



HOME OFFICE

BRITISH NATIONALITY LAW

Outline of Proposed Legislation

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A. INTRODUCTION

1. This White Paper on the law of nationality appears just over 3 years after the publication by the previous Government in April 1977 of a consultative document (a Green Paper) entitled 'British Nationality Law: Discussion of Possible Changes' (Cmnd 6795). In that document the Government invited comment on a number of ideas for changing the law, which in the main is to be found in the British Nationality Act of 1948.

2. The present Government have studied the comments received both before and since they took office. In all, more than 400 contributions have been received, both from individuals and from representative bodies. Many of the representative bodies have been those concerned with immigrants already in this country. There have been relatively few comments from people connected with the United Kingdom for generations, save in the matter of passing on citizenship to children born overseas. A summary of the principal comments made in the correspondence will be found at Appendix A.

3. The present Government agree with many of the ideas that were put forward in the Green Paper, and they have taken account of the views put forward by correspondents and others. As is generally recognised, the subject is a complex one; work on the preparation of a Bill is in progress, but it will take sometime to complete, and it may well throw up further points for consideration. The Government have decided however to publish in this White Paper an outline of their ideas on the shape of the new nationality law.

4. The present Act has been in force for over 31 years, during which there have been great changes in the structure of the Commonwealth. Ideas of citizenship which were suitable in 1948 are no longer so, and our citizenship laws are out of date. Arrangements have now to be devised which will be suitable for the changed circumstances and will endure for a very long time ahead.

The Scope of the Bill

5. The Bill will deal only with the law of nationality, and any consequential amendments to the Immigration Act which will be needed because the right of abode will have to be defined in terms of citizenship. But proper safeguards will be proposed for those people who are lawfully settled in the United Kingdom* immediately before the Act comes into force, but who do not acquire the citizenship which gives the right of abode. The Bill will not affect adversely their position under the immigration law.

6. There are of course a number of statutes dealing with other subjects which include references to people's status under nationality legislation. The Government do not think it would be appropriate to include amendments to those statutes in nationality legislation; any changes that are thought necessary can be made when there are other reasons for amending them. This matter is touched on again in paragraph 110.

7. In the course of explaining the Government's proposals it will be necessary to refer to our present citizenship structure, and a summary of the way in which

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

it has developed is given in the Green Paper of April 1977. However, in order to make this White Paper reasonably self-contained the relevant passages in the earlier document, with only minor alterations, are reproduced at Appendix B, together with some estimate of the numbers of people involved.

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

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

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

B. THE NEW CITIZENSHIPS

The Response to the Green Paper

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

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

13. As to where the boundaries of British Citizenship should be drawn, there was some support for the view that those Citizens of the United Kingdom and Colonies overseas who have no ties with or right of entry into the United Kingdom or an existing dependency—usually referred to as United Kingdom

passport holders (UKPH)—should become British Citizens with a right of entry into the United Kingdom rather than British Overseas Citizens with no such right.

The Government's View

14. The Government have given very careful consideration to these questions. They agree with their predecessors that the Citizenship of the United Kingdom and Colonies should disappear altogether, and that everyone holding it at the time of coming into force of the new legislation should acquire a new citizenship; no one should be left without one. They agree also that there should be a separate citizenship for those people connected with the United Kingdom itself, and that this should be called '*British Citizenship*'. The controversial issue, referred to a good deal in correspondence on the Green Paper, is whether the boundaries of British Citizenship should be drawn more widely than was contemplated therein, particularly in the transitional arrangements suggested; and this question is discussed further in paragraphs 20 and 26 below.

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

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

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

Eligibility for British Citizenship

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

19. One small group of persons on whom the Government do not think it right to confer British Citizenship as a whole are those formerly stateless persons who have been registered as Citizens of the United Kingdom and Colonies under the British Nationality (No. 2) Act 1964 (and consequently have the right of abode in the United Kingdom) because their mothers are Citizens

of the United Kingdom and Colonies. Many of these mothers will, because of their connection with an existing or former dependency, acquire Citizenship of the British Dependent Territories or British Overseas Citizenship, and it seems right therefore that these people, most of whom are children and living overseas, should acquire the same citizenship as their mothers do.

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

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

22. With the exception referred to in paragraph 19, no one who when the new Act comes into force is a patrial (that is, who enjoys the right of abode under section 2 of the Immigration Act 1971) would as a result of the Government's proposals lose that right. Once the Act is in force those people who have become British Citizens would have the right of abode because of their citizenship; and it will be proposed that those citizens of Commonwealth countries who have the right of abode immediately before the Act comes into force and do not qualify for British Citizenship should continue to hold that right for their lifetime.

Eligibility for Citizenship of the British Dependent Territories

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

Eligibility for British Overseas Citizenship

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

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

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

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

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

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

Other British Subjects and British Protected Persons

30. It is proposed to leave unchanged the status of British Subject without Citizenship save that those who have long been resident in the United Kingdom and are settled here would be able to become British Citizens. It is also intended, as explained in paragraph 109, that the status of citizens of the Irish Republic who have made claims to remain British Subjects under section 2 of the 1948 Act should remain unaltered. The status of British Protected Person would remain, although those resident for a long time in the United Kingdom and settled here would be entitled, if they wished, to acquire British Citizenship. Further details of these proposals are in paragraphs 34 and 111.

C. TRANSITIONAL PROVISIONS

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

British Citizenship

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

- (a) who have the right of abode in the United Kingdom through their birth, adoption, naturalisation or registration* in the United Kingdom;
- (b) who have the right of abode by reason of having a parent or grandparent born, adopted, naturalised or registered in the United Kingdom;
- (c) who have been married to a man who becomes, or would but for his death have become, a British Citizen;
- (d) who have come from overseas and who have acquired the right of abode in the United Kingdom through being lawfully settled here.

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

34. The Government think it right that British Subjects without Citizenship and British Protected Persons who are lawfully settled in the United Kingdom should be able to benefit in the same way as the Citizens of the United Kingdom and Colonies referred to in paragraphs 32(d) and 33. But there is the difference that the holder of either of those statuses might find that the conferment of British Citizenship would have the effect of making him lose the citizenship of another country which he also holds; and this might be contrary to his wishes. Accordingly, it will be proposed in the Bill that a British Subject without Citizenship or a British Protected Person, lawfully settled here when the Act comes into force, should be entitled to be registered as a British Citizen on making an application, when he has been resident here for 5 years.

Citizenship of the British Dependent Territories

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

- (a) who was born in what is still a dependency or Associated State when the legislation comes into force, or who obtained his citizenship by naturalisation or registration in such a place;

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

- (b) who has or had a parent or grandparent who was born, naturalised or registered in such a dependency or Associated State;
- (c) who has been married to a man who becomes, or would but for his death have become, a Citizen of the British Dependent Territories.

British Overseas Citizenship

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

D. BRITISH CITIZENSHIP—PERMANENT ARRANGEMENTS FOR ACQUISITION ETC.

General Characteristics

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

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

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

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

British Citizenship by Birth

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

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

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

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

British Citizenship by Adoption

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

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

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

48. It may be suggested that we should make provision for a child adopted overseas by parents who are British Citizens to be entitled to British Citizenship. There are arguments in favour of this. But one must bear in mind the likelihood that in some countries children would be adopted solely for the purpose of securing the right of admission to the United Kingdom; and the possibility in other cases (e.g. where the parents are settled overseas) that the child would be unlikely to have any future connection with the United Kingdom. Accordingly, the Bill will not contain any provision which will give an automatic entitlement to British Citizenship as a result of being adopted overseas. It will be possible for a child so adopted to be registered under the Secretary of State's general power to register minor children (see paragraphs 78 to 82 below); and in deciding an application all the circumstances of the child and his adoptive parents would be taken into account.

Transmission of Citizenship by Descent

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

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

50. The considerations affecting the acquisition of citizenship by children born abroad were discussed at some length in the Green Paper. The view expressed by the former Government was that as a general rule a new British Citizenship should not be transmitted beyond the first generation born abroad though they recognised that some circumstances might justify exceptions. A

good deal of correspondence from abroad was received on this subject. Most of the people who wrote were in favour of citizenship passing beyond the first generation born abroad if there were close ties with this country such as one of the parents being at the time of the birth in Crown Service, or the service of an international organisation, or working for a United Kingdom-based company overseas.

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

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

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

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

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

(b) that it will be proposed in the Bill that a child born overseas, one of whose parents is a citizen by descent, and who subsequently comes to the United Kingdom with its parents to live, is to be entitled on completing 3 years here to be registered under the provisions relating to minor children.

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

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

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

ACQUISITION OF CITIZENSHIP BY NATURALISATION—GENERAL

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

The Residence Qualification

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

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

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

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

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

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

61. Neither of the terms 'residence' and 'ordinary residence' has been the subject of interpretation by the Courts for purely nationality purposes. Neither has been found entirely satisfactory in all circumstances, for example where a person who has established some residential connection with the United Kingdom has returned to his country of origin for a lengthy spell. In framing the requirements the Government will take account of the circumstances most generally encountered, and their proposals are likely to require a period in the United Kingdom similar to that now prescribed for naturalisation but with stipulations concerning the amount of physical presence here and the length of any absences overseas; and with a minimum of 1 year between the date of acceptance for settlement and the submission of an application. The Secretary of State would have discretion in exceptional circumstances to reduce the prescribed periods. It will also be proposed that periods spent here illegally, that is, having entered or remained in the United Kingdom in breach of the immigration law, should not count towards the residence qualification.

The Language Qualification

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

The Good Character Requirement

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

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

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

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

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

67. As a general proposition it does not seem right that someone who has lived in this country for a relatively short time should be given citizenship as a matter of convenience, in order to facilitate his entry to another country. At one time, while the British Nationality and Status of Aliens Act 1914 was in force, a naturalised person who went to live abroad for 7 years could, if he had

not registered with a British Consul be deprived of his (then) British subject status. But to introduce deprivation on similar grounds now would often result in statelessness, since many people on acquiring our citizenship would automatically lose the one they possessed earlier.

68. The Government do not, however, think that people who move on after acquiring our citizenship should be enabled to pass on citizenship further. To do so is against their general intention that the number of British Citizens living abroad with no continuing close connection with the United Kingdom should be limited as far as possible; and they will propose in the Bill that a citizen by grant shall be put on the same footing as a citizen by descent so far as the transmission of citizenship to a child born abroad is concerned. (If the child is born during the parents' temporary absence abroad, its status could be ensured by means of the provisions referred to in paragraph 80 for the registration of minor children.)

Crown Service

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

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

Citizenship by Virtue of Marriage

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

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

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

- (ii) to give spouses of both sexes who are married to citizens an entitlement to citizenship but to make this subject to a residence requirement of, say, 3 years;
- (iii) to treat spouses on the same terms as other applicants for citizenship;
- (iv) to treat spouses on the same terms as other applicants for citizenship, but to give both sexes some concessions on the length of residence.

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

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

75. The Government are aware that there will be a number of women married to Citizens of the United Kingdom and Colonies who when the Act comes into force will not have exercised their entitlement under the 1948 Act to be registered. Many of them will of course have had good reason for not doing so because, for example, the acquisition of their husband's citizenship might mean the loss of their own original one. But others may simply have neglected to apply though they would wish to do so. The Government will therefore propose in the Bill that for a limited period after the coming into force of the Act a woman married to a man who becomes a British Citizen, and whose marriage still subsists, should be entitled to obtain that citizenship on applying for registration. They will further propose that a woman formerly married to a man who becomes, or would but for his death have become, a British Citizen may be granted citizenship at the discretion of the Secretary of State.

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

76. Since the coming into force of the Immigration Act 1971 the grant of citizenship on the grounds of residence has, in general, been at the Secretary of State's discretion, and has been subject to the conditions summarised in paragraph 59. However, certain Commonwealth citizens who have been living here for a long time have retained an absolute right to be registered as Citizens of the United Kingdom and Colonies. The people concerned are those who were settled here free of any conditions on their stay on 1 January 1973 and who have remained ordinarily resident here since that date. The Pakistan Act 1973, under which citizens of Pakistan became aliens, preserved for a limited time the right of those who were qualified to apply under this provision; the final date for such applications was 1 September 1979, although the Home Secretary is empowered to accept a later application in the special circumstances of a particular case.

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

Registration of Minor Children

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

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

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

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

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

A Right of Appeal Against the Refusal of Naturalisation and Registration

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

84. The Government intend to propose that the grant of citizenship shall, with the exceptions mentioned in paragraphs 76, 77 and 80, be at the discretion of the Home Secretary, and that before granting an application for naturalisation he shall have to be satisfied that the applicant is of good character. The Government share the doubts expressed in the Green Paper on whether it would be apt to have an appeals system if good character is to be assessed subjectively on the basis of reports. Accordingly, they will not propose the introduction of a right of appeal.

Dual Nationality

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

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

- (a) to have a complete ban on dual nationality whether it arises voluntarily or involuntarily, with some arrangement for children who are dual nationals to make a choice when they become of age;
- (b) to ban dual nationality where it arises voluntarily—our citizens who voluntarily took another citizenship would thereby lose ours, and applicants for our citizenship would have to renounce any other citizenship as a condition of becoming citizens; and
- (c) to ban dual nationality only where our citizens voluntarily acquire another nationality.

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

88. The Government have considered all the options mentioned in the Green Paper. They are clear that it would be unnecessarily harsh to make someone who had acquired another citizenship *involuntarily* choose between that and his British Citizenship. They have considered also whether British Citizens should in future be allowed to retain their citizenship on acquiring another

one *voluntarily*: this would normally be by naturalisation in an overseas country. But it would be very expensive to set up and operate a checking process which was reasonably effective in identifying such cases.

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

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

Resumption of Citizenship

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

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

Renunciation of Citizenship

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

Deprivation of Citizenship

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

E. CITIZENSHIP OF THE BRITISH DEPENDENT TERRITORIES

General Characteristics

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

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

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

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

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

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

Acquisition and Loss of Citizenship of the British Dependent Territories

100. The means by which Citizenship of the British Dependent Territories will be acquired and lost after the coming into force of the new Act will follow the same general pattern as that proposed above for British Citizenship. It will

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

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

Right of Entry to Dependencies

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

F. BRITISH OVERSEAS CITIZENSHIP

General

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

104. British Overseas Citizens living in British territories would have the opportunity of acquiring one of the other citizenships on satisfying the requirements for naturalisation laid down. The holder of British Overseas Citizenship would be entitled to protection overseas in the same way as any other British

national, and would be eligible to hold a United Kingdom passport describing his citizenship; but his citizenship would not carry with it the right of abode in any British territory.

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

G. OTHER NATIONALITY MATTERS

The Status of British Subject

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

British Subjects without Citizenship

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

Citizens of the Irish Republic

108. The status of Citizens of the Irish Republic in United Kingdom law is that they are neither British Subjects nor foreigners. They apply for Citizenship of the United Kingdom and Colonies under the same rules as apply to Commonwealth citizens; and they have the particular concession under section 2 of the 1948 Act of being able to claim, if they were born before 1949, to have remained British Subjects.

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

The Use of 'British Subject' in Other Statutes

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

British Protected Persons

111. These are people connected with Protectorates and Protected States and their status is regulated by the British Protectorates, Protected States and Protected Persons Order made under the 1948 Act. Apart from Brunei, which is still a protected state in a limited sense, there are now no territories under British protection, and the number of British Protected Persons remaining is thought to be about 140,000. It will be proposed in the Bill that the status shall be retained, and the Bill will include the power to regulate it by Order in Council. The current Order provides that on acquiring another nationality by voluntary act a British Protected Person shall lose that status, and it is intended to continue this provision.

Miscellaneous Provisions

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

H. CONSEQUENTIAL AMENDMENTS TO THE IMMIGRATION ACT

113. The introduction of British Citizenship conferring the right of abode in the United Kingdom will call for consequential amendments to the Immigration Act, and the proposed Nationality Bill will include these. Much of the amendment will consist of the replacement of the term 'patrial' which will no longer be required, by reference to 'British Citizen'. The effect of these provisions will be that, in the long term, the right of abode in the United Kingdom will depend exclusively on the possession of British Citizenship. But those Commonwealth citizens who at the time of coming into force of the Act have the right of abode, but who do not become British Citizens under the transitional provisions of the Bill, will have that right preserved.

APPENDIX A

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

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

Two Citizenships

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

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

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

Terminology

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

Allegations of Discrimination on Racial Grounds

6. It was alleged by some correspondents that the ideas in the Green Paper discriminated between Citizens of the United Kingdom and Colonies on grounds of race; but this is not so. The proposal was that everyone born in this country, irrespective of the colour, race or nationality of the parents, would become British Citizens automatically, as would those people who had acquired Citizenship of the United Kingdom and Colonies by naturalisation or registration here.

And a person born abroad would have British Citizenship automatically, with the right of entry to this country, if the father or mother was a British Citizen by birth or naturalisation etc. in this country.

Transmission of Citizenship by Women

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

Transmission of Citizenship Beyond the First Generation

8. There has been a large amount of correspondence, both from individuals living abroad, and from people representing British firms overseas, about the transmission of citizenship. Without exception, they were in favour of citizenship passing beyond the first generation born abroad, perhaps by consular registration, if there were close ties with this country or special circumstances, such as the parents being in Crown Service or working for international organisations at the time of the birth. Paragraphs 56 and 57 of the White Paper set out the special arrangements proposed for such people.

Citizenship by Marriage

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

Naturalisation

10. It was generally felt that the language test should be retained but administered flexibly where the situation merits this, as in the case of elderly people. Opinion was divided on the suggestion that objective tests of character might be substituted for the present subjective assessment. Associations representing the ethnic minorities favoured objective tests, and a right of appeal against refusal of naturalisation.

Dual Nationality

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

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

12. The suggestion in the Green Paper (paragraph 21) that those Citizens of the United Kingdom and Colonies from overseas who are now resident here should, in general, be granted British Citizenship because, for the most part,

they will have established a tie with this country through their residence here on a permanent basis, was generally welcomed. The Government's proposals on this subject will be found in paragraph 32 of the White Paper.

Commonwealth Citizens Living in the United Kingdom

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

Civic Rights

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

Eligibility for a Passport

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

APPENDIX B

NATIONALITY LAW UP TO THE PRESENT

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

Before 1949

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

The British Nationality Act 1948

2. The Act of 1948 introduced these principles into United Kingdom law. It created a Citizenship of the United Kingdom and Colonies, with the continuing status of British Subject, and laid down rules for its acquisition. It was relatively simple to provide how this status should be acquired in future, but it was more difficult to decide which of the British Subjects then alive should become Citizens of the United Kingdom and Colonies. The Act gave that citizenship not only to British Subjects then alive who had ties with the United Kingdom, the Channel Islands and the Isle of Man, or with a Colony, but also gave it to some British Subjects who did not, for one reason or another, acquire the citizenship of another Commonwealth country. But most of the Commonwealth countries which were then independent had yet to pass their citizenship laws, and the 1948 Act therefore provided that British Subjects who had ties with those countries should be regarded as potential citizens of them. These people remained British Subjects but had to wait for a final determination of their status until the countries with which they were associated were deemed to have passed citizenship laws (or until they acquired citizenship of another Commonwealth country or of the Republic of Ireland in some other way, or became aliens). Only if they then failed to obtain a citizenship would they become Citizens of the United Kingdom and Colonies. In the meantime they were to hold the temporary, non-transmissible, status of British Subject without Citizenship.

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

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

Changes since the 1948 Act

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

6. Other problems developed as more countries of the Commonwealth became independent. Some of these countries did not, at independence, confer their citizenship on all the Citizens of the United Kingdom and Colonies who had ties with them. Kenya, for instance, did not give its citizenship automatically to Citizens of the United Kingdom and Colonies born in Kenya before independence unless one parent had been born there. There were similar problems with British Protected Persons linked with some territories. So significant numbers of people, for instance in East Africa and Malaysia, did not acquire local citizenship

on independence and remained Citizens of the United Kingdom and Colonies or British Protected Persons even though they had no close connections either with the United Kingdom or with one of the remaining Colonies. Often they hold no other citizenship.

7. Over the years the 1947 Act has been amended about 40 times. There have been various reasons for this. A large number of Colonies have become independent and it has been necessary to withdraw Citizenship of the United Kingdom and Colonies from people who acquired citizenship of the newly independent country but had not at the same time a close connection with the United Kingdom or a continuing Colony. Other amendments have been needed when countries, for example South Africa and Pakistan, have left the Commonwealth, to provide that although their nationals were henceforward foreigners in United Kingdom law they were to continue, for a limited time, to retain their eligibility to acquire our citizenship by registration as if they had continued to be Commonwealth citizens, rather than by naturalisation. Important amendments in the qualifications for acquiring Citizenship of the United Kingdom and Colonies were made in the Commonwealth Immigrants Act 1962 and the Immigration Act 1971. Apart from these amendments there have been others, for example to meet the United Kingdom's obligations under international agreements. As a result of these numerous amendments British nationality law has become difficult to follow.

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

Numbers

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

10. When one turns to the remaining Citizens of the United Kingdom and Colonies it is impossible to give precise figures; first, because in many countries there is no form of national registration leading to census figures; and second, because there is no requirement on our nationals living abroad to register with,

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

The present situation

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

APPENDIX C

EXISTING DEPENDENCIES

<i>Colonies</i>	<i>Estimated population</i>	
Belize	150,000	
Bermuda	57,000	
British Antarctic Territory	—	
British Indian Ocean Territory	—	
British Virgin Islands	10,500	
Cayman Islands	10,500	
Falkland Islands & dependencies	2,000	
Gibraltar	27,000	
Hong Kong	5,000,000	of whom 2,600,000 are Citizens of the United Kingdom and Colonies
Montserrat	11,500	
Pitcairn Islands Group	61	
St Helena & dependencies	5,150	
Turks and Caicos Islands	7,000	
<i>Associated States</i>		
Antigua	72,000	
St Christopher-Nevis-Anguilla	52,000	

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

APPENDIX D

GLOSSARY

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

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

(a) British Subject/Commonwealth citizen

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

(b) Citizen of the United Kingdom and Colonies

This status is held by:—

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

(c) British Subject without Citizenship

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

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

(e) British Subjects by virtue of section 1 of the British Nationality Act 1965 These are women who have been registered as British Subjects under the 1965 Act by reason of their marriage to a British Subject without Citizenship (c. above) or a British Subject by virtue of section 2 of the 1948 Act (d. above).

(f) British Protected Persons

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

(g) Aliens

An alien is a person who is not:—

- (i) a British Subject/Commonwealth citizen;
- (ii) a British Protected Person; or
- (iii) a citizen of the Republic of Ireland.

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

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

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

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