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Citizenship campaign

We have given information on several occasions regarding the development of the work in this field. As you will be able to see from the following article – it was written by the parliamentary correspondent of the «Journal de Genève», Mr Jean-Pierre Gattoni, and was published in August 1980 – the campaign on citizenship started some three years ago is on the best way to success.

We cannot, however, be jubilant too soon. Even though the parliamentary initiative by the President of the Organization of the Swiss Abroad, Dr. Alfred Weber, (called «Initiative Weber») has found agreement with the parliamentary commission of the National Council, numerous obstacles have still to

be overcome. The most important are the acceptance by Parliament and the plebiscite of the electorate and the Cantons, which will probably take place in three to four years. The acceptance by the above-mentioned commission is an important step forward, in parts due no doubt to the many interventions by you, the Swiss abroad. We shall continue to inform you in these pages on the progress of parliamentary activities in this matter. In due course, probably in the final phase, we shall ask for your cooperation again. Please fill in already now the form obtainable from the Embassy or Consulate where you are registered, which will entitle you to take part in federal plebiscites and elections. *Lucien Paillard*

Draft for a constitutional change:

Citizenship rights: the same law for all children of Swiss mothers?

It is only a question of time: Once Parliament is in agreement and – in a second phase – electorate and Cantons accept it, there will in future be no obstacle for children of Swiss mothers and foreign fathers to obtaining Swiss citizenship. Subsequent to the parliamentary «Initiative Weber», a commission of the National Council has presented a draft for a constitutional change, which gives equal rights to the child of a Swiss woman and to that of a Swiss man, regardless of the origin of the mother or the place of residence at the time of birth. The initiative of the former National Councillor Weber was handed in on 23rd March 1979. He was, however, not the only one who wanted to improve the status of children born

to a foreign father and a Swiss mother. Quite a few parliamentarians treated this problem on postulates and motions. Let us mention the postulates Luder (1972) and Felber (1977), the motion Christinat (1978) and the initiative brought in by the Canton of Geneva eight years ago. Finally, the Council of Europe recommended its members to eliminate every discrimination between man and woman (and subsequently between their children) in this field. The commission of the National Council chaired by Mr Paul Zbinden (Fribourg) stated that the present citizenship law regarding transmission of citizenship to children treats man and woman in a different way, also those Swiss women who are

Swiss by origin and those who acquired Swiss citizenship through marriage or naturalization.

Until 1977, children received Swiss citizenship from their mothers only if they were born illegitimately or had a stateless father. It was only on 1st January 1978 that some improvements came into force: Children of a Swiss mother married to a foreigner can now acquire Swiss citizenship at birth, if the mother is originally Swiss and the parents are resident in Switzerland at the time of birth.

Obvious inequalities

For children whose mother is not originally Swiss, and for those who were born abroad, there are still obvious inequalities. The law makes two conditions for the Swiss mother. She must be Swiss by origin and she has to live in Switzerland at the time of birth of her child. The term «of Swiss origin» is not defined closely in the law. It has to be determined by interpretation. Up to the spring of 1979, it was interpreted very narrowly by cantonal and federal authorities: Only those women were considered Swiss by origin who possessed Swiss citizenship at birth. On 29th June 1979, the Federal Tribunal decided that the definition should also be used for women who had been naturalized together with their parents or by facilitated procedure. Two inequalities between women remain in this field: women who became Swiss by marriage or who were naturalized are not considered Swiss by origin. In spite of the decision by the Federal Tribunal, there are still two categories of Swiss women, those who can transmit their Swiss citizenship and those who can't. The newly drafted constitutional article 44, par. 3, should eradicate this inequality. The present law makes another condition, too, which the commission wants to eliminate, the one which ties acquisition of citizenship to the prerequisite that the parents are resident in Switzerland at the



time of birth (only when the father is foreign; if he is Swiss this problem does not exist). The commission is of opinion that such a regulation gives too much importance to chance. As the law stands at present and with increasing mobility of the population, some children can become Swiss whilst others can't. This seems almost absurd.

A constitutional modification

Unanimously, the commission was of opinion that equal rights between man and woman should be instituted. The majority (11) was in favour of a constitutional change, whilst a minority (2) voted for a simple change in the law. Why was a constitutional change given preference? For various reasons. Let us summarize: The conditions as made in the constitutional article 44, par. 3, do no longer correspond to today's situation (they date from the year 1928). A new ruling in the question of citizenship rights, whose portents will quite certainly surpass minimal regulations, can no longer be based on this article 44. In the opinion of the commis-

sion, a new regulation will also curtail the autonomy of the Cantons quite considerably. It must therefore be based on a constitutional article.

Jean-Pierre Gattoni

Please look up other articles which have appeared in the «Review»: December 1976, June and December 1977, September and December 1978, June, September and December 1979 and March and June 1980.

The Swiss Compensation Fund («Ausgleichskasse» or «Caisse de compensation») has moved into a new building. The address and telephone number are as follows:

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