nationality and Immigration. Consideration of the impact of immigration - past and future - underlies the new Nationality Bill, as much as the need to update a corpus of law, which has become riddled with anomalies and sources of confusion.

This was asserted strongly by the last Labour Government in its Green Paper (Cmd. 6795) which said (p.4):

"The main ideas canvassed in this document are designed to put right the main defect in our present law. This is that our present citizenship of the United Kingdom and Colonies does not identify those who belong to this country and have the right to enter and live here freely; in consequence it prevents the United Kingdom from basing its immigration policies on citizenship."

The New Citizenships

In an Editorial reflecting on the new Bill, The Times observed:

"If citizenship is to confer the right to live in this country, it is impractical to expect that it should be defined without regard to the implications for immigration. If there were to be just one category of British citizenship carrying the right to live in this country, then the gates would be flung open to over five million people in Hong Kong and other colonies and associated states..... Nobody can be certain about what might develop in the future, and the mere possibility that a few million people in the overseas dependencies might sometime wish to take up their right of entry would be liable to feed irrational fears. This would be extremely bad for race relations in this country." (The Times, 15 January 1981).

These words of the Times echoed phrases used by Mr Whitelaw in introducing Conservative policy on immigration and nationality at Leicester in April 1978.

The Labour Green Paper equally had concluded that no uniform citizenship could be established, suggesting a "British Citizenship" and a "British Overseas Citizenship" as basic categories.

The Conservative Bill will introduce three main categories:

i) British Citizenship (Part I)

This is designed for people closely connected with the United Kingdom, the Channel Islands, and the Isle of Man. It will carry with it right of abode in the United Kingdom.

a) Acquisition at commencement of Act (Clause 9)

British citizenship will be acquired by all CUKC who are patrials of the United Kingdom, and thus have right of abode, under the 1971 Immigration Act.

(A small exception will be made in the case of formerly stateless persons registered as CUKC under the British Nationality (No.2) Act 1964 by virtue of their mother's citizenship of the United Kingdom and colonies. These will acquire which ever of the three new citizenships their mother does or would have done, if alive).

b) Acquisition after commencement (Clauses 1 - 8)

In the future, after commencement of the Act British Citizenship will be acquired:

- 1) by children born in the UK to a parent who is a British Citizen or who is settled here. (Clause 1 (1))
- 2) by children born in the UK one of whose parents, while he is a minor, becomes settled here or a British citizen (Clause 1 (3))

- 3) by foundlings (Clause 1 (2))
- 4) by a child adopted here by a British citizen (Clause 1 (4))
- 5) by children born overseas at least one of whose parents is a British citizen by birth or is a British citizen in Crown Service or service "closely associated" with the overseas activities of HMG (Clause 2)
- 6) by children born overseas (with at least one parent who is not a British citizen by birth) through registration. Such a child is entitled to registration as a British citizen if a parent was a British citizen at the time of birth, was employed overseas serving British interests abroad, and intended at the time of birth to maintain a close connection with the UK. (Clause 3 (1)-(4)).

Children born overseas are also entitled to registration if the parents are British citizens other than by birth who were resident in the UK three years before the application for the child's registration and had not been absent from the UK for more than 270 days of those three years. (Clause 3 (5)(6))

c) Naturalisation (Clause 4)

Certificates of naturalisation may be granted, at the discretion of the Secretary of State, to people who are not British citizens, including, on more favourable terms (after 3 years residence), the husbands and wives of British citizens.

Qualifications for naturalisation are very similar to those existing at present, including a good character requirement and sufficient knowledge of English (or Welsh). Qualifications are set out in Schedule 1.

d) Registration (Clauses 5-7)

The existing right to be registered as a British citizen is preserved for two years after commencement for Commonwealth citizens resident at the coming into force of the Act who will in the future have completed five years residence in the UK, and who were settled here before 1 January 1973. (Clause 5)

Similarly, for two years after commencement, women married when the Act comes into force to citizens of the UK and Colonies who become British citizens will have a right of registration preserved (Clause 6).

For six years after commencement (and a further two years at Ministerial discretion) CUKC, British subjects or British protected persons who are not patrial, but who are resident at commencement and who complete five years residence, will have an entitlement to registration. (Clause 7)

ii) Citizenship of the British Dependent Territories (C.B.D.T.)
(Part II)

This is designed for people closely connected with a UK dependency. The relevant Colonies and Associated States are listed in Schedule 6. There will be no right of abode in the UK.

The proposals for the acquisition of this citizenship (Clauses 13 - 20) are broadly similar to those for British Citizenship, with references to dependencies being substituted for those to the United Kingdom.

iii) British Overseas Citizenship (Part III)

This is designed for all those who have CUKC status, but who do not at commencement of the Act qualify either for British citizenship or citizenship of a British Dependent Territory (Clause 23). This will ensure that no CUKC will be left without citizenship at commencement.

The citizenship will carry no right of abode in any British territory and will not be transmitted to children born after commencement. The Secretary of State may, however, (Clause 24) use his discretion to register any minor as a British Overseas Citizen. British Overseas Citizens would be entitled to protection overseas in the same way as any other British national.

4. Other Provisions

i) Deprivation of Citizenship (Clause 37)

The present law contains provisions under which people who have acquired naturalisation or registration by fraud or false representation may be deprived of their citizenship; naturalised people may be deprived on grounds of disloyalty or (in wartime) trading with the enemy. Clause 37 contains provisions to this end.

ii) Dual Nationality (Clauses 10- 11,21)

The present law contains no bar on the holding of dual nationality, although a substantial number of other countries place restrictions on dual nationality, and in particular withdraw their citizenship from people who by voluntary act obtain that of another country.

The Government have decided against changing the traditional British practice on this matter - for reasons explained in Cmnd. 7987, paras. 85-90.

Some countries require from applicants formal renunciation of other citizenships before extending their citizenship to someone from another nation.

Under existing law those who renounce CUKC as a condition of acquiring or retaining citizenship of a Commonwealth country have an entitlement to resume their citizenship on application.

The Bill preserves this entitlement. Under Clauses 11 and 21, British Citizens or C.B.D.T. will have the same entitlement to resume citizenship once only in the case of foreign as well as Commonwealth countries. There are no provisions for British Overseas Citizens or for British subjects to resume a renounced status.

iii) British Protected Persons (Clause 35)

These have been persons connected with British Protectorates whose status is regulated under Order made under the 1948 Act. There are believed to be only 140,000 such people. The Bill continues this status and the power to regulate it under Order. The present Order says that anyone voluntarily acquiring another nationality loses the status.

iv) British Subject

Under the 1948 Nationality Act the term "British subject" was preserved as being the common status of all people connected with the Commonwealth. The status conferred certain rights and privileges listed in Cmd. 7987, para. 110.

The Bill (Clause 34 (1)) makes "Commonwealth Citizen" the common nationality status of those connected with the Commonwealth. (The Commonwealth nations are listed in Schedule 3 for this purpose).

But part IV of the Bill preserves the status of British Subject for people born before 1948 who have the status under the 1948 Act of British Subject without Citizenship, and for certain other persons dealt with in Clauses 27 (b) and 30. That status of British Subject will be lost on acquisition of any other citizenship or nationality (Clause 32). There are roughly 250,000 British Subjects without citizenship, who will become "British Subjects" under the Bill.

Citizens of Eire will retain a particular concession under Section 2 of the British Nationality Act of being able to claim, if they were born before 1949, to have remained British Subjects.

5. Cost

It is expected that extra manpower costs, arising from the recruitment of 45 extra staff to the Nationality Division of the Home Office, will amount to over £370,000 per annum at 1980-81 prices.

Some Criticisms of the Bill

i) Early Attacks

The Bill has already attracted some criticism from both newspapers and interested parties. For instance, the Runnymede Trust commented that British Overseas Citizenship:

"would give citizenship under the new law which would be so meaningless and devoid of content as to make its holders worse off than if they were formally stateless" (Observer, 4 January 1981)

Miss Patricia Hewitt, of the National Council for Civil Liberties, said "it was a nightmare of bureaucratic complication" (Times, 15 January 1981).

Mrs Ann Dummett, of the Action Group on Immigration and Nationality, said "ethnic minorities were going to be very scared because they would not know where they stood." (Times, 15 January 1981)

ii) Labour's Response

These observations were more than straws in the wind. At a meeting on 14 January 1981, the Shadow Cabinet decided to oppose the Bill "on the grounds that it contains elements of racial and sexual discrimination." (Times, 15 January 1981).

It was reported, in the Times, that the Shadow Cabinet was told that "almost every bona fide civil rights and immigration organization had been in touch with the Labour Party expressing doubts and misgivings". (ibid).

Labour's considered response came in a speech by the Opposition Spokesman on Home Affairs, Mr Roy Hattersley, in Small Heath on 18 January 1981. Below is a point-by-point summary of his comments - with some anticipated Government retorts.

a) The Question of "Rights" attaching to Nationality

"We need a new legislative definition of British Nationality which is a positive and comprehensive statement of both the qualifications that entitle a man or woman to citizenship and the rights that such citizenship provides The British Nationality Bill does not even attempt to define nationality in that way." (Small Heath, 18 January 1981)

The Bill does, of course, as Mr Hattersley recognised, confer rights of abode and of entry. (Clause 36)

British Nationality Legislation has not dealt with civic rights, but purely with the question of nationality itself.

Mr Hattersley might remind himself of the words used by his predecessor as Labour spokesman, the then Home Secretary,

Mr Merlyn Rees, who introduced Labour's 1977 Green Paper on Nationality:

"Civic rights are not part of nationality law. It must be made absolutely clear that that is the case. As I said to the right Honourable Member for Down, South [Mr Powell], it is not the case that nationality, by itself, basically important as it is, is connected with civic rights. The State has the right to give civic rights to whom it likes. We have taken such a line over the years." (Hansard, 27 April 1977, col.1232).

b) Comparison of Cmnd. 6795 and Cmnd. 7987

"The Green Paper.... contained a wide range of options for general discussion. The present Government has, almost invariably, chosen the hardest option set out in that paper." (Small Heath, 18 January 1981).

Many of the proposals in the Bill were canvassed in the Green Paper, including what Mr Hattersley has alleged to be "the discriminatory options that a Labour Government would not have adopted" (ibid.)

To cite just two cases where the Conservative Government has not chosen Labour's hardest option. In the case of dual nationality this has been continued despite the options listed in Cmnd. 6795, para.62. And in the case of the acquisition of citizenship by marriage, Labour's option, at para.50 (iii) of Cmnd. 8795, "to treat spouses of citizens on exactly the same terms as other applicants for citizenship"; has been rejected.

c) The ending of the automatic 'ius soli' provision

"If the Bill becomes law, the automatic right of every child born in this country to become a citizen of the United Kingdom will be removed" (Small Heath, 18 January 1981)

At present, anyone who is born in the UK is a citizen unless his father is a diplomat of another country.

This will remain true for every child either of whose parents is a British citizen or is settled here.

But the Government explained in Cmnd. 7987 (paras. 42-44) that the Bill would propose that the child of parents neither of whom is a British citizen or is settled here, would not acquire British citizenship by birth, though he would be entitled to registration if either parent were made free of conditions on stay. Reasons given were:

i) Since such stays were temporary, in most cases there would be no lasting connection with the United Kingdom.

ii) British citizenship, if not renounced, could be

a handicap to a child from a nation which rejects dual nationality

iii) A pool of considerable size of British citizens with right of abode, but little connection with the United Kingdom, would be created abroad.

d) Transmission of British Citizenship overseas

"Citizenship of the United Kingdom will only be transmitted to children born abroad if their parents were citizens of the United Kingdom by birth" (Small Heath, 18 January 1981)

In fact, if their parents return to live in the UK, such children will be entitled to citizenship under clause 3 (5). (Incidentally, at present, even a UK-born mother does not transmit citizenship to children born abroad. Under the Bill, every such child will be a citizen by descent).

e) No right of appeal against the Home Secretary's decision

"Applicants for naturalization will have no right of appeal against refusal of British citizenship - for example, the Home Secretary alone will determine and interpret 'good character'." (Small Heath, 18 January 1981)

A language test and "good character" test are provisions in the present law, operated without apparent qualms by the Labour Government. So, too, is naturalisation by discretion.

Labour's Green Paper (Cmd. 6795) observed:

"The diversity of circumstances encountered in applications is very wide. The judgements which have to be made in this area are essentially subjective, and matters of this kind are not easily justiciable." (para.60)

Of the 'good character' test is said:

"It is not easy to devise an adequate substitute" (para.54).

f) British Overseas Citizenship

"an entirely worthless status that provides no automatic rights of entry into any country and is not transmissible to children" (Small Heath, 18 January 1981)

Labour's Green Paper (Cmd. 6795) proposed in the case of those holding their proposed British Overseas Citizenship that such a citizenship "ought not to pass automatically to a child born outside a dependency unless the father is a citizen..... in an existing dependency.... Some British Overseas Citizens would be able to transmit citizenship to their children, while others would not." (para,73).

g) Alleged sexual discrimination in the Bill

"The Bill also discriminates against women."(ibid.)

In fact, the Bill, in Mr Whitelaw's words, will attempt to ensure that "British women will have equal rights for the first time" (Hansard, 30 July 1980, col. 1521)

Notably, British women who are citizens by birth will for the first time have the right (previously confined to men) to pass on UK citizenship to their children born abroad.

Furthermore, men will lose the automatic right to transmit their citizenship to their wives on marriage. Now, both sexes will share the same means of obtaining British Citizenship, that is, that a spouse should first be accepted for settlement in the UK, but that he or she should be able to apply for naturalisation after a shorter period of residence than the normal one. (Clause 4; Schedule 1)

h) Alleged racial discrimination

"The next Labour Government must make the necessary changes to achieve a non-racist definition of nationality" (Small Heath, 18 January 1981).

It is self-evident to anyone who has studied the Bill that the proposed categories of citizen will each contain a variety of races. No where in the Bill is any racial criterion envisaged..

Immigration July 1979
The National Bill

Background Note

Immigration
✓
MAJ

BRITISH NATIONALITY BILL

The present legislation on Nationality has been in force for over 30 years during which there have been great changes in the structure of the Commonwealth. Notions of citizenship appropriate in 1948 are no longer valid and citizenship laws are out of date. Changes are required to meet very different circumstances and to endure for some time.

The Bill published this week, which substantially follows the lines proposed in the White Paper of July 1980, will create three separate citizenships to replace the present citizenship of the United Kingdom and Colonies. These are:

British citizenship for people closely connected with the United Kingdom, the Channel Islands and the Isle of Man.

Citizenship of the British Dependent Territories for people connected with the dependencies; and

British Overseas citizenship for the remaining citizens of the United Kingdom and Colonies.

The Bill provides for the acquisition, loss and renunciation of these citizenships and makes related amendments to the provisions relating to the right of abode in the Immigration Act 1971 so as to cast them in terms of the new British citizenship.

British Citizenship

All citizens of the United Kingdom and Colonies who are patrial would acquire British citizenship automatically when the Act comes into force, with the exception of those mentioned in the footnote.

The Bill makes provision for the acquisition of British citizenship in the future by children born in the United Kingdom to a parent who is a British citizen or who is settled here; by persons born in the United Kingdom whose parent subsequently becomes settled or a British citizen; by foundlings; and by a child adopted here by a British citizen.

Footnote: A formerly stateless person who has been registered as a citizen of the United Kingdom and Colonies by virtue of his mother's citizenship of the United Kingdom and Colonies will acquire whichever of the three new citizenships his mother does. As a result those persons who are patrial through their registration but whose mothers become citizens of the British Dependent Territories or British Overseas citizens will not become British citizens.

A child born overseas will be a British citizen if one of his parents is a British citizen by birth in the United Kingdom.

The Secretary of State is given powers in the Bill to register any minor as a British citizen, including one born abroad if either of his parents is a British citizen otherwise than by birth in the United Kingdom and the family returns to the United Kingdom to live, or if the British citizen parent is serving certain British interests abroad.

Certificates of naturalisation may be granted at the discretion of the Secretary of State, to people who are not British citizens, including, on more favourable terms, the husbands or wives of British citizens. The qualifications for naturalisation are very similar to those at present. Citizens of the United Kingdom and Colonies from overseas, British subjects and British protected persons who are settled here at the coming into force of the Act will be entitled to be registered as British citizens on completing 5 years residence.

The right to be registered as British citizens is preserved for two years for Commonwealth citizens settled here before 1973 and still so settled; and patrial Commonwealth citizens settled here at the coming into force of the Act will also continue to be able to be registered when they have completed 5 years residence. Women who at commencement are married to citizens of the United Kingdom and Colonies who become British citizens will have their right to registration preserved for two years. If the marriage has ceased, registration is at the discretion of the Secretary of State.

Provision is made for British citizens to renounce their British citizenship, and to resume it subsequently; and for certain persons who have renounced their present citizenship of the United Kingdom and Colonies to be able to be registered as British citizens.

Citizenship of the British Dependent Territories

The provisions of the Bill dealing with the acquisition of citizenship of the British Dependent Territories are broadly similar to those set out for the acquisition of British citizenship.

British Overseas Citizenship

The essence of this citizenship is that it will be acquired by any citizen of the United Kingdom and Colonies who does not become either a British citizen or a citizen of the British Dependent Territories. This citizenship cannot be transmitted to children born after commencement, but the Secretary of State will have discretion to register any minor as a

British Overseas citizen. The wife of a citizen of the United Kingdom and Colonies who becomes a British Overseas citizen will have her entitlement to acquire her husband's citizenship preserved for two years provided the marriage has not ceased. In that event her registration is at the discretion of the Secretary of State.

Other Points

No citizen of the United Kingdom and Colonies will be left without a citizenship.

Citizenship will be acquired and transmitted on equal terms by men and women.

Chancellor of the Duchy of Lancaster
& Paymaster General
Privy Council Office
68 Whitehall
LONDON SW1

15 January 1981

HOME OFFICE,
QUEEN ANNE'S GATE,
LONDON, S.W.1.

Immigration
✓

Cc Mr Ingham

12th January, 1981. *MS*

BRITISH NATIONALITY BILL

As you know Ministers have now decided that the bill should be introduced this week. I should therefore be grateful if you would arrange to table notice of presentation this evening with a view to introduction tomorrow (Tuesday) and publication on Wednesday at 2.30 p.m.

The bill will be presented by Mr. Secretary Whitelaw and
supported by Lord Privy Seal
Mr. Richard Luce
Mr. Timothy Raison

I understand that there will be a lobby conference at about 4 p.m. on Wednesday and should therefore be grateful if you would make arrangements for 105 copies to be available in the Vote Office addressed to the Home Secretary at the ~~time~~ of publication.

I am copying this to Nick Sanders (Prime Minister's Office), Murdo Maclean (Chief Whips Office, Commons), Michael Pownall (Chief Whips Office, Lords), Robin Birch (Chancellor of the Duchy of Lancaster's Office), Bob Whalley (Cabinet Office), Edric Worsnop (F.C.O.) and Brian Shilito.

J. G. DALY
Parliamentary Clerk

G. L. J. Engle Esq., C.B.

PRIME MINISTER

PARLIAMENTARY AFFAIRS

I am not aware of any serious problems about the Business for the remaining two days before the Recess; but you might like to bear in mind that we have a definite bid from Peter Walker for a Statement on Friday morning about this week's Fisheries Council and the Agriculture Council which will be taking place while Cabinet is meeting, and a possible bid from the Northern Ireland Office for a Statement on the hunger strike, also to be made on Friday morning. The Business Managers may be unhappy about having two Statements on Friday, since it is a day for timed adjournment debates, but the Agriculture Statement patently cannot be any earlier, and I am sure that everybody will want to be helpful to Mr. Atkins. Both of these items come up later in the discussion.

There is also a considerable row going on about the timing of introduction of the Nationality Bill. A Cabinet Office brief is attached.

MJS

Statements

We are now considering Mr Younger

making a statement on fish today

17 December 1980

MJS

CONFIDENTIAL



Ref. A03833

PRIME MINISTER

Cabinet: Parliamentary Affairs: British Nationality Bill

The Home Secretary intends to ask the Cabinet to reconsider a decision taken today by Legislation Committee about the timing of the introduction of the British Nationality Bill.

BACKGROUND

2. In his paper for Legislation Committee (L(80) 86) the Home Secretary sought agreement for the introduction of the Bill in the House of Commons in January. In his view, supported by the Attorney General and First Parliamentary Counsel, the number of drafting changes to be made to the current print of the Bill and the possibility of more substantial amendment mean that the Bill is not ready for immediate introduction. Legislation Committee, on the strongly-argued case of the business managers in both Houses, took the view that introduction before Christmas was essential for the orderly progress of the legislative programme and that the Bill would not in practice become law this Session if it were not introduced until January. Legislation Committee therefore decided that the necessary printing arrangements should be put in hand for the Bill to be presented on Thursday and published on Friday. The Minister of State, Home Office (Mr. Raison), reserved the Home Secretary's position.

3. The Lord President does not consider that the House of Lords can be asked to endure a lengthy spillover, as happened last Session following the Cabinet's decision not to proceed with the first version of the Local Government, Planning and Land Bill in that House. The Nationality Bill will require lengthy debate in the Lords, and the business managers therefore want it introduced there immediately after Whitsun.

4. The position in the Commons is complicated by the demands of some Members including some Government supporters that, since the Bill is a "constitutional Bill", all stages should be taken on the floor of the House.

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There is no agreed definition of a constitutional Bill, but the claim that the British Nationality Bill is such a Bill has some plausibility. The Commons business managers say, however, that to concede Committee Stage on the floor would be to wreck the rest of the programme. They are equally unhappy at the prospect of using the Government's majority and a guillotine to take the Bill through the normal Standing Committee procedure. That might secure passage through the Commons by Whitsun, but at the cost of further damaging relations with the Opposition and providing the Lords with further reason for a lengthy debate there.

5. Against that background the Chancellor of the Duchy is anxious to take up the suggestion made in the Commons by the Shadow Leader of the House that the Bill might be one of the three Bills examined by the experimental Special Standing Committee procedure. If the Opposition accepted this the rest of the Committee Stage would be "upstairs". The procedure would, however, require another four weeks - hence the demand for immediate introduction and the clear view of the majority of Legislation Committee that without immediate introduction the Bill will be lost.

6. One point not considered by Legislation Committee, which the Cabinet may think relevant, is that publication of such a major and controversial Bill on Friday could attract the kind of criticism attracted by Written Answers on the day before the Recess.

HANDLING

7. You will want the Home Secretary to explain to Cabinet why he wishes to reverse the view taken by Legislation Committee. You may then want the views of the Lord Chancellor as Chairman of that Committee, of the Chancellor of the Duchy and the Chief Whip on the problems in the Commons, and the Lord President on the problems in the Lords. (He is likely to argue that the right course is to defer the Bill altogether until next Session. It has, however, already been deferred once.) The Attorney General, who has been invited for this item, will have a view on the strength of the criticism that might be attracted by publishing a defective Bill. The Foreign and Commonwealth Secretary may also want to comment since the Bill is of vital importance to the Commonwealth and especially the colonies.

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8. The Cabinet might first wish to try and establish the facts:
- (a) Can the Cabinet be assured that the decision of Legislation Committee can in practice be carried out? Have the problems of printing the Bill in time for publication on Friday been resolved? The Home Secretary or the Attorney General may know the answer.
 - (b) How substantial are the amendments that still need to be made to the current print of the Bill? How far would the need to move such Government amendments affect the Government's credibility in putting forward this major and long-awaited piece of legislation? The Home Secretary can give a view.
 - (c) Is it certain that the Opposition will accept reference to a Special Standing Committee with three evidence-taking sessions as a substitute for taking the Committee Stage "on the floor"? In other words, does Mr. Silkin's agreement carry that of Mr. Hattersley and others? The Chancellor of the Duchy of Lancaster can give a view.
 - (d) If the Bill is not introduced until January and then goes to the Special Standing Committee procedure, the "normal" Committee Stage cannot start until about the end of February. Is it then quite impossible to deliver the Bill to the Lords by Whitsun?
 - (e) What is the latest date for the Bill to reach the Lords and still have at least its Committee Stage by the end of July?

9. The Cabinet will then need to form some view on the degree of risk involved to the smooth working of the House of Commons and to the rest of the programme if they decide to support the Home Secretary's view that the Bill cannot be introduced in its present state and that, if necessary, the Government must simply use its majority to force it through the normal Standing Committee procedure. It is essentially that risk that has to be assessed against the risk of introducing a Bill with which neither the sponsoring Department nor the Parliamentary Counsel are satisfied.

CONCLUSION

10. The conclusion might be either:
- (a) to support the decision of Legislation Committee, allow the Bill to be published on Friday, and invite the Chancellor of the Duchy to use his best endeavours to secure its passage with the aid of the Special Standing Committee procedure, or

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(b) to decide that the Bill should not be published now but as early as possible after the House resumes.

11. If they decide on the latter course, the Cabinet might invite the Chancellor of the Duchy of Lancaster, in consultation with the other Ministers concerned, to give further consideration to the best way of handling the Bill with a view to its being available to the Lords by the end of May, and to report back to Cabinet after Christmas.



ROBERT ARMSTRONG

17th December, 1980

CONFIDENTIAL

PM

Nationality Law

Immigration

The Home Secretary's statement (Flag B) received a rather noisy reception from Government backbenchers but only on the question of Irish voters in Britain. He was pressed by Elaine Kellett-Bowman, Ivor Stanbrook, John Biggs-Davison, Jock Bruce-Gardyne and Tristan Garel-Jones to consider including in the forthcoming Bill a change in the existing rules. He was forced in the end to quote what you had said in the House earlier this year.

We will get you a note on all of this for Questions tomorrow.

Apart from that, the points that were raised were technical ones about citizenship and immigration status of various groups who will be affected by the changes. The Home Secretary dealt with all of these points very effectively.

MJS

30 July 1980

012
From: THE PRIVATE SECRETARY



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

30 July 1980

JFH 30/7/80
Dear Mike,

... I enclose a copy of the White Paper on British Nationality Law which is being published at 1.30 pm this afternoon and is to be the subject of a statement by the Home Secretary in the House of Commons.

I am sending copies of this letter and the White Paper to the Private Secretaries to members of the Cabinet, the Minister of Transport, the Chief Whip and Sir Robert Armstrong.

Yours ever,

(J F HALLIDAY)

M A Pattison Esq

TO BE CHECKED
AGAINST DELIVERY

HOME SECRETARY'S STATEMENT ON NATIONALITY: 30 JULY 1980

With permission, Mr Speaker, I will make a statement about the law on nationality.

It has long been recognised that our nationality law is out of date. The previous Government published a Green Paper in 1977. We said in our Election Manifesto that we would introduce a new British Nationality Act. I have published today a White Paper which contains our proposals for legislation. A Bill will be introduced as soon as Parliamentary time permits.

It is widely accepted that we need a new citizenship confined to those who have close connections with the United Kingdom. We propose that this should be known as British Citizenship.

The Green Paper proposed that all those citizens of the United Kingdom and Colonies who did not become British Citizens should become British Overseas Citizens. We have, however, been impressed with the argument that a separate citizenship should be established for the dependencies as a whole. We propose that this should be called Citizenship of the British Dependent Territories. I emphasise that the establishment of this

/separate

separate citizenship will not alter the United Kingdom's obligations and commitments to our overseas territories.

Those who are now citizens of the United Kingdom and Colonies but do not qualify either for British Citizenship or for Citizenship of the British Dependent Territories will become British Overseas Citizens.

Children born in the United Kingdom (or the Channel Islands or the Isle of Man) will normally acquire British Citizenship by birth. But we think that in principle there is a good case for providing, with the safeguards contemplated in the White Paper, that a child of parents neither of whom is a British Citizen and neither of whom is settled here should not acquire British Citizenship solely by his birth in the United Kingdom.

A British Citizen by birth, whether male or female, will transmit his or her citizenship to the first generation born abroad, and, normally, to the first generation only. But children born abroad to Crown Servants who are British Citizens will be citizens by birth, and there will be special provisions for children born abroad to certain other people who have close connections with business and other organisations based in the

/United Kingdom,

United Kingdom, or with some international bodies.

All adults, whether Commonwealth citizens or foreigners, who wish to obtain British Citizenship will do so by naturalisation.

The present automatic entitlement of wives to obtain our citizenship by registration will be ended. Instead, both husbands and wives will be able to apply for naturalisation on the same terms as others, though after three years' residence instead of five.

The present entitlements to acquire citizenship by registration possessed by wives, and by Commonwealth citizens who were settled here before 1st January 1973, will be preserved for an interim period of two years.

After careful consideration, we have decided not to introduce any restrictions on the holding of dual nationality by those people who come here and acquire British Citizenship by naturalisation or registration.

Citizenship of the British Dependent Territories will be acquired under the same general pattern as that proposed for

/British Citizenship.

British Citizenship. This citizenship will not give the right of entry to a dependency other than that with which a person is connected.

British Overseas Citizenship represents in essence the relationship with the United Kingdom held by people connected with countries which were once part of the British Empire, or whose ancestral connections with the United Kingdom or its present dependencies are not sufficiently close to qualify them for British Citizenship or Citizenship of the British Dependent Territories. Children born after the Act comes into force to parents who have become British Overseas Citizens will not themselves hold that citizenship.

I make it clear once again that we shall continue to recognise the special position for immigration purposes of certain United Kingdom passport holders, mainly from East Africa, and we shall maintain our undertaking to continue the special voucher scheme for them.

It will no longer be necessary to use the term "British Subject" as the common status of all people connected with the

/Commonwealth.

Commonwealth. In the Bill, the only expression denoting the common status of all people connected with the Commonwealth will be "Commonwealth citizen".

All those who have citizenship of the United Kingdom and Colonies at the time when the Act comes into force will acquire one of the new citizenships. No one who is then a citizen of the United Kingdom and Colonies will be left without a citizenship. Generally speaking, those citizens who or whose parents or grandparents were born, adopted, naturalised or registered in the United Kingdom will become British Citizens. Those Citizens of the United Kingdom and Colonies from overseas who have been here for five years and are settled will also become British Citizens.

There is a small group of people, formerly stateless and most of them children, who have become patrial by registration overseas and who we think ought to be given whichever citizenship their mothers acquire. Apart from these, every citizen of the United Kingdom and Colonies who is patrial will become a British Citizen and no one who has the right of abode in this country will lose it. In the long term, only British Citizens will have

/the right of

the right of abode. But individual people who are not citizens of the United Kingdom and Colonies but now have the right of abode will retain it. The Bill will not adversely affect the position under the immigration law of anyone who is lawfully settled in the United Kingdom, whether or not he becomes a British Citizen. Nor will it affect our commitment to admit the wives and dependent children of men lawfully settled here.

When the Act comes into force there will be some applications for citizenship still outstanding. The Bill will provide that an application for citizenship which has been properly made and is still under consideration at the time when changes in the law come into effect should be dealt with according to the law at the time when it was made, though if citizenship is granted it will, of course, be whichever of the new ones is appropriate.

Mr Speaker, I commend our proposals to the House.

~~What Inds~~
RESTRICTED

cc:- Press Office

25 July, 1980

The Prime Minister has seen the Home Secretary's minute of 24 July, with which he enclosed a draft statement on Nationality Law which he proposes to make on Wednesday, 30 July.

She is content with the draft.

I am sending a copy of this letter to Robin Birch (Chancellor of the Duchy of Lancaster's Office) and Murdo Maclean (Chief Whip's Office).

M. A. PATTISON

J F Halliday, Esq
Home Office

RESTRICTED

TRK

RESTRICTED

cc Press Office.

1.



PRIME MINISTER

Prime Minister

Content with Home Secretary's proposed statement on Nationality Law, scheduled for Wednesday?

Wm

NATIONALITY LAW

MAD 24/VII

The draft of the White Paper on Nationality Law which was considered at the meeting of Home Affairs Committee on 18th June (H(80)13th meeting) was, after some minor amendments, cleared by our Cabinet colleagues and is being printed.

I am arranging for it to be published at 11 a.m. on Wednesday 30th July, and shall seek permission to make a statement in the House after Questions that afternoon. A written answer to an arranged Question will appear in the official Report published on Tuesday to give notice of publication.

I attach a draft of what I propose to say in the statement. Perhaps I may assume that if I do not hear to the contrary by close of play on Monday 28th July there are no comments on it.

I am sending copies of this minute to our Cabinet colleagues, the Minister of Transport, the Chief Whip and Lord Denham.

Lord

RESTRICTED

DRAFT STATEMENT ON NATIONALITY

With permission, Mr. Speaker, I will make a statement about the law on nationality.

2. It has long been recognised that our nationality law is out of date. The previous Government published a Green Paper in 1977. We said in our Election Manifesto that we would introduce a new British Nationality Act. I have published today a White Paper which contains our proposals for legislation. A Bill will be introduced as soon as Parliamentary time permits.

3. It is widely accepted that we need a new citizenship confined to those who have close connections with the United Kingdom. We propose that this should be known as British Citizenship.

4. The Green Paper proposed that all those citizens of the United Kingdom and Colonies who did not become British Citizens should become British Overseas Citizens. We have, however, been impressed with the argument that a separate citizenship should be established for the dependencies as a whole. We propose that this should be called Citizenship of the British Dependent Territories. I emphasise that the establishment of this separate citizenship will not alter the United Kingdom's obligations and commitments to our overseas territories.

5. Those who are now citizens of the United Kingdom and Colonies but do not qualify either for British Citizenship or for Citizenship of the British Dependent Territories will become British Overseas Citizens.

6. Children born in the United Kingdom (or the Channel Islands or the Isle of Man) will normally acquire British Citizenship by birth. But we think that in principle there is a good case for providing, with the safeguards contemplated in the White Paper, that a child of parents neither of whom is a British Citizen and neither of whom is settled here should not acquire British Citizenship solely by his birth in the United Kingdom.
7. A British Citizen by birth, whether male or female, will transmit his or her citizenship to the first generation born abroad and, normally, to the first generation only. But children born abroad to Crown Servants who are British Citizens will be citizens by birth, and there will be special provisions for children born abroad to certain other people who have close connections with business and other organisations based in the United Kingdom, or with some international bodies.
8. All adults, whether Commonwealth citizens or foreigners, who wish to obtain British Citizenship will do so by naturalisation.
9. The present automatic entitlement of wives to obtain our citizenship by registration will be ended. Instead, both husbands and wives will be able to apply for naturalisation on the same terms as others, though after three years' residence instead of five.
10. The present entitlements to acquire citizenship by registration possessed by wives, and by Commonwealth citizens who were settled here before 1st January 1973, will be preserved for an interim period of two years.

11. After careful consideration, we have decided not to introduce any restrictions on the holding of dual nationality by those people who come here and acquire British Citizenship by naturalisation or registration.
12. Citizenship of the British Dependent Territories will be acquired under the same general pattern as that proposed for British Citizenship. This citizenship will not give the right of entry to a dependency other than that with which a person is connected.
13. British Overseas Citizenship represents in essence the relationship with the United Kingdom held by people connected with countries which were once part of the British Empire, or whose ancestral connections with the United Kingdom or its present dependencies are not sufficiently close to qualify them for British Citizenship or Citizenship of the British Dependent Territories. Children born after the Act comes into force to parents who have become British Overseas Citizens will not themselves hold that citizenship.
14. I make it clear once again that we shall continue to recognise the special position for immigration purposes of certain United Kingdom passport holders, mainly from East Africa, and we shall maintain our undertaking to continue the special voucher scheme for them.
15. It will no longer be necessary to use the term "British Subject" as the common status of all people connected with the Commonwealth. In the Bill, the only expression denoting the common status of all people connected with the Commonwealth will be "Commonwealth citizen".

16. All those who have citizenship of the United Kingdom and Colonies at the time when the Act comes into force will acquire one of the new citizenships. No one who is then a citizen of the United Kingdom and Colonies will be left without a citizenship. Generally speaking, those citizens who or whose parents or grandparents were born, adopted, naturalised or registered in the United Kingdom will become British Citizens. Those Citizens of the United Kingdom and Colonies from overseas who have been here for five years and are settled will also become British Citizens.

17. There is a small group of people, formerly stateless and most of them children, who have become patrial by registration overseas and who we think ought to be given whichever citizenship their mothers acquire. Apart from these, every citizen of the United Kingdom and Colonies who is patrial will become a British Citizen and no one who has the right of abode in this country will lose it. In the long term, only British Citizens will have the right of abode. But individual people who are not citizens of the United Kingdom and Colonies but now have the right of abode will retain it. The Bill will not adversely affect the position under the immigration law of anyone who is lawfully settled in the United Kingdom, whether or not he becomes a British Citizen. Nor will it affect our commitment to admit the wives and dependent children of men lawfully settled here.

18. When the Act comes into force there will be some applications for citizenship still outstanding. The Bill will provide that an application for citizenship which has been properly made and is still under consideration at the time when changes in the law come

into effect should be dealt with according to the law at the time when it was made, though if citizenship is granted it will, of course, be whichever of the new ones is appropriate.

19. Mr. Speaker, I commend our proposals to the House.



Immigration
✓
MHP

FCS/80/111

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Nationality Bill

1. Thank you for sending me a copy of your minute to the Prime Minister of 26 June. As you know, officials and legal advisers from our two Departments are meeting today to discuss a few remaining outstanding points on the proposed new legislation, particularly in relation to our obligations under certain international conventions. We hope to resolve all the points at this meeting and, subject to that, I am content that the draft White Paper should be published.

2. Some of the major dependencies, particularly Hong Kong, will show some anxiety about the proposal to give them a separate citizenship from that of UK belongers and the title that goes with it. However, I am glad that the section indicates that the Government is not committed to the suggested title and we shall have to see what the reactions are to it.

3. I am sending a copy of this minute to the Prime Minister, the members of the Cabinet, the Law Officers and to Sir Robert Armstrong.

C

(CARRINGTON)

Foreign and Commonwealth Office

2 July 1980

Civil Service Department,
Whitehall,
London, SW1A 2AZ

*With the Compliments
of the
Private Secretary
to the
Lord President of the Council*



✓
MAR

Civil Service Department
Whitehall London SW1A 2AZ
01-273 4400

From the Private Secretary

2 July 1980

Stephen Boys Smith Esq
Private Secretary to the Secretary of State
for the Home Department
50 Queen Anne's Gate
LONDON SW1H 9AT

Dear Stephen,

NATIONALITY BILL

Your Secretary of State's minute of 26 June to the Prime Minister asked for any comments to reach you by close of play today. We have one comment on the reference to the manpower implications of the White Paper proposals.

You estimate that there will be a requirement for staff rising to 45 when permanent provisions come into force, but these cannot be "extra" staff in the sense that they will be required over and above the levels you are currently planning for. It was made clear last year (in a letter from Mr Channon's Private Secretary dated 13 July 1979) that this requirement had to be taken into account when you determined what savings you could make in the "options" exercise: there can therefore be no question of it being added to your agreed manpower provision.

I am copying this letter to Tim Lankester at No 10, Paul Lever (FCO), Martin Hall (Treasury) and to David Wright in Sir Robert Armstrong's Office.

*Yours sincerely,
Jim Buckley.*

J BUCKLEY



✓ MAR

Civil Service Department
Whitehall London SW1A 2AZ
01-273 4400

From the Private Secretary

2 July 1980

Stephen Boys Smith Esq
Private Secretary to the Secretary of State
for the Home Department
50 Queen Anne's Gate
LONDON SW1H 9AT

Dear Stephen,

NATIONALITY BILL

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You estimate that there will be a requirement for staff rising to 45 when permanent provisions come into force, but these cannot be "extra" staff in the sense that they will be required over and above the levels you are currently planning for. It was made clear last year (in a letter from Mr Channon's Private Secretary dated 13 July 1979) that this requirement had to be taken into account when you determined what savings you could make in the "options" exercise: there can therefore be no question of it being added to your agreed manpower provision.

I am copying this letter to Tim Lankester at No 10, Paul Lever (FCO), Martin Hall (Treasury) and to David Wright in Sir Robert Armstrong's Office.

*Yours sincerely,
Jim Buckley.*

J BUCKLEY

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TMP

Immigration

10 DOWNING STREET

From the Private Secretary

30 June 1980

Dear John

The Prime Minister has seen the Home Secretary's minutes of 21 and 26 June, reporting H Committee discussion about his proposal for a Nationality Bill, and setting out his intention for the publication timetable.

The Prime Minister has noted the amendments to the proposals which have been agreed as a result of consultation and discussion, and she is content that the draft of the White Paper annexed to his minute of 26 June should be published before the Summer Recess.

You will no doubt be in touch with us about the precise timing of publication in due course.

I am sending copies of this letter to the Private Secretaries to Members of the Cabinet, to Bill Beckett (Law Officers' Department) and David Wright (Cabinet Office).

Yours ever

Mark Pittson

J.F. Halliday, Esq.,
Home Office.

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PRIME MINISTER

Nationality Bill

On 21st June I reported to you briefly on the discussion in the Home and Social Affairs Committee about my proposals for a Nationality Bill.

I have said in Parliament that I intend to publish a White Paper before the Summer Recess and I attach a draft of the White Paper as approved by the Home and Social Affairs Committee. The Bill has a place in the main programme for next Session and should be ready for introduction by the end of this year. It will be a major measure, and in part controversial.

The main proposals are as follows:

(a) New Citizenships

The existing Citizenship of the United Kingdom and Colonies would be replaced by three new citizenships: British Citizenship (for people connected with the United Kingdom); Citizenship of the British Dependent Territories (for people connected with colonies, etc.); and British Overseas Citizenship (for the remaining Citizens of the United Kingdom and Colonies, most of them connected with former dependencies, for example, the United Kingdom Passport Holders from East Africa) (paragraphs 14-17 of the draft White Paper);

(b) The Term British Subject

The use of the term 'British Subject' as a description of the common status held throughout the Commonwealth would be discontinued

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(though it would be retained for the purposes of certain domestic legislation, for example on the right to vote) (paragraph 107);

(c) Citizenship by Birth

Birth in this country would no longer carry with it our citizenship in all cases (paragraphs 41-44). Those children who would not acquire it would be those whose parents are both here for temporary purposes, for example as visitors or students, or are here illegally.

(d) Citizenship by Descent

In this area we are proposing that citizenship should descend in the female line in the same way as in the male line. We propose also to give more generous treatment than at present to the children born abroad to people in Crown Service, and to those of British businessmen. There are certain immigration risks inherent in the proposals for businessmen's children, but the Committee thought this justifiable because of the need to ensure the confidence of our business communities overseas (paragraphs 49-58);

(e) Entitlements to Citizenship under the Present Act

Certain entitlements to citizenship would be discontinued, notably that for Commonwealth citizens who have been settled in this country for a long time (paragraphs 77-78). It is however proposed to allow a period of two years during which existing entitlements could be exercised; ~

(f) Citizenship by virtue of Marriage

It will be proposed that the only advantage accruing to a spouse through marrying a British Citizen should be to be able to apply for naturalisation after three years instead of five. Wives would lose ~

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their present entitlement to acquire citizenship, and those living abroad would in practice be unable to do so. But the tendency nowadays, as exemplified in a recent international Convention, is towards equality of treatment between the sexes; and the alternative to achieving this in the way we propose would in effect mean abandoning immigration control over husbands living abroad (paragraphs 72-76);

(g) Dual Nationality

Earlier proposals to restrict the holding of dual citizenship where another one is obtained by voluntary act, for example by naturalisation, have been withdrawn (paragraphs 86-91) (save possibly where a child has obtained citizenship by means of the concession for businessmen).

Among other features of the proposals are:-

- (a) that it is proposed to make no change in the nationality position of citizens of the Irish Republic; and
- (b) that it is not proposed to introduce a system of appeals against refusals of naturalisation, etc.

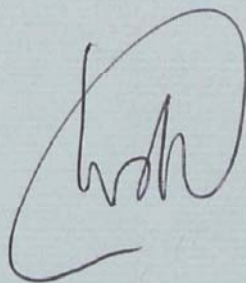
The proposals in the Bill would require extra staff of the order of 20 before Royal Assent, 25 to deal with transitional provisions and 45 when permanent provisions come into force. At 1980-81 prices the cost of the staff in the three periods would be £0.15 million; £0.17 million and £0.3 million respectively. A substantial part of these costs is met by fees charged for grant of citizenship.

I am sending copies of this minute and its enclosure to members of the Cabinet, to the Law Officers and to Sir Robert Armstrong.

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Perhaps I could assume, unless I hear to the contrary by close of play on Wednesday 2nd July, that you and our colleagues are content that the White Paper should be published as drafted.

A handwritten signature in black ink, appearing to be 'L. H. D.', enclosed within a large, loopy circular flourish.

26 June 1980

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1
[week-end]

10 DOWNING STREET

PRIME MINISTER

You asked to have another look at the Home Secretary's draft White Paper on the Nationality Bill but you have not had an opportunity to do so over the last few days.

In the meantime, it has been discussed in H Committee, the Home Secretary has reported to you on that discussion, and he has now minuted you with a further revise of the draft White Paper in the light of H discussion. He now seeks formal authority to go ahead with publication before the Summer Recess.

I attach his submission for publication approval, his report on the H discussion, and the new revise of the draft.

Agree to publication in present form?

Yes

MP

26 June 1980

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WHITE PAPER

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A. INTRODUCTION

1. This White Paper on the law of nationality appears just over 3 years after the publication by the previous Government in April 1977 of a consultative document (a Green Paper) entitled 'British Nationality Law: Discussion of Possible Changes' (Cmdnd 6795). In that document the Government invited comment on a number of ideas for changing the law, which in the main is to be found in the British Nationality Act of 1948.
2. The present Government have studied the comments received both before and since they took office. In all, more than 400 contributions have been received, both from individuals and from representative bodies. Many of the representative bodies have been those concerned with immigrants already in this country. There have been relatively few comments from people connected with the United Kingdom for generations, save in the matter of passing on citizenship to children born overseas. A summary of the principal comments made in the correspondence will be found at Appendix A.
3. The present Government agree with many of the ideas that were put forward in the Green Paper, and they have taken account of the views put forward by correspondents and others. As is generally recognised, the subject is a complex one; work on the preparation of a Bill is in progress, but it will take some time to complete, and it may well throw up further points for consideration. The Government have decided however to publish in this White Paper an outline of their ideas on the shape of the new nationality law.
4. The present Act has been in force for over 31 years, during which there have been great changes in the structure of the Commonwealth. Ideas of citizenship which were suitable in 1948 are no longer so, and our citizenship laws are out of date. Arrangements have now to be devised which will be suitable for the changed circumstances and will endure for a very long time ahead.

The Scope of the Bill

5. The Bill will deal only with the law of nationality, and any consequential amendments to the Immigration Act which will be needed because

the right of abode will have to be defined in terms of citizenship. But proper safeguards will be proposed for those people who are lawfully settled in the United Kingdom* immediately before the Act comes into force, but who do not acquire the citizenship which gives the right of abode.

6. There are of course a number of statutes dealing with other subjects which include references to people's status under nationality legislation. The Government do not think it would be appropriate to include amendments to those statutes in nationality legislation; any changes that are thought necessary can be made when there are other reasons for amending them. This matter is touched on again in paragraph 111.

7. In the course of explaining the Government's proposal it will be necessary to refer to our present citizenship structure, and a summary of the way in which it has developed is given in the Green Paper of April 1977. However, in order to make this White Paper reasonably self-contained the relevant passages in the earlier document, with only minor alterations, are reproduced at Appendix B, together with some estimate of the numbers of people involved.

8. The subject is developed in this White Paper as follows. Part B deals with the new citizenships to be established - three, rather than two as suggested in the Green Paper. Part C sets out the proposed transitional provisions by which the new citizenships will be conferred on people who are Citizens of the United Kingdom and Colonies when the legislation comes into force.

9. Thereafter these new citizenships are dealt with in turn, in Parts D, E and F, each of which is divided to show the various arrangements by which that citizenship will be acquired and lost once the Act is in force. In framing their proposals the Government will take account of the United Kingdom's obligations under relevant international conventions. Part G deals with a number of miscellaneous nationality matters, and part H explains briefly what consequential amendments will need to be made to the Immigration Act 1971 to take account of the new nationality law. Brief explanations of the current law are included as each branch of the subject is dealt with.

10. Appendix C contains a list of dependencies and their populations. Appendix D contains a glossary of nationality terms in present use.

* In this paper references to the United Kingdom include references to the Channel Islands and to the Isle of Man; and references to dependencies do not include them.

B. THE NEW CITIZENSHIPSThe Response to the Green Paper

11. The last Government concluded in the Green Paper that a new scheme of citizenship should reflect the strength of the connection which various groups of people have with the United Kingdom* in the world today; they thought there should be a more meaningful citizenship for those who have close links with the United Kingdom (and who could be expected to identify themselves with British society). They proposed that those holding this new citizenship should be known as British Citizens. The remaining Citizens of the United Kingdom and Colonies should become British Overseas Citizens. These would include people connected with existing colonies and those who, when previous colonies, protectorates, etc became independent, retained our citizenship; as well as those who have become Citizens of the United Kingdom and Colonies in other ways.

12. In response to the Green Paper there was much general support for two citizenships, though there were differences of view about what the scope of each should be. There was however strong support for a separate citizenship for people connected with the United Kingdom. Some correspondents were in favour of separate citizenships for individual dependencies.

13. As to where the boundaries of British Citizenship should be drawn, there was some support for the view that those Citizens of the United Kingdom and Colonies overseas who have no ties with or right of entry into the United Kingdom or an existing dependency - usually referred to as United Kingdom passport holders (UKPH) - should become British Citizens with a right of entry into the United Kingdom rather than British Overseas Citizens with no such right.

The Government's View

14. The Government have given very careful consideration to these questions. They agree with their predecessors that the Citizenship of the United Kingdom and Colonies should disappear altogether, and that everyone holding it at the time of coming into force of the new legislation should acquire a new citizenship; no one should be left without one. They agree also that there

should be a separate citizenship for those people connected with the United Kingdom itself, and that this should be called 'British Citizenship'. The controversial issue, referred to a good deal in correspondence on the Green Paper, is whether the boundaries of British Citizenship should be drawn more widely than was contemplated therein, particularly in the transitional arrangements suggested; and this question is discussed further in paragraphs 20 and 26 below.

15. Next, the Government are impressed with the argument that positive recognition of the status of the remaining dependencies should be given in citizenship terms. They do not think it is really practicable to establish individual citizenships for each of the dependent territories; they vary in size and political organisation. They believe that a better solution would be to establish a separate citizenship for the dependencies as a whole; and they would propose in the Bill that this should be called 'Citizenship of the British Dependent Territories'.

16. The establishment of a separate citizenship for the British Dependent Territories would in no way alter the relationship between those territories and the United Kingdom, nor the Government's obligations and commitments to the dependent territories and to their citizens.

17. The people who are now Citizens of the United Kingdom and Colonies but do not qualify either for British Citizenship or the Citizenship of British Dependent Territories would become British Overseas Citizens.

Entitlement to British Citizenship

18. The Government will propose that when the new nationality law comes into operation the people who should become British Citizens are those Citizens of the United Kingdom and Colonies who have a close personal connection with the United Kingdom. Generally speaking this means those people who or whose parents or grand-parents were born, adopted, naturalised or registered in the United Kingdom (or in the Channel Islands or the Isle of Man). In addition those Citizens of the United Kingdom and Colonies from overseas who have been settled here for some time should also become British Citizens. These provisions are set out in greater detail in paragraphs 32 - 33.

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19. One small group of persons on whom the Government do not think it right to confer British Citizenship as a whole are those formerly stateless persons who have been registered as CUKCs under the British Nationality (No 2) Act 1964 because their mothers are Citizens of the United Kingdom and Colonies. Many of these mothers will, because of their connection with a colony or former colony, acquire Citizenship of the British Dependent Territories or British Overseas Citizenship, and it seems right therefore that these people, most of whom are children, should acquire the same citizenship as their mothers do.

20. The Government do not think it is practicable to suggest, as some correspondents have, that all present Citizens of the United Kingdom and Colonies should become British Citizens with the right of abode here. In 1962 the Government found it necessary to control the entry into the United Kingdom of Citizens of the United Kingdom and Colonies from dependent territories, as well as citizens of independent Commonwealth countries; and in 1968 other Citizens of the United Kingdom and Colonies who were not closely connected with the United Kingdom were made subject to immigration control. Those Citizens of the United Kingdom and Colonies who are connected with a dependency generally have a right of entry to that dependency; and most of those who do not have the right of entry to the United Kingdom or a dependency are well established in their country of residence, and many hold the nationality of those countries.

21. It is worth emphasising that these proposals would affect only those people who at the time of coming into force of the new legislation are Citizens of the United Kingdom and Colonies. There are of course many citizens of independent Commonwealth and foreign countries who are settled in the United Kingdom, that is to say, being ordinarily resident without being subject under the immigration laws to any restriction on the period for which they may remain; but if they hold only a Commonwealth or foreign citizenship there would be no question of conferring our citizenship on them: they are not our nationals and many of them may not wish to become British Citizens. The Bill will not affect adversely their position under the immigration law.

22. With the exception referred to in paragraph 19, no one who when the new Act comes into force is a patrial (that is, who enjoys the right of abode under section 2 of the Immigration Act 1971) would as a result of the

Government's proposals lose that right. Once the Act is in force those people who have become British Citizens would have the right of abode because of their citizenship; and it will be proposed that those citizens of Commonwealth countries who have the right of abode immediately before the Act comes into force and do not qualify for British Citizenship should continue to hold that right for their lifetime.

Eligibility for Citizenship of the British Dependent Territories

23. In parallel with the arrangements for the acquisition of British Citizenship when the Act comes into force, the Citizenship of the British Dependent Territories would be acquired by those Citizens of the United Kingdom and Colonies who have that citizenship by reason of their own, or their parents', or their grandparents' birth, naturalisation or registration in an existing dependency or Associated State. The provisions are set out in greater detail in paragraph 35.

Eligibility for British Overseas Citizenship

24. British Overseas Citizenship would be acquired by all those Citizens of the United Kingdom and Colonies who do not become British Citizens or Citizens of the British Dependent Territories.

25. These fall into two main groups. The first, and much the smaller, consists of people who acquired citizenship by descent from an ancestor (not closer than a great-grandfather) born in the United Kingdom or a dependency. The second, which is very numerous indeed (the numbers cannot be definitely established but may be about 1.5 million altogether) owe their citizenship to their connection with a former dependency. Of the second group the great majority live in Malaysia, and most of them also have Malaysian Citizenship.

26. The Government are aware of the strength of feeling in some quarters that those Citizens of the United Kingdom and Colonies overseas who at present have no other citizenship and/ties with, or right of entry to, the United Kingdom or an existing dependency should become British Citizens with the right of entry into the United Kingdom rather than British Overseas Citizens. But if this group, of which the United Kingdom passport holders from East Africa form the minority, were to have British Citizenship the potential immigration commitment would be so large as to be quite unacceptable.

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27. However, the Government do recognise the special position of certain United Kingdom passport holders/^{mainly} from East Africa, and they will maintain their undertaking to continue the special voucher scheme for them. The essence of this scheme is that heads of households will be able to enter this country with their families at a controlled rate. By the time the new nationality legislation is brought into force many of those eligible for special vouchers will have received them and will have settled in this country. They will then be eligible to become British Citizens under the arrangements proposed in paragraph 33 below.

28. The effect of the Government's proposals would be that everyone who immediately before the new Nationality Act comes into force is a Citizen of the United Kingdom and Colonies would acquire one of the three new citizenships ^{of them}. None / would be excluded.

29. People holding the new citizenships would be eligible to have passports describing them accordingly, and the British Government would be entitled to afford consular protection to the holders of all three citizenships in accordance with international practice.

Other British Subjects and British Protected Persons

30. It is proposed to leave unchanged the status of British Subject without Citizenship save that those who have long been resident in the United Kingdom and are settled here would be able to become British Citizens. It is also intended, as explained in paragraph 110 that the status of Irish people who have made claims to remain British Subjects under section 2 of the 1948 Act should remain unaltered. The status of British Protected Person would remain, although those resident for a long time in the United Kingdom and settled here would be entitled, if they wished, to acquire British Citizenship. Further details of these proposals are in paragraphs 34 and 112.

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C. TRANSITIONAL PROVISIONS

31. The new citizenships, proposed above, would be bestowed on people who are Citizens of the United Kingdom and Colonies at the date of coming into force of the new legislation according to the same general principles as are set out in the Green Paper, with necessary differences to allow for the creation of three citizenships rather than two.

British Citizenship

32. On the day that new legislation comes into effect, British Citizenship would be acquired automatically by those Citizens of the United Kingdom and Colonies:

(a) who have the right of abode in the United Kingdom through their birth, adoption, naturalisation or registration* in the United Kingdom;

(b) who have the right of abode by reason of having a parent or grandparent born, adopted, naturalised or registered in the United Kingdom;

(c) who have been married to a man who becomes or would but for his death have become a British Citizen;

(d) who have come from overseas and who have acquired the right of abode in the United Kingdom through being lawfully settled here.

33. Citizens of the United Kingdom and Colonies from overseas who have been lawfully here less than 5 years, and do not already have the right of abode, would acquire British Citizenship on completing 5 years residence provided they were then free of conditions of stay. (In the meantime they would have become Citizens of the British Dependent Territories or British Overseas Citizens according to the nature of their connection.)

34. The Government think it right that British Subjects without Citizenship and British Protected Persons who are lawfully settled in the United Kingdom should be able to benefit in the same way as the Citizens of the United Kingdom and Colonies referred to in paragraphs 32(d) and 33. But there is the difference that the holder of either of those statuses might find that

* with the exception of those referred to in paragraph 19.

the conferment of British Citizenship would have the effect of making him lose the citizenship of another country which he also holds; and this might be contrary to his wishes. Accordingly, it will be proposed in the Bill that a British Subject without Citizenship or a British Protected Person, lawfully settled here when the Act comes into force, should be entitled to be registered as a British Citizen on making an application, when he has been resident here for 5 years.

Citizenship of the British Dependent Territories

35. Citizenship of the British Dependent Territories would be acquired on the day that the legislation comes into force by a Citizen of the United Kingdom and Colonies:-

- (a) who was born in what is still a dependency or Associated State when the legislation comes into force, or who obtained his citizenship by naturalisation or registration in such a place;
- (b) who has or had a parent or grandparent who was born, naturalised or registered in ^{such} a dependency or Associated State;
- (c) who has been married to a man who becomes or would, but for his death, have become a Citizen of the British Dependent Territories.

British Overseas Citizenship

36. British Overseas Citizenship would be acquired by all those remaining Citizens of the United Kingdom and Colonies who do not become British Citizens or Citizens of the British Dependent Territories. Thus every Citizen of the United Kingdom and Colonies would acquire at least one of the new citizenships. The people who will become British Overseas Citizens are mainly those Citizens of the United Kingdom and Colonies who derive their present citizenship from a connection with a former colony etc; many of them will have another citizenship or nationality.

D. BRITISH CITIZENSHIP - PERMANENT ARRANGEMENTS
FOR ACQUISITION ETC

General Characteristics

37. As has been said above, British Citizenship will be the status of people closely connected with the United Kingdom. It will confer on the holder of it the right to enter and remain in the country without restriction. In this way we should move towards equating that right with citizenship, and so ending the confusion which has existed on this score since it first became necessary in 1962 to limit the right of entry of certain Commonwealth citizens and Citizens of the United Kingdom and Colonies.

38. Apart from this, the Bill, by establishing a British Citizenship, will make available a ready definition of those people who have a close connection with the United Kingdom. At present there is no satisfactory way of defining which people 'belong' to the United Kingdom for international or other purposes.

39. In framing the legislation the Government have been concerned that applicants should demonstrate a real connection with the United Kingdom and suitability for its citizenship. They do not think, for example, that simply because a person has lived in the country for a set time he ought to be able on that ground alone to claim our citizenship. Following the publication of the Green Paper some correspondents pressed for the re-introduction of the entitlement, which Commonwealth citizens formerly had, to obtain citizenship after living here for 5 years. The Government accept that after a definite period people whose stay in the country is free of conditions ought to be enabled to apply for our citizenship; but they think nonetheless that applicants should be expected to demonstrate a real intention to throw in their lot with this country.

40. Some of the more important features of the proposed new British Citizenship are dealt with in the following paragraphs.

British Citizenship by Birth

41. Under the present law people born in the United Kingdom become Citizens of the United Kingdom and Colonies by birth; the only exceptions are in accordance with standard practice, that is, the children of accredited diplomats and children of citizens of an enemy country which had occupied part of the United Kingdom (or of the Islands, as was the case in the Channel Islands between 1940 and 1945). The Green Paper did not suggest any change in the acquisition of British Citizenship in this way. Most people who referred to this in their comments on the Green Paper supported this view, although there were others who urged that a move should be made in the direction of the ius sanguinis by stipulating that a child neither of whose parents holds British Citizenship should not acquire it at birth.

42. The Government consider however that a move to the complete adoption of the ius sanguinis would have a serious effect on racial harmony. It would mean / ^{that} children born in this country to parents who had settled here would not have our citizenship, and this could hinder their integration into the community. But the Government are concerned about the children born here to parents neither of whom is a British Citizen, and neither of whom is free of conditions of stay. Births of this kind occur in a wide range of circumstances: not only for example, to the couple who are here in the country for a short stay, when the birth takes place unexpectedly early; but to others who are here for long periods, but temporarily for example as students; and also to people who have remained here in breach of conditions of entry, or who have entered illegally. In many such circumstances there seems no real justification for continuing to allow the child to have our citizenship unless one of the parents is subsequently accepted for settlement here. It may indeed sometimes be the case that the acquisition of our citizenship will be something of a handicap to a child later in life when he has returned to his parents' country, if the law of that country requires him to renounce other citizenships by a certain time and he forgets to do so.

43. But the Government's main uneasiness on this score is that allowing birth to confer citizenship on such a child means also that after he returns with his parents to their country, his own children, born years later, will be British Citizens by descent. The additional British Citizens so created, with the right of abode here, would form a pool of considerable size, and they would have little or no real connection with the United Kingdom.

44. The Government think there is a good case for imposing some restriction. There would be some administrative and practical difficulties in doing so, and further study of these is being made. If the difficulties can be surmounted, the Government will propose in the Bill that the child of parents neither of whom is a British Citizen and neither of whom is free of conditions of stay, will not acquire British Citizenship solely by his birth here, though he would be entitled to registration if either parent was made free of conditions. In framing this provision regard will be had, as elsewhere in the Bill, to the United Kingdom's obligations under the Convention on the Reduction of Statelessness.

British Citizenship by Adoption

45. The present law provides that when an adoption is authorised by a court in this country and the adoptive parent is a Citizen of the United Kingdom and Colonies the child shall acquire that citizenship automatically as a result of the adoption. But where the adoption is a joint one by a husband and wife, the child acquires citizenship only if the adoptive father is a citizen.

46. In accordance with the Government's desire to move towards equality between the sexes in nationality matters the Bill will provide that where a court order is made in the United Kingdom authorising the joint adoption of a child by parents either of whom is a British Citizen, the child should be able to become a British Citizen.

47. The nationality law at present contains no provision for an adoption overseas to carry with it Citizenship of the United Kingdom and Colonies. The immigration law gives the right of abode to a Commonwealth citizen child adopted in a country whose adoption law has been specified under section 4 of the Adoption Act 1968, by parents one of whom is a Citizen of the United Kingdom and Colonies by birth in the United Kingdom.

48. It may be suggested that we should make provision for a child adopted overseas by parents who are British Citizens to be entitled to British Citizenship. There are arguments in favour of this. But one must bear in mind the likelihood that in some countries children would be adopted solely for the purpose of securing the right of admission to the United Kingdom;

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and the possibility in other cases (eg where the parents are settled overseas) that the child would be unlikely to have any future connection with the United Kingdom. Accordingly, the Bill will not contain any provision which will give an automatic entitlement to British Citizenship as a result of being adopted overseas. It will be possible for a child so adopted to be registered under the Secretary of State's general power to register minor children (see paragraphs 79 to 83 below); and in deciding an application all the circumstances of the child and his adoptive parents would be taken into account.

Transmission of Citizenship by Descent

49. Under the present law Citizenship of the United Kingdom and Colonies is acquired by the legitimate child, born overseas, of a father who is a citizen by birth, adoption, registration or naturalisation in the United Kingdom. In addition it may be acquired by the child of the second and later generation born overseas:

(a) if in each case the father is a citizen and is in Crown Service at the time of the birth; or

(b) if in each case the father is a citizen and the birth takes place in a foreign (not a Commonwealth) country and is registered at a British Consulate within 12 months (or later at the discretion of the Secretary of State).

50. The considerations affecting the acquisition of citizenship by children born abroad were discussed at some length in the Green Paper. The view expressed by the former Government was that as a general rule a new British Citizenship should not be transmitted beyond the first generation born abroad, though they recognised that some circumstances might justify exceptions. A good deal of correspondence from abroad was received on this subject. Most of the people who wrote were in favour of citizenship passing beyond the first generation born abroad if there were close ties with this country such as one of the parents being at the time of the birth in Crown Service, or the service of an international organisation, or working for a United Kingdom-based company overseas.

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51. The Government think it is clearly right that, as indicated in the Green Paper, women should transmit citizenship on equal terms with men to their children born abroad in future, and they will propose accordingly in the Bill.

52. The Government also think that any distinction between births in Commonwealth and foreign countries (such as is contained in the present arrangements for transmission by consular registration) can no longer be justified.

53. The Government do not underestimate the strength of feeling on citizenship by descent, particularly among families of British origin living abroad. It has been urged that the right to pass on citizenship indefinitely to future generations of children by means of registering births at consulates should be extended to people living in Commonwealth countries but the result of doing this, especially when parents of both sexes would transmit, would be to increase enormously the pool of British Citizens living abroad who would nevertheless have the right to come and live here which they would not have under present legislation. As time went on many such children born abroad would have only very tenuous connections with the United Kingdom. The Government could not justify extending generally the grant of citizenship by descent without any limitation on the number of generations to which it would pass.

54. There has also been much correspondence suggesting a more limited measure of transmission, for the benefit of people serving abroad in the service of international organisations and of British based business firms. Some families have a tradition of service overseas which may span many generations, and people who work abroad in this way make a valued contribution to the United Kingdom's economic life, and many of them maintain strong connections with this country although spending a great part, or all, of their lives abroad. There are however other people who have emigrated or who have returned to the countries from which they or their parents came to the United Kingdom. It is relevant to bear in mind two points:

- (a) that in successive generations children born abroad tend to identify themselves more and more with their countries of birth; and after the first generation (or even at an earlier stage) will usually acquire the citizenship of their country of birth;

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(b) that it will be proposed in the Bill that a child born overseas, one of whose parents is a citizen by descent, and who subsequently comes to the United Kingdom with its parents to live, is to be entitled on completing three years here to be registered under the provisions relating to minor children.

55. The Government will propose that as a general rule British Citizenship shall descend only to the first generation of children born abroad to British Citizens who are born in the United Kingdom.

56. The Government think it right however that an exception to this general rule should be made for the children of people who spend a large proportion of their career abroad serving British interests. Many will benefit from the provision that in future women born in the United Kingdom will transmit citizenship to their children born abroad. But in addition the Bill will provide that where a British Citizen by descent can show that he has a continuing close connection with the United Kingdom, his or her minor children will be registered on application as British Citizens. In defining the required close connection a number of factors will be taken into account; but the essential one will be related to the length of time for which, at the time of the child's birth, the parent has been in employment with a business, or certain other types of organisation, based in the United Kingdom. The Government are considering further whether the transmission of citizenship in this way should be made subject to the renunciation of other citizenships.

57. [Later paragraphs will be re-numbered]

58. A separate provision will be included for the children of Crown Servants. This will principally benefit children of members of the Armed Forces and members of the diplomatic service who as a rule do not acquire the citizenship of the country in which they are born. Such parents are based in the United Kingdom but are liable to spend a high proportion of their careers abroad, and it will be proposed that their children born overseas shall become citizens by birth.

Acquisition of Citizenship by Naturalisation - General

59. We come now to the acquisition of citizenship by a voluntary act on the part of an adult person. The word 'naturalisation' has traditionally been reserved for the granting of nationality and citizenship to foreigners and British Protected Persons. But the distinction between naturalisation and registration is blurred, for example because foreign wives and children acquire citizenship by registration, while in recent years following the Immigration Act of 1971, the registration of a Commonwealth citizen on grounds of residence, etc has been by a process very similar to that of the naturalisation of a foreigner. Other countries, eg Australia, use the same term in relation to both classes, and to continue the use of the word 'registration' would do nothing to reduce the confusion in the use of that word. The Government think it would now be better to use the term 'naturalisation' to denote the grant of citizenship to an adult following a period of residence in the United Kingdom, or of Crown Service, and that other types of acquisition should be known as 'registration'. It will be convenient to refer to citizenship acquired by either naturalisation or registration as 'citizenship by grant'.

The Residence Qualification

60. The present ways in which residence may serve as a qualification may be summarised as follows:

(i) an alien may apply for naturalisation on grounds of residence, defined as being one year immediately before the application is made and 4 years out of the preceding 7;

(ii) a British Protected Person may also apply for naturalisation, but in his case the requirement is that there shall be 5 years' ordinary residence;

(iii) certain Commonwealth citizens and citizens of the Irish Republic retain an entitlement to become Citizens of the United Kingdom and Colonies by virtue of section 6(1) of the 1948 Act as modified by the Immigration Act 1971, provided they were settled here before the latter Act came into force on 1 January 1973, and have remained ordinarily resident here since that date;

(iv) other Commonwealth citizens may apply for citizenship at the Home Secretary's discretion by a process akin to that for naturalisation, save that the residence qualification is expressed as being 5 years' ordinary residence.

61. In the Government's view the residential qualification should be such as to demonstrate very clearly that an applicant has thrown in his lot with the United Kingdom and that he intends to regard the United Kingdom as his home. There have been signs that under the present law citizenship has sometimes been sought merely for the convenience of having a United Kingdom passport, and that having obtained one the person concerned has later gone elsewhere to live. The Government do not take the view that citizenship should be available solely for convenience of travel.

62. Neither of the terms 'residence' and 'ordinary residence' has been the subject of interpretation by the Courts for purely nationality purposes. Neither has been found entirely satisfactory in all circumstances, for example where a person who has established some residential connection with the

United Kingdom has returned to his country of origin for a lengthy spell. In framing the requirements the Government will take account of the circumstances most generally encountered, and their proposals are likely to require a period in the United Kingdom similar to that now prescribed for naturalisation but with stipulations concerning the amount of physical presence here and the length of any absences overseas; and with a minimum of 1 year between the date of acceptance for settlement and the submission of an application. The Secretary of State would have discretion in exceptional circumstances to reduce the prescribed periods. It will also be proposed that periods spent here illegally, that is, having entered or remained in the United Kingdom in breach of the immigration law, should not count towards the residence qualification.

The Language Qualification

63. The nature of the language test at present is set out in paragraph 57 of the Green Paper, that is that an applicant should have an adequate command of spoken English (English or Welsh in the case of Commonwealth applicants), and that such factors as the age and capability of the applicant are taken into account in assessing his suitability. The Government's view is that it is right to continue to have a simple language requirement: the Bill will accordingly provide that a candidate for naturalisation must show that he has sufficient knowledge of English or Welsh. The intention would be to continue to take account of the age and general ability of the applicant. But to allow for the exceptional case, in particular where the applicant is elderly or handicapped, the Bill will propose that the Home Secretary should have power in special circumstances to dispense with the language requirement altogether.

The Good Character Requirement

64. The present requirement is that if an applicant is to succeed in an application for naturalisation, or registration at the Secretary of State's discretion, the applicant must satisfy the Secretary of State that he is of good character. This is referred to in paragraphs 53 - 56 of the Green Paper. The limited amount of correspondence that has been received on this topic has tended to favour the introduction of objective tests as to character. But correspondents seem to have given little thought to the question whether alternative standards could be devised to identify the person who could meet the basic tests, but might nevertheless be thought unsuitable for other reasons.

65. The requirement is of long standing. It is admittedly an imprecise one, but it is not easy to devise an adequate substitute. Among the most difficult cases in which decisions have to be made are, for example, people who have not been before the courts but who are known to be engaged in criminal or other undesirable activities, who are heavily in debt, or whose activities are open to objection on grounds of public order or national security. The great variety of circumstances revealed when candidates' backgrounds are investigated mean, in the Government's view, that a purely objective test, based for example, on the Rehabilitation of Offenders Act 1974, would not be effective or sufficient, and would result in ^{some} unsuitable people being naturalised.

66. The real question to be considered is perhaps whether a person who has been living in this country the stipulated time, and has an adequate knowledge of the language and intends to go on living here, should have to meet requirements as to his character. Should the fact of living here be sufficient? There can in the Government's view be no doubt that it would be generally offensive to public feeling if someone with recent criminal convictions were to be able to claim British Citizenship as a matter of course; and the same would apply to people of dubious reputation in other ways, or known to be working against the interests of this country, or to have no sense of loyalty to it. It would not be right to devalue the naturalisation process in this way. Since in the Government's view no objective tests would prove adequate, the Bill will propose that the requirement concerning character should be on the same lines as in the existing law.

The Requirement to Intend, if Naturalised, to Live in
the United Kingdom:

67. An applicant for naturalisation or registration at discretion has to satisfy the Secretary of State that he intends, if granted citizenship, to live in the United Kingdom or continue in Crown Service, or enter Crown Service. This intention is among matters checked in the course of enquiries and it sometimes transpires that the applicant clearly intends to go and live abroad; and sometimes it comes to notice after citizenship has been granted that he has in fact gone abroad, though of course it may have been that the intention was genuinely formed only after the grant of citizenship.

68. As a general proposition it does not seem right that someone who has lived in this country for a relatively short time should be given citizenship as a matter of convenience, in order to facilitate his entry to another country. At one time, while the British Nationality and Status of Aliens Act 1914 was in force, a naturalised person who went to live abroad for 7 years could, if he had not registered with a British Consul be deprived of his (then) British subject status. But to introduce deprivation on similar grounds now would often result in statelessness, since many people on acquiring our citizenship would automatically lose the one they possessed earlier.

69. The Government do not, however, think that people who move on after acquiring our citizenship should be enabled to pass on citizenship further. To do so is against their general intention that the number of British Citizens living abroad with no continuing close connection with the United Kingdom should be limited as far as possible; and they will propose in the Bill that a citizen by grant shall be put on the same footing as a citizen by descent so far as the transmission of citizenship to a child born abroad is concerned. (If the child is born during the parents' temporary absence abroad, its status could be ensured by means of the provisions referred to in paragraph 81 for the registration of minor children.)

Crown Service

70. The present law gives the Secretary of State power to naturalise aliens, and to register Commonwealth Citizens, on the ground of their service to the Crown. In each case grants of citizenship are at discretion, though until the British Nationality Act was amended by the Immigration Act 1971 with effect from 1 January 1973 Commonwealth Citizens had an entitlement to be registered after 5 years service. The people who acquire Citizenship of the United Kingdom and Colonies in this way include locally-recruited staff of diplomatic posts and Service bases overseas, and members of the Armed Forces.

71. The Bill will contain provisions enabling the Secretary of State to naturalise people as British Citizens on the grounds of Crown Service. It is not intended to prescribe any fixed period of service. It is envisaged that grants of Citizenship on these grounds would be made only sparingly. It would not be right, for example, to make them simply on grounds of a period of satisfactory service; citizenship, carrying with it the right of abode in the United Kingdom, is not appropriate as a form of emolument.

Citizenship by Virtue of Marriage

72. The suggestion in the Green Paper that distinctions between the sexes in nationality matters should be ended has met with general support. Under the law as it is at present a woman who has at any time been married to a Citizen of the United Kingdom and Colonies is entitled on application to be registered as one herself. Men, on the other hand, have no such entitlement. The Green Paper commented that to give men this entitlement might have repercussions on immigration, particularly in relation to bogus marriages; and referred to the practice of other countries in placing restrictions on the acquisition of citizenship by both husbands and wives.

73. While the reaction of the public has been in favour of removing distinctions there has been no clear preference for any of the 4 possible options mentioned in paragraph 50 of the Green Paper, viz:

(i) to give men married to citizens the same entitlement which women who are married to citizens now enjoy;

(ii) to give spouses of both sexes who are married to citizens an entitlement to citizenship but to make this subject to a residence requirement of, say, 3 years;

(iii) to treat spouses on the same terms as other applicants for citizenship;

(iv) to treat spouses on the same terms as other applicants for citizenship, but to give both sexes some concessions on the length of residence.

74. The Government could not contemplate a general provision under which all spouses of British Citizens would have an entitlement to acquire citizenship; as pointed out in paragraphs 49 - 50 of the Green Paper, a provision of this kind would inevitably have repercussions on immigration and in particular the possibility that bogus marriages might thereby be encouraged cannot be ignored.

75. In considering what provision should be made in the future the Government have been influenced by the fact that since the 1948 Act was passed ideas on the status of women have changed. They will propose in the Bill that for both sexes the means of obtaining British Citizenship shall be the same, that is that a spouse should first be accepted for settlement in the United Kingdom, but that he or she should be able to apply for naturalisation after a shorter period of residence than the normal one; they will propose 3 years.

76. The Government are aware that there will be a number of women married to Citizens of the United Kingdom and Colonies who when the Act comes into force will not have exercised their entitlement to be registered. Many of them will of course have had good reason for not doing so because, for

example, the acquisition of their husband's citizenship might mean the loss of their own original one. But others may simply have neglected to apply though they would wish to do so. The Government will therefore propose in the Bill that for a limited period after the coming into force of the Act a woman married to a man who becomes a British Citizen, and whose marriage still subsists, should be entitled to obtain that citizenship on applying for registration. They will further propose that a woman formerly married to a man who becomes, or would but for his death have become, a British Citizen may be granted citizenship at the discretion of the Secretary of State.

Cessation of Registration Entitlement Under Section 6(1) of the 1948 Act,
as modified by the Immigration Act 1971

77. Since the coming into force of the Immigration Act 1971 the grant of citizenship on the grounds of residence has, in general, been at the Secretary of State's discretion, and has been subject to the conditions summarised in paragraph 60. However, certain Commonwealth citizens who have been living here for a long time have retained an absolute right to be registered as Citizens of the United Kingdom and Colonies. The people concerned are those who were settled here free of any conditions on their stay on 1 January 1973 and who have remained ordinarily resident here since that date. The Pakistan Act 1973, under which citizens of Pakistan became aliens, preserved for a limited time the right of those who were qualified to apply under this provision; the final date for such applications was 1 September 1979, although the Home Secretary is empowered to accept a later application in the special circumstances of a particular case.

78. The Government consider it inappropriate at a time when for some years the grant of citizenship has been at discretion to continue this entitlement as a permanent feature of the nationality law. Many of those who possess it have done so for a long time, and no Commonwealth citizen can have acquired the entitlement later than the end of 1977. There has been ample time for those who wish to take up the entitlement to do so. However, the Government will include in the Bill a provision enabling people with this entitlement to continue to exercise it, and become British Citizens, for 2 years after the new legislation comes into force; but after then it will cease to exist. They will not provide for the continuance of the discretion to accept late applications under the Pakistan Act.

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Registration of Minor Children

79. Under present legislation the Home Secretary has discretion to register any minor child as a Citizen of the United Kingdom and Colonies. In exercising his discretion he takes account of the citizenship of the parents, the place in which the child is living and is likely to live and other relevant matters; and in considering an application on behalf of a child who is approaching the age of 18 he also has some regard to whether the child would be likely on reaching that age to satisfy the conditions required of an adult applying for naturalisation or registration at discretion.

80. Over and above this, it has been the practice since February 1979 to agree to an application for the registration of the child born and living abroad, of a woman who was herself born in the United Kingdom, provided there is no well founded objection by the child's father. This change in practice was introduced as a means of moving towards equality of treatment for men and women in advance of a change in a forthcoming Bill. Children born abroad in future to United Kingdom born women will, after the Act comes into force, acquire British Citizenship by descent. The numbers of parents applying for the registration of their children are likely to diminish on that account.

81. The Government will propose in the Bill that the Secretary of State's discretionary power to register a minor child shall be continued. But it is intended (see paragraph 54(b)) that a child born abroad to a parent who is a British Citizen who is such by descent or grant, and who subsequently settles in the United Kingdom, shall be entitled to be registered as a minor on completing 3 years here with his parents.

82. Under the present legislation, where the registration of a child born and living overseas is granted by the Secretary of State or on his behalf by a High Commissioner overseas the effect has been to put a child in the same position as if he had been born in the United Kingdom, that is, he may in turn pass on citizenship to his children born abroad. This can result in some anomalous situations: for example, a United Kingdom-born husband and wife whose own children are born abroad would find that their child was a citizen by descent whereas a registered child would pass on citizenship one further generation.

83. Under the Government's proposals, a child born abroad who is registered will be on the same footing as one born abroad who is a citizen by descent.

A Right of Appeal Against the Refusal of Naturalisation
and Registration.

84. The question whether a right of appeal should be provided against the refusal of naturalisation or registration was discussed in paragraphs 59 and 60 of the Green Paper. Some of those who have written in response have supported the idea of a system of appeal; most of them have also been in favour of objective tests for the assessment of an applicant's character.

85. The Government intend to propose that the grant of citizenship shall, with the exceptions mentioned in paragraphs 77, 78 and 81, be at the discretion of the Home Secretary, and that before granting an application for naturalisation he shall have to be satisfied that the applicant is of good character. The Government share the doubts expressed in the Green Paper on whether it would be apt to have an appeals system if good character is to be assessed subjectively on the basis of reports. Accordingly, they will not propose the introduction of a right of appeal.

Dual Nationality

86. Many Citizens of the United Kingdom and Colonies have other citizenships, either by descent or by having been naturalised overseas. As the Green Paper explains, our present law contains no bar on the holding of dual nationality. Most other countries nowadays place restrictions on the holding of dual nationality, and in particular withdraw their citizenship from people who by their voluntary act obtain that of another country.

87. The options open to the United Kingdom are explained in paragraph 62 of the Green Paper as follows:

- (a) to have a complete ban on dual nationality whether it arises voluntarily or involuntarily, with some arrangement for children who are dual nationals to make a choice when they become of age;

(b) to ban dual nationality where it arises voluntarily - our citizens who voluntarily took another citizenship would thereby lose ours, and applicants for our citizenship would have to renounce any other citizenship as a condition of becoming citizens; and

(c) to ban dual nationality only where our citizens voluntarily acquire another nationality.

88. The correspondence received in response to the Green Paper indicated fairly evenly divided views on the subject. Much of the comment was on the lines that since the present tolerance of dual nationality seemed to have worked reasonably well, it should be allowed to continue, and that it would be reassuring to a person settling down here if, when obtaining our citizenship, he could retain his original one. Other people took the opposite view, saying that people from overseas seeking our citizenship should be expected to demonstrate their commitment to this country by giving up their existing one.

89. The Government have considered all the options mentioned in the Green Paper. They are clear that it would be unnecessarily harsh to make someone who had acquired another citizenship involuntarily choose between that and his British Citizenship. They have considered also whether British Citizens should in future be allowed to retain their Citizenship on acquiring another one voluntarily: this would normally be by naturalisation in an overseas country. But it would be very expensive to set up and operate a checking process which was reasonably effective in identifying such cases.

90. There is perhaps a stronger case for requiring an applicant for British Citizenship to renounce his former nationality before his naturalisation becomes complete - if only as a sign that he has a genuine attachment to this country and that he has not sought British Citizenship merely as a matter of expediency. However, this country has absorbed large numbers of immigrants in recent years from both foreign and Commonwealth countries, and it is to be expected that many of them will retain strong links with their countries of birth; and that they would hope, where the law of that country allows, to retain their original citizenship and perhaps pass it on to their children born here. If the retention of that citizenship on becoming a British Citizen will assist them in the process of settling down in this country then the Government would see this as a good reason for our not

requiring them to renounce it.

91. Accordingly, the Government do not propose in the Bill to introduce any restriction on the holding of other citizenships in addition to British Citizenship.

Resumption of Citizenship

92. Under the present law certain persons who have formally renounced Citizenship of the United Kingdom and Colonies as a condition of acquiring or retaining the citizenship of a Commonwealth country have an entitlement to resume their citizenship, on application. The Government think it right to widen this provision by applying it to people who in future have to renounce British Citizenship in order to obtain or keep the citizenship of a foreign country. In making this proposal the Government have in mind particularly the people who wish to acquire their foreign or Commonwealth spouse's nationality but who, if the marriage breaks down, would wish to return to the United Kingdom; and also those people who have settled overseas and have obtained the citizenship of other countries to assist them in their careers, but who would wish to return to the United Kingdom on retirement.

93. The Bill will therefore preserve the entitlement to resume citizenship for those people who have it now under the present law, and will provide also that a British Citizen who in future is required to renounce British Citizenship in order to acquire or retain another citizenship, whether foreign or Commonwealth, shall be able to resume British Citizenship. The Secretary of State will also have discretion to allow a person who renounced his British Citizenship for any other reasons to resume it. A person who resumes citizenship will be a British Citizen by birth, descent or grant according to the way he formerly held it. A person would be able to resume citizenship under this provision once only.

Renunciation of Citizenship

94. The Bill will contain provision enabling a British Citizen to renounce his citizenship if he either possesses, or is about to acquire, another one. The provision will be on the same lines as that contained in the present law.

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Deprivation of Citizenship

95. The present law contains provisions under which people who have acquired naturalisation or registration by fraud or false representation may be deprived of their citizenship; and naturalised people may be deprived on grounds of disloyalty or (in wartime) trading with the enemy. Suitable provision to deal with such matters will be included in the Bill.

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E. CITIZENSHIP OF THE BRITISH DEPENDENT TERRITORIES.

General Characteristics

96. The general nature of this citizenship has been referred to in paragraph 23 . The Government's proposal will be that on the coming into force of the Act it should be conferred on those Citizens of the United Kingdom and Colonies with close connections with a dependency. These dependencies are:

Belize, Bermuda, British Antarctic Territory
British Indian Ocean Territory, British Virgin Islands,
Cayman Islands, Falkland Islands and dependencies,
Gibraltar, Hong Kong, Montserrat,
Pitcairn Islands Group, St Helena and dependencies, and the
Turks and Caicos Islands.

97. In addition to the dependencies this citizenship may for the time being cover both of the remaining Associated States in the West Indies, that is Antigua and St Christopher-Nevis-Anguilla. These countries are independent of the United Kingdom, save in a few respects of which nationality is one. The estimated total number of citizens of the dependencies and the Associated States is about 3 million.

98. It is to be expected that when any of the dependencies becomes independent in the future, and as the Associated States achieve full independence, the people who hold Citizenship of the British Dependent Territories solely by connection with those territories will, unless they have close connections with other remaining dependencies, lose Citizenship of the British Dependent Territories as part of an independence settlement for which legislation would be passed at Westminster. This would be in accordance with what has been done on numerous occasions in the recent past when dependencies have obtained independent status.

99. It will be possible for a person to be a Citizen of the British Dependent Territories by connection with more than one dependency; for example, he might acquire citizenship by birth in one, and by descent because his father was born in another.

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100. A Citizen of the British Dependent Territories will be eligible for a passport describing him as such. In addition, dependencies will be able to continue to issue passports with the name of the dependency on the cover and on the title page.

Acquisition and Loss of Citizenship of the British Dependent Territories

101. The means by which Citizenship of the British Dependent Territories will be acquired and lost will follow the same general pattern as that proposed above for British Citizenship. It will be proposed that a child born in a dependency shall become a citizen of the British Dependent Territories, with perhaps an exception similar to that envisaged for British Citizenship in paragraph 44, where neither parent holds Citizenship of the British Dependent Territories and neither is free of immigration control. In naturalisation, the language requirement would differ slightly from that proposed for British Citizenship in that an applicant would be able to qualify by his knowledge of a language recognised in the dependency for official purposes as an alternative to English. Provision will also be made for people in Crown Service under the Colonial Government to be naturalised at the discretion of the Governor.

102. It is likely that in other respects, for example, for citizenship by descent in both the male and female lines and the registration of minor children, and for resumption, renunciation and deprivation, the provisions will be on the same lines as are described for British Citizenship.

Right of Entry to Dependencies

103. It will be necessary, because of the need of dependencies to impose controls on immigration, to restrict the right of entry to each of them to those citizens of the British Dependent Territories who are such by reason of a connection with that territory.

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F. BRITISH OVERSEAS CITIZENSHIP

General

104. The nature of British Overseas Citizenship has been referred to in paragraph 36 above. In essence it is that British Overseas Citizenship represents the relationship with the United Kingdom held by people connected with countries which were once part of the British Empire; or whose ancestral connections with the United Kingdom or its present dependencies are not sufficiently close to qualify them for British Citizenship or Citizenship of the British Dependent Territories. When the Bill comes into force all Citizens of the United Kingdom and Colonies who do not qualify for British Citizenship or Citizenship of the British Dependent Territories would become British Overseas Citizens. It would be contrary to the general principles to be embodied in the new Act to include a general provision for people with these distant connections to pass on citizenship further. Some children of British Overseas Citizens may be born stateless because the country in which they are born does not grant its citizenship to persons born within their territory even if the parents are settled there. While account will be taken of the United Kingdom's obligations under the international Convention on the Reduction of Statelessness, it is generally understood internationally that the responsibility for remedying this situation rests primarily on the country of birth.

105. British Overseas Citizens living in British territories would have the opportunity of acquiring one of the other citizenships on satisfying the requirements for naturalisation laid down. The holder of British Overseas Citizenship would be entitled to protection overseas in the same way as any other British national, and would be eligible to hold a United Kingdom passport describing his citizenship; but his citizenship would not carry with it the right of abode in any British territory.

106. The proposed change of title would in no way affect the eligibility of certain United Kingdom passport holders, mainly from East Africa, to participate in the Special Voucher Scheme which, as already mentioned in paragraph 27, the Government intend to continue.

G. OTHER NATIONALITY MATTERSThe Status of British Subject

107. The term 'British Subject' has a long history, and in the 1948 Act it was preserved as being the common status of all people connected with the Commonwealth. It was laid down in the Act that the terms 'British Subject' and 'Commonwealth citizen' were to be synonymous for that purpose. As time has gone on more and more Commonwealth countries have either dropped the term 'British Subject' or, on becoming independent, have not adopted it. The result is that at present the term is used as a common status in nationality law only by the United Kingdom and Australia. The Government have carefully considered the use of this term. It is out of date as a description of all people connected with the Commonwealth and it is no longer needed for common status purposes; 'Commonwealth citizen' will serve that purpose satisfactorily. Apart from this there is the point that with the adoption of titles such as 'British Citizen', the additional status of 'British Subject' might be confusing. 'British subject' is also used in the current law to denote the status held by certain people such as British Subjects without citizenship, and those Irish people who have asserted their right to it having held it before 1949. As will be explained below these particular titles will be continued; but in the Bill the only expression denoting the common status of all people connected with the Commonwealth will be 'Commonwealth citizen'.

British Subjects without Citizenship

108. These people are referred to in paragraph 7 of the Green Paper which also explains that since no one born after 1948 can hold the status the numbers are declining. Those who are settled in the United Kingdom, will under the proposals in paragraph 34 above, be able to apply to become British Citizens. The Government will propose that the status of the remainder should be preserved, as would that of women who have been registered as British Subjects by virtue of marriage to husbands who are British Subjects without Citizenship.

Citizens of the Irish Republic

109. The status of Citizens of the Irish Republic in United Kingdom law is that they are neither British Subjects nor foreigners. They apply for Citizenship of the United Kingdom and Colonies under the same rules as apply

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to Commonwealth citizens; and they have the particular concession under section 2 of the 1948 Act of being able to claim, if they were born before 1949, to have remained British Subjects.

110. Some correspondents have questioned whether the special status that the Irish have in our nationality law should remain. The Bill will provide that an Irish Citizen who wishes to acquire British Citizenship will have to satisfy the same conditions for naturalisation as apply to citizens of Commonwealth or foreign countries. As to the privilege referred to in the previous paragraph, the Government consider that with the long historical connection between the United Kingdom and what is now the Republic of Ireland, and the close inter-relationship between families in both countries, the situation should be left unchanged. Accordingly the Bill will provide that Citizens of the Irish Republic who have the right contained in section 2 of the 1948 Act, should continue to be able to exercise it in future; the same would apply to women who can claim British Subject status by virtue of marriage to such Irish Citizens.

The Use of 'British Subject' in Other Statutes

111. The term 'British Subject' is used in a number of other United Kingdom statutes to define certain rights and privileges. Among these are the statutes governing the right to vote, the eligibility to serve on a jury, to take certain employment in the public services, and to hold certain ranks in the Armed Forces. The Bill will provide that where a statutory duty or entitlement is expressed in terms of British Subject, it should continue to have the same meaning as it had under the 1948 Act. But the Bill, by establishing a British Citizenship, will make available a ready definition by which those duties or entitlements may be re-defined in the future. It would not necessarily follow that these would always be attached to the holding of British Citizenship; there might be instances in which the present wider definition would remain desirable.

British Protected Persons

112. These are people connected with Protectorates and Protected States and their status is regulated by the British Protectorates, Protected States and Protected Persons Order made under the 1948 Act. Apart from Brunei, which is

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still a protected state in a limited sense, there are now no territories under British protection, and the number of British Protected Persons remaining is thought to be about 140,000. It will be proposed in the Bill that the status shall be retained, and the Bill will include the power to regulate it by Order in Council. The current Order provides that on acquiring another nationality by voluntary act a British Protected Person shall lose that status, and it is intended to continue this provision.

Miscellaneous Provisions

113. It will be necessary to include in the Act a number of provisions necessary to the working of it and these are likely to be on the same general lines as those contained in the 1948 Act. They will, among other things, give power to the Secretary of State to make regulations to delegate certain of his powers to Governors of the dependencies and to Lieutenant Governors of the Channel Islands and the Isle of Man; to provide that people acquiring any of our citizenships who are not already citizens of a country of which Her Majesty is Queen must take an oath of allegiance before the grant of citizenship becomes effective; to prescribe penalties in conviction of making false statements in connection with applications; and for the charging of fees.

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H. CONSEQUENTIAL AMENDMENTS TO THE IMMIGRATION ACT

114. The introduction of British Citizenship conferring the right of abode in the United Kingdom will call for consequential amendments to the Immigration Act, and the proposed Nationality Bill will include these. Much of the amendment will consist of the replacement of the term 'patrial' which will no longer be required, by reference to 'British Citizen'. The effect of these provisions will be that, in the long term, the right of abode in the United Kingdom will depend exclusively on the possession of British Citizenship. But the right of abode at present enjoyed by ^{certain categories of} Commonwealth citizens, who will not become British Citizens under the transitional provisions of the Bill will not be affected.

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APPENDIX A

COMMENTS ON THE GREEN PAPER SENT IN BY THE PUBLIC AND REPRESENTATIVE ORGANISATIONS.

1. Up to date over 400 letters have been received from members of the public and interested bodies. Some of the correspondents have published their comments. All the suggestions were carefully considered before the proposals in this Paper were formulated. The more important ones are mentioned below, with some further comments by the Government.

Two Citizenships

2. Most correspondents were in favour of a citizenship for those connected with the United Kingdom. A few correspondents advocated a single British Citizenship, with a right of entry to the United Kingdom for everyone who is at present a citizen of the United Kingdom and Colonies; but there was more general support for the idea of two citizenships on the lines suggested in the Green Paper.

3. There were different opinions, however, as to where the boundaries of British Citizenship should be drawn, and appreciable support for the view that those Citizens of the United Kingdom and Colonies who have no ties with, or right of entry to, the United Kingdom or an existing dependency - in particular those United Kingdom passport holders in East Africa and India - should become British Citizens rather than British Overseas Citizens. British Overseas Citizenship in this context was seen as a second class citizenship, and concern was expressed that some children of British Overseas Citizens might be stateless.

4. Some correspondents were in favour of separate citizenships for the dependencies, rather than having a common British Citizenship on the lines described in the Green Paper. It will be seen from paragraphs 15 and 16 of the White Paper that, in view of the strength of feelings expressed by correspondents, and the colonies themselves, it is now proposed that there should be a separate citizenship of the British Dependent Territories in addition to British Citizenship and British Overseas Citizenship.

Terminology

5. There were several interesting suggestions for the use of different terminology, such as 'United Kingdom Citizen' rather than British Citizen, and 'British National (citizen of the relevant dependency)' instead of British Overseas Citizen.

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Allegations of Discrimination on Racial Grounds

6. It was alleged by some correspondents that the ideas in the Green Paper discriminated between Citizens of the United Kingdom and Colonies on grounds of race; but this is not so. The proposal was that everyone born in this country, irrespective of the colour, race or nationality of the parents, would become British Citizens automatically, as would those people who had acquired Citizenship of the United Kingdom and Colonies by naturalisation or registration here. And a person born abroad would have British Citizenship automatically, with the right of entry to this country, if the father or mother was a British Citizen by birth or naturalisation etc. in this country.

Transmission of Citizenship by Women.

7. There was general agreement with the Government's view that women should have the right to transmit their British citizenship to children born abroad on the same terms as men.

Transmission of Citizenship Beyond the First Generation

8. There has been a large amount of correspondence, both from individuals living abroad, and from people representing British firms overseas, about the transmission of citizenship. Without exception, they were in favour of citizenship passing beyond the first generation born abroad, perhaps by consular registration, if there were close ties with this country or special circumstances, such as the parents being in Crown Service or working for international organisations at the time of the birth. Paragraphs 56 and 58 of the White Paper set out the special arrangements proposed for such people.

Citizenship by Marriage

9. There was also general agreement that men and women should be treated equally in the matter of acquiring their spouse's British Citizenship, but there was no consensus of opinion on which of the four options for achieving this as set out in the Green Paper should be adopted.

Naturalisation

10. It was generally felt that the language test should be retained but administered flexibly where the situation merits this, as in the case of elderly people. Opinion was divided on the suggestion that objective tests

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of character might be substituted for the present subjective assessment. Associations representing the ethnic minorities favoured objective tests, and a right of appeal against refusal of naturalisation.

Dual Nationality

11. Comment on the ideas put forward on dual nationality was divided, many correspondents being in favour of there being no bar to the holding of more than one citizenship. Nearly all the comments received from people living abroad were opposed to any restriction on dual nationality.

Citizens of the United Kingdom and Colonies From Overseas Now Living in the United Kingdom

12. The suggestion in the Green Paper (paragraph 21) that those Citizens of the United Kingdom and Colonies from overseas who are now resident here should, in general, be granted British Citizenship because, for the most part, they will have established a tie with this country through their residence here on a permanent basis, was generally welcomed. The Government's proposals on this subject will be found in paragraph 32 of the White Paper.

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Commonwealth Citizens Living in the United Kingdom

13. Some correspondents were uncertain about the nationality position under any new nationality legislation of citizens of independent Commonwealth countries lawfully settled here who had not acquired Citizenship of the United Kingdom and Colonies. They would of course be able to continue to live here as Commonwealth citizens and to seek British Citizenship if they so desired. But it would be contrary to international practice to confer our citizenship automatically on people who are not our nationals, and in any event not all Commonwealth citizens living here would want our citizenship for they could thereby lose their original citizenship under the law of their country of origin. Those with a preserved entitlement to registration under section 6(1) of the British Nationality Act 1948 will be given a further period in which to exercise that entitlement.

Civic Rights

14. A number of correspondents considered that the question of civic rights and duties should have been discussed; but it was explained in the Green Paper (paragraph 66), that civic privileges do not stem directly from the law of nationality and that this was the reason they were not dealt with.

Eligibility for a Passport

15. It has also been suggested that every citizen should have the right to a passport. The Government are considering this suggestion.

NATIONALITY LAW UP TO THE PRESENT

(The account which follows was contained in paragraphs 3 - 12 of the Green Paper. Some adjustments have been made to the figures of population to bring them up to date so far as is possible.)

Before 1949

1. Before 1 January 1949 when the 1948 Act came into force, everyone who owed perpetual allegiance to the British Monarch (for example, by birth in the United Kingdom, a Dominion or a Colony) was a British subject. There were also large numbers of people to whom British protection had been granted (British Protected Persons). But the need to identify the people of each self-governing Dominion by means of a distinct national status more narrowly defined than British nationality was increasingly felt in those countries. Eventually, in 1946, Canada created its own citizenship, although still within the framework of British subject status. After a conference held in London in 1947, the other independent countries of the Commonwealth followed suit, as have other countries on achieving their independence within the Commonwealth. Under the new arrangements, each country was to determine who were its citizens, to declare those citizens to be British subjects, and to recognise as British subjects the citizens of other Commonwealth countries. However, each country was left free to decide what this recognition should entail, so that the content of British subject status has come to vary widely within the Commonwealth.

The British Nationality Act 1948

2. The Act of 1948 introduced these principles into United Kingdom law. It created a Citizenship of the United Kingdom and Colonies, with the continuing status of British subject, and laid down rules for its acquisition. It was relatively simple to provide how this status should be acquired in future, but it was more difficult to decide which of the British subjects then alive should become Citizens of the United Kingdom and Colonies. The Act gave that citizenship not only to British subjects then alive who had ties with the United Kingdom, the Channel Islands and the Isle of Man, or with a Colony, but also gave it to some British subjects who did not, for one reason or another, acquire the citizenship of another Commonwealth country. But most of the

Commonwealth countries which were then independent had yet to pass their citizenship laws, and the 1948 Act therefore provided that British subjects who had ties with those countries should be regarded as potential citizens of them. These people remained British subjects but had to wait for a final determination of their status until the countries with which they were associated were deemed to have passed citizenship laws (or until they acquired citizenship of another Commonwealth country or of the Republic of Ireland in some other way, or became aliens). Only if they then failed to obtain a citizenship would they become citizens of the United Kingdom and Colonies. In the meantime they were to hold the temporary, non-transmissible, status of British Subject without Citizenship.

3. The Act also provided that all those holding Citizenship of the United Kingdom and Colonies or of a Commonwealth country should be regarded in United Kingdom law as British subjects (or Commonwealth citizens - the terms were to be synonymous), and exempted them from the disabilities of aliens. Citizens of Eire were similarly exempted, and those who were alive when the Act came into force and had been British subjects with ties with the United Kingdom were enabled to give notice to remain so. The Act made it easy for a citizen of a Commonwealth country who had come to live in the United Kingdom to acquire Citizenship of the United Kingdom and Colonies; he had merely to show that he had been ordinarily resident here for 12 months. Other provisions of the Act enabled British women who married foreigners to keep their citizenship on marriage (before the Act they had automatically ceased to be British subjects), and gave women from other countries who married Citizens of the United Kingdom and Colonies the right to acquire their husband's citizenship, on application. But British women could not in any circumstances transmit their citizenship to their children born overseas, and the husbands of British women had no right to acquire their wives' citizenship. The Act was followed by an Order which made new arrangements for the status of British Protected Persons.

4.

It is worth emphasising that the 1948 Act dealt with nationality and citizenship but not with the control of immigration to the United Kingdom. At that time British subjects/Commonwealth citizens were entitled to enter and leave the United Kingdom freely; it was not until 1962 that any of them became subject to immigration control.

Changes since the 1948 Act

5. The scheme set up under the Act has met with various difficulties. First, the status of British Subject without Citizenship, which was intended to be transitional, has persisted. This is because India and Pakistan enacted citizenship laws in 1950 and 1951 which withheld citizenship from many people who had derived their status of British subject from their connection with those territories and who were regarded by the British Government at the time of the passing of the 1948 Act as potential citizens of those countries. The United Kingdom did not feel able to grant Citizenship of the United Kingdom and Colonies to all these people from India and Pakistan who had failed to acquire such citizenships. They often had no connection with the United Kingdom or a Colony then existing. The status of British Subject without Citizenship has therefore remained in existence longer than originally expected, but as people have obtained other citizenships they have ceased to hold it, and since it relates to people born before 1949, the numbers are diminishing.

6. Other problems developed as more countries of the Commonwealth became independent. Some of these countries did not, at independence, confer their citizenship on all the Citizens of the United Kingdom and Colonies who had ties with them. Kenya, for instance, did not give its citizenship automatically to Citizens of the United Kingdom and Colonies born in Kenya before independence unless one parent had been born there. There were similar problems with British Protected Persons linked with some territories. So significant numbers of people, for instance in East Africa and Malaysia, did not acquire local citizenship on independence and remained Citizens of the United Kingdom and Colonies or British Protected Persons even though they had no close connections either with the United Kingdom or with one of the remaining Colonies. Often they hold no other citizenship.

7. Over the years the 1947 Act has been amended about 40 times. There have been various reasons for this. A large number of Colonies have become independent and it has been necessary to withdraw Citizenship of the United Kingdom and Colonies from people who acquired citizenship of the newly independent country but had not at the same time a close connection with the United Kingdom or a continuing Colony. Other amendments have been needed when countries, for example South Africa and Pakistan, have left the Commonwealth,

to provide that although their nationals were henceforward foreigners in United Kingdom law they were to continue, for a limited time, to retain their eligibility to acquire our citizenship by registration as if they had continued to be Commonwealth citizens, rather than by naturalisation. Important amendments in the qualifications for acquiring Citizenship of the United Kingdom and Colonies were made in the Commonwealth Immigrants Act 1962 and the Immigration Act 1971. Apart from these amendments there have been others, for example to meet the United Kingdom's obligations under international agreements. As a result of these numerous amendments British nationality law has become difficult to follow.

8. The most serious drawback to the status of Citizen of the United Kingdom and Colonies is that it does not provide a ready definition of who has the right of entry to the United Kingdom. In most other western countries, citizens - and citizens only - automatically have the right of entry. Under our system, a Citizen of the United Kingdom and Colonies may not have any close ties with the United Kingdom, or even with a remaining Colony. So, when successive Governments found it necessary to control immigration from the Commonwealth, they found themselves obliged to distinguish between the Citizens of the United Kingdom and Colonies whose close ties with the United Kingdom gave them a claim to be freely admitted here, and the remainder. These distinctions within a common citizenship have been hard to follow.

Numbers

9. Altogether there are about 950 million people throughout the world who are 'British Subjects' in our law. Most of them, of course, are citizens of independent Commonwealth countries. Of the rest, 57 million are Citizens of the United Kingdom and Colonies by reason of their close connection with the United Kingdom itself and are exempt from United Kingdom immigration control. A further 3 million are Citizens of the United Kingdom and Colonies by virtue of a close connection with an existing dependency. They do not have the right of entry to the United Kingdom, but they do almost invariably have the right of admission to a dependency.

10. When one turns to the remaining Citizens of the United Kingdom and Colonies it is impossible to give precise figures; first, because in many countries there is no form of national registration leading to census figures; and second, because there is no requirement on our nationals living abroad to register with, or report their presence to, our diplomatic missions. Subject to these reservations, the following estimates can be given. There are believed to be about 200,000 Citizens of the United Kingdom and Colonies, mostly in Malaysia, India and Africa who, deriving their status from former dependencies, have no right of entry to the United Kingdom or an existing dependency. (The numbers in East Africa are declining as a result of admission here under the special voucher scheme which the Government intend to continue.) Then there are thought to be some 3 million Citizens of the United Kingdom and Colonies (1 million in this country) with dual nationality who are exempt from United Kingdom immigration control, and a further 1.3 million (mostly in Malaysia) who are subject to such control. Many of those Citizens of the United Kingdom and Colonies without rights of entry to either the United Kingdom or a dependency are well established in their countries of residence even when they do not have dual citizenship. Finally, it should be added that there are believed to be at least 50,000 British Subjects without Citizenship, and over 140,000 British Protected Persons; nearly all of these people are living abroad and are subject to immigration control. About 140,000 Irish citizens have made formal claims under section 2 of the 1948 Act to remain British subjects (see paragraph 3 above).

The present situation

11. The Act of 1948 reflected the situation of the United Kingdom at that time. The country was still an Imperial power; it had direct responsibility for very large populations in Colonial territories. The status of British subject, held by all who had links with the Commonwealth, still seemed meaningful and relevant. The speed at which Colonial territories were to become independent was not then generally apparent. Women's status lagged considerably behind that of men. All these things have changed, and the cumulative effect of the changes has been that the citizenship laws of the United Kingdom no longer accurately define those who have the normal attributes of citizenship. This in turn leads to considerable uncertainty and misunderstanding, both at home and overseas, about the United Kingdom's obligations to its citizens.

APPENDIX C

EXISTING DEPENDENCIES

<u>COLONIES</u>	<u>ESTIMATED POPULATION</u>
Belize	150,000
Bermuda	57,000
British Antarctic Territory	-
British Indian Ocean Territory	-
British Virgin Islands	10,500
Cayman Islands	10,500
Falkland Islands & dependencies	2,000
Gibraltar	27,000
Hong Kong	5,000,000
	of whom 2,600,000 are citizens of the United Kingdom and Colonies
Montserrat	11,500
Pitcairn Islands Group	61
St Helena & dependencies	5,150
Turks and Caicos Islands	7,000

ASSOCIATED STATES

Antigua	72,000
St Christopher-Nevis- Anguilla	52,000

NOTE: It is not possible to state the precise number of Citizens of the United Kingdom and Colonies living in each of the dependencies, but, with the exception of Hong Kong, most of the people living in them are such citizens.

APPENDIX D

GLOSSARY

1. This glossary is intended merely as an explanation of the various terms and expressions used in the paper; it has no legal authority as an interpretation of those terms or expressions and, in particular, when referring to the holders of a nationality status it assumes that the persons concerned have not renounced or forfeited it.

2. The following terms and expressions are used in the British Nationality Acts.

a. British subject/Commonwealth citizen

These terms are synonymous. Citizens of the United Kingdom and Colonies and citizens of the independent Commonwealth countries all hold the additional status of British subject/Commonwealth citizen. There are also persons whose basic status is British subject and who do not possess the citizenship of any Commonwealth country (see references below to British Subjects without Citizenship, British subjects by virtue of section 2 of the British Nationality Act 1948, and British subjects by virtue of section 1 of the British Nationality Act 1965).

b. Citizen of the United Kingdom and Colonies

This status is held by:

- i. persons who, or whose fathers, were born, naturalised, or registered under the British Nationality Acts in the United Kingdom, the Channel Islands or Isle of Man, or in any of the remaining colonies, or in any of the Associated States in the West Indies;
- ii. persons born in foreign countries whose fathers were Citizens of the United Kingdom and Colonies by descent and whose births have been registered at a British Consulate;
- iii. persons who, or whose fathers, derive their citizenship from a connection with a former colony or other dependency but who did not acquire the new country's citizenship automatically at independence;

iv. certain persons who have been adopted in the United Kingdom by a Citizen of the United Kingdom and Colonies.

c. British Subject without Citizenship

British Subjects without Citizenship are persons born before 1 January 1949 who were British subjects by reason of their connection with former British India but did not become citizens of India or Pakistan when those countries introduced their own citizenships after independence, usually because they were not living in one of them at the time.

d. British subjects by virtue of section 2 of the British Nationality Act 1948

These are citizens of the Republic of Ireland, born before 1 January 1949, who were then British subjects and have remained British subjects by making a formal claim under section 2 of the 1948 Act.

e. British subjects by virtue of section 1 of the British Nationality Act 1965

These are women who have been registered as British subjects under the 1965 Act by reason of their marriage to a British subject without citizenship (c. above) or a British subject by virtue of section 2 of the 1948 Act (d. above).

f. British Protected Persons

British Protected Persons are not British subjects/Commonwealth citizens; nor are they aliens. Most of those remaining are nationals of Brunei. Some are persons who were connected with former protectorates or former trust territories but have not become citizens of those countries.

g. Aliens

An alien is a person who is not:

i. a British subject/Commonwealth citizen;

ii. a British Protected Person; or

iii. a citizen of the Republic of Ireland.

The term "foreigner" has no meaning in British nationality law, though nowadays it is generally preferred to the term "alien". Other expressions such as "British citizen", "British national", "United Kingdom citizen", and "citizen of the United Kingdom", although commonly used, have no meaning in current nationality law.

3. The expression "United Kingdom national for European Community purposes" is not defined in current nationality law - it covers persons who:-

- a. have a national status as at 2b., c., d. or e. above, and who have the right of abode in the United Kingdom and are therefore exempt from United Kingdom immigration control;
- b. are Citizens of the United Kingdom and Colonies by birth or by registration or naturalisation in Gibraltar, or whose fathers were so born, registered or naturalised.

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PRIME MINISTER

NATIONALITY BILL

Earlier this month, I circulated the draft of a White Paper setting out our proposals for a new Nationality Bill to my colleagues in the Home and Social Affairs Committee.

Subject to one important change, the Committee agreed the draft White Paper, and I shall shortly be circulating it to our Cabinet colleagues seeking approval for publication.

The Committee were agreed that in future the existing citizenship of the United Kingdom and Colonies should be replaced by three new citizenships, viz. British Citizenship (for people with close connections with the United Kingdom) which would confer on the holder the right to enter and remain in the country without restriction; Citizenship of the British Dependent Territories (for those connected with the Colonies and the remaining Associated States); and British Overseas Citizenship (for the remaining citizens of the United Kingdom and Colonies). This latter category of citizenship would not be transmitted to future generations, and would eventually disappear.

The main discussion in the Committee centred on the proposals for the transmission of British Citizenship by descent to children born overseas, particularly the children of Crown Servants, and of those business people working for United Kingdom-based firms overseas. Under my proposals, British Citizenship would, as a general rule, be transmitted only to the first generation of children born abroad to British citizens. Special provision would be made for the children of Crown servants, including children of members of the Armed Forces and of the Diplomatic Service; their children born overseas would become British citizens by birth. The prevailing view in the Committee was that it would be right to treat business men similarly to Crown servants: those having a continuing close connection with the United Kingdom should be able to transmit citizenship to their children through successive generations, provided that the continuing close connection with the United Kingdom was preserved. The Committee took the view that, under the original proposals, the Government would come under very great pressure to change its stance and to accord the British business community overseas more generous treatment. They recognised that there is a risk, which cannot be quantified, that such treatment will give rise to abuse over immigration in future years. It might be possible to minimise that risk by requiring people to renounce any other nationality where British citizenship is transmitted beyond the first generation, even though we do not propose to abolish dual nationality as a general rule. Officials are examining this possible safeguard as a matter of urgency, but we shall not know the outcome before the White Paper has to be published.

/I am sending

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I am sending copies of this minute to the other members of H Committee and to Sir Robert Armstrong.

hs/w.

r 23/6

21. June 1980

CONFIDENTIAL

Nationalities loss

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MP

PRIME MINISTER

Here are the Home Secretary's revised proposals for a White Paper outlining the forthcoming Nationality Bill. His covering note spells out the major revisions. These are on:-

The number of new citizenships - now to be three;

British citizenship by descent - to be limited to parents who are British citizens of the first generation born abroad;

Citizenship by birth;

Citizenship by virtue of marriage - the Home Secretary has made a move in the direction of equality;

Dual nationality - the Home Secretary has now decided to place no restriction on the holding of other citizenships.

He expects to require small numbers of additional staff.

MAP

16 June 1980



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in copy* File *mmg*
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10 DOWNING STREET

THE PRIME MINISTER

21 September 1979

Dear Mr. Danvers,

Thank you for your letter of 26 August about the Nationality Bill which the Government is now preparing. I note your suggestions about extending the franchise to patrial British citizens working and living abroad and have passed your letter to the Home Secretary who, as you know, has responsibility for these matters and with whom I understand you discussed them recently.

I am most grateful to you for letting me know your views.

Yours sincerely,

Margaret Thatcher

John Danvers, Esq.

TRUP

Immigration!

PRIME MINISTER

You saw the Home Secretary's H Committee paper on the Nationality Bill - Flag A.

There are some unresolved difficulties following discussion in Committee. The minutes are at Flag B, and Flag C is a letter from Mr. Whitelaw to Mr. Pym on the issue of citizenship by descent to children borne overseas. This is the main outstanding question.

You may like to be aware of the state of this discussion. Can I take it that you would not wish to intervene? Agreed MS

MAP

23 August 1979

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QUEEN ANNE'S GATE LONDON SW1H 9AT

22 August 1979

Dear Graham

Nationality Bill: citizenship by descent to children born overseas

At the Home Affairs Committee on 31st July we discussed the granting of citizenship by descent to the children of British Citizens who were themselves born overseas. I fully appreciate that it was not easy to deal with a complicated subject like this without full briefing, and I hope that the memorandum I have attached to this letter will make it somewhat easier to follow.

I believe that the definition of people who are Crown Servants and 'near-Crown Servants' can be dealt with in the course of drafting; and the Departments concerned will be consulted as this goes on. I must however emphasise that the more widely we draw the definition the more justification will people working abroad for business and other firms have for saying that they deserve similar treatment.

My main concern however is the possible immigration commitment arising from any departure from the proposals contained in the synopsis of the Bill attached to H(19)44. The principal aim of this Bill will be to reform the citizenship law by providing a citizenship which will define the right of abode in the United Kingdom; people who hold that citizenship, and no others, will be entitled to unrestricted entry. In altering our citizenship law we must not make it possible for large additional numbers of people to acquire the right of abode here. I am of course thinking chiefly of people from countries from which there is great pressure to enter the United Kingdom. At present for example, a child of the second generation born abroad who has become a citizen of the United Kingdom and Colonies by consular registration of birth in a foreign country has the right of abode in the United Kingdom. 732 children acquired citizenship in this way in 1977, the great majority of them being of the second generation, and probably nearly all of them were of British stock. But if we were to re-enact this method of transmitting citizenship, we must expect that people from the countries I have referred to would take full advantage of this concession, and in much larger numbers. We could not prevent this without framing the legislation on lines that would with some justification be attacked as racist.

/Accordingly,

The Rt. Hon. Francis Pym M.C., M.P.

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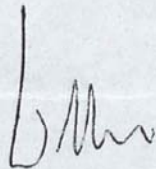
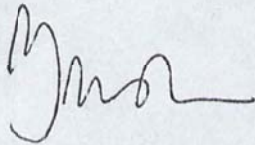
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Accordingly, although I have much sympathy with families long resident abroad who have kept up their British connection and value their status I am convinced that the time has come when some limit must be placed on the extent to which citizenship is transmitted. What was quite acceptable when the 1948 Act was prepared, long before we had an immigration problem, just is not acceptable now.

We have in fact suggested some changes in the law which will have the effect of helping British families overseas (eg for the transmission of citizenship by women born in the United Kingdom), and these are explained in the memorandum.

I should be glad to know within the next ten days that you and my other colleagues can agree with the proposals for legislation set out in H(79)44, so that we may press on with the drafting of the Bill.

I am sending copies of this letter to our colleagues on H Committee to the Attorney General, and to Sir John Hunt.



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CITIZENSHIP BY DESCENT

1. At the meeting of the Home Affairs Committee on 31 July considerable concern was expressed about the effect and acceptability of the restrictions on the acquisition of citizenship by descent as proposed in the Home Secretary's paper (H(79)44); on the other hand, it was strongly contended that any concessions in this area would undermine the basis of the proposals in the memorandum by breaking in effect the link between citizenship and an established and direct commitment to this country. It was agreed that the Home Office should consider the question further, bearing in mind the political aspects and consulting the Law Officers as appropriate.

Crown Service etc

2. The position of people in Crown Service was also discussed. While welcoming the concessions proposed, some members of the Committee thought that they should be extended to people working for closely allied bodies such as the British Council, international organisations of which the United Kingdom is a member, ancillary bodies connected with the Armed Forces and so on. It is thought that these matters can be dealt with adequately by careful drafting, and the proposals will be discussed with the Departments concerned. It must be borne in mind, however, that the more generously the provisions for Crown Service are extended, the more pressure there is likely to be from business men, self-employed persons and others for similar treatment for their descendants.

Scope of this Paper

3. The remainder of this paper deals with the descendants of people who live overseas and are employed by business etc firms or are self-employed. Some will be on short contracts overseas, while others are of families which have a long tradition of service overseas, or who serve with firms with a "father and son" tradition of staffing.

The Present Law

4. The provisions of the present law which relate to people who are connected with the United Kingdom (rather than with colonies) are:-

(a) a child born outside the United Kingdom is a citizen by descent if his father was one by birth, naturalisation or registration in the United Kingdom;

(b) descent to the second and later generations depends on two things:

(i) it can be continued to subsequent generations if successive fathers are themselves in Crown Service at the time of the child's birth;

(ii) in foreign countries it is possible for the child of a male citizen of the United Kingdom and Colonies to acquire citizenship of his birth is registered, normally within 12 months, at a British Consulate. Citizenship can be transmitted in this way to successive generations without limit. In 1977, 732 children of the second and later generations acquired citizenship in this way. This arrangement applies to births in foreign countries only, not to births in Commonwealth countries, and has its origins in the time when all people born in the Empire were simply British subjects. It is relevant to note that in a thoroughgoing review of nationality law we could hardly justify continuing this facility in foreign countries without extending it to independent Commonwealth countries.

(c) under the present law, a woman born in the United Kingdom does not transmit her citizenship to her children born outside the United Kingdom.

5. At present, not all citizens by descent have the right of abode in the United Kingdom. They have the right of abode only if one of their parents or grandparents was born, adopted, naturalised or registered in the United Kingdom.

The Proposed Changes

6. It is proposed that in the new law British Citizenship by descent (which will always confer the right of abode in the United Kingdom) will be obtained as follows:

- (a) citizenship will descend in the female line as well as the male line to the first generation of children born outside the United Kingdom, when the father or mother is a citizen by birth here;
- (b) beyond this, citizenship will descend to the second generation only when either parent is in Crown Service etc at the time of the birth;
- (c) the acquisition of citizenship by consular registration in foreign countries will cease;
- (d) people who are naturalised and registered in the United Kingdom (or by our High Commissioners overseas) will not as at present pass on their citizenship to any children they may subsequently have who are born outside the United Kingdom (in this respect they would be put on the same footing as citizens by descent rather than citizens by birth as they are at present);
- (e) a child born overseas, both of whose parents are British Citizens by descent, is to be entitled to be registered as a British Citizen (under the provision for the registration of minor children) if he and his parents have settled in the United Kingdom for 3 years during his minority.

The People Concerned

7. The people on whose behalf concern has been expressed are as follows:

(a) people born in the United Kingdom who either settle overseas or are temporarily overseas when their children are born. There is no problem here, since if either the father or the mother is a British Citizen by birth, so will the children be;

(b) people who are themselves citizens by descent, having been born overseas, who in their turn have children born overseas.

Those who are living in foreign countries will no longer have the entitlement to obtain citizenship for their children by consular registration, but they will benefit from the concession mentioned in paragraph 6(e) above if they resettle in the United Kingdom;

(c) people who are citizens by descent of the second or later generations who have preserved their citizenship under the present law by consular registration of births, or because one father in the chain of descent has been in Crown Service. Under present proposals people who have up to now had the benefit of consular registration would no longer be able to pass on citizenship to their children.

Advantages Already Proposed

8. Many of the people mentioned in paragraph 7 above will in fact benefit from the general provisions mentioned in paragraph 6 i.e.

(a) because citizenship will descend to the first generation of children born abroad if the mother was born in the United Kingdom.

This must affect many families;

(b) because if they do resettle in the United Kingdom, they will be entitled, if they and the child have been resident for 3 years, to have the child registered.

9. Various ways have been sought of enabling the family of British descent to continue to secure British status for its children, without at the same time making it possible for large numbers of people whose origins are in the principal countries of immigration to add to the pool of British citizens overseas who will be entitled to come to this country. While many of the families about whom concern has been expressed have every intention of continuing to make their lives in countries overseas, or of continuing in the service of firms which operate overseas, experience shows plainly that people from the countries of immigration will make use of any concession to increase the number of their relatives who can secure admission to the United Kingdom for settlement. The results in terms of immigration cannot be accurately forecast, but would be considerable. If a provision were to be included based on long-established ancestral connection it would be criticised as racialist; and as new generations grow up it would anyway become less effective.

10. The various devices which have been considered are set out below, with some comments on their practicability:

(a) To retain citizenship by consular registration of births

Comment

There would now be no logical reason for not extending consular registration of births to Commonwealth as well as to foreign countries. Nor would it be practicable to continue to limit transmission of citizenship to the male line as at present, because of the pressure for equal treatment of the sexes. Since British citizenship is to carry with it the right of abode in the

United Kingdom, to retain citizenship by consular registration of births would mean a massive growth in the number of people with the right of abode, many of whom would be in the countries of emigration and would have little or no real connexion with the United Kingdom.

- (b) To rely on domicile or permanent residence in the United Kingdom as a test of whether citizenship should be passed on

Comment

It seems unlikely that a test of this kind could be passed by people of, say, the second and later generations born overseas. The only people living overseas who might pass the test would be those of the first generation born overseas who are adequately dealt with anyway in the proposed provisions.

- (c) To extend the right of transmission by descent to the second generation instead of the first

Comment

The result of this would be to add enormously to the numbers of people who would acquire the right of entry to the United Kingdom.

- (d) To make use of similar provisions to those included in the New Zealand Law

A note on the New Zealand provisions is attached. It seems, however, to benefit largely those New Zealanders who, having been born outside that country, return to it to settle; they then have to go through a procedure very much like the normal naturalisation one, whereupon their status is altered to that of citizenship by birth.

Comment

This sort of provision seems unlikely to help. People who are citizens by descent and intend to return to the United Kingdom are provided for

under the present proposals, in that their children will be entitled to registration. The children of those people of later generations who have been consularly-registered could, if they resettle in this country, obtain citizenship by the normal means. It must also be borne in mind that a system on the lines of the New Zealand one would undoubtedly be exploited. It would be necessary to attach to it a period or residence in this country. Since many children of British people settled abroad are sent here for education it would be expected that a relatively short period, say 5 years, between any ages, would be sufficient. Accordingly it would be exploited by people who would send their children (being citizens by descent) to the United Kingdom for a sufficient time in order to have them converted to citizens by birth, thereupon acquiring the right of transmission for one further generation.

- (é) To link the right of transmission beyond the first generation to service with United Kingdom firms

Comment

An idea of this kind would certainly benefit employees of some firms, though it would be difficult to apply it where, for example, the United Kingdom firm had to operate through a locally-registered subsidiary; nor would it help self-employed people. But most of all there is the risk of abuse, since it is easy to acquire the title of a United Kingdom company; and shell companies could be used to create large numbers of additional British Citizens overseas.

- (f) To grant British Overseas Citizenship, or perhaps even British subject status, to the second generation born abroad

Comment

This would certainly have the advantage that people of the second generation born abroad could feel that they had British status, and

could hold British passports. But it would not, of course, give the right of entry to the United Kingdom. The status could not be passed on. This device, however, would not be in accordance with our general idea of what is right for British Overseas Citizenship, that is that it should be limited to people who are now our citizens but have no connection with the United Kingdom or a colony and that it should not (save for wives) be acquired by additional people after the date on which the new Act comes into force.

Summary

10. It is suggested that the proposals already made deal adequately with the position of people who go abroad for short terms and have their children born overseas. The difficulty lies with people who have a long tradition of overseas service and at the moment, in foreign countries, are able to pass their citizenship on. The fact that citizenship will in future descend in the female line will help many of these people; but apart from this, the ability to pass on British status, which could readily be accorded in 1948 when there was no real immigration problem, can no longer be so generously given because of the inevitable consequence that concessions would be exploited to add enormously to the liability of the United Kingdom to accept people for settlement.

Home Office

August, 1979

NEW ZEALAND CITIZENSHIP ACT 1977

Citizenship by Descent

1. Under New Zealand law citizenship is now transmitted through both male and female lines but only to the first generation born abroad. Citizens by birth in New Zealand and citizens by grant have the ability to transmit citizenship.

2. Citizens by descent, who can no longer transmit citizenship to their children born outside New Zealand, may however apply for the grant of New Zealand citizenship and thereby acquire this ability. In order to qualify for the grant of New Zealand citizenship they are required to fulfil the same requirements as are expected of applicants of other nationalities seeking New Zealand citizenship, ie:
 - (a) three years residence in New Zealand (the Minister has discretion to accept Crown Service in lieu of residence and also to reduce the period of residence to one year in special cases of hardship);

 - (b) is entitled to reside in New Zealand permanently under the immigration laws;

 - (c) good character;

 - (d) knowledge of responsibilities of New Zealand citizenship;

 - (e) knowledge of English;

(f) intention to reside in New Zealand (or enter or continue in Crown Service or the service of an international organisation of which New Zealand is a member or the employment of a company etc established in New Zealand).

3. If the person is a minor the Minister has discretion to have regard to special requirements set out in paragraph 2 above as he thinks fit. If the person is or has been married to a New Zealander he must meet (c), (d), (e) in paragraph 2 above and in addition show that he ^{has} established, and will maintain, some association with New Zealand, other than his marriage.

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10 DOWNING STREET

From the Private Secretary

30 July 1979

The Prime Minister has seen the Home Secretary's paper H(79)44, about the Nationality Bill. 26.7.79

She has noted the points of controversy forecast in paragraph 5 of the paper. In respect of paragraph 5(g), she has commented that there will certainly be attempts to feed in the question of voting rights during the Bill's passage through the House, and she considers that there will be strong arguments behind this. She hopes, therefore, that a fall-back position on this point has been prepared.

I am sending a copy of this letter to Martin Vile (Cabinet Office).

M. A. PATTISON

J.A. Chilcot, Esq.,
Home Office.

CONFIDENTIAL



10 DOWNING STREET

PRIME MINISTER

I attach the Home Secretary's paper on the Nationality Bill, which is to be discussed by H early next week.

The Home Secretary sets out the points likely to cause controversy in paragraph 5 of the paper. Are there any comments which you would like me to feed to the Home Secretary in advance of the Committee's discussion?

MPD Then with
be attempts to
feed in volume

27 July 1979

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Pill - and for good
reason. I hope it's that a full-
back position is prepared for*