redeemed out of the Rhine Army Costs, which may well be devoted to that purpose.

On the whole, the bill may be approved as the best attainable compromise under so complicated a state of facts and so divergent a group of interests. To combine so many important matters, general and specific, in one bill, is of itself an achievement of draftsmanship. But if one lesson more than another emerges from these matters, it is that the United States, and indeed any other intelligent country, should not again sequestrate enemy private property. The possibility of injury to the nation is offset by the freedom of one's own property abroad. Such possibility of injury, however, is not commensurate with the danger of undermining the national morality by yielding to the temptation to spoliation. The Chemical Foundation transaction, and other "sales" of sequestrated property amounting to practical confiscation, were undertaken after the armistice, when confiscation of enemy property, just as killing the enemy, became internationally illegal. The consequences of war are often more harmful to civilized institutions than war itself. To the writer it has seemed that the apparent inability to resist the temptation to spoliate private property, now embodied in the Treaty of Versailles, is likely to prove one of the most costly of all modern retrogressive innovations. Perhaps the best way to check its effect as a precedent is to stipulate in treaties not merely that private property may not be confiscated, but that it may not even be sequestrated.

EDWIN M. BORCHARD.

THE NEW FRENCH CODE OF NATIONALITY

On August 10, 1927, a new law on nationality was promulgated in France. Like all important Acts of the French Parliament in these days, it was followed by a decree supplying the necessary details for its completion and execution. It was also accompanied by a circular of the Minister of Justice containing instructions to the prefects and *parquets* concerning the application of its provisions. Unlike the law of 1889 which it supersedes and which, for the most part, was incorporated in the Civil Code (Arts. 8–21), the new law was not inserted in the code but, like the nationality legislation of various other Continental European States, was proclaimed as a separate "code of nationality." It is composed of fifteen articles which deal in turn with the nationality of Frenchmen, *jure soli* and *jure sanguinis*, naturalization of aliens, the effect of marriage on the nationality of women, and the loss and recovery of nationality.

The general purpose of the new law was to remove certain defects in the law of 1889, to fill up the *lacunae* which it contained and to render it easier for aliens to acquire French nationality. The large influx of foreigners into France in recent years—the number is estimated to be actually more than

3,000,000—has tended to create a feeling among the French that the presence of so large a number of foreigners in the country involved certain inconveniences if not dangers, and that considerations of public policy required that an effort should be made to assimilate them as far as possible to the status of Frenchmen. This object could be facilitated by an amendment to the naturalization laws making easier the acquisition by aliens of French nationality. Curiously enough, French sentiment in this respect has recently undergone a striking change. When the law of 1889 was enacted it was criticized by many on the ground that it rendered too easy the naturalization of foreigners and thus opened the door to aliens who were little deserving of French nationality. But lately the trend of sentiment has been in the opposite direction, for the reason mentioned above.

The new law begins by abolishing the "authorization of domicile" which first appeared in the Code Napoleon, the purpose of which was to facilitate the enjoyment by aliens of their private rights. Desirable enough during the First Empire, its character had been transformed by the law of 1889 and its possession was no longer an advantage to the alien. In connection with the acquisition of nationality by birth the most notable innovation introduced by the new law is the provision that a child born of French parents in a foreign country whose law imposes, *jure soli*, its own nationality on the child, shall henceforth be considered as having the nationality of such country. Under the Code Napoleon and the law of 1889 children born anywhere abroad of French parents were regarded as having French nationality unless they lost it, for example, by serving in the army of the country where they were born. This provision of the new law will tend to reduce the number of cases of double nationality and consequently diminish controversies with states where the principle of *jus soli* prevails.

As has been said, the requirements for naturalization have been materially attenuated by the new law. In the first place, the age qualification is fixed at eighteen years. Formerly the law required the alien applicant to be *capable* and there was much controversy as to whether his capacity should be determined according to French law or according to the law of his own country. Hereafter, it will be determined according to French law, which means eighteen years of age, which is inferior to that generally required by the law of other countries. This rule is criticized in France because it is in contradiction with the fundamental principle of the Code Civil (Art. 3), which provides that civil capacity of foreigners shall be determined by their national law, and because it will tend to multiply the number of persons having two nationalities, since foreign states will refuse to recognize the validity of the naturalization of minors possessing their nationality.

In the second place, the period of residence required as a condition of naturalization is reduced from ten years, which was the normal period required under the old law (though in exceptional cases three years' and even one year's residence sufficed), to three years. In numerous cases, only one

year is required, for example, if the applicant has rendered "important services to France," brought "distinguished talents" to the country, introduced industrial establishments or agricultural exploitations, or served in the French or allied armies, received a diploma from a French faculty or married a French woman. Finally, in certain cases all that is required is that the applicant shall have a fixed domicile in France. It should be said, however, that these marked relaxations from the rigor of the old requirements have provoked some criticism among certain French newspapers.

The law of 1889, passed while the scandal of the General MacAdras affair was still fresh in French memories, had enacted that henceforth no naturalized Frenchman should be eligible to a seat in Parliament within ten years after his naturalization. The new law extends this disability by providing that no such person shall be eligible to "any office or elective mandate" during the ten years following his naturalization, unless he has served in the French army or unless, for exceptional reasons, the disability is removed by a decree of the Minister of Justice.

The most important innovation introduced by the law of 1927 is that concerning the nationality of married women. It had been an ancient principle of French law that a married woman took, by the act of marriage, the nationality of her husband. The new law definitely abandons this principle. Following the example of Belgium, Brazil, Chile, Egypt, Roumania, the United States, and the Scandinavian countries, and responding to the demand of the women of France (although they lacked the influence which possession of the suffrage carries), the new law permits a French woman married to a foreigner to retain her French nationality. The existing law already allowed this in case she married a foreigner whose national law did not permit her to take his nationality. This saved French women in such cases from becoming stateless. The new law provides, moreover, that a foreign woman marrying a Frenchman does not thereby acquire the nationality of her husband, unless the woman expressly declares her desire to become French and fulfills certain formalities, or except where the law of her own country enacts that she shall take the nationality of her husband. These exceptions distinguish the French law on this point from the Cable Act, which allows the foreign woman marrying an American citizen no option in the matter. The second exception has the merit of saving the woman from the plight of statelessness, such as is the condition, for example, of an English woman who, since the enactment of the Cable Act, marries an American citizen. It is hardly necessary to say that, unlike the Cable Act, the French law makes no distinction between French women who marry Orientals and those who marry husbands of other races, denationalizing the one and preserving the citizenship of the others. By the terms of the new law, naturalization of the husband does not *ipso facto* naturalize the wife and major children, although it naturalizes the minor children if unmarried. The wife and major children may, however, be naturalized without the residence require-

ment, provided they possess the other qualifications required of the head of the family.

The abandonment by the law of 1927 of the old principle of the identity of the husband and wife and the recognition of the new principle that they may possess separate nationalities, has aroused much criticism in France, as the passing of the Cable Act did in the United States. Professor Jules Valery, eminent jurist and professor in the University of Montpellier says of it: "This rupture with the traditions and teachings of the past appears to me to be deplorable." [1] It is, he says, objectionable, first, on political grounds because under it, women retaining their French nationality but having husbands of foreign nationality, may occupy important places in the administrative, railway, postal and other public services and thus facilitate the acquisition by their foreign husbands of information relative to the internal and external safety of the state. Conversely, there will be, or may be, members of Parliament and high functionaries in the administrative service having wives who are nationals of other countries. In the second place, the law is objectionable on grounds of *ordre privé*, for the reason that a division of nationality in the family will raise serious difficulties in respect to inheritance, the civil rights of the spouses and the matter of divorce. The difficulties will be particularly notable in the matter of divorce. In certain countries, such as Italy and Spain, the principle of the indissolubility of the marriage relation is established and divorce is not permitted by law. It is equally an established principle of French and Continental law generally that the civil status of persons is determined by their own national law. Consequently a foreigner cannot obtain a dissolution of the marital relation unless the law of his or her own country admits divorce. Under the new law, therefore, the Italian or Spanish spouse of a person of French nationality would be unable to obtain a divorce in France, although the French party would be. The right of the one spouse to have the marital relation dissolved and the disability of the other may result in flagrant injustice.

The new law is criticized for other reasons. Nevertheless, the general principle that a woman shall not be automatically deprived of her nationality against her will by the act of marriage to a foreigner, when marriage produces no such consequence to the male citizen, whatever may be the inconveniences flowing from the division of the family in respect to nationality, seems destined to be generally adopted throughout the world. Certain of the inconveniences and disadvantages can be eliminated by international agreement, and it is to be hoped that the proposed conference on codification of international law will be able to find a solution which will be acceptable to the community of states generally.

J. W. GARNER.

[1] *La Nationalité Française, Commentaire de la Loi du 10 Août 1927*, p. 13. This monograph contains an illuminating analysis of and commentary on the new French Nationality Law. It is published by Pichon et Durand—Auzias, Paris, 1927, pp. 88.