

Home (1918) Department.
Miscellaneous

Optimizing SERIES.

G.O. No. 650

DATED 11-9-18

[Despatch Abstract.]

~~xxxxxx~~ Nationality.

~~xxxxxx~~ Recording papers as to the
of the Baroness Von Engelhardt.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Collector's Office

191

CR. 2134 H. H. 29.7.

26.7.18.

Camp Namakkal. 26/7/18.

Dear Mr Ramacandra Rao

I have just received G.O. 557 Home Misc. in reply the application of my Mother-in-law the ~~Referred~~ von Engelhardt for Naturalisation. The decision is made on general grounds and is under present circumstances a very natural one.

My Mother-in-law is however in a difficult position. Born the subject of the Russian Empire there is now no Government in her own country to recognise her or renew her Passport. Meanwhile her own province Esthonia has fallen into the hands of Germany. I presume this cannot affect the status of the people born there who have not resided there during the war but I should like to be certain on this point.

I mean I should like a definite assurance if possible that my Mother-in-law is not liable to be treated as a enemy alien on the ground that the province of her birth has fallen into the hands of the enemy. If it is possible also (short of actual papers of naturalisation)

I should like to secure for her the promise of the British Government's protection until her own naturalisation or at least until there is any Government in Russia which could afford such protection. To be the subject of no recognised Government in war of this kind is a very precarious position.

I should be very grateful if you would put this matter before the Government and obtain for me such help as they feel able to give in the matter.

I may state that My Mother-in-law's own wish and our wish for her is that she should give up her Russian status as soon as that is possible.

Yours very sincerely

24/7/18.

S. M. S. M.



R. F. XXII M. 15 (a) - 8,000 - 20-7-18.

NOTES.

Page 2

3 Home (Mis.) Dept.

Mr. Legh states that Esthonia, the province of the Baroness Von Engelhardt, has fallen into the hands of Germany, and wants to know for certain whether this will affect the status of the people born there who have not resided there during the war. Reference is solicited to section 301 page 355 of Oppenheim's International Law, Vol. I, from which it will appear that by subjugation after conquest and by cession of territory, the inhabitants of the subjugated or ceded territory acquire ipso facto the nationality of the State which acquires the territory. The effect of subjugation on the national status of subjects is described in detail on pages 291, 292 of the same book. It would appear that those subjects who have left the country before the annexation, and are domiciled abroad and do not return, seem to be outside the sovereignty of the subjugator. But Esthonia though it "has fallen into the hands of Germany", does not appear to have been yet subjugated by Germany, and whether subjugation will follow occupation by Germany can be known only on the conclusion of the war and declaration of peace. "Conquered enemy territory, although actually in possession, and under the sway of the conqueror remains legally under the sovereignty of the enemy, until through annexation it comes under the sovereignty of the conqueror. Annexation turns the "conquest into subjugation". Vide section 237, page 288 of Vol. (I) of Oppenheim. It will also be seen from section 170, page 174 of Vol. II of Oppenheim, that the occupant is according to articles 44 and 45 of the Hague Regulations prohibited from compelling the inhabitants to take the oath of allegiance and to take part in military operations against their

legitimate Government. The occupant acquires a temporary right over the respective territory and its inhabitants. The German occupation of Esthonia does not therefore entitle Germany to exercise sovereign powers over the territory. It therefore follows that the inhabitants of Esthonia remain of Russian nationality. Consequently, the Baroness Von Engelhardt will retain her Russian nationality unless her coming over to India has deprived her of her Russian nationality. For, it is stated that according to Russian law, a Russian loses his nationality on emigration without permission of the Government. The Baroness must have had the permission of the Russian Government before she emigrated, as till recently she was in receipt of a pension from the Czar's privy purse. She does not therefore appear to be liable to be treated as an "enemy alien" on the ground that the province of her birth has fallen into the hands of the enemy. The question however whether she is liable to be treated as an "enemy alien" or not is for the Public Department to consider.

Mr. Legh also desires to secure for her the promise of the British Government's protection until her own naturalization, or until there is any Government in Russia which could afford such protection. In regard to naturalization of 'aliens', please see the extracts from newspapers at flag (S). It will appear that the Home Government have passed the nationality and status of Aliens Bill, providing that no certificate of naturalization should be granted for a period of five years after the war to any subject of the present ^{"enemies"} countries."

M.D.R.
6-8-18.

Ades
12.8.18

*See 302 p 356 Vol I
of International
Law by Oppenheim*

*p. 1 of notes to G.D. 557
of 17.7.1918. G.*

19 infra

On the first point I think it is quite clear that the Baroness cannot be regarded as an "enemy alien" at present inasmuch as there has been no cession of territory & Germany's possession of Rostock amounts only to an armed occupation. Indeed, as the Baroness left Russia long before there was any question of Germany's invasion, she cannot ever become a German subject unless by her own will. This at least seems the better supported opinion, though the former precedent is the other way round. We can only hope Germany will not have the say in the matter.

Naturalisation being impossible at present, the second point - protection by this Govt. - is rather beyond the scope of the Home Dept. It seems to fall rather under public Public. But is she the subject of no recognised Govt.? Did not Great Britain come to some agreement as to recognition?

Public use.

13.8.18

Oppenheim Vol I.
p. 291



CURRENT NO. 2784
PUBLIC (MAY 1918)

Reg. 13-8-18

Home (Chin) no. 2134-1

13-8-18

With Oppenheim
Vol I. p. 291

2784
13.8.18

Nationality of Baroness Von Engelhardt.

According to the general principles of international law set out in the Home Dept. notes ante, it will be seen that it is correct to assume that Baroness Von Engelhardt has not lost her Russian nationality.

Further there is no provision in any of the temporary enactments or Ordinances promulgated by the G. of C. for the period of the War which directs that persons in the position of the Baroness should be treated otherwise than as a Russian subject.

The treatment accorded to Belgians by the British Government seems also to support the above view.

2. Treatment to be accorded to the Baroness so long as she remains in India.

The only orders which the G. of C. have communicated so far ~~concerning~~ regarding the treatment of Russians ~~in India~~ are those recorded in G.O. 708 Pubd 9.8.18 - viz., that Russian subjects holding documents issued by the present Bolshevik Govt. or its representatives abroad ~~shall~~ not be admitted into the United Kingdom and that such persons should not be granted Visas for the United Kingdom or any part of the British Empire by H.M.'s Consular officers. Unless and until

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The E. of J. issue orders imposing special restrictions on the movements of Russians in General ~~circumstances~~, the Baroness will, it is ~~not~~ continue to enjoy freedom as at present. If, however, the E. of J. issue any such special orders in future, the case of each individual Russian residing in this Presidency will come up for the consideration of Govt., and in view of the special circumstances of the Baroness who is now 75 years old the Govt. will in all probability ~~also~~ view her case sympathetically, and exempt her from the operation of all laws imposing special restrictions on Russians. Such exemptions have in the past been freely granted to individuals who, though technically of hostile nationality, have full sympathy with the allies - e.g. the case of several Alsations and Lorrainers in this Presidency who were first exempted from Repatriation and internment, and whom the E. of J. at the instance of the Consul-General for France at Calcutta have subsequently decided to treat as French subjects.

3. Sub? that the Case may be returned to Home (Mis) with the above remarks.

CM
24.8.18

Received
1 for in 26. 9.18

(Hs. put up in
another file.)

CM
31.8.18

Box 8
Aug 4.9.18
Held 5.9.18

Page 7

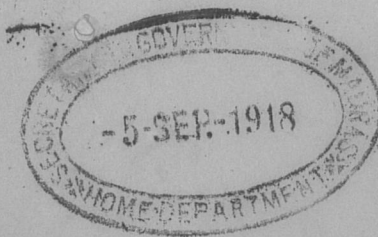
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Govt. 3.9.18. That the case may be referred
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Pub. L.O. 2784 H-1
27.8.18
M.H. in CR
28.8.18



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The papers may now be
G.O. / Mis. No. 650 at the 8 11-9-18.
Recorded.
H.M.
7.9.18
7.9.18

Home (1004)

D.O. No 2134-2757.18

Dear Sir

I am desirous to
invite a reference to your
D.O. letter dated the 24th July
1918, regarding the natura-
lisation of the Baroness von
Engelhardt and to state
~~as far as this goes~~
~~that she is not to be naturalised~~
the Baroness will retain
her Russian nationality.
and that it is in the
last degree improbable
that she will be made
to suffer for her nation-
ality

Yours truly
L. J. 1004

Wj.
30.8.18
Pdk.
30.8.18

this Court. believe that

To
E. W. Legh Esq J.Cs
Collector of Salem.

1918.

Home C) DEPARTMENT.

CUTTINGS FROM NEWSPAPERS.

1. Name of Paper-- *justice*
 2. Published at-- *Madras*
 3. Dated-- *15-7-18.*

THE ALIENS BILL

London, July 12.

In the House of Commons Sir George Cave said.—The aliens bill empowered the Home Secretary to revoke the certificates of naturalisation where they had been fraudulently obtained, also to revoke certificates of disloyalists, criminals, notorious bad characters and persons who had lived abroad for seven years.

DOMINIONS APPROVE.

In the House of Commons Sir George Cave moving the second reading of the British Nationality and Status of Alien Bill said:—All self-governing dominions and India except Australia approved the draft, but Australia had indicated its assent. The main purpose was to give wider powers to revoke the naturalisation certificates. The Bill did not deal with many difficult questions in connection with the laws of nationality but he hoped the policy of making nationality laws would not be abandoned. The government proposed to refer the question to an advisory committee of experts. The bill was read a second time.

New India.

8 22.7.18.

Naturalisation Bill Passed

London, July 19.—In the House of Commons, the Government accepted a new clause in the Aliens Bill, providing that no certificate of naturalisation should be granted for a period of five years after the War to any subject of the present enemy countries unless he be of a race which was opposed to his Government. The House passed the third reading of the Nationality and Status of Aliens Bill. (See July 12th).—(Reu.)

80. 557
 17.7.18

620
 1.6.17

884
 7.5.16

905

10.6.15

692

3.5.15

1102
 6.8.18

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STATEMENT WITH LITTO.

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