

TIGHT BINDING.

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Conference, 1930, and it was then contemplated that further consultation should take place with a view to arriving at a settlement of the problems involved.

In the course of the discussions at the present Conference it was in no way suggested that any change should be made in the existing position regarding the common status based on the British Nationality and Status of Aliens Act of the United Kingdom and the corresponding enactments in other parts of the British Commonwealth. This common status is described by the term "British subject". The term does not, of course, mean a "subject of Great Britain". It is one of long standing as denoting generally all subjects of His Majesty, to whatever part of the British Commonwealth they belong.

Attention was drawn to the fact, as indicated in the Report of 1929 above referred to, that British subjects not only have this common status but also, generally speaking, have a particular connection with one or other Member of the British Commonwealth. It was pointed out that in the absence of rules for determining the part of the Commonwealth with which any particular person has the connection just referred to, practical difficulties arise, or might arise, with regard to such matters as immigration, deportation, diplomatic action, extra-territorial legislation and treaty rights and obligations.

The suggestion was made that these difficulties could be overcome if each of the Members of the Commonwealth were to undertake to introduce legislation, as some Members have already done, defining its nationals or citizens. It was however found that some Members of the Commonwealth were not disposed to introduce such legislation. In the case of the United Kingdom in particular, it was pointed out that the wide differences existing between the large number of separate territories, legal jurisdictions and races for which the United Kingdom was responsible would render impracticable the adoption of any single classification which would be in any real sense analogous to that expressed by the terms "national" or "citizen" or "member of the community" in the case of other Members of the Commonwealth. Moreover it is the practice of the United Kingdom to make no distinction between different classes of British subjects as regards the grant of civil and political rights or the right of entry into and residence in the United Kingdom, and the paragraphs which follow must be read in the light of this position so far as the United Kingdom is concerned.

It should also be mentioned that in foreign countries where there is no separate diplomatic or consular representation of a particular Member of the Commonwealth, the diplomatic and consular representatives of His Majesty, appointed on the advice of the United Kingdom Government, are prepared to

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afford protection and assistance also to British subjects belonging to that Member. No change in this practice is contemplated or desired; and it may well be that the diplomatic and consular representatives appointed on the advice of the Governments of other parts of the British Commonwealth would be prepared, should occasion arise, to undertake similar duties.

It was thought that a closer examination of the particular difficulties to which attention has been called might be of service with a view to removing points of obscurity, inconvenience or possible misunderstanding.

The questions that arise are seen most clearly in the case of a part of the Commonwealth which has defined membership of its community in terms of distinct nationality, and that was the case first considered. But it was recognized that to a greater or less extent Members of the Commonwealth, whether or not they have given legislative definition to such a concept, do distinguish for some practical purposes between British subjects being members of their own respective communities. When the question arises, for example, whether a person has a right to enter a particular part of the Commonwealth or can be excluded as an immigrant; when a particular part of the Commonwealth has to decide whether or not to accept the responsibility for admitting a person on deportation from abroad; when the question is whether or not a person is liable in some part of the Commonwealth to be deported; in all these cases (apart from the special position in the United Kingdom referred to above) the deciding factor will not be whether the person is a British subject, but whether or not, being a British subject, he is regarded by virtue of birth or residence, or otherwise, as a member of the community in the territory concerned. When, therefore, persons are described in the following paragraphs as "members of the community" of a particular Member of the Commonwealth, the phrase is intended to have a rather technical meaning, as denoting a person whom that Member of the Commonwealth has, either by legislative definition of its nationals or citizens or otherwise, decided to regard as "belonging" to it; for the purposes of civil and political rights and duties, immigration, deportation, diplomatic representation or the exercise of extra-territorial jurisdiction.

In the light of these considerations the following are the conclusions which have been reached:

1. It is for each Member of the British Commonwealth to decide which persons have with it that definite connection envisaged by paragraph 7 of the Report on the Operation of Dominion Legislation, which would enable it to regard them as members of its community. It is desirable, however,

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