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HOME AFFAIRS.

By Dr. MAX NEF.
(23.3.52)

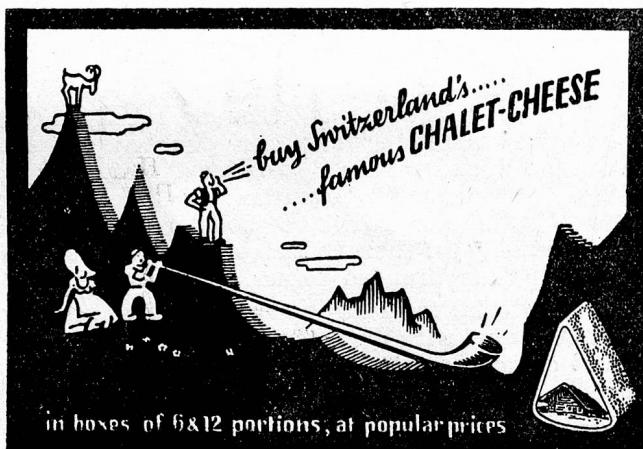
The Federal Chambers are at present assembled in Berne for their Spring Session. In the Council of States the most important item on the agenda this week is the debate on the Draft Bill of a revised Law on Civic Rights. This Bill was already discussed by the National Council last Autumn. Since then the Committee set up by the Council of States has met on a number of occasions for the purpose of clarifying its proposals. This has taken considerable time as the question of whether various innovations were in strict accordance with the Constitution had to be examined very carefully, with the help of the legal advice of eminent jurists.

The most important of the innovations put forward, which has given rise to the most lively debates in the present sitting of the Council of States, concerns the question of the maintenance of her civic rights by a Swiss woman who marries a foreigner. Various proposals were submitted for the settlement of this affair. To begin with, the two extreme proposals were mentioned, namely the maintenance of the existing position, whereby, the Swiss woman who marries a foreigner, under all circumstances and automatically loses her hereditary civic rights. However, this Conservative point of view did not gain many votes. During the debate, mention was made several times of the fact that the desires and the claims of the Swiss living abroad should be taken into consideration, and that this standpoint which had become out-of-date as a result of international development, should now also be abandoned in Switzerland. Similar claims had been put forward by the various women's organisations. The advocates of the retention of the status quo in accordance with which the so-called "marrying out" Swiss woman, — as the ugly legal phrase has it — must automatically give up her hereditary civic rights, justified their point of view by declaring that different nationalities for married couples, disturbed the unity of marriage. To this assertion it was opposed that the independent position of the woman, her own desires in this case and her attachment of her Mother-country formed the strongest arguments in favour of her maintaining her rights.

The other extreme standpoint asserted that the Law should make it obligatory that the Swiss woman

who married a foreigner should, in every case and automatically, preserve her civic rights. However, this proposal also, which was put forward by the Social-Democrats, failed to pass, although it managed to obtain one-third of the votes. The disadvantages of automatism were brought up against this solution of the difficulty. What would appear to be more suitable, would be a regulation which would make it possible for decisions to be taken in individual cases. The way to this might be found through the introduction of a concession which would give the woman the right of option, so that she herself could decide whether or not she wished to remain a Swiss citizen. It is alleged that this would also have a psychological and a political advantage in that, a Swiss woman who contemplated marrying a foreigner would be faced with this case of conscience before making her final decision.

This solution which was recommended by the Federal Council and has already been passed by the National Council, also found approval among the majority of the members of the Council of States. The only thing that now remains to be done, is to decide at what exact period should the "out-married" Swiss woman have to announce her desire to preserve her hereditary civic rights. It is anticipated that the Council of States will allow this to take place only during the so-called period of the publishing of the banns, that is to say prior to the day of the wedding. The Federal Council wished to concede a further period of six months after the wedding, and the National Council a term of one year, during which notice could be



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given. The Council of States, however, sees in this prolongation possibilities for conflicts to occur between husband and wife, if the wife has the right during a whole twelve months to declare one fine day that she intends after all to remain a Swiss. It is alleged that the husband might very well see in this, a disparagement of his own nationality. Meanwhile, further grounds have put forward for the solution chosen by the Council of States. Similar considerations led it to reject, also, the suggestion that this right of option should be declared retro-active with the coming into force of the Law, so that those Swiss women who had married foreigners at an earlier date, could subsequently also decide to regain their Swiss citizenship.

Although the decisions of both Chambers agree in respect of the right of option and are therefore already final, there still exists some divergence in opinion regarding the question of the moment at which the request for regaining citizenship must be made. This matter has therefore yet to be settled. Whatever the result, our Swiss countrymen and women living abroad have reason to be satisfied that the legal innovation put forward by them will sooner or later become Law.

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