PAMPHLET SERIES

JEWS AND THE POST-WAR WORLD Number 6

THE LEGAL STATUS of STATELESS PERSONS

by

MARC VISHNIAK

Research Institute on Peace and Post-War Problems

of

THE AMERICAN JEWISH COMMITTEE

386 Fourth Avenue, New York 16, N. Y.

THE AMERICAN JEWISH COMMITTEE

"The objects of this corporation shall be, to prevent the infraction of the civil and religious rights of Jews, in any part of the world; to render all lawful assistance and to take appropriate remedial action in the event of threatened or actual invasion or restrictions of such rights, or of unfavorable discrimination with respect thereto; to secure for Jews equality of economic, social and educational opportunity; to alleviate the consequences of persecution and to afford relief from calamities affecting Jews, wherever they may occur; and to compass these ends to administer any relief fund which shall come into its possession or which may be received by it, in trust or otherwise, for any of the aforesaid objects or for purposes comprehended therein."—*From the Charter of The American Jewish Committee, instituted* 1906.

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EDITED BY ABRAHAM G. DUKER
(Now in the Armed Forces)

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PREFACE

As this study goes to press, the echoes of victory in Europe ring out across the earth. At San Francisco the representatives of the United Nations have drawn up a charter for a world organization which—it is hoped—will banish war for many generations.

These representatives assembled in the full realization that it is as important to mitigate and eliminate those social and economic conditions which sow the seeds of war, as it is to construct a mechanism for suppressing aggressors once they have arisen to threaten the peace. It is to be the aim of the Economic and Social Council to create "conditions of stability and well-being which are necessary for peaceful and friendly relations among nations. . . ." It shall "promote: (A) Higher standards of living, full employment and conditions of economic and social progress and development; (B) Solutions of international economic, social, health, and related problems and international cultural and educational cooperation and (C) Universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

Statelessness will be one of the most tragic problems confronting the Economic and Social Council once it begins its deliberations on the specific ills besetting the world. A stateless person is one "whom no country recognizes as possessing its nationality" and who, therefore, can claim the protection of no government against the abuses of other governments. After World War I, thousands of former Austrian, Hungarian, Russian, and German nationals of various faiths were denied citizenship in the new Succession States which resulted from the break-up of the Austro-Hungarian and Tsarist empires. The Jews, however, suffered more than other groups from the evil of statelessness. For example, after the first World War, the government of Rumania prevented large numbers of Jews from achieving citizenship by means of various devices, thus definitely violating its treaty obligations. But the tragic peak of Jewish statelessness was reached with the political and military victories of the Nazis who denaturalized Jewish citizens not only of Germany but also of other territories over which they had extended their influence.

The American Jewish Committee has been especially concerned with the urgent problem of statelessness—for statelessness means uprootedness, physi-

cal and psychological insecurity, and the loss of elementary rights for vast numbers of innocent people. When the Committee on Peace Problems of the American Jewish Committee met in plenary session in New York City on February 1-2, 1945, it adopted as part of its post-war program a series of recommendations for the elimination of statelessness. These recommendations, along with the recommendations of the American Jewish Committee on the protection of human rights, abrogation of racial legislation, indemnification, repatriation, migration, and Palestine, appearing in a volume entitled "To the Counsellors of Peace," have been submitted to the delegations of all the nations represented at San Francisco. The following are the recommendations of the American Jewish Committee with regard to the problem of statelessness:

1. Great hazards are involved in the existence of statelessness and in the practice of denationalization. Statelessness is a condition injurious to the existence of the national state, to the human community and to the dignity of the human personality. Statelessness should not be imposed as a punishment on any person, for any reason.
2. Pending the recognition and implementation of this principle, a Convention on Statelessness should be adopted by the United Nations, as part of their aim, expressed in the Dumbarton Oaks proposals, to "achieve international cooperation in the solution of international economic, social and other humanitarian problems."
3. A Commission on Statelessness should be set up under the Economic and Social Council to implement this Convention. The Commission should be recognized as the international authority protecting the rights and concerned with the welfare of all the stateless, with power to determine the degree of compliance with obligations assumed under the Convention by any state, and to make appropriate recommendations to the Economic and Social Council for submission to the General Assembly.
4. The Commission should issue to the stateless suitable documents of identity and passports, which should be recognized as valid by all nations.
5. The stateless person should have the same rights as those generally enjoyed by aliens under the protection of a state. Option to resume or reject their nationality should be given to those who now are stateless.
6. The Commission should be empowered by the Convention to determine the fairness of standards of proof of nationality and of identity required by the various states.

The third recommendation requests the establishment of a Commission on Statelessness. Although a commission of this type is not specifically provided for in the San Francisco Charter, the principle of such a commission has not been rejected. The text of the Charter, which makes provision for the creation of "such other commissions as may be required in the fields

within the competence of the Council," leaves room for the establishment of a Commission on Statelessness. Moreover, the problem may very well fall within the competence of the Commission on Human Rights, for which the Charter does make specific provision. In fact, the problem of statelessness might well be one of the first to be placed on the agenda of this Commission.

The present background study by Marc Vishniak is a scholarly and historical analysis of the problem, describing the causes of individual and mass statelessness, and presenting a clear picture of the events which gave rise to it after World War I and the advent of Hitlerism. It describes the situation of the stateless persons in time of war and the extent of the problem to date. The author points out the failure of past attempts to alleviate statelessness and suggests a series of practical remedies.

If the lessons taught by Professor Vishniak on the evils of statelessness are well learned, his study will have contributed to the establishment of a more just and lasting peace.

MAX GOTTSCHALK

THE AUTHOR

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The author wishes to express his gratitude to Mr. Milton Himmelfarb for his generous cooperation in the preparation of this work and to Messrs. Sidney Liskofsky and Louis Shub who devoted much time to the editorial tasks involved in putting the manuscript through the press.

Chapter I

THE STATELESS AND THE REFUGEES

Statelessness, an individual's lack of nationality, is not peculiar to our time alone. In the past, however, it ordinarily affected small numbers and was not a problem for large groups. Statelessness traditionally was the result of the existence of conflicting national laws, regulations, decrees and administrative practices prevailing in various countries. As an important social phenomenon affecting large numbers, statelessness appeared only after the World War and the revolutions and upheavals that followed.

The laws and public opinion of the English-speaking nations have paid comparatively little attention to the problems of statelessness, although a considerable number of people are affected, of whom many reside in the English-speaking countries. The laws usually avoid the use of the terms "stateless" and "stateless persons" and do not recognize these people as belonging to a special legal category; as though non-recognition could nullify the existence of the problem. With very few exceptions, Anglo-American scholarship, like Anglo-American judicial practice, has paid little attention to the problem. Most references to it are casual and made in connection with such related problems as citizenship, expatriation, nationality and, particularly, the plight of the refugees.

Although the categories of refugees and stateless persons are closely related and often coincide, they are by no means identical. Not all refugees are stateless, just as all stateless people are not necessarily refugees. Until the first World War very few stateless persons were refugees. They were usually victims of conflicting national laws. Refugees, in the modern meaning of the word, are those who were compelled to leave their countries and, after arriving abroad, lost their former nationality, and were thus deprived of any diplomatic and consular aid and protection. The loss of nationality by an individual causes great hardships and may in some cases deprive them of all freedom of movement and legal protection. In the words of one of the most eminent international lawyers, L. Oppenheim,

> It is through the medium of their nationality that individuals can normally enjoy benefits from the existence of the Law of Nationality. This is a fact

> which has consequences over the whole area of International Law. Such individuals as do not possess any nationality enjoy no protection whatever and, if they are aggrieved by a state they have no way of redress since there is no state which would be competent to take their case in hand. As far as the Law of Nations is concerned, there is, apart from restraints of morality or obligations expressly laid down by treaty, no restriction whatever to cause a state to abstain from maltreating such stateless individuals to any extent.

Statelessness thus means a total deprivation of rights, consisting not only in the impossibility of getting a national passport for moving from one country to another, but also often preventing the individual from changing his residence within a country. What is even more important, statelessness often means the impossibility of earning a livelihood. It precludes getting a position in the public or civil service or joining a professional organization. Even admission to schools and civil acts like marriage and divorce, conclusion of contracts, and acquisition and possession of real estate, may be impossible for stateless persons or cause them great inconvenience and expense. Being without nationality, the stateless individual is also without protection by any state. This creates inconvenience and hardships not only to the stateless individual himself, but also to the people among whom he lives.

The Institute of International Law (Institut de Droit International), the most authoritative body of scholars in the field, recognizing the increasing importance of the question of statelessness in recent years, undertook a "realistic approach" and elaborated a common "legal statute" for stateless persons as well as for refugees. This statute defines stateless persons and refugees, and attempts to establish a clear distinction between them. The Institute spent two years studying statelessness, "a problem of too cruel timeliness," in the words of its Secretary General, Charles De Vischer. The question gave rise to much discussion until April 1936, when the "Legal Statute of Stateless Persons and Refugees" was adopted at the Institute's 40th session in Brussels. The Statute recognized three categories—stateless refugees, stateless persons who are not refugees, and refugees who are not stateless. Generally, stateless people who are not refugees enjoy better treatment than refugees, and refugees who are not stateless are favored over stateless refugees. People whose nationality has been withdrawn are stateless *stricto sensu*.

The Institute declared:

> The term stateless defines an individual whom no country recognizes as possessing its nationality. Such an individual does not cease to be stateless if some country gives him diplomatic protection or if one or several countries facilitate his movements from one country to another by their administrative discretion.

The term refugees defines an individual who because of political events which occurred in the country of his origin voluntarily or involuntarily left the territory of that country or lives far from it, has not acquired a new nationality and does not enjoy the diplomatic protection of any other country.
The distinctive criteria for the stateless and the refugees are not mutually inconsistent.

Even before the Institute of International Law decided to study the problem the governments of the countries in which the stateless and refugees had settled in large numbers were compelled to face the question. The special Intergovernmental Conference convened under the auspices of the League of Nations had already defined the various categories of political and religious refugees. The Special Arrangements adopted by the Intergovernmental Conference on May 21, 1926, concerning refugees of Russian and Armenian origin, and on June 30, 1928, concerning refugees of Assyrian, Assyro-Chaldean, Syrian, Kurdish and Turkish origin, established that a refugee was "any person who does not enjoy or no longer enjoys the protection of the government of the state to which he previously belonged and who has not acquired or does not possess another nationality."

This definition of the Arrangements was approved by the Assembly of the League of Nations. The League had repeatedly urged the various governments to adopt and to apply the Arrangements. Later this definition was made a part of the Convention relating to the International Status of Refugees adopted at Geneva on October 28, 1933.

Nothing is said in all these documents about stateless refugees, although the Conference was called by the League of Nations primarily on their behalf, to regulate their situation and at least to facilitate their movement from one country to another. This can be explained only by the fact that national legislation, as well as the scholarly literature consistently tried to ignore this particular category as an anomaly in international law and in the international legal system. On the other hand, refugees have been recognized as almost a normal phenomenon in human history. The refugee has been recognized by history and legalized both in domestic and foreign affairs. As Sir Herbert Emerson, director of the Intergovernmental Committee on Refugees, stated, "The world has become so much accustomed to refugees that there is a tendency to regard them, if not as a permanent incubus, at least as an unavoidable incident of modern society." Indeed, severing of political ties with one's homeland and leaving it have occurred in human history since time immemorial. At different periods the same countries have served alternately as places of persecution or expulsion and as sanctuaries of refuge. For instance, Holland, from which fled the Lollards in the 14th century and

the victims of the Duke of Alba in the 16th, gave refuge to the Jews expelled from Spain and Portugal late in the 15th century, later to Calvin and Zwingli, and after the abolition of the Edict of Nantes in 1685, to the French Huguenots. The Moravian Brethren migrated to Hungary and Poland in the second half of the 15th century, while Hungarian and Polish refugees, in turn, fled political and social oppression to various countries of the old and new world during the 19th and 20th centuries. England, which for centuries has given shelter to refugees of all kinds and from all countries, expelled the Jews in the 13th century and compelled the Puritans to leave their homeland in the 17th century and the Irish in the 19th. In sum, since the era of the religious wars, in every generation groups have been exiled by religious persecution or social oppression from one country and have wandered to others in quest of a more secure future. These exiles often cause diplomatic incidents and international difficulties.

Political and religious exiles, however, except in a few rare cases, did not lose their nationality and personal status. The withdrawal of nationality as a means of punishment was almost unknown before our days. When, in December 1850, the young Emperor of Austria, Francis Joseph, in his message to Parliament threatened to withdraw the nationality of all participants in the revolutionary movement in Lombardy and Venice if they did not return to the empire, his threat was regarded as unprecedented and unusual. It caused public resentment and brought about diplomatic intervention.

In a number of countries the terms "refugee" and "immigrant" were long synonymous. They were welcomed and their immigration was encouraged. On the other hand, stateless persons were always considered as "undesirable aliens" and largely ignored in the several national legislations. Not until the League of Nations did statelessness receive formal international acknowledgment.

In February 1938 a special Convention concerning the Status of Refugees of German origin was adopted under the auspices of the League of Nations after the pattern of the Convention of October 28, 1933. The first article of the 1938 Convention defines both the refugee and the stateless person:

> A. Refugees are persons possessing or having possessed German nationality and not possessing any other nationality who are proved not to enjoy, in law or in fact, the protection of the German government; B. the stateless are persons not covered by previous Conventions or Agreements who have left German territory after having been established therein and who are proved not to enjoy, in law or in fact, the protection of the German government.

Chapter II

CAUSES OF INDIVIDUAL STATELESSNESS

Stateless persons are individuals who are not connected with any country by ties of citizenship or nationality. This may occur because they did not acquire a nationality, relinquished it, lost it or were deprived of it, as individuals or as members of special groups. It may be because of conflicting national laws, transfers of territories from one country to another, or changes in the political and social structure of the country of origin.

A distinction should be made between persons who are stateless because of rules of private international law and those who have been made stateless because of provision of public law. To the first category belong those who are made stateless at birth or by marriage. All other stateless belong to the second group.

Statelessness occurs at birth when the parents are nationals of a country where *jus soli* (determination of nationality by place of birth) is applied, while the child is born in a country which recognizes only *jus sanguinis* (determination of nationality by that of the parents). For instance, if a child is born in Germany of parents who are nationals of Argentina, it will be stateless because the Argentine law recognizes as nationals only those born on its territory, while the German law does not regard birth in Germany as sufficient for the acquisition of German nationality. The same would happen to children whose place of birth or the nationality of whose parents is unknown. It is generally accepted that children of stateless individuals acquire their parents' legal status and thus also become stateless, unless they are born in a country that gives nationality to all those born on its territory. If one of the parents is stateless, generally the child's legal status depends on the circumstances of its birth. A legitimate child generally shares the status of the father, an illegitimate one that of the mother. The conflicting national laws by which nationality is determined lead in many cases to "double nationality." For instance, a child born in the United States of French parents is a citizen of the United States *jure soli* and of France *jure sanguinis*.

As has already been pointed out, the laws of the United States avoid the term stateless and do not recognize statelessness as a special legal category. An individual who is not a citizen is formally considered an alien or a na-

tional of the country of his last prior residence. Though the United States accords no recognition to statelessness, it could not prevent its actual occurrence within its borders, or when children of Americans were born abroad. It was necessary, therefore, although American nationality laws are extremely liberal and recognize both *jus soli* and *jus sanguinis*, to face the problem of minors who were stateless or did not have a definite nationality. Citizenship is granted to every child born in the United States. For others, despite the fact that statelessness is not officially recognized, American federal laws, as well as state laws and the practice of the courts, actually have established several categories of stateless minors. Among these are foreign-born illegitimate children; foreign-born children of parents who become naturalized citizens; foreign-born children of naturalized American parents whose citizenship has been revoked by judicial action; foundlings, etc. In all, there are some 24 situations causing statelessness among minors.

Chapter 11 of the Nationality Act of 1940, which took effect on January 13, 1941, deals with nationality by birth. Section 201 enumerates the persons born in the United States and its possessions who shall be nationals and citizens of the United States by birth. Paragraph "G" reads as follows:

> A person born outside the United States and its outlying possessions of parents one of whom is a citizen of the United States, who, prior to the birth of such person, has had ten years residence in the United States or one of its outlying possessions, at least five of which were after obtaining the age of sixteen years, the other being an alien: Provided, that in order to retain such citizenship, the child must reside in the United States or its outlying possessions for a period or periods totaling five years between the ages of thirteen and twenty-one years; provided, further, that, if the child has not taken up a residence in the United States or its outlying possessions by the time he reaches the age of sixteen years, or if he resides abroad for such a time that it becomes impossible for him to complete the five years' residence in the United States or its outlying possessions before reaching the age of twenty-one years, his American citizenship shall thereupon cease.

It is worth noting that the new Nationality Act presupposes and actually admits statelessness although it still does not mention it by name. Those who fail to comply strictly with the time limits provided for residence in the United States or in its outlying possessions, or who do not meet the other provisions, do not acquire American citizenship or lose it. Thus they become stateless. This is confirmed by Sections 313 to 316 of the Nationality Act, dealing with acquisition of United States citizenship by children. A child's naturalization depends upon several conditions, such as the age of the applicant and the continuity of his residence. Sometimes the conditions do not re-

late to the child but to one or both of the parents. Particularly severe are the provisions concerning the naturalization of an adopted child, if it is "not otherwise disqualified from becoming a citizen," according to Section 316. Sometimes the phrase "disqualified from becoming a citizen" is another name for the term "stateless." Similar conditions—permanent residence in the United States and a certain age—may cause statelessness of children through the loss of nationality by a parent who has the legal custody of the child. A wife or a minor child may become stateless because of the revocation or setting aside of the order admitting to citizenship. (Section 338D.)

Another typical instance of statelessness occurs at the marriage of a man and woman of different nationalities. Their marriage may be valid in one country and invalid in the other. In such a case, not only may children become illegitimate, but by the conflicting laws the wife may also lose her original nationality without acquiring that of her husband, and thus become stateless. For instance, a foreign girl by marrying a Swede automatically becomes a Swedish national. An English or Hungarian woman, however, may be made stateless if she marries a national of a country which does not automatically grant the husband's nationality to his alien wife. The Cable Act of September 22, 1922 (42 Stat. 1021) maintains the citizenship of an American woman who marries an alien only if the latter is eligible for American citizenship. Otherwise, the woman loses her citizenship and under certain conditions may temporarily become stateless. Statelessness may occur when the wife does not acquire her husband's nationality automatically, for some time may lapse between the loss of her former nationality and the acquisition of the new one.

The Nationality Act of 1940 allowed those women who were married prior to September 22, 1922, to recover American citizenship. A native American woman who has lost her American citizenship by reason of her marriage prior to September 22, 1922, and whose marital status has been terminated, will after taking an oath of allegiance, be deemed to be a citizen of the United States to the same extent as a woman married to an alien after September 22, 1922.

The withdrawal of nationality as a means of punishment is an important factor contributing to statelessness. In many countries persons evading military service are deprived of their citizenship. A Polish decree of August 11, 1920, provides that a Polish national may be deprived of his citizenship if he leaves Poland in order to evade military service. A German law of July 22, 1913, and French laws of April 1, 1923, and March 31, 1928, making stateless persons liable to military service, were partially designed to prevent

statelessness originating from punishment of draft-evaders by other countries. Article 68 of the Swiss Constitution provides the same measures.

It is a generally accepted rule to withdraw citizenship from officials serving abroad who, disregarding their superior's orders, do not relinquish their positions. A French law of August 10, 1927, provides denationalization for acts detrimental to the domestic and external security of the country.

Until recently a citizen of the United States could become stateless because of prolonged residence in foreign countries. The Nationality Act of 1940 provides loss of citizenship for those who take an oath of allegiance or make some other formal declaration of allegiance to a foreign state; enter or serve in the armed forces of a foreign state, unless expressly authorized by laws of the United States; acquire the nationality of a foreign state; vote in a political election in a foreign state, or participate in a plebiscite which is to determine sovereignty over foreign territory; desert the military or naval services of the United States in time of war, or commit an act of treason against or attempt to overthrow by force of arms the United States government, provided that they have been convicted by a competent court.

Chapter III

CAUSES OF MASS STATELESSNESS

Even before World War I there were instances of statelessness resulting from withdrawal of citizenship. Such withdrawals were punishment either for criminal acts or for political activities. Sometimes the persons who were deprived of their citizenship could not be charged with any crime; their only fault was to be of a certain origin or to belong to a certain group in the population. The statelessness of our time differs from that of previous periods not so much in its cause as in its scope and in its complete disregard of the elementary rules of law of civilized nations.

After the Danish provinces of Schleswig-Holstein had been ceded to Prussia in 1865, the Prussian government started the expulsion of many people from northern Schleswig because they had opted for Danish nationality after the cession of the territory. The children of these optants became stateless because the Prussian government did not recognize option and required formal naturalization before granting them Prussian citizenship. A Prussian ordinance of June 6, 1904, provided that the children of optants were to be treated as stateless individuals who had lost their nationality without acquiring another.

But it was the first World War that made statelessness a large-scale problem. People had been evacuated on a grand scale and had lost their documents and identification papers. Later many of them, unable to prove their identity or their former residences by documentary evidence, became stateless. For the first time the war also served as an excuse for the withdrawal of citizenship by law and administrative practices on grounds of public order and expediency. In France, by a law of April 7, 1915, superseded by those of March 18, 1917, and of June 18, 1917; in England, by laws of August 7, 1914, and August 8, 1918; and in Italy by a decree of January 18, 1918, the naturalization of all former nationals of enemy countries was revoked. This was a counter-measure against the notorious German Delbruck Law of "dual nationality," which admitted the naturalization of German citizens in foreign countries without loss of their German citizenship. The United States did not issue any special legislation. As long as the war lasted, however, there was an unusually large number of revocations of citizenship

on the ground of conduct incompatible with the oath of allegiance, which, in the belief of the courts, had been taken with mental reservations.

The radical changes in the political map of Europe and in the territorial sovereignties resulting from the peace treaties increased the number of stateless persons considerably. Most important in this respect were the St. Germain Treaty of September 10, 1919, with Austria, and the Trianon Treaty of June 4, 1920, with Hungary. Those who created a new order in Europe and drafted the peace treaties were fully conscious of the injustice inherent in statelessness. Articles 64 and 65 of the St. Germain Treaty, as well as the corresponding articles 56 and 57 of the Trianon Treaty, were expressly aimed to prevent the creation of stateless individuals. They provided that Austria and Hungary should recognize as citizens and without any formalities those persons who were born within the Austrian and Hungarian territories and who were not nationals of any other country. The well known letter of Georges Clemenceau, addressed to Ignacy Paderewski, then Prime Minister of Poland, when the Minorities Treaty was presented to Poland, also stressed that the aim of the Treaty was "to insure that all the genuine residents of the territories now transferred to Polish sovereignty shall actually benefit from the full privileges of the nationality." One of the basic aims of the minorities system established by the peace treaties was to assure citizenship of the minority populations. They did not, however, succeed in preventing large-scale statelessness in the seven countries that became the successors of the Austro-Hungarian empire.

The peace treaties recognized two fundamental bases for the acquisition of citizenship: permanent residence and birth. Generally there were two categories in the population: the former nationals of ceded territories who were living in those territories when the Treaties were concluded, and nationals who did not reside there at the time but had been born in the territories. These criteria were established for Czechoslovakia and Poland, both countries newly created at the expense of Austria, Hungary, Germany and Russia, and for Rumania and Yugoslavia, which were given additional territories at the expense of Austria, Hungary and Bulgaria. In the countries which lost part of their territories, Austria, Hungary and Bulgaria, place of birth had no bearing, place of residence alone counting. Finally, there were countries for which no international treaty contained any definite provision about individuals entitled to nationality. These were Turkey and the Baltic countries, Estonia, Latvia and Lithuania.

The authors of the treaties assumed that the national legislation in the various countries would regulate the procedure of acquiring nationality in a way compatible with the spirit of the international treaties. Actually,

however, some countries did not go beyond making the provisions of the international treaties a part of their constitutions, sometimes even with some modifications (Austria, Yugoslavia), while other countries did not deal with the question of nationality at all either in their constitutions or their legislation. Hungary, Bulgaria and Greece did not supplement or alter their previous nationality laws at all. Other countries, Poland, Rumania, Latvia and Lithuania, issued laws and administrative decrees which in many respects violated the international obligations that they had assumed.

The national legislation of the countries concerned did not observe the provisions of the international treaties that all persons born in Polish, Austrian, Czechoslovak, Bulgarian, Rumanian and Hungarian territories should automatically become nationals. Most liberal in the question of automatically granting nationality to all those born in their territories were Czechoslovakia and Hungary, which went even beyond the requirements of their international obligations. These countries adopted the legal presumption that all those born within their borders were nationals unless the contrary had been proved. The legislations of Yugoslavia and Latvia adhered rather closely to the principles established by the international treaties, but they denied nationality to those born in their territories if at the time of birth their parents were nationals of a foreign country whose laws did not provide the transfer of the parents' nationality to their children.

Much more complex was the question of granting nationality on the basis of residence in the countries where sovereignty shifted together with the cession of territory. A shocking case was the expulsion of Galician Jews from Vienna on September 9, 1919, on the eve of Austria's signing the St. Germain Treaty. These Jews had lived in Vienna for more than five years, but were not Austrian nationals. About 20,000 were expelled, and their plight led Poland to protest against Austrian violation of the Treaty of St. Germain, which had given all residents the right to opt for Austrian nationality. This case was the more flagrant because the provisions concerning option were made part of almost all domestic legislations, in full conformity with the treaties. Nevertheless, the law issued in Austria on October 17, 1919, made admission to Austrian nationality much more difficult.

The ambiguous term "place of residence," used in the international treaties, gave rise to many difficulties and to arbitrary interpretations by various countries. Thousands of former Austrian, Hungarian, Russian and German nationals became stateless because of their inability to present evidence of their previous place of residence, a prerequisite to acquiring nationality. Articles 84 and 91 of the Versailles Treaty provided that German nationals who were "habitual residents" in transferred territories should automatically

become nationals of the country to which the territory was transferred. The Polish government attempted to interpret article 4 of its minorities treaty as meaning that parents of a person who was born in Poland ought to have been permanently residing there not only at the date of his birth but also at the time of the acceptance of the treaty.

In the last analysis, they were proven right who believed, with Clemenceau, that "this wording, complex though it is, will mean just what you will mean yourself; it will be what you will make of it. . . . A treaty is only an aggregate of many possibilities and its success depends upon the use you will be able to make of those possibilities." The treaties of 1919-1920, which were particularly aimed at diminishing and preventing statelessness, generally failed to achieve this end – not so much because the wording of the treaties was defective, as because the governments refused to enforce their stipulations and to interpret them liberally.

On the very day following the ratification of the international treaties, Rumania and Poland initiated legislative and administrative practices which were in violation of their obligations. They followed a policy not of *granting* nationality, but rather of *withdrawing* it from large groups of people belonging to racial and religious minorities. Similar practices of recent years, withdrawing nationality from great numbers, were only the amplification and extension of a practice that set in immediately after the establishment of the post-Versailles system in Europe.

The most flagrant violator was Rumania, which had already established a tradition and reputation for herself in this respect. The very need for an international protection of minorities was largely based upon the systematic Rumanian persecution of the Jews and refusing them citizenship. Rumanian discrimination against Jews was in direct violation of article 44 of the Berlin Treaty of 1878, which had been designed to alleviate their lot. The Rumanian example has constantly been in the minds of those who advocate an international protection of minorities.

In 1878 the Congress of Berlin granted full independence to Rumania under the condition that the new state would guarantee citizenship and religious freedom to all its inhabitants. Accordingly, article 7 of the Rumanian Constitution of 1866, which provided that "only foreigners of Christian faith are entitled to the status of Rumanians," was to be cancelled. On the basis of this constitution all Jews who did not possess any foreign nationality were stateless. Although the new Constitution of 1879 did not repeat the previous provisions, it was scarcely an improvement. The naturalization of non-Rumanian nationals depended upon the vote of both houses of Parliament. Moreover, the government did not have to make any decision on applications

for nationality for ten years. The result was that in the forty years that followed, only 361 Jews, besides the 838 veterans of the Rumanian War for Independence who had been granted nationality by an act of Parliament, succeeded in acquiring Rumanian citizenship. Scores of thousands of applications remained either unanswered or unsettled and the overwhelming majority of the Rumanian Jews continued to be stateless.

Article 7 of the minorities treaty signed by Rumania after the first World War provided that all Jews inhabiting Rumanian territory and not in possession of another nationality would automatically become citizens without further formalities. In spite of this very clear provision, however, the Rumanian government, by a special decree, respectively set back and prolonged the date of birth and the length of permanent residence which were required for naturalization. It declared that people who had lived or were born in Bessarabia before April 9, 1918, and in the other annexed territories before December 1, 1918, were not entitled to naturalization. A distinction was also made between the inhabitants of the Old Kingdom and those of the newly annexed territories. The new Rumanian nationality law of February 24, 1924, reestablished the archaic requirements of an "indigenat" for granting nationality to the inhabitants of the territories ceded by Austria and Hungary. In the formerly Austrian provinces of Bukovina, ten years' residence was required, and four years in the former Hungarian province of Transylvania. Furthermore, article 64 of the nationality law required that all documents of nationality status had to be officially verified. This provision caused many Jews to be deprived of their nationality. Also, in utter disregard of the minorities treaties, in the judicial and administrative practices of Rumania, Jews were regarded as stateless persons because they did not enjoy the protection of any country. Statistical data about the number of people who were thus denied nationality have never been made public. In 1928, however, the Commission of American Observers estimated that 20,000 Jewish families, 95 percent of whose kin were born in Rumania, remained stateless. This was also true of many Hungarians, Ukrainians, Russians and Bulgars in the annexed territories.

In Poland, also, despite the seemingly clear provisions of the Versailles and minorities treaties, difficulties developed. Although the Versailles Treaty stipulated that nationality was to be automatically granted on the basis of residence in certain territories, the Polish law of January 20, 1922, required evidence of an indigenat from all those of Austrian and Hungarian origin. The decree of August 11, 1920, also withdrew Polish nationality from persons who had emigrated without completing their military service or who had failed to register with Polish consulates abroad. A circular order of March 8,

1925, made the acquisition of Polish nationality even more difficult. Stateless people were denied naturalization and their number increased as a result of new administrative practices which were in contradiction to the international treaties' aim of completely eliminating statelessness.

Following World War I most of the legislations were aimed at limiting the grant of nationality and increasing the number of stateless. In the collection of nationality laws of various countries, published in 1929 by Richard W. Flournoy and Manley O. Hudson, it is shown that most of the countries did not deal with the problem of stateless at all and that the indirect effect of many nationality laws was to increase the number of stateless persons. Even Iceland, for instance, denied citizenship to all those who had their permanent residence in Iceland on December 1, 1918, but were not nationals of the country at that time; and a Finnish law of June 17, 1927, though restoring Finnish nationality to all those who had previously lost it without having become nationals of another country, on the other hand, stated that "when it is in the interest of the state the President of the Republic may declare a Finnish national deprived of his nationality." This measure could also be applied on certain occasions without the authorization of the President.

Following World War I several countries consistently pursued a policy of not only restricting naturalization but also of withdrawing citizenship on a large scale. Denationalization and statelessness are not an exclusively contemporary product, but present legislation in various countries differs from that of the past. Formerly, denationalization had been an exceptional measure applied only in individual cases. Since World War I, it has become a means of depriving large groups of people, because of political or other reasons, of their citizenship. The old laws provided that denationalization could not be applied except when acts of free will had been committed by the individuals in question. In recent times people have been denationalized without their committing any act at all. Unlike former legislations, which admitted denationalization only as a result of acts evidently showing intention to sever relations with one's country, the new laws decreed wholesale denationalization of people who wished to maintain their nationality and to return to their countries if given the chance to do so. Thus, the political or racial denationalization of the Soviet Union, the Turkish Republic, Fascist Italy and Nazi Germany, differ radically from the denationalizations known before World War I.

The first law of mass denationalization was taken by the Soviet Union. On October 28, 1921, a decree was issued "depriving certain categories of persons residing abroad of the right to Russian nationality." This decree was

actually a measure punishing those enemies of the Soviet regime who were not within its reach. It affected all actual or potential opponents of the regime residing abroad. The decree withdrew citizenship from all former Russian nationals who had been residing abroad uninterruptedly for more than five years; who had no recent passports or similar documents from representatives of the Soviet government before June 1, 1922; who had left Russia after November 7, 1917 (the date of the Revolution), without the permission of the Soviet authorities; who had voluntarily served in armies which fought against the Soviet government or had participated in counter-revolutionary organizations; who had the right to remain Russian citizens but did not avail themselves of it within the period prescribed; and, finally, who had not registered with foreign agencies of the Soviet government in accordance with regulations.

On October 29, 1924, the Soviet government issued a new decree on Soviet citizenship. Confirming the previous decrees, article 12 provided that all those who had made clear their intention to become foreign nationals in accordance with international treaties, and particularly the large number of people who "did not return or should fail to return at the order of the proper authorities," would be deemed to have lost their Soviet nationality. The decree of October 31, 1924, authorized the courts to deprive of citizenship all those considered the enemies of the people. By the Nationality Statute of April 22, 1931, still in effect, almost all Russian refugees were deprived of their nationality and subsequently became stateless. Only a few have preserved or reacquired Soviet nationality. Even those were not necessarily granted the right to return to the Soviet Union.

Denationalization for political reasons, though on a numerically far smaller degree than in the Soviet Union, also occurred in Fascist Italy. A royal decree of January 10, 1926, authorized the prefects to revoke the nationality of such "allogeni"—those who had acquired Italian citizenship by option in accordance with the peace treaties—who had proved "to be unworthy of it by reason of their political conduct." Article 8 of the law of January 31, 1926, enumerates those cases in which nationality is to be withdrawn. "Every national who in a foreign country commits or assists in committing any act directed against the public order of the Kingdom, or detrimental to the interests of Italy or to her reputation and prestige, is to be deprived of his nationality, even if such acts are not provided for by the criminal laws. In addition to the withdrawal of nationality, sequestration and, in the most serious cases, confiscation of all property may be applied." Another law of November 25, 1926, provided heavy penalties for similar offenses and for the dissemination of "false, exaggerated or biased" information about the situation in Italy,

and made the laws of nationality and sequestration of property additional penalties in cases where the offenders failed to appear before the Special Tribunal instituted by the Fascist regime.

Russians and Italians thus became refugees and, because of their denationalization for political reasons, stateless; the Armenians had to flee their homeland and lose their nationality under the pressure of two political regimes simultaneously: the Bolshevist and the Kemalist in Turkey. Armenians in the Soviet Union were subject to the same general rule of denationalization as were other enemies of the regime. In Turkey the plight of the Armenians was bad beyond compare. They were deprived of their nationality for political, racial and religious reasons. Thousands were massacred and others had to flee the country to avoid being slaughtered.

The Treaty of Lausanne with Turkey, of July 24, 1923, did not even mention the Armenians. Lord Curzon was right in his statement at the Lausanne Conference that the situation of the Armenians was "one of the greatest world scandals." The 130,000 Armenians who had survived the many massacres in Turkey were not subject to articles 39 and 44 of the Lausanne Treaty, which guaranteed the civil and religious rights of minorities and put them under the protection of the League of Nations. The Treaty, however, unlike the other peace treaties, did not contain any provision concerning nationality. This made it easier for the government of Mustapha Kemal Pasha Ataturk to withdraw Turkish citizenship from the overwhelming majority of Armenians. Furthermore, the government denied Turkish nationality to those Armenians who had escaped to Europe after the massacres of 1915, or who had left Syria at the time of the occupation by the Turks in 1922 or Turkey with passports issued by the Allied administration during the occupation of Turkey. All those who had Turkish passports, but who had settled abroad before, during or after World War I, were denied Turkish nationality.

On May 23, 1927, the Turkish government issued a special decree on the withdrawal of nationality, aimed primarily at the Armenians. It read:

> The Council of Commissars is authorized to exclude all those Ottoman nationals from Turkish nationality who did not participate in the national struggle during the War for Independence and, having stayed abroad, did not return to Turkey in the period between July 24, 1923, and the day of the promulgation of this law. Exempt are those who have opted for Turkish nationality in accordance with the Treaties which have taken effect.

The Armenians in Turkey suffered more than any other national or religious minority, but the Turkish government withdrew citizenship

from all persons in opposition to the movement headed by Kemal Pasha, because of their political opinions or their religious beliefs. Among these were, in addition to Armenians, Russians, Syrians, Arabs, Greeks and many others. The government denied admission to Assyrians and Assyro-Chaldeans, and when they tried to return to their former homes, the Turkish authorities drove them out by force of arms. Turkey even took exception to the presence of Assyrians in the northern part of Iraq bordering Turkey. The Assyrian and Assyro-Chaldean refugees from Turkey and Iraq again becoming victims of persecution and massacres, escaped to Greece, France, Syria and Lebanon. Most of them became stateless and many are stateless to this day.

Chapter IV

MASS EXODUS, DENATIONALIZATION AND STATELESSNESS SINCE 1933

Hitler's rise to power ushered in a new era in the history of the world. A new chapter was also opened in the story of statelessness. The Nazi totalitarian creed repudiated all human and civic rights and subordinated them to the so-called Nordic race and to the command of the German Fuehrer. Hans Frank, at a convention of German jurists in 1936, officially declared: "Right is everything expedient to the interests of the German people, and wrong is all that is harmful to them." All who opposed the Nazis or were of non-German blood faced the loss of freedom, property and life. The Nazis instituted a policy of depriving of all rights first the "non-Aryans," then the Socialists, Democrats and Catholics.

Many fled the Third Reich before they could be imprisoned in concentration camps. The mass exodus from Germany, although technically voluntary, was in fact a forced emigration. In most cases people escaped before they became stateless; some, however, left Germany after having been deprived of their nationality. Statelessness, as a consequence of, or as a reason for, leaving Germany, increased rapidly.

With the law of July 14, 1933, the Nazis started to deprive naturalized German citizens of their nationality. According to this law, "naturalizations granted since November 9, 1918 up to January 30, 1933 may be revoked if they are regarded as undesirable." In such a case, the German nationality was lost, not only by the originally naturalized individual, but also by those who could not have acquired it without his naturalization. Withdrawal of nationality from those who resided outside Germany was made possible by article 2, which stated: "Reich nationals residing abroad may lose their German nationality if they do harm to the German interests by conduct hostile to the Reich and German nation." The same rule applied to nationals who did not comply with an order to return to Germany issued by the Reich minister of the interior. At the same time that the proceedings for revocation of nationality were held, or the order to return was issued, the property of those concerned might be confiscated and declared forfeited to the Reich. The law for the revocation of naturalization and withdrawal of citizenship

did not require that any reason be given. The government's decisions were not subject to review by the courts, and no appeal from the minister's decisions was possible.

The national legislation made a distinction between citizen and subject (*Buerger, Angehoeriger*). In accordance with the Nuremberg Laws of September 15, 1935, the Nazis relentlessly pursued a policy of ejecting Jews from all spheres of German life. It should be noted, however, that contrary to general opinion, the Nuremberg Laws did not make the Jews within Germany or German Jews outside the country stateless in the formal meaning of this term. Nazi legislation considered those of non-German blood to be "subjects," although they had ceased to be Reich nationals. On November 26, 1941, a law was passed in Germany depriving all German Jews outside of Germany of their nationality.

It was estimated by Dr. Kulischer for the International Labor Office, that about thirty millions of people had been displaced in Europe between September 1939 and the end of 1943. Along with the impressment of foreign workers for the needs of the war industries in Germany, some occupied territories were colonized with new German settlers. Not only family ties but also connections with the homeland and national status were disrupted. All this was exclusive of evacuations of civilian populations from bombed cities, and the like.

The worst victims of discrimination and persecution in Europe were the Jews, first in Germany and then in all the German-occupied countries. When Austria was joined to Germany a special decree "on withdrawal of nationality and revocation of acquired nationality" was issued for Austria on July 11, 1939. The German legislation was later also extended to the "protectorate of Bohemia-Moravia" and to the Polish provinces annexed to the Reich.

In Poland, too, national laws, primarily directed against Jews, were enacted. On April 1, 1938, a law was adopted which deprived of Polish nationality all those who had lived abroad for more than five years and who had "lost contact with the Polish state" or acted against the interests of the Polish government. While the law was couched in general terms, only Jews were adversely affected by its provisions. The wife of the person deprived of Polish nationality and his children under 18 years of age also lost their nationality if they resided with him abroad. Those deprived of Polish nationality were not allowed to return to Poland, even if they acquired another nationality, without special permission of the Polish Minister of the Interior.

A decree of October 6, 1938, supplementing this law, provided that all Polish passports issued abroad were to be registered and stamped at Polish consulates by October 29th. This further contributed to increasing the

number of people deprived of Polish nationality. Thousands of Polish Jews became stateless. Nazi Germany rounded up about 16,000 Polish Jews and sent them across the Polish frontier. Poland, however, did not want to accept them and for months these Jews were living in a horrible condition in no-man's land of Sbonszyn between Poland and Germany.

Before its occupation by Germany, the Free State of Danzig enacted a law dated February 25, 1939, patterned on the Polish law, which also resulted in the creation of thousands of stateless. After the annexation of Memel by Germany all Jews who remained there were declared stateless.

In some countries, instead of enacting new nationality laws, the local and civil administration and courts were authorized to review the citizenship status of the people. This procedure, as far as Jews were concerned, was adopted in the Protectorate of Bohemia-Moravia, in Slovakia, in Hungary and in Rumania. We have already mentioned that Rumania applied this subterfuge on a large scale for a long time, and thereby deprived many Jews of their citizenship. With the spread of totalitarianism and anti-Semitism in Central and Eastern Europe, and in Rumania in particular, the revocation of nationality acquired by naturalization in the period following World War I was further intensified. The restrictive interpretations of the laws were given retroactive force; the time limits for appealing the courts' decisions were reduced, and their procedures were used to deprive the Jews of their citizenship.

On January 21, 1938, the government of Octavian Goga issued a decree which required all Jews, except veterans of the Balkan War of 1913, to present documentary evidence of their right to Rumanian nationality. At the same time the local authorities, obeying the instructions of their superiors, systematically denied the issuance of the very documents and certificates which the Jews had to present for the purpose of having their Rumanian citizenship formally recognized. It was legally assumed that no Jew could be regarded as a national in Rumania and that a Jew who had become a national had done so by fraud only. The individual had to prove that there was no fraud. Even Jews who were born in Rumania and had participated in the war in the ranks of the Rumanian army were to be deprived of citizenship if they could not prove that they were not nationals of another country. This law did not, however, specify the documents which could be evidence of a negative fact.

On March 9, 1938, the government of Patriarch Cristea, which succeeded the Goga government, issued a new decree which made it even more difficult for Jews to prove their citizenship. This decree stated that only original documents might be presented. Copies of documents were not to be recognized. In the annexed provinces even an oath by qualified persons could not

be accepted as satisfactory substitutes for certificates of birth. The decree required certificates of the municipal authorities specifying the particular way by which the individual had acquired his nationality. On November 24, 1939, the minister of justice presented a detailed report covering the period up to September 15, 1939. During that time, the nationality of 617,396 people had been reviewed and 225,222 of them, that is 36 per cent, had been deprived of their citizenship.

It is significant that more than half of those whose nationality was withdrawn were made stateless because they were unable to present documentary evidence; more than one-third because they did not file their application within the designated time limit, and 11.49 per cent because they had been naturalized "by mistake" through resort to "fraud."

In the same report another group of stateless Jews was mentioned besides those whose nationality had been withdrawn. Under the terms of the decree of March 9, 1938, the mayors of the annexed territories were to register all Jews who resided in other communities and whose names could not be found in the local nationality records. There were 44,848 persons whose naturalization had been recorded in the local records. Those were termed by the government report "foreigners," without indicating the countries of their origin. Generally, the "foreign" countries actually were the provinces Rumania had annexed. The report estimated that the total number of stateless Jews on record was 270,000. Actually the number in Rumania was much higher. Thirty thousand should be added who had been deprived of their nationality in the 1920's. It is generally estimated that at the end of 1940 there were about 350,000 stateless Jews in Rumania. This number further increased after the promulgation of the racial decree of August 9, 1940, according to which an indefinite number of baptized Jews and Christians whose fathers were Jews, or whose Christian mothers had fathers who were Jews, were recognized as being Jewish. Marshal Antonescu's decree of December 16, 1940, adopted the Nazi racial principles and put those who had Jewish grandfathers and grandmothers in the same category as Jews.

The decree of December 3, 1938, which imposed heavy taxes on foreigners, was undoubtedly the result of the ever growing number of Jews without nationality. On January 21, 1941, a special levy was established for Jews as compensation for service in the army, from which they were barred. On April 1, 1941, these taxes were increased, and on October 30, 1941, the following provision was added:

> Jews of Rumanian nationality who have spent more than six months abroad must pay a tenfold military tax. Those who fail to pay the military taxes lose their nationality and are regarded as stateless.

Hungary followed suit not only in ejecting Jews from the political, cultural and economic life, but also in depriving them of their nationality. The law of May 3, 1939, decreed that all documents certifying the citizenship of Jews who had been naturalized since July 1, 1914, were void. The law of May 24, 1939, authorized the government to review the nationality of certain categories of Jews. The consequences of statelessness were extremely grave in Hungary. A stateless individual was not only deprived of the right to change his place of residence, to work, to earn a living and to go to school, but could not even defend his life, being considered as an outlaw.

Hungary's annexation of parts of Carpatho-Russia and Slovakia in March 1939, after the dismemberment of Czechoslovakia, brought some 185,000 more Jews under Hungarian rule. They too were subjected to the general Hungarian anti-Jewish legislation. In addition, many of them were ordered to leave their place of residence and many more were declared stateless. When, on August 30, 1940, Ribbentrop and Ciano, the foreign ministers of Germany and Italy, awarded Northern Transylvania to Hungary, about 150,000 more Rumanian Jews came under Hungarian rule. In November 1940, all Jews were expelled from the Maremuras district of Northern Transylvania and many of them were forcibly driven across the Soviet frontier. After the subjugation of Yugoslavia and the occupation of the Banat province by Hungary, all those who did not possess Hungarian nationality prior to October 31, 1918, were ordered to leave within three days. After the attack on Russia by Germany a communiqué of the Budapest Police Department reported, in August 1941, that 12,000 Jews of "dubious nationality" had been expelled during one week.

Fascist Italy also followed the Nazi racial legislation, although according to the census of 1938 there were only 57,425 Jews in Italy. Anti-Jewish measures were started at the time of the Ethiopian War. Gradually they were intensified and their scope was widened. Mussolini did not issue special laws withdrawing citizenship by reason of race or creed. He was satisfied with the laws against anti-Fascists already in existence, which permitted the withdrawal of nationality on political grounds. Italian administrative practices also contributed to the increase of stateless persons by withdrawing citizenship on political as well as on religious and racial grounds. A special decree was, however, issued concerning the Jews of non-Italian origin. Their naturalization was revoked by a decree of September 1, 1938, and all Jews naturalized since January 1, 1919, lost their Italian nationality. The decree also provided for the expulsion of foreign Jews who had settled since that date in Italy. It was applied in Italy, Libya and the Aegean possessions of Italy but not in Italian East Africa. All foreign Jews had to leave Italian territories

within six months. It was estimated that this measure affected about 20,000 persons, many of whom had been resident in Italy for many years, and of whom many others were refugees from Germany and Austria. Later, also Jews of Italian origin were deprived of their nationality. In many instances, however, those who were ordered to leave were unable to comply. The official Italian statement of October 24, 1941, reported that up to October 15, 1941, only 1,338 foreign Jews (of the 5,012 in Italy on June 1, 1940) and 5,966 Italian Jews had left the country.

After her defeat, Vichy France also accepted anti-Jewish racial legislation. France had long been the foremost haven of refuge to people deprived of their nationality, but the number of stateless in France increased considerably as a result of the new French legislation, which deprived of citizenship many who had been naturalized. Prior to the Nazis' rise to power France had been a sanctuary for homeless Armenians escaping from Turkish massacres, for Russians fleeing the Bolshevist rule, and for Italian anti-Fascists and refugees from many other countries of Europe who were forced to leave countries for political, religious or racial reasons. In 1933, when Hitler came to power in Germany, there were an estimated 200,000 to 250,000 refugees and stateless in France. After 1933 their numbers rose sharply. About 50,000 persons, most of them Jews, came from Germany, Austria and Czechoslovakia. Later, more than 400,000 were driven from Spain by Franco's victory. In addition, scores of thousands came from Poland, Holland, Belgium and Luxemburg after their occupation by Hitler.

Although France widely opened her gates to refugees and stateless persons from all over the world, some restrictive legislation was adopted during the prolonged depression. First, the stateless and the refugees were restricted in their right to work. Later, they were barred from some parts of France. On August 11, 1926, a law was issued on the "protection of the national labor market" which provided that no alien could be employed in industry, commerce or agriculture unless he obtained a special permit (*permis du travail*). In 1928 a definite time of residence in France was made the prerequisite for obtaining such permits. Russians and Armenians were granted permits for work after a three-year residence in France; immigrants from Poland and Rumania after five years; and all others after ten years. At the same time military service was made obligatory for stateless males, following the old German precedent. A decree of August 8, 1935, was designed to protect "French artisans against the competition of foreigners." The authorities started mass expulsion of aliens who had come to France illegally. The decree-law of May 2, 1938, made the procedure of expelling undesirable aliens much easier even when they had been legally admitted into the country, and

put an end to the traditional practice of allowing residence in France to foreigners whose permits had expired. It had been the rule that as long as the Minister of the Interior did not reject an application for prolongation of the permit to reside in France, those who had been denied such prolongation by the local authorities actually could remain within the country. Such people were granted monthly permission to live in France either by stamps affixed to the official notice withdrawing the right to continue their residence in France, or by special certification.

After the second half of 1938 this humane treatment was discontinued. Refugees and stateless persons were faced with persecution by the police and the courts if they did not leave after having been ordered to do so by the local authorities. Sometimes they were told to leave their place of residence and even the country within a few days. If the order of expulsion were not complied with promptly, or if anyone remained without permission or returned illegally to France, he was exposed to severe fines and imprisonment. Even the comparatively "privileged" Russian refugees were expelled on a large scale because of non-compliance with the regulations concerning papers of identity, or because of unauthorized employment or employment in a district other than that which was authorized. Other reasons for expulsion were failure to find work, non-payment of taxes, inadequate means of support, disorderly conduct in public places, unauthorized wearing of decorations and insignia, etc.

The majority of those liable to deportation, however, were the refugees who had fled from Germany and Austria because of political or racial persecution. The Polish Jews who had been deprived of their Polish citizenship by the law of 1938 also faced a very difficult situation. They could neither return to their homeland nor obtain admission into any other country.

Stateless people could not appeal for intervention to the government of their former homelands; they could not claim protection of any kind. When deported to the frontier the adjacent country refused to admit them. This happened quite often at the Belgian border where people expelled from France were most frequently taken. They were driven from one border to another. From a legal point of view they were totally outlawed. There was no other way out for them but to transgress the laws, to use assumed names and to falsify documents. Sooner or later they were seized again and expelled again. Repeated violations of the law, however involuntary, resulted in even longer terms of imprisonment. Consequently, all possibilities of leading a normal, human life did not exist for them. The jails and concentration camps became the usual place of residence for many helpless stateless persons.

As early as 1934, a member of the French Chamber of Deputies, Marius

Moutet, later Minister of Colonies in Leon Blum's government, took the initiative and called upon the government to solve the problem of foreigners, especially the stateless, residing in France, and drafted a bill concerning foreign residents. In his explanatory statement he cited the case of an Italian refugee who had been brought to trial for non-compliance with the orders of expulsion and was sentenced to nine years' imprisonment. Some time later, the Minister of the Interior, in his reply to a question by Moutet, said

> Our frontiers are open for the expulsion of undesirable aliens, but the frontiers of foreign countries are closed to them. In most cases aliens are not admitted or are sent back to our territory under cover of night. They come back, are arrested by the police, convicted again, and the whole procedure starts all over again.

In 1932 American newspapers reported the case of Stanislaw Rabochinski, a highly educated, 24-year-old stateless person of Russian origin. As an opponent of the regime he was denied the right to return to the Soviet Union. Later, he was also barred from Germany, Holland, Austria, Hungary, Switzerland, Portugal, Spain and Rumania. He could not find a country of his own and was on his way back to England after having been deported from the United States for the second time. He arrived again in the United States as a deportee from England and faced the prospect of an indefinite shuttle back and forth. Even democratic countries which had always had the tradition of havens for refugees were affected by anti-foreign sentiments and anti-Semitism. In Holland, for instance, a ministerial decree of May 7, 1938, established as a general rule that "every refugee is to be regarded as an undesirable alien." Undesirable aliens were to be barred from entry into Holland and to be expelled if they had come to Holland prior to the promulgation of the decree. "Every foreigner who left his country under pressure of certain circumstances" was a refugee according to this decree. If he was "without any doubt threatened by execution," his fate was to be decided by the Minister of Justice. The frontier police were ordered to regard all foreigners of Austrian, German, Polish, Czechoslovak and Hungarian origin as refugees. If a foreigner could prove that he had left his country not because of "pressure of circumstances," and not because he was a Jew, he could be admitted into Holland.

At the outbreak of the present war about 15,000 enemy aliens, Germans and Austrians, residing in France, were interned. Those who had children born in France and who were regarded as politically harmless were gradually released. After the German army invaded France the majority of those still interned were also released. On July 7, 1940, the French government ordered the reinternment of German and Austrian refugees, and at the same

time closed the frontiers to all males under 45 years of age, who were nationals of the belligerent countries. Apparently, this measure was taken in compliance with article 19 of the French-German armistice agreement, which provided that all those claimed by the victor were to be extradited. In the French camps of Gurs, Noe, Recebedon, Les Milles, Vernet, etc., about 25,000 refugees and stateless persons, most of them Jews from Germany and Austria, fell victims to appalling suffering and tortures which differed very little from conditions in the German concentration camps. At the same time the new rulers of France inaugurated legislation which swelled the ranks of the stateless.

On July 16, 1940, the Vichy government issued a law on the withdrawal of French citizenship. The new law provided that any "foreigner who had become a French citizen," no matter when he acquired citizenship, could be deprived of it by a decree either published in the *Journal Officiel* or presented to the person in question at his home by the administrative authorities. An appeal from such a decree could be brought to the Minister of Justice within a week. On July 22, 1940, a law was published on the review of naturalization. A special commission was organized which was to review all cases of naturalization since the enactment of the Nationality Law of August 10, 1927. On the next day a new law was promulgated which was later amended by a law of October 29, and decrees of August 22 and September 6 and 11, 1940, withdrawing citizenship from all Frenchmen who had left France. Accordingly, every Frenchman, whether by birth or naturalization, who had left French territory between May 10 and June 30, 1940, without being on a special mission of the Vichy government or without a special permit, was to be regarded as "having the intention of evading the obligations and duties to which all members of the national community are bound and, therefore, as having foregone French nationality." This law applied to a comparatively small group. A similar law dated September 13, 1940, and amended November 24, withdrew citizenship from all Frenchmen who had left the territories of the French overseas possessions. On October 7, 1940, the Vichy government repealed the Crémieux Decree of October 24, 1870, granting French nationality to the Jews of Algeria. This repeal deprived approximately 100,000 Algerian Jews of their French citizenship. (It was restored only after Allied occupation of North Africa by a de Gaullist decree of October 21, 1943, after considerable difficulty.) The Vichy law of February 28, 1941, further amended the law of July 23, 1940, to the effect that "the decision to withdraw nationality can be taken against every Frenchman residing outside French territory who betrays by deed, word of mouth or writing, the duties to which every member of the national community is bound." A law of

March 8, 1941, made all those who "have gone to the zones of secession" since December 1, 1940, without the government's approval, liable to the withdrawal of citizenship. Petitions for review of decisions on withdrawal of nationality were admitted within three months of publication.

As a result of those various Vichy laws the population of France under German occupation could be divided into the following groups: 1) 100% French, that is, with French fathers and mothers; their nationality might be withdrawn by the government, but otherwise they enjoyed all rights of citizenship; 2) those whose fathers were foreigners; there were several subdivisions of this group: those whose mothers married foreigners and who were naturalized after the child was born, those whose parents remained foreigners, and those whose mothers acquired French citizenship through marriage, the latter group being ineligible for any civil service position, and barred from the legal, medical, dental and veterinary professions; 3) naturalized citizens, restricted in their rights for periods of five to ten years, whose citizenship, in addition, might always be withdrawn by the Committee for the Review of Naturalization; 4) officials of secret associations, Masonic orders, etc., barred from civil and public services and from various professions and occupations; 5) French Jews, and 6) Algerian Jews, who by the repeal of the Crémieux Decree lost their French citizenship altogether.

Chapter V

THE EXTENT OF STATELESSNESS

At the beginning of World War II the stateless comprised mainly the Armenians who had escaped from Kurdish and Turkish massacres; Russians who had fled from the Soviet Union; the inhabitants of the Saar who had voted for France or for the League of Nations at the time of the Saar plebiscite; the Assyro-Chaldeans and Assyrians who had left Iraq after the massacres in that country; the Jews, democrats and socialists who had fled Nazi Germany; Austrian Jews, monarchists, democrats and socialists; Rumanians who opposed the dictatorship, and Rumanian Jews; anti-Fascist Italians and Italian Jews; Spanish Republicans, Czechoslovakian democrats, etc. After the outbreak of the war Poles, Norwegians, Netherlanders, Belgians, Frenchmen, Yugoslavs, Greeks, Estonians, Lithuanians and others joined their ranks. Of the new refugees, most were not stateless and were under the protection of their respective governments-in-exile. Among the stateless, the Jews formed a very high percentage. Many refugees and stateless persons had to change their countries of residence several times.

There were individuals whose stateless status was only temporary, because they had reasonable hopes of being granted naturalization in the countries of their residence or of regaining their former nationalities in the future. Others had no such prospects and could be considered as permanently stateless. A distinction could therefore be made between the refugees who maintained their nationality and the stateless. Both categories, however, in practice suffered about equally from restrictions of rights and privileges. It was difficult to single out the stateless individuals among the refugees and to evaluate their number correctly even in the periods of relative safety and stability between the two World Wars. It is practically impossible to do so at the present time because of the changes that have occurred constantly and the lack of reliable data.

Immediately after the first World War large numbers of refugees, mostly stateless, came from Russia. They were able to create their own professional, social, religious and even political organizations in the land of refuge. Several governments, especially France, granted them assistance and support. The League of Nations was greatly interested in their fate and protected them

to the limits of its ability. According to the figures of the League of Nations, there were between 400,000 and 500,000 refugees from Russia in Europe in 1929. Practically all of them had lost their Russian citizenship and had become stateless. The number of Russian refugees in Poland was estimated at 50,000 to 100,000 and those in France at 150,000 to 200,000, conservatively.

Some statelessness also resulted from the Italian annexation of former Austrian territory after the first World War. The number so caused, however, was relatively small. According to Sir John Hope Simpson there were in 1937 the following categories of refugees and stateless:

Russians in Europe and the Near East	355,000
Russians in the Far East	94,000
Armenians in Europe and the Near East (not all stateless, because some were naturalized in Syria and Lebanon)	225,000
Refugees from Germany throughout the world	154,000

At the beginning of 1939, Mr. Oscar Jaszi estimated the number of refugees at about 1,000,000, 10 per cent of whom where "active political refugees living in various European countries who cannot return to their old country without being immediately jailed." This number increased considerably soon after the outbreak of the war and the German occupation of the European continent. Great transfers of populations were conducted by Germany and the Soviet Union and the number of refugees as well as stateless persons multiplied. A great majority of those who became stateless were Jews who had been deprived by the Hitler and various quisling governments of their citizenship. It was estimated that every fifth European Jew was a refugee in 1941; most Jewish refugees were also stateless. The American Jewish Joint Distribution Committee attempted to separate the two categories and to evaluate approximately the extent of statelessness in terms of the numbers of people involved. According to these figures, which are approximate and general, there were some 334,000 stateless Jews in non-Russian Europe at the end of 1941. In Latin America there were about 17,000, in North Africa 4,000, in China 22,000, in India 1,000, and in Australia 3,000. These were the tentative figures at the end of 1941. The war continued to expand after that date and additional numbers of people were being deported. The persecution of Jews was intensified and the number of stateless people increased even more. In August 1944 the Intergovernmental Committee on Refugees estimated that throughout the world there were between one and two million stateless persons.

These figures do not include the refugees and stateless who escaped or

were deported from Poland to the Soviet Union. In the United States and other countries of the Western Hemisphere it is extremely difficult to distinguish between the refugees who have maintained their citizenship and those who became stateless. American legislation and administrative practice do not recognize statelessness as a specific legal category, the distinction being only between citizens and non-citizens. Visas of entry are granted on the basis of the applicant's country of birth and not on that of his nationality. By virtue of Section 12 of the Immigration Act of 1924, persons arriving in the United States are registered in accordance with their national origin and as possessing the nationality of the country in which they were born, irrespective of whether legally they are nationals of that country or not. Thus, there is no special procedure in American legislation for distinguishing refugees from immigrants. It follows that a separation between refugees and stateless is also impossible.

In computing the number of stateless a series of questions arises as to the exact definition of the term. Are only those people stateless who have lost their nationality or who were deprived of it formally, or should those who cannot actually claim the protection of their former countries also be considered as stateless? Should such stateless persons as are likely to be naturalized after a given period of time be considered as belonging to the same category as those with no prospects of naturalization? Etc. Whatever the answers to such questions may be, it is obvious that in most countries the stateless are subject to discrimination and sometimes considerable hardships. In many countries there are such legal disabilities in effect against foreigners, and especially the stateless, as restrict the possibilities of earning a living, getting employment, and gaining admission to labor unions and professional associations.

Chapter VI

STATELESSNESS, A PROBLEM OF LAW

Although very often deprived of rights and ignored, stateless persons do nevertheless exist, physically and socially. Their status must consequently be recognized by law. From the viewpoint of domestic law, the stateless individual is an alien, a non-national of the country in which he resides. At the same time, he is not a foreigner in the political sense of the word because no country recognizes him as its national. Usually, the status of stateless persons within a country is determined by the fact that they are non-nationals and aliens and not by the other consideration that no country recognizes them as its national. Thus, the problems which arise in connection with the position of aliens in a foreign country have considerable bearing on the situation of stateless individuals, although very often they have fewer rights than aliens who enjoy the protection of foreign governments. The foreigner who is injured by the authorities of the country of his residence can very often be compensated not only morally, but sometimes also materially, through an appeal to his own government.

It is generally recognized that by the very fact of residing in a foreign country, an alien acquires rights. Several decisions have been rendered by the courts to the effect that a state is not only delinquent in its obligations under international law when it permits an excessive delay in bringing an alien to trial, but is also obliged to bring to trial the national who has injured an alien. International delinquency is also charged if the state does not impose upon its national a sentence commensurate with the crime. In 1927 the United States-Mexican General Claims Commission ruled, in the Hopkins case, that

> the citizens of a nation may enjoy many rights which are withheld from aliens, and, conversely, under international law aliens may enjoy rights and remedies which the nation does not accord to its nationals.

It is unquestionable that American constitutional and statutory laws give aliens in the United States more protection than in any other country. There is a legal technicality which has proved highly favorable to the treatment of aliens residing in the United States. American domestic laws use the term "persons" in all provisions concerning both "personal" and "civil" rights. The

federal and state constitutions have extended protection of the fundamental personal rights of individuals to "persons" rather than to citizens. Interpreting the Constitution and laws, the courts have consistently maintained that the term "persons" was consciously and purposely used so that all individuals, aliens as well as citizens, should be protected. In many respects, aliens residing in the United States enjoy civil rights which approximate or are similar to those of American citizens.

In February 1928 the Sixth International Congress of American Republics, held at Havana, Cuba, passed a resolution which provides that

> the immigrant should enjoy the same legal rights and guarantees as the resident of the country to which he migrates, with the exception of the political rights which each nation grants its nationals, without it being possible ever to dictate matters of any kind which tend to place the immigrant in a situation legally or in fact inferior to that of the national.

Although in practically all countries there is recognition of the right of foreigners to life, liberty and property, the granting of *all* civil rights to foreigners is rather an exception than the generally accepted rule. The generally accepted principles of international law demand that a certain minimum standard of treatment be accorded to foreigners, not to be nullified by domestic legislation. Under the protection of that minimum standard of treatment, which the late Elihu Root called the standard of civilization, an alien can rightfully claim better treatment than that which is granted to a national if the national legislation does not conform to the minimum standard required by international law. Nevertheless, the Pan-American Convention of 1933, on the rights and duties of states, to which the United States is a party, provided that nationals and foreigners were under the same protection of the law and foreigners might not claim rights other and more extensive than those of nationals.

In the last decade, under the influence of Nazi and totalitarian ideologies, these liberal principles have been reversed in a large part of the world. Arbitrary rule has prevailed and nationals as well as aliens have been its victims. The stateless are persecuted without any regard to the accepted principles of law among civilized nations. The solution of the problem of statelessness and all attempts to eliminate, or at least to mitigate, the hardships of the stateless must be predicated on the establishment of a new democratic order after the present war. In that solution the experience of the past must be taken into consideration. It must be realized that although most attempts to solve the problem of statelessness have met with failure, in some instances considerable success has been achieved.

Chapter VII

ATTEMPTS TO ALLEVIATE STATELESSNESS

At first, as we have seen, public opinion in Europe and all over the world tried to ignore statelessness and to underestimate its significance. This new social development, however, became ever more widespread and urgent. Not only were the stateless persons themselves in dire straits, but the highly developed and complex organism of modern life was affected by the fact that part of the population was deprived of any legal status.

Most stateless persons found refuge in countries where violence and dictatorial regimes came to rule, and the curse of their origin plagued them even in the countries of their refuge. The consequences did not stop at borders, for they often had an international bearing. Those who had been made stateless by Bolshevism, Fascism and Nazism were people of varying social, racial and political backgrounds. Their appearance in comparatively large numbers, however, was uniformly accompanied by a growth of decided anti-alien prejudices and of antagonistic feelings on the part of certain social and political groups.

To belong to a state and to possess a nationality is a natural status not only for every individual but also for the community in which he lives. The denial of this injures both the person in question and the state simultaneously, for a being inside the state is "either a beast or a god." Statelessness defies the very existence of any state and offends civilization and mankind. Montesquieu, in his time, had already remarked that no state could boast of its free constitution if its inhabitants were not free. This is a political reality which the governments of many countries have keenly felt and repeatedly expressed in attempts, however abortive, to alleviate and eliminate statelessness. The need to do something outweighed the general antagonism toward the victims of statelessness.

Statelessness has vividly demonstrated the close ties connecting the international legal community. When the ranks of stateless people were swelled in Europe, the consequences were world-wide. No country could fully isolate itself from this phenomenon, and none could render statelessness harmless or prevent it by independent action. In her study on statelessness with special reference to the United States, Mrs. Catheryn Seckler-Hudson came to the

conclusion that at some time or other there were nearly one hundred kinds of statelessness in the United States. Most of the conditions causing this unfortunate anomaly are also in effect at present. Every country was affected by statelessness as a result of birth or marriage, for the reasons examined in Chapter II.

If a wife or child has no nationality, confusion and injustice are practically unavoidable. No state can remain unconcerned about the personal status and the right to property dependent on the divorce or death of a spouse or parent of foreign nationality, and about the status of minor or major children of naturalized parents. All countries have felt the need to make their laws conform with those of others, not only because they would otherwise face counter-discrimination and restriction of their own nationals' rights abroad, but also because they have had to prevent conflicts in the field of private international law.

Proposals for a uniformly accepted codification of international law were made as early as the sixteenth century, in the time of Francis of Vitoria; in more recent times, individual scholars, scientific bodies, public organizations and official institutions have long been engaged in this work. There are several drafts of codes of international law which have been made by authoritative international organizations, including the Institute of International Law, the International Law Association, etc. There is also the so-called Bustamonte Code, signed by the nations of the Western Hemisphere at Havana in 1928. In September 1924 the Assembly of the League of Nations passed a resolution calling for the progressive codification of international law. In response to this request, the outstanding jurists of the United States adopted a draft of a law on nationality in April 1929, which if adopted by the nations, would have reduced considerably the number of people made stateless at birth or through marriage. There are also provisions of a general nature in this draft, but they have little bearing on the question of refugees and statelessness resulting from political and social changes.

In April 1930 the Conference for the Codification of International Law, held at The Hague, finally adopted three documents: 1) a Convention on Certain Questions Relating to the Conflict of Nationality Laws, 2) a Protocol Relating to a Certain Case of Statelessness, and 3) a Special Protocol Concerning Statelessness. Actually, so far as the problem of statelessness is concerned, the two Protocols have much less bearing than the Convention.

The "certain case of statelessness" of the first Protocol referred to the denial of nationality to a child born on the territories of some states in the event that the mother possessed the nationality of the state concerned, but the father was without nationality or of unknown nationality. The Protocol provided that

such a child should have the nationality of the country of birth; it was signed by twenty-five governments. The "Special Protocol Concerning Statelessness" does not bear on the type of statelessness with which we are particularly concerned here. By its terms sixteen governments agreed,

> with a view to determining certain relations of stateless persons to the state whose nationality they last possessed that, if a person, after entering a foreign country, loses his nationality without acquiring another nationality, the state whose nationality he last possessed is bound to admit him, at the request of the state in whose territory he is: 1) if he is permanently indigent either as a result of an incurable disease or for any other reason; or 2) if he has been sentenced in the state where he is to not less than one month's imprisonment and has either served his sentence or obtained total or partial remission thereof.

Although the Convention on Certain Questions Relating to the Conflict of Nationality Laws does not bear directly on stateless refugees either, it has some limited significance for them. The *rapporteur* of the Convention was fully right in his statement that the legislation on nationality was "essentially a political matter. Each country is attached to certain ideas, which it regards as necessary for safeguarding its vital interests." It was, therefore, no small achievement that a general convention was framed, notwithstanding all difficulties, and that its stipulations should be applicable not only to countries in a single continent or to countries adhering to one of the two systems, *jus soli* and *jus sanguinis*, but to all states.

While debating on the Convention, the drafting committee unanimously passed a motion of the Swiss delegation concerning the settlement of statelessness in general. It was the intention to make this motion part of the Final Act of the Conference. It reads:

> The Conference is unanimously of the opinion that it is very desirable that states should, in the exercise of their power of regulating questions of nationality, make every effort to reduce so far as possible cases of statelessness, and that the League of Nations should continue in the work it has already undertaken for the purpose of arriving at an international settlement of this important matter.

The motion was not passed. Another desirable proposal, advanced by the Chinese delegation and approved by the majority of the drafting committee, was not incorporated into the Convention, either. It reads:

> The Conference recommends states to examine whether it would be desirable that, in cases where a person loses his nationality without acquiring another nationality, the state whose nationality he last possessed should be bound to admit him to its territory at the request of the country where he is under conditions different from those set out in the Special Protocol relating to statelessness, which has been adopted by the Conference.

The Convention was enacted in 1937 and ratified by ten states. We shall come back to its preamble and articles 1-7 later, for they show the way for the solution of statelessness in the future. Now we shall note only that this Convention attempted to solve the conflicts resulting from the regulations of the various laws on nationality for married women and children.

The Conference for Codification of International Law at The Hague dealt with the problem of statelessness so far as it resulted from conflicts in matters of nationality arising from birth and marriage. Only indirectly and partially did it touch on the questions of naturalization and expatriation. Accordingly, the measure proposed by the Conference and adopted for enactment by several governments was related to private international law alone. There had been other conferences in the past, however, which were concerned with the problem of statelessness originating from quite different circumstances.

Efforts had been made to limit and alleviate the cases of statelessness resulting from changes in territorial sovereignty in consequence of the treaties of 1919-1920. To this end several states concluded bilateral treaties: Austria with Czechoslovakia, Czechoslovakia with Germany, Germany with Poland, Italy with Yugoslavia, and Yugoslavia with Austria. A broader attempt at a more general solution was also made. Representatives of the seven successor-states of Austria-Hungary met at a series of conferences to eliminate the conflicts between their laws and the arbitrary practice of their civil authorities in their attitude towards the stateless within the former Hapsburg empire.

The result of these conferences was the Rome Convention, concluded in April 1922. It consisted of forty-five separate treaties, protocols and arrangements, with a special convention regulating the nationality problem. Its Article 2 recognized the right of each country to certify the nationality of its inhabitants, provided that the grounds for certification were specified. The other states were entitled to require that "the contents of the certificates should be verified by the central authorities of the issuing state." Disputes about nationality were to be decided by a commission of representatives of the interested countries and a chairman, either elected by common consent or, if such consent were unobtainable, designated by the President of the Swiss Confederacy. In the latter event the chairman would not be a national of one of the litigating states.

The convention treated the problem of legitimation and conflicts about nationality in the successor-states of former Austria-Hungary. It did not, however, touch the problem of those people whom no state was particularly eager to defend as its potential nationals and to guard against becoming stateless. Jews were in such a predicament nearly everywhere. Still, it would be wrong to underestimate the import of this attempt to arrive at an international

agreement upon the status of those apt to become stateless, though not of those already stateless. The Rome Convention was very limited in its scope, yet it was ratified by only two states, Austria and Italy, in 1924, and it was applied as a bilateral convention and not as a general measure. The great stumbling-block was the article requiring the peaceful settlement of disputes, which the exaggerated nationalistic new states regarded as an intolerable interference in their domestic affairs.

The Rome Convention was not ratified because, by and large, it was not the governments but the stateless who were interested in its enactment, while ratification was a matter of the governments' competence. There can be no doubt that it was lack of interest that delayed the action of the European governments. The first convention on the protection of stateless persons and on regulation of their status was concluded thirteen years after huge masses of political refugees had poured across the borders of Europe and had become stateless. Even then it was not the governments that took the initiative.

The political refugees from Russia were the first among the modern stateless refugees, both in time and number. In the beginning, the attitude towards them and towards the very status of refugees and stateless persons was influenced exclusively by humanitarian and philanthropic considerations. It was not by accident that it was the International Red Cross that initiated the first conference on aid and support to Russian refugees, in February 1921. The participants in this conference were: representatives of the League of Nations Secretariat, of the International Labor Organization, of the French Ministry of Foreign Affairs, of the International Union for Aid to Children (with the "Save the Children Fund"), and of the League of Red Cross Societies. The International Committee of the Red Cross moved to urge the Council of the League of Nations to appoint a High Commissioner for Refugees under the auspices of the League of Nations, whose first task would be to

> define the legal status of Russian refugees, wherever they may be, apart from all political considerations, because it is impossible that in the twentieth century there should be 800,000 men in Europe unprotected by any legal organization recognized by international law.

The next step would be to organize their employment in the countries where their existence would appear to be best assured and, above all, to arrange for their repatriation to Russia. Finally, all the efforts of private organization in behalf of the refugees were to be coordinated and developed still further under the aegis of the League of Nations.

The second and third aims were given precedence. Only later were hu-

manitarian efforts added to those which were concerned with the creation of a legal status for the stateless refugees to be recognized by international law. The great majority of Russian refugees were unable to return to Russia or obtain naturalization in a foreign state, and were compelled to settle down in the various countries in which they were dispersed. It became apparent at once that their legal status differed essentially from that of ordinary foreigners. These denationalized people were doomed to a legally undefinable status because there were no diplomatic or consular agencies invested with authority over them.

Questions concerning nationality, matrimonial rights, family law, the right to inheritance and other related problems remained unsettled and confused. The problem of conflicting laws caused great difficulties especially for the Russian refugees. On the one hand, they were stateless, and on the other, the Soviet government still had not been recognized by a great many countries. This state of legal uncertainty and helplessness prejudiced not only the interests of the refugees but also those of the nationals and authorities of their countries of residence.

The first step on the way to establishing an internationally recognized legal status for Russian refugees was the creation of an identity certificate, commonly known as the Nansen Passport. Its form, the legal conditions for its issuance and its validity were defined by several intergovernmental arrangements adopted at Geneva upon the initiative of the High Commissioner, Dr. Fridtjof Nansen, in particular by the arrangements of July 5, 1922, and of May 31, 1924, to which 52 countries ultimately acceded. Subsequent amendments and additions were provided by the intergovernmental arrangement of May 12, 1926.

When the Armenians joined the ranks of refugees and stateless persons, the League of Nations granted its protection to them also. In May 1924, the High Commissioner, Dr. Nansen, provided an identity certificate for them similar to that of the Russians. Henceforth, Russians and Armenian refugees and stateless persons shared a common fate. It is highly significant that, sad though their lot was under the auspices of the League of Nations, they became and have been an object of envy for the even less fortunate stateless. The Committee of Jewish Delegations in Paris, the Congress of the Federation of Leagues for the Defense of the Rights of Man, the Union of Stateless Persons in Cologne, scores of thousands of Ukrainians who had fled from Galicia to Austria and Czechoslovakia, Montenegrins who lived in France and could not return to Yugoslavia, and many others, repeatedly urged the High Commissioner to apply to them the measures adopted on behalf of Russian and Armenian refugees and stateless individuals.

After the Nansen Passport had been provided, the next step taken was the elaboration of an internationally recognized general legal status for the stateless. At the Conference of Geneva, in June 1928, the majority of the delegates adopted the Arrangement Relating to the Legal Status of Russian and Armenian Refugees, and the delegates of Belgium and France signed the Arrangements Relating to the Establishment of Agencies of the High Commissioner of the League of Nations for Refugees. The latter arrangement was declared open for adherence by any other state, whether a member of the League of Nations or not.

Most of the states represented at the Geneva Conference of June 1928 ratified these arrangements and ordered their enactment under certain reservations. One such reservation was Article 1 of the Decree of the President of the French Republic of January 11, 1930, promulgating them:

> The Arrangements relating to the legal status of Russian and Armenian refugees signed at Geneva on June 30, 1928, the text of which follows hereafter, shall be published in the *Journal Officiel* and enacted as from February 1, 1930, to the full extent compatible with the Laws and Regulations.

The effect of this reservation was that whenever a provision of the arrangement appeared in practice to be in conflict with a French law the French courts declared the "recommendations" of the arrangement inapplicable. In order to give legal force to the recommendations of a Geneva Arrangement it was necessary to transform the latter into a real international treaty establishing an obligatory international regime applicable to the legal status of Russian refugees. Such a convention was adopted at a new conference held at Geneva in 1933.

The Convention of October 28, 1933, was the result of protracted and painstaking work and of clashing and vested interests. The time-limit for the liquidation of the High Commissioner's Office was imminent. This fact essentially contributed to the convocation of the convention and to an acceleration of its work. Moreover, the *de jure* recognition of the Soviet government strengthened the will to eliminate this expensive and troublesome institution as soon as possible.

At first, the Secretary General of the League of Nations and the International Labor Organization had supervised the activities of the High Commissioner, but later the High Commissioner's Office was made autonomous. Moreover, a distinction began to be made between the humanitarian and the legal and political functions of the organization. In September 1930 the Assembly of the League of Nations approved a plan for a general reorganization of the work on behalf of the stateless refugees, and entrusted it to the

Nansen International Office. (This Office was closed on December 31, 1938, for "the political and legal protection of refugees" was thereafter to be cared for by "the regular institutions of the League of Nations.") The League of Nations Secretariat General granted quasi-consular rights, provided for in the Franco-Belgian Arrangement of June 1928, to its representatives in France and Belgium.

Because of the unavoidable termination of the relief work on behalf of refugees, efforts to turn the non-binding "recommendations" into a formal, obligatory international convention, gained momentum. There may be differences of opinion about the practical effects of the Convention on the International Status of Refugees. It should be recognized, however, that it was the peak of the League of Nations' achievements in the field of assuring the interests and rights of refugees and stateless persons. This convention and that concerning the status of refugees coming from Germany, adopted in February 1938, are often justly called the Charters of Liberty of the stateless refugees.

The Preamble to the Convention of 1933 refers to the Preamble to the League of Nations Covenant and to the latter's Article 23, and stresses the continuity of the Convention with League precedents. The signatory governments expressed their desire "to establish conditions which shall enable the decisions already taken by various states with this object [i.e., alleviating the plight of the stateless refugees] to be fully effective." The Preamble further underscores the ends of the Convention:

> that refugees shall be ensured the enjoyment of civil rights, free and ready access to the courts, security and stability as regards establishment and work, facilities in the exercise of the professions, of industry and of commerce, and in regard to the movement of persons, admission to schools and universities.

After a general definition of the persons to whom it is to be applied, the Convention deals with administrative measures (e.g., the issuance of Nansen certificates, their wording and time of their validity). The regulations provide that expulsion and non-admission at the frontiers should be avoided, unless dictated by reasons of national security or public order. Articles 4-6 treat the various questions concerning personal status. As a general rule, personal status was to be governed by the law of the country of domicile, or, in the absence of such country, by the law of the country of residence. The validity of acts and documents of religious authorities was to be recognized in countries admitting the competence of such authorities. Rights acquired under the former national law of the stateless person, more particularly rights attaching to marriage (the legal capacity of married women, etc.), the disso-

lution of marriage, etc., were assured. The stateless were to have not only free and ready access to the courts but also "the same rights and privileges as nationals" in the countries of their domicile or regular residence, and were to enjoy the benefit of legal assistance.

The chapter on labor conditions includes provisions which must be appraised in the light of the restrictions that almost all countries had established for foreigners, desirable and undesirable alike, and in the light of the fact that stateless persons were the most underprivileged and rightless aliens. The Convention provided that the restrictions ensuing from the application of laws and regulations for the protection of the national labor market "shall not be applied in all their severity" to stateless refugees domiciled or regularly resident in the country. In cases of damage or injury from industrial accidents the stateless were to be accorded "the most favorable treatment that the country of their residence grants to nationals of a foreign country." The same treatment was to be granted in respect to welfare, relief and assistance to the unemployed, to persons suffering from physical or mental disease, and to the aged or infirm. Refugees were to enjoy the benefits of the social insurance laws in force, the right to form and join associations for mutual relief and assistance and equal treatment with other foreigners in all educational matters. They were not to be made liable to special taxes, charges or levies, in particular at the issuance or prolongation of administrative documents.

Article 14 of the Convention stressed that the enjoyment of certain rights and the benefit of certain favors granted to foreigners on the basis of reciprocity should not be denied to refugees because of the absence of reciprocity.

The subsequent articles were concerned with the organizational regulations, the creation of a committee for refugees, the time-limit for signature and ratification of the Convention, and the conditions of its enactment and of accession to and withdrawal from it.

The Convention was to be in force after ratification by at least two states, whether members of the League of Nations or not; it allowed reservations on any point by every signatory. This right to make reservations was extensively used at the signing. Almost each of its articles was subjected to reservations by several signatories, and even by governments which did not sign the Convention at all (the United Kingdom, for instance).

The Convention was immediately signed by the representatives of Belgium, Bulgaria, Egypt, France and Norway. Ratification, however, took much time. It was not until the middle of 1935 that it could come into force, following its ratification by Bulgaria, Czechoslovakia and Norway. Denmark acceded to it at the end of 1935, Italy and the United Kingdom in 1936. France ratified the Convention in 1936 and Belgium in 1937.

France and Belgium made the reservations that they did not assume any obligations with regard to their colonies, protectorates, overseas territories and other possessions. The Belgian parliament authorized the government to ratify the convention, leaving it to the government's discretion either to maintain or to cancel the reservations made at the signing in 1933. The Bulgarian government maintained the reservations it had made earlier with regard to the extension of certain measures in favor of Russian and Armenian refugees to other categories of refugees.

Several governments declined to ratify an obligatory international convention or to accede to it, on the ground that they already applied the measures which it provided for in their attitude toward refugees residing in their countries. These were the governments of the United States, Estonia, Finland, Greece, Iraq, Latvia, Sweden, Switzerland and Yugoslavia.

It seemed then that the Convention was a great practical achievement. The very existence of hundreds of thousands of refugees and stateless persons had been entirely dependent on the discretion of the local civil administrations, which were bound only by moral desiderata and "recommendations" of the League of Nations. It was assumed that, after obligations were voluntarily entered into and incorporated in an international convention, they would gain more weight and effectiveness. The Convention also seemed to mark a great advance in regulating the complex and aggravated problem of statelessness. It could solve the problems which previously had not had to be faced, but which had become very acute because statelessness had come to affect huge masses of people in almost every country of the world. By acknowledging a special status of stateless persons the Convention showed the way out of the impasse in which legislative and administrative practice was deadlocked, in their inability to regard stateless people either as nationals or as aliens in the strict meaning of the word. The individuals in question thus were more or less deprived of all rights. By recognizing a special status for stateless persons, whether temporarily or permanently stateless, with or without prospects of naturalization, the Convention gave evidence that some countries at least were ready to forego their traditional ideas and sovereign discretion and to agree that part of their population should be protected by regulations of international law. The situation which the Convention brought about for some definite categories of political refugees and stateless people can be compared with that which originated from the treaties, conventions and declarations of 1919-1920 in behalf of minorities of race, creed or language.

The Convention was to be applied to Russian, Armenian and similar refugees who did not enjoy the protection of the governments of the Union of

Soviet Socialist Republics or of the Turkish Republic and who had not acquired another nationality. Thus, it affected not all refugees and stateless persons, but only some categories, the "more privileged" of them. Consequently, the other groups of refugees made great efforts to gain equality of status with that of the "privileged" category. Proposals for extending the status provided for Russian and Armenian refugees to those of other origin had been made repeatedly. As early as 1926, for instance, the German government, which for many years had taken the initiative in matters concerning minorities (because of the many members of German minorities abroad), urged the League of Nations to extend its political and legal protection to all refugees and stateless individuals without any discrimination by reason of their origin, and to issue Nansen Passports to all persons without nationality.

The ascendancy to power of the Nazis and the resulting flood of refugees from Germany immediately raised the question of League of Nations protection for them. In September 1933 the Dutch Minister of Foreign Affairs, De Graef, broached the question whether the protection of refugees from Germany should not be entrusted to the Nansen Office. The situation was complex and delicate, Germany still being a member of the League of Nations and in sharp opposition to any aid to the victims of her new regime. The same kind of opposition was manifested later by the Soviet Union, upon joining the League of Nations, with respect to Russian and Armenian refugees. Great hopes had been put in the Convention of 1933 concerning Russian and Armenian refugees. Actually, however, its application was paralyzed, if not sabotaged. Brakes were also put on the measures which the League of Nations took to protect refugees from Germany, and later from the Saar, Austria and Czechoslovakia, even after Germany had left the League of Nations. The policy of appeasement was in the saddle, and the statesmen feared that a too outspoken attitude on the ticklish refugee problem might antagonize Germany.

For this reason the League of Nations did not take over the work of aid to refugees from Germany and did not entrust it to the Nansen Office. The political refugees from Germany themselves and several organizations which gave them relief and assistance, had organizational objections to this Office. It was, therefore, resolved to appoint a special *autonomous* High Commission, with a governing body, to which the High Commissioner would have to report. The Council of the League of Nations organized a committee, which on October 26, 1933, appointed James G. McDonald, at that time Chairman of the Board of the American Foreign Policy Association, to be High Commissioner for Refugees (Jewish and other) Coming from Germany.

This did not solve the problem. At the Assemblies of the League of Nations

the question was repeatedly posed anew whether it was proper or advisable to discriminate among the different categories of refugees. The Norwegian Foreign Minister, Halvdan Koht, felt that it was "not fair to draw a distinction between different categories of refugees and 'stateless' persons," based on their origin, race and political convictions, among other things. He moved that "the League should grant protection to all those unfortunate persons who, voluntarily or involuntarily, had left their countries and thus lost their nationality and protection by their national authorities." His purpose was humanitarian, and primarily intended to aid the stateless refugees, but such action would also have been very useful in assuring the normal development of all nations which had been affected by the startling increase in the numbers of refugees. Mr. Koht's motion was not approved. Many delegates were fearful of antagonizing the representatives of the Soviet Union and Turkey, who persistently were in opposition to all measures of the League of Nations on behalf of political refugees from their countries.

The League of Nations' desire to avoid any positive action on behalf of refugees from Germany became so evident that a crisis was inevitable. At the end of 1935, High Commissioner McDonald resigned; the letter of resignation which he addressed to the League's Secretary-General was an eloquent protest to the world that things could no longer continue as they had been going. He pointed out that from the very beginning the effectiveness of the High Commissioner's efforts had been emasculated by the compromise of separating his Office from the League, since the work entrusted to the High Commissioner was "a political function which properly belongs to the League itself." He insisted that when domestic politics threatened the demoralization and exile of hundreds of thousands of human beings, considerations of diplomatic correctness must yield to those of common humanity, and he concluded:

> I should be recreant if I did not call attention to the actual situation, and plead that world opinion, acting through the League of Nations and its Member-States and other countries, move to avert the existing and impending tragedies.

That the whole political trend was fallacious and distorted at that time was vividly demonstrated by the statement of the disappointed and despairing High Commissioner:

> The moral authority of the League of Nations and of States Members of the League must be directed towards a determined appeal to the German Government in the name of humanity and of the principles of the public law of Europe. They must ask for a modification of policies which constitute a source of unrest and perplexity in the world . . .

The Nansen International Office and the High Commission for Refugees

(Jewish and other) Coming from Germany were not fused, but continued to function separately. After the death of Fridtjof Nansen, in 1930, the Nansen Office for some time was headed by the well-known Swiss professor of international law, Max Huber, then by the Swiss Professor Georges Werner, and after his death by the Norwegian Judge Michael Hanson. After Mr. McDonald's resignation, General Sir Neill Malcolm was appointed High Commissioner for Refugees Coming from Germany.

This organization followed in the footsteps of the Nansen Office. In July 1936, a Provisional Intergovernmental Arrangement was adopted, and in February 1938 a special Convention Concerning the Status of Refugees Coming from Germany was agreed upon.

The Convention was patterned after the Convention of 1933. Most of the articles (8-14 and 16-17) repeat the corresponding articles (6-14) of the Convention of 1933 almost verbatim. They concern the "right to appear before the courts as plaintiff or defendant," "labor conditions," "industrial accidents," "welfare and relief," "taxation," and "exemption from reciprocity." Some articles have a somewhat modified wording. Others (concerning "the right to sojourn and residence" and, particularly, "travel documents") are more detailed. In order to obviate the difficulties which arose at the accession to the Convention of 1933, the corresponding regulations of the new one were given a less rigid formulation. The benefits provided for by the Convention of 1938 were not so ample as those the Convention of 1933 granted to Russian, Armenian and similar refugees. The liabilities of the countries of refuge also were reduced. The terms "political refugee" and "stateless individual" were defined in a somewhat modified version. A distinction was made between the personal status of refugees who retained their nationality and that of those who had lost it. Finally, an article was added dealing with the education of refugees.

The term "refugees coming from Germany" was to apply to persons possessing or having possessed German nationality and not possessing any other nationality who were proved not to enjoy, in law and in fact, the protection of the German government. Unlike the Convention of 1933, the new one did not mince words in defining stateless persons. The definition given by paragraph "b" of the first article reads:

> Stateless persons are persons not covered by previous Conventions or Agreements who have left Germany's territory after being established therein and who are proved not to enjoy, in law or in fact, the protection of the German government.

Those who had left Germany for reasons of purely personal convenience were not included in this definition.

This definition of refugees was broader and more liberal than the previous one. According to the Provisional Arrangement of July 1936, a person of whatever nationality could be considered as a refugee coming from Germany if he had been settled in that country and had left it to take refuge in the territory of another state. This condition was no longer required by the definition reproduced above. The condition of settlement in Germany was, however, required. The definition adopted by the Convention refers only to stateless individuals who had been settled in Germany, and not to all stateless people, whether settled in that country or not.

As far as personal status was concerned, the convention made a distinction between refugees who had retained their original nationality and those who had no nationality. The personal status of the first category was to be governed by the regulations which the country in question applied to foreigners possessing nationality. The personal status of the second category was to be governed, save in cases otherwise provided for by treaty, by the law of their country of domicile or, if there was no such country, by the law of their country of residence (Article 6), in accordance with the provisions of Article 4 of the Convention of 1933.

The additional Article 15 of Chapter IX (dealing with the education of refugees) was inspired by the fact that the refugees from Germany were preeminently intellectuals, members of the professions and formerly wealthy people. It reads:

> With a view to facilitating the emigration of refugees to overseas countries, every facility shall be granted to the refugees and to the organizations which deal with them for the establishment of schools for professional re-adaptation and technical training.

In February 1938 seven of the fourteen states represented at the conference—Belgium, Denmark, France, Great Britain, Holland, Norway and Spain—signed the Convention. Belgium, Denmark, Great Britain and Spain made reservations concerning their colonies, protectorates and overseas possessions. The Convention was ratified by Belgium on September 1, 1938, and by Great Britain on September 26, on the eve of the Munich Conference. Two days later the League of Nations finally resolved to fuse the Nansen International Office and the High Commission for Refugees Coming from Germany into one High Commission of the League of Nations for Refugees. The opposition of the Soviet government had to be overcome before the League could approve the reorganization. Sir Herbert Emerson was appointed head of the new organization for five years, beginning on January 1, 1939.

The duties of the new High Commissioner were defined in the resolution passed by the Assembly on September 30, 1938, to be the following: a) to provide for the political and legal protection of refugees, as entrusted to the regular organs of the League by the Assembly's decision of September 30, 1938; b) to superintend the entry into force and application of the legal status of refugees, particularly defined in the Conventions of October 1933 and of February 1938; c) to facilitate the coordination of humanitarian assistance, and d) to assist the governments and private organizations in their efforts to promote emigration and permanent settlement.

This was the swan song of the League of Nations. The fateful year of 1939 ushered in the seizure of Czechoslovakia and the invasion of Poland. World War II brought all efforts to solve political and social problems by way of law and justice to an end in Europe. The rule of force became supreme, might replaced right, and legal regulations by international acts were out of the question.

The Convention of 1938 came into force on October 26, 1938. Some states, although not parties to these agreements, applied the regulations of the Convention in practice as far as possible. Such were Czechoslovakia, Sweden and the Soviet Union. The United States government informed the High Commissioner that the provisions of the Convention of February 1938, to which the United States felt unable to accede, were applied in practice in its country whose legislation in certain respects went even further than some of the Convention's requirements.

The convening of the Evian Conference in 1938 was at the initiative of the United States. In March 1938 the State Department invited 29 governments from Europe, America and Australia to participate in an international conference for the creation of an Intergovernmental Committee for Aid to Political Refugees. Only Italy rejected the invitation. From July 6 until July 15, 1938, representatives of 32 countries were assembled at Evian, a resort on the French-Swiss border, and discussed the means of aiding political refugees and stateless persons. The representative of the United States, Myron C. Taylor, declared: "The ultimate objective should be to establish an organization which would concern itself with all refugees, wherever governmental intolerance shall have created a refugee problem." The United States representative urged the other countries to collaborate in the solution of this task. Although taking into account the "immeasurably complicated" situation and condemning "the forced and chaotic dumping of unfortunate people in large numbers," he proposed that the Conference should start with the limited task of assisting people who were anxious to

emigrate from Germany (including Austria) by reason of their treatment by the rulers of their country because of their political convictions, creed and racial origin.

The resolution which the Conference finally accepted was but a faltering step on the way toward solving the problem. It speaks of "involuntary emigration" without mentioning "statelessness." To be sure, nothing could be advanced against the theoretical assumptions of the resolution that the question of involuntary emigration had assumed major proportions; that the involuntary emigration of large numbers of people of different creeds, economic conditions, professions and trades from countries where they had been established impaired the general economic situation, since these persons were compelled to seek refuge in other countries at a time when there was large-scale unemployment in these countries; that, consequently, the countries of refuge and settlement had to face not only problems of economic and social nature but also of public order; and, finally, that the involuntary emigration of large numbers of people had become a source of growing unrest, rendered racial and religious problems more acute and might seriously hinder the process of appeasement in international relations. One could also agree with the "belief" of the resolution that

> it is essential that a long-range program should be envisaged, whereby assistance to involuntary emigrants, actual and potential, may be coordinated within the framework of existing migration laws and practices of governments.

Nevertheless, it cannot be denied that the Evian Conference was a failure, and not only because no fewer than thirty-odd delegations separately represented the interests of refugees and stateless persons at the Conference. The decisive reason for failure was that almost all the potential countries of refuge kept their gates tightly closed to those desperately seeking an asylum.

All the delegates expressed their "fullest agreement, in principle, with the task" set for the Conference. At the same time, however, they declared that the country they represented "has already almost exhausted its own resources" (France); "is not a country of immigration, is highly industrialized, fully populated and is still faced with the problem of unemployment; for economic and social reasons the traditional policy of granting asylum can only be applied within narrow limits" (Great Britain); that it was impossible to restrict the discretion of the immigration authorities (Argentina); that it had to expand its foreign markets before admitting masses of workers who would increase the national output (Chile); that its laws provided that 80 per cent of each country's immigration quota must be allotted to agricul-

tural immigrants (Brazil); "as we have no real racial problem we are not desirous of importing one by encouraging any scheme of large-scale foreign migration" (Australia), etc.

The essential result which the "recommendations" of the conference achieved can be summed up by the following provision:

> In those individual immigration cases in which the usually required documents emanating from the foreign official sources are found not to be available, there should be accepted such other documents serving the purpose of the requirements of law as may be available to the immigrant.

Note was to be taken, moreover, of the several international agreements providing for the issuance of travel documents serving the purpose of passports and of the advantage of their wide application.

The Colombian representative introduced a motion for the appointment of a legal subcommittee to study all problems concerning political emigration and elaborate a legal statute for political refugees, but the Conference did not approve his motion. One of the delegates made the sarcastic quip that Evian spelled backwards was "naive." The only concrete achievement of the Evian Conference was the establishment of the Intergovernmental Committee on Refugees with Sir Herbert Emerson as its director. In his double capacity as Director of the Intergovernmental Committee and as High Commissioner of Refugees under the Protection of the League of Nations, Sir Herbert Emerson is the one official most responsible for the welfare of the stateless.

Chapter VIII

THE STATELESS IN TIME OF WAR

Stateless people are restricted in their rights in time of peace, and infinitely more so in time of war. Sometimes their situation then becomes tragic. Even the most democratic countries, in time of war, take preventive measures against those who, since the Spanish Civil War, have been called the Fifth Column: persons behind the lines who sympathize with and give assistance to the enemy. It is quite natural to presume that such sympathizers are to be found first of all among the residents of the country who are, or recently have been, nationals of the enemy countries. Very often, however, and especially in this war, this presumption is entirely unfounded. Many were compelled to escape from their former countries because of political and racial reason; they were the first victims of the Axis governments, and can in no way be responsible for the acts of those governments. Nevertheless, they find it hard to rid themselves of the stigma of their country of origin even after they have succeeded in reaching a country of refuge.

The United States took measures for supervising alien residents shortly before its entry into the war. With the formal declaration of war, the problem of supervising aliens became very important, especially in view of the millions of Axis nationals residing in the United States. Since citizens had to submit to certain measures and regulations, non-nationals, aliens and persons without nationality naturally were supervised even more strictly. The United States made a distinction between friendly and enemy aliens, while Great Britain made a further differentiation between nationals of neutral countries and enemy aliens. While the situation of the first category did not undergo any particular change, except for the restrictions which affected all in wartime conditions, special measures and rules were accepted for enemy aliens.

The democratic countries, however, were anxious to avoid extensive and undue interference with the daily life of the residents. They did not go beyond the limit of restrictions which the state of war made absolutely necessary. In the words of former United States Attorney, Matthias F. Corea:

> It is our firm purpose to avoid anything that savors of wartime hysteria or the persecution of the innocent, but at the same time we are resolved that the internal security of this nation be protected and that, come what may, it will be.

Former Attorney General Biddle stated:

> As to the law, there is only one restriction: in the case of secret, confidential or restricted government contracts, and in the case of contract for aircraft parts or accessories, the employer must secure permission . . . for the employment

> of aliens. . . . Among the thousands who have come to this country in recent years there are soldiers in the common war on Hitlerism who have already suffered and sacrificed as much as any of us may be called upon to suffer.

In contrast to the generally liberal system applied in the United States, the British government was very strict, especially in the beginning of the war. "Enemy aliens" were interned on a wholesale scale, after which each of them was given the opportunity to prove that he was not an "enemy alien," did not menace the country's security, and actually a "friendly" or "certified" alien who could be useful in the struggle against the common foe. The application of this method was comparatively easy because there were only about 70,000 aliens of enemy nationality in Great Britain.

In the United States, there were about 1,100,000 enemy aliens on December 1, 1941, and about 1,250,000 after the declaration of war against Bulgaria, Hungary and Rumania, in June 1942. In October 1942, the government released about 600,000 Italian non-citizens from the enemy-alien status, reducing the number of "enemy aliens" nearly one-half. After that time the bulk of enemy aliens consisted of Germans (264,000) and Japanese (48,000).

In the United States the term "enemy alien" had a broader meaning than in Great Britain. According to British law an enemy alien was a person who possessed the nationality of a country at war with Great Britain. The American law did not consider the question of actual nationality, but asked whether a person was "a native of a country which is at war with the United States." Thus, people without nationality, the stateless, were treated as enemy aliens if they were born in an enemy country even though they were no longer nationals of that country.

The situation thus created was frequently absurd, especially when applied to people known for their anti-Nazi and anti-Fascist activities. A much more serious situation arose for those who had escaped from the Nazi-occupied parts of Europe and lost their nationality because of race, religion or political activities. At first in France and later in the Western Hemisphere, these victims of oppression and persecution were regarded as enemy aliens although they were the first victims of the Nazi regime. Very often they were not enemy aliens at all because they had been deprived of their nationality and became stateless. In the words of Attorney General Francis Biddle, they were aliens "in the technical sense of the word only."

In other countries the situation of the stateless was much more precarious. The war deepened their plight and made their legal situation even more subject to arbitrary rules and regulations. It revealed more clearly than ever before the need for an international agreement to settle the problem of statelessness in peace as well as in war.

Chapter IX

CONCLUSION

The experiences of the past should serve as a lesson for the future, though usually past bunders go unheeded when plans for the future are being made.

We shall not try to draw a concretely detailed picture of the future world. Let us only assert that statelessness, which is a result of a general lag in international and domestic affairs, will continue to be governed by the state of the world after the present war. As long as the world is ruled by force and violence the rights of stateless persons cannot be assured. They are restricted in their rights more than any other people and constitute the weakest link in the chain of human rights. Conversely, the rule of the basic principles of justice and law would result in the elimination of the present restrictions on the rights of the stateless persons.

It would be utopian to assume that there is a panacea against statelessness, or that there is one means of solving this difficult and tormenting problem. Only those who do not fully realize its essentials will advance a monistic solution. It may be dealt with in different ways, for there are various kinds of statelessness, and the aspects of this social, economic, legal and political problem differ.

First of all, the international and domestic methods of treatment can be distinguished. As soon as this natural demarcation is evident, the whole problem reverts to the original point of departure—the state of the world after the war. The solution of the problem of statelessness will be determined in great measure by the delimitation of the national and international spheres. It is not only the topographic frontiers—border-stones and landmarks—which we have in mind, but also the limits of competence, or the delimitation of the sphere of international rule from that of the domestic authorities. If a "World Federation," or at least an all-European Federation, emerged as a result of this war, it would be easy indeed to solve the problem of statelessness. If a single European citizenship were established, there would no longer be statelessness when disputes arose as to which European country the person concerned belonged. It is highly improbable that such federation will soon be achieved. Even with regional confederations of large numbers of states, we should still find conditions which would result in statelessness.

Masses of people have become stateless in recent times, not so much because the various countries did not mutually adapt their laws regarding the granting of nationality, naturalization and option, but because of governmental discrimination on political, national, religious or racial grounds. These policies of discrimination breed conditions leading to statelessness, and it matters not whether the territorial competence of the discriminating governments will be limited to some countries only, or extended all over Europe or over all the continents of the globe. Hence we are again face to face with the initial problem of the world's organization after the war.

At present there can be no specific, "arithmetic," solution of this problem, All solutions can of necessity be only of a general conditional, "algebraic," kind. The extent and form of their actual realization will depend upon what actual meaning the terms which we use now—"world," "international organization," "limited state sovereignty," "guarantee of rights," "regional federations," "minorities"—will have in the future. Only with these qualifications is it possible to review those measures which can result in a reduction of the numbers of stateless persons, and in remedying the wrong which statelessness inflicts upon individuals, groups, states and the international community, so that in the end it may be eliminated altogether.

Statelessness is an anomaly, a pathological condition of individual and public life. The untenable status of an individual without nationality unavoidably taints the whole political organism and casts its shadow also upon those who enjoy the benefits of nationality. Twenty-odd years ago the Argentine jurist and statesman, E. S. Zeballos, published an extensive work in which he formulated "ten axioms synthesizing the public and private law in matters of nationality" that are entirely valid at this time:

> Nationality is a tie of free will, a *bona fide* tie (in French, "lien volontaire"). Every person should have a nationality. No person should have two nationalities (Cicero, Pro Balbo: *Duarum civitatum civis esse, nostro jure civili nemo potest*). Every person has the right to change his nationality freely (. . . *neve in civitate maneat invitus*). The state has no right to prohibit changes of nationality. The state has no right to oblige persons to change their nationality against their own will (*Ne quis invitus civitate mutetur* . . .). Every person has the right to reacquire the nationality he had given up. The state may not impose its nationality on people domiciled in its territory, against their will. Nationality, either by birth or by acquisition, determines the application of public and personal laws to individuals. The state is obliged to determine the condition of persons without nationality in relation to public and personal law.

Had these axioms and principles ever been adopted in law, they would have completely eliminated statelessness. There are, it is true, a great many obstacles impeding their realization, but they could be overcome by a series

of coordinated measures. In October 1929, at its convention in New York, the Institute for International Law adopted the well known Declaration of the International Rights of Man. Proceeding from the general to a more specific consideration, one should start with making this Declaration part of established international law.

The Preamble to the Declaration reads:

> Whereas the legal conscience of the civilized world demands that the individual shall have rights exempted from any encroachment by the state; whereas the Declarations of Rights incorporated in most constitutions, in particular the American and French Constitutions, provided not only for citizens but also for Man; whereas the Fourteenth Amendment to the Constitution of The United States provides that: "No State shall deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws"; whereas the Supreme Court of the United States unanimously ruled that there is no distinction in the wording of the Amendment as to race, color or nationality, and that equal protection by law is the guarantee for protection by equal law it is highly important to extend the recognition of the International Rights of Man all over the world.

The Declaration is formulated not as an aggregate of Rights of Man, but rather as the sum total of the definite obligations of states. The first three articles of the Declaration all begin with the words: "It is the obligation of every state to acknowledge that every individual . . . " The Declaration demands that every individual must have "equality of rights to life, liberty and property, and that the protection of these rights must be assured for all inhabitants of the territory irrespective of their nationality, sex, race, language and religion." (Article 1.) The second and third articles provide equality of rights to free exercise of religious rites, both in public and private, insofar as it is not incompatible with public order and morals; they also provide for the free choice of any language. Article 4 establishes that "no reason, which directly or indirectly is based on distinction of race, sex, language, nationality or religion, should authorize the state to deny personal or civic rights to any of its nationals, particularly in relation to admission to governmental schools and also in the field of professional and vocational occupation or in economic activities." Article 5 deals with the same matter in a general form. It reads: "The equality provided for above must not be nominal, but real. It excludes all discrimination, direct or indirect." Article 6 finally aims at the widespread practice of mass-discrimination by way of depriving individuals of nationality. "No state has the right to exclude from its nationality—except for reasons resulting from general laws—those persons whom it has no right to

deprive of the guarantees provided for above in the articles on the ground of sex, race, language or religion."

The Declaration proclaimed the International Right of Man; the Rights of Citizens were not included in order to make the adoption of the Declaration easier. In the words of Baron Rolin Jaequemyns, the Rights of Citizens were "questions of domestic law and policies." However, the main author of the Declaration, who reported it at the Convention, Dr. André N. Mandelstam, was unquestionably right in saying that "it is difficult to delimit exactly the Rights of Man from the Rights of the Citizens." At any rate, the Declaration was approved by the overwhelming majority of the outstanding jurists and statesmen who participated in the Institute's Convention in New York.

Though approved by men of the highest authority in law, the Declaration remains only a statement of moral principles. It is true that the Statute of the Permanent Court of International Justice provided that among other jurisprudential sources the Court should apply "the teachings of the most qualified publicists of the various countries," but the provisions of the Declaration could become obligatory only if Mr. Mandelstam's proposal to create a World Convention on the protection of the Rights of Man on a world-wide scale were to materialize.

Along with such a convention the same result would have been achieved by a universal convention or general agreement on the problem of nationality. The reasons setting forth the necessity of such a special convention can be found in the Preamble to the Convention Relating to the Conflict of Nationality Laws adopted by the Conference for Codification of International Law in 1930.

> Being convinced that it is in the general interest of the international community to secure that all its members should recognize that every person should have a nationality and should have one nationality only, recognizing accordingly that the ideals towards which the efforts of humanity should be directed in this domain is the abolition of all cases both of statelessness and of double nationality . . .

Many specialists are of the opinion that it is hopelessly utopian to think of achieving a general convention. They deem it, nevertheless, quite feasible to draft a model convention to which any two states could become parties, with the modifications necessary in each case. According to Catheryn Seckler-Hudson, the simplest Universal Agreement regulating the question of statelessness should, in principle, provide for two things: 1) Persons born within the territory of a state should acquire the nationality of that state at birth and *retain* such nationality until some other one is acquired. This would assure nationality to children, that of the country of their birth, and thus eliminate

their statelessness. 2) Individuals who possess a nationality should have the right to divest themselves of it and to acquire another one through the process of naturalization in a foreign country, if they are deemed worthy of acceptance and willing to assume the burdens of citizenship there. Preferably, the process of naturalization should be simple and universal.

Mrs. Seckler-Hudson quotes the writings of Francis of Vitoria (of 1557), who on his part referred to the Justinian Code, as evidence that the laws on nationality are not of exclusively contemporary concern, or of the Conference at the Hague, or of Grotius, but as old as the world itself. This is very true. The assertion is questionable, however, that Vitoria had already given "a guarantee of a single nationality and hence a guarantee against statelessness and the principle of expatriation." It goes without saying that if the principle of *jus soli* were universally recognized, children would be assured of nationality and prevented from becoming stateless. The legal principle has no bearing, however, in all other cases of statelessness, even of minors, and does not eliminate these cases. It does not eliminate the particular conflict which may arise when a person acquires nationality by *jus soli*, but regards his ties to the soil (*solum*), the country of his birth, as accidental. It is true that such individuals are granted "the right to divest themselves of the allegiance and acquire another one through the process of naturalization in a foreign country." The realization of this right, however, is made contingent upon several conditions, in particular upon the discretion of foreign authorities ("if they are deemed worthy of acceptance"). In many ccuntries an alien cannot be naturalized unless he obtains the consent of the state whose national he is.

The difficulty, or even the impossibility, of arriving at a universal agreement on the granting of nationality, if only to victims of conflicting laws in the field of private international law, is illustrated by the fate of a proposal introduced at the Conference for Codification of International Law at The Hague in 1930. It concerned the loss of nationality resulting from voluntary acquisition of another nationality, and the conditions which a state might provide for the loss of its nationality. This proposal was the subject of protracted and highly significant debates which resulted in its rejection. Representatives of certain countries of immigration, though not all, declared that they were in favor of the principle that naturalization abroad involved the loss of the previous nationality. Another group, representatives of countries of emigration, pleaded that it was in the interest of the countries of origin to prevent nationals from renouncing their nationality to evade certain obligations. Those who were opposed to this viewpoint maintained that the provision that the renouncement of allegiance should be authorized by the government of the applicant's country of origin was obsolete, and did not take

into account the conditions of modern life and the right to change allegiance freely which every individual should possess.

Attempts to harmonize these two viewpoints failed, and the article of the draft-bill was omitted. The following compromise proposal was introduced:

> It is desirable that states should apply the principle that the acquisition of a foreign nationality through naturalization involves the loss of the previous nationality. It is also desirable that pending the complete realization of the above principle, states, before conferring their nationality by naturalization, should endeavor to ascertain that the person concerned had fulfilled, or is in a position to fulfil, the conditions required by the law of his country for the loss of nationality.

The conservative members of the Conference were in strong opposition to this proposal.

There was still another proposal, namely that a state which had granted its nationality to a person by naturalization should not be able to withdraw the rights and privileges attaching to such nationality from the naturalized person, except for certain cases especially provided for. The incorporation of this proposal into the Convention was rejected. A statement was adopted, instead, that the possibility of restricting the freedom of every state to revoke naturalization had been discussed and that in view of the difficulties encountered it was resolved not to provide any regulations, but merely to appeal to the sense of justice of the states and to urge them to make the most reasonable and limited use of the right to withdraw their nationality.

Would it be justifiable to demand that every country should grant its nationality automatically to all persons who ask for it? What should the attitude be towards people whose ties of their nationality are only accidental and weak, who are estranged from and even hostile to the country of their origin? Should the retention of the former nationality be made obligatory and enforced, or the right to "expatriate" be granted? The question whether individuals should have the right to renounce allegiance to the state whose nationals they are, when applying for the nationality of another country, is also of long standing. For a time the laws of various countries did not recognize this right. Modern authorities in international law, however, and the Institute of International Law, at its session in Stockholm in 1924, have formally approved the "right to expatriation" proclaimed in the United States by Act of Congress on July 27, 1868.

During the post-Versailles years, several newly-enacted nationality laws (including those in countries which had become independent after the last war) categorically rejected the right to expatriation. This was caused by the exaggerated nationalism of these countries—by their "unenlightened selfish-

ness," in the words of former Under Secretary of State Sumner Welles—and by their efforts to safeguard the full manpower resources of their armies. Nevertheless, there can be no doubt that at the present stage of civilization there is an increasing trend to recognize human beings as not always bound to the states whose nationality they had at birth.

Together with the recognition that individuals should not be indefinitely tied to the nationality they had at birth or acquired later, it cannot be denied that at the present level of civilization many countries will not relinquish the right to determine the qualitative and quantitative stock of their population at their own discretion. At any rate, as long as this right of the state is recognized, the root causes of statelessness remain. The third clause of the Atlantic Charter speaks of "the right of all peoples to choose the form of government under which they will live" and promises "to see sovereign rights and self-government restored to those who have been forcibly deprived of them." This does not hold out any promise that the right to withdraw nationality will be relinquished and, by the same token, does not definitely eliminate the possibility that statelessness by reason of political discrimination will not occur in the future.

If the right of governments to admit certain groups into their national communities or to deny such admission has to remain unshakable and, simultaneously, if the individual is to have the inalienable right to choose his nationality and to "expatriate" himself at will, a compromise must be sought which will bring these two equally irrevocable rights into balance. Countries ruled by law cannot deny legal status to individuals who have lost their nationality or are stateless because they either were deprived of it or themselves severed all ties with it. Naturalization is a process by means of which a state confers its nationality upon an individual at a time later than his birth. In the same way a special statute is a process by which the international community grants all status-rights to those who have lost them through denationalization or denaturalization.

There is no other expedient for statelessness aside from special statutes in accordance with those provided by the Convention of 1933 and 1938.

When the Intergovernmental Committee for Political Refugees met in Bermuda, in March 1943, it was planned to issue special passports to stateless residents in order to facilitate their freedom to move from place to place in the Americas and for other needs. The program presented by the Joint Emergency Committee for European Jewish Affairs to the Bermuda Refugee Conference proposed:

> In order to do away with the lack of identity which many stateless refugees

present, and to give them sponsorship and protection, an arrangement similar to that which existed under the League of Nations should be established and the stateless refugees should be given identification passports analogous to the "Nansen" passports.

The ends which such a convention should seek are the same ends which all international legal institutes pursue. The motives underlying them can be found in the League of Nations Covenant. The Covenant speaks of "international cooperation by maintenance of justice" and of maintaining and assuring "fair and humane conditions of labor for men, women and children." The Preambles to the Conventions of 1933 and 1938 state that the participating states were

> anxious to establish conditions which will enable the decisions already taken by the various states with this object to be fully effective, and desirous that refugees shall be ensured the enjoyment of civil rights, free and ready access to the courts, security and stability as regards establishment and work, facilities in the exercise of the professions, of industry and of commerce, and in regard to the movement of persons, admission to schools and universities.

The significance of such a convention would be in direct relation to the extent of its sphere of application. If it were to be applied to *all* stateless persons, without taking into account the circumstances which brought about their statelessness and dealing with it as a matter of fact, arising after all ways and means for granting nationality to them had failed, the convention would have to interpret "civil rights" more broadly. This means that the enumeration of rights provided for in the conventions of 1933 and 1938 would have to be changed and completed at such time as a new legal statute could be made stable, general and universal.

After the reestablishment of normal conditions of life, there will be no need for special administrative regulations for the sojourn of stateless persons and for the issuance and renewal of travel documents for them. It will be necessary, however, to define their specific rights in the fields of law, labor, education and taxation more completely, or to give the provisions concerning these rights a broad, general form so that there shall arise no doubts with regard to the enjoyment of rights not explicitly mentioned. If it is not possible to provide generally that stateless persons shall be regarded as denizens on the same footing with nationals, as far as rights of personal and civil law are concerned, and differ from nationals only in that they do not have political rights, the enumeration of rights granted to them would more or less coincide with the aggregate of rights which are provided for aliens in the international treaties, mentioned above, which the United States has concluded.

The complex and delicate question of the institutions and organizations

which are to take immediate care of the interests of stateless persons in accordance with the statute will be contingent upon the general relations between the international organization and the countries participating in it. In this respect the Convention of 1933 provided a series of possibilities.

> Each Contracting Party shall have the right either to organize in its territory a central committee for refugees (stateless persons) or several committees, if this be necessary . . . or to authorize the constitution of such committees.

In the absence of representatives of the Secretary General or of the High Commissioner of the League of Nations, these committees were authorized to collect charges (by use of Nansen stamps), as far as such charges might be levied in the country where they were operating. The committees (or committee) were also entrusted with other powers, as far as such powers were not exercised by other representatives of an international body.

In the future, measures must be taken to prevent the recurrence of the tragic events which followed in the wake of the last World War. To the extent that repatriation can be achieved, particularly from countries adjacent to the homelands, it will unquestionably solve the problem of a great many stateless individuals. Repatriation, however, cannot be made obligatory and compulsory, because this would run counter to age-long traditions in matters of asylum, particularly at the very moment of victory over the powers of aggression and violence. Furthermore, repatriation remains a limited means even for those who do not hope for and want anything else for themselves. It is limited by technical circumstances (conditions of transportation, etc.), economic reasons (lack of funds) and social factors (inability to readjust to radically changed conditions). The Second Report on "The Transitional Period" presented to the Commission to Study the Organization of Peace, under the chairmanship of Mr. James T. Shotwell, states:

> Refugee populations in areas bordering war zones necessarily include a large proportion of injured persons, orphans, widows and dependent aged. . . . Under some conditions it would be grossly inhuman to enforce the return of all such persons to the countries from which they have fled. . . . Some Jewish refugees would presumably want to return to Germany, Austria and Italy after a change of government, but in diminished numbers. . . . Some may choose to migrate. . . . Others must remain in the present residence.

Sir Herbert Emerson holds that "compulsory repatriation is out of the question." Paying full tribute to the "homing instinct" inherent in every human being, he nevertheless believes that repatriation will be only *one* of the means for solving the refugee problem, along with the absorption of refugees in the

countries of asylum, with normal emigration and with new large-scale settlement.

The League of Nations adopted the Intergovernmental Arrangements and the International Status of Refugees only after protracted hesitation about such measures and, particularly, only after Dr. Nansen's efforts for the repatriation of Russian and Armenian refugees had failed. Less than 10,000 persons, most of them Cossacks, were repatriated to Russia, and their ultimate fate remains unknown. About 30,000 Armenians were resettled from Greece and Iraq to Erivan. The latter action should really be regarded as a migration to a new country of settlement, rather than as repatriation.

There are stateless persons who hope for return to their countries of origin, while others hope for definite settlement in the countries of their refuge as soon as possible. We must aim at assuring a series of rights for stateless people, both those that are doomed to indefinite statelessness and those who are stateless only temporarily and wait for a better future when their hopes for repatriation or naturalization will materialize. Statelessness originates in governmental measures or in conflicting laws of various countries. The basis for it can be fully eliminated only by international action, by universal or general agreements. In addition, to the degree that stateless persons actually reside in certain countries, their statelessness could be eliminated by unilateral action. Each country could adjust its laws and regulations, taking into account the needs of its stateless residents, without waiting for other countries to be ready to conclude universal or general agreements on this matter. Naturalization, or grant of nationality, is the simplest and most usual legal means for elimination of statelessness through unilateral domestic action, if only in a limited degree. The rate of elimination of statelessness, not as a result of the physical death of stateless persons but by making them nationals, denizens or citizens, depends upon the elimination or mitigation of obstacles to the granting of a new nationality to stateless individuals. In 1937 the League of Nations recommended that governments should "take suitable steps for the absorption of [stateless] refugees by naturalization."

Naturalization is an effective remedy for statelessness, wholesome for both the naturalized individuals and the naturalizing state. Nevertheless, annoying though it may be to have large numbers of stateless persons within the country, who may become a source of trouble, an obligatory or compulsory naturalization would hardly be a lesser wrong than obligatory repatriation. There is no need to prove this from the viewpoint of law and of the individual's right to self-determination. Appraising it also from the standpoint of governmental policies, we must conclude that naturalization which is forced upon an individual cannot achieve the integration of persons with-

out a nationality into the broad community. Naturalization has uniformly been regarded as an act of grace to the naturalized individual. Compulsory naturalization is no grace. It is, therefore, no wonder that the system of compulsory naturalization is called "generally abhorred."

On the other hand, the easier the requirements for naturalization are made, the greater will be its effectiveness as a measure against statelessness. The general attitude towards individuals without nationality, who are either residents of the country or only domiciled there, has the same bearing as the procedure of naturalization itself or the requirements with which the person who is to be naturalized has to comply. From ancient times, a more or less prolonged stay, and still more, a settled establishment of strangers in their midst, has been regarded as precedent for legislative action entitling the residing or domiciled alien to expect, if not to claim, formal incorporation in the community to which he had bound himself by actual ties. This has been a form of community life of very long standing indeed.

> "One law," "one manner of law," "one ordinance" "shall be to him that is homeborn, and unto the stranger that sojourneth among you" (Exodus 13:49; Leviticus 24:22; Numbers 9:14). "Cursed be he that perverteth the judgment of the stranger."

The stranger is likened to the helpless "fatherless and widow" (Deuteronomy 27:19). Modern progressive legislation is also marked by a broader interpretation of the meaning of the term "residence" and by bringing it closer to "domicile."

There are multiple ways either for facilitating or for impeding what the American law terms "eligibility for naturalization." The span of time which the foreigner has to spend in the country, sometimes without interruption, before naturalization proceedings can start, varies in different countries, from ten years (Belgium, Bulgaria, Egypt, Poland) to 5, 4, 3, 2 years and even to one year (in Ecuador, Honduras and Venezuela). When we take into account the advanced age of many stateless people at present, it becomes obvious that a ten-year test period actually means barring them from naturalization, while periods of one or two years are not obstacles. Still another regulation may hasten or delay elimination of statelessness and its consequences: that concerning the age of persons admitted to naturalization. All measures which reduce the scope of prerequisites to naturalization are extremely helpful: provisions for preferential treatment of persons who are relatives of nationals of the country of naturalization or who are bound to it by economic ties; or have special knowledge or practical attainments in definite fields; or served in the country's armed forces; etc. Naturalization is vested either in the judicial

power of the government (in the United States), or in the legislative power (Belgium, Holland) or in the executive power (President of the Republic in France, the King in Denmark, Sweden and Norway, and the Home Office in Great Britain).

Besides measures aiming at a reduction in the number of stateless persons through naturalization, others must be taken simultaneously for the prevention of new increases in their number. Denationalization should be abolished as a measure of punishment or as a consequence of punishment for an offense against the laws. To be sure, every state is fully entitled to take all the measures it deems necessary and feasible against people transgressing its laws. Nevertheless, several countries have abolished the death-penalty even for the most outrageous criminal and political felonies. In the same way, denationalization should disappear from the penal laws if statelessness is to be definitely uprooted. Certainly no *child* should lose its nationality because of acts committed by its parents.

It would be highly desirable to make invalid the provision that nationality may be lost because of a prolonged absence from the country. At least, the time-limit for a "legal" absence from the country should be broadened. Nationality should also be granted to foreign-born children, even if their fathers had never resided in the country, if the children would otherwise become stateless. It is also desirable that the parents' nationality should be granted to illegitimate children regardless of the place of their birth.

We have given a by no means exhaustive enumeration of measures which governments should adopt if they deliberately and consciously seek the mitigation, elimination and prevention of the consequences of statelessness. Mr. Myron L. Taylor, the United States representative at the Vatican and formerly of the Intergovernmental Committee for Political Refugees, spoke truly when he said that the problem of statelessness must be faced, because it will be

> one of the most complex as well as one of the most important to come before the world at the close of the war, and must be considered by the peacemakers.

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