

have adopted the wise conference technique of securing agreement through informal conversations instead of precipitating debate and conflict in the formal sessions of the conference and of its committees. PHILIP C. JESSUP

#### THE BAN ON ALIEN MARRIAGES IN THE FOREIGN SERVICE

In an Executive Order of November 17, 1936,<sup>1</sup> President Roosevelt amended the instructions to diplomatic and consular officers by the addition of a regulation which is intended to prevent Foreign Service officers from marrying aliens. The order is general in its effect and applies to men and women alike. It has not, therefore, aroused any opposition from the advocates of equal treatment for men and women. In point of fact, the women in the Foreign Service who have married have found it either inconvenient or inappropriate to continue in the service and have resigned. By the terms of this new order, henceforth the Foreign Service officer who would marry an alien is required to send in a request for permission, "accompanied by the officer's resignation from the Foreign Service or for such action as may be deemed appropriate." This provision, in so far as it implies the possibility of permissive authorization, is probably intended to be only temporary in order to obviate interference with those who have already plighted their troth; and in one or two such instances, the request for permission made subsequently to the issuance of the order has been granted. But after this transition period, the Department, if it does not refuse all requests for permission, undoubtedly will be subjected to criticism on the ground of discrimination; and when a request is refused, the lady in question will naturally regard such action as a disparagement and official insult from the American Government. This transitory provision, if so it be, also serves to leave the Department an escape in the event that the regulation should prove too drastic or arouse unexpected criticism and opposition.

It must be remembered that since the passage of the Cable Act<sup>2</sup> an alien woman who marries an American does not thereby acquire his nationality, with the consequence that the alien wife of a Foreign Service officer would require a separate passport from another government, and the circumstances of her different nationality would necessarily entail certain inconveniences in case of travel or transfer of post; it would, in some instances, be the cause of another serious handicap to the efficiency of an officer married to an alien in that it might render inexpedient or even impossible to detail him to a post where he might, because of his particular qualifications, be especially useful. In the present state of tension in Europe, a Foreign Service officer with a French or Russian wife might not, for example, be available for service in Germany.

Other inconveniences and difficulties arise from the necessarily representa-

<sup>1</sup> Executive Order No. 7497. Printed also in *The Department of State, Press Releases*, Dec. 5, 1936, pp. 456-457; and in *Supplement to this JOURNAL*, p. 51.

<sup>2</sup> Act of Sept. 22, 1922, 42 Stat. 1022; *Supplement to this JOURNAL*, Vol. 17 (1923), p. 52.

tive character of the wife of a Foreign Service officer. If she be the ranking lady of the mission, she will be called upon to play an important rôle as the leader of the American women in the capital, and she will be expected to preside at patriotic and social gatherings. If she is an alien, this is not likely to please the American colony and American travellers.<sup>3</sup> The situation becomes especially trying when, as has happened in one or two instances, the wife of the Foreign Service officer appears to take little interest in her husband's country, and does not even trouble to learn to speak English.

While the effect of the Executive Order may sometimes be to thwart the course of true love, a way out can be found if the prospective alien bride will follow the course necessary to secure naturalization as an American citizen. But whereas one married to an American citizen may become naturalized in three years,<sup>4</sup> a prospective bride would have to wait the usual five-year period.

In the departmental order which brings the regulation to the attention of American diplomatic and consular officers, it was stated that the Department fully appreciated "the fact that in the past certain men, themselves of unquestioned ability, have reached high position in the Service and have been aided by the valiant, loyal women of foreign birth to whom they were married. In the present condition of world affairs, however," the Department considered that "any tendency further to increase the number of marriages of this character must be regarded with concern."<sup>5</sup> Upon examination, the communication stated, it was found that eighteen per cent. of the Foreign Service officers of career were married to women not of American birth, while twenty-seven per cent. of the clerks had taken this same step.<sup>6</sup> The Department considered that all members of the Foreign Service must realize that the Foreign Service offers advantages sufficient, certainly, to expect of them sacrifices for the good of that Service. Attention also was drawn to the fact that other nations had had to consider the problem of alien marriages and to issue instructions of their own.<sup>7</sup> Consistently with the application of the alien mar-

<sup>3</sup> As reported in the press (New York Herald-Tribune, Dec. 2, 1936), Ambassador Bullitt, upon his arrival in Moscow, was placed in this embarrassing situation. The Ambassador, who is a single man, found no American wife among the members of his staff.

<sup>4</sup> Act of May 24, 1934, 48 Stat. 798; Supplement to this JOURNAL, Vol. 28 (1934), p. 130.

<sup>5</sup> Diplomatic Serial No. 2727, Nov. 28, 1936, "Marriage of Foreign Service Officers with Aliens," printed in Department of State Press Releases, Dec. 5, p. 456; also Supplement to this JOURNAL, p. 50.

<sup>6</sup> Of 684 Foreign Service officers, 127 have married aliens; 45 of British nationality, 22 French, 11 German, 10 Russian, and 39 distributed among 19 other countries. Fifty-one of these marriages occurred before the Cable Act became effective, so that these alien wives as a consequence of their marriage acquired the American nationality of their husbands. Twelve others have been nationalized since their marriage, and one before. The other 63 have remained aliens. Of the 724 American clerks in the Service at the date of June 30, 1936, 202 had married aliens, of whom 146 still retain that status.

<sup>7</sup> Brazil and Japan, for instance, prohibit marriage with aliens; Mexico gives preference to Foreign Service officers married to Mexicans; and several other countries, including Belgium, Chile, Ecuador, France, Italy, Peru, and Turkey require their Foreign Service officers either to notify their government in advance or to ask for its permission.

riage ban to officers of the Foreign Service, the Executive Order also provides: "No person married to an alien shall be designated to take the entrance examinations for the Foreign Service."

The first reaction of the general public to this regulation may well be that it is a regrettable step in the direction of that extreme nationalism which it has been the policy of the Administration to combat. It is, furthermore, a serious restriction of the freedom of the individual. We like to think that the right type of American would not let any consideration stand in the way of marrying the woman of his choice. The consequence of the regulation might then be to eliminate from the Foreign Service the very officers who were most typical of that fine, idealistic, independent American spirit which our representatives should possess. But, as has been indicated, naturalization will make it possible to enter into such a marriage without the separation of the Foreign Service officer from his professional career. In some instances in the past, it cannot be denied that alien women have been influenced to marry Foreign Service officers because of their desire to acquire their official position, and the results of such unions have not always been happy. The present regulation will remove that incentive; and it will have another advantage in that it will impose a certain delay in the case of the younger members of the Service who might, in the first period of their foreign sojourn with its consequent strangeness and resulting loneliness, be tempted to contract a marriage which, had they waited a few years, might not have seemed really desirable.

After all, it is only the officers of the Department of State and those whose official duty it is to watch over the efficiency of our Service who are actually familiar with all the inconveniences or even dangers consequent upon the condition which confronts them as a result of alien marriages by Foreign Service officers. We as outsiders without access to the confidential Service records are hardly competent to criticize the order, and must necessarily acquiesce in the statement contained in its concluding paragraph:

This regulation is based upon the principle that officers of the Foreign Service are expected to be available in the discretion of the President for duty in any country or in any part of the world, and that anything which detracts from the availability of individual officers has an adverse effect upon their usefulness and upon the efficiency of the Service.

In this connection, the Department is to be congratulated on a statement which it recently issued to the effect that, in as far as possible, it will hold examinations for the Foreign Service annually in September. Heretofore, it has been discouraging to the institutions interested in giving applicants for the Foreign Service courses of training considered to be of permanent value, to find their studies interrupted by a call to take the Foreign Service entrance examinations in the middle of the academic year.

There is still another improvement much needed in the Foreign Service, which is to secure the adoption of legislation whereby Ministers will ordinarily

be appointed to that grade and not appointed to a specific post. If the rank of Minister were added to and made the superior grade of those now established in the Foreign Service, the Foreign Service officers who had reached what is at present the highest class would, in cases of exceptional merit, be promoted to this superior grade of Minister. They would not, as is now the case when appointed as Minister, hold that rank only while detailed to a specific post upon appointment by the President with the consent of the Senate. This provision would not in any way prevent the President from submitting the name of an appropriate individual to the Senate for appointment to a particular post. If it should happen in consequence of such appointments that there were not enough posts available for Foreign Service officers who had reached the rank of Minister, they could still be held available, as is now the case in many other services, to lend their assistance in an embassy or in one of the important divisions of the Department of State. They might also be detailed to serve as Consuls General in certain important posts. It would not be disadvantageous to have one or two members of the Foreign Service of ministerial rank available for whatever emergency might arise in the Foreign Service. The adoption of this provision above all would have the effect of reducing the spoils in the Foreign Service to a minimum.

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PROTECTION OF NATIONALS CHARGED WITH CRIME ABROAD—CASE OF  
LAWRENCE SIMPSON

The case of Lawrence Simpson, an American seaman, charged with high crimes in Germany, aroused wide public interest in the United States because of the profound changes introduced in the administration of criminal justice in totalitarian states. Telegrams received from the International Labor Defense and the American Civil Liberties Union in July, 1935, induced the State Department to telegraph to the American Consul General in Hamburg requesting him to ascertain the facts regarding Simpson's arrest on board the United States Line steamship *Manhattan* upon its arrival at Hamburg on June 28, 1935. The Consul General replied that Simpson had been apprehended because of possession of communistic propaganda-material; that the police authorities asserted that he was involved with seventy other persons in communistic work and that he was detained pending trial. Further investigation on the part of the American Consul at Hamburg disclosed that Simpson had been placed in a concentration camp; that the consul had visited him at the camp and had inquired into the treatment accorded to the prisoner. It seems that he had first been placed in solitary confinement; with the exception of this circumstance, he made no complaint and it was understood that Simpson could communicate in writing with the Consul General and might be visited by representatives of the Consulate if necessary.<sup>1</sup>

<sup>1</sup> The facts of the case are taken from a brief of files in the Department of State dated Sept. 22, 1936.