

A STUDY IN MARRIED WOMEN'S RIGHTS AND REPATRIATION IN THE
UNITED STATES, THE UNITED KINGDOM, AND LATIN AMERICA:
CITIZENSHIP, GENDER AND THE LAW IN
TRANSATLANTIC CONTEXT

by

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Abstract

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During the first half of the twentieth century, the United States and Great Britain, fearing the dramatic changes occurring in the Atlantic world due to increased migration and threats from war, denied many of their female citizens their natural-born right of citizenship. What was the reason for stripping these women of such a precious possession guaranteed by law? They married non-citizens.

Without due process, the women could not be deprived of their citizenship, so laws were put into place proclaiming that when a woman married an alien man, she would automatically assume his citizenship. Because women did not have independent citizenship under the law, upon marriage to an alien man, the woman lost her own natural born citizenship that had come through her father. At the same time these laws were passed, women were campaigning for the right to vote. Within the campaigns on both sides of the Atlantic, a kindred spirit developed among the reformers that all women should have the same right of independent citizenship as the natural born men in their countries. Being ignored by their home governments, the women of the United States and Great Britain and the Dominion nations developed a transatlantic network designed to bring international pressure on their domestic governments to grant independent citizenship to women by law. As a result of their consistent and long-suffering campaigns, many women of the United States believed they were going to be granted independent citizenship in 1922 with the Cable Act, but the bill fell far short of their expectations. Cable Act reforms began almost immediately and continued until 1936, when all American women had the right to determine their own nationality. The Dominion nations, beginning with Canada in 1946, established independent citizenship for women, despite imperial law. Britain finally succumbed to the transatlantic pressure and granted women of the United Kingdom independent nationality in 1948.

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Chapter 1

Introduction

The campaign for independent citizenship contributes significantly to the history of the transatlantic women's rights movement. When studying the history of the women's campaign for independent citizenship on an international level, it becomes apparent that women all over the world have had their own ideas of what citizenship meant to them, both historically and in their own day. What becomes more apparent is that women thought and wrote about, defined and worked toward citizenship equality within unique cultural, political, and economic contexts in Europe and the United States beginning in the seventeenth century and in Latin America in the eighteenth century.

In England, women lost their independent citizenship officially with passage of the Naturalization Act of 1870. They did not marshal efforts to regain their nationality rights until they became conscious of the maltreatment that expatriated British women experienced during World War I. It would not be until the end of World War I that the lack of British citizenship, revealed through the devastating consequences suffered by many British-born women married to foreign-born men that British women mobilized to reclaim their nationality rights. The legal, political, and personal problems created by expatriation of native-born

women who married foreign-born immigrants inspired a movement that developed into an international campaign for women's nationality rights in the United States, England, and Latin America.¹

Contrary to the British experience, women in the United States may not have fully understood the consequences of the Expatriation Act of March 2, 1907, which was the American version of the British 1870 Naturalization Act, but just the name of the act itself was justification for raising feminist ire. Section 3 in the law included American-born women in immigration and naturalization policy. It claimed that American women who married foreign-born men had voluntarily surrendered their citizenship in the United States.² All American women were forced to take on the nationality of their husbands upon marriage. The expatriated American-born women could reclaim their American citizenship only if their foreign-born husbands naturalized. Understanding that they lost a significant legal and political right, feminist reformers insisted that the loss of independent citizenship was a greater burden than the inability to vote. The Expatriation Act of 1907 marshaled feminist reformers in the U.S. who would launch an indomitable and lengthy campaign for the legal right to determine one's citizenship.³

In the United States and England during the twentieth century, citizenship became a source of tremendous controversy, because the rules governing citizenship lacked uniformity and possessed the power to affect numerous people

in American and British society. The campaign for independent citizenship developed as part of a larger international women's rights movement that had commenced in the seventeenth century in the United States and England. The lengthy and contentious campaign, waged by feminists in the twentieth century for the legal right of independent citizenship, garnered success because women reformers had been practicing protest for the last fifty to seventy-five years, for example in the Anti-Corn Law League in England, the equal education movement, the campaign to modify the civil codes so women would have more legal rights in their families, the anti-slavery movement, and the women's suffrage movement.

Immigration proved to be a powerful determinant of citizenship law in the United States and England. As increasing numbers of Eastern and Southern Europeans immigrated to the U.S., many Americans developed an irrational fear that large numbers of immigrants would pose a threat to American culture and business. To deal with the perceived threat, Congress passed legislation setting limits on the numbers of Eastern and Southern Europeans that could enter the U.S. and curbed the number of foreign-born residents who could naturalize.⁴ The Expatriation Act of 1907 was just one piece of legislation responding to the fears of those who espoused such "Americanism."⁵ The English engaged immigration issues with an imperial approach. Consequently, as the Dominion nations sought more autonomy, citizenship became more difficult to handle. Some people found

that they could be a citizen of a Dominion nation but not of the Empire. Over time, all citizens of the Dominions became citizens of the Empire, but not necessarily of each Dominion. A person could become an imperial subject, but was not allowed to become a citizen of Great Britain, unless he or she went through naturalization, even though that person had lived in New Zealand, for example. Common to the Empire, however, was the fact that married women lost their citizenship if they married an alien—and “alien” was a term that was ill-defined at the time.

The Expatriation Act of 1907 and the Naturalization Act of 1870, thought they were immigration and naturalization measures, produced significant political ramifications. The revival in the bills of the outdated doctrine of coverture, a legal condition in which a married woman’s whole personality was subsumed into that of her husband, brought out the indignation of feminist reformers. Furthermore, the acts significantly weakened the best argument suffragists employed in their campaigns for the vote. Because they were citizens, suffragists contended, they should be able to exercise their constitutional right to vote. If citizenship was derivative and came only through their husbands, women were not independent, but rather dependent citizens.⁶

The consequences of the Expatriation Act of 1907 and the Naturalization Act of 1870 were far reaching. World War I would reveal the absurdity of the laws. During WWI, the U.S. and British governments classified the expatriated

women as “enemy aliens.” More importantly, the denationalized women were threatened with deportation and unemployment since certain jobs were no longer available to them. A woman could even lose her job if she married a foreign-born man and many public assistance programs excluded non-citizens. Women aliens suffered the loss of private property through government confiscation if their husbands were born in one of the countries belonging to the Central Powers.⁷

During World War I, the United States and England had laws against aliens owning or inheriting property or taking certain jobs. The government seized their property and put them under surveillance. Congress was reluctant to pass legislation that would help a small group of women who had inadvertently been caught in the net of immigration law to their hurt. Congress claimed that under the Constitution, the United States had to have a uniform naturalization policy.⁸ England corrected some of the errors in the laws that forced British women to lose their citizenship and then remain enemy aliens even if their husbands abandoned them to go fight for other nations in World War I. English women who lost their citizenship and suffered from the loss of their nationality and their husband could receive their citizenship back with just a declaration in some cases, or a brief naturalization period in others.

Another important aspect of the Acts of 1870 and 1907 was that they were retroactive. Because the women married to foreign-born men had already revealed their allegiance, legislators upheld the acceptability of retroaction.

Marrying a foreigner in the early twentieth century in the U.S. was considered un-American, and expatriation was a due punishment. The U.S. government, in similar fashion to the British government, claimed that the bill was a legislative confirmation of the women's "obvious intentions" upon marriage.⁹ Conversely, the automatically naturalized foreign-born women married to American and British men enjoyed all the benefits and privileges of being American and British citizens. Declaring such women virtuous for marrying American and British men, government leaders declared confidently that the new citizens would learn about the American and British ways of life from their husbands.¹⁰

After World War I, feminists increasingly stressed the importance of internationalism as a tactic for applying international pressure on national governments to adopt women's rights reforms. Feminists directed their efforts toward internationalism because they had little hope of achieving reforms in their own countries. British and American feminists alike believed an international treaty seemed the most likely pathway to gain equal rights. British and American women worked together to try to obtain an international treaty that could override legislation regulating married women's citizenship.¹¹

In England, the vote made women citizens, but not fully; women viewed their continued status of subordination as a lack of full citizenship.¹² For American women, legal and political concerns motivated the campaign for independent citizenship more than practical issues.¹³ In the long struggle for

women's nationality rights, the legal and political precedents behind married women's expatriation proved to be formidable obstacles, and took decades to overcome. Prior to ratification of the Anthony amendment in the United States and the Representation of the People Act in 1918, women's groups petitioned legislators repeatedly from both countries to repeal the acts causing derivative citizenship. Fortunately, for nationality rights reformers, after women received the vote legislators from both countries indicated their openness to listen to the petitions of the feminists.¹⁴

In the years after the ratification of the Anthony amendment in 1920, granting women independent citizenship conflicted with the U.S. government's desire to make immigration and naturalization more restrictive. Revealing Congress's attitude towards marital expatriation, the issue of independent citizenship kept being engulfed in naturalization bills.¹⁵ Women's groups consistently maintained that any legislation regarding independent citizenship deserved its own bill. In 1922, John L. Cable of Ohio introduced a bill to the House Committee on Immigration and Naturalization that openly addressed women's nationality rights. The measure that became known as the Cable Bill was endorsed by numerous women's groups even though it set limits on independent citizenship. Only after the bill's passage would women realize how confining the limits were. Women's nationality rights groups would rally around

these limitations and eventually bring a successful conclusion to their struggle for independent citizenship.¹⁶

Prior to the Cable Act, Congressmen in the United States and Members of Parliament in Britain publicly endorsed uniformity between those nations' naturalization laws. Nearly identical in practice, the Expatriation Act of 1907 and British Naturalization Act of 1870 had been retroactive, had forced derivative citizenship on native-born and foreign-born women living within their borders, and had considered these native-born turned alien women to have voluntarily relinquished their allegiance to their home country. With the passage of the Cable Act and subsequent reform bills, the U.S. government abandoned uniformity with international immigration and naturalization laws and over time developed an immigration policy that protected the legal rights of American-born citizens to choose their own nationality. While it was an imperfect measure in the eyes of women's rights advocates, the Cable Bill renewed the vigor of feminist reformers in England and broadcast that it was possible for them to regain their nationality rights.¹⁷

From 1918 through 1927, the United States along with the U.S.S.R., Belgium, Estonia, Norway, Rumania, Sweden, Denmark, Iceland, Guatemala, Finland, France, Turkey, Yugoslavia, Albania, China, Cuba, and Persia all granted some level of independent citizenship to married women. Part of the reason for the change in attitude toward expatriated married women came from

cases of dual nationality and statelessness that arose when the Cable Act ended automatic naturalization of foreign-born women.¹⁸

The year 1923 marked a significant period for the women's nationality campaign in Britain. In Parliament, and at major international conferences, including the Imperial Conference, married women's nationality rights were the center of discussion. The year after the Cable Bill influenced immigration law on an international level, women's rights reformers held high hopes that the events of 1923 would deliver sweeping changes regarding married women's nationality rights. Unfortunately, it would be another twenty-five years before the hope would be realized.¹⁹

After the disappointing year of 1923 in Britain and the multitude of problems associated with the Cable Act of 1922, women's groups looked for other avenues to pursue independent nationality. Women's groups availed themselves of opportunities to develop international laws that would secure equal nationality rights.²⁰ The Hague Codification Conference, the League of Nations, and the Pan-American Union provided sources of political pressure to apply to national governments concerning nationality rights. During the 1920s and 30s, international women's reform groups formed coalitions as part of a strategy of influencing international organizations that might be persuaded to approve international conventions sympathetic to their cause. All of the coalition organizations wanted equality in the matter of women's nationality. Their

differences centered on pursuing equal citizenship or equal rights. In the end, the equal rights groups settled for equal nationality, because equal rights was not accepted as broadly as equal nationality. Some groups worked for international treaties to establish equal nationality.²¹

Richard Flournoy, considered an expert on nationality questions as Assistant Solicitor of the Department of State, and the women's reform groups working for independent citizenship both agreed that unity on nationality laws would only come about through international treaties. During the 1920s, in the aftermath of World War I, Flournoy pointed out that his suggestions for a multi-lateral convention were unlikely to develop, because tensions over citizenship were more marked than before the Great War. Countries in Europe were still militarized and maintaining standing armies; those countries would work to retain as much allegiance in their homelands as possible. For similar reasons, the League of Nations maintained its reluctance to challenge the nations' immigration laws on a moral and legal basis. Perhaps it is not surprising that the multi-lateral convention that Flournoy and women's reforms groups so desired, albeit for different reasons, would eventually come out of Latin America, a region not in the throes of the aftermath of World War I and already experienced at proposing conventions for an international audience.²²

When studying the legal history of Latin American women, most of the discussion emanates from the Southern Cone nations of Chile, Argentina, and

Uruguay and then Brazil. Other Latin American countries such as Mexico and Honduras are on the fringe of the discussion. These countries were heavily influenced by European immigration and, therefore, European ideas. The countries in the Southern Cone were trading partners, however, with each other and with Europe and the United States. The intellectuals and educated elite in the Southern Cone nations were well aware of the revolutions and the revolutionary ideas being experimented with in the United States with the War for Independence, and in Europe, particularly with the French Revolution.

When studying the legal history of the Latin American feminist movement, it is important to look at the region as a whole. Keeping track of the timeline can be difficult, but each deviation serves a purpose to highlight the different types of issues Latin American feminists addressed as reformers. For Latin American women reformers, equal education and reform of the civil codes were the pinnacle of their struggle. Latin American feminists did not seek the vote for women for a very long time and when they did, they were not well supported in their campaigns. Latin Americans also viewed citizenship differently than women in the U.S. and Britain. Being able to act independently for the good of their family and community was the level of citizenship they desired.

Even though the Latin American women and European women believed that having the vote meant they were equal citizens with men, the American

understanding of citizenship was quite different. The reason Latin America is included in this study is that the independent citizenship treaty approved in Montevideo in 1933 is part of an intertwining history among the women reformers from Latin America, the United States, and England. Because of the unique Pan-American conferences, which originally began as Pan-American Scientific Congresses, American nationality rights reformers were able to secure an international treaty that would apply enough pressure on the U.S. government to grant U.S. women independent citizenship. Within this context of Pan-American conferences, women of the United States were finally able to secure the international treaty they had coveted that enabled them to achieve their goal of independent citizenship. Moreover, the victory for American women was profound and even though Latin American and European women were not as impressed with this victory, the Montevideo nationality rights convention eventually influenced the British Commonwealth and European countries to offer independent citizenship to women. The influence of the Montevideo convention was not as great in Latin American countries because many of these countries had already recognized independent citizenship for women.

Interestingly, in studying Latin American feminism, strong correlations exist between the development of the women's rights movement in England and similar reform movements in the United States. It is difficult to draw conclusions as to whether or not the women's rights movement in Latin America developed as

a natural progression in women's reforms and the development of feminism, or if the European immigrant influence and Latin America's interest in the politics of the United States were more influential on the developments in Latin America. Either way, the Convention on Women's Nationality from the Pan-American Union conference in December 1933 culminated a centuries-old struggle for women's rights by granting all signatories to the international treaty independent citizenship for all women.

Chapter 2

Historiography

While this researcher was searching for a dissertation topic at the National Archives branch in Fort Worth, Texas, an archivist suggested studying the history behind the hundreds of Repatriation Oaths taken by American-born women from Texas, Oklahoma, Arkansas, and Louisiana who had been expatriated from 1907-1922, because they married foreign-born men. While she did not study the oaths from that region of the U.S., Candace Bredbenner's book, *A Nationality of Her Own*, provided the initial framework for the history behind the Repatriation Oaths in the Texas region. Bredbenner presents the history of how the United States women's suffrage movement was the driving force behind the campaign to grant women the choice of choosing their own citizenship during the early twentieth century.

Independent citizenship meant that when a woman married she could decide whether she took her husband's nationality or kept her own. Independent citizenship is seldom written about by historians and is not discussed among most histories of the women's suffrage movement even though U.S. women suffrage reformers at the time believed independent citizenship held equal importance with

women's suffrage. The independent citizenship campaign openly challenged federal government control over the definition of citizenship in the United States and the countries of the world. The independent citizenship movement occurred during the 1910s -1930s within the context of the women's suffrage movement, a separate women's campaign for equal rights, and restrictive immigration and naturalization laws passed by Congress designed to slow immigration from southern and eastern Europe.

Prior to 1907, suffragists argued that by reason of their citizenship, women should have the vote. With the Expatriation Act of 1907, American-born women who married foreign-born men literally lost their citizenship, thus undermining the suffragists' main argument. With the increasing number of immigrants in the early twentieth century coming from southern and eastern Europe, some Americans believed that the economic prosperity and the culture of the United States were being challenged. Citizenship laws were passed as part of large immigration bills designed to limit the influence of immigrants. Within this atmosphere of a strong American nationalistic spirit, any type of allegiance to a foreign country, for example an American woman marrying an unnaturalized alien, was seen as a slight to U.S. citizenship and thus considered un-American. The 1922 Cable Act ended marital expatriation for the most part, but it failed to grant women independent citizenship. It would take more than a decade to dismantle the 1907 Expatriation Act completely and to obtain an international

treaty ratified by the Senate that granted independent citizenship unconditionally to all American women.

A dissertation by Dorothy Page revealed the British perspective on women's expatriation in the early twentieth century. Page claims that from 1914 to the 1930s, British women were determined to establish independent citizenship, especially after the suffering that British-born women experienced as enemy aliens during World War I. In her thesis "A Married Woman, or a Minor, Lunatic or Idiot: The Struggle of British Women against Disability in Nationality, 1914-1933," Page states that the proximate motivation behind the women's efforts to gain independent citizenship was the repeal of the 1914 British Nationality and Status of Aliens Act. The chief advocate for independent citizenship in Britain during the interwar period was Chrystal Macmillan, who introduced bills repeatedly from 1922-1939 for independent citizenship for women in the British Parliament. Page asserts that the imperial nature of British nationality law doomed the women's campaign for independent citizenship in Britain from the start. The rules of the Imperial system required any law passed by Parliament to be acceptable to all Dominion governments before it could become the law of the Empire. Consequently, even though members of the House of Commons had expressed a strong desire to grant women independent citizenship in 1923, and even if the House of Lords had agreed along with the Government, Parliament could not make a unilateral decree of independent citizenship for married women.

Independent nationality would be defeated by the imperial structure, in attempts from 1914 to 1933. British women had to wait until 1948 to secure independent nationality.

During the early twentieth century, legal scholars debated the campaign for independent citizenship in a transatlantic context mainly in four law journals: *The American Journal of International Law*, the *Journal of Comparative Legislation and International Law*, *Transactions of the Grotius Society*, and the *Yale Law Journal*. That discussion among legal scholars ranges from 1886 to 1948, with concentration in the 1910s and the 1920s. The subjects of the articles include the history of U.S. nationality laws to citizenship theory, British common law, the right of expatriation, the Law of Nations, the history of British nationality laws, international law theory, the history the State Department, the case for independent citizenship, challenges to the Fourteenth Amendment, the influence of the Imperial Conference on British nationality law, the 1907 Expatriation Act, the British Nationality and Status of Aliens Act of 1914, the history of the Cable Act and the effect of the Cable Act on U.S. women and its conflict with international law, The Hague Codification Conference of 1930, the history of the 1934 Citizenship Act in the United States, and the British Nationality Act of 1948. The articles, predominantly written by American and British lawyers, include authors such as State Department officials, ambassadors, Members of Parliament, and delegates to the League of Nations and the Hague Codification

Conference of 1930. All of the articles were written in the context of debates about married women's nationality; many of the publications include legal and political theory.

The articles show a transition from legal scholars and international jurists being initially resistant to the idea of married women's independent citizenship to their having a general acceptance, or at least acquiescence, to the concept. Topics consistently discussed in the journal articles include the right of expatriation, the dependence of English and American law on the Common Law principle of *jus soli*, European preference for the principle of *jus sanguinis*, the desire of governments and legal scholars to have uniform nationality laws among the nations, the recognition that municipal laws regarding nationality have international implications, problems of dual nationality and statelessness, issues of naturalization fraud, whether or not single nationality in the family causes harm, and the fact that women marrying foreigners greatly complicated international relations because of conflicting nationality laws.

Of particular interest among the articles in the law journals is the account of the oral arguments presented before the California Supreme Court in the Ethel Mackenzie case of 1915.²³ Mackenzie's lawyers tied together precedents from British common law, as well as principles from the U.S. Constitution such as the Fourteenth Amendment, *jus soli*, and the right of expatriation established in the Act of Congress 1868, which all served as the basis of U.S. nationality law, while

challenging the repeal of these principles in the 1907 Expatriation Act. Scholars explained that the oral arguments in Mackenzie also revealed the inconsistency of the U.S. courts and the State Department in interpreting U.S. nationality law and the need for a clear definition of citizenship. The arguments within the journal literature clearly express a dilemma that Congressional leaders had been addressing with since the inception of the United States, which was how to encourage naturalization and protect U.S. citizens at home and abroad, but keep undesirable individuals out. The journal articles noted that lawyers for Mackenzie made a compelling case and even elicited sympathy from the Supreme Court justices. Another legal issue that arose in the Mackenzie case relevant to citizenship rights that the United States had been struggling with for more than a century, was how to conform the U.S. theories of citizenship to international law. In the end, the Supreme Court chose conformity to international law over a small group of people's citizenship rights. The scholarly explanation of the Mackenzie case encapsulates the drama of citizenship being played out in the United States in the early twentieth century after the establishment of derivative citizenship for married women in America in 1907.

The Convention on Women's Nationality, which was approved at the Pan-American Union Conference in Montevideo, Uruguay, 1933, had a long history of women's rights campaigning behind it. The independent citizenship campaign can be traced to around 1905, but it did not develop on its own. The structure of

the international women's suffrage organizations served the campaigns for independent citizenship well. The suffrage campaign did not develop because women decided one day that they wanted to vote. The campaign for constitutional suffrage, in the U.S., England and Latin America, developed out of previous women's reform movements, in which women were trying to improve their legal status in their homes and address societal problems through legislation. Women realized they needed to be able to vote in their legislatures to bring about the desired reforms. Moreover, before these campaigns, women's rights reformers sought to reform laws against slavery and women's unequal access to education. Previous to these campaigns, elite, educated women and men were writing about women's inequality in society and questioning by what logic their inequality had been established. Historians have written about women's thinking, writing, and actions in terms of women's rights going back as far as the seventeenth century. Feminist historians routinely argue that the history of feminism and feminist reform movements must be understood with the historical context taking into account social, political and economic factors.

In *English Feminism*, Barbara Caine reasons that English feminism existed as part of a broad construct from different fields including history, literature, philosophy, and cultural studies and had its beginnings from at least the early seventeenth century. English feminism persisted as part of a continuous history as seen in published texts and public activities. Caine studied English feminism

from the viewpoint of literary and philosophical texts, the writings of Enlightenment philosophers such as John Locke and Jean-Jacques Rousseau, as well as political theorists like John Stuart Mill and psychologist Sigmund Freud. Caine looked at the political, social, and philanthropic activities of women and their roles in politics and the private sphere as they changed from the late eighteenth century to the late twentieth century. Caine reveals how the feminist movement changed over the course of two hundred years in terms of its goals, strategies, and the tactics. The author asserted that the feminist movement was impossible to define because there were so many facets and interpretations. Caine concluded that the feminist movement was about much more than trying to secure the vote.

Eleanor Flexner in *Century of Struggle: The Women's Rights Movement in the United States* offers a survey of the development of the women's rights movement from its earliest inception during the colonial and revolutionary era, through its development as an organized social reform movement in the nineteenth century, to its powerful political influence in the twentieth century. Flexner maintains that the women's right movement existed, but not in a very organized form in the early colonial period of the United States. During the nineteenth century, the movement became more organized and influential as it engaged in social issues such as the anti-slavery movement, equal education for men and women, and women's participation in the professions of law and

medicine. By the twentieth century, the women's rights movement in the United States had significant political influence in terms of organizing trade unions and lobbying Congress for the women's franchise.

Karen Offen delivers a comparative and comprehensive narrative of the feminist challenge to male hegemony from 1700-1950 in European nations and calls for a re-reading of European history from a feminist perspective in *European Feminisms 1700-1950: A Political History*. Offen sets out to provide a larger and more accurate historical background of European history by correcting misperceptions, particularly that feminism is not a philosophy, but politics. The author reasons that gender is not a historical classification useful for analysis, but real human thought and political action. According to Offen, feminist platforms are less philosophical agendas than they are demands for political change.

Offen asserts that Europe developed many different feminisms, but they all shared similar cultural developments. The women's movement in Europe forced nations resistant to feminist reforms to defend their position, of subordinating women, through debate, which helped women's groups gradually break down resistance to their reforms. Offen maintains that Europe has a shared history. She demonstrates that through the use of widely-circulated pamphlets, newsletters, and newspapers, feminists were able to express their ideas as a form of political action. Finally, as a part of nation building in Europe, feminism developed as an important part of Europe's political history.

Woman Citizen, written by J. Stanley Lemons, is a reevaluation of feminism in the Roaring Twenties. Feminism did not cease during the 1920s as other reform movements waned, but Lemons asserts the movement kept its focus on social reforms that were part of the Progressive Movement. According to Lemons, the social feminists wanted to extend the power they received through suffrage to influence social and political reforms in education, health, labor, and social welfare. Lemons finds that feminists of the 1920s pursued women's emancipation from restrictions based solely on sex. Their goal was to secure legal rights so that they would obtain equality with men.

Judith N. Shklar, in *American Citizenship: The Quest for Inclusion*, claims to prove the overwhelming influence slavery in America had on the people's conception of citizenship. According to Shklar, citizenship relates to social standing because the ability to vote makes a person a complete citizen. Citing Mary Wollstonecraft and other eighteenth and nineteenth-century reformers, Shklar makes the case that citizenship is not grounded in a government's perception of a person's moral fitness, but rests on more complex social constructs such as race, gender, and economic status. A discussion regarding citizenship must take place as part of the historical context, not apart from the social and political influence upon it. According to Shklar, citizenship was not equivalent to nationality for much of the history of the U.S., because American ideals promoted equality for everyone in the United States. Eventually, reformers

argued that being able to vote and earn a living are meaningless if a person does not have citizenship as standing. Women reformers claimed to feel like slaves because they were not allowed to work certain jobs, they were confined to the home, and they could not vote.

In *Feminisms and Internationalism*, editors Mrinalini Sinha, Donna Guy, and Angela Wollacott provide a collection of feminist scholarship that reveals the historic ideals of the feminist movement and its development into disparate reforms; the transnational, international, and cultural context in which the feminist movement organized and developed as an increasingly complex and expanding movement. *Feminisms and Internationalism* critiques the idea of “universal sisterhood” and “global feminism,” questioning whether or not these concepts are accurate in terms of universal suffering by women as part of a global group. The feminist scholars agree that the idea of universality in the women’s movement only includes women in complementary situations and does not account for the various aspects of women’s lives at the provincial level that include class, race, sexuality, and ethnicity in developed, developing, and underdeveloped nations. In addition, the provincial forms of feminisms should not negate their correlation to the larger context of global issues. The fact that many women have shared the economic, political, and cultural influences of the world in distinct cultural and national feminist movements cannot be negated. In *Feminisms and Internationalism*, the authors attempt to find a balance that requires comparing

histories and trying to identify the common factors that create a global commonality amongst feminists.

Historians writing about the international suffrage movement and its organizations provide the historical background that reveal how nearly seamlessly the transition from suffrage campaigns to independent citizenship campaigns occurred, sometimes by the same organizations or well-organized offshoots, during the 1920s. Leila J. Rupp explained how women from many different countries created transnational organizations, which developed into an international women's movement in *Worlds of Women: The Making of an International Women's Movement*. According to Rupp, the process of forging women's reform groups from different nations whose participants dealt with different political, economic, and social changes at the national level into strong international organizations presented a difficult task. Rupp concentrated on the first wave of feminist internationalism, which was marked by the end of World War II, with the second wave emerging in the 1960s and 1970s out of the transatlantic tracks of the first wave. The book centers on the international structures in place to form the women's suffrage movement in the 1910s and 1920s.

Rupp maintains that three organizations stood out as guiding forces for women's reforms: the International Council of Women, founded in 1888, the International Woman Suffrage Alliance, which emerged as a separate

organization from the Council in 1904, and the Women's International League for Peace and Freedom, which was founded in 1915 at the International Congress of Women at The Hague during World War I. The three international organizations had unambiguous reform goals, but they competed and cooperated with a multitude of women's reform groups. This research maintains that studying these three international women's reform groups (as identified by Rupp) sheds light on the workings of the international women's movement during the 1910s and 1920s.

According to Pat Thane in *Women and Citizenship in Britain and Ireland in the Twentieth Century: What Difference Did the Vote Make?*, the language of citizenship and what constituted equal rights changed during the early twentieth century; specifically, once women were enfranchised they began campaigning for full citizenship rights. The purpose of the book is to identify the political processes of feminism in the twentieth century in Britain and Ireland. Women's enfranchisement in Britain and Ireland was a part of women gaining political citizenship. Even with the vote, gender inequality still prevented women from becoming full citizens. The campaign for full citizenship rights occurred within different social, political, and economic contexts. Some of the circumstances aided the process of acquiring full citizenship and some circumstances hindered the process, so women's organizations adapted accordingly. During the twentieth century, women's organizations experienced ebb and flow in terms of

participation and influence and they endured serious division within their organizations—although they also participated in effective, concrete alliances.

Feminists in the twentieth century in Britain and Ireland engaged in a patchwork of activity that created waves of reform. Women never voted as a bloc in the British Isles, and politicians' interest in women's votes varied throughout century. Women did vote according to their allegiance to political parties, but their participation was oftentimes rendered dismissively as "making the tea." After suffrage in 1918, women's suffrage organizations transformed themselves and new organizations – some advocating for independent citizenship, groups training women how to use their new citizenship well, and a plethora of other reform groups. A culture of "associational life" developed among men and women, and these groups had influence on local and national politics. Eventually, women did receive full citizenship in 1948.

Martin Pugh explains the development of the feminist movement in Britain between 1918 and the 1950s in the book *Women and the Women's Movement in Britain 1914-1959*. Pugh asserts that during the early to mid-twentieth century there were three overlapping spheres of groups that debated feminism; women's reform movements, the majority of women outside the reform movements, and the male political establishment. He argues that the women's movement played an especially key role during the earliest years of the twentieth century. After 1918, however, the idea of what feminism entailed

changed. Through successive generations, the feminist movement became less organized and broadened its aims. Even though the women's movement had been significant, it suffered decline similar to other revolutionary movements throughout history.

In *Women's Suffrage in the British Empire: Citizenship, Nation, and Race*, editors Ian Christopher Fletcher, Laura E. Nym Mayhall, and Philippa Levine explore the suffrage movements beyond England and the United States, considering the suffrage movements within the context of nationalist struggles under colonial rule. The suffrage movements in Palestine, Iran, South Africa, New Zealand, Australia, India, Ireland, Canada, the United States, and the United Kingdom are under review through a series of essays. The suffrage movements are analyzed within the context of increasing numbers of women being enfranchised from the late nineteenth to the early twentieth century all over the British Empire. For example, female householders of the Isle of Man were the first women to vote in the British Empire in 1881; in 1893, New Zealand granted the vote to women, which included the indigenous and the European population; and in 1902 the white, but not the aboriginal, women in Australia were given the vote. In 1918, British and Irish women over the age of thirty were enfranchised; in 1922, Ireland granted women equal suffrage with men, and the Great Britain followed suit in 1928. In 1930, white women in South Africa received the vote and in 1935, women with property in India were enfranchised. According to

Fletcher, Mayhall, and Levine, Britain did not exist as the center of the women's suffrage movement for the Dominion nations, because the suffragists felt no sense of global connection as women. The connections women made with each other in terms of organizing social and political reforms existed in the context of colonialism and nationalism.

In *Women's Suffrage and Party Politics in Britain 1866-1914*, Constance Rover provides a political analysis of the suffrage campaign in Britain from the viewpoint of the different political parties involved including the militant suffragettes and the anti-suffrage movement. Rover investigates the background of the women's suffrage movement beginning in 1867 and claims that women wanted the vote on the same terms as men from the very beginning. She includes arguments for and against women's suffrage and compares the constitutional approach with the militant approach.

In *"The Blood of Our Sons": Men, Women, and the Renegotiation of British Citizenship during the Great War*, Nicoletta Gullace establishes female enfranchisement in a particular historical context with which this study concurs. Gullace relates the story of how women's war service became a challenge to male only suffrage in a political and cultural context. Women's patriotic service during World War I did not result in the reward of suffrage, according to Gullace. After it became clear that men, as well as women, waged war during World War I, the government granted suffrage to women.

Gullace declares that the suffrage groups abandoned pacifism in World War I for patriotism. They still did their suffrage work while emphasizing publicly their patriotic service as women helping to fight the war, but at home. She claims that the Women's Social and Political Union, the militant organization led by the Pankhursts, used their notoriety to continue the suffrage campaign by emphasizing their patriotic service and attacking those who were unpatriotic for being able to vote even though they refused to participate in the war. Suffragists and suffragettes alike extended the argument that if military service entitled a man to vote, then the service of nearly one million women who worked in munitions production, as military nurses, as ambulance drivers, and mothers of soldiers entitled them to be able to vote as well. In the end, the strategy worked. Furthermore, British society grappled with the irony that some men who could vote refused to participate in the war, and many women who could not vote willingly participated in the war; that irony seemed to demand the vote for women as a reward for their patriotism.

The March of Women by Martin Pugh is a reevaluation of the women's suffrage campaign from 1866 to 1914. The book contains ten essays, which spotlight the different aspects of the women's suffrage campaign from 1866 to 1914. Topics discussed in the book include suffragist tactics. Pugh shows how the constitutional approach was initially successful, but waned in time due to lack of dynamic leadership, its federal organization, and its narrow approach to

suffrage – universal adult suffrage and married women were excluded. Constitutional suffragists developed a conservative movement and the development of the anti-suffrage movement occurred too late to be effectual, according to Pugh. Pugh's evaluation of the militant campaign reveals its temporary nature and limited involvement by women. To the detriment of the suffrage movement, the Pankhursts falsely claimed that they had successfully persuaded public opinion against the government. Pugh calls for a reevaluation of the suffrage movement by analyzing how non-militant campaigners developed a national and international network.

Some scholars who study the women's suffrage movement in an international context highlight connections between transatlantic and transpacific nations. For example, *Suffrage and Beyond: International Feminist Perspectives* presents sixteen papers read at the "Suffrage and Beyond" conference in New Zealand in 1993, which celebrated one hundred years of women's suffrage. Editors Daley and Nolan include essays written about New Zealand, Australia, the Pacific Islands, Japan, South America, the United States, Britain, France, and Germany that explore the different stages of achievement of women's suffrage. The authors assert that suffrage history did not end in 1920 in the United States, or in 1928 with women's universal suffrage granted in Great Britain. The essays give attention to internationalism and its importance in achieving suffrage in many different countries. The essays go beyond the dichotomies of traditional

suffrage studies and include studies on suffrage campaigns in New Zealand and Australia that did not include all the pomp and circumstance of the British and American movements. Daley and Nolan articulate the need to study women's history from an international and comparative perspective, while questioning the model of writing women's political history in direct comparison to the suffrage campaigns of the U.S. and Great Britain.

In the process of reading the history of feminism in Latin America, clear parallels emerge between the women's rights campaigns that developed in Europe and the United States. The Latin American countries formed from European colonies and, thus were influenced by feminist developments in the United States and Europe, but the cultural, political, and economic conditions in all three geographical areas differed greatly. Women's rights reforms in Latin America, England and the U.S. followed a logical path: women pursued equal education and changes in the civil codes governing women's legal status in their homes. Once educated, they began campaigning for social reforms when they realized they had little influence with their national governments. Understanding that they could not bring about the social reforms that they believed were necessary as secondary participants in the political systems in which they lived without being able to vote, they embarked on women's suffrage campaigns. In campaigning for women's suffrage, women developed an astute understanding of constitutional law. Particularly in the United States and Great Britain, once enfranchised,

women realized their new political citizenship was an incomplete expression guaranteed in the constitutions governing their countries; they needed independent citizenship in order to become completely equal citizens with men. The present study maintains that these different movements existed as a part of a larger series of women's rights campaigns that had been developing for decades, and even centuries.

In the book *Latin American Women and the Search for Social Justice*, Francesca Miller recounts the significant role that Latin American women played in agitating for more people to participate politically, economically, and culturally in their society. Miller emphasizes the tension between domestic politics and transnational relations as she narrates the history of the women's movement, which had the most initial success in the Southern Cone nations of Chile, Argentina, and Uruguay, and Brazil. She also includes the history of women who sought to maintain the status quo or supported counterrevolutionary movements.

Miller claims that the study is not an examination of women's rejection of gender roles, but a spotlight on women who wanted to fulfill their roles as wives and mothers fully. Feminists in Latin America sought to replace discriminatory laws based on tradition emanating from the influence of the Roman Catholic Church. Latin American feminists wanted to change the economic, political, and cultural circumstances of their countries that were preventing women from

reaching their potential, while at the same time building their nations up into modern, civilized democracies.

The history of Latin American women's reforms takes into account the historical context in which these women struggled to gain equal education with men, more legal rights in their families, and women's suffrage, in the midst sometimes of military revolutions. In Chapter 3, titled "Women and Education in Latin America" and Chapter 4, titled "Feminism and Social Motherhood, 1890 – 1938," Miller masterfully narrates the history of women's reform groups as they campaigned for equal education, the reform of the civil codes so that women could have more legal rights in their homes as wives and mothers, and women's suffrage.

Erika Maza Valenzuela wrote *Liberals, Radicals, and Women's Citizenship in Chile, 1872-1930* for the Helen Kellogg Institute for International Studies, detailing the development of the women's feminist movement in Chile from 1872-1930; she includes the struggle for women's rights in the home and for women's suffrage. Valenzuela separates the Chilean feminist movement into two types, the anti-clerical and Conservative. The anti-clerical feminist movement rejected the influence of the Catholic Church over women. The anti-clerical feminist groups developed at a much slower pace than their Conservative counterparts connected to the Catholic Church, because the anti-clerical groups generally resisted participating in charitable work. The Conservative feminist

groups enjoyed greater popularity among women, because they created social activities for men and women and focused on social reforms, while the anti-clerical reformers tended to separate men and women as they centered their attention strictly on political reforms. Consequently, the Liberal, anti-clerical feminists garnered less favor with reform minded Chilean women.

The anti-clerical and Conservative women's groups shared similar views when it came to equal education for women, reforming the civil codes, and the principle of equal pay for equal work. The anti-clerical and Conservative reform movements differed mostly on the issue of voting rights for women. The anti-clericals would not support women's equal franchise with men until the 1940s, because they believed the Catholic Church had too much influence over women and it would influence how women voted. Anti-clerical reformers believed that women needed to be educated and have legal rights in the home before being enfranchised. The anti-clerical feminists believed that once women had more education and enjoyed more legal rights, they would become more independent of the Catholic Church and likely vote for their Liberal agenda. By contrast, Conservatives campaigned for women's suffrage because they believed the link to the Catholic Church would benefit them politically.

In the book *Women, Feminism and Social Change in Argentina, Chile, and Uruguay 1890-1940*, Asunción Lavrin presents the history of the social, political, and economic changes brought about by industrialization in Latin

America that awakened alert minds to the feminist movements in the United States and Europe. The feminist movements of Europe and America encouraged Latin American feminists with new ideas for tackling women's problems in a society in which women were excluded politically, but considered necessary socially and economically. In the last quarter of the nineteenth century, feminists wrote and published ideas challenging the premises of laws, which ostensibly protected the sanctity of the family and integrity of society, but imposed restrictions on women based on their sex, Lavrin maintains. From 1890 to 1920, in Argentina, Chile, and Uruguay, politics favored a climate of social and economic change that would bring these nations in line with European and American progress in terms of industrial growth and social development. The emerging professional class challenged the old political patterns from the early Republican period of the Southern Cone nations. Lavrin asserts that feminism in Latin America underwent several changes over time depending on the social and political circumstances in the different nations of the Southern Cone. According to Lavrin, understanding the history of the women's rights movement in Latin America requires understanding its development as a process, more than as a claim, for personal rights.

Scholars who consider the independent citizenship movement have the task of tracing the history of the Convention on Women's Nationality in 1933 at the Pan-American Union conference in Montevideo, Uruguay back to its roots to

the seventeenth century. This dissertation argues that studying the history of the independent citizenship movement as a significant contribution in the larger transatlantic women's rights movement includes understanding the major women's organizations that provided the international framework and networking for the independent citizenship movement. In addition, it is important to understand the history of how the national and international reform organizations developed along with their strategic and tactical plans of action. This research underlines the fact that when one examines the history of the women's independent citizenship movement, one sees that women's enfranchisement was dissatisfying for women who could not exercise their constitutional rights as citizens due to nationality issues. The suffrage movement emerged from social and educational reform movements where women were denied access to the political domain that could secure their desired reforms. The social and educational reform movements relevant to women's issues developed from men and women thinkers and writers of the seventeenth and eighteenth century questioning how man-made laws created social constructs that subordinated women to men when the venerated theory of natural law guaranteed women equal rights with men.

The Convention on Women's Nationality from the Seventh Pan-American Conference in Montevideo was not created in a vacuum. As the sources described in the historiography have made clear, the Repatriation Oaths sitting in the

National Archives branch in Fort Worth, Texas are a key piece of a centuries-long, complex, and transnational history.

Chapter 3

England -- Theory on Women's Rights

Equal Education

The first form of protest against inequality between men and women in Europe centered on the issue of equal education for women and men. The first claims for male and female equality in print, outside of the Bible, occurred in the early fifteenth century. Feminist arguments for the equality of men and women based on their ability to reason were made in the sixteenth century.²⁴ After the Protestant Reformation, Protestants and Catholics alike encouraged the religious education of girls of all class levels so that they would be good Christians and be able to train their children to be good Christians. The religious training did not encourage writing even though the upper-class women were encouraged to get advanced instruction.²⁵

Enlightenment philosophers, mostly known for their writings on political philosophy, also wrote about education and the role of women in society. Enlightenment writers such as Montesquieu wrote about republican style governments' abilities to recognize women's legal liberties. Enlightenment critique of marriage by French philosophers declared male headship an arbitrary

idea; laws recognizing male dominance in marriage came from man, not natural law. Many Enlightenment thinkers criticized women's lack of formal educational training arguing that "the mind has no sex"²⁶ and some Enlightenment philosophers believed that women's ability to reason might even have surpassed that of men. In 1694, Mary Astell from England wrote *Serious Proposal to the Ladies* in which she proposed founding a women's university for women who wanted to learn instead of marry. The first doctoral degree awarded to a woman came in 1732 at the University at Bologna.²⁷

In contrast to Mary Astell's ideas and other Enlightenment philosophers, Jean-Jacques Rousseau insisted that women's education prepare women to serve men. Rousseau claimed that women had tremendous influence in their families and they should not desire equal education as men, because they were not capable of understanding abstract ideas and principles of science; only men were capable of applying principles and making observations. In his books, *Julie; or, The New Heloise* (1761) and *Émile; or, Education* (1762), Rousseau responded to numerous critiques by women regarding the simplicity of the education standards for girls and women at the time. The female critics understood that the French philosophers were distinguishing between "natural law," which came from God and "positive law," which was man-made law, in their arguments against higher education for women. Rousseau disagreed with any attempt at using education to

make women equal to men when they clearly possessed a diminished capacity to reason.²⁸

During the Enlightenment, the idea of equal education was thoroughly discussed amongst philosophers and social reformers. John Jacques Rousseau encouraged separate education for boys and girls that concentrated on their particular strengths in terms of their nature and character. Some women's reformers such as Mary Wollstonecraft, Emily Davies, and John Stuart Mill along with Australia's Women's Christian Temperance Union challenged Rousseau's ideas for girls' education. Wollstonecraft, Davies, Mill and the WCTU believed that women were capable of rational thought and deserved the same level of education as men. Believing that women should have equal access to higher educational opportunities, they contended with their detractors insisting that higher education for women did not degrade feminine character, but enhanced it. Although women's rights reformers such as the WCTU, Martineau, Wollstonecraft, and Davies provided a small voice of protest against conventional wisdom for girls' education, it was still protest nonetheless. The equal education campaign encouraged further movements for women's rights and the cure of other social ills.

In looking at the history of women's awareness of their political and social inequality, it becomes evident that early on, the best concrete example of inequality involved education. In the seventeenth through nineteenth centuries,

women from England, the United States, and Latin America wrote often about unequal education between boys and girls, and also, about women being denied access to higher education. They also criticized the type of education females received, which included only the education that was thought most mete for their nature and their character, which meant merely teaching them to be better mothers and housewives. Most of the early women's reformers converged on equal education for women before moving onto other social and political reforms.

Most of these education reformers of mid-Victorian England were middle-class women who resented the fact that men, some including their own brothers, were able to attend universities and they were not. Not to be confused, girls were educated in Victorian England, just not the same as boys. Girls were educated according to their character and nature and the anticipated role they would play as wives and mothers. They were not educated in the learning of philosophy and science and medicine. Emily Davies strongly believed that women should be offered the best education available and that was the education currently being offered to boys. She worked to raise the standard of girls' education and to provide them with opportunities to enter higher education. For example, Davies tried to convince Oxford and Cambridge to offer and its exams to girls. While some education reformers developed tutorials for girls, these tutorials did not have a syllabus or exams and the girls would not be prepared for degrees. Perpetuating the difference in education between boys and girls by setting up schools

differently created an inferior education, according to Davies. Davies was accused by some women who opposed equal education for seeking to make women masculine and to obliterate the sexual differences. Davies accepted the traditional Victorian ideas of women, but she believed women should have access to equal education as well.²⁹

Millicent Garrett Fawcett, another feminist reformer who campaigned for equal education and employment opportunities for women, agreed with the ideas of Mary Wollstonecraft that women should have access to higher education. Despite the celebrity of Wollstonecraft, Davies, and Mill, from historical standpoint, mid-Victorian English society did not always agree. Liberalism in mid-Victorian England accepted the differences in the sexes as well as the roles each sex played in society. Liberals did not consider the hierarchy of men over women and women's confinement in the home to be problematic. The socially accepted idea that women differed drastically from men came from women's lack of education and participation in the legal and political systems, according to Radical MP John Stuart Mill. Provided the same opportunities to participate in educational, legal and political systems, Mill argued, the sexual differences between men and women would fail to be apparent. Mill claimed that women in Britain were essentially slaves; they were viewed as being lower than men in society and predetermined for motherhood. He believed women should have the opportunity to choose a different path for themselves. Contemporary women's

education encouraged them to accept their lot in life as slaves and to maintain a subservient attitude towards men.³⁰

Republican Motherhood

Feminists of the eighteenth century demanded equality with men throughout society including education, because in the natural state of mankind, before social and political organization, the sexes were equal. Inequality existed as a man-made construction contrary to natural law. Feminists claimed that once married, women became disadvantaged legally and economically even though natural law claimed they had equal rights as men by just being women. Their roles as mothers and wives in helping to create a civilized world should make them equal to men. Eighteenth-century feminists asserted that women could develop more equality in marriage if they had the educational and economic opportunities to be more independent.³¹

During the eighteenth century, British female writers, along with women in the United States and France, demanded the right of citizenship and equal access to education. Englishwoman Mary Wollstonecraft wrote *Vindication of the Rights of Women* as a supporter of the French Revolution and as a protest against the new French government's decision to set up schools for boys, but not for girls. According to Wollstonecraft, women held as a part of their basic rights

the recognition by men of their capacity to reason. Consequently, women deserved the same provision in educational opportunities as men.³²

The education reformers cultivated the principle of “republican motherhood,” which embodied the idea that as mothers taught civil virtues to their children and imbued them with patriotism for their nation, they were participating in nation building.³³ “Patriotic motherhood” literature was commonly written during Europe’s transition into modern parliamentary states from the Old World princely kingdoms. The education of women, considered just as important as that of men by the French Abbé de Saint Pierre (1694-1743), would provide better ordering for the new nation states. According to Frenchman Joseph Boudier de Villemert, who wrote *L’Ami des Femmes* (1758), women created a civilizing force in society by complementing and taming men, therefore, granting women effective education would ensure their influential role in society. In 1762, Nicolas Bandeau claimed that women existed as a distinct class of citizens, wives and mothers, and these “female citizens” needed to be included in national education.³⁴ Eighteenth-century European women believed that motherhood framed civilization through the mother’s education of her children in the home.³⁵

During the eighteenth century, the idea that the home was the center of education in civic virtue became increasingly accepted in importance. Enlightenment philosophers such as John Locke and Jean-Jacques Rousseau reinforced this idea in their writings.³⁶ As industrialization developed during the

eighteenth-century in England, and middle-class families assumed more wealth, the roles of men and women changed. Middle-class families quit following the model that every member of the family worked to support the family. The husband, as the head of the family, worked to provide for his family while the wife devoted more time to caring for her children and serving her husband in the home. Women's position in society transformed to that of the virtuous spouse and mother caring for her husband and children ensuring the family followed the moral path of Christianity. Women gained an elevated position in society, in which their roles as mothers and wives exhibited a unique strength in their nature. Even as their domestic role increased, women became more dependent, or even subordinate, on their husbands economically and legally.³⁷ Because of the strength of their virtuous nature, women were expected to raise the moral tone of the home, their community, and the political and economic spheres of the nation to which they owned no direct access. While middle-class women were being sheltered from the economic and political world, eighteenth-century middle-class men established various civil and business organizations such as academic organizations and chambers of commerce. Men became active in civic organizations at the local level, in parishes and boroughs, and expanded their activity to national level politics.³⁸

While acceptance of “republican motherhood” in eighteenth-century England further elevated women's position in the domestic sphere, their specific

roles as mothers and the expanding role of men into public matters assured their continued isolation in the public realm. As men became increasingly enfranchised and directly represented in the political sphere, women's citizenship became limited to the home, but their position was not permanent. Over time, even the woman's role as educator in the home was supplanted by men taking over their children's education. In the economic sphere, women found that they were marginalized once again. Industrialization and capitalism emphasized the male benefitting society by creating new enterprises of work for him and others, which allowed himself and others to accumulate wealth. Cottage industries that had begun industrialization in England gave way to industry developed outside the home mainly by men.³⁹ As wealth became measured in terms of money, women's domestic work of taking care of the home and raising children became classified as "unproductive." In the view of industrialized society with an increasing number of men enfranchised, women no longer contributed meaningfully to society, culturally or economically.⁴⁰

Rousseau considered his plan to separate women from the public sphere and situate them in the private sphere vital to maintaining the political and social order.⁴¹ In his book *Emile*, a book about male and female education that enjoyed significant influence in England, Rousseau asserted that women's sexuality had the capacity to enslave men, so it had to be contained.⁴² Therefore, women should be confined to the domestic world in order to center men's thoughts on

their wives and monogamy. Such internment would engender a reformatory effect on society by encouraging morality. In Rousseau's ideal society, women would not be able to influence their communities with their moral suasions, because they were incapable of being guided by their own reason. Ultimately, Rousseau believed that because natural rights were gender specific, they belonged to men.⁴³

Ideas of equality and citizenship were intertwined throughout the eighteenth and mid-nineteenth centuries. To some reformers, both terms meant the same thing and for others, they were two fine points of argument.⁴⁴ In the late eighteenth century Europe, after the effusion of Enlightenment ideals, citizenship for women was considered a radical idea that most could not support. Despite this, women's role in the development of European culture and the "advancement of civilization" was understood to be significant.⁴⁵

Early feminist reformers like Wollstonecraft agreed with Enlightenment philosophy that inequality between men and women was a social construct, not a natural one. In the early 1790s, Mary Wollstonecraft made the case, in her book *Vindication of the Rights of Women*, that the sexual differences between men and women were part of being human. Women might have familial duties and a different role to play in society than men, but the differences should not be expressed in terms of social hierarchy. Wollstonecraft contended that women were autonomous beings just as men and they should be recognized as such, which meant that they were citizens of their country in as much capacity as men.⁴⁶

According to Wollstonecraft, for women's recognition as citizens, legal changes and institutional reforms had to take place, such as civil reforms in marriage in which women participated in any profession they desired. Wollstonecraft maintained that women should be paid for their work in a manner that would enable them to become economically independent. Despite Wollstonecraft's advocacy for women's citizenship and civil code reforms, she did not make a case for women's enfranchisement. Wollstonecraft defined citizenship for women in terms of family and women's place in their local community. Her center of attention was more on equal rights in the home and the capacity for women to engage in the public sphere as equals to men. For Wollstonecraft, women having equal rights in the home, equal education, and the ability to work in any profession they desired satisfied her vision of equal citizenship.⁴⁷

Like Wollstonecraft, the Australian Women's Christian Temperance Union insisted that women's nurturing of future citizens extended their home life to the nation. Women in England, Australia, the United States, and Latin America during the nineteenth century generally agreed that their special roles as nurturers of morality in the home gave them a unique responsibility to transfer patriotism to their children and in turn, the nation. While agreeing with Wollstonecraft, the WCTU contended that women's role in society as mothers entitled them to equal citizenship with men. The WCTU went a step further and

claimed that the evidence of equal citizenship was the vote. According to the Australian women of the WCTU, as citizens with the vote, they could help build Australia into a strong and righteous nation.⁴⁸

Mary Wollstonecraft's idea that women carrying out their duties as wives and mothers entitled them to equality with men in the home and the public sphere was not popular among her contemporaries. Wollstonecraft maintained, "In order to render women's 'private virtue a public benefit,' . . . women needed 'a civil existence in the state.'"⁴⁹ While conceding that women and men held naturally different abilities that caused a beneficial division of labor, and that women who abandoned their homes for outside pursuits were wrong to do so, Wollstonecraft claimed that women's physical and emotional differences did not disqualify them from the ability to reason and express passion on the same level as men. Attempting to connect motherhood with citizenship, Wollstonecraft made a concerted effort to disconnect motherhood from the husband and wife relationship, and instead, make motherhood into a profession. Women were separate and independent from men as they carried out their duties and, therefore, they required education and financial independence to continue to develop their virtue as mothers teaching and caring for the needs of their children. A woman, as an equal citizen to her husband, could equally take care of her family, educate her children and help her neighbors.⁵⁰

Harriet Martineau, one of the earliest English women's rights reformers, advocated strongly for equal education, changes in the civil codes that governed women's ability to own property, and women's legal status within their marriage; she was an early proponent of women's suffrage. Harriet Martineau was a member of a Radical reform group in the 1820s and 1830s that engendered the development of other radical reform groups in England and throughout the nineteenth century. Martineau believed education for women would enable them to carry out their duties as Christian women in England. She did not believe that women required great stores of knowledge, but that education would help them to carry out their duties better in the home and in the community. Criticizing the American and British governments, Martineau argued that governments that claimed to derive their power from the consent of the governed should allow women to participate in the democratic process. If governments truly derived their power from the consent of the governed, then they could not make laws regarding women's property, legal status, or taxation without allowing women to participate in the decision making process. Martineau disagreed strongly with MPs who stated that women's fathers and husbands represented them in Parliament when she proclaimed that women's interests did not match men's interests even in their own families.⁵¹

The Bright Circle

As early as the 1840s in Britain, a Quaker group, known as the Bright Circle, held political meetings where the discussions included the political rights of autonomy and liberty for all people.⁵² Women and men of the Bright Circle enjoyed long-lasting influence over various reforms in England, including women's nationality rights.⁵³ Usually considered radical, Quakers at the time were known for leading various reform movements. The Bright Circle, an extensively connected group of Quakers, began with the marriage of Elizabeth Priestman and John Bright in the late 1830s.⁵⁴ In the early nineteenth century, marriage many times produced lifelong friendships between people who would otherwise not know each other. The Bright and Priestman sisters became close friends and remained so even after Elizabeth died two years into her marriage with John. John Bright had a penchant for public speaking prior to his marriage to Elizabeth and his family worried that he might become a politician. After Elizabeth's death, a friend persuaded John to speak out in public against the Corn Laws. He did so, and as a result, John's sisters and Elizabeth's family encouraged him to pursue a political career. Fundamentally, John, along with the Bright and Priestman clans, believed that all human beings had the right to decide how they lived their lives.⁵⁵

Among the reforms the Bright/Priestman alliance advocated were the abolition of slavery in the United States and the Corn Laws in England as well as

universal suffrage. The sisters of John and Elizabeth Bright formed lifelong relationships based on their support of various reforms. In addition, both families suffered disappointing deaths and their friendship grew stronger as they comforted each other while grieving. As John Bright began his political career, both families helped take care of Helen, his infant daughter. Priscilla Bright, John's sister, and Margaret Priestman, John's sister-in-law, became his political confidantes. Later, Helen Bright would also become a close advisor to her father. Ironically, John Bright never did give his support to the idea of women's suffrage, because he did not approve of women having a public role in politics.⁵⁶

In England, the work against the Corn Laws by the women in the Anti-Corn Law League, included members of the Bright Circle, who provided valuable reform campaign experience. During the Anti-Corn Law movement, the reformers employed many of the methods learned in their previous campaign against the English slave trade. Their methods included collecting signatures on petitions and making hand-made goods to sell at fundraising bazaars. In the early 1840s, the Bright and Priestman sisters began holding discussion meetings emphasizing equal rights for women within the context of various reform ideas including women's suffrage.⁵⁷

During the 1840s, American reformer Elizabeth Cady Stanton, a prominent anti-slavery reformer from the United States attended the World Anti-Slavery Convention in London and formed an association with some members of

the Bright Circle. She and her new husband, Henry, on their honeymoon as well as an anti-slavery tour, stayed with the Priestman's during their visit. The Bright Circle influence developed Stanton's first interest in women's rights. Stanton also met Lucretia Mott who would later become a feminist reformer in the U.S. Mott collaborated with the William Lloyd Garrison group of reformers, which called for a non-gradual, no compromise, and non-compensation approach to the abolition of slavery. The group was known for being uncompromising, forceful, following strictly humanitarian principles, promoting women's political rights, and encouraging women to be involved in the public sphere. Both Mott and Stanton developed a friendship over the affront the women delegates to the Anti-Slavery Conference received when they were not allowed to sit on the convention floor with the men. Here, Stanton also befriended British reformer Mary Wollstonecraft. Stanton and the friends she made in her first visit to England would all become the leaders of the nascent women's rights movements in Britain and America.⁵⁸

Quakers from the Bright Circle in England and Quakers in the United States provided encouragement as well as hospitality for the political meetings held by women reformers. Even men such as William Lloyd Garrison and Frederick Douglass became life-long friends with those in the Bright Circle. Garrison influenced some in the Bright Circle with his campaigning techniques

and those in the Bright Circle eventually convinced Frederick Douglas that women should have legal rights such as the right to vote.⁵⁹

John Stuart Mill would work with the Bright Circle during the 1860s. In his book *The Subjection of Women*, written in 1869, Mill asserted that marriage was degrading physically and morally for both men and women. Mill saw that for societal order, marriage was useful for most women rather than working, and most women felt they could contribute to society as wives and mothers. He believed that women had intellectual qualities different from men that would benefit the political sphere such as their intuition but that women's subjugation did not allow them to be educated enough and, therefore, experienced enough to develop a larger picture of society and how they could benefit society with their qualities. Mill wanted to improve women's position in marriage through legal changes in the civil codes and advocated giving women political rights so that they had opportunity to improve their lives at home and to use their virtuous influence for the benefit of society. Mill focused squarely on legal reforms for married women. One of the more significant reasons that the women's movement developed during the mid-nineteenth century was because so many more women were staying at home and choosing to work over starting a family. Women in the Victorian era had more time and motivation to pursue women's rights.⁶⁰

Mill recognized that women's participation in politics was compared to that of prostitution by his opponents, because women's participation in politics

was considered unwomanly. Mill believed that when women had the vote they could change the double standard laws that applied to them. In contrast to other feminist reformers, John Stuart Mill believed that if women could have the vote, then the education and civil code reforms, which dealt with marriage and women's employment, could then be changed, because women would have a voice in making these changes. Most women reformers at the time and even throughout the nineteenth century reasoned that they had to have equal education and reforms in the civil codes before they could demand suffrage. Mill disagreed arguing that if women were allowed to vote then they would become more educated and the quality of society would improve dramatically.⁶¹

In the late 1860s, as the British Parliament considered the Reform Bill, after the completion of the abolition movement, the Bright Circle, which had added additional daughters, sisters-in-law, nieces, brothers and their wives, along with their children, began campaigning for women's rights. Some of the Bright Circle, labeled "Radical-Liberals," drew upon the ideas and assistance of John Stuart Mill, then a member of parliament. Several of the Bright Circle helped to write the first petition for women's suffrage for Mill to present to the House of Commons. They attempted to attach an amendment to the Reform Bill that called for "sexual equality in franchise laws." Conservatives in the women's reform movement did not agree that they should advocate for a larger goal of women's rights, but wanted instead to keep the center of attention on women's suffrage.

Eventually, the Bright Circle took over the leadership of the women's movement in Britain, and through numerous marriages, they spread out into major cities across Britain. The Radical-Liberal women of the Bright Circle campaigned for women's rights in franchise and in other areas where women were denied equal access. Two members of the Bright Circle became doctors as part of the reform effort to expand professional and higher education to women. Offended by any law in which men and women were not treated equally, the Radical-Liberals of the Bright Circle championed causes such as changes to marriage laws and the doctrine of coverture. Under coverture, women lost the right to own property when they married. The Radical-Liberals also challenged the Contagious Diseases Act, in which women known to the police as prostitutes were forced to be checked by medical doctors for venereal disease. The men in the situation were not required to be checked by doctors. In addition, if the women did not comply with the exam, they could be imprisoned. John Stuart Mill, though closely connected with the Radical-Liberals, disagreed on this point with the Bright Circle. He did not want women's suffrage linked to prostitution. John Bright remained beloved by his sisters and daughter, but he never encouraged their campaign for women's rights and sexual equality, which was the ultimate goal of the Bright Circle.⁶²

One of the earliest and influential reform groups for women's rights developed in the 1860s and early 1870s when the Bright Circle helped to form a

national suffrage movement, using their spheres of influence around England. They offered a different approach to suffrage campaigning compared to the more conservative organizations centered in London. In Manchester, Ursula and Jacob Bright along with Lydia Becker developed the Central Committee of the National Society for Women's Suffrage. The Central Committee was separate from Mill's organization, because he did not want women's suffrage associated with distasteful social reforms such as the repeal of the Contagious Diseases Act. Because the Bright Circle's influence had spread throughout the country, the Central Committee's influence was greater in what were called the "provincial" suffrage societies. The Central Committee developed a strong voice in the direction of the women's suffrage movement among supporters living outside London. It also served as the center for Radical-Liberal ideas regarding women's rights. The Central Committee provided an alternative to the women's suffrage movement centered in London. In 1886, suffrage reformers in the U.S. held the first international suffrage convention to mark the fortieth anniversary of the Seneca Falls Convention. The conservative and "official" leadership of London refused to send delegates. The Bright Circle, offering alternative leadership to London, sent delegates.⁶³

Approximately twenty years later in 1890, the Bright Circle formed another reform group titled the Women's Franchise League. The issue of whether or not to include married women in the call for women's suffrage had been

debated for nearly a decade, because coverture laws prevented women from owning property and, consequently, voting. Some suffrage proponents believed that including married women would make attaining initial suffrage legislation more difficult. The Women's Franchise League, led by Ursula Bright, called for suffrage to include married women. The WFL's commitment to the Garrisonian approach of accepting no compromise continued when the group refused to endorse any suffrage bills that did not include all women to receive the right to vote. The WFL played an instrumental role in dramatically weakening the coverture laws that would affect women's suffrage in Britain with the passage of the Local Government Act of 1894.⁶⁴

The no compromise methods of Garrison and the Bright Circle influenced future women's reformers, especially those in the British militancy movement of the Women's Political Suffrage Union. Emmeline Pankhurst and Harriot Stanton Blatch served on the Executive Committee of the Women's Franchise League with Ursula Bright before forming the WPSU. When they decided that militancy had become necessary to get the British government's attention regarding women's voting rights, they followed the same practices of the Women's Franchise League. Under the leadership of Pankhurst and Blatch, the WPSU emphasized an undaunted commitment for their demands, however unpopular. They employed publicity to encourage public interest in their issue and built alliances between middle-class women's social and working-class groups.

Another similar theme between the WFL and the WPSU involved their use of tax resistance as an act of militancy. The Priestman sisters had attempted this form of protest decades earlier, but without success. In addition, the WPSU used other Quaker protest approaches such as passive resistance and civil disobedience, which became known as “constitutional militancy.” Eventually, the WPSU would deviate from the Garrisonian and Bright Circle methods and develop violent forms of militancy.⁶⁵

Women’s Suffrage Movement

People from different facets of upper and middle class society called for women’s suffrage during the nineteenth century. Historically, in England, the earliest argument for women’s suffrage was made by William Thompson in 1825 when responding to an article by James Mill, John Stuart Mill’s father, who claimed that women’s interests were also the interests of their fathers or husbands. Up until the 1832 Reform Bill used the term “male” when referring to people being enfranchised, women had not technically been barred from the franchise. On August 3, 1832, in response to the 1832 Reform Bill, Henry Hunt, on behalf of Miss Mary Smith of Stanmore, Yorkshire, presented in Parliament a petition that would allow unmarried women who met property qualifications to vote. The Charter of 1838 originally included women in the franchise until the vote was later distinguished as being only for males. Women's political associations were

formed as a result of this denial and accounts of their meetings are found in the *Birmingham Journal* on April 7 and April 14, 1838. According to Mrs. Hugo Reid in *Plea for Women*, written in 1843, men and women of the same class should have the vote, but not all classes should be able to vote. In 1847, Quakeress Anne Knight, wrote a leaflet supporting women's suffrage from "Quiet House," Chelmsford. In July 1851, Mrs. John Stuart Mill wrote an article in the *Westminster Review* specifically on the enfranchisement of women. On February 13, 1851, the Seventh Earl of Carlisle presented a petition in the House of Lords for the elective franchise of women. In 1855, under the name of "Justitia," Mrs. Henry Davis Pochin wrote a pamphlet titled "The Right of Women to Exercise the Elective Franchise."⁶⁶

In general, the women's suffrage movement was a middle-class women's movement. The women's suffrage movement was not an economic movement, considering that middle-class women did not have economic issues, but they felt like their lives did not have enough meaning. They experienced boredom because they lived in cities, did not work outside the home, and had much less to do than their counterparts in the rural areas of the country. In addition, political theory in the nineteenth century had changed, in part due to John Stuart Mill, where the idea of individual rights had become more popular than the idea that women's rights were represented by their husbands and fathers.⁶⁷

“The women’s suffrage movement grew out of the changing relationship between men and women in the nineteenth century and was part of a larger movement for women’s emancipation.”⁶⁸ While speaking in the House of Commons for the Bright Circle’s suffrage amendment in 1867, John Stuart Mill argued that for the first time in history that men and women had become companions in the home and in life; they were spending more time with each other and becoming close friends, especially in their families where the husband and wife became the closest of all friends. As men and women expressed more equality in the home, the same expression should be transferred into the political sphere. Women wanted suffrage as a means to an end; to have direct political influence in order to help create a better society. Women believed they could influence government action for social reforms where philanthropy was not strong enough. Suffrage existed as a right that women should have among others, according to Mill.⁶⁹

During the mid-Victorian campaign for women’s suffrage, John Stuart Mill agreed that not everyone in Britain should have political rights, but to deny political rights to someone without cause was capricious. Mill believed that enfranchised women would make society morally stronger and enable social reform to proceed quicker and better. Mill also pointed out that middle-class women did not like being referred to as “persons under incapacity.” According to Mill, women’s inclusion in framing constitutional laws would result in laws for

the betterment of society. Mill believed that men who did not want women to vote believed so, because they feared women would try to reform the civil codes and some men did not want to have their vices challenged. He claimed that women in the suffrage movement were intelligent and wanted to be subordinate to men no more.⁷⁰

Especially in the Victorian era, opponents claimed that female suffrage would cause women to neglect their families and voting could lead to family disunity. Women reformers countered that women had many duties other than occasionally voting, and the same argument could be applied to men. Anti-suffrage opponents spitefully asserted that women's emotional elements such as their "hysteria" in nature would become a part of politics. By the twentieth century, women claimed that they had demonstrated in local politics their ability to vote rationally and not emotionally. Their opponents countered that due to the importance of national politics, more care had to be taken.⁷¹ In addition, concerns regarding the influence the clergy and the priests might hold over women if they had the vote was another reason people did not support the parliamentary franchise for women.⁷²

Another argument against allowing women to vote posited that women's enfranchisement would open the gate for full adult suffrage in the future and inclusion of women in Parliament and cabinet positions. Many of the same arguments against women's suffrage were used against men before the Reform

Bills passed in 1832, 1867, in 1884. For example, men of certain classes were claimed to be already represented in Parliament before 1832. Agricultural workers were discriminated against before 1884 claiming they did not have enough education to be able to vote. According to Lord Pethick Lawrence, men believed that women's emotional nature and their majority in numbers of the population would result in laws in which women imposed their morality on men. Consequently, men did not want women to have the vote for fear of how they might use it. In addition, women's suffrage opponents claimed that women would lose their attractiveness as they became more like men politically, intellectually, and occupationally. Pethick Lawrence concluded that men simply wanted to dominate women.⁷³

Arguments against women's suffrage commonly repeated in Parliament were as simple as because men and women were who they were, men should be able to vote and women should not.⁷⁴ William Thompson insisted back in 1825 that since women represented half of the population of the human race, they should be represented in Parliament. Counter arguments ran that women did not have not intellectual capacity to vote and voting was unfeminine. Anti-suffrage arguments maintained that women's influence over men was so strong that to give women the vote would be the equivalent of giving them two votes. Interestingly, the strong held belief that elections led to carousing persisted even after the secret ballot was introduced in 1872, and in 1883, when Parliament passed the

Corruption and Illegal Practices Prevention Act. Even though women were working in mills and factories, it was still assumed that women were too delicate to carry out the “rough work of politics.”

Women suffrage opponents claimed that men’s role in empire building provided just cause for men’s right to vote. Because of men’s capability to take on jobs requiring hard physical labor such as soldiers, sailors, or coal miners, or intellectually strenuous jobs such as diplomats, opponents to female suffrage stated that men had a right to vote. Since women could not do such work, they had no justification to vote. On March 19, 1909, Mr. Julius Bertram, in a House of Commons debate, claimed that men had a superior right to vote based on the idea that they were “empire builders.” Because Britain directed an Empire begun by men, Mr. Bertram alleged that the Empire’s success relied on current government policies regarding the vote. The physical and intellectual prowess of men had created and maintained the Empire. According to Mr. Bertram, because mostly men maintained Britain’s economy, men should be the ones making decisions about it.⁷⁵

Suffragists countered their opponent with powerful arguments of their own. Women’s suffrage proponents countered that if women had the vote, they could access more job opportunities, which would increase their contribution to the economy and the Empire as much as men, and thus, reinforce their right to vote. Making an impossible claim to prove, women’s suffrage opponents

declared that not enough women wanted the vote in the first place. According to the suffragists who countered the claim, the continuous campaign since 1866 proved that many women wanted suffrage; they had presented numerous petitions to Parliament, participated in parades and public meetings on the subject, and braced imprisonment and fines campaigning during the suffrage movement. In addition, the vote would not be compulsory, so women who did not want to vote did not have to. Claiming that not all women wanted the vote was not a good reason to deny it to those who did want to vote.⁷⁶

England -- Tactics of the Women's Movement

In 1865, John Stuart Mill made women's suffrage part of his platform in his run for Parliament in the borough of Westminster. From 1866 onwards, public discussion of women's suffrage became commonplace. On June 7, 1866, John Stuart Mill and Henry Fawcett presented a petition in Parliament, signed by nearly one thousand five hundred women, declaring that a person's sex should not determine who gets to vote. The momentous event inaugurated the women's suffrage movement in England.⁷⁷ The London National Society for Women's Suffrage formed in response to the petition presented to Parliament in June of 1866. The original society was made up of federated societies formed in Manchester, Edinburgh, Birmingham, and Bristol in the years 1867-1868. By 1872, a central committee governed the separate societies, and in 1897, all the

societies devoted their efforts to women's suffrage. Federated into a larger organization, the London National Society for Women's Suffrage became the National Union of Women's Suffrage Societies.⁷⁸

Millicent Garrett Fawcett, who became the leader of the constitutional arm of the women's suffrage movement, was born in 1847 to a middle-class family. In 1867, she married MP for Brighton Professor Henry Fawcett. She would spend half of the year in London and half of the year in Cambridge where she associated with Radical-Liberal reformers. Fawcett had watched her sister Elizabeth and Emily Davies present their petition to Parliament in 1866 for women's enfranchisement. She did not like to be emotional or petty and she was well respected by the anti-suffrage as well as suffrage reformers. Fawcett conducted most of her work in the women's suffrage movement as a widow. She was fortunate to live long enough to see all English women enfranchised in 1928.⁷⁹

The women's suffrage movement developed as a result of connections made in the Anti-Corn Law League. Through the Anti-Corn Law League, the Bright and Cobden families became closely connected with the suffrage movement and Millicent Garrett Fawcett. Even though John Bright opposed women's suffrage, he did vote for the 1867 petition. John Stuart Mill lost his seat in 1868 and Jacob Bright took over the movement's leadership in Parliament and introduced several Radical-Liberal reform bills during the 1870s as part of the constitutional suffrage movement.⁸⁰

The constitutional suffrage movement preferred to secure the vote through legislation in Parliament, so they sent memorials and deputations to ministers in government. When not petitioning Parliament directly, they engaged in speaking tours, held public meetings, published pamphlets, letters, and articles in the press promoting women's suffrage.⁸¹ The chief strategies of the constitutional suffragists' consisted of lobbying members of Parliament and marshaling favorable public opinion. Initially, constitutional suffragists did not affiliate with one party because they believed they would get more support in Parliament for a suffrage bill from all the parties instead of one.⁸² Constitutional suffragists lost momentum as normal strategies and tactics became so well-known they started to be ignored. When the militant movement began, people in and out of government started paying attention to the issues of women's suffrage again. As the militants became more radical, constitutional suffrage organizations cultivated an image that came across as very reasonable "counterweight." Before the militants, however, the constitutional suffrage campaign garnered little success.⁸³

The Militant Campaign

In 1903, the Women's Social and Political Union, also known as the "suffragettes," started the militant suffrage campaign.⁸⁴ The Women's Social and Political Union, founded on October 10, 1903, at 82 Nelson St., Manchester, by politically Radical Ms. Emmeline Pankhurst, became the most dominant suffrage

organization. Born into a middle-class family, Emmeline married a barrister with left-wing views named Dr. Richard Marston Pankhurst who supported women's suffrage. Emmeline Pankhurst created the militant slogan: "deeds, not words." A gifted and enthusiastic public speaker, Emmeline was influenced by many poor women in Manchester when she worked there after her husband's death as a Poor Law Guardian and a Registrar of Births and Deaths. Early on, Pankhurst established the goal of securing the vote for women so they could vote for social reforms for the poor. The Women's Social and Political Union made use of passive, violent, and positive means to achieve their goals. The WSPU, made up of only women, contrasted starkly with the constitutional suffrage groups. Even after starting the militant women's suffrage movement, during World War I she devoted herself to patriotic causes and nearly abandoned the women's suffrage movement. Emmeline Pankhurst died in 1928 after passing the mantle of leadership on her daughter Cristabel.⁸⁵

Cristabel Pankhurst studied law at Manchester University, but British custom prevented her from practicing as a lawyer.⁸⁶ Cristabel heard Susan B. Anthony speak in 1904 in Manchester and was inspired to act. She believed that women needed to assert themselves and to stop being so polite, thus continuing the philosophy of her mother "deeds, not words" as the philosophy behind the militant suffrage movement. In August 1906, Cristabel Pankhurst decided that the WSPU should not support or affiliate with any male political parties, which

helped the WSPU expand its membership greatly by early 1907. Despite their revolutionary tactics, the Pankhursts refused to be associated with socialist causes. In Cristabel Pankhurst's mind, the militant suffrage movement existed as part of a long struggle for constitutional liberties fought by Radicals. Pankhurst observed that non-enfranchised men had been forced to use violent tactics to get the vote for themselves in England. In her arguments, Pankhurst appealed for women's rights based on the Magna Charta and other constitutional guarantees. The militant reformers, also known as the suffragettes, called themselves "voteless citizens" and asserted that the vote would legitimize their citizenship.⁸⁷

Cristabel Pankhurst, known for her dictatorial style of leadership, made it clear that the goals of the WSPU were to obtain the parliamentary franchise for women in the same capacity that men had it. In terms of tactics, the militant movement led by Cristabel aimed to act independently of all political parties, oppose the party in power until women could vote, participate in parliamentary elections as opposition to the government candidate, engage in militant protest using methods that women were currently condemned for using, organize women with similar interests, and educate the public by traditional means. Strongly influenced by the Irish leader Parvell, the militant "suffragettes" engaged in anti-government agitation by directly opposing the government and trying to obstruct its procedures. The militants employed methods that angered the government and committed retaliatory strikes against the government for the laws

they opposed. The militants believed that the end justified the means, thus rationalizing some of their actions considered illegal. Emmeline Pankhurst referred to Parvell in her biography and claimed that obstructing the government and irritating it so much that it acquiesced to suffragette demands was her overall goal for the militant movement.⁸⁸ The WSPU had little faith that Members of Parliament would pass a woman's suffrage bill without significant inducement. The WSPU had agreed to stop the militant campaign in 1910 and 1911 to give Parliament a chance to pass a suffrage bill, but when Parliament failed to do so, they resumed their militant tactics.⁸⁹

Militancy officially began on October 10, 1905, when Sir Edward Grey of Manchester was holding a meeting and Cristabel Pankhurst and Annie Kenney stood outside talking to people in the crowd. They were arrested for obstruction, which resulted in more publicity than if they had peacefully demonstrated. Initially, militancy was a natural outflow of constitutional methods – it was merely a means of ramping things up. After 1911, militancy became the goal of suffragettes for showing dissent. Examples of early militancy included women holding their own parliamentary meetings and then marching to Parliament with resolutions they wanted to put in the Prime Minister's hands. The women were arrested when they insisted on going past the guards into Parliament.⁹⁰

The second phase of militancy instituted more violent forms of remonstrance such as arson, hunger strikes stone throwing, and obstructing

government business. Stone throwing not only destroyed property, but it also served as a symbolic demonstration, for example, when the suffragettes broke the windows of Parliament. Stone throwing also made the time getting arrested for protesting much shorter because they committed a brazen act; wrestling with police in the streets proved to be more painful and time-consuming. Eventually the stone throwing practice became more violent and moved to shop windows being smashed. By 1913-1914, arson became a common method for showing militant dissent. Protesters began eluding police and anything short of hurting a person became acceptable. The militants considered fires set in public buildings, private businesses, and even hospitals works of art. The public expressed the most anger towards the suffragettes when they set fires that ruined golf courses.⁹¹

One arrested and imprisoned, suffragettes continued their remonstrations by going on hunger strikes. The government initially tried force-feeding the prisoners, but it harmed the women and took a tremendous amount of work, so it became easier just to release them. The government did not want suffragettes dying while imprisoned and becoming martyrs for their cause. After 1913, the government made the release for a hunger strike temporary. Once released, the suffragettes eluded police afterwards. Cristabel Pankhurst moved to Paris, France, to avoid arrest. After the hunger strikes proved successful, the militants added thirst strikes. Ms. Emmeline Pankhurst, sentenced to three years in prison, only stayed six weeks, because she participated in a hunger and a thirst strike.

After the outbreak of World War I, the government remitted suffragette's sentences. The drama surrounding putting women in prison, their hunger strikes, and the government trying to force-feed led to significant press coverage for the militants.⁹²

The WSPU did not only utilize militant methods that defied the law; they also used constitutional methods.⁹³ The militants employed constitutional methods extensively such as conducting parades and holding public meetings.⁹⁴ Using the by-elections, which occurred more frequently, as an opportunity for obstruction, was another WSPU tactic. In order to take a ministerial post, MPs had to vacate their seats and then seek re-election. The by-elections enabled suffragettes to direct their efforts on specific constituencies. Because the Labour Party had not passed a suffrage bill, the militants opposed Labor candidates who actually supported women's suffrage. The suffragettes opposed the government, in general, in order to show that there was a frustrated constituency no matter who was in charge. Even though the militants were given some credit for influencing election outcomes, it was hard to know exactly how well the policy worked.⁹⁵ Refusal to participate in the census developed into another militant tactic when the suffragettes refused to be counted, arguing that the government did not consider them citizens. In another ploy, some suffragettes tried to become human letters so that they could be sent to the Prime Minister at 10 Downing Street. The

Postmaster General approved the suffragettes as letters, but the Prime Minister rejected them as dead letters and had them returned.⁹⁶

The initial efforts of the suffragettes did help the women's suffrage movement. The arrest of Pankhurst and Kenney in October 1905, forced the press to cover the suffrage movement. The militants placed the issue of women's suffrage in public discussion and forced Parliament to discuss it from 1910 onwards. Once the militant movement became extreme at the end of 1911, its helpfulness seemed to decline. The goals of militancy were to show that women were breaking laws that they were not allowed to help make through voting in parliamentary elections. In addition, the militants wanted to embarrass the government by showing that they could not enforce the laws they had made. The ultimate goal was to pressure the government to give in and pass a women's suffrage bill. The militants walked a fine line between women protesting in the political arena and women acting emotionally and hysterically. One of the reasons the suffragettes elevated their militancy and began attacking public places was to try to get the public angry enough to pressure Parliament to pass a women's suffrage bill in order to get the militants to stop the violence. Contrary to their goals, the increase in violence led to a decrease in support from moderates in Parliament. At the height of the militancy, the suffragettes attacked the very people who were most likely to support them. The Liberals in Parliament and throughout the country, who supported the women's suffrage movement the most,

lost to Unionists in elections because of the increased militant attacks.⁹⁷ Despite the violence, militancy did revive the foundering women's suffrage movement.⁹⁸ The militant suffrage movement ended with the commencement of World War I. A few months after World War I broke out, Cristabel Pankhurst, along with her mother Emmeline, called for an end to militant suffrage demonstrations in order to show their support as patriotic British citizens.⁹⁹

World War I

In August 1914, militant suffragists from the WSPU agreed to suspend their campaign for women's suffrage temporarily, and the government, in turn, released the suffragettes who were sitting in British jails. The English government also granted amnesty to Cristabel Pankhurst who had been living in Paris to avoid arrest. During World War I, some suffragist organizations supported the anti-war movement, but changed their minds later due to political considerations. In fact, in 1914, Millicent Garrett Fawcett, a leader in the constitutional suffrage movement, received a note from a prominent suffrage supporter, Lord Robert Cecil, warning her that the suffragist's pacifist approach to the war would jeopardize their chances of getting the vote. According to suffragists who supported World War I, Britain's involvement had a moral basis, because Britain supported a war against an enemy with well-publicized reports of atrocities committed against women. Women's organizations did not stop

pushing for the vote during the war, they just changed their tactics. Instead of protesting and speaking in public against the government, they spoke in support of the government, in support of the war, and actively sought public ways of showing their patriotism. By supporting the war effort through their actions, such as offering relief to those negatively affected by the war, women's groups were demonstrating that they were worthy to become citizens legally through the vote. Millicent Garrett Fawcett's National Union and the Pankhurst WSPU organized campaigns and relief work to show their patriotic support for the war and their public support of the government. At the end of World War I, the suffragists declared that the public support they offered helped bring victory to England. Cristabel Pankhurst took the patriotic women's movement as far as traveling to the United States on a six month tour garnering support for the Allies. In her speeches, she emphasized the significant role women were playing in the war effort, contradicting a common anti-suffrage argument that women played no part in waging war and, therefore, had no right to vote. The patriotism displayed by suffragists and suffragettes revealed how much women's support for the war functioned as an act of national security, which countered their detractors' claims that they did not participate in the war.¹⁰⁰

British suffragists' support for the war was so strong that in July 1915, the King of England asked the Pankhursts in a letter he sent to the Minister of Munitions David Lloyd George, to use their influence over the reform

organizations in England to raise support for the war. In July 1915, Lloyd George gave Emmeline Pankhurst £2000 to put on a parade highlighting women's participation in the war effort. The Pankhurst parade resembled similar parades they had put on before the war demanding the vote, thus linking the women's suffrage movement with patriotism. The Pankhursts used their prominence and support from Lloyd George to make the WSPU the leading women's organization during the war, granting them a wonderful opportunity to demonstrate the reason women should be allowed to vote. After the parade, Emmeline Pankhurst and her group were received by Winston Churchill and Lloyd George.¹⁰¹

The activities of the Pankhursts during World War I were designed to persuade men that just as they followed their duties during the war, women had also. The Pankhurst war effort served to promote women's patriotism while contrasting women's service with men who failed to be patriotic, like conscientious objectors. The Pankhursts used public support and the press to expose the men who could vote, but did not support the war effort as loyal citizens, by comparing them with the patriotic women who could not vote, but did support the war effort. In August 1916, the Pankhursts announced their belief that soldiers should get the vote before women. At the time, soldiers became disenfranchised when they could not meet residency requirements, which stipulated that men had to live in one place for one year to be able to vote. Being

soldiers they could not always live in one place for a year, thus, they lost their ability to vote.¹⁰²

Another nuanced argument that the Pankhursts used to combine women's patriotism with women's right to vote, was their attack on naturalized German citizens who had the vote. Understanding the strong anti-German sentiment during World War I, the Pankhursts put forth the idea that being British from birth trumped being a naturalized male, particularly a male from Germany. The Pankhursts actually called into question the humanity of all Germans. The anti-German campaign launched by the Pankhursts maintained that birth in a country was more important than sex in determining who had rights as citizens. On July 22, 1916, the WSPU sponsored a parade criticizing British nationality laws while demonstrating native British women's support for the country and World War I. In their campaign, they showed the contrast between British women's loyalty and their civil service with the possibility that German alien men had the right to vote in Britain. The purpose of the WSPU demonstrations against the Germans was to undermine the idea that men had a right to citizenship just for being men who owned property and were head of their households. These attacks by the WSPU were not limited to the Pankhursts; other organizations also made public speeches and demonstrations expressing anti-German sentiment. Loyalty, patriotism, and British blood, according to the Pankhursts, should have been the requirements for having the parliamentary franchise rather than sex, property, and naturalization.¹⁰³

In late 1917, the WSPU changed its name to the National Women's Party with the platform slogan "victory, national security and progress." The National Women's Party wanted to rid England of individuals with origins in enemy alien nations, pacifists, and those who appeared to be pro-German. The NWP called for amending the naturalization laws so that no German or other any enemy alien country's citizens could naturalize as British citizens. In addition, the NWP platform called for equality in marriage and divorce laws, equal pay for equal work, government assistance in housing, and health care and education provided by the national government. In the end, the Pankhursts did not really abandon militancy, but changed their tactics by taking advantage of the confusion of wartime Britain to promote women as noble citizens who deserved the right to vote.¹⁰⁴

Women's Suffrage

In the nineteenth and twentieth centuries, the franchise was extended in three stages: first, to all classes of men though not to all men; second, to the remainder of men; and, finally, to women. The main argument for women's "parliamentary franchise" was that women should have the vote on the same terms of men. Middle-class women's rights groups were more interested in promoting the philosophical argument that a person's sex should not determine their ability to vote; they did not believe that all people should be allowed to vote.

Suffragists in England had a history of supporting any bill that negated sex as the distinguishing characteristic to be enfranchised. For example, in the late 1860s, suffrage reformers developed a strategy of using the municipal franchise as the basis for extending voting rights for women to the parliamentary franchise. The Municipal Corporations Act of 1869 had given the right to vote in local elections to unmarried women who paid taxes. Later in 1894, married women were allowed to vote in municipal elections if they were paying taxes on property they owned independent of their husbands. By 1912, married women were allowed to vote in municipal elections whether or not they owned property.¹⁰⁵

By 1900, approximately one million women are able to vote at the local level in England. Wealthier than most, widows and unmarried women had been allowed to vote in municipal elections in England and Wales since 1869. By 1888, women had voted for county councils and for school boards and Poor Law Boards since they were established in 1870. When too many women had been elected to education boards, the government abolished participation in 1902, when there were two hundred seventy elected female members. So many women were elected after women's suffrage groups appealed to the Conservative government and asked to have at least one female elected to each board that by 1914-1915, six hundred seventy-nine women were serving, although most education boards stuck to the quota. Eventually, women were elected to Poor Law Boards and by 1914-1915, one thousand five hundred forty-six women served on Poor Law Boards. In

addition, by 1914-1915, forty-eight women had won elections to town and county councils. Pro-suffrage reform groups promoted women's positive contribution at the local level claiming it necessitated that they have the parliamentary franchise. Anti-parliamentary franchise opponents claimed that women's politics should remain at the local level where their particular attributes contributed to social services.¹⁰⁶

Despite their inability to vote in national elections, wealthy women exerted significant influence in national elections because comparably few men could vote. When the franchise opened to more men in 1884, large political parties developed to attract support from the more diverse types of voters; these parties would have a powerful influence on twentieth-century politics. The political parties, recognizing women's influence despite their inability to vote, organized what were called "women's associations" to gain support for their causes and to use the women's influence in their communities. After 1914, the Labour Party enjoyed more suffragist support when they agreed to support women's suffrage, except on different terms than the suffragists. Labor espoused giving the vote to men and women equally at age twenty-one. The Labor Party also endorsed ending property restrictions along with other limitations that excluded about forty percent of potential male and female voters. Suffragists were willing to extend the limits placed on men to women, since it would expand the franchise to women. Women's roles in politics prior to 1914 was actually

deemed beneficial even by anti-suffrage candidates. Women were actively involved in women's rights campaigns such as property and family law, education, and the anti-slavery and temperance movements.¹⁰⁷

In February 1918, the Representation of the People Act granted women over the age of thirty the right to vote. Part of the reason given for enfranchising women was because of their patriotic service during World War I. Pacifism and active opposition to Britain's participation in World War I caused people to question whether being a man, being twenty-one years of age, or owning property should be the only qualifications for citizenship.¹⁰⁸ In 1918, women, along with a significant number of men, received the parliamentary franchise. Once enfranchised, women joined the Labour Party in large numbers. The Liberal Party, the party of John Stuart Mill, had a significant female contingent, because of its perceived support for gender equality. The Conservative Party during the 1920s incorporated women into party organization and leadership positions. Albeit, women's reform groups accused all three parties of not taking their views into account. Particularly during the interwar years, women's organizations expressed frustration at their inability to win parliamentary and local seats. Despite the fact that party leaders marginally considered their views, the auxiliary women's organizations did continue to develop their organizational and lobbying skills. They were also learned how to use their votes efficaciously in the political arena.¹⁰⁹

Social reformers in suffrage organizations were surprised when women received the parliamentary franchise in 1918 and then the opportunity for election to Parliament in 1919, because they had been focusing on the peace movement or patriotic support and service during World War I. The vote came so quickly that women's suffrage groups were not ready with other reforms to hold the national campaigns together. They had to make a decision to either concentrate on equal suffrage for all women or to broaden their agendas. Women had hoped that once they were enfranchised at the national level, women's issues would become a part of the political conversation. Questions arose regarding the management and organization of new reform campaigns, especially considering the new political power women wielded. The question also rose whether women should abandon their reform organizations and work through the existing political parties or even create a new political party on their own. If women decided to branch out even further to increase their political influence by supporting divergent social issues, would they need to develop a new umbrella organization to help keep them all attached, or were the organizations already in place sufficient? The exceptions to this quandary were the Pankhursts.¹¹⁰

As early as 1917, the Pankhursts believed women would be enfranchised soon and they made plans for their future. In November 1917, they announced the formation of the Women's Party, which held parliamentary support, support from the national press, and financial support from the British Commonwealth

Union. Part of the reason the Pankhursts received so much support was because from 1917-1919, many in Britain were afraid that the country was on the verge of a workers' revolution. The Pankhursts had successfully fought against the Bolshevik and pacifist influences in the women's movement in the industrial areas of England. Lloyd George thought the Pankhursts could be valuable in establishing a coalition government in future elections. In conjunction with Lloyd George's plans, the Pankhursts' goal was to set up a women's political party that would be part of a coalition in the British government. The Women's Party platform steered away from women's issues mostly, except for better housing, and gave attention to gaining reparations from Germany, opposing home rule for Ireland, limiting the influence of trade unions, removing aliens from government departments and key industries. When Cristabel Pankhurst stood as an MP, she was not billed as the Women's Party candidate, but as the "patriotic candidate." In reality, the Women's Party was more about the Pankhursts' ambitions than about women's reforms. Despite using Lloyd George's influence in her run for parliament, Cristabel still lost the seat, which marked the end of her influence in women's politics.¹¹¹

British feminists were influenced by American feminists who established the National Women's Party in 1916 and the League of Women Voters in 1920. The League of Women Voters was the successor to the National American Women's Suffrage Association. The National Women's Party was small and

declined after 1919, but the League of Women Voters was large and in 1921, British feminists believed the League of Women Voters operated as a political party and they were influenced by the American success. British women reformers like the fact that the League of Women Voters was not defined by legislative issues and promoted political reforms for women. A women's political party never developed in England because party loyalty proved to be stronger than activists realized, and the inability to attract working class women hindered the political party's efforts to attract members after 1918.¹¹²

Between 1918-1945, women who did not want to be part of the political parties' auxiliary organizations joined their own non-party organizations centered on educating women to use their votes effectively for societies' benefit. Prior to 1918, suffrage societies were trained in campaigning and propagandizing, public speaking and political organization. Now that they had the vote, they wanted to make sure to use it to promote women's reform agendas such as independent citizenship. An example of this fundamental change in approach occurred in 1924 when the National Union of Women's Suffrage Societies, who changed their name to the National Union of Societies for Equal Citizenship, merged with other women's citizenship associations and wrote pamphlets such as *The New Privileges of Citizenship*. Such groups did not align themselves purposely with specific political parties or religious affiliations so that they could garner as much support as possible. Even though there was disagreement on the national level of

how women should approach politics, non-party and party women often worked together at the local level to educate women on using their votes efficaciously and encouraging them to be politically active.¹¹³

After World War I, the National Union of Societies for Equal Citizenship emerged as the leader of the women's rights movement in Britain. The NUSEC established new goals as part of the expanding reform movements that occurred from 1918-1945. The NUSEC championed the goal of establishing equality between men and women at all levels of society. The main goal of was. The NUSEC maintained a non-militant stance and worked with Parliament and allies to achieve reform. They directed their efforts on equal rights reforms, but not specifically equal citizenship, during the 1920s. The NUSEC also worked on equal pay for teachers, equal guardianship over children, equal franchise, equal moral standards, equal employment standards for married women, and separate taxation for married women and widows' pensions. The NUSEC strategy for success focused on the use of traditional methods of lobbying and the election of feminist reformers to Parliament. The NUSEC maintained a non-party approach even though they briefly aligned with Labor in 1912. By 1924, the NUSEC abandoned the idea of getting women elected to parliament to try to influence the parties from the inside. One reason for this is that during the 1920s, understanding the influence of women and their reform movements, the political parties increasingly adopted feminist ideas, thus reducing the usefulness of

separate women's organizations. The major parties established an organizational model for women within the party that made them appear to have a chance to influence parliamentary decisions, which obviated the need for women's political parties.¹¹⁴

By the 1930s, another shift occurred in which women began exercising their votes in support of political causes that were personal to them. As a result, organizations such as the National Council for Equal Citizenship found their membership declining as women joined groups centered more on social reforms than gender equality. The change was not a splintering of the women's movement, but a specialization of it.¹¹⁵ Some examples of organizations mixing political education with political activism were the Women's Institutes and the Townswomen Guilds. Founded in 1915 by suffragists, the Women's Institutes gave women opportunities to exercise political beliefs and personal interests outside the traditional hierarchy led by squire and clergyman's wives. The Women's Institutes shifted the hierarchy of women's social order in rural communities as they became participants in the political process. In 1932, the NUSEC established Townswomen Guilds as the urban equivalent to the Women's Institutes. The Townswomen Guilds gave women in the cities opportunities to participate in politics. By 1939, the Townswomen Guilds had fifty-four thousand members. Women's groups encouraged women to become politically active, and during the 1920s, one hundred thirty organizations formed. Some examples of the

diversity of the women's groups were The National Union of Women Teachers, The Council of Women Civil Servants, St. Joan's Social and Political Union, The Union of Jewish Women, Women's Sanitary Improvement and Health Visitors Union, and The Women's Cooperative Guild. Most of these new organizations worked for equal franchise and worked against the marriage bar, which barred women from working in certain occupations once they were married.¹¹⁶ For example, in 1924, the London County Council passed a law that forced women medical officers to resign upon marriage. "It is part of a widespread movement which has existed for some years and which seeks to exclude married women in general from professional or other paid work."¹¹⁷ The Council claimed that medical officers were paid by the public so workers needed to be used to their best efficiency, and married women could not be used to the best efficiency. The traditional view of marriage and home was challenged by women medical officers, because the general thinking of the time was that women could not have two professions and that they should remain at home. In addition, because of problems with unemployment, married women were competing with single women and men for money for their households. The movement against married women working required them to remain unmarried if they wanted to be professionals.¹¹⁸

The history of women's suffrage groups in the early twentieth century reveals that the movement for gender equality was subordinated to social reforms.

An example of the decline of the equal rights movement became evident as the NUSEC membership from the 1920s fell off significantly throughout the 1930s. Professional and religious organizations grew as the NUSEC waned. Once enfranchised, women branched out to support other issues in public life. The NUSEC took on more of an administrative role in actively supporting the women's groups that centered their attention on equal pay for equal work, divorce law, equal rights in the guardianship of children, and opening the legal profession to women.¹¹⁹

The International Women's Movement

Most suffragist leaders in England by the 1890s were already forming international connections. Improved communications led to dissemination of English treatises on women's rights to North America and throughout Europe by activists such as John Stuart Mill who wrote *The Subjection of Women* in 1869, August Bebel who wrote *Women in the Past, Present and Future* in 1878, and Ellen Key who wrote *The Strength of Women Misused* in 1896. Women's suffrage journals commonly printed speeches given in other countries by reformers up to 1914.¹²⁰ The development of international postal communications as well as improvements in transportation such as transatlantic steamships enabled women to meet easier at international expositions and congresses. The congresses for women reformers allowed women of like minds

to meet together and exchange ideas regarding successful tactics that they could take back and implement in their home countries.¹²¹

The correlation between the American and English women's suffrage movements was evident. The British and American women's suffrage movements had both begun campaigning for moral reforms and they both used similar language in their arguments and campaign tactics. Unfortunately, from 1867 to 1887, at the time the Radicals in England saw their ideas popularized, the British viewed American political practice in a negative light. The British saw a corrupt American political system with an electoral process that devalued the power of politicians. Consequently, the two movements did not share much cooperation during this time.¹²²

The anti-suffrage movement in England used the American example of the women's suffrage movement negatively when they declared that the vote in the hands of women who chose work over family life led to the dissolution of marriage and family. The fact that British women were marrying later in life encouraged this thought. The anti-suffrage movement made another preposterous argument that giving the vote to the population who lacked physical force would allow women to impose sanctions and even war as retribution against men for sexual offenses. In addition, suffrage opponents feared that women would impose laws prohibiting alcohol consumption. The anti-suffrage movement blamed women in the U.S. for the Civil War.¹²³

By contrast, the British suffragists use the success of women's suffrage in the Western U.S. as an example of the moralizing effects of female voters in a lawless society. They countered the anti-suffragists with published accounts written in 1878 of life in Wyoming before women were allowed to vote and the change their ability to vote made in the morality of Wyoming society. The example of Wyoming made the English electoral process appear tame. The account from Wyoming described scenes of pandemonium where candidates would buy drinks for those promising to vote for them. Afterwards men roamed the streets drunk with weapons drawn hurting each other. The account claimed that once women were enfranchised all elections since then had been orderly. Women had established a moralizing effect on the Western states and encouraged the election of respectable candidates, in spite of their party affiliation. The account disclosed the story of the speaker of Wyoming's House Assembly who had formerly been a women's suffrage opponent, but had since changed his mind; he claimed that women voters were good for the territory.¹²⁴

From 1890-1914, international women's reform groups met in conferences all over Europe including Paris, London, Berlin, Brussels, and Rome. To encourage the international spirit, women's reformers also met at conferences not solely dedicated to feminist issues where international, reform-minded women discussed highly controversial topics. In pursuit of suffrage, women made it clear that they wanted to be a part of the decision making in their home nations.¹²⁵

Once they arrived home after attending international congresses, international feminists worked for change at the national level. By the first decade of the twentieth century, women across the world were in agreement that all women, including those who were married, should have the right to vote and the right to full citizenship in their respective countries.¹²⁶

The Council, the Alliance, and the WILPF

The International Council of Women's origins date back to 1882-1883 when Harriet Stanton Blatch and Susan B. Anthony visited England and France to meet with other suffrage reformers. Blatch and Anthony established committees of correspondence for the purpose of establishing an international suffrage organization. In 1888, Blatch and Anthony used the committees of correspondence to invite women from all over Europe to an international meeting. Women of all classes and occupations received invitations along with women of various political, moral, and professional organizations with the design to form a federation of national councils of women called the International Council of Women. In 1888, The American National Council formed as part of a larger International Council of Women. By 1893, only Canada had joined the International Council of Women, so the Council asked Lady Aberdeen, an influential, Scottish aristocrat living in Canada to serve as president. She dispatched her private secretary to Europe to establish national councils. By

1898, Germany, Sweden, England, Denmark, the Netherlands, and Australia had formed national councils. By 1914, the International Council of Women had twenty-three national council members and thirty-six by 1939. The Council claimed to represent four to five million women in 1907 and thirty-six million in 1925. Initially, the Council acted as a conduit for international organization, but in 1899, took on the issue of derivative citizenship through the establishment of the International Standing Committee. Independent citizenship was not a unique issue within the Council's organizational network, which had several committees concentrating on various reform issues. Having a reputation for being aristocratic and avoiding contentiousness, the Council emerged as the most conservative of the international bodies.¹²⁷

Displeased with the conservative approach to women's reforms and preferring to employ militant tactics, international suffragists separated from the International Council of Women in 1904 and established the International Woman Suffrage Alliance. The Alliance established a similar federal style of government as the Council locating its auxiliaries in different countries around the world. The International Women's Suffrage Alliance committed itself to securing the vote for women in all nations.¹²⁸ The Alliance argued that women should not be able to vote unless they met the same requirements as men.¹²⁹ By 1920, the Alliance became somewhat divided between the "haves" and the "have nots" in terms of women's suffrage since several nations had enfranchised women. The reformers

in the nations with suffrage seemed eager to move on to other reforms. Even Carrie Chapman Catt, Alliance president from 1904-1923, believed that after World War I ended, the Alliance would be disbanded and a new organization would be formed to pursue other interests. Instead, at the 1920 Alliance conference, members agreed to keep working for the franchise of those who did not have it while pursuing equality between men and women in other areas in need of reform, including citizenship. To reflect the change in priorities as an organization, the Alliance changed its name to the International Alliance of Women for Suffrage and Equal Citizenship. Alliance members working on reforms besides suffrage settled on peace. One of the more important arguments the Alliance had put forth for granting women the right to vote was that they would be able to participate politically in causes such as peace. Ironically, some women within the International Alliance of Women for Suffrage and Equal Citizenship thought that emphasizing peace conflicted with their desire for militancy and came to consider the Alliance as stodgy and old-fashioned.¹³⁰

World War I created a new environment for international women's groups by challenging their ability to maintain what their governments considered loyal behavior while also maintaining international support for reform. In some nations, such as England, challenging the government in a time of war was considered an act of sedition. Holding international conferences with representatives from belligerent nations proved quite tricky for international

women's organizations. Initially, World War I brought the international women's suffrage campaign to a halt. The Council and Alliance found it difficult to maintain their network of councils and auxiliaries during the war. The Council halted all work and exhorted women to do the work in their own nations that they believed was most helpful. All communication between the international council and the national councils stopped for six years. The Alliance dropped all suffrage work as well.¹³¹

The vacuum of leadership during the war opened the door for more radical women's reform groups to challenge the influence of the Council and the Alliance. Despite the difficulties of war, women's reformers acting outside Alliance support met for a conference in The Hague, Netherlands, April 28-May 1, 1915. The attendees, including women from neutral and belligerent nations, formed a new international group that later challenged the Council and Alliance for international primacy. The Hague meeting established the International Committee of Women for Permanent Peace, which stated its goals as establishing peace, securing universal suffrage and the emancipation of all women, and convening an international conference of all nations. At the end of the war, the International Committee of Women for Permanent Peace changed their name to the Women's International League for Peace and Freedom. Emily Greene Balch, an American, served as the secretary for the WILPF. Similar to the Council and the Alliance, the Women's International League for Peace and Freedom used a

federal structure for their organization. Unlike the Council and the Alliance, the WILPF began with an international structure that had to bring in individual national organizations. In 1915, the WILPF had thirteen member states and by 1921, they had twenty-two, mostly in North America and Europe.¹³²

Critics accused the Women's International League for Peace and Freedom, a radical, vanguardist, and controversial women's rights group, of Bolshevism because they held an anti-capitalist stance. According to WILPF leaders, they supported only the "pure Communism" expressed in Jesus' Sermon on the Mount. Over time, WILPF's stance on communism caused increasing dissension within the organization especially when it actively participated in a congress organized by avowed communist groups. During the 1920s, the WILPF committed itself to pacifism, but the rise of fascism in the 1930s challenged their pacifist stance. At their 1934 congress, the WILPF walked a fine line advocating social revolution without promoting violence. The congress called for "social, economic, and political equality without distinction of sex, race or opinion." The WILPF did not condone violence, but claimed they could not meet their goals under capitalist oppression. All three organizations, WILPF, the Council, and the Alliance, promoted women's rights and peace while condemning fascism, Nazism, and the maltreatment of women and Jews.¹³³

In the 1920s and 1930s, international women's organizations recruited women from all levels of society and various reform interests. The members of

the Council, the Alliance, and the WILPF included politicians, guild members, reformers for specific issues like equal rights for women and members of religious groups. Even though Bolshevism threatened irreparable division among international reform groups, confronting fascism as a united group mollified the threat from communism. The three most influential international women's reform organizations sought out specific issues to support in order to minimize division. According to Emily Greene Balch, secretary to the WILPF, the International Alliance of Women for Suffrage and Equal Citizenship specialized in suffrage and women's rights, the International Council of Women concentrated on social and moral reforms, and the Women's International League for Peace and Freedom promoted education and internationalism. All three organizations established a protocol for internationalism.¹³⁴

CITIZENSHIP

Domicile

G. H. Lloyd Jacob, a British barrister, in a 1924 article titled "Nationality and Domicile; with Special Reference to Early Notions on the Subject" stated that under one view of a citizenship, a person's residence superseded his nationality. The idea of tying nationality to a person's residence was a relatively new idea, which had been created by Europeans with its origin coming from France. The word "domicile" was not found in the legal commentaries from Bracton to

Blackstone. The idea that nationality determines a person's citizenship before a person's permanent place of residence was created by law in an effort to deal with domestic and international circumstances involving emigration and naturalization. For example, if a person naturalizes in a foreign country and then goes back home and lives in his home country, of which country is he a citizen? He made an intention to the foreign country to be a citizen and live there, but he is actually living in his home country. How long does he live in his home country before he is considered to have lost his nationality in the foreign country and reacquired citizenship in his home country? What if the person is a native-born citizen of one country and resides permanently in another? Of which country is he a citizen? It depends on whether nationality or domicile determine citizenship, which were ideas English and American jurists were discussing frequently in the early twentieth century.

According to Jacob, most of the time a person maintained the same domicile and nationality, but under some countries' laws, the place where a person decided to live permanently became a substitute for the person's nationality. In other countries, the person's nationality remained no matter where they lived. Because the shift from domicile to nationality was not universal, increasing difficulties occurred in Private International Law, which were municipal, or personal, laws that had international implications, for example, marriage laws. As the rules governing Private International Law changed, Jacob

revealed that the countries of Europe began substituting nationality for domicile as the basis for their personal law.

The English maintained, through Lord Westbury, that England and all civilized countries ascribed to each person when they were born two legal states: 1.) Political – as a citizen of a country with a natural allegiance to the country in which the person was born, and 2.) Civil – citizenship with municipal rights and obligations. The political state depended on the different laws in the many countries; the civil state was determined solely by domicile. The personal rights of an individual depended exclusively on their civil status.

After comparing legal scholars' definitions, Jacob defined domicile as "the place where a person resides as his permanent home with the fixed intention of constantly remaining there, to which, whenever he is absent, he has the intention of returning." Prior to this new principle of law, the civil law held that no length of time in a country proved domicile unless the person expressed the intention of remaining there. Intention and fact had to be present to assume a person had a domicile, otherwise, it was a residence, according to English law. With some exceptions, European jurists agreed that domicile was proof of animus, a person's intention of remaining in that country, which would then supersede the person's nationality.

According to Lord Westbury, domicile and residence were distinctly different according to English law. Domiciles determined place of birth,

operation of law, or a person's choice. Domicile was a relationship defined by law between a person and his local community. The courts decided in *Bell v. Kennedy* in 1868, that "to every adult person the law ascribes a domicile, and that domicile remains his fixed attribute until a new and different attribute usurps its place."¹³⁵ According to English law, domicile and residence were not equivalent in terms of jurisdiction, because the idea of domicile provided the basis of personal law, which would fail to function properly if a person had more than one domicile. In Roman law, a man could have different domiciles, but under modern European conceptions of municipal law, a person could not have different domiciles.

The importance of domicile in England and the United States "dates back to traditional times," but Europe did not recognize it in the 1920s. During the Middle Ages, domicile established the criterion for a person's civil and political status. In the Roman Empire, domicile indicated the place where a person lived and owed municipal obligations; the Romans distinguished a person's domicile from his place of birth.¹³⁶ A Roman could only be sued in his domicile. He could not be sued elsewhere, except under strict conditions, based on his nationality. A defendant could only be liable in his own court. Once the barbarians invaded, domicile lost its value in the Roman Empire.

Jacob concluded that international law did not try to tell government what types of municipal laws to make, but authorities on international law may have a

contribution to make to their thinking if they would listen. International law scholars always encourage the most liberty for people in terms of emigration and naturalization. The Law of Nations recognizes that all people have the right to expatriate themselves from the country of their birth and join themselves to the society of another country. In addition, the country to which the person wishes to join has the right to set up laws governing the circumstances upon which the person may join.

According to English law, a person cannot decide to move to another country and expect that he is not longer a citizen of his home country with municipal obligations to fulfill still. Being a citizen of one country and living in another and expecting protection from the home country does not make sense unless the person is conducting official government or commercial business. Allowing nationality to supersede domicile means that a person can have nationality on one country and live in another. A person owes their allegiance to the government where he makes his permanent residence. In Jacob's view, domicile should determine nationality. Permanent residence in a foreign country as the criterion for deciding a person's citizenship, if universally accepted by the nations, would be free from loose interpretation and reduce conflicts in international law.¹³⁷

Derivative Citizenship

T. Llewellyn-Jones, a British lawyer and MP, explained that the idea of derivative citizenship had a relatively short history in an article titled “Expatriation as Practised in Great Britain” written in 1929. According to Llewellyn-Jones, the Code of Napoleon Article 12 stated, “the foreigner who shall have married a Frenchman shall follow the condition of her husband.” Article 19 declared, “A Frenchwoman who shall marry a foreigner shall follow the condition of her husband.”¹³⁸ The Code allowed a proviso that if the woman were widowed and she lived in France, she could regain her citizenship. If she lived abroad, she could recover her French citizenship if she returned and made a declaration that he planned to remain in France. Many European nations and some American States, including the United States, incorporated the principles of the Code of Napoleon in their nationality laws.¹³⁹

The establishment of derivative citizenship in England occurred in 1844 when Parliament passed an immigration and naturalization law, The Naturalization Act, which linked marriage and citizenship for the first time. Foreign-born women who married British-born men became automatically naturalized British citizens. British women’s citizenship had ceased to be independent of their husbands, the inference of which was not clearly understood at the time.¹⁴⁰

The European understanding of derivative citizenship had been “recognized from time immemorial.”¹⁴¹ Derivative citizenship existed before the Code of Napoleon in France, which some scholars cite as the first example of derivative citizenship in Europe, and examples exist that the Roman Empire made exceptions for it. For example, women who were not Roman citizens, but part of the privileged class, could take the citizenship of their Roman husbands upon marriage. Moreover, in cases where women’s citizenship had been misunderstood to be Roman before marriage, and the couple had a child, both the child and the wife received derivative Roman citizenship from the husband. By 533 A.D., it was generally recognized that an alien woman married to a Roman citizen was automatically naturalized, although how the Roman Empire got that point was not well known. According to English legal scholars, derivative citizenship began with the origin of marriage and family law in prehistoric times. England was slow to develop derivative citizenship compared to the rest of the world, because in ancient times few alien women married British men, and the British government was insular in respect to foreign relations. In addition, Britain was reluctant to change any ideas ingrained in the Common Law, which established nationality based on a person’s place of birth. At the same time Parliament passed legislation granting women more property rights, it also approved the 1844 Naturalization Act. The law was not meant as a hindrance to

women's freedom, but as a way to conform better to international law on matters of nationality.¹⁴²

The Naturalization Act of 1870

Edward Louis de Hart, an English barrister, wrote an article in 1900 titled "The English Law of Nationality and Naturalization" arguing that the Common Law of England, under the influence of feudalism, made nationality based on place of birth. The Common Law rule was stated in the Report of the Royal Commission of 1868 referring to international laws regarding naturalization and allegiance. The report stated,

"All persons, of whatever parentage, born within the dominion and allegiance of the Crown are by the Common Law natural-born British subjects; all persons, on the other hand, of whatever parentage, born beyond its dominions and out of its allegiance, were by the Common Law regarded as aliens."¹⁴³

The second part dated as far back as 1343. According to British Common Law, no British subject could "renounce his allegiance or nationality."¹⁴⁴

The commission report on all the nations' nationality laws, which had been ordered by the Queen on May 21, 1868, and presented on February 20, 1869, was requested in response to controversies with the United States arising from its nationality laws. The report stated, "The allegiance of a natural-born British subject was regarded by the Common Law as indelible. We are of the opinion that this doctrine of the Common Law is neither reasonable nor convenient."¹⁴⁵

The report concluded that indissoluble allegiance as a principal and a practice was inconsistent with the nation that proclaimed its citizens could emigrate freely.

The 1869 report was used in the formation of the Naturalization Act of May 12, 1870, in Great Britain. The purpose of the Naturalization Act of 1870¹⁴⁶ was to streamline issues between Britain and the United States. Section 6 stated that when a citizen becomes naturalized in a foreign country in which they lived, they would lose their nationality from their native country.¹⁴⁷

The Naturalisation Act of 1870 changed the Common Law principle of indissoluble allegiance. If a British subject naturalized in another country they lost their British citizenship. For all immigrants except foreign-born women married to British men, they had to naturalize. Naturalization required a five-year residency in England or service in the military. The person agreed to renounce their citizenship in the country in which they had been previously naturalized or born. In addition, they had to take an oath of allegiance at the discretion of the Secretary of State. The 1870 act also gave the Dominion nations the right to naturalize, but the citizenship was only for that Dominion. If a Dominion subject wanted to live in the United Kingdom, they had to naturalize as an alien in the United Kingdom.¹⁴⁸

The Naturalisation Act of 1870 stated that “a married woman shall be deemed to be a subject of the State of which her husband is, for the time being, a subject.”¹⁴⁹ Thus, the principal of derivative citizenship became established in

British law for all married women. The 1870 Naturalization Act did make allowances for resumption of British nationality by allowing anyone made a statutory alien by the Act to follow the same conditions of regular aliens for naturalization. If the foreign-born men were eligible for naturalization, once they completed the process, the British-born wives would regain British citizenship, but only through their husbands. If the husband did anything to lose or renounce his citizenship, the derivative nature of the wife's British citizenship would cause her to lose her citizenship again. In addition to the loss of independent nationality, the Naturalization Act made marriage to a foreign-born man retroactive. Little protest transpired because women, in general, considered citizenship more sentimental than practical at the time. Women could not vote and they did not need a passport to travel. The Naturalization Act of 1870 revealed a new British policy towards immigration – a person could choose not to be British.¹⁵⁰

The 1870 Nationality Act in Britain, seen as a convenience for women, failed to consider issues such as abandonment or the death of a husband. The law did not state what happened to the nationality status of alien women upon divorce or death of their native-born husband. The law clearly stated that a native-born woman married to an alien man would remain an alien upon his death. Women were put on a list of people who could not pursue naturalization. The law listed those under disability as married women, infants, lunatics, and idiots.¹⁵¹ The

1870 Act allowed for statelessness, because most countries did not allow widowed women to keep their husband's citizenship unless they were living in his native country.¹⁵²

Statelessness developed as one of the consequences of derivative citizenship in Britain and the United States. Women could be made stateless because of their dependence on their husband's citizenship. If the husband had not completed the naturalization process at his death, in England, his native-born wife was considered an alien, even though she did not necessarily have citizenship in her husband's country of origin. Fortunately, British law allowed her to go through the naturalization process.¹⁵³

Sometimes appearing bitter, British legislators made impassioned arguments apropos of native English women who married foreign-born men. The British government considered a British woman's marriage to a foreign-born man a voluntary surrender of her citizenship to that of their husband's home country. According to members of Parliament, the Nationality Act merely clarified an already accepted practice.¹⁵⁴ British women who married alien from outside the Empire were accused of disrupting not only family unity, but also imperial unity.¹⁵⁵ Some MPs held the view that women who married alien men were defiant and too independent for their own good. If they willingly surrendered their nationality by marrying a foreign-born man, then they should feel the full

effect of their decision.¹⁵⁶ British MPs considered women married to foreign-born men unpatriotic.¹⁵⁷

Campaign for Independent Citizenship

In Britain, the trigger that caused feminist reformers to take up the cause of independent nationality was more practical than philosophical. Women's groups purposely avoided opposing the government by petitioning for their nationality rights in wartime, even after Parliament reaffirmed the principles of marital expatriation from the 1870 Naturalization Act in the 1914 Naturalization Act passed three days after Germany declared war on England. The injustices British-born women who were considered enemy aliens suffered, because they married a man born in a country of the Central Powers, inspired a decade's long struggle to end marital expatriation and reinstate independent nationality for all women in England and in its dominions.

The injustices suffered by enemy aliens, and particularly wives of enemy aliens, commenced just days after Germany declared war on England in August 1914. The Aliens Restriction Act, passed three days after Germany declared war on England, imposed travel restrictions, internment, possible deportation and arrest, restrictions on places enemy aliens could live, and the threat of property confiscation, including business property. The Defense of the Realm Act passed soon after the war began classified enemy aliens as "dangerous." The Defense of

the Realm Act required all enemy aliens to register with the police and forbade travel more than five miles from their home without permission. Enemy aliens who owned their own private businesses lived under the threat of losing their companies through restrictions invoked by the Trading with the Enemy Act. Even though enemy aliens in good standing in their communities were not legally allowed to be treated harshly, local anger against Germany and those with a German name could not be controlled.¹⁵⁸

According to English law, the Naturalization Act of 1844 changed the nationality status of British married women. “Any woman married or who shall be married to a natural born British subject or person naturalized shall be deemed and taken to be herself naturalized and have all the rights and privileges of a natural born subject.”¹⁵⁹ The British established derivative citizenship in 1844 for foreign-born women, but derivative citizenship was not officially established for native-born women until 1870. In 1870, native-born British women who married foreign-born men lost their citizenship. “A married woman shall be deemed to be a subject of the State of which her husband is for the time being a subject.”¹⁶⁰ In 1914, the British Nationality and Status of Aliens Act repealed the Act of 1870 while reinforcing the basic principle of derivative citizenship for all British married women, with Sections 10 and 11 of the Consolidated Acts of the Nationality and Status of Aliens Acts of 1914, 1918, and 1922. Section 10 stated,

“The wife of a British subject shall be deemed to be a British subject, and the wife of an alien shall be deemed to be an alien: Provided that, where a man ceases during the continuance of his marriage to be a British subject, it shall be lawful for his wife to make a declaration that she desires to retain British nationality, and thereupon she shall be deemed to remain a British subject, and provided that where an alien is the subject of a State at war with His Majesty it shall be lawful for his wife, if she was at birth a British subject, to make a declaration that she desires to resume British nationality, and thereupon the Secretary of State, if he is satisfied that it is desirable that she be permitted to do so, may grant her a certificate of naturalization.”¹⁶¹

Section 10 recognized that some British women had married to foreign-born men who went back to their native countries to fight in World War I, but the women were saddled with the citizenship from an enemy nation. It did not seem right to subject these women to the status of enemy aliens during the ensuing war. The British Nationality and Status of Aliens Act would be amended in 1918 and 1922, in response to the hardships suffered by men and women considered enemy aliens who were either native-born British citizens or not yet naturalized aliens.¹⁶²

Section 11 stated,

“A woman who having been a British subject, has, by or in consequence of her marriage, become an alien, shall not, by reason only of the death of her husband, or the dissolution of her marriage, cease to be an alien, and a woman who, having been an alien, has, by or in consequence of her marriage, become a British subject, shall not, by reason only of the death of her husband or the dissolution of her marriage, cease to be a British subject.”¹⁶³

Even though the 1870 law was repealed by the 1914 law to deal with issues of war, Britain maintained the principle of derivative citizenship. With the cessation

of the marriage, native and foreign-born women still maintained the citizenship they gained through marriage.¹⁶⁴

The 1914 Nationality and Status of Aliens Act was the product of years of discussion between the British and Dominion governments and recommendations made by the Imperial Conference. Through the law, Britain made the attempt to consolidate British nationality law and unify the Empire.¹⁶⁵ In legal terms, being British meant being loyal to the Crown. British nationality laws established the principle of “common status” which meant that all members of the British Empire shared a common allegiance to the Crown. As Dominion nationalism grew, the legal definition of British nationality became weak, so much so that Britain could not force the Commonwealth governments to change their laws governing married women’s nationality. After 1870, modification in Dominion nationality laws created the possibility that a person could be naturalized in one Dominion, but considered an alien in other Dominion nations. The 1914 Act established uniform naturalization procedures and claimed that anyone born in the British Empire was a British subject. The purpose of the 1914 Act was to make sure that a “British subject anywhere was a British subject everywhere.”¹⁶⁶ Despite the attempt at unity, not all of the Dominions adopted the law immediately or all the parts of it. During the 1920 and 1930s, British women from around the Empire worked to repeal the Nationality and Status of Aliens Act. Sympathetic MPs in the House of Commons introduced many bills to equalize nationality, but the

Government blocked all of them insisting that the bills affected the Empire and the Dominion nations would disagree with the nationality changes in the bills.¹⁶⁷

The British government considered British-born women married to enemy aliens loyal, but the communities alien enemy women lived in did not always take the same point of view. At the beginning of the war, many women, up to forty-four percent, were unemployed because of changes made to industries that were deemed unnecessary during a time of war. The high unemployment proved to be temporary as the economy adjusted, but enemy alien women had a difficult time finding employment in their own communities, sometimes merely because of their last name. They could not change their surname back to their maiden name, because the British government threatened alien wives with imprisonment if they used a different name than the one they used prior to the war. The internment of the alien wives' husbands caused the family to fall into deep poverty.¹⁶⁸

After becoming unemployed and many times living alone while their husbands were interned, getting assistance from the government during World War I proved difficult for the wives of enemy aliens. Government assistance depended upon donations and even then, the government tried to give the wives of internees as little help as possible, lest they should receive more than regular Britons should. Local charities and friends helped enemy alien women and their families the most. Even with the release of the interned husband, poverty often remained over the household. Having a German last name led to difficulty

finding employment for the husband and wife. In addition, after the husband returned home, the government would no longer provide aid to the wife and children. Many men pleaded with the government to intern them, because then their families could receive government aid, meager though it was. Ironically, German-born women married to British men emerged from World War I virtually unscathed enjoying the respect and privilege of natural-born British citizens. The chief problem for German-born women during WWI had to do with accusations of spying.¹⁶⁹

At the end of the war, the British government made three concessions to enemy alien wives. British-born widows could petition for naturalization under more lenient rules and fees. Enemy alien women whose husbands were interned and subsequently emigrated back to their homelands or naturalized in another country, which was a significant number, could repatriate with lower residency requirements and fees. Finally, alien women who had been abandoned for a significant length of time, having no contact with their husbands for at least five years, and who lived in poverty, could apply for their citizenship under relaxed requirements. In 1918, the Home Office, through which much immigration and naturalization law emanated, recognized the necessity of changing the laws governing women's citizenship.¹⁷⁰

British government policy between 1914 and 1933 desired uniformity with the immigration laws of Europe and encouraged uniformity as much as possible

with American laws. The legislative opinion of 1870 had not changed in 1914 regarding derivative citizenship. When arguing for the Nationality Act of 1870, the Lord Chief Justice of England, Sir Alexander Cockburn, contended that British women maintaining their own citizenship after marriage did not conform to international law, so Parliament should not allow it. Sir Cockburn advocated for widowed native-born women to reacquire their citizenship as long as they remained living in England. Although a few MPs in 1870 declared that the Nationality Act took away women's rights, most agreed that the Act was "institutionalizing current practice." The 1914 Nationality Act confirmed that Parliament's support for derivative citizenship remained intact.¹⁷¹

In England, during the late nineteen teens and early twenties, the International Council of Women and its national council, the National Council of Women of England and Ireland, actively sought ways to secure independent nationality for women. In June 1918, the Council of Women in England sent a memorial to the Colonial Secretary attending the Imperial War Conference asking him to receive a deputation with the women reformers' requests. Fifty-nine societies including women's reforms organizations, charities, churches, education groups and sanitation guilds along with all twenty Australian states, South Africa and New Zealand signed the deputation. The deputation called for an amendment to the nationality laws governing married women that granted women the same nationality rights as men. The Colonial Secretary refused to receive the

deputation, but the request provided wording and ideas for successive bills submitted to Parliament. In 1920, the International Council of Women called for all of its national councils to push for nationality reforms in their own countries that would allow foreign-born women to keep their own nationality upon marriage and the ability to have the same rights as naturalized men. They basically called for a repeal of the Nationality Act of 1844, which introduced derivative citizenship in England. In 1921, the Council published a leaflet with the memorial to the Imperial Conference and supporters' signatures, which would later become the bill introduced into Parliament, beginning on March 28, 1922, for successive years. Called the Macmillan bill, because it was likely authored by Chrystal Macmillan, the memorandum of the bill called for three things: to restore the rights women lost in 1870 by marrying foreign-born men, for married women to be able to keep their nationality, and to allow expatriated women to make a simple declaration to be repatriated. The essence of the bill meant that women would have the same rights of naturalization as men. The Macmillan bill intended to replace Part III, Sections 10 and 11 of the 1914 British Nationality and Status of Aliens Act, which reinforced derivative citizenship for women in Britain. Conservative MPs, concerned with the quantity of the foreign-born women marrying British citizens, supported the aspects of Macmillan's bill that required foreign-born women to go through a naturalization process.¹⁷²

Recognizing the abuses suffered by native-born British women during World War I, women's groups in Britain drew up two bills regarding nationality, whose main architect was Chrystal Macmillan. The International Council of Women's bill called for independent citizenship for British married women.¹⁷³ The International Women's Suffrage Alliance bill requested a convention that would establish equal nationality for all women internationally. Because of the Cable Act, the idea of independent nationality was no longer dependent on the bitterness retained after WWI. Independent nationality in Britain had a legal precedent to follow that was set in the United States. In addition, the ramifications of the Cable Bill ending automatic naturalization of foreign wives, and creating dual nationality and statelessness gave more cause for Members of Parliament to reconsider the issue of independent nationality.¹⁷⁴

In 1923, Sir John Butcher, K.C., M. P., a conservative Tory from York, introduced a bill for consideration by both Houses of Parliament in an attempt to establish independent citizenship for British women.¹⁷⁵ On March 8, 1923, the House of Commons passed a resolution setting up a committee that would include comparable committees from both the House of Commons and the House of Lords. The task given to the committee of both houses was to investigate the issues pertaining to married women's nationality.¹⁷⁶ In June 1923, the Joint Committee of both Houses of Parliament agreed to take evidence apropos of women's nationality rights. The Parliamentary committee of 1923, which had

five members from the House of Commons and five members from the House of Lords investigating married women's nationality, ended with opinion evenly divided. The Commons members had all agreed, "That a British woman shall not lose, or be deemed to lose, her nationality by the mere act of marriage with an alien, but it shall be open to her to make a declaration of alienage, and therefrom she shall cease to be a British subject."¹⁷⁷ The British government sent a copy of the Commons members' proposal along with the Resolution of the Imperial Conference to the Dominion governments.¹⁷⁸ The British government stated in the House of Commons that if the Dominions agreed, the House of Commons would introduce like legislation. Consequently, on February 18, 1923, the House of Commons passed a unanimous resolution stating, "That, in the opinion of this House, a British woman shall not lose or be deemed to lose her nationality by the mere act of marriage with an alien, but that it shall be open to her to make a declaration of alienage."¹⁷⁹ There was no opposition to the resolution and the government representative did not say if the resolution would be accepted, but the resolution was circulated to the Dominions.¹⁸⁰

The Joint Committee of Parliament issued two reports asking the questions of whether or not a woman's nationality was dependent on that of her husband or whether women should have independent nationality. The first report of the Joint Committee came from the House of Lords members who explained that a case for women's independent nationality had not been made and the Joint Committee

endorsed the traditional arguments for derivative citizenship based on coverture and previous government decisions on women's nationality. The second report, written by Sir John Butcher, argued that women should not lose their nationality upon marriage to a foreigner, but that she should be allowed to choose to keep her nationality or adopt that of her husband. According to Sir Butcher, equality and modern opinion formed the basis of his arguments on married women's nationality rights.¹⁸¹ Even though members of all parties supported Butcher's bill, Parliament failed to pass it. MPs objected to the bill because it repealed the 1844 and 1870 laws apropos of married women's citizenship.¹⁸²

In Rome in 1923, the International Women's Suffrage Alliance held its conference and Chrystal Macmillan held high hopes that they would advance the Alliance's agenda throughout the auxiliary nations. At the conference, reformers drew up legislative proposals to be used in various countries as well as a draft proposal for married women's nationality rights to be sent to the League of Nations. The conference had an air of excitement as activists planned women's rights reforms for their respective nations. The zealous nature of the suffrage movement had developed in other directions of social reform dealing with laws, education, and culture. By the Alliance reappointing the Nationality of Married Women Committee, the Alliance made clear its commitment to independent nationality for all women.¹⁸³

The 1923, Imperial Conference actively engaged in discussions regarding women's nationality rights. At the Imperial Conference of 1923, the Commonwealth of Australia put forth an amendment regarding British-born women married to aliens. The Australian government wanted to change the rule that stated, "A British woman becomes an alien on her marriage to an alien, and there is no power to naturalize her during the continuance of her marriage." The Imperial Conference committee concluded with the resolution:

"The Committee are of the opinion that the principle of the existing law that the nationality of married woman depends on that of her husband should be maintained. They nevertheless recommend that power should be taken to readmit a woman to British nationality. In cases where the married state, though subsisting in law has all practical purposes come to an end."¹⁸⁴

The resolution passed the Imperial Conference.¹⁸⁵ The Imperial Conference agreed to consider married women's nationality rights in its Nationality Committee. The Nationality Committee was instructed to consider the practical value of unity within the family in terms of nationality versus the impracticality of families, children, and parents having different nationalities. Government leaders attending the conference concurred with British law that nationality for women derived through the husband. They also agreed that British-born women whose foreign marriages no longer existed should be allowed to repatriate. Opponents to independent nationality often maintained that family unity was Biblical and the basis for nationality law. Any grievances should be dealt with specifically

through legislation. The practicality of nationality originating through the husband would prove to be a formidable argument for British women to overcome.¹⁸⁶

In 1925, in an article titled “Nationality of Married Women: Present Tendencies,” Chrystal Macmillan presented her thoughts regarding the progress made for nationality rights. Macmillan claimed that she did not think Parliament worked purposely against the intentions of women when it passed the 1844, 1870, and 1914 nationality laws, but that lawmakers did not consider that the people most directly affected by their laws might have other views. She maintained that by 1925, this was no longer the case. She described three main organizations that were dealing with the issue of married women’s citizenship and claimed that they all agreed that “a married woman shall be given the same right as a man to retain or to change her nationality.”¹⁸⁷ Macmillan described the International Council of Women as an organization with national branches in thirty countries, which included all types of women’s reform organizations. The Council first took up the cause of independent citizenship in 1905, when they investigated the status of women’s nationality through a questionnaire; they had been advocating for independent citizenship ever since. The Women’s International League for Peace and Freedom and the International Woman Suffrage Alliance made independent citizenship part of their reform platforms at their first congresses after World War I. The Alliance had a committee specifically designated for independent

citizenship with representatives from the Council and the WILPF in attendance from twenty-five countries.¹⁸⁸ Macmillan clarified that the movement for independent citizenship did not start after World War I. The Council began in 1905, and the National Council of Women, Women's Liberation Freedom, National Union of Societies for Equal Citizenship, and Women's Co-operative Guild compelled Parliament to change the 1914 British Nationality and Status of Aliens Act before it was passed.¹⁸⁹

According to Macmillan, marriage for women should not be a legal disability. For example, no adult British male could have his citizenship taken away without his consent. He could marry a foreign woman and go live in her country and he was still considered a British citizen. "It is insulting to a woman to assume that she can transfer her allegiance without her consent."¹⁹⁰ In 1915, Macmillan claimed the main objection to independent citizenship for women by legislators was that it would upset the harmonious balance of international law that existed in Europe. Other objections to independent citizenship were that it would be difficult to protect a woman in another country with an alien husband. Conveniently ignored by those objecting was the fact that men with alien wives did receive the protection of the British government when abroad. Another objection suggested that a woman with her own nationality would cause disunity within the family. Macmillan pointed out that British law, based in part on *jus soli* meant that Britain did not have one nationality, because when a British-born

woman became an alien by marrying a foreign-born man who remained unnaturalized, and they remained in England and had children, their children automatically acquired British citizenship, so disunity in family nationality was a common occurrence.¹⁹¹

In discussing the current countries that had granted women independent nationality, Macmillan pointed out that besides the U.S. passage of the Cable Act, between 1918 and 1924, Russia, Belgium, Norway, Sweden, Denmark, and France had all passed laws protecting married women from losing their citizenship. In 1925, Germany was considering similar legislation. Unfortunately, back in 1920 and 1923, Australia and New Zealand had adopted the Imperial Act that took away women's ability to retain their citizenship upon marriage.¹⁹²

British law on married women's nationality ostensibly conformed to international law, but as of 1925, the idea that a woman's nationality followed that of her husband did not apply in Russia, the United States, Argentina, Chile, Ecuador, Dominica, Belgium, Estonia, or Uruguay, and possibly Brazil and Colombia. Claiming that international law was not unified, Macmillan made the appeal for an international treaty granting independent citizenship for married women. The Alliance called for an international conference of representatives of governments to consider the question. The Alliance also drafted a provisional convention, which Sweden agreed to bring along with the House of Commons

proposal to the League of Nations Committee on the Codification of International Law with the expectation that they would be considered by the Committee on Nationality. The convention drafted by the Alliance contained the same proposal presented at the International Law Association conference in London in 1923.¹⁹³

During the 1930s, international pressure increased on the British Parliament to conform to international nationality law that increasingly lacking uniformity. At the end of 1933, the Pan-American Conference in Montevideo approved equality of the sexes in nationality with a convention signed by the United States and other Latin American nations. In 1934, New Zealand passed an amendment to end statelessness for married women, but ended up granting independent citizenship. The British government allowed the law on the condition that it was only valid in New Zealand. In 1935, Dominion Prime Ministers asserted that nationality laws needed to change to bring justice to women, especially since the argument for international uniformity in nationality laws lacked credibility. The British MPs did not concur.¹⁹⁴

At the 1937 Imperial Conference in London, the Imperial Conference's Committee on Constitutional Questions discussed women's nationality. General Hertzog of South Africa proposed amending the British Nationality and Status of Aliens Act so that the phrase "British subject" would become "subject of Great Britain." Some member nations wanted their own nationality laws independent of Great Britain. Common nationality was based on the idea of common allegiance,

which formed the foundation of the British Empire. The “common status” principle meant that before any Dominion passed legislation for itself, it had to find agreement with the other Dominion countries first. Ending the principle of “common status” would terminate the principle of common allegiance. The Dominion nations at the time implemented their own nationality laws in conjunction with the nationality laws of the Empire.¹⁹⁵ Australia suggested that the nations that had already granted independent citizenship make reciprocal agreements with one another. Britain did not agree with the suggestions. The Imperial Conference of 1937 did not adopt an Empire wide law granting women independent citizenship, even though Australia and New Zealand had already done so.¹⁹⁶

Finally, in 1939, the Pass the Bill Committee, renamed the Nationality of Married Women Committee, petitioned Parliament to allow independent citizenship during wartime. Except when amendments to the British Nationality and Status of Aliens Act were made in 1942 and 1943, women’s nationality was consumed by World War II.¹⁹⁷ Nationality rights activities subsided greatly in Britain during World War II, but resumed quickly after the war. After 1945, the international movement of coalition women’s groups fell into conflict over Cold War ideology. Some groups supported a capitalist and republican approach to government and economics while other groups supported Communism. The Cold War between the U.S. and the U.S.S.R. created the source of the division.¹⁹⁸

World War II proved to be a catalyst for reform, but in a different way than World War I. For example, the United Nations signified to nationality rights reformers that it would recognize equality of the sexes. In addition, many foreign marriages occurred during and after World War II. Finally, the war engendered an increased sense of national identity among the Dominion nations. As of January 1, 1949, The Nationality Act of 1948 repealed the 1914 British Nationality and Status of Aliens Act, except sections 17 in 18, which dealt with aliens exclusively.¹⁹⁹ The 1914 law would no longer be part of the laws of the United Kingdom or the Colonial Empire. In particular, the 1948 Nationality Act repealed Section 10 of the 1914 British Nationality and Status of Aliens Act, which claimed that the wife of an alien was an alien. The Nationality Act of 1948 restored the Common Law principle of nationality; a single woman upon marriage retained her nationality as a British subject. Expatriated married women received automatic repatriation through the law. In addition, alien women no longer received automatic naturalization upon marriage to British men. At the discretion of the Secretary of State, an alien wife had to register as a British subject or be classified as an undesirable alien. Finally, a person with citizenship in any Commonwealth country, besides Eire, had the title “British subject” or “Commonwealth citizen.”²⁰⁰

Chapter 4

United States – Theory on Women’s Rights

During the Jamestown colonization, the merchant adventurers realized early on that women provided a stabilizing force in society and were essential in colony building. Despite the recognition of women’s positive influence on society, their legal position in society remained tenuous. According to English common law and the doctrine of coverture, when a woman married, her person merged with that of her husband. In addition, all of her property transferred to him. Under common law, women lost all power to enter into contracts and legally, women did not exist.²⁰¹ Married women had “no right to property and no legal entity or existence apart from their husbands.” As coverture continued into the American colonial period, women did not have the right to their own earnings or any legal rights over their own children. Divorce for women was only granted under extreme circumstances. Religion at the time supported women’s submission to men; because of the sin in the Garden of Eden, women held a lower place in the family and society. Women were also considered limited in their mental and physical capabilities compared to men. Despite their mental incapacity, women’s conduct was expected to be more moral than that of their

husbands. Whatever their limitations, as America continued to expand westward, women did whatever was necessary to help feed their families, and the demands of frontier life helped put them, at times, on equal footing with men.²⁰²

Equal Education

Dr. Benjamin Rush, a doctor, scientist, and professor of chemistry at the University of Pennsylvania, made the case in 1787 that women needed to be educated so that they could train the boys in their homes in the principles of liberty in government. According to Dr. Rush, women needed to study “the English language and writing, geography, history, biology and travel, vocal music, dancing and religious instruction.”²⁰³ Despite Dr. Rush’s admonition, by 1812, education for women in the United States, mainly for upper class women, concentrated on subject matter considered feminine such as painting, learning languages, and singing. According to John Jacques Rousseau, education should be directed towards teaching women how to take care of their husbands and sons satisfactorily in the home.²⁰⁴ As Americans moved west into the Louisiana Purchase for farming opportunities, a need for teachers arose. Women’s role in society began a transformation and they needed to be educated for their new duties. Equal education became the first focal point of the women’s movement in the 1820s.²⁰⁵

In 1818, Hannah Mather Crocker wrote the first treatise by a woman in America on the rights of women titled *Observations on the Real Rights of Women*. Even though women possessed different strengths and weaknesses than men, Crocker believed women could be educated equally and improve themselves equally to men. According to Crocker, the Bible made it clear that God made men and women equal. Crocker referenced Mary Wollstonecraft in her tract. In 1819, Emma Willard sent a pamphlet titled *An Address to the Public: Particularly to the Members of the Legislature of New York Proposing a Plan for Improving Female Education* to New York Governor DeWitt Clinton. Willard, who had been taught math by her father, learned that women were not taught math in school because their brains were considered unequal and incapable of dealing with the strain of learning abstract ideas. According to Willard, women could overcome that prejudice by getting an education equal to men. She studied subjects on her own and taught students simultaneously. Governor Clinton supported her wish to start a seminary that included science – natural philosophy and domestic science -- in the New York legislature. The city of Troy, New York provided the funding for the seminary classes. In 1821, the Troy Female Seminary, the first school endowed for the purpose of educating girls in the United States, opened its doors and taught scientific subjects to girls. In 1828-1829, Frances Wright, a lecturer, argued similarly to Wollstonecraft that women should have equal education. Wright and Wollstonecraft agreed that men

degraded their personhood by imposing inferiority upon women. Opponents called Wright an atheist and immoral for her views.²⁰⁶

With the increase in women's education during the 1830s, a concerted effort to establish teachers colleges commenced. In 1833, Oberlin College, the first school to offer comparable curriculum to men's colleges, opened its doors with the sole purpose of preparing women to be intelligent mothers, according to early graduates and feminists. The Ohio college made no distinction on who could attend in terms of race, color, or sex. The school founders believed that despite their education, women should not prefer professional occupations. Oberlin College ascribed to a widely held belief at the time that women had to choose between being mothers and wives or professionals.²⁰⁷ Emma Willard influenced Mary Lyon, who continued developing Willard's vision even further when she founded Mount Holyoke, a school designed to train teachers instead of educating mothers. Women who attended Mount Holyoke studied for three years, instead of two, and studied English grammar, geography, U.S. history, math, and science. Mount Holyoke became a forerunner of other women's colleges that helped women prepare for occupations other than motherhood and teaching.²⁰⁸ In the nineteenth century, free education for men from elementary school through college was difficult to achieve, and it was even more difficult for women. The first secondary schools to open for women came in Boston and Philadelphia after the Civil War in the 1860s and 1870s. Mainly girls from the elite upper-classes

attended the private secondary schools, because the tuition was expensive and the schools needed private funding for expansion.²⁰⁹

Anti-Slavery Movement

Similar to the women reformers in England, during the 1830s, the abolition movement helped develop the political campaigns that proved to be the origins of the women's rights movement. It was during the anti-slavery struggle that women realized they did not function equally in the political process as their male counterparts. The outspoken reformers criticized the fact that men denied their right to speak in public, and did not allow them to become members in some anti-slavery organizations just because they were women. Sarah and Angelina Grimké, sisters from a South Carolina slaveholding family, moved to Philadelphia to become Quakers during the 1820s and soon thereafter, began speaking publicly against slavery. Ironically, critics of the Grimké sisters did not censor them for their anti-slavery speech, but for speaking in public as women. The Council of Congregationalist Ministers of Massachusetts, condemned the Grimkés for merely speaking in public for political reforms, because it was considered unnatural for women to speak in public; it made them too much like men. Considering the character that God had given women, the Council of Congregationalist Ministers insisted that the New Testament forbade women from speaking in public, even about reforms. The Grimkés argued against slavery and against the oppression of

women claiming that both groups should be free. When male abolitionists complained that linking women's rights to abolition would cloud their goal to free the slaves, the Grimké sisters developed a strategy of separating the two issues, which would be used later as a model in political campaigning by women's reform groups. According to Sarah Grimké, God had a much greater plan for women than what men would allow, and He did not approve of men subjecting women to their will and then calling them inferior. She claimed that men did not have a natural superiority over women, but she did concede that social institutions based societal values on that premise.²¹⁰ In 1840, the World Anti-Slavery Convention held its meeting in London. Lucretia Mott and Harriet Stanton attended as delegates to the convention, but they were forced to sit in the galleries and prohibited from speaking or participating in any of the meetings. In the 1830s and 1840s, American society considered women speaking in public and speaking about politics unfeminine, unnatural, and inappropriate. What surprised the women the most at the convention was that the men they knew, also involved in Radical politics, blocked their participation at the convention.²¹¹

Women's Rights

When Mott and Stanton returned to the U.S. after the World Anti-Slavery Convention, they began a campaign for women's rights in terms of property ownership and legal rights for women in the family rights. It took them eight

years to reach the goal they set after the London convention to hold a public meeting on women's rights. The transatlantic connections in the developing women's rights movement renewed themselves when Stanton, Mott, and Wollstonecraft met again in Seneca Falls, NY, in 1848 at a meeting organized by Quakers in the area. In Seneca Falls, the future leaders of the women's suffrage movements in England and the United States drafted the Declaration of Sentiments, which called for more legal rights for women in the United States. The significance of the continuing relationships between these leaders as part of the developing women's rights movement, which began with the abolition of slavery and Anti-Corn laws, is that they formed organizations and left legacies of campaigning that would be continued in the suffrage movement and later in the independent citizenship campaign.²¹² On July 19 and 20, 1848, Mott and Stanton held a public meeting in the Wesleyan Chapel at Seneca Falls, NY, where the attendees approved the Declaration of Sentiments and twelve other resolutions outlining women's reform goals. Using the Declaration of Independence as the model for their Declaration of Sentiments, they listed grievances including having no voice in making laws, not being allowed to work in certain professions, and being paid less than men for their work. Other grievances included the fact that women were denied access to the same level of education as men and they were not allowed to study medicine, law, or theology. The grievances also stated that women had a subordinate position in the affairs of the Church, and that in society

a double moral standard existed in which a different set of morals was established for men than women. In addition, punishment for violation of these morals was much harder on women. The grievances also claimed that men had usurped God's authority by saying what women could and could not do and by not allowing women to follow their own consciences. According to the Declaration of Sentiments, men had done everything in their power to make women doubt their own abilities and to cause them not to respect themselves as much as they should, which made them dependant and subservient to men.²¹³

The point in the Declaration of Sentiments that declared women had a duty to secure the vote for themselves, failed to pass unanimously at the Seneca Falls Convention. Frederick Douglas, an attendee and staunch supporter of women's right to vote, and Harriet Stanton agreed with the measure, but others contended that it was such a ridiculous idea, it would distract from the more reasonable reforms in the Declaration. Changing laws regarding property rights and the civil codes governing their families presented more important tasks than securing the vote. Interestingly, similar arguments were made in England and in Latin America at about the same stage of development in women's reform politics. Despite the conflict over women's suffrage, from 1848 to the Civil War in 1861, women's rights conventions were held in different cities throughout the country on an annual basis.²¹⁴

As the women's reform movement progressed through the nineteenth century, women's claim to have the right to speak publicly proved to be a point of contention. Observers agreed with the women's comments, but not with their public speaking. Newspapers and church sermons insisted that women should not speak in public. Stanton countered these arguments claiming that it was not for men to decide if women could speak in public, but for women in good conscience to decide before God. Considering the stupidity of some of the men's public speech, at church, in bars, and in Congress, women should doubt whether the American customs regarding women speaking in public should apply to them singularly. Realizing that neither the ministers nor the newspapers would publicize their views, women's rights reformers turned to the abolitionist papers to express their views; they also created independent women's journals. The women's reformers understood that they had to tread lightly, because too much radical reform too quickly brought on too much ridicule. For example, when some women's reformers tried to enact dress reform by wearing looser fitting dresses, they were ridiculed so strongly that other reformers believed that the dress protest threatened to undermine more legitimate concerns. During the Civil War, women's reformers stopped almost all activities in order to support the war. Despite the cessation of reform activities, Anthony and Stanton argued that the battle for freedom raging during the Civil War also needed to include women's freedom.²¹⁵

After the war, the Thirteenth Amendment to the Constitution abolished slavery, so abolitionists, many of whom were women's rights advocates, pushed for a Fourteenth Amendment that "secured the rights, privileges and immunities of citizens (the new freedmen) under the law." The word "male" was used in the amendment and introduced for the first time a distinction of sex in the U.S. Constitution. Women campaigned vehemently against the distinction, but they found no support, even among their male abolitionist friends. In the end, the women's rights advocates supported the Fourteenth Amendment, because they did not want to risk the amendment not passing by pushing for women's rights too heartily. Women's rights advocates heard repeatedly, "This is the Negroes' hour." Feminists noted that as long as they supported men's aims, men considered them "wise, loyal, and clear-sighted," but as soon as they pursued their own rights before the law, they became ridiculed in their "character, motives and personal appearance." For the passage of the Fifteenth Amendment, which claimed that people could not be denied the vote based on race, the women's rights reformers tried to get the word "sex" written into law. As women continued to be criticized and ridiculed for speaking in public through the decades, and prevented from being recognized under the Constitution as citizens, the leaders of the maturing women's rights movement decided they needed the vote; women's suffrage had to be a top priority if they were to have a political voice.²¹⁶

United States -- Tactics of the Women's Movement

Susan B. Anthony registered to vote on November 1, 1872. She voted with fifteen other women on November 5, 1872. Arrested within two weeks of the election, officials accused the women of violating the Civil Rights Act of 1870, which attempted to prevent white men from voting twice to cancel out black men's votes. Bailed out of jail in January 1873, Anthony went on trial on June 18, 1873. She asked the question repeatedly when speaking publicly about her upcoming trial, "Is it a crime for a United States citizen to vote?" The court refused to consider her right to vote, whether she had a right to a jury of her peers, or whether she could be taxed when not represented in Congress. Anthony argued that in order to qualify people to vote, the United States Constitution did not allow a state to make a law based on a person's sex. Denying women the right of voluntary consent meant that the government was not getting its power from the consent of the governed. If the United States government was based on the idea of voluntary consent, then women were being denied the liberty guaranteed in the United States Constitution. Because in her case women became subjects and slaves in their own homes under their own husbands and fathers, Anthony asserted that the United States was neither a republic nor a democracy, but an oligarchy. According to the Fourteenth Amendment, the Constitution did not

allow persons to lose their rights as citizens without due process of law. She then asked, “Are women persons?” Anthony pointed out that the United States Supreme Court classified women as a group of “nonvoting citizens” in the Dred Scott decision. In addition, the Supreme Court decided that the terms “people the United States” and “citizens” were synonymous terms. Borrowing an argument from the English militant reformers, Anthony argued that if the use of references in the law to men by nouns and pronouns meant men only, then women were not subject to those laws, in particular the laws governing taxation. Finally, Anthony pointed out that the very law being used against her in the court, the Civil Rights Act of 1870, used only male nouns and pronouns. Therefore, either the law guaranteed her the right to vote or she should not be subject to the law because she was female. Because the charges were dropped against Anthony, her lawyer paid her bail, and her fine was also dropped, she could make no legal appeal to the U.S. Supreme Court with her case.²¹⁷

Despite the united goal of women’s suffrage, women reformers disagreed over tactics and were split into two groups, the National Women’s Suffrage Association and the American Women’s Suffrage Association. The National Women’s Suffrage Association, led by Susan B. Anthony and Harriet Stanton Blatch, pursued suffrage rights within the larger context of a women’s rights movement. The American Women’s Suffrage Association discussed women’s suffrage within the context of controversial topics such as marriage, the civil

codes, the Church, prostitution, the societal double standard. According to the National Women's Suffrage Association, the vote for women represented a means to an end, which were social reforms. The National Women's Suffrage Association used tactics such as lobbying and petitioning and holding lecture tours as well as establishing their own independent newspaper in their campaign for an amendment to the Constitution for women's suffrage. The American Women's Suffrage Association, led by Lucy Stone, concentrated only on women's suffrage. They did not discuss controversial topics, because they thought they would be taken more seriously and be more respected if they refrained. The American Women's Suffrage Association worked at the state level to influence lawmakers with similar tactics of the NWSA by lobbying, petitioning, and going on lecture tours. Despite their best efforts, the Supreme Court in 1875, ruled that suffrage was not a privilege protected by the Fourteenth Amendment and that while women were citizens, the right to vote could be limited to males constitutionally.²¹⁸

In 1882, 1886 and 1890, Harriot Stanton Blatch visited England for extended stays, one of which lasted two years. Susan B. Anthony came to visit in February 1883. During her first and subsequent visits, Blatch stayed with members of the Bright and Priestman families. Blatch advocated for suffrage for all women, not just unmarried women, and was credited for strengthening this arm of the suffrage movement in Britain. Blatch and Anthony established

committees of correspondence for the purpose of establishing an international suffrage organization. In 1888, Blatch and Anthony used the committees of correspondence to invite women from all over Europe to an international meeting. Women of all classes and occupations received invitations along with women of various political, moral, and professional organizations with the design to form a federation of national councils of women.²¹⁹

As women continued to seek out the best ways to practice campaigning, the suffragists increasingly understood that they had to keep reform issues separate so that each reform would not get lost in the midst of the roar of the women's rights and social reform movements. For example, the temperance movement in the U.S. attracted many women and some suffragists. Married women did not have legal protection against spousal abuse or abandonment by a drunk husband. Several women's groups surfaced, since they were not allowed into men's groups, to lobby for changes in the civil codes that dealt with marriage and divorce. Suffragists decided that they had to keep the issues of temperance and marriage and divorce separate from the suffrage movement once they realized that the alcohol industry opposed women's suffrage when the women became opposed to them. Realizing that unity on a single issue would be most helpful, and understanding that the American Women's Suffrage Association was a single issue group, the National Women's Suffrage Association merged with the American Women's Suffrage Association to become a single issue organization

and formed the National American Women's Suffrage Association. The leaders believed that they could learn from each other's experiences and develop the best course of action to secure women the vote. Harriet Stanton Blatch served as the first president of NAWSA.²²⁰

The American suffragists who crossed the Atlantic and worked with the militant suffrage group called the Women's Social and Political Union under the leadership of Emmeline and Cristabel Pankhurst included Alice Paul and Harriot Stanton Blatch. NAWSA organized their chapters in each state to lobby their Congressmen. The Blatch trainees wanted to nationalize the suffrage movement so that they could attack and blame the current political party in power for failing to enfranchise women, incorporating the militant tactic of the British suffragettes. NAWSA refused the plan for nationalization so some members, led by Alice Paul, formed an auxiliary to NAWSA called the Congressional Union in April 1913. NAWSA rejected the Congressional Union and in 1914, the Congressional Union became the National Women's Party. Contrasted with NAWSA, which preferred a slow and steady pace for Congressional reform, the National Women's Party pushed for "rapid and revolutionary progress." Equal rights for women became the focal point of the organization and the NWP lobbied for an Equal Rights Amendment to the Constitution. NAWSA rejected the call for equal rights claiming it could distract lobbying efforts in Congress for women's suffrage.²²¹

As the women's suffrage movement continued to evolve, at the turn of the twentieth century, new leaders of the women's movement emerged. Carrie Chapman Catt replaced Susan B. Anthony who had replaced Harriet Stanton Blatch as president of National American Women's Suffrage Association. During the nineteenth century, the women's suffrage movement was characterized mainly by limited success. Similar to the women's suffrage movement in England, it was not until militant protest erupted that people in society and in the legislatures started to take notice and realize that women were serious about gaining the vote. Alice Paul and the Congressional Union, utilized violent tactics in order to get their point across. Paul, who had been tutored by the British militants, and the Congressional Union put on parades, held demonstrations in which members were sometimes jailed, and while in jail, some women engaged in hunger strikes. Many suffragists rejected the Congressional Union's tactics, but credited the militant movement for reinvigorating the women's suffrage movement. A women's suffrage amendment to the Constitution had been introduced in Congress every year from 1878 until it was ratified on August 26, 1920. The women's rights movement was not all about suffrage, but was part of the larger agenda of women's equality.²²²

The National Women's Party, formed in 1914, under the leadership of Alice Paul, tried following the British militant model of keeping the party in power responsible for not ratifying a women's suffrage amendment to the

Constitution. Paul and the National Women's Party, formerly the Congressional Union, encouraged women to withhold support from Democratic candidates and lobbied President Wilson. Picketing the White House and heckling President Wilson, they blocked traffic in front of the White House by lying in the street, and burned President Wilson's speeches in public. They also toured the country wearing prison clothes. NAWSA, by contrast, lobbied President Wilson for his support for a women's suffrage amendment at the same time. NAWSA disavowed the militants proclaiming that militancy would alienate the men who were most likely to grant suffrage, which was a lesson taught and learned in England.²²³ NAWSA was helped by the National Women's Party's militancy, which served to show the evenhandedness of the organization.²²⁴

Suffrage and World War I

During World War I, NAWSA suspended their suffrage campaign in order to show their support for the war. Similar to their counterparts in England, suffragists use their war service to display their patriotism publicly and to demonstrate their loyalty and love of country. NAWSA extensively helped in wartime campaigns for aid groups and at the end of World War I, the government awarded the Distinguished Service Medal to two suffragists for their work during the war. NAWSA supported several European hospitals by financing the Medical

Women's National Association. The suffragists' war work took away the accusations of the suffragists' disloyalty to the government.²²⁵

Carrie Chapman Catt, while president of NAWSA, argued that the President and Congress should give women the vote during wartime, so it would not look like the women's wartime service was being used to bargain with the government for the vote. Arguing that women's suffrage functioned as a war measure, Catt successfully convinced President Wilson and other congressmen, formerly opposed to women's suffrage, to support it. Despite outside appearances, Catt opposed World War I because she did not want the suffrage movement to be interrupted. Catt always pushed for suffrage work before she encouraged work for the war, but her efforts failed to keep the suffrage movement going strong during World War I.²²⁶

Thanks to Carrie Chapman Catt's lobbying efforts, President Wilson endorsed women's suffrage as a war measure in January 1918. In June 1918, President Wilson proclaimed that women deserved the vote as a "debt of gratitude," because without their support, the U.S. would not have won World War I with its Allies. In addition, in recognition of their service and capabilities, President Wilson welcomed women's participation in postwar reconstruction. According to Harriet Stanton Blatch, World War I allowed women to show what they could do and who they really were apart from the typical characterization, and as a result, new opportunities opened up for suffragists.²²⁷

After ratification of the Anthony amendment in 1920, women's suffrage organizations pointed to their patriotic service in World War I, the injustices suffered by American-born women married to enemy aliens, and the fact that many patriotic American-born women were ineligible to vote due to the principle of derivative citizenship in their call for independent citizenship. In addition, foreign-born women who were automatically naturalized had the vote, without having shown any loyalty to the United States and having little understanding of how the government worked or knowledge of the institutions. American suffragists had made a calculated decision to pursue suffrage before independent citizenship, so once they women's vote was secured, they had planned on starting the independent citizenship movement. According to citizenship rights reformers, foreign-born women did not have enough understanding to vote intelligently and it served as an injustice to American-born women who were denied the right to vote because of their alien status. During the 1920 election campaign, both political parties promised to place an official plank in their platform that they would change the laws governing married women's citizenship. At the Republican convention on June 8, 1920, in Chicago, the Republican platform stated, "We advocate, in addition, the independent naturalization of married women. An American woman, resident in the United States, should not lose her citizenship by marriage to an alien."²²⁸ Democrats, at their convention in San Francisco on June 28, 1920, stated in their platform, "Federal legislation which

shall ensure that American women residents in the United States, but married to aliens, shall retain their American citizenship and that the same process of naturalization shall be required for women as for men.”²²⁹

Citizenship

Law of Nations

In studying the principle of independent citizenship for married women in the United States, history shows that the people in power and influence who opposed independent citizenship consulted international law and referred to it in their arguments. International law developed as Europeans held frequent international congresses to help keep the peace and maintain the balance of power. Whenever a nation threatened to disturb the status quo, they were considered to be violating international law. It was assumed that the states of Europe and the states inheriting European civilization considered themselves bound to the Law of Nations. America and other countries in the Western Hemisphere all had European origins since they had been colonies, so there was no doubt as to their obligation to international law.²³⁰

The United States adopted international law as a concept at its inception, so it made sense that the opponents of independent citizenship would invoke it so commonly. Early court cases such as the case of the *Resolution* declared that “the municipal laws of the country cannot change the law of nations so as to bind the

subjects of another nation.”²³¹ Justice Wilson of the Supreme Court declared in his opinion in *Ware v. Hylton* that “when the United States declared their independence, they were bound to receive the Law of Nations in its modern state of purity and refinement.”²³² Article 1, Section 8, Clause 10 of the Constitution references the Law of Nations. The Constitution established the jurisdiction of the Judicial Branch in Article 3, Section 2, Clauses 1 and 2 over all cases of law, including treaties made by U.S. ambassadors with other countries that involved U.S. citizens or states and conflict with foreign states and citizens. In addition, the Constitution allowed treaties to be binding on U.S. states and citizens in Article 6, Section 2. The Law of Nations influenced U.S. law and emanated out of British Common Law. As early as 1764, Lord Mansfield, an English judge, quoted his predecessor, Lord Talbot, when he said, “The Law of Nations, in its full extent, was part of the law of England.”²³³ In 1793, Thomas Jefferson, the first Secretary of State of the United States declared that “The Law of Nations makes an integral part...of the laws of the land.”²³⁴ Again in 1815, Chief Justice Marshall commented that when making a decision in which the United States had no statute on its books to reference, he had followed the Law of Nations guidelines in making the decision. According to Chief Justice Marshall, until Congress passed a law dealing with the issue, the court was “bound by the Law of Nations, which is part of the law the land.”²³⁵ The principle that the Law of

Nations was part of a nation's laws was accepted throughout the American Republics, the offspring of the European nations.²³⁶

Common Law Theory on Citizenship

The United States initially based its naturalization laws on the old Common Law, or feudal, theory of indissoluble allegiance where a person born in a territory was considered a citizen of that country.²³⁷ English common law held that men could not expatriate themselves without their government's approval.²³⁸ In the mid to late 1790s, many in Congress still believed in the Common law doctrine of indissoluble allegiance where a person could not choose to expatriate himself without his country's permission. By 1818, majority opinion had changed and the right of a citizen to expatriate himself was generally accepted.²³⁹ It was not until 1870 in England and 1907 in the United States that statutes explicitly contradicted the Common Law principle of indissoluble allegiance by recognizing the right of expatriation.

Right of Expatriation

The doctrine of the right of the expatriation has existed since the time of Rome. The right of expatriation recognizes that governments were made for men, not men for governments. Supreme Court Justice Iredell argued in August 1795, that men had the right to leave their home country in search of a better life

elsewhere. The right of expatriation in its modern form developed in the United States mainly by naturalized citizens who sought protection against their former nations from forcing them into military service or punishing them when they returned to visit for personal or business purposes. The executive branch established the principle of the right of expatriation when it declared that naturalized citizens could claim the same expectation of protection when traveling abroad as natural-born citizens.²⁴⁰

Richard W. Flournoy, considered an expert on nationality questions as Assistant Solicitor of the Department of State during the 1920s, stated that in modern democratic states people organized themselves for their mutual benefit and voluntarily agreed to remain in the organization and follow its rules. When people came of age in a country, they voluntarily agreed to the obligations of citizenship such as paying taxes, administering justice, aiding in the State's defense, and contributing to the national welfare through support of the local, state, and national community. In return, the country promised protection of the person and their property at home and abroad. The contract existed between the State and the citizen. Given that, an individual could separate himself from the State whenever he saw it as an advantage.²⁴¹

According to Flournoy, the obligations of allegiance of a citizen to a country made on a voluntary basis was more binding in a moral sense than if the allegiance were forced. Flournoy questioned how a person could hold a voluntary

moral obligation to more than one country. He questioned whether a person would prefer one country over another or if his allegiance to both would be weak. A citizen of one country choosing to live in another for reasons not related to business or other purposes, was not contributing to the national welfare and he would attach himself naturally to the nation in which he had made his home.²⁴²

Since America and England encouraged the naturalization of aliens, claiming men did not have the right of expatriation was illogical. By 1907, both countries had legislation that established the right to expatriation, however, by 1916, it was still not entirely clear what constituted expatriation. The United States, England, and most nations agreed that pledging an oath of allegiance to another country caused expatriation. Legal scholars debated whether merely living in another country demonstrated enough action that a person intended to renounce their allegiance to their native country. According to jurists and State Department officials, living abroad for an extended period of time did not construe that a person gave up their citizenship, because too many circumstances existed to account for their extended stay.²⁴³ In 1916, people generally thought that a person could not be expatriated while living in his native country, and legislation could not declare someone expatriated. Expatriation required a voluntary act such as serving in a foreign military. After the 1907 Expatriation Act, a naturalized citizen who returned home for more than two years would be expatriated.²⁴⁴ The general beliefs regarding expatriation did not pertain,

however, to American-born women who married foreign-born men. The 1907 Expatriation Act expatriated these women even though they remained living in the United States. It would be determined in 1916 by the Supreme Court that marriage to an alien by an American woman was a voluntary act of expatriation, even though she remained in the U.S. and did not pledge an oath of allegiance to her husband's country.

Before 1907, the United States used treaties to deal with conflicts arising from its assertion that expatriation was an inherent right. The U.S. used the treaties as a form of regulating the right of expatriation.²⁴⁵ In a case dealing with a person's right of expatriation, the U.S. government under President Buchanan and supported by Attorney General Black, argued on July 4, 1859, that a naturalized man from Germany, named Christian Ernst, could not be punished for not performing military service in Germany after he had renounced his citizenship from Germany. Ernst had not committed a crime, owed debts, or deserted from the army before he left Germany and naturalized in the United States. On July 8, 1859, Secretary Cass sent instructions to the United States minister in Berlin to ask for Ernst's release. The United States government claimed that once a person was naturalized, they had severed allegiance to their native country and they could only be punished for crimes committed while they were a citizen of that country. Despite Ernst's release, the cases of naturalized Americans being jailed increased. As a result of foreign countries refusing to recognize their citizens'

right of expatriation, Congress passed a Joint Resolution on July 7, 1868, after the arrest of two naturalized Irishman, that stated, “The right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness” and that “All naturalized citizens of the United States, while in foreign countries, are entitled to and shall receive from this Government the same protection of persons and property which is accorded to native-born citizens.”²⁴⁶ The United States proceeded to make treaties regarding naturalization with the United States of North Germany on February 22, 1868, and with Austria-Hungary, Belgium, Denmark, Sweden, Norway, and Great Britain. The purpose of the treaties was to have other nations recognize the United States’ insistence on the right of expatriation.²⁴⁷

Generally, the right to expatriation garnered considerable interest and discussion by State Department officials and legal scholars in the early twentieth century. Conflicting claims between nations were settled by concessions through treaties instead of legal principles. In essence, the countries forming treaties agreed to ignore their own rules under certain circumstances. The United States had declared the right of expatriation and protection to all citizens natural-born and naturalized who lived and traveled abroad, regardless of other nations’ laws on citizenship. However, even with this declaration, the citizenship status of Americans was still not clearly decided according to American law. The executive, legislative, and judicial branches of the U.S. government all declared

citizenship was determined by *jus soli*, the Common Law principle that if a person was born in the United States then they were a native-born American.²⁴⁸

Major U.S. Citizenship Laws 1790-1934

Before the Constitution, the states under the Articles of Confederation followed their own naturalization laws. Under the Constitution, Article 1, Section 8 authorized Congress to set a uniform plan for naturalization. In 1790, Congress undertook the first naturalization law for the United States. The debate in Congress over the 1790 bill centered on the length of residency before naturalization. Mr. Page of Virginia made the case that telling the world America was an asylum would not make the United States look as open as they claimed if they set up strict naturalization laws and America needed workers to develop the vast American wilderness. In addition, in the list of grievances in the Declaration of Independence against King George III, the colonies criticized the king for purposely obstructing the laws governing the naturalization of aliens for the purpose of preventing growth in their population by making land appropriation and migration difficult. According to Mr. Page, if the United States set up good laws, people with different religious and political backgrounds could not cause injury to the United States as rapidly naturalized immigrants.²⁴⁹ Mr. Tucker of South Carolina suggested allowing immigrants to hold land as soon as possible then wait up to three years before naturalizing.²⁵⁰ Mr. Hartley of Pennsylvania

contended that aliens should show fidelity and allegiance to the United States before being naturalized. Forcing a man to get to know the government and building esteem for it was important before he naturalized, according to Mr. Hartley, then the waiting period would make sure he would become a good citizen.²⁵¹ Mr. White of Virginia speculated that some owners of merchant vessels might take the automatic naturalization that had been proposed and use it to avoid customs duties while keeping their residence in their country of origin.²⁵²

James Madison concurred with Mr. White concerning the possibilities of fraud that still concerned American lawmakers in the twentieth century. Madison encouraged a balanced approach to naturalization and expressed adroitly the difficulty in developing naturalization laws for a nation dependent on and welcoming of immigrants, when he said,

“When we are considering the advantages that may result from an easy mode of naturalization, we ought also to consider the cautions necessary to guard against abuses. It is no doubt very desirable that we should hold out as many inducements as possible for the worthy part of mankind to come and settle amongst us, and throw their fortunes into a common lot with ours. But why is this desirable? Not merely to swell the catalogue of people. No, sir, it is to increase the wealth and strength of the community; and those who acquire the rights of citizenship, without adding to the strength or wealth of the community, are not the people we are in want of. And what is proposed by the amendment is, that they shall take nothing more than an oath of fidelity, and declare their intention to reside in the United States. Under such terms, it was well observed by my colleague, aliens might acquire the right of citizenship, and return to the country from which they came, and evade the laws intended to encourage the commerce and industry

of the real citizens and inhabitants of America, enjoying at the same time all the advantages of citizens and aliens.

I should be exceedingly sorry, sir, that our rule of naturalization excluded a single person of good fame that really meant to incorporate himself into our society; on the other hand, I do not wish that any man should acquire the privilege but such as would be a real addition to the wealth or strength of the United States.

It may be a question of some nicety, how far we can make our law to admit an alien to the right of citizenship, step by step; but there is no doubt we may, and ought to require residence as an essential."²⁵³

Even after being naturalized, men should be in the country some time to learn how the government works before they could hold office or even vote, according to Mr. Smith of South Carolina.²⁵⁴ Mr. Jackson of Georgia not only wanted a residency requirement, but he also wanted proof that while in the United States, the alien had proven himself as a contributor to the United States and not a vagrant. Jackson proposed using grand juries or courts to establish proof and posited that a person of upstanding character would not mind the rules.²⁵⁵ Mr. Page responded that if the United States set up strict rules, and made people prove their intent to be good citizens, then Congress would end up not allowing people of all types to come in, but only those that they approved of according to some arbitrary notion of what a good citizen would be. Consequently, there would be no liberty of conscience or religion, etc.²⁵⁶

The restrictions on immigration suggested in the debate were similar to the views expressed by Americans in the 1920s. Mr. Sedgwick of Massachusetts

argued that he was afraid the United States would attract the outcasts of Europe. He wanted to make sure that the people admitted were reputable and had worthy character to be United States citizens.²⁵⁷ Mr. Burke of South Carolina wanted to make sure the United States welcomed people who engaged in industries tied to the land or to certain locations such as farmers, mechanics, or manufacturers. Burke wanted to limit European merchants from being able to naturalize because they could take advantage of U.S. commerce laws while still living in their home country.²⁵⁸

On March 26, 1790, Congress passed the first national law on naturalization declaring,

That any alien, being a free white person, who shall have resided within the limits and under the jurisdiction of the United States the term of two years, may be admitted to become a citizen thereof, on application to any Common Law court of record, in any one of these states wherein he shall have resided for the term of one year at least, and making proof to the satisfaction of such court, that he is a person of good character, and taking the oath or affirmation prescribed by the law, to support the Constitution of the United States which oath or affirmation such court shall administer; and the clerk of such court shall record such application, and the proceedings thereon; and thereupon such person shall be considered as a citizen of the United States.²⁵⁹

The Naturalization Act of January 29, 1795, added stricter provisions for naturalization than the Constitution or the Act of 1790.²⁶⁰ The 1795 Naturalization Act called for preliminary residence of five years, instead of two, that a declaration of intent be submitted three years before naturalization, further

announcement of any prior allegiance and hereditary titles, and aliens had to show to the court that during the five-year residency they had lived life with good moral character, had come to understand and esteem the Constitution the United States, and were willing to support the United States. The reason for the extension of residency was to help the aliens learn the ways of the government and American institutions, and to give the courts of naturalization time to check witness accounts of their behavior, so that they could make sure that if the people were vagrants, there was time to prove that they were in America merely for its protection.²⁶¹

By an Act of Congress on June 18, 1798,²⁶² the national legislature placed more restrictions on immigrants. The residency requirement increased to fourteen years, the declaration of intent was extended to five years prior to naturalization, and it prohibited enemy aliens from naturalizing . The law required a strict registration policy for aliens who were already in the United States and those who came to the United States who did not register could be fined and imprisoned. In addition, the Secretary of State received reports on all aliens declaring intention to naturalize. The Act was aimed at French agitators in the United States, which was trying to stay out of war with France. The increased restrictions were passed at the same time as the Alien and Sedition Acts. The Act of April 14, 1802 replaced the 1798 Act, which restored the five-year residency and records for the intent to naturalize no longer went to the State Department.²⁶³ The registration of aliens

was significantly modified and no longer compulsory. In *Spratt v. Spratt* the Supreme Court said the alien could take as long as they wanted to register.²⁶⁴

Prior to 1855, Americans gained citizenship either through naturalization or by birth; no Americans assumed U.S. citizenship through marriage. With the Act of 1855, “Any woman who is now, or may hereafter be, married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen.”²⁶⁵ The only women allowed to naturalize upon marriage according to the 1855 law were white. The principle of derivative citizenship established for foreign-born women married to American men in 1855 did not account for the end of the marital relation or the foreign-born woman’s desire to renounce her U.S. citizenship and returned to her home country.²⁶⁶

The Act of July 26, 1868, established the right of expatriation when it stated that “the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness.”²⁶⁷ The 1868 Act stated that if the government tried to deny, restrict, or impair the right of expatriation then the government would be acting against its own fundamental principles.²⁶⁸ The 1868 Act also claimed that naturalized citizens of the United States traveling or living abroad were entitled to the same protection of their person and property as though they were native-born citizens.²⁶⁹ A less significant, but important change in naturalization law occurred

with the Act of Congress July 14, 1870, which extended citizenship, to aliens of African nativity, and the persons of African descent.²⁷⁰

The Act of Congress June 29, 1906, streamlined what was considered a slipshod process of naturalization by organizing the process and placing it under the jurisdiction of the Department of Commerce and Labor.²⁷¹ Previously, naturalization occurred in federal courts, state courts and even municipal or police courts, without uniformity or compliance with federal naturalization law. By 1926, Congress placed the Bureau of Naturalization in the Department of Labor.²⁷²

On April 13, 1906, Congress passed a Joint Resolution appointing a commission to “examine into the subjects of citizenship of the United States, expatriation, and protection abroad...,”²⁷³ suggest proposals, and report to Congress. In June 1906, the Foreign Affairs Committee of the House of Representatives asked the Secretary of State to recommend three people from the State Department familiar with the subject to investigate and write a report. The three men included the Solicitor for the State Department, Mr. James Scott, Minister to the Netherlands, Mr. David Hill, and Chief of the Passport Bureau, Mr. Gaillard Hunt. The commission submitted a five hundred thirty-eight page exhaustive report and presented it to Congress on December 18, 1906, with recommendations for legislation. Congress used the 1906 Commission report to

create the Expatriation Act of March 2, 1907, which recognized the right of expatriation claiming,

“Any foreign woman who acquires citizenship by marriage shall be assumed to retain the same after the termination of the marital relation, if she continues to reside in the United States, unless she makes formal renunciation thereof before a Court having jurisdiction to naturalize aliens, where she resides abroad she may retain her citizenship by registering as such for a United States Consul within one year after the termination of such marital relation.”²⁷⁴

The Expatriation Act of 1907 also established statutory derivative citizenship for all married women in the United States declaring,²⁷⁵

“That any American woman who marries a foreigner shall take the nationality of her husband. At the termination of the marital relation she may resume her American citizenship, if abroad by registering as an American citizen within one year with the consul of the United States, or by returning to reside in the United States, or, if residing in the United States at the termination of the marital relation, by continuing to reside therein.”²⁷⁶

The Cable Act of 1922, repealed most of the 1907 Expatriation Act.

While ostensibly granting married women in the U.S. independent citizenship, it would take more than a decade to make the necessary revisions for all women to have independent citizenship. The Cable Act expressly stated,

A woman citizen of the United States shall not cease to be a citizen of the United States by reason of her marriage after the passage of this Act, unless she makes formal renunciation of her citizenship before a Court having jurisdiction over naturalization of aliens: Provided, that any woman citizen who marries an alien ineligible to citizenship shall cease to be a citizen of the United States. If at the termination of the marital status she is a citizen of the United States she shall retain her citizenship regardless of her residence. If during the continuance of the marital status she resides

continuously for two years in a foreign State of which her husband is a citizen or subject, or five years continuously outside the United States, she shall thereafter be subject to the same presumption as is a naturalized citizen of the United States under the second paragraph of s. 2 of the Act entitled, “An Act in reference to the expatriation of citizens and their protection abroad,” approved March 2, 1907.²⁷⁷

With the passage of the Cable Act on September 22, 1922, automatic naturalization for foreign-born women married to American men ended, but the women were offered an abbreviated naturalization plan.

Any woman who marries a citizen in the United States *after the passage of this Act*, or any woman whose husband is naturalized after the passage of this Act, shall not become a citizen in the United States by reason of such marriage naturalization; but, if eligible to citizenship, she may be naturalized upon full and complete compliance with all requirements of the naturalization laws, with the following exceptions:

- A. No declaration of intention shall be required;
- B. In lieu of the five-year period of residence within the United States and the one-year period of residence within the State or Territory where the naturalization Court is held, she shall have resided continuously in the U.S., Hawaii, Alaska or Porto Rico for at least one year immediately preceding the filing of the petition.²⁷⁸

The Cable Act resulted in “diversity of citizenship in the family” and made many married women stateless.²⁷⁹

The Act of Congress July 3, 1930, amended the Cable Act so that American-born women married to foreign-born men did not lose their citizenship if they lived in their husbands’ countries for two years or longer. The Act stated clearly that a woman would only lose her

citizenship if she naturalized in a foreign country. The Act of Congress March 3, 1931, repealed the 1922 Cable Act provision that American-born women who married alien men ineligible for naturalization lost their citizenship.²⁸⁰

On May 24, 1934, President Franklin Roosevelt signed the Citizenship Act of 1934. Section 1 of the 1934 Citizenship Act allowed children of American mothers to be declared citizens of the United States. The United States was the first major country in the world to allow citizenship to be handed down through a woman. The idea was adopted in 1930 at the Hague Conference on the Codification of International Law. In Section 3 of the Citizenship Act of 1934, a woman who married an alien could choose to renounce her citizenship, except in time of war or within one year of war commencing. Section 4, ended derivative citizenship conferred upon marriage. All alien spouses had to go through naturalization with a three-year residency, which resulted in longer statelessness for some foreign-born wives.²⁸¹

Ambiguous Citizenship – 1790-1907

U.S. laws on citizenship initially concentrated on making foreigners citizens, but there were no laws on how a citizen became a foreigner. The courts resorted to Common Law in such matters, which stated that a citizen could not expatriate themselves.²⁸² For example, in 1795, the case of *Talbot v. Janson*

involved a Dutch privateer outfitted in the United States that sailed with an American captain, named Ballard, who was aided by a naturalized French citizen, named Talbot, who had been a native-born American, was captured by the French on the high seas. Talbot had his nationality questioned by the French who decided that he was still an American citizen, because he had not established a permanent residence in France. According to Chief Justice Rutledge, Talbot's claim to be a French citizen was not enough to sever his ties with the United States.²⁸³

The courts declared that according to the 1868 Act naturalized citizens living abroad had the same status as natural-born citizens and, therefore, they were entitled to protection by the United States. A conflict developed between the courts and the State Department, when in clear contradiction, the State Department refused to offer protection to naturalized citizens, claiming that the residency abroad was proof they had voluntarily expatriated themselves. Congress passed the 1868 Naturalization Act when naturalized Irish and German citizens visited home and their naturalization in the United States was not recognized. They were not allowed to come back to the United States and many were arrested for failing to perform military duties. The constituencies from which the Irishmen and Germans belonged was so strong that the state legislatures sent petitions to Congress asking for intervention. The purpose of the 1868 law was to confirm that foreigners had a right to naturalize in the United States and

that the right to expatriation should be recognized by other countries. The 1868 law did not address how an American could expatriate themselves.²⁸⁴ The conflict between the State Department and the courts prior to 1907 led to what jurists of the day referred to as a slipshod naturalization policy where some courts decided things one way depending on the circumstances and other courts and the State Department decided things another way.

Between 1855 and 1907, the U.S. State Department and courts system showed inconsistency in their decisions regarding the interpretation of the 1855 law for American-born women who married alien men. Before 1907, American women generally maintained their American nationality even though they married a foreign-born man. In some cases, due to laws regarding coverture in other countries, the wife gained the nationality of her husband but she regained her U.S. nationality upon his death if she returned and lived in the United States.²⁸⁵

Writing in June 1886, William L. Scruggs, a lawyer, expert on South American foreign policy, and a U.S. Ambassador to Venezuela and Colombia, offered arguments regarding the nationality of American-born women married to foreigners in which he described the practice as a “source of diplomatic controversy.”²⁸⁶ Scruggs rightly pointed out that no legislation existed regulating the nationality of native-born women married to aliens. According to Scruggs, in all countries, except where English Common Law prevailed, a woman’s nationality became that of her husband upon marriage. Marriage itself did not

reveal conclusively a woman's intention to expatriate herself, Scruggs argued. In addition, just as men who lived abroad would not intend to expatriate themselves, so neither would a woman who married an alien and lived abroad intend to expatriate herself. If the United States wished to be in harmony with the world, Scruggs suggested that Congress adopt similar nationality laws. Scruggs claimed that his suggestions on derivative citizenship, which he thought should be the law of the land in the United States, were not new, but familiar with those engaged in foreign affairs. Laws governing married women's nationality should be part of efforts to stop naturalization fraud and make U.S. laws conform to the Law of Nations.²⁸⁷

Prior to 1855, a woman remained an alien when she married an American man unless she naturalized, as decided in *Shanks v. Dupont*. The 1855 naturalization law stated that a woman was automatically naturalized if she married an American-born man as long as she was white; later African descent was added as a criteria. Court decisions such as *Kelly v. Owen*, *Broadis v. Broadis*, and *Kane v. McCarthy* confirmed the 1855 law. Finally in 1868, the Fourteenth Amendment defined citizenship as the Constitution did not. According to the Fourteenth Amendment, "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."²⁸⁸ In the *Slaughter-House Cases* of 1873, the Supreme Court declared that the Fourteenth Amendment was the

definition of citizenship and that all cases of law would be judged against it.²⁸⁹

The Fourteenth Amendment made a declaration of citizenship, but Congress continued to clarify over the time specific criteria of U.S. citizenship. In the case *United States v. Wong Kim Ark*, the Supreme Court declared that a child born to American parents in a foreign country was a natural-born citizen. In the case, the child had gone back to China, but was allowed to re-enter the United States despite the Chinese Exclusion Act.²⁹⁰

The United States legal system from 1868-1907 may have overstepped its boundaries by letting the Constitution define citizenship. According to the Fourteenth Amendment, an alien woman living in the United States before marriage would have been in the jurisdiction in the United States, and therefore, a United States citizen. The courts decided that it was the status of marriage, not the act of marriage that conferred citizenship on the alien wives in the cases of *Kelly v. Owen* and *Kane v. McCarthy*.²⁹¹ To prove the point further, in the case of *Headman v. Rose*, an alien wife who married an American overseas was automatically naturalized as an American citizen when she entered the jurisdiction United States, even though she came after her husband had died.²⁹² Considering that the Fourteenth Amendment conflicted with legal precedents and the Expatriation Act of 1907, it was not a comprehensive definition of citizenship after all.²⁹³

The indecisiveness of the U.S. citizenship and naturalization laws made it hard for some contemporary legal scholars to accept the 1907 law at face value. Other legal scholars were grateful for the law, because they appreciated what finally appeared to be a definitive legal statute on troublesome and previously unanswered questions that had serious international implications. For decades, the courts had been trying to settle the issue of what happened to married women's citizenship when they married a foreigner. In one case in particular in 1897, *Jennes v. Zandes*, a federal court held that marriage could not cause expatriation, but that a person had to take steps to naturalize in a foreign country before they could be considered expatriated. Before the 1907 law, there were several other court cases, which concurred, namely *Shanks v. DuPont* in 1830, *Trimble v. Harrison* in 1840, *Beck v. McGillis* in 1850, *Comitis v. Parkerson* in 1893, and *Ruckgaber v. Moore* in 1900.²⁹⁴

Expatriation Act of 1907

In April 1907, several weeks after the passage of the Expatriation Act of 1907, legal scholars declared that the 1907 law in combination with the 1906 Naturalization law were two of the best pieces of legislation the United States had made to date dealing with citizenship and naturalization. Even though the United States had asserted the right of expatriation for immigrants since the

establishment of the U.S. Constitution, Congress had not set guidelines for expatriation of U.S. citizens. On December 5, 1876, President Ulysses S. Grant called upon Congress to act:

“The United States has insisted upon the right of expatriation, and has obtained, after a long struggle, and admission of the principles contended for by acquiescence therein on the part of many foreign powers and by the conclusion of treaties on that subject. It is, however but justice to the government to which such naturalized citizens have formally owed allegiance, as well as to the United States, that fixed and definite rules should be adopted governing such cases and providing how expatriation may be accomplished.”²⁹⁵

The Expatriation Act of 1907 remedied President Grant’s concerns.²⁹⁶

One of the reasons Congressmen gave for supporting the Expatriation Act of 1907 was the fact that young American women with fortunes had married foreign-born men without any money, and the marriages usually ended in separation or divorce. It was hoped that the 1907 act would prevent foreigners from preying on American-born women. In addition, it was common prior to 1907, for men to naturalize in the United States in order to avoid military service back home. Once naturalized, the young men would go back home to live.²⁹⁷

The circumstances reflected similar concerns expressed in 1790 by Congressmen wanting to prevent fraud by predatory commercial businessmen who wanted to naturalize in the United States in order to take advantage of the commercial laws even though they maintained their domicile in their home country.

Gaillard Hunt, Chief of the Bureau of Citizenship at the Department of State and one of the three members assigned to study U.S. nationality laws by the House Foreign Affairs Committee in 1906, wrote an article titled “The New Citizenship Law” in 1907 lauding the 1906 Naturalization law and the 1907 Expatriation Act, because they were the “culmination of one hundred years of effort for reform and affect the very foundation of our political structure.”²⁹⁸ The first naturalization law passed in 1790 failed to prevent fraud in obtaining U.S. citizenship, according to Hunt, and subsequent laws failed to solve the naturalization issues, because the true cause of the fraud in the naturalization system occurred because of the lack of control of the United States government over its subjects. From 1790-1906, the business of naturalization had occurred mainly in the state courts. The corrupt courts and crafty aliens had committed so much fraud, the electorate of the United States would become hopelessly corrupted unless something was done about it, Hunt feared.²⁹⁹ Hunt believed the 1906 Naturalization law established enough oversight over the naturalization courts to stop the fraud. Most importantly, the law prevented naturalization within three months of a federal election, thus precluding people from using naturalization in order to influence American elections. The 1906 law established a reporting requirement that created an orderly and uniform practice for naturalization in all the courts. It also prevented any collusion between lawyers and naturalization court judges by requiring the courts to inform the federal

government of aliens' intentions to naturalize at least three months before the application was presented in court. Hunt maintained that it had been an earnest desire of the United States government since its adoption of the Constitution to define citizenship clearly, and more importantly, how citizenship could be lost.³⁰⁰

Holding a negative view of the naturalization process, Hunt speculated about the dissatisfaction the lower courts held regarding the 1906 law that made naturalization a federal issue, because they could no longer make money naturalizing aliens. In addition, Hunt praised the 1907 Expatriation Act that mainly affected those living abroad who he insisted were content to have U.S. citizenship indefinitely without being required to show their allegiance through their mutual obligation to United States, because now, they had to take their duties as citizens seriously.³⁰¹

According to Hunt, the 1907 law did not alter American policy on citizenship at all, because it had already been settled by the Constitution and the courts that anyone born in the United States was a citizen. The commission established by the House Foreign Affairs Committee had focused their attention on how one lost their U.S. citizenship. The Expatriation Act of 1907 had been established by Roman law and the Code of Napoleon while the naturalization law of 1906 had been established by English Common Law. According to the two acts, citizenship could be lost in one of three simple ways and no American had the right to complain about losing their citizenship, because they had committed a

voluntary act of expatriation. First, an American would lose their citizenship by being naturalized as a citizen in another country. Secondly, an American would lose their citizenship if they took an oath of allegiance to another State. Thirdly, an American would lose their citizenship if they lived abroad without intention of returning.³⁰²

Prior to the 1906 and 1907 laws, U.S. laws governing naturalization were known to the world as easy to breach. Many foreigners had gained U.S. citizenship fraudulently, Hunt maintained, by lying about their residency and then moving abroad permanently. As U.S. citizens, they lived abroad and did not contribute to the development of the United States or fulfill their duties as citizens. Hunt provided proof for his assertion by revealing that sixteen percent of the people naturalized in the United States asked for passports within six months of naturalization, and some asked for passports on the same day they were naturalized. Before the 1906 law, there were no requirements to ask about a person's intentions for future residency. Inquiries were made only about past residency. The 1906 law required naturalized citizens to make their intentions to reside in the United States clear. The importance of a person's residence was one of the reasons the 1907 Expatriation Act stated that extended residence abroad was a sign that a person had voluntarily expatriated themselves.³⁰³

Hunt's apparent disregard in the article for married women's loss of citizenship due to the Expatriation Act revealed the general attitudes of the day

towards American women who married foreign-born men. Hunt expressed the point of view of many in Congress towards American-born women who had married foreign-born men; the native-born women did not take their allegiance to the United States or their citizenship to their country seriously when they married a foreign-born man, so losing their citizenship seemed fitting. In Hunt's view, woman's citizenship status held less importance than a man's.³⁰⁴ The Supreme Court would rule in the Ethel Mackenzie case in 1916 that she met one of the requirements for expatriation in the 1907 law, because she voluntarily relinquished her citizenship and took on her husband's citizenship when she chose to marry him.

Mackenzie v. Hare et al., Board of Election of San Francisco

The facts of the case *Ethel C. Mackenzie v. John P. Hare et al* presented in oral arguments before the California Supreme Court were these: Ethel Mackenzie was born in California and married Gordon Mackenzie, of Great Britain, on August 14, 1909. They remained in California where Gordon Mackenzie planned to live permanently. Mackenzie claimed he would not naturalize, because British law would not expatriate him for moving permanently to the United States. On January 22, 1913, Ethel Mackenzie tried to register to vote in California and she was refused. The state of California refused to register her because she was considered a British subject after marrying Mackenzie. According to California

law, Article 2, Section 1, amended October 10, 1911, California extended suffrage to “every native citizen of the United States” who was qualified to vote. Mackenzie believed that she met all subsequent requirements to vote. The sole question in her case was whether or not she was considered a native citizen of the United States.³⁰⁵

The status of citizens and aliens in the United States has been defined by the Constitution and Acts of Congress. Prior to legislation by Congress regarding the definition of citizenship, conflicting opinions existed as to a person’s right of expatriation. For example, the first case decided by the Supreme Court on the right of expatriation occurred in 1795 with *Talbot v. Janson*. Justice Iredell concluded that a citizen could not denationalize himself without consent of his government. Similar views were held in court cases in 1830, *Shanks v. Dupont* and *Inglis v. Sailors Snug Harbor* and in 1815, *United States v. Gillies Peters*. The *Shanks v. Dupont* opinion written by Justice Story stated, “The general doctrine is, that no person can, by any act of their own, without the consent of their government, put off their allegiance, and become aliens.”³⁰⁶ In the case, a woman’s marriage to an alien was not considered to have any effect on her citizenship and no legislation existed at the time permitting expatriation. By contrast, in *Stoughton v. Taylor* in California in 1818 and *Alsberry v. Hawkins* in Kentucky in 1839 as well other state court decisions, expatriation was considered a fundamental right. Mackenzie argued that the United States denial of the right

of expatriation was inconsistent with the laws written by Congress, for example, the 1779 law, which was the first act legalizing the naturalization of foreigners.³⁰⁷ The Act of July 26, 1868 firmly established the right of expatriation. The preamble of the law claimed that the “right of expatriation is a natural and inherent right of all people.”³⁰⁸ The 1868 Act stated that if the government tried to deny, restrict, or impair the right of expatriation then the government would be acting against its own fundamental principles. In following numerous court cases, the Act of 1868 recognized that the government had the right to legislate for citizens the opportunity to expatriate themselves.³⁰⁹

The first legislation regarding the citizenship of married women was the Act of 1855, which stated in Section 2, “That any woman who might lawfully be naturalized under the existing laws, married, or who shall be married to a citizen of the United States, shall be deemed and taken to be a citizen.”³¹⁰ Consequently, every alien woman who married a citizen, and was herself eligible for citizenship, became a citizen without her consent. Under the California constitution it was not clear whether or not a foreign-born woman was allowed to vote, because the Constitution stated that only citizens by birth, naturalization, or treaty could vote. The foreign-born women under the law of 1855 were not natural-born, naturalized, or made a citizen by treaty. In the Mackenzie case, the law was dealing with the reverse – a natural-born woman married to an alien. In 1883, in *Peguignot v. Detroit*, Judge Brown, who later became a Supreme Court justice,

decided that an alien woman who gained United States citizenship by marriage to an American and subsequently divorced, and then married an alien, lost her United States citizenship by marrying an alien and became an alien herself, even though both remained in the United States and planned to stay. In the 1900 case of *Ruckgaber v. Moore*, the court decided that a native-born woman who married a Frenchman and moved to France to live, lost her citizenship and became a French citizen. The woman committed an act that clearly showed her intent to renounce her United States citizenship by marriage. The court decision stated that an act had to show express intent to expatriate. Similar ideas were expressed in the case *Trimbles v. Harrison*. In 1893, a federal court held in *Comitis v. Parkerson* that a woman who married an Italian, and they both remained in the United States, did not lose her citizenship by marriage. The federal court declared that only the United States Congress could decide how an act of expatriation was exercised and that “Congress has made no law authorizing any implied renunciation of citizenship.”³¹¹ Unless Congress established a “method of expatriation,” according to the lawyers for Mackenzie, expatriation could not take place except for a person moving to live in another country. The cases *Beck v. McGillis*, *Shanks v. Dupont*, *Jennes v. Landes*, and *Kreitz v. Behrensmeyer* also supported this view.³¹²

Mackenzie’s lawyers declared that the State Department had been inconsistent in determining when a natural-born American woman married to an

alien and living in an alien's country had expatriated herself. International disputes regarding the issue had arisen and had been settled by diplomacy through the State Department. Because there was no clear direction from Congress, the State Department and the courts both engaged in creating naturalization law. Amid diverse opinions expressed within the State Department and in the courts on the subject, the courts had all agreed that the processes of naturalization and expatriation had to be decided by Congress. Under these conditions, the United States Congress had passed the Joint Resolution on April 13, 1906, appointing a commission to "examine into the subjects of citizenship of the United States, expatriation, and protection abroad..."³¹³ and to suggest proposals to Congress. Consequently, Congress used the 1906 Commission report to create the Expatriation Act of March 2, 1907.³¹⁴

Section 3 of the Expatriation Act stated,

That any American woman who marries a foreigner shall take the nationality of her husband. At the termination of the marital relation she may resume her American citizenship, if abroad by registering as an American citizen within one year with the consul of the United States, or by returning to reside in the United States, or, if residing in the United States at the termination of the marital relation, by continuing to reside therein.³¹⁵

Mackenzie's lawyers stipulated that it was conclusive that when Ethel Mackenzie married Gordon Mackenzie she took on her husband's nationality. Whether a woman was an alien or natural-born citizen, whenever she married a man of a different nationality, she gained new citizenship whether or not she consented. In

addition, because of international conflicts, it had generally been the rule that a wife should not have a different allegiance or citizenship than her husband and that Section 3 of the Expatriation Act put a generally accepted principle into statutory form. According to the law of 1907, Mackenzie, by marrying an alien, “conclusively presumed to have intended thereby to renounce her citizenship of the United States and become a subject of Great Britain.”³¹⁶

Given the stipulations, Mackenzie’s lawyers argued that one could construe from the Expatriation Act that it was legislating for women living abroad and not for women who remained in the United States with their spouse, who, in addition, committed to remaining in the United States permanently. The stated origin of the Expatriation Act was to deal with American-born women who married aliens and then resided temporarily or permanently in their husband’s country. In addition, when the Act stated that the natural-born woman who married an alien lost her nationality even though they were married and remained in the United States, it contradicted the purpose of the law.³¹⁷

Mackenzie’s lawyers further contended that the 1907 law contradicted the Fourteenth Amendment, which stated, “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.”³¹⁸ In the 1884 case *In re Look Tin Sing*, Justice Field of the United States Supreme Court, who had written the decision as a circuit court judge for the District of California, declared that a

person born in the United States to Chinese parents who were not part of China's diplomatic corps, was a native U.S. citizen and could reenter the United States after a visit from China.³¹⁹ A person of any race was a citizen of the United States under the Fourteenth Amendment and they remained a citizen as long as they did not renounce their citizenship according to U.S. laws. The court recognized that the Fourteenth Amendment did not forbid expatriation or take power from Congress to legislate it. The courts came to the same conclusion in *United States v. Wong Kim Ark* in 1898 where the Fourteenth Amendment was affirmed as "the ancient and fundamental rule of citizenship by birth within the territory."³²⁰ The court stated, "The power of naturalization, vested in Congress by the Constitution, is the power to confer citizenship, not a power to take it away."³²¹ The court emphasized the fact that because Wong Kim Ark was born in the United States and he had not done anything to lose or renounce his citizenship, he was a citizen of the United States. In essence, Congress could not deprive a person of their citizenship without their consent and without cause.³²²

The California Supreme Court decided that Ethel Mackenzie, by marrying an alien did, in fact, renounce her citizenship and was not prevented by the Fourteenth Amendment from doing so. Questions regarding women married before the March 2, 1907 law, which had been made retroactive, were not considered in the case. The court concluded that Mackenzie was not a United

States citizen due to an Act of Congress and, therefore, could not vote in California.³²³

On December 6, 1915, the United States Supreme Court upheld the California Supreme Court decision in *Mackenzie v. Hare et al.* According to Mackenzie, the 1907 Expatriation Act could not be understood to expatriate American-born women married to aliens who remained in the United States and that the act violated her Fourteenth Amendment rights. The California Supreme Court decided that Congress did not violate any person's constitutional rights, but established rules regarding citizenship by which they were prompted by domestic and international conflicts. Mackenzie claimed that she was denied her citizenship without her consent. Congress and the courts decided that in establishing a policy for single nationality, that even though there was no direct consent given by the woman to renounce her citizenship, her marriage was an implied consent to her expatriation. The California Supreme Court claimed that Mackenzie voluntarily entered into her marriage to an alien "with notice of the consequences."³²⁴ Furthermore, the United States Constitution and Congress were not the ones stopping Mackenzie from voting – California law was doing that.³²⁵

The plaintiff had argued that the powers were not expressly given to expatriate her. Justice McKenna expressed the opinion that express powers can contain implied, necessary, or incidental powers, and the United States

government has “all attributes of sovereignty.”³²⁶ The United States had the power to make decisions about nationality especially as it related to international law. He agreed that changes in citizenship could not be imposed arbitrarily, but in reference to the 1907 Expatriation Act, it “deals with the condition voluntarily entered into, with notice of the consequences.”³²⁷ The justices agreed that citizenship had tangible worth and expressed sympathy for Mackenzie wanting to keep her citizenship and use it to vote in California, however, the court had to consider national and international issues, not personal issues. According to the Supreme Court, the Expatriation Act was not arbitrary, but valid and demanded from the United States on an international level. The goal of the legislation was to prevent the United States from embarrassing other governments and having conflicts with them.³²⁸

In its summary of the Supreme Court decision of *Mackenzie v. Hare et al.*, *Board of Election of San Francisco*, the American Journal of International Law stated that “The identity of husband and wife is an ancient principle of our jurisprudence,”³²⁹ which was not an arbitrary principle and worked in the wife’s favor many times. It was a public concern for the husband and wife to have one merged identity with the dominance going to the husband. It was a necessary principle for domestic policy and it served an even greater purpose and necessity in international law. The Expatriation Act of 1907 recognized the purpose and necessity of one identity with husband and wife.³³⁰

The Case for Independent Citizenship

Cyril D. Hill, a lawyer in the U.S. Army Judge Advocate Corps, wrote an article in 1924 making a case for married women's independent citizenship, titled "Citizenship of Married Women." Hill claimed that in every system of law, the question of whether or not the law should recognize equality between husband and wife arose. The question always existed as to whether or not the wife's political status should be identified with that of her husband. The most significant objection to the principle of independent citizenship appeared to be merely theoretical, according to Hill. The idea that different nationalities affected the family unit negatively failed to influence Hill's thinking. The bond between husband and wife did not come from politics and rarely did a marriage occur due to a couple's shared interest in any particular institution. Marriage and citizenship existed as distinct and separate institutions and "never in the history of the world did they have less in common than they do today."³³¹

By 1924 customs had changed and the nationalistic spirit, where people remained in their native country, had changed significantly over the previous fifty years. Hill pointed out that when the traditions change, the framework that supports them often stays for a while. In addition, the shift in direction from dependent citizenship to independent citizenship developed as a result of women's position in society changing and the growth of common interests on the

international level. During the last century, Hill argued, aliens had been included on the same level as subjects, governments increasingly acknowledged the right of expatriation, within the institution of marriage a recognition of civil rights for the woman emerged, intense nationalistic tendencies faded, and challenges to the unity of the family had to do more with civil laws than political laws. According to Hill, dependent citizenship had become a source of hardship on the family considering all the societal and civil transformation.³³²

Like many of his time, Hill believed that World War I had revealed the need for independent citizenship for women. In England, enemy alien wives, who were actually native-born, had their property confiscated and put in the hands of the Alien Property Custodian, because property rights were identified with political status. In the United States, native-born women turned enemy aliens by marriage, some who had been married for thirty years, suffered hardships so severe when the government confiscated their property, Congress passed a law releasing the property. Confiscating property of natural-born English and American women turned into one of the best arguments for independent citizenship.³³³

With the adoption of the Nineteenth Amendment in the United States, citizenship rose to a new level of importance, because foreign-born women married to American men could vote, and native-born women turned aliens by marriage who lived in the United States, could not vote. Hill stated that “the

effect of this situation cannot be overestimated.”³³⁴ Women’s organizations in America understood the situation clearly, because they had decided to pursue suffrage over independent citizenship for practical, political reasons. Once suffrage was achieved, they shifted their attention on securing independent citizenship for all married women. At the same time the independent citizenship movement began moving forward, the equal rights movement developed and certain women’s groups pursued a constitutional amendment guaranteeing equal rights for women. For some women’s groups and women reformers, equality of citizenship was considered a positive step toward equality between the sexes, but for others, equality between the sexes would include equality of citizenship. Hill's view of the situation was that in the last fifty years in England in the United States, women had been gaining more rights to own property and enter into contracts. As a part of women pursuing economic independence, a revolution in civil rights was developing that would lead to a revolution in political rights.³³⁵

The independent citizenship movement did not develop after 1920, but before as evidenced in *The Americanization Study* published in 1920. The *Americanization Study*, carried out by Allen T. Burns, was reported in eleven volumes. A questionnaire was sent to all judges having jurisdiction over naturalization cases in the United States. The questionnaire asked two questions:

First. Would you favor legislation to permit the naturalization of a married woman in her own name, if personally

acceptable, regardless of alienage of her husband, or his failure to obtain or refusal to seek naturalization?

Second. Would you favor reserving to a native-born American woman, if she desired it, the American citizenship which, under the present law, she sacrifices by marriage to a foreigner?³³⁶

Approximately two-thirds of the judges answered “Yes” to each question. The preponderance of U.S. naturalization judges supported independent citizenship as early as 1920.³³⁷

James Brown Scott, Solicitor for the Department of State, and Chairman of the commission appointed by the House Foreign Affairs Committee to study U.S. nationality laws in 1906, expressed in a letter to Richard Flournoy, the Assistant Solicitor for the Department of State, his thoughts regarding the issue of married women’s nationality in a letter written on May 28, 1928. Scott’s analysis reveals the thinking of some State Department officials and legal scholars concerned with nationality issues in the late 1920s. Scott wrote regarding the nationality of married women in terms of political rights. Scott considered the nationality of married women one of the most difficult issues on the subject of nationality at the time. He argued that citizenship by blood, *jus sanguinis*, and citizenship by birth, *jus soli*, were competing principles. Citizenship by blood was a natural principle and citizenship by birth was artificial. According to Scott, countries of immigration, such as the United States, had to follow the principle of *jus soli* because immigrants in the New World was a necessity. Because Europe

had contributed its people to the New World, Europeans preferred to keep the principle of *jus sanguinis* in order to keep ties with their family and culture from the Old World, Scott speculated. Because *jus soli* and *jus sanguinis* conflicted with one another, even though both points of view were valid, one had to dominate the other in order to resolve conflicts in international law.³³⁸

As an American, Scott declared that he preferred *jus soli*, but as a jurist, he preferred it because all other nationality was eliminated by following it.

Women's insistence upon independent citizenship influenced his thinking on the subject. He stated, "Everywhere the woman insists upon being treated as a human being, and is entitled to the rights of every other human being."³³⁹ He believed the progress of women was good and inevitable and the idea that the husband and wife had to have the same nationality existed as a part of the Old World law.

According to Scott, women, no matter where they lived, should have the same rights as men when determining their nationality and the idea of sex should be removed from the statute books in order to treat women equally to men in terms of nationality. Recognizing that others might consider his views radical for the day, Scott he believed citizenship would become a sexless law as the trend continued to move towards sexless nationality.³⁴⁰ The history of the State Department in the early twentieth century revealed its opposition to married women having independent citizenship. By the late 1920s, the women's lobby for independent citizenship had proven quite effective. During the 1920s, people

writing and engaged in naturalization and citizenship issues became influenced by the women's reform movement that linked independent citizenship as part of a larger women's rights movement.

Repeal Efforts of the Expatriation Act of 1907

More than thirty years after England established derivative citizenship for all married women in the United Kingdom and the Empire, English and U.S. immigration law became reciprocal in 1907. The women's suffrage movement exerted significant influence on American legislators to change the 1907 law for fifteen years. Their efforts had significant influence on the English and European suffrage societies who realized the importance of independent citizenship for married women and developed correlating reform campaigns.³⁴¹

Women's groups in America introduced independent citizenship bills at each session of Congress between 1913 and 1922. Most of the bills died in committee.³⁴² Jeannette Rankin of Montana introduced the first formal bill advocating independent citizenship for women to the House Committee on Immigration and Naturalization in 1917. The bill intended to amend Section 3 of the Expatriation Act of 1907. At the time, Americans harbored anti-foreign prejudice because of the likelihood the United States would soon enter World War I. Feminists had long proclaimed their loyalty to the U.S. as a reason that they should have the vote, so attempting to help women who had previously married

foreign-born men, some of whom the government classified as enemy aliens, achieve independent citizenship was not a welcome measure.³⁴³

In committee, some members flagrantly attacked women for marrying foreign husbands. By contrast, committee members showed sympathy for the foreign-born wife who had moved to America and enjoyed the benefits of derivative citizenship. Policy makers, in general, did not call the loyalty of the foreign-born wife into question, because they believed that the American husband was teaching his new bride to become loyal to the U.S. even though she received automatic American citizenship without going through a naturalization process. The fidelity of the native-born woman was another issue entirely. Her fidelity to America was called into serious question because she had married a foreign born man.³⁴⁴

One of the most common arguments made for the vote and independent citizenship expressed the belief that foreign-born immigrants did not possess the same type of loyalty as native-born Americans. Women's groups used Americans' fear of increased immigration from Eastern and Southern Europe to convince people that the influx of immigrants would undermine American social and political values.³⁴⁵ In emotional arguments, proponents of women's nationality rights made known the necessity of women abandoned by their husbands to be able to naturalize since they had become stateless. Women abandoned by their husbands, even through premature death, had no recourse to

regain their lost citizenship prior to 1922. Without American citizenship, native-born American women, considered enemy aliens during World War I because of their marriages to foreign-born men, could not get public assistance from the government, and lived under constant threat of deportation and the possibility of losing their jobs.³⁴⁶ In cultural oriented arguments for derivative citizenship, American politicians and bureaucrats in the Immigration offices of the Labor Department maintained that singularity in nationality was essential, because women who held different nationalities than their husbands broke family unity.³⁴⁷ Women reformers countered that allowing both immigrant and native-born women to have independent citizenship would produce responsible, voting female citizens.³⁴⁸

Some of the arguments for independent citizenship were actually arguments against the automatic naturalization of immigrant women who married American men. In these arguments, reformers claimed that in order to maintain stability in American homes, the wife had to be either native-born or trained to become an American, inferring that she should go through the naturalization process. Independent citizenship proponents insisted that without proper training, the immigrant mother could not impart the most important aspects of the American way of life to her children. Becoming a citizen independent of her husband was the most efficient manner in which to imbue her with the tools necessary to promote family unity and long held American values.³⁴⁹

Several women's groups including the National American Women's Suffrage Association, Daughters of the American Revolution and the International Council of Women supported the Rankin bill robustly. The Rankin bill's failure to pass on the floor of the House of Representatives engendered vociferous criticism from women's groups apropos of foreign-born women's automatic naturalization upon marriage. The Bureau of Immigration and Naturalization made it known publicly that it opposed derivative citizenship believing that alien wives should go through a naturalization process. Even though subsequent bills on women's nationality were presented in Congress, legislators remained focused on alien women's inability to vote instead of the more prominent problem of denationalization. Expatriation of native-born women consistently remained secondary to the discussion of suffrage.³⁵⁰ Six months before the U.S. ratified the Nineteenth Amendment to the Constitution, Representative John Jacob Rogers introduced a bill that would allow American-born women to retain their citizenship if they married an alien as long as they remained inside the United States. The bill called for all aliens, men, and women, to go through an identical naturalization process. The automatic naturalization of foreign-born women continued to face similar challenges over the next two decades. Other nations besides the United States considered legislation abolishing marital expatriation including other countries included England, Canada, Sweden, Switzerland, the Netherlands, New Zealand, South Africa, and France.³⁵¹

With no way for a woman to petition for her own naturalization under the Expatriation Act, once suffrage was achieved, only women who were citizens would be able to vote. The disadvantage of derivative citizenship for expatriated American women meant that they found themselves in a dependent position to regain their citizenship, since their husbands had to naturalize for them to become U.S. citizens again. The advantage of derivative citizenship for foreign-born women automatically naturalized by marrying American men meant that they could vote. Foreign-born women who had not been through any naturalization process and had questionable loyalty to American values held the legal right to influence American laws through voting in local, state, and national elections. Suddenly, the wisdom of derivative citizenship was called into question by the very men in Congress who had heralded its common sense years earlier. In 1918, the Immigration and Naturalization Bureau as well as prominent feminist organizations called for interpreting more strictly the 1855 law granting automatic citizenship to women married to American men.³⁵²

After the ratification of the Nineteenth Amendment, independent citizenship became one of many National League of Women Voters reform initiatives. The National Women's Party, however, continued its efforts to secure an equal rights amendment through "blanket legislation." Consequently, a noteworthy debate ensued between women's groups regarding the pursuit of equal nationality rights through independent citizenship or legal equality between men

and women for rights that were not fundamentally political. The National League of Women Voters continued to work with the National Women's Party on immigration and naturalization legislation, but the NLWV refused to cooperate with the NWP on their pursuit of equal rights. By the 1930s, equal nationality organizations made it clear that no alliance could exist with equal rights organizations, because both were essentially pursuing separate pieces of legislation. Fortunately for the NLWV during the 1930s, the Pan-American Union and the League of Nations encouraged Congress to shift its center of attention away from immigration reforms toward nationality law.³⁵³

The National League of Women Voters had consistently asked for a separate bill concentrating solely on independent citizenship and in the early summer of 1922, John L. Cable of Ohio obliged with a bill singularly addressing women's nationality rights. Aspects of the bill quickened the process of American-born women's repatriation. Importantly, the bill waived the five-year residency requirement for naturalization. In several ways, the bill was not an improvement over other bills presented to Congress. For example, non-residents who married aliens lost their citizenship and women who married expatriates had to remain abroad. In addition, the Cable Bill did not offer a quicker naturalization process for alien wives. Most members of Congress did not think it was necessary for foreign-born women to go through a naturalization process at all. When Cable introduced his first bill calling for independent citizenship for

women, members of the House Committee on Immigration and Naturalization were ready to eliminate automatic naturalization for foreign-born wives. While the Immigration and Naturalization House Committee was in the process of considering the initial bill, Cable offered new legislation that claimed to end derivative citizenship upon marriage and to offer conciliation to citizen's wives. The second Cable Bill also required at least a one-year residency inside the United States, before pursuing naturalization. Because many Congressmen viewed alien wives as humble people who wanted to become Americans as opposed to native-born American women who forsook their loyalty to the U.S. when they married an alien man, ending automatic naturalization became a real sticking point for passage of the second Cable Bill. Seeing that rejecting automatic naturalization for alien wives might cause the second Cable Bill to fail, opponents of marital naturalization suggested that the immigrant women should be given the chance to acquire American citizenship on their own. By doing so, they would be able to learn more about the value of American citizenship than they could from their husbands. On June 20, 1922, the second Cable Bill passed the House of Representatives.³⁵⁴

The Cable Act

The Married Women's Independent Citizenship Act, also known as the Cable Act, passed the House of Representatives on June 22, 1922, and President

Harding signed it into law in September 1922. Even though the Cable Act appeared to be a legislative victory, it would be dismantled piece by piece over the next twelve years through corrective legislation. The Cable Act provided some new liberties, but it also revealed glaring weaknesses in U.S. immigration and naturalization policies.³⁵⁵

The Cable Act ended marital expatriation and automatic marital naturalization. It would seem independent citizenship had been achieved, but complications with U.S. immigration and naturalization laws governing immigrant characteristics and quotas along with other nations' immigration and naturalization laws kept matters quite complicated. One major complication for American-born wives of alien men was the fact that they were already married. A major flaw in the Cable Act was that expatriated married women, even though they technically had the right to choose their own citizenship, could not become repatriated until their husbands were eligible and naturalized as U.S. citizens. The only exception to this rule was if the marriage ended through either divorce or death.³⁵⁶

The fact that the Cable Act did not interfere with U.S. immigration and naturalization policies governing race, personal qualifications, and country of origin made naturalization for expatriated women more difficult. If any man or woman married to an American or expatriated American woman had unacceptable racial characteristics, character issues, such as being a prostitute, or

came from a restricted country, the U.S. government prevented them from naturalizing under any circumstances. In addition, any American-born woman married to a man restricted from naturalization was prevented from the ability to petition for naturalization herself. American-born women, who were not white or black, who married restricted immigrants lost their citizenship permanently with no opportunity to naturalize, even upon divorce or death. After 1924, if these women left the country, they could be denied re-entry. American men never lost their citizenship upon marriage so they went virtually unscathed by U.S. immigration policies.³⁵⁷

Even though the Cable Act ostensibly ended marital expatriation, it did not provide for the automatic naturalization of American-born expatriated women. Women seeking repatriation had to go through the naturalization process as though they were immigrants, thus erasing their native-born status. The basis of the argument that American-born women had a legal right to independent citizenship came from the fact that they were native-born. Repatriation for women living abroad proved to be precarious. They could lose their citizenship in some cases just for travelling abroad.³⁵⁸ It would take until 1934 for women to gain independent citizenship.³⁵⁹

The idea of independent citizenship for women being inexorably tied to immigration laws, meant that U.S. immigration policies were based on a separate set of values than those advocating for independent citizenship.³⁶⁰ Independent

citizenship did not consider race, parentage, or country of origin. Immigration policy in the 1920s centered on keeping undesirables out that would not only corrupt the culture but also the gene pool. The eugenics movement enjoyed wide-ranging public approval during the interwar period and eugenic ideas can be found throughout U.S. immigration policy. The U.S. views on immigration mirrored those of Britain regarding the paramount importance of internationally uniform immigration law.³⁶¹

Contemporary Criticism of the Cable Act by Jurists

According to Lucius Crane, a British lawyer who wrote an article titled “The Nationality of Married Women” for the *Journal of Comparative Legislation and International Law* in 1925, American suffrage societies’ campaign for independent citizenship brought about the Cable Act, which stated, “A woman citizen of the United States shall not cease to be a citizen of the United States by reason of her marriage after the passage of this Act.”³⁶² Women had achieved independent citizenship although not completely. A woman could still lose her citizenship if she married an alien and resided abroad, whereas an American man was never in jeopardy of losing his citizenship by living abroad. In addition, the Cable Act still allowed native-born women who married foreign-born men ineligible for citizenship to lose their citizenship and upon an end to the marital relation, she would be considered an alien applying for naturalization.

A woman who, before the passage of this Act, has lost her United States citizenship by reason of her marriage to an alien ineligible for citizenship may be naturalized as provided by Section 2 of this Act: Provided, that no certificate of arrival shall be required to be filed with their petition if, during the continuance of the marital status, she shall have resided within the United States. After her naturalization she shall have the same citizenship status as if her marriage had taken place after the passage of this Act. No woman whose husband is not eligible to citizenship shall be naturalized during the continuance of the marital status.³⁶³

For women in this position, they had not achieved independent citizenship, but naturalization.³⁶⁴

One of the consequences of the Cable Act's creation of independent citizenship for American women was the development of statelessness and dual citizenship for women of other countries. In 1922, none of the major European countries recognized independent citizenship for women, therefore, when foreign-born women married American men they either became dual citizens or stateless. The Cable Act allowed American women to maintain their citizenship while British law did not. For example, an American woman marrying a British man retained her American citizenship and acquired British citizenship from her husband, therefore, becoming a dual citizen. On the contrary, the British-born woman marrying an American man lost her British citizenship upon marriage, but had not met the naturalization requirements by the United States, therefore, she had no valid passport and no way to leave England or to enter the United States; she had become stateless.³⁶⁵

After the passage of the Cable Act in 1922, British women becoming stateless when they married American men became a significant problem. Not only did the British woman no longer have a passport for traveling, she was also subject to the immigration quotas imposed by the United States. The best case scenario for a woman in this situation was to marry an American and remain in Britain for at least two years so that he would automatically be expatriated by the Cable Act, and then they could regain their British diplomatic privileges. Lucius Crane recommended at the time that either Britain needed to pass legislation to deal with the statelessness of British women who married foreigners or the U.S. needed to revert back to derivative citizenship under the Expatriation Act of 1907.³⁶⁶

Similar to other jurists, diplomats, and writers on international law and nationality, Crane expressed a desire for international unity of nationality laws. Although Crane believed the Cable Act was a legislative achievement, he joined the majority opinion at the time that the Cable Act had significant errors. According to Crane, citizenship should not be based on residency and women should not have to naturalize when they married a foreign-born husband and acquire his nationality through derivative citizenship.³⁶⁷ In addition, Crane did not consider women's loss of the franchise a reason to change nationality laws, because people had to make decisions while weighing the advantages and disadvantages and women married to alien men were no different. Crane declared

that most women did not consider their citizenship when deciding whom to marry.³⁶⁸

Crane concluded that the Cable Act caused problems for British women married to American men, statelessness, and lack of family unity, and he encouraged the British government to solve only these two problems through legislation. In 1923, the British government put together a Memorandum of the Foreign Office – Appendix A – for the Report of the Select Committee on the Nationality of Married Women. The memorandum revealed that the nationality laws regarding married women of the most prominent countries of the world, excluding the South American countries because their laws were confusing and too complicated to understand, followed the principle of derivative citizenship.³⁶⁹

In “The New Married Women’s Citizenship Law,” Richard W. Flournoy, Jr., the Assistant Solicitor at the State Department, wrote a negative review of the Cable Act in December 1923. Flournoy disputed the provisions in the Cable Act granting independent citizenship to American-born women. The Cable Act repealed the Expatriation Act of 1907 and the Act of Congress February 10, 1855. The court decided in *Kelly v. Owen* that it was the intention of Congress in 1855 that the wife’s nationality should “follow that of the husband, without the necessity of any application for naturalization on her part.”³⁷⁰ Making citizenship for women separate from men did not show progress, but retrogression to the time

before the 1855 law. The 1855 law was an attempt to put the U.S. nationality law in line with those of “most of the enlightened countries of the world.”³⁷¹

According to Flournoy, the United States based its nationality law on the Common Law of England. In addition, the 1855 law followed the example set by Britain in its 1844 law establishing derivative citizenship, and the 1907 law followed the example of recognizing the right of the expatriation that Britain set in 1870. In his criticism of the Cable Act of 1922, Flournoy contended that nations must make mutual concessions with other nations, which are “necessary to the maintenance of harmonious international intercourse.”³⁷² Similar to other jurists, Flournoy did not consider native-born married women’s loss of citizenship in the Expatriation Act as a material concern. The purpose of the Expatriation Act was not to rid disloyal and unpatriotic American women of their citizenship, but to establish rules for expatriation of American citizens.

In reviewing each section of the Cable Act, Flournoy claimed that Section 1 of the Cable Act was unnecessary because unmarried women had always been able to naturalize. Section 2 of the 1907 Act, which required alien wives to naturalize, was based on the idea that alien women should not be allowed to vote without going through a naturalization process. He claimed that while it was a good argument it was not quite necessary, because “as a general rule, the character and qualifications of the wives of aliens will be on par with those of their husbands.”³⁷³ Flournoy expressed the general sentiment of the day regarding

alien wives and their commitment to the United States upon marriage to American men. According to Flournoy, Sections 5 and 3, Section 5 stated that a woman already married to an alien ineligible for citizenship could not naturalize, and Section 3 declared that a native-born woman would lose her citizenship if she married a foreign-born man ineligible for citizenship, negated the fact that the intention of the law was to grant women independent citizenship. Representative Kincheloe asked repeatedly, and received no answer during the debate on the bill, for the reason a man was not subject to losing his citizenship if he married woman ineligible for citizenship and a woman was. Flournoy was not alone in his critique among his contemporaries.³⁷⁴

Flournoy challenged the Cable Act's granting of independent citizenship claiming that the U.S. had been tardy in recognizing the principle of derivative citizenship, which had existed since prehistoric times, and now reversed a law it had finally gotten right. Flournoy conceded, Section 3 of the Expatriation Act, which stated, "that any American women who marries a foreigner shall take the nationality of her husband,"³⁷⁵ was an error because Congress used legislation to make a woman a citizen of another country. Given that, the courts had settled prior to 1907 that a woman who married an alien and moved to her husband's country to live unquestionably lost her American citizenship. The courts had not settled whether or not a woman lost her citizenship if the couple remained in the United States. For example, the courts decided in *Comitis v. Parkerson* in 1893

that a woman did not lose her citizenship upon marriage. The problem with the case was that it was decided after the alien husband had died and it was still not clear if the wife could resume her U.S. citizenship. Flourney criticized Section 3 of the Cable Act, which claimed that a wife married to an alien living two years abroad in his country or five years altogether lost her citizenship and ceased to be an American citizen, but no provision was made for the woman in these circumstances to regain her citizenship. Section 4 however did provide rules for expatriated married women who remained in the United States to regain their citizenship, but the marriage had to be terminated through either death or divorce. Section 7 of the Cable Act had similar rules to the 1914 British nationality and Status of Aliens Act, which stated that that a woman “shall not restore citizenship lost under such section nor terminate citizenship resumed under such section.”³⁷⁶

In his critique on Section 3 of the Cable Act, Flourney lamented the fact that the Cable Act created dual nationality with U.S. women who married men coming from countries with laws following derivative citizenship, for example Great Britain. Section 3 of the Cable Act required divorced or widowed native-born women who married aliens to go through a brief naturalization process before a judge, and if the woman was abroad, she had to register with an American consul within one year. According to Flourney, many in Congress argued that it was “the right of their sisters” to have the same nationality status as

men; he agreed with women's rights advocates that the Cable Act did not grant complete equality of nationality.³⁷⁷

Highly critical of independent citizenship for women, Flournoy pointed out that in the debate over the Cable Act in the House of Representatives, Congressman failed to consider the fact that women did not have to marry aliens and that they needed to realize that "marriage involves giving up some things in order to gain others."³⁷⁸ He found it difficult to understand why it was hard to see that if a woman married an alien she would lose her citizenship. "The old rule of law that a married woman takes the nationality of her husband, although Great Britain and our own country were slow to recognize it, was not based upon theory, but upon simple facts of life and customs of people."³⁷⁹ According to Flournoy, the dynamic of marital relations changed with the principle of independent citizenship. To bolster his opinion, Flournoy quoted Justice McKenna in the case of *Mackenzie v. Hare* in 1915, who declared,

"The identity of the husband and wife is an ancient principle of our jurisprudence. It was neither accidental nor arbitrary and worked in many instances for her protection. It has purpose, if not necessity, in purely domestic policy; it has greater purpose and it may be, necessity, in international policy. In this was the dictate of the act in controversy."³⁸⁰

Flournoy expressed the generally accepted theory of the international community that the maintenance of singular nationality within the family was of utmost concern. Most women seemed content to take on the nationality of their husbands

unless they were going to live in separate countries after being married. Flournoy sarcastically suggested that women who wanted to assert their own rights to independent citizenship could do so by marrying a foreigner and each living in their own country.³⁸¹

A final argument Flournoy made against the Cable Act highlighted the disruption the act created in the once reciprocal relationships of naturalization laws with other countries. Independent citizenship could only be acceptable if most of the other countries in the world changed their laws or the United States adapted its own laws to match theirs more closely. He argued that it was questionable whether or not a majority of women in the United States even wanted the law claiming that the only women who knew about the law were the women's groups who lobbied Congress for it. A strong, organized minority had pressured Congress to pass the law so that women married to aliens could reacquire their citizenship. Flournoy did not give much credence to the claims of hardship for women resulting in the loss of property and suffering from being classified as enemy aliens during World War I. According to Flournoy, laws remedying these issues could have been made easily enough without touching the issue of married women's citizenship.³⁸²

The *Columbia Law Review* praised that the Cable Act as it marked another step forward for women in their campaign for complete emancipation. The article titled "An Act Relative to the Naturalization and Citizenship of Married Women,"

written in 1923, recognized that the movement for independent citizenship was part of the larger women's rights movement developing in the early twentieth century. The author concurred that the Cable Act represented a return to the old common law rules of citizenship, because marriage did not affect a woman's citizenship.³⁸³

In a vein similar to other contemporary detractors of the Cable Act, Cyril D. Hill, wrote in the 1924 article "Citizenship of Married Women" that women did not receive equality of citizenship in the Cable Act, because inequality of citizenship still existed in several points within the Cable Act. For example, an American man who married a woman ineligible for citizenship kept his citizenship according to U.S. law, but an American woman in the same situation lost hers; there was little criticism of this point during the debate in Congress. Another inconsistency in the act required an alien man who married an American woman to have a five-year residency before he could naturalize, but an alien woman married to an American man only had to wait one year to naturalize. Finally, an American woman who married an alien husband, and lived abroad, had to follow the plan for naturalized aliens who came back into the United States, but an American man could live abroad, as long as he wanted and his citizenship was never in jeopardy. The 1922 law also resulted in serious problems of statelessness. Hill argued persuasively that whereas critics of independent citizenship claimed that women understood the risks and disadvantages of

marrying an alien, statelessness surely was not one of the “natural risks or disadvantages of becoming married.”³⁸⁴ According to Hill, statelessness did not occur due to the Cable Act’s attempt to equalize citizenship for women, but because the act was not inclusive enough regarding the conflicts that would occur with the laws of other countries once enacted. Hill noted that before Cable, there were “women in eligible to citizenship,” but after Cable, there were “wives ineligible to citizenship.”³⁸⁵ Jurists generally thought that problems with the Cable Act could be cleared up by an international treaty. Even though an international treaty remained an unpopular idea at the time, there was discussion about it in Congress and different women’s groups strongly supported the idea.³⁸⁶

Cable Act Reform

During the 1930s, House Immigration and Naturalization Committee members welcomed new reform ideas and many suggestions were forthcoming on how to amend the Cable Act of 1922. John Cable himself introduced a bill in 1930 that repealed elements of his second bill, which had made spouses ineligible for naturalization and forced citizens who lived abroad to lose their citizenship. The 1930 reform bill simplified and shortened the application process for the expatriated American-born woman. The expatriated woman had to appear before a judge with proof of American citizenship prior to her expatriation and take an oath of allegiance. Only women whose husbands were eligible for naturalization

and who had not taken on foreign citizenship could partake in this process. Another reform in the 1930 bill offered non-resident women non-quota immigration status if they had lost their citizenship by marrying an alien man, as long as they had married an alien man and resided in a foreign country or if their husband had been denationalized or denaturalized. Finally, the 1930 Cable reform bill repealed specifically the part in Section 3 of the 1922 Cable Bill that expatriated women for living abroad, although automatic repatriation was not guaranteed. One reason the Immigration and Naturalization Bureau inside the Labor Department showed reluctance to endorse a wholehearted repeal of Section 3 was that it would have likely led to an influx of non-quota American-born immigrants who would then bring their children and husbands to be naturalized. President Hoover signed the Cable reform bill into law on July 3, 1930. Women's groups supporting reform of the 1922 Cable Act were credited with "corralling" votes. The House Committee on Immigration and Naturalization remained divided on the issue of allowing women married to men ineligible for naturalization to apply for naturalization independently.³⁸⁷

In the 71st Congress, Representative John Cable introduced three bills to amend the original Cable Act of 1922. The Women's Joint Congressional Committee, respected by many in Congress, lobbied for approval of all three. On March 31, 1931, new reforms to the Cable Act effectively opened the doors for women living abroad and women married to foreign-born men ineligible for

citizenship to naturalize or repatriate. The bill was supported by the National League of Women Voters, National Women's Party, National Federation of Business and Professional Women, American Association of University Women, American Home Economics Association, National Council of Jewish Women, YMCA, General Federation of Women Clubs, Women Christian Temperance Union, National Women Trade Union League, Immigrants Protective League, and the American Federation of Labor. At the same time these reforms were being debated in the United States, the same types of reforms were being debated internationally. The League of Nations considered guidelines for governing women's nationality during the Cable Bill reform debates. International practice and pressure had some influence on Congress, which had maintained the importance of uniformity in nationality laws with other nations. Some reforms not included in the 1931 Cable reform bill dealt with women not being able to transfer their citizenship onto their children and alien husbands of American-born women who were not granted immigrant non-quota status. By 1932, the latter had been reformed to grant men non-quota status if they were eligible for naturalization and had married an American-born woman before July 1, 1932.³⁸⁸

In the United States, during the 1930s, the conflict between the States Department's agenda for immigration and naturalization and the nationality rights reformers became apparent. In 1933, women's nationality reform groups campaigned for the ability of American women to pass their citizenship on to

their children. With stricter laws governing citizens who lived abroad and immigration quota laws deciding the preference for immigrants, changing nationality laws for a relatively small group of women would affect a much more complicated situation. Keeping immigrant quotas was very important to the State Department during the 1930s. If women were allowed to pass their citizenship on to their children then even more Americans would be living abroad. In 1932, 25,117 out of 32,668 native-born Americans under the age of sixteen left the United States to live abroad. If the sixteen year olds married and had children abroad, even more people would be able to claim U.S. citizenship and possibly have dual citizenship. The State Department considered it unbeneficial to have another generation of aliens claiming American citizenship. Even after the Cable reform bills passed in Congress in 1930 and 1931, women were still not allowed to give their children their nationality and it remained a complicated process for alien husbands of American-born wives to apply for naturalization.³⁸⁹

Chapter 5

Latin America

Francesca Miller in her book *Latin American Women and the Search for Social Justice* wrote, “There is a strong correlation between the advent of public female education, the appearance of the normalistas (schools for young women), and the rise of feminism in certain Latin American nations.” In Argentina, Uruguay, Chile, Brazil, Mexico, and Cuba towards the end of the nineteenth century, a large group of rising middle class professionals including teachers, skilled workers and government employees formed the nucleus of the women’s reform movement. Through their professional contacts, the women’s rights reformers met at congresses, which had long been a part of the Pan-American tradition, where men and women alike discussed scientific, legal, social, and political issues and fashioned international treaties perpetuating their reforms.³⁹⁰

Latin America – Theory on Women’s Rights

Education for Women

Women’s education held various levels of importance in Latin America. In the Portuguese colony of Brazil, for example, convents were forbidden until the

eighteenth century. Even though Portuguese leaders were not worried about women becoming too intellectual and causing trouble, they wanted the roles of white women to be as wives and mothers, not as teachers and nuns. Spain showed little concern about women becoming too educated either, because the government established schools for the poor and the rich in their colonies. The nuns, considered the most educated women in the colonies, did pursue more education and with their male counterparts, they were part of the highest educated group in the colonies. Throughout the nineteenth century, most female education in Latin America was private, religious, and designed for the woman's role in life. Education for elite women encapsulated mostly artistic pursuits such as learning French, music, and embroidery as well as basic reading and math skills. Lower-class women learned how to be good servants through religious and vocational instruction.³⁹¹

Eighteenth-century political thought stemming from the American war for independence and the idea of the "rights of man" that challenged the French aristocracy were discussed by intellectual women in Latin America, along with women in America, Canada, Britain, and France at international meetings. In the midst of attempting to establish republican governments out of revolution, and amidst the secularization of societal institutions, equal education for women became a national debate in Argentina, Chile, Brazil, Paraguay, and Mexico. Despite the discussion about female education, very little reform occurred during

the first half of the nineteenth century, mainly due to revolutionary wars occurring throughout South America, particularly in the Southern Cone nations. The educated elites in Latin America founded scientific societies, in which the intellectuals discussed in masculine only organizations the prominent philosophies, scientific theories, and current politics of the day throughout the major cities such as Mexico City, Lima, Caracas, and Rio de Janeiro. Even though they were not invited to join with men in their discussions, the educated women of Latin America enjoyed similar conversations.³⁹²

A unique feature of Southern Cone feminism was that native-born women in this region during the 1850s and 1860s became feminist reformers as writers and teachers, developing an international dialogue regarding women's position in society, legal rights, and women's desire for equal education. European influence through immigration, along with the literature coming from the U.S. and Europe, helped build a unique type of reform movement in the Southern Cone nations. The influence of the Catholic Church was not unique to Latin America – many European immigrants brought its influence with them across the Atlantic. European immigrants valued education and the discussion of international philosophies and events often occurred in the major urban centers where the influx and dissemination of ideas was the greatest. Working-class women participated in the budding feminist movement, but it was the middle-class women, who had pursued a secondary education at secondary and normal schools

and universities, that perpetuated the movement. Equal education for women bonded all the feminists regardless of class in the nineteenth century.³⁹³

Educational opportunities for women developed in unpredictable political climates, but many political leaders and citizens realized that an educated populace was the key to nation building. For example, in the 1760s, the Jesuits were expelled from Latin America. The female religious orders were not expelled, but because of their allegiance to the Crown, people sought out secular schools for their girls. After revolutions for independence abated, universities were established in 1821 in Buenos Aires, in 1833 in Montevideo, in 1842 and Santiago de Chile and in El Salvador, Costa Rica, and Honduras. Medicine and law were developed as courses of study in Brazil. Women were excluded from the new universities, but the availability of universities made debate about women's education a talking point for women reformers. The constitutions of the new republics of Chile (1833), Brazil (1822), and Mexico (1822) claimed that it was the State's responsibility to develop and support public education at all levels of society. Nevertheless, despite the State's support, the implementation of women's education remained uncertain. For example, in 1823, Brazil's Emperor Dom Pedro struck the articles providing for education for all women from the Brazilian Constitution.³⁹⁴

To many Latin Americans it was clear that with the newly independent countries and the patriotic zeal sweeping through the people, an educated class of

people was necessary to lead and to build the nations. The universities may have been developed for male elites, but they did help spread revolutionary ideas. For example, U.S. women used the rhetoric of the French Revolution “liberty, equality and the rights of man” when campaigning for equal education of “the daughters of the Republic.” Latin American women borrowed revolutionary language and thoughts about education from other countries. For example, Nisia Floresta Brasileira Augusta of Brazil published a translation of Mary Wollstonecraft’s *Vindication of the Rights of Women*. Augusta was trained by her brothers’ tutors and the publication was partly subsidized by her parents.³⁹⁵ The 1810 in Buenos Aires, enough European immigrants had settled in the city that it became a major trading partner with Europe and a metropolitan center in South America. Because of the commercial ties and European intellectual influence, the people of Buenos Aires were receptive to the ideas of the Enlightenment. Consequently, by 1823, Bernardino Rivadavia, a liberal reformer who was also a government minister, established the Society of Beneficence whose purpose was to develop and administer an elementary public school system specifically for girls.³⁹⁶

Argentina went through an “internecine” war, but reform minded exiles returned to Argentina in 1852 with the idea of creating a public school system that included women. Domingo F. Sarmiento was part of the “Generation of 1837” exiled from Argentina from 1838-1852 during Juan Manuel Rosa’s regime. In

1842, Sarmiento directed the first teacher training school in South America in Santiago. In 1845, he was sent to the U.S. and Europe to learn about their educational systems and returned convinced that government-funded public schools were the key to building Argentina into a prosperous and civilized nation. As president of Argentina from 1868-1874, Sarmiento implemented his educational ideas.³⁹⁷

Mexico suffered post revolutionary strife similar to that of Argentina, but in the 1840s and 1850s, girls and boys attended primary schools in equal numbers. Educational reform flourished most in the mid-late nineteenth century in Latin America where the emerging middle-class women pushed for reform in politically and economically stable states. In areas where oligarchy still controlled the economy, the government leaders showed little interest in changing educational practices for women.³⁹⁸

Women's Rights Movement

While the upper-class women of Latin America called for women's rights first, it was the middle-class female schoolteachers who answered the call by protesting the legal, political, economic, and educational inequality in their society. The schoolteachers were the first generation of educated middle-class women and they discussed their ideas with each other at work and at professional

conferences. The middle-class reformers lived in the urban areas that were trading and educational centers influenced by European and U.S. ideas.³⁹⁹

European echoes of women's rights emanated through the political journals in Latin America in the last half the nineteenth century where feminist reformers called for women to have the same rights as men and for their emancipation as slaves. The initial call for women to have the same constitutional rights as men came on April 10, 1869, when Anna Betancourt de Mora spoke on behalf of her sick husband at the Constitutional Congress in Cuba. In the nineteenth century, women in Latin America had no legal rights over the property of their husbands. The educated and intellectual leaders of Latin American countries were well aware of the women's rights movements in European and the United States. Latin Americans held Pan-American Scientific congresses where reform ideas were also discussed, and they attended international meetings regarding women's rights.⁴⁰⁰

Asunción Lavrin wrote specifically about feminism in the Southern Cone in her book *Women, Feminism, and Social Change in Argentina, Chile, and Uruguay 1890 to 1940*. Lavrin maintained that the feminist movement in the Southern Cone nations develop mostly in the large cities of Buenos Aires, Montevideo, and Santiago where national leaders were sensitive to feminist ideas and political pressure. Two strands of feminism developed in the late nineteenth and early twentieth century in the Southern Cone nations. By 1910, one strand

was socialist oriented, inspired by the writings of August Babel, and the other was Liberal, inspired by John Stuart Mill.⁴⁰¹

Babel's writings highlighted class issues related to labor movements in each country and the struggles of the male and the female worker.⁴⁰² From 1907 through the 1930s, legislation regarding feminist reforms was based on the idea of "just compensation." The best argument for "just compensation," made by Carlos Vaz Ferreira of Uruguay, an essayist and philosopher, stated that because women and men had physiological differences, with women known to be physically weaker, women needed compensation, by the civil code, to prevent their subordination or any unjust treatment. The argument regarding "compensatory feminism" carefully avoided language that might cause antagonism between the sexes, but simply called for "just compensation" based on natural abilities. "Compensatory feminism" became the most popular form of feminism in the Southern Cone nations. Reforms to the civil code under this type of feminism would not cause antagonism between men and women because the law had caused women's inequity in areas such as motherhood where they naturally should have equity with men, because of their unique abilities as mothers. Legal equality strengthened women's ability to fulfill their roles fully as mothers without challenging the husband's authority as head of the home. Most feminists supported this idea; it was not until the late 1910s that feminists put emphasis on political rights.⁴⁰³

The second strand of feminism was linked more to the nineteenth-century mid-Victorian liberal ideas of John Stuart Mill who espoused for the natural rights of individuals and the need to establish equality before the law. The Socialist and Liberal groups came to support each other's essential goals during the 1920s when feminist reformers became a mixture of the working class, the middle-class, and recent immigrants. According to Lavrin, there are no archives or family papers to help with such a historical study. Despite the lack of historical evidence it is known that from 1890 to 1940, feminist reformers existed in two groups, one of which was active from 1900-1930 and the other group becoming active in the 1930s to the early 1940s. Nationality and class distinguished the feminist reformers of this time. For example, from 1880-1910, Latin America experienced an influx of immigrants. In Uruguay, in 1908, 17% of the population was foreign and 30% of the population was concentrated in Montevideo. In Argentina in 1914, one third of the population was foreign-born and 80% had heritage traced back to the first arrivals in 1850. By contrast, Chile in 1907 only had 4.1% of its population as foreign-born and much of their population came from Bolivia and Peru. Santiago only had 3.8% of its population born overseas. Of the Europeans that settled in Latin America, 38% came from Spain, Italy, Germany, and France. The European immigrants who became feminist reformers did not try to emulate European feminism. European, American, and Latin American feminists met at international congresses and traded ideas and strategies and borrowed from one

another as well as influenced one another. In Argentina, for example the first generation of feminist reformers had a strong European influence mainly from the countries of Spain, Italy, Russia, and areas in Eastern Europe. In Uruguay, the reformers were more evenly divided between European immigrants and Latin American natives. According to Lavrin, becomes complicated to define the origins of the reformers in the 1930s, but the influx of foreign-born primary and secondary teachers had a significant influence on the women who were later trained by them.⁴⁰⁴

Liberal and Socialist feminists agreed on three things: first, that women had the same intellectual capability as men; second, that women had the right to work in any profession they desired; and third, that women had the right to participate in politics. Liberals and Socialists agreed that until men recognized women's intellectual equality, they would not be able to move beyond the home and participate as full citizens in society. Lavrin claimed that the historical record lacks the documentation to trace the Socialist internal debates on feminism and party policy. The evidence that does exist shows that Socialist reformers embraced feminism on an economic and political level arguing that women who earned a living were equal to men. Both Socialist and Liberal feminists used the argument that labor had an equalizing force in society, and over time, their argument gained influence. Socialist feminists believed that equality among the sexes was more important than equality among the classes. Socialist discussions

in the Southern Cone nations apropos of inequality in family relations were not as common as discussions on labor issues. Socialists had difficulty translating language that promoted equality in labor to equality for the legal status of women in the home. The language they used in making their arguments revealed acquiescence to the lack of equality women had at home. The Socialists seemed to have a sense that women were not educated enough to be equal to men, not that their innate character would allow them to be anyway.⁴⁰⁵ Liberal feminism and Socialism were two of several types of feminism that coexisted and competed in progressive Latin American nations. Anarchists, Communists, and Christian feminists also operated through international and Pan-American networks during this time.⁴⁰⁶

In Latin America, supporters and opponents of feminism agreed that maintaining harmony between the two biologically different genders in society was extremely important. Contrary to the militant movements in England in the United States, liberal and socialist feminists in Latin America did not desire any form of antagonism between the sexes, but instead pursued equality and the effects of a complementary relationship. Feminist supporters in Argentina such as Ernesto Quesada, a lawyer and a judge, declared in 1898 that feminism did not make women more masculine. Quesada, citing the women of the U.S. and Canada as an example, claimed that “the essential femininity” of North American did not damage the women, but provided them with legal equality, equal access to

education, and economic independence by allowing them to pursue the professions they desired. Because feminists in Europe and the United States sought legal and economical equality, no conflict with men developed, according to Elvira Lopez. Uruguayan feminist María Abella de Ramírez maintained that feminists did not want to become like men, but to separate themselves from men in such a way that they could perform their roles as wives and mothers better. Refuting a common argument against the masculinization of women, Ramírez insisted that mothers could not become masculine. Women would embrace all of society as mothers under feminism. Serving society as mothers outside the home developed into a major theme in Latin American feminism. A similar theme resonated in feminist circles in Europe and the United States, also.⁴⁰⁷

Motherhood became a central theme in feminism in the Southern Cone, as feminists endorsed femininity and argued against masculinization. Latin American feminists believed in the power of motherhood to transform society. They did not use this concept as a strategy to win political power, but honored it as a key aspect of the Latin American belief system and tradition.⁴⁰⁸ In their role as mothers, women were shaping future citizens in their homes, which provided a powerful reason they should receive citizenship. Similar to what occurred in England, women in Latin America extended the sphere of their influence from their homes to their communities as they participated in local politics. Political reform for women in Latin America always centered on their virtue as mothers in

the home. They sought legal equality and reform of the civil codes that gave them more autonomy in their families.⁴⁰⁹ Latin American feminist arguments for equal rights correlated with those made in Europe, but were tailored to the political context of Latin America. For example, because of their roles as mothers and their moral ability to combat the political corruption of the state effectively, women contended that they should be citizens. Even though they claimed to be nation builders, the Latin American reformers proposed that their efforts would raise the level of society, not that they could necessarily stop political corruption.⁴¹⁰ Women needed more civil rights because of their ability to serve outside their home in the community as mothers. The feminism of the Southern Cone was distinct from the feminism of England or America in that the feminists sought to create women's rights within their social setting where other women and the men with political power would be more amenable to their ideas.⁴¹¹

Latin American women spoke in terms of having a "different mission." Women in Latin America embraced their gender differences. Latin American society cherished women's roles as mothers to their children. Latin American feminists protested against the laws and discriminatory practices that kept them from fulfilling their roles as wives and mothers. They spoke from a moral and spiritual context, which paralleled feminist discussion in Catholic Europe. Feminist reform topics included independent citizenship for women, healthcare, and employment opportunities for women, all of which reflected the reform goals

of the international women's rights movement of the day. For example, in Mexico, in 1917, the Law of Family Relations amended the Spanish civil code that gave the husband as head of the household complete authority over his wife's property, their children, and all her activities. The Law of Family Relations developed as a direct result of the First Pan-American Scientific Congress. In other Latin American nations, transformation of the civil codes that governed marriage and family occurred. The feminist reformers in Latin America centered their attention on the family codes and their efforts did not transfer to reform for political rights. The early scientific conferences were responsible for influencing legislators throughout Latin American countries for revisions to laws governing the status of married women in their families.⁴¹²

A case study of women's reform politics in Chile from 1872 to 1930 was conducted by Erika Maza Valenzuela who presented her findings in the book *Liberals, Radicals and Women's Citizenship in Chile, 1872 to 1930*. Valenzuela asked why women were more aligned with the Catholic Church than more liberal organizations when seeking social reforms. The simple answer was that the secular parts of society and organizations such as political organizations, Masonic lodges, firemen's associations, and philanthropic organizations, generally excluded women, and women were more included in areas of society influenced by the Catholic Church. Women's organizations concentrating on women's suffrage and equal rights developed an anti-clerical stance among middle and

upper-class Chilean women up to about 1930. These groups actively rejected the influence of the Catholic Church and they refused to seek support from the church hierarchy. Even though secular organizations exhibited anti-clerical sentiment, many of their members considered themselves to be Catholic. Because most women were involved in philanthropic organizations, the women's suffrage groups had difficulty assembling a large following.⁴¹³

Early suffrage organizations developed around secular educational institutions. The organizations initially discussed social and academic issues and to a lesser extent women's issues such as suffrage, women's rights, and current affairs. When dealing with social issues, the anti-clerical groups were considered more progressive, but in terms of challenging the inequality of the legal status of women, anti-clerical and Catholic feminists shared similar ideas. Both groups supported equal education for women with one group favoring secular education run by the government and the other favoring religious education overseen by the Catholic Church. Secular education for women began in the 1870s in Chile. The main difference between feminist reformers was women's suffrage. Conservative party leaders, who were supported by the Catholic Church, supported women's suffrage and presented a bill in the Chilean legislature in 1917. Conservatives encouraged women's suffrage, because they would benefit from women's votes politically. Anti-clerical groups did not believe that women had the same right to vote as men and were unwilling to support women's suffrage.⁴¹⁴

The Mercedes Moran del Solara Academy, founded by Leonor Urzúa Cruzat in Curicó, Chile, in 1897, published a biweekly journal titled *La Mujer*, which first appeared in April 1897. One of the subscribers was Miguel Luis Amunátegui. *La Mujer* had various political adherents from the Radicals, Conservatives, and the Liberals. The journal did not emphasize women's suffrage and the first issue encouraged men not to be afraid of Chilean women because women did not want to vote. *La Mujer's* statement regarding women's suffrage followed in the path of activist reformers in other Latin American nations. Some journal articles discussed the moral superiority of women and their role of influencing future voters and argued that even though women did not vote, they definitely influenced the development of democracy in Chile through their influence on those who could vote. The journal articles emphasized the redeeming character qualities of women and called for reform in the civil codes that allowed women to have more equality in the home and legal rights over their children. The articles claimed that in order for women to carry out their transcendent mission, women needed to be educated.⁴¹⁵

Martina Barros de Orrega, considered the first feminist writer in Chilean politics, translated John Stuart Mill's *The Subjection of Women* in 1872 and added her own prologue titled *Revista de Santiago*. While did not openly advocate for women's suffrage, she advocated for women's secular education, even though she rebutted arguments against women's suffrage in *Revista de Santiago*. Latin

American women reformers emphasized social rights versus political, because their position and power in the family were considered more important than in the political sphere. Orrega agreed with John Stuart Mill's ideas on women's education and argued persuasively that women were capable of using their intellectual abilities to help society and that they should be given the freedom to do so. If women had more educational opportunities, they would be able to develop their individual talents and work in all sorts of occupations.⁴¹⁶

Orrega supported the anti-clerical position when she stated that women had neither the education nor the intelligence to elect their leaders and that if enfranchised, they would just vote how the Catholic Church wanted them to vote. Liberal reformers such as Orrega sought to deny the franchise for women basing their assumptions on the idea that most uneducated Latin American women could not be counted on to vote for Liberal policies. Liberal reformers expressed concern that women would vote along the same lines as the Catholic Church, because they operated socially closer to the church and thus, held similar views. According to Orrega, the Catholic Church possessed a strong influence over women, because socially, educationally, occupationally, women held two basic options – becoming a mother or becoming a nun. The anti-clerical movement picked up Orrega's argument that women should become educated to enable them to become independent of the Catholic Church and the idea developed into one of their main arguments against women's suffrage. Women's rights reformers

believed in the necessity of women's education and its contribution to the nation building process, because politics alone could not provide enough impetus to develop strong and harmonious nations.⁴¹⁷

K.G. Grubb, a contemporary commentator on Latin American social and political issues in the 1930s, helped to clarify why women's groups, in particular, had a difficult time gaining traction in their struggle for equal education and women's rights in Latin America. One reason was that at times they might have the sympathy of a national political leader, but when he lost power whatever gains they had made were not important to the new leader. According to Grubb, illiteracy served as one of the main reasons for the political instability in Latin America in the early twentieth century. In 1933, for example, seventy percent of Latin Americans were illiterate. Building democratic nations with uneducated people was impossible, Grubb asserted. In addition, the best minds of the time, those of "thinking men," he claimed, did not want to participate in politics. Latin Americans viewed Europe as a giver of workers and the U.S. as a trader with exacting terms. He claimed that because of the perceived domination of Europe and the U.S., as soon as Spanish Americans became educated, they became politically active. Finally, the Spanish approach to life was to look out at the whole, without compartments or specialties, therefore, Latin American culture did not welcome opposing viewpoints well.⁴¹⁸

During the early twentieth century, very few Latin American countries had a government that permitted the existence of an organized opposition party. When one group won power and took control the government's opposition group disappeared. Grubb claimed that politicians were selected based on the "personalist policy," which meant that politicians were elected based on their likability, not their ideas. In Argentina and Chile, in general, and in special cases in Uruguay and Brazil, individualism was so powerful that few candidates were selected based on "party platform." Politicians were generally elected according to geniality. Using a grassroots style approach to campaigning, it was important for the candidate to be considered sympathetic, which meant that "he goes down well."⁴¹⁹

Rulers of local governments, called "*caciques*" were the only true self-governing politicians. The local leaders were elected in similar fashion to the national elections in which a prominent leader would decide that he wanted change, so he would stage a coup d'état and proceed to rule, whether or not the people wanted him to be in charge. Grubb lamented the personal nature of politics in Latin America in which bribery and nepotism were commonplace. The leader was expected to repay his close supporters for campaigning for him. According to Grubb, what the cacique said he believed as his political principles were really only the interests of his region that would benefit him, and he would use violence and intimidation to keep his position.⁴²⁰

Latin America – Tactics of the Women’s Movement

Normalistas – State-run Schools

The medium most commonly used by Latin American reformers to publicize their ideas during the nineteenth century was the periodical. In Brazil during the 1870s, people enjoyed reading two hundred fifty papers and journals that ranged widely in political association and subject matter. A common theme throughout the papers and periodicals was the question of women’s education. Believing the best way for them to gain more control over their lives at home and in the political sphere, women began campaigning for equal education in Cuba, Mexico, Argentina, Chile, and Uruguay during the nineteenth century. Eventually, normal schools developed, non-religious schools mostly, for women in the Southern Cone regions where many European immigrants filled the classrooms. Normal schools originated mainly out of the emerging middle-class; in nations where no middle-class existed, the public did not usually support the schools. The example of U.S. economic development and industrial growth credited to public education brought about the emergence of the normal schools in Latin America. In addition, public opinion had changed in Latin America and more people embraced the idea that males and females should be educated equally. As new nations emerged out of the revolutionary movement, their political leaders decided that the more educated their populace, the better chances

their new democracies had to flourish. Parallel equal education movements existed in Chile, Uruguay, Brazil, and Mexico, but Argentina & the most successful normal school system in Latin America. Through the efforts of President Sarmiento, the idea of public education spread throughout Latin America. Sarmiento recruited teachers from the United States from 1869-1886 to teach at the new government run schools which he organized following the example of the U.S. system. The schools ranged from kindergarten through secondary school and offered a secular curriculum that emphasized “fiscal fitness, responsible citizenship, vocational instruction, and skills in reading, writing and arithmetic.” Consequently, by 1914, the literacy rate in Argentina rose to be two thirds of the population as compared to being only one third of the population in 1869.⁴²¹

Argentina’s example did not have overwhelming influence on other Latin American nations. While Paraguay benefited greatly from Argentina’s reforms, Brazil’s initial attempt to establish public education foundered due to public indifference. Once the cities of São Paulo and Rio de Janeiro industrialized, educational reforms followed, but public education for women remained private, with the exception of one school. In Mexico, from 1868 through the 1890s, public school development differed significantly compared to the nations in the Southern Cone. Mexican society did not consider co-education respectable, so the government established few schools.⁴²² In Chile from the 1850s through the

1870s, very few women attended the state run secondary schools; the Catholic run schools educated the most women at the secondary level. During the 1860s, girls in secular schools accounted for one third of all students in the government run schools at the primary level. A much higher percentage of girls attended Catholic schools during the 1860s. The first fully state run secondary school for women was not founded until 1891 in Valparaíso. The War of the Pacific between 1879 and 1883 hindered efforts to open more public secondary schools for women. By 1927, fifty secondary schools for women existed and forty-three existed for men.⁴²³

Depending on the person in power, women's educational opportunities varied in the Southern Cone nations. For example, in 1877, Miguel Luis Amunátegui, Minister of Education, decreed that women were allowed to attend the University of Chile. Amunátegui had been influenced through the debates about women's education, and his decree remained the only important measure favoring women's rights adopted in the nineteenth century in Chile. The Amunátegui decree was credited for emancipating Chilean women culturally and economically. What was strange about the decree was that Amunátegui was an anti-clerical liberal who helped women from conservative Catholic schools. The 1877 decree came about because in 1872, women from private schools, which gave their students state recognized degrees, requested for their students to take exams that made it possible for them to be enrolled in public universities.

Conservative Minister of Education Abdón Cifuentes consented, allowing women to take the exams. Because of the Cifuentes decree, appeals were made to the Ministry of Education to let women into the University of Chile so that they could study more subjects other than obstetrics. In July 1873, Cifuentes was forced to resign and his successor retracted the policy of private girls' schools issuing state recognized degrees. In January 1974, some schools were able to grant the state recognized degrees as long as those examining the students had been appointed by the University of Chile. Finally, Amunátegui rose to power in 1877 and issued his decree. Once women had access to university education, Chile developed a significant number of professional women, most of whom were secondary school teachers working in government run schools. The women's presence in the cities and their participation in school activities such as graduation, recitals, plays, art presentations, and poetry recitations, etc., influenced people in the local community favorably towards women's higher education.⁴²⁴

Despite the positive views of women's education, the ability of Latin American women to attain higher levels of education proved difficult. The normal schools of the Southern Cone nations of Argentina, Uruguay, and Chile enjoyed the most success of all the Latin American countries. Argentina, Uruguay, and Chile had mostly homogeneous populations along with prospering and productive economies. Brazil and Cuba had African slavery until 1880, which hindered their educational reform. In Mexico, Guatemala, Ecuador, and

Bolivia, most of the people lived in poverty and were illiterate. Most of the rural population spoke more than fifty different languages. Because the central government established most of the normal schools, a continuing theme in education reform in Latin America was that with the centralization of the government, whoever was in control the government was in control of educational policies. When schools were created, they were established as part of nation building with the hopes that educated individuals would help build modern industrialized states. Where the normal schools were popular, they were well attended. Women had few opportunities to attend universities, so the normal schools offered another level of education beyond the elementary school.⁴²⁵

For those women fortunate enough to secure secondary level education or higher, societal pressure remained stiff. Female university graduates pursued their education during the last quarter of the nineteenth century in an environment where women were not supposed to act independently from men, including walking down the street alone.⁴²⁶ The first women to attend university and receive a degree and professional title occurred in Chile on April 11, 1881. Eloísa Díaz received her bachelor's degree in philosophy and humanities and went on to receive a medical degree in 1886. In 1887, she received a diploma for medical surgery by Chilean president Balmaceda. Technically, she worked for the San Borja Hospital, but she spent a good deal of her life working as a medical professor, then as a hygiene inspector, and later on as a medical inspector for the

elementary schools in Santiago. Her position allowed her significant influence in the Inter-American Scientific Congresses and gave her a platform from which to advocate for not only women's health issues, but also for women's rights. In 1882, Ernestina Pérez Barahona became the second woman in Chile to earn a bachelor's degree. Barahona studied medicine, was the first South American elected to the Academy of Medicine in Berlin, and actively participated in the Inter-American Scientific Conferences. Important to the topic at hand is that Barahona served as the first president of the Chilean *Consejo Nacional de Mujeres* (National Council of Women) in 1919. Three women earned professional degrees in Mexico during the 1880s and two more women earned professional degrees in 1892 in Chile. One of the women from Chile, Matilde Brandau, wrote a thesis titled "The Civil Rights of Women." In Chile, establishing secondary schools for women proved to be the impetus for women gaining access to university education. Factors that helped Chilean women achieve professional status in their careers were a prosperous economy, Spanish, Italian, and German immigrants who wanted better opportunities for their families, and women who filled the vacant jobs left by the men who went off to war during the War of Pacific, which pitted Chile against Peru and Bolivia. During the postwar economic boom, women kept their jobs and their efforts during the war were seen as patriotic and part of the nation building process. Women took advantage of this goodwill and promoted female education in a number of nations.⁴²⁷

International Congresses – Platforms for Reform

During the early twentieth century, international conferences took place on a variety of topics including women's issues and educators from the U.S., Europe, and Latin America attended. Latin American attendees borrowed strategies from the North American and European participants for building their educational systems back home.⁴²⁸ From the records of the Latin American Scientific Congresses in Buenos Aires, Montevideo, and Rio de Janeiro from 1898-1909, topics other than science were debated and discussed. Women reformers who attended the scientific conferences brought with them concerns for their political rights. The women's rights movement in Latin America began at the scientific congresses, where the key leaders in the movement met and planned future international women's rights conferences. Improving education for all sectors of society, from children to adults, were consistent themes at the conferences. Only Chile, Argentina, Uruguay, and Cuba had well-developed education systems for women to earn professional degrees prior to World War II. Peru, Ecuador, Bolivia and Central America did not have a strong, rising middle-class, consequently, female education held little value. Only the Spanish-speaking upper-classes had access to education, in general, in these areas. By the end of the 1920s, Latin American women attended segregated schools that included public, private, secular, and religious education. In Mexico, Brazil, Cuba, and the

Southern Cone nations, higher education was more accessible to women in the urban centers and remained so until after World War II. After World War II, international agencies began refocusing reform efforts on female education in Latin America through organizations like the *Comision Interamericana de Mujeres* founded in 1947.⁴²⁹

At the Latin American Scientific Congresses, a majority of the women attendees came from Argentina, Chile, Brazil, and Uruguay, which correlated with the numbers of educated professional women in these countries. They presented papers on scientific topics, but they also advocated for equal education. The discussion on equal education for women expanded into a discussion of inequality between the sexes legally, politically, and economically in their home countries. Unlike the anti-slavery conferences held in Europe, at the scientific congresses women delegates were allowed to speak and participate. In 1905, at the Third Latin American Scientific Congress held in Rio de Janeiro, the agenda placed emphasis on social issues. The Congress named Dr. Constança Barbosa Rodrigues the honorary president. At the Fourth Latin American Scientific Congress in Santiago, Chile, held December through January 1908-1909, which developed into the First Pan-American Scientific Congress, the number of delegates more than doubled that had attended in 1905, and many of them came from throughout the Northern, Central, and Southern Hemispheres. U.S. delegate W.R. Shepherd remarked how surprised he was that the women delegates

expressed their opinions with frankness, which was unexpected to him since the women's movement in the U.S. had not reached Latin America. "The outspoken presence of Latin American women in the Scientific Congress established a precedent of female participation in inter-American meetings that would prove to be of great importance in the years to come."⁴³⁰

The Second Pan-American Scientific Congress held in Washington, D.C. in 1916 transformed the inter-American dynamic between North American and South American feminist reformers. At the time of the Congress, the United States and Europe were involved in World War I and Mexico was experiencing a revolution. Because of the political instability, the U.S. State Department took over the conference with its own diplomatic agenda and literally relegated all female delegates to the balconies. In response, Latin American women delegates to the Congress, met with the Secretary of State's wife, Elinor Lansing. The meeting included Flora de Oliveira Lima, wife of Brazilian minister to Washington, Amanda Labarca, a Chilean educator and feminist activist, Mme. Charles Dubé, wife of the Haitian minister, and spontaneously formed the "first Pan-American women's auxiliary conference." The delegates met at the Mayflower Hotel and set the agenda to discuss Pan-Americanism. The auxiliary conference passed a resolution forming of the Pan-American Union of Women, the most important resolution of the impromptu conference. The Pan-American Union of Women had its headquarters in Washington D.C. with national

committees in each country and its future meetings would be held in conjunction with future Pan-American Scientific Congresses. The 1916 meeting was significant in that for the first time at an inter-American conference large numbers of American feminist reformers attended.⁴³¹

A major goal of the Pan-American Union in the 1910s through the 1930s, beyond its famous plan to promote international peace, was to create conventions at the congresses designed to put pressure on national governments to accept women's reforms. Feminist reformers in North and South America had come to believe that using international treaties, instead of legislation and the courts, would help them achieve their reform goals. If the signatory governments signed the resolutions that came up for a vote at the conferences, then international pressure would be brought to bear on the national legislatures to change the laws. The Latin American Scientific Congresses, which eventually developed into the Pan-American Scientific Conferences, set the precedent for feminist reformers utilizing international conferences to debate feminist issues such as women's rights, equal education, independent citizenship, the civil codes, and employment opportunities for women.⁴³²

The Argentine National Women's Council, which fell under the auspices of the umbrella organization the International Council of Women, was founded in 1900 by Cecilia Grierson who had attended an International Council of Women conference in London in 1899 and had been made the honorary vice-president.⁴³³

In Argentina, the National Council of Women never did fully develop their feminist reform goals and the International Council of Women, while in encouraging the elevation of women in society through education, did not promote feminist political goals. In response to the lack of direction, in 1905, the Centro Feminista, established by a group of university women led by Elvira Rawson de Dellepiane, broke away from the National Council of Women and established the following goals: first, that the civil codes be reformed by eliminating women's dependence upon men; second, because of the prevalence of female teachers, they should have a part in the decision-making process for educational jobs; third, the promotion of women as judges, particularly in courts hearing cases pertaining to women and children; fourth, establish laws to protect maternity and determine paternity; fifth, the abolition of prostitute houses regulated by local governments; sixth, that women would earn equal pay for equal work; and seventh, women's suffrage and the right to hold office. During the early twentieth century, Latin American feminists directed their efforts on social reforms other than education, such as economic independence, independence within marriage, and women's suffrage. The proposals of the Freethinkers Congress held in 1906 and the First International Feminine Congress held in 1910, were similar to those of the Centro Feminists; all of which were considered suspect by most people in the Southern Cone at this time.⁴³⁴

The location of the first *Congreso Feminino Internacional* was the most cosmopolitan city in Latin America, Buenos Aires. On May 10, 1910, about two hundred women from Argentina, Uruguay, Peru, Paraguay, and Chile convened at the First International Women's Congress. Various groups sponsored the congress including The University Women of Argentina, National Argentina Association Against the White Slave Trade, Socialist Women's Center, Association of Normal Schoolteachers, Women's Union of Labor Group, and National League of Women Freethinkers. The wide-ranging philosophical differences of the attendees spoke to the political diversity in Buenos Aires and the other capitals of Montevideo, São Paulo, Santiago, and Lima. The three basic political affiliations of the attendees were Socialist, Anarchist, and Argentine Radical Party, which followed the more traditional form of opposition. Different layers of society were also represented such as professional women, charitable volunteers, and wage workers. The attendees did recognize the different classes present, but chose to focus on the discrimination of all women. Carolina Muzilli called for the restoration of the civil natural rights of wealthy and poor women alike.⁴³⁵ Feminists discussed women's suffrage very little and no action was taken for another ten years in the Southern Cone nations.⁴³⁶

Argentina and Uruguay had a relatively close economic relationship in the early twentieth century. Even though the feminist movement in Argentina influenced that of Uruguay, Uruguayan feminists viewed themselves as the

feminist leaders of Latin America. Uruguay in the early twentieth century was a relatively prosperous country with a sizable middle-class. Uruguayan José Batlle y Ordóñez, leader of the ruling Colorado political party from 1903-1907 and 1911-1915 believed that raising women's social and political status would engender "national advancement." Paulina Luisi, the first female doctor in Uruguay and the most important feminist leader in Uruguay in the early twentieth century founded and led the Uruguayan Women's Council and the Uruguayan Women's Suffrage Alliance. She visited Europe frequently and kept a high international profile. Luisi was the only Latin American leader in the International Women's Suffrage Alliance. She kept up extensive correspondence with Latin American feminist leaders and complained in letters to other feminist reformers about the Catholic Church's influence against feminist reforms, class politics that made it difficult to form large coalitions of women, and government resistance to feminist ideas.⁴³⁷

Argentine liberal feminists influenced Uruguayan feminists, including Paulina Luisi, by encouraging them to develop a feminist group of university women. In 1907, Luisi and others established a Uruguayan arm of the *Universitarias* under the American Association of University Women. In 1910, Luisi attended the Women's Congress in Buenos Aires, where Latin American reformers expressed frustration at the social and political hindrances that kept them from being able to forge strategic alliances. For example, Latin American

suffragists, in particular, had to combat near constant arguments regarding the possible negative effects of women entering national politics. In addition, Latin American reformers commonly assumed that women fell too much under the influence of the Catholic Church, and they feared that if women got the vote they would vote for Conservative policies instead of Liberal policies. Feminist reformers such as Amanda Labarca from Chile expressed concerns that women's suffrage could shut down the recently initiated women's secular education movement. Women reformers in Chile and other Latin American countries sought women's suffrage, not for its own sake, but as part of a larger nation building movement that would eradicate the legal and political inequality between men and women.⁴³⁸

Another concern expressed at the congress in Buenos Aires was that Latin American feminist leaders wanted their groups to include all classes, but they wanted the middle-class professional women to maintain control. Mary Sheepshanks, secretary of the International Women's Suffrage Alliance for years and a leader of the Women's International League for Peace and Freedom, maintained a correspondence with Paulina Luisi in 1921. According to Sheepshanks, the ideal liberal feminist organization would incorporate aristocratic and professional women with professional women being in charge – then the working class women would become integrated. The model was easier to achieve in the Southern Cone nations because they bore greater similarities to European

and North American societies. Countries like Mexico, for example, had long-standing divisions of race and class and a strong adherence to Catholic Church doctrines, which made liberal feminist organizing a challenge. In addition, Mexico suffered from political upheavals and revolution, which made reforming national politics quite difficult. In addition, class and politics held primacy over women's issues in Mexico. Other Latin American countries in the early twentieth century had political difficulties, but despite the trouble, liberal feminist reformers managed to make inroads mainly through regional, national, and international congresses.⁴³⁹

Suffrage and Citizenship

Political changes in Uruguay, Argentina, and Chile from 1910-1920 encouraged debate regarding women's suffrage. The feminist discussions and debates at the international conferences, the Inter-American conferences and the congresses in Europe encouraged the feminist leaders in South America participating in the campaign for women's rights. Feminist reformers in the Southern Cone often cited American and English feminist reformers such as Ellen Key, John Stuart Mill, Teresa Rankin, and Carrie Chapman Catt. The Southern Cone feminists were encouraged by the ideals of the moderate feminism expressed by these leaders.⁴⁴⁰

At the First International Feminine Congress held May 18-23, 1910, J. María Semamé asserted that in the era when democracy was becoming the main political ideology, women should not be excluded from participating. According to Argentine Raquel Messina, of the Socialist Feminine Center, working women needed to be able to vote in order to influence social reforms that concerned them instead of having to beg men to do so. María Josefa Gonzáles, of the National League of Freethinking Women, argued that suffrage was the only way to stop women's subordination to men. Ana A. de Montalvo used nineteenth-century liberal arguments for women's suffrage claiming that women worked and paid taxes, so the legal system considered them equal before the law, therefore, having the political right to vote was based on principles of justice and equity. Women needed to unify behind women's suffrage, because they were not only qualified, but ready to vote, according to Montalvo. Interestingly, all arguments for women's suffrage in the Southern Cone nations placed responsibility for obtaining it on the women's shoulders. The emergence of democratic political systems in the Southern Cone nations after World War I along with the influence of women's successful suffrage campaigns in North America and England helped propel the women's suffrage movement forward.⁴⁴¹

In the 1910s, the three Southern Cone nations did not share the political stability to agree on women's suffrage. Issues of voting for men and immigrants had not been settled yet. Argentina granted universal male suffrage in 1916.

Chile struggled under a strong oligarchical rule and corruption at the polls until 1920. President Arturo Alessandri enacted a literacy requirement, but even after 1920, suffrage remained limited. Uruguay had a powerful one-party regime, which did not grant universal male suffrage until the years 1916-1920. In addition, following cultural traditions, men dominated politics. People argued that women's involvement in politics was incompatible with their nature and women did not need to vote in order to improve society. Feminists in the 1910s chose not to pursue suffrage initially, but directed their efforts on equal education for women. They hoped that in time societal attitudes would change towards women and suffrage. They had a good footing for women's education; it had resulted in a strong equalizing effect and they hoped that it could bring about "intellectual equality" between men and women. Questions persisted as to whether or not women were educated enough to understand their roles as citizens.⁴⁴²

The Ladies' Club, Club de Señoras, an influential non-Catholic organization in Chile, founded in 1915 in Santiago by Delia Matte de Izquierdo, organized the Ladies Reading Circles following the example of the Reading Clubs organized by feminist reformers in the United States, from whom Amanda Labarca observed when she studied at Columbia University's Teacher College. The first Ladies' Club meeting was held in Chile at the headquarters of the women's magazine *Familia*. Amanda Labarca referred to the reading circle as

“the first women’s institution created with the sole purpose of supporting the task of their emancipation.” Reading clubs became literary and social centers of great magnitude all over Chile, even hosting royalty and important leaders of the Catholic Church.⁴⁴³

At the Ladies’ Club meetings where they discussed women’s suffrage, one lecture in particular that occurred in late 1919 or early 1920, put forward arguments and counter arguments for women’s suffrage in Chile. One of the key arguments for suffrage recognized that professional women had been instrumental in raising women’s position in society. Women, through education, were becoming increasingly independent; they were not just teachers, but artists and novelists, etc. Women built economic independence by working outside the home. They had formed unions and clubs and the same forces in society that enabled more men to vote were at work to enfranchise women. The successful experiments of women’s suffrage in America and other countries showed the advantages of women’s suffrage for Chilean society. In building a democratic nation, all sectors of society needed to be able to voice their opinions for the democracy to thrive. The argument made by suffrage proponents that women voters would not form their own clubs and actively work against the ideas and opinions of male voters, but that they would assimilate into current political parties and influence change in the parties’ current positions countered the anti-suffrage argument that allowing women to vote would create an antagonistic

relationship between men and women. In countries where women already voted at the municipal level, their influence had been positive and women voters in Chile would affect positive social changes and enforcement of neglected social laws. According to suffrage supporters, women voting at the national level could stave off violent, socialist revolutions, because their natural endowment would make them sympathetic to the workers and, therefore, help Chile develop a fairer and more just economic system. Pro-suffrage supporters dismissed as ridiculous the arguments against women's suffrage suggesting that women would neglect their home life. By voting every three to five years, women would still have time to adhere to their primary mission of taking care of their homes and raising their children. Besides, not all women would take to public affairs, but those who would, could benefit the nation with their service in political office. In addressing the argument that politics would denigrate and sully women's character by their participation, suffrage supporters accused their opponents of employing scare tactics to keep women from voting. They countered that if women who had more things to discuss about politics, etc., then they would become more attractive to men. Finally, female voters on a national scale would break down the petty politics and their influence would help form a broad base of interests, which the government had to consider, not just disparate interests focused on obtaining personal goals. Issues would become national in nature instead of centering on special interests.⁴⁴⁴

Despite the fact that resistance to women's suffrage among the general population in the Southern Cone nations declined after World War I, plenty of resistance still remained during the 1920s. Arguments against women's suffrage came in the form of benign acceptance, but with limitations. One common argument declared that women needed to be more educated in order to know how to vote. Women without education were "too impressionable" and if ignorant women joined the ranks of ignorant men who had the vote, it would create a huge problem. Other arguments against women's suffrage included the idea that rural women would not vote like their husbands, because they did not have an urbane understanding like the women of the cities. Another argument was that women had noble roles as mothers and the political realm would corrupt them and cause them to abandon their role in their families. One basic argument against women's suffrage stated that women had their role in society and men had theirs and both needed to follow them. British MPs had made a similar contention. In addition, politics was unclean business that women were too "delicate" to handle without harming their character. Anti-suffragists asserted that it was claimed that a woman's degradation from being tainted by politics would damage her influence in the home and society. Finally, too much conflict would occur between men and women if women participated in politics.⁴⁴⁵

As women began gaining suffrage in other influential countries, anti-clerical leaders claimed they supported women's suffrage, but with the caveats

that most women should be educated in secular schools first. By the 1920s, girls were educated as much as boys in government run schools, but anti-clericals still only supported suffrage at the municipal level. Women's suffrage groups continued to encourage secular education towards the goal of full enfranchisement, but they were afraid if women had the right to vote, they would vote for Conservative politicians and policies that were influenced by the Catholic Church hierarchy. Suffragists believed their feminist reforms could not be achieved with strong influence from the Catholic Church.⁴⁴⁶ Ultimately, in order to secure the vote, Southern Cone suffragists had to create a political climate that would accept women's suffrage.⁴⁴⁷

Prior to 1920, women's suffrage was not a political goal in the Southern Cone, because women had limited citizenship. Political citizenship differed from nationality, because one acquired nationality at birth. In Latin America, the vote secured political citizenship. Similar to the U.S. Constitution, the constitutions of Argentina, Uruguay, and Chile mention the word citizen, but it applied to men only, especially since the article "el" came before the word "citizen." Women argued that the term did not apply to suffrage, but to no avail. Influenced heavily by the popular "compensatory feminism" concept, women's suffrage was not a goal for Latin American women just yet. Compensatory feminism recognized the unique nature of women as mothers and nation builders in their homes and only corrected economic disparities. Southern Cone feminists wanted the legal

protection under the law to fulfill their roles as mothers; they did not seek out a revolution in political or legal stature. In the 1920s and 1930s, Southern Cone feminists became active in national politics, separating from their previous emphasis on social reforms. As the feminist reform movement matured, women came to understand the different political mechanisms, such as voting, that would help them achieve their goals.⁴⁴⁸

Liberal reformers in Latin America believed the civil codes needed modifying and women needed adequate education before enfranchising women. Arturo Allessandri, for example, feared that because men or husbands could make reprisals against women according to how they voted, women needed to obtain more citizenship rights in the home. According to Allessandri, women needed to know how to use the vote well, before they got it. John Stuart Mill and Carrie Chapman Catt held similar views concerning women and the vote. Amanda Labarca founded the National Council for Women as part of the International Council of Women based in London and was part of international feminist organizations in the U.S., Argentina, and Uruguay. Labarca argued in 1914, in her book *Actividades Femeninas en los Estados Unidos* that the word “feminism” was ridiculous and Chilean society and government was not ready to enfranchise women. “Women’s suffrage was the outcome of more advanced economic, social, and educational conditions than those found in Chile.”⁴⁴⁹ According to Labarca, if Chile acquired the same level of civilization as the U.S. or England,

then asking for the vote would become a natural outflow of their society. Women remained too delicate morally to engage in all the corruption and fraud surrounding voting in Chile at the time. Labarca questioned enfranchised Chilean women's ability to wield the positive influence that women in more advanced nations exerted on their societies. Labarca contended that without universal education, there should be no universal suffrage in Chile. According to Labarca, restricting voting to educated women or women with certain income levels in England showed wisdom. Women needed to have civil rights, legal rights, before they had the vote, Labarca believed. The best path for Chile involved gradual enfranchisement for women based on education and income requirements. Women's judgment in voting stood to improve the more civil rights they experienced.⁴⁵⁰

The Pan-American Women's International Committee was influenced by other international women's organizations. Almost all the women holding interest in Pan-American issues were founding members of the National Council of Women in Norway in 1920 advocating for the inclusion of women's issues at the League of Nations, of which Uruguay had sent a female delegate, Dr. Paulina Luisi. Many Pan-American members also held membership in the Women's International League for Peace and Freedom. The idea of successfully obtaining more women's rights on an international level through an international treaty developed in the Western Hemisphere, because using the League of Nations to

establish women's rights was not realistic. The U.S. was not a member of the League of Nations and Latin American member nations held little power compared to European members.⁴⁵¹

The U.S. economic and military presence in Latin America in the 1920s and 1930s after World War I, along with the Mexican and Russian revolutions, created tension between Latin America and North America politically. Tensions also developed between feminist activists, because it did not seem like American women's ability to vote had any positive influence on what was seen as U.S. domination and intervention in Latin American affairs. In addition, the Anthony Amendment lent credence to the air superiority exhibited by U.S. feminists over their Latin American counterparts. Examples of the cause of the tension between the U.S. and Latin American feminist reformers occurred between 1920-1923. At the 1920 Geneva Congress of the International Women's Suffrage Association, which Paulina Luisi attended. Some delegates who came from nations where women now had the vote suggested dissolving the Alliance. Luisi took the suggestion as an example of the lack of international respect for Latin American women. In the end, the Alliance decided to branch out on other issues while still encouraging women's suffrage in nations without it. At the meeting of the International Council of Women in 1921, discussion on married women's nationality was slow to progress, because delegates "from some of the less cosmopolitan countries failed to realize that they were considering a permanent

difficulty and not one arising solely in time of war...” Paulina Luisi from Uruguay was in attendance at this meeting.⁴⁵² Also, after Carrie Chapman Catt’s tour of Latin American countries of Brazil, Argentina, Uruguay, Chile, and Peru, in 1923 it was revealed from her letters that she believed that U.S. feminists’ participation in the Pan-American Congresses was to help “civilize” the feminist leaders of Latin America while encouraging a positive view the United States. The tension between Latin American and U.S. feminist leaders created a gulf between them. The Pan-American feminist movement was mostly led by Latin American women and their goals were particular to their national and continental objectives. North American feminist leaders such as Mary Sheepshanks and Carrie Chapman Catt actually relied on the network and history of Latin American congresses, dating back to the Pan-American Scientific Congresses that Latin American women had developed.⁴⁵³ It was from one of these congresses that American women hoped to secure an international convention granting independent citizenship for women.

In April 1922 in Baltimore, the First Pan-American Conference of Women sponsored by the League of Women Voters from the United States, working in conjunction with the Pan-American Women’s International Committee, established the agenda of the conference as furthering women’s suffrage in the Americas. The largest inter-American meeting to date, two thousand women attended. Latin American leaders from Brazil, Mexico, Costa Rica, Panama,

Haiti, and Cuba attended. Women's suffrage was not a central concern for Latin American feminist reformers. Most Latin American countries did not have universal male suffrage and there was not much history in Latin America campaigning for suffrage. The Latin American women's conferences centered attention largely on social and economic issues. The socialists in Latin America were the main groups to call for universal suffrage. Some Latin American women's leaders believed campaigning for the vote would open up doors for other reforms. Other Latin American reformers believed suffrage would be bad for women, because it would corrupt them or put women voters under the undue influence of the Catholic Church. Because of the positive example of the success of suffrage for North American women, by 1922, Latin American feminist leaders developed plans for promoting women's suffrage at the Baltimore Pan-American Conference of Women. Consequently, a number of women's societies developed in Latin America under the auspices of the Pan-American Association for the Advancement of Women.⁴⁵⁴

The Pan-American Association for the Advancement of Women was instituted by Latin American women and proposed by Celia Palladino de Vitale of Uruguay. Veterans of the Latin American and Pan-American Scientific Congresses such as Flora de Oliveira Lima of Brazil, Amanda Labarca of Chile, and Elena Torres of Mexico, who was the first elected vice president in North America supported the Pan-American Association for the Advancement of

Women. The PAAAW elected Kerry Chapman Catt is the first President of the Association who helped organize the PAAAW as an umbrella organization over national chapters in individual countries. Catt embarked on a tour of South America to help organize the national groups. Catt began her tour in December 1922 at the convention held by the Brazilian Federation for the Advancement of Women (FBPF), which had the same type of broad reaching network of women's groups and goals as the Baltimore conference. Anna de Castro Osorio, from Portugal, and Rosa Manus from Holland also attended. A variety of women from different social sectors attended and a variety of issues were brought up for discussion. The Brazilian Female Suffrage Alliance was established, and within one year, suffrage associations were established in São Paulo, Bahia, and Pernambuco. The purpose of the FBPF, the Brazilian Federation for the Advancement of Women, was to promote women's rights, suffrage, equal education, and legal reform. Divorce and sexual equality were purposely avoided. Most Brazilian women were unaware of the activities of the FBPF, because the organization mainly dealt with problems of middle and upper-class women. The Pan-American Federation for the Advancement of Women influenced other areas of Latin America in terms of women's reforms.⁴⁵⁵ The FBPF in Brazil in the early 1930s after women's suffrage was obtained in 1932, called for equality for women before the law as well as the right of married women to retain their nationality among other social, economic, and political reforms.⁴⁵⁶

From the 1920s through the late 1930s, Southern Cone feminists sought to extend women's roles outside the home to society in general. The suffragists believe that the innate noble nature of women and their involvement in society would help establish justice, eliminate immorality, and create equality in society. Male supporters of female suffrage emphasized women's ability to establish morality in politics and raise the level of society as a whole through their value as mothers defending their homes. Suffrage for women would recognize women's exalted and defining role in building their nations. Suffrage would also help women continue the social reforms at which they were peculiarly adept. Discourse of this type continued in Argentina and in Chile until they achieved national suffrage in the 1940s.⁴⁵⁷

In Latin America, female suffrage was seen as a step to building a more moral society, not gender equality. Women's suffrage in the United States influenced Latin American governments proving that it was not revolutionary, but a process of making democracies stronger. Many times governments granted suffrage in Latin America to women in order to secure their vote and to work against revolutionary challengers.⁴⁵⁸

In the process of obtaining women's suffrage, pre-suffrage "parties" emerged in the 1920s with the goal of integrating women into existing political parties in order to promote women's suffrage. By the 1930s, umbrella organizations had developed that made women an interest group supporting

economic and social reforms. The organizations targeted political nuances unique to each Southern Cone nation. The purpose in developing women's parties was to get women experienced in practicing politics so that one of the main arguments against women's suffrage, that women were too inexperienced to understand how to use their vote wisely, would become a moot point. Similar to the women only parties that developed in the United States and England, the women only parties in the Southern Cone nations enabled women to be free of the rules governing women's participation in the traditional political parties. They had no masculine influence over their behavior or ideas to contend with and the women created a sense of solidarity. The pre-suffrage parties in the Southern Cone nations enabled women to practice political organization and management in preparation for future political campaigns. Once Chile granted partial suffrage in 1933 at the municipal level, and women in Uruguay attained complete suffrage in 1932, some women's parties attempted to mobilize women as a voting bloc even encouraging female candidates to stand for election. Their plan marshaled little support, but the women's parties attracted those who wanted to participate in politics, but not in the politics of the male realm. Ironically, in order to deal with the cultural mores that politics corrupted women, the women only parties referred to themselves as "apolitical" even though they still lobbied for reforms of the civil codes and for female suffrage.⁴⁵⁹

In the early 1930s, men's political parties refused to accept the women only parties. The men's political parties either rejected the all women parties outright or created their own women's auxiliaries inside their own party to try to get women's votes. Only the Socialist political parties, focusing specifically on social reforms, enjoyed some acceptance among their male political counterparts. The women only parties were criticized for openly challenging men in public and creating discord between the sexes. Southern Cone feminists argued in return that feminism was not a political party and, therefore, could not be confined within the existing male dominated political parties. Feminist leaders in Argentina, Chile, and Uruguay believed that they needed political parties separate from men in order to promote their agenda. They feared that if they joined the men's parties their agenda would be engulfed or modified. The term "apolitical" did not signify separation from politics, but a separation from men's political parties and the establishment of unique women's political parties.⁴⁶⁰

Chapter 6

International Treaty for Independent Citizenship

In the article “Citizenship and Allegiance in Constitutional and International Law,” W.W. Willoughby, the first professor of political science in the United States and expert on constitutional law, maintained that citizenship and allegiance are legal statuses, which the state imposes on individuals who have no voluntary consent in the matter. In the international sphere, Willoughby contends, nations are not concerned about the legality of nationality laws; they are concerned with other nation’s ability to honor their international obligations. All persons in the state may be grouped into as many distinct classes as the government wishes – citizen and alien, domiciled and non-domiciled aliens, male and female, adult and minor – they would all have a political and a legal status. Willoughby argues that in his day-- the early twentieth century-- the United States Constitution recently had been interpreted as providing a “narrow and peculiar” meaning to the term citizen. Numerous treaties had been made between countries, because conflicts kept arising between nations of the world where there was not one rule to determine citizenship. The conflicts were made worse because there was no agreement on the policies of expatriation and naturalization, and it was

unclear to what extent one nation would go to protect its citizens living or visiting abroad. In addition, the question was raised at what point was a naturalized citizen no longer bound to his former country's laws. In 1907, Willoughby called for a general international agreement to minimize the conflict between friendly nations in regards to nationality laws.⁴⁶¹

Women's groups in the United States, Britain, and Latin America worked together during the 1920s and 30s to influence policy at the Hague Conference, League of Nations, and the Pan-American Union conferences in hopes of securing equal nationality rights through international conventions and treaties.⁴⁶² Some jurists in the 1920s concluded that an international convention was the only way to resolve significant conflict between countries with competing nationality laws. Women's groups participating in the independent citizenship movement had drawn the same conclusion, not because they were concerned with international law, but because lobbying their national legislatures had not delivered the desired results. While not working for the same aims necessarily, women's reform organizations, diplomats, State Department officials, and legal scholars advocated for a comprehensive, multilateral treaty during the 1920s and 1930s that would deal conclusively with married women's nationality. At the conference of the International Law Association in Buenos Aires in 1922, a resolution was proposed by the French delegation to settle the issue of the nationality of married women by an international treaty that allowed women to decide their own nationality.

In 1923, in London, the International Law Association heard a paper by Dr. E. J. Schuster, K. C., in which he proposed creating a special committee to answer the question of whether avoiding conflicts should be the basis for affecting women's nationality. If the decision was no, he questioned how current legislation regarding married women's citizenship should be changed. Dr. Schuster argued that one nation should adopt independent citizenship, change their laws accordingly, and then make treaties with other nations that did the same thing. He claimed that intellectual thought regarding citizenship went as far back as the French Revolution. Civilized countries were rapidly changing their views on the matter of married women's citizenship, as evidenced by the passage of the Cable Act in the United States in 1922. The traditional objections to independent citizenship for women had no significant evidence to support them, according to Schuster. He favored the Cable Bill granting women independent nationality because "no adult persons shall automatically have to submit to a change of nationality."⁴⁶³ An automatic change of nationality should be brought to the special attention of the person concerned, Schuster stressed, and they should be given an opportunity to decide if they want their husbands' nationality.⁴⁶⁴ In the Ethel Mackenzie case, the U.S. Supreme Court claimed that it considered the international ramifications of the 1907 Expatriation Act when rendering its decision. Interestingly, Mackenzie's arguments, soundly rejected by the U.S.

Supreme Court in 1915, enjoyed common acceptance during the 1920s by those studying nationality law in an international context.

In 1922, the International Law Association met in Buenos Aires and unanimously decided that it would be best to use an international treaty to allow married women the right to choose their own nationality. At the conference of the International Law Association held in London in 1923, the conference adopted a proposal that claimed that no adult should lose their nationality without their consent. At the same conference, the International Woman Suffrage Alliance explained the draft convention written by Chrystal Macmillan that had been presented in Rome in 1923, which called for independent citizenship for married women.⁴⁶⁵ The draft convention was written as follows:

1. A woman's marriage shall not change her nationality, nor shall a change of her husband's nationality during marriage.
2. Her own right to change or retain her nationality shall not be affected by her marriage.
3. Her nationality shall not be changed without her consent except under conditions that would cause a change in a man's nationality without his consent: and it then applies these principles to a.) retention, b.) loss, c.) acquisition and re-acquisition (future and retrospective) of nationality of married women, and d.) protection for the State-less woman, i.e. the woman who loses her former nationality by its law, and does not require her husband's nationality by his law – by being given a passport and protection by her husband's State: and lastly in the case of States where the rights and duties of spouses in personal relations and as regards their property depend on nationality, it provides that they shall depend on either the husband's or the wife's nationality at marriage, as they shall agree.⁴⁶⁶

On March 17, 1924, John Cable introduced a resolution in the House of Representatives asking the President to call for an international conference to adopt a treaty on the nationality of married women, allowing women to choose their own nationality. Some legal scholars on nationality issues argued that granting independent citizenship to women all over the world would be a part of granting equal civil rights. Granting independent citizenship to women all over the world would not be a good idea, because not all the countries in the world had the conditions of the time that would be ready for it. Similar arguments were made by women reform leaders in Latin America regarding universal suffrage. Many reformers and legal scholars recognized that before a political right could be granted, the conditions in the country needed to be able to handle the political and social changes adequately. Many jurists believed that independent citizenship for women had such international ramifications it deserved consideration from an international tribunal.⁴⁶⁷

International law experts such as Richard Flournoy who was a lawyer for the State Department called for international conventions mirrored that of women's groups who found their progress on independent citizenship foundering in their national legislatures. In December 1924, the American Institute of International Law adopted the proposal from the Pan-American convention in Lima, Peru regarding nationality. The proposal included resolutions for an

international code that the American Institute of International Law hoped would be accepted as a multilateral convention regarding nationality. The proposal was taken up at the League of Nations Committee for Codifying International Law in 1925. According to Flournoy, after World War I, Southern and Eastern Europeans came to America for economic reasons and then they went back home to live out their lives after they had made enough money. In the process, many of these Europeans had been naturalized in the United States. In the view of some nations, even though the European immigrants had naturalized in the United States, their choice of domicile could be a cause for expatriation. The concerns regarding U.S. citizenship used for personal gain by people who refused to remain in the U.S. after naturalization in 1925 mirrored those in the Congressional debate of 1790. Certain principles existed as the basis for nationality, Flournoy reasoned, and a multilateral convention should employ these principles in order to decrease conflict between nationality laws.

1. Nationality means that a reciprocal obligation exists between a person and the State.
2. People have the right of expatriation.
3. A person should be of one nationality.
4. It was desirable for all family members to be of one nationality as much as possible.
5. A person should live in the country of their nationality as much as possible.⁴⁶⁸

At the annual meeting of the American Society of International Law, Dr. James Brown Scott, Solicitor for the State Department, women asking for independent citizenship exhibited the competence to speak for themselves. He presented an article from the April 1926 edition of the *Bulletin of the Pan-American Union* on page 397 written by Bertha Lutz, President of the Inter-American Union of Women and the Brazilian Federation for the Advancement of Women. Lutz asserted that in modern democracies, the views of the people chiefly affected by a piece of legislation should be taken into consideration. She said that women had made their case known at the Ninth Meeting of the International Woman Suffrage Alliance held in Rome in May 1923 with forty-three member nations present, which drew up legal principles for a convention on married women's nationality. The convention written by the Alliance was adopted by the International Law Association and presented to the League of Nations Codification Conference Nationality Committee. The principles were these:

1. A woman's nationality shall not be changed solely because of marriage, or a change in the nationality of her husband during marriage.
2. The right of a woman to retain her nationality or to change it by naturalization, denationalization, or denaturalization shall not be denied or abridged because she is married.
3. The nationality of a married woman shall not be changed

without her consent except under conditions which would cause a change in the nationality of a man without his consent.⁴⁶⁹

Lutz followed up the statement of principles with an addendum titled “The Legal Point of View.” According to Miss Lutz, independent citizenship exhibited a legally sound doctrine approved by jurists such as Professor André Weiss of France, a representative on the Permanent Court of International Justice, Sir Ernest Schuster, President of the Committee on Nationality of International Law Association, Alejandro Alvarez and Cruchaga Tocornal of Chile, Luiz Pereira Faro, Clovio Bevilacqua, and Rodrigo Octavio of Brazil, and Zeballos, the great Argentine authority, who revealed the unjust position of women before the law; since the days of Cicero nationality existed as “a self-determined right.”⁴⁷⁰ The law should not compel a change of nationality on women through marriage, Zeballos asserted, and the Law of Nations should be modified to reflect women’s autonomy. If a woman wanted to change her nationality to that of her husband, she should be allowed to do so through naturalization.⁴⁷¹

According to Lutz’s article, Zeballos maintained that married women’s nationality rested ten basic principles:

1. Nationality is a self-determined right.
2. Every person should have a nationality.
3. No person should have more than one nationality.
4. Every person has the right to change his or her nationality.
5. The State has not the right to prevent persons from changing their nationality.

6. The State has not the right to oblige persons to change their nationality against their will.
7. Every person has the right to reacquire the nationality he or she gave up.
8. The State may not impose its nationality on those domiciled in its territory against their will.
9. Nationality, either by birth or acquisition, determines the application to the persons of public and private law.
10. The State is obliged to determine as to public and private law the condition of persons that are without nationality - heimatlos.⁴⁷²

Lutz went on to declare that no unison existed in international law apropos of dependent citizenship and many different laws in countries around the world no longer recognized dependent citizenship. She proclaimed, “the exceptions are fast becoming the rule.” Furthering her point, Lutz pointed out that in the American continent where *jus soli* was preferred in determining a person’s citizenship to *jus sanguinis*, an optimistic movement towards conferring independent citizenship upon women was taking place. In the republics of South America, Lutz maintained that the progress of nations would continue making positive changes for women in the civic codes as well as ensuring “the inviolability of the nationality rights of their women.” She believed strongly that liberality and progress were the main features of the American continent stating, “We hope and feel assured that the day is not distant when the independent citizenship of married women will be a uniform and universally adopted principle in the whole of the Western hemisphere.”⁴⁷³ Emma Wold spoke to the committee and claimed that Lutz’s article detailed exactly the thoughts of all American women who

wanted to be “regarded as citizens, and not his women, either married or single.”⁴⁷⁴

Another member drew attention to Chrystal Macmillan’s article in the *Journal of the Society for Comparative Legislation* in November 1925, where she laid out her ideas regarding the progress of the independent citizenship movement and her goals for the future of the movement according to the Alliance. She also included her ideas for an international convention that was going to be presented at the League of Nations Nationality Committee for Codification of International Law. Macmillan was praised as someone held in high esteem by her colleagues.⁴⁷⁵ In July 1926, Messrs. Rundstein, Schücking, and de Magalhaes submitted a preliminary draft of Macmillan’s convention on nationality to the Committee of Experts of the League of Nations for the Progressive Codification of International Law, which was submitted to the Council and Members of the League and other countries such as the United States.⁴⁷⁶

Since 1893, the Hague Conference on Private International Law had helped broker conventions between countries with different legal traditions that had conflicting domestic laws which produced international conflict. Under private international law, the nationality of a person was important when dealing with family and social relationships at the domestic legal level. The United States and Great Britain used domicile as the basis for their personal law, not nationality. In the midst of World War I, however, nationality seemed to be taking precedence

over domicile. For example, marriage was governed by national law, but when foreigners were involved, it became international.⁴⁷⁷ The Hague Conference provided women's groups an international setting to discuss the various problems with derivative citizenship such as statelessness, dual citizenship, and expatriation.⁴⁷⁸

The First Conference for Codification of International Law met at The Hague March 13-April 12, 1930. In 1924, the League of Nations set up a Committee of Experts for the Progressive Codification of International Law. The purpose given to the Committee of Experts was to make recommendations for the First Conference for Codification of International Law. Nationality, territorial waters, and the responsibility of the States for damage caused in their territory to the person or property of foreigners were recommended for discussion at the Hague Conference.⁴⁷⁹

Next, a Preparatory Committee of five members was appointed that sent out a questionnaire regarding each of the three subjects to interested governments. From the replies, the Preparatory Committee created "Bases," which were the bases for discussion for each subject at the Hague Codification Conference. Hunter Miller, who was the Editor of Treaties at the Department of State and the chairman of the U.S. delegation to the Hague Codification Conference, pointed out that Professor Manley O. Hudson of Harvard University and his colleagues, who frequently contributed articles to The American Journal of Law, had their

articles, which made suggestions for laws and conventions, “in constant use” by the delegates at the Hague Conference.⁴⁸⁰

In December 1929, Secretary of State Stimson urged U.S. participation at the Hague Conference in a memorandum stating that the United States was dealing with troublesome questions of dual nationality and several nations refused to recognize an individual’s right to expatriation by naturalizing in another country. Consequently, if those individuals returned home, they found themselves in trouble with the law, usually being accused of owing military service or taxes. Congress approved U.S. participation on April 7, 1930. Forty-eight countries in total were represented at the conference.⁴⁸¹

The Hague Codification Conference established three committees. The First Committee considered Nationality. The Preparatory Committee set up the rules of procedure ahead of time. All the meetings of the three committees occurred privately. On April 1, the committee on Nationality invited certain ladies to speak. The Hague Conference focused on writing conventions, instead of making declarations. Most delegates believed that the three subjects being discussed could not form a declaration that could be approved that encompassed current international law.⁴⁸²

The First Committee on Nationality had a difficult task from the beginning. So many different systems of nationality existed that had social, historic, economic, and juridical foundations that it was difficult to find common

ground to make an international convention. As deep seated as nationality laws were among the countries, Miller pointed out that the circumstances surrounding married women's nationality were just as important. Despite the difficulties, the only conventions of the Codification Conference came out of the Nationality Committee. The most complicated convention titled "Convention on Certain Questions Relating to the Conflict of Nationality Laws" did not include the policy of the right of expatriation. The U.S. had been insistent on the right of expatriation since the ratification of the Constitution, but in statutory law, since the 1868 Nationality Act. No subsequent legislation had altered or weakened this principle of U.S. naturalization policy. Mr. Miller spoke to the Nationality Committee and reiterated the firmness of the United States on that point. He made it clear, by reading the relevant portions of the 1868 law into the minutes, that the United States would not sign any convention that failed to recognize the right of expatriation. The U.S. did not sign the convention and voted against it on April 10.⁴⁸³

In addition, the delegation from Chile presented a proposal by the National Women's Party calling for "general and complete equality of sex in matters of nationality."⁴⁸⁴ Miller commented that the proposal had no chance of approval and the committee refused to bring it up for a vote. Miller speculated that ninety percent of the delegates would have voted against the proposal and the U.S. had not passed any legislation that would go so far as to approve sex equality in terms

of the nationality of married women. Miller pointed out that the Hague Conference recognized that a movement existed that promoted sexual equality in nationality. The Hague Conference adopted a combined proposal from the United States and Belgium presented by Mrs. Ruth B. Shipley that stated, “The Conference recommends to the study of the Governments the principle that in their law and practice relating to nationality there shall be no distinction based on sex.”⁴⁸⁵

Richard Flournoy acted as a United States delegate on the Committee on Nationality at the first Conference on the Codification of International Law at the League of Nations in 1930. According to Flournoy, attempting to codify international law in regards to nationality was nearly impossible because sovereign nations did not want to give up their power over citizenship. Each had its own unique social, political, economic, and military, etc. needs. International law implied that a general agreement among the States existed, but in reality, trying to get countries with different agendas to agree on a set of guiding principles created a painstakingly slow process. Nationality was a domestic political issue with international implications. The more people had moved and naturalized, increasing conflicts between the States arose. He pointed out that with the development of the airplane, people’s ability to travel would cause even more problems in trying to settle nationality conflicts amongst the States.

Eventually, Flournoy surmised, international agreements would settle conflicts over nationality, either tacitly or through international treaties.⁴⁸⁶

Early on in the conference, the Nationality Committee realized that “codification” meant writing down the laws that had already been agreed upon by the States. There was little agreement on international rules for nationality, so they discarded codification and directed their efforts on creating a treaty that would list a protocol for the States to follow in dealing with nationality conflicts. The protocol was written in Article 18 of the “Convention of Certain Questions Relating to the Conflict of Nationality Laws,” which was the most favored convention at the conference. The United States declined to sign the convention and Flournoy, as a U.S. representative on the Nationality Committee, had multiple objections to the convention. He believed, however, that it was a good starting point for a future conference. He claimed that international meetings such as the Codification Conference would contribute to international law, but most of the conflict regarding nationality laws would be settled by direct negotiations between States.⁴⁸⁷

In the end, the Hague Conference upheld U.S. and British policy by maintaining that a woman’s nationality derived from their husband. Women’s groups opposed the conference decision and determined to obtain an international treaty that granted independent citizenship to all women.⁴⁸⁸ The U.S. Senate voted against ratifying the Hague Conference treaty, because it was incompatible

with the Cable Act. In 1931, the League of Nations established a Women's Consultative Committee on Nationality to review the nationality problems of women married to aliens. In response to the Hague Conference and pressure from women's nationality rights groups, Congress passed the Nationality Act of 1930, a revision of the Cable Act, which repealed the rule in Section 3 that expatriated an American-born woman for marrying a foreign-born man and living abroad.⁴⁸⁹

In early 1931, Chrystal Macmillan convened the International Committee for Action on the Nationality of Married Women, which included six representatives from prominent women's groups including the Council, the Alliance, and the WILPF. The purpose of the committee was to try to slow down the ratification of the Hague Nationality Convention in Britain in order to change the treaty to require equal nationality between women and men. The Committee for Action called for women's nationality to remain the same upon marriage, so that it would not be subject to change depending on her husband's eligibility for naturalization, and both parents would be able to pass their citizenship along to their children.⁴⁹⁰

After the Hague Conference, the British Parliament had two options: adopt the Hague Convention or reject it and grant women independent nationality as the Hague Nationality Committee had suggested. In mid-1933, two bills proposing an amendment to the British Nationality and Status of Aliens Act of 1914 were submitted in Parliament. One amendment proposed bringing British nationality

law into line with the Hague Convention decision. The other would establish nationality rights for married women. Even though women's groups were not united on the issue, they did unite against the government's bill, which would follow the Hague Convention.⁴⁹¹

Chrystal Macmillan established a Pass the Bill Committee to get the nationality rights bill passed and to prevent the Hague Convention from being ratified. The fact that women's nationality rights were also infused with imperial politics made securing independent nationality for women a Commonwealth struggle. The Pass the Bill Committee appealed to women's groups in the Dominion countries, which coordinated with the British women's groups as part of their "Commonwealth Strategy." According to the British women's groups, London's insistence that the Empire have a unified nationality plan prevented the women of the Commonwealth from achieving independent citizenship. British representatives at international conventions such as the League of Nations and the Hague Conference labored under the presumption that nationality depended upon Dominion support. Eventually, London had to abandon the plan, because it was impossible to achieve.⁴⁹²

Despite the Pass the Bill efforts, Parliament passed the bill that conformed to the 1914 British Nationality and the Status of Aliens Act of the Hague Convention. The bill prevented women from becoming stateless upon marrying a foreign-born man and repealed the irksome 1919 law that forced aliens to register

with the police. In what might have seemed a victory, the bill actually took away from nationality rights reformers two of their best arguments against derivative nationality, statelessness, and registering with the police, making their pleas more intellectual in nature rather than practical.⁴⁹³

Macmillan's International Committee for Action on Nationality of Married Women and the Inter-American Commission from the Pan-American Union lobbied the League of Nations to take up the issue of married women's nationality at the next convention. Due to the lobbying efforts of a coalition of women's groups, the League of Nations eventually organized the Women's Consultative Committee on Nationality in 1932. The League of Nations invited nine organizations to seat two representatives each. The first order of business for the Women's Consultative Committee called for rejecting the Hague Nationality Convention. All groups invited agreed that they wanted an end to derivative citizenship, but the nuances of the issue caused division. A significant part of the problem was that the groups representing the American National Women's Party, the Inter-American Commission, and Equal Rights International pushed the committee to demand a treaty guaranteeing independent citizenship for all women. Other members did not want to push the League of Nations too hard because they had shown a willingness to listen.⁴⁹⁴ In addition, some representatives favored the term "equal nationality" while others favored "independent nationality." The Council sided with the "equal nationality" group,

because they opposed the idea that a husband and wife would hold different nationalities. The Alliance supported the “independent nationality” group and signed a report with the International Federation of University Women stating that the terms “equal” and “independent” were synonymous. Consequently, the report was the only one the Women’s Consultative Committee agreed to and presented from all members. Because the women could not speak with one voice and actually sent two reports to the assembly, the League of Nations recommended adopting the Hague Convention treaty in October 1932. The League of Nations did however vote to continue the work of the Consultative Committee.⁴⁹⁵ Ideology as much as personality conflict prevented the committee from being more productive. The equal rights treaty proposed by the National Council of Women of the United States and the Inter-American Committee also caused the schism.⁴⁹⁶

During the 1920s and 1930s, women reformers from the American states continued to attend inter-American meetings hoping that success in the international sphere could lead to success in the legislative sphere at home. In 1923, the Pan-American Union’s Fifth International Conference of American States in Santiago the first direct influence of women’s reform efforts became apparent. The Santiago conference proved to be different from the previous conferences. Previous Conference of American States meetings centered attention on commercial exchange, but the 1923 conference concentrated on

American dominance in the Southern Hemisphere. Women activists wanted their agenda discussed while other delegates wanted to focus on U.S. imperialism in Central America and the Caribbean. An Argentine delegate, Maximo Soto Hall, introduced a motion that member states would study their laws and recommended that the conference consider the possibility of repealing nationality laws that discriminated against women. The measure passed, though it was not binding.⁴⁹⁷

At the 1928, International Conference of American States held in Havana, Cuba, no women delegates attended officially, but many activists were present. The National Women's Party of the United States, encouraged by the progressive thinking of the Pan-American Union, sent delegates to the sixth conference in Havana, Cuba. Women presented an Equal Rights Treaty for consideration by the American governments. The U.S. delegation was invited to participate in an open hearing on the subject of equal rights. The National Women's Party delegates, Doris Stevens, Jane Norman Smith, Muna Lee, and Mrs. Valentine Winter lobbied for an equal rights treaty for women that would be binding if ratified. The feminist reformers reported that they found many of the delegates sympathetic towards the repeal of marital expatriation, except for the U.S. delegation. Because of the conference discussions, the Pan-American Union established the Inter-American Commission of Women with the purpose of gathering information on the status of women, civil and political, in the Americas. American Doris Stevens was asked to lead the Inter-American Commission of Women. The

purpose of the Inter-American Commission of Women was to investigate the legal status of women in the twenty-one member states. The IACW was the first organization sanctioned by governments in the world for the purpose of investigating women's legal rights. Latin American women shared the same sentiment with the American and European counterparts that when dealing with their national legislators, they felt discouraged by the lack of progress in getting reforms passed. When they attended international conferences, their hopes renewed that the international opinion might place pressure on the legislators to act. Just as Latin American women had used the Pan-American Scientific Congresses as a stage for debating women's issues, reformers insisted on discussions of women's rights at the Pan-American conferences. Feminist reformers sought international treaties as a strategy to force their home governments to consider issues being discussed on an international level. The IACW helped support the different national organizations with information on inequalities concerning women's rights.⁴⁹⁸

Between 1928-1938, the Inter-American Commission of Women operated independently of the International Conference of American States, concentrating their efforts on equal rights for women and peace. On February 18, 1928, a resolution passed during the plenary session of the Sixth Pan-American Conference that gave the IACW the task of studying the "civil and political equality in the continent." The IACW took the resolution to "collect material on

the legal status of women from every country in the hemisphere.” At the first IACW meeting held in Havana February 17-24, 1930, the commission drafted a resolution for presentation at The Hague Conference for the Codification of International Law that would establish equality in nationality. The resolution stated “The contracting parties agree that from the going into effect of this Treaty there shall be no distinction based on sex in their law and practice relating to nationality.” The IACW collected a significant amount of information, especially on the legal status of married women was of foremost importance. The IACW drew up a second part of the resolution asking that the signatory governments change their laws to reflect equality in nationality of the sexes and to prohibit the change of nationality should a native-born woman marry a foreign-born man. American members introduced the resolution at the 1931 Council of the League of Nations, which adopted it on January 24, 1931. Interestingly, all of the members of the first IACW commission came from Central and South America, except for one. The nations represented included Brazil, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Guatemala, Haiti, Mexico, Nicaragua, Panama, Peru, Venezuela, and the United States. While the League of Nations did not pass a treaty apropos of women’s nationality, independent citizenship supporters tried again at the Seventh International Conference of American States in Montevideo in 1933, where for the first time, women delegates participated.⁴⁹⁹

1933 proved to be a bellwether year for American women's quest to obtain independent citizenship. In April 1933, President Roosevelt created an Executive Committee on Nationality to investigate the consequences of granting American women independent citizenship. In December, the Pan-American Union held its Seventh International Conference of American States in Montevideo, Uruguay. The Inter-American Commission presented its report commissioned at the sixth annual conference. Most of the nations in attendance voiced their plans to sign a treaty guaranteeing equal nationality rights for women. President Roosevelt ordered the U.S. delegates not to sign the treaty, because he claimed he was waiting until the Executive Committee on Nationality submitted its report. The Roosevelt administration was heavily criticized for stalling on the Pan-American Union treaty, because at the Hague conference, U.S. delegates had lauded women's right to choose their own nationality, even though the delegates did not vote for independent citizenship. On December 20, 1933, President Roosevelt submitted to public pressure and gave permission to the U.S. delegates to sign the treaty. By signing the treaty, the Roosevelt administration encouraged a comprehensive plan to equalize men and women in the U.S. nationality laws. On May 24, 1934, the Senate ratified the Pan-American Union's Equal Nationality Treaty. Also, in 1933, President Roosevelt signed a

National Women's Party sponsored bill that permitted children born on foreign soil to American parents automatic American citizenship and the right to keep it. In addition, alien men were granted the same naturalization process as alien women.

Both measures created the impetus for the League of Nations to begin its own inquiry into the legal status of women. On September 27, 1935, at the sixteenth session of the League of Nations, the First Committee ordered a "preliminary inquiry into the political and civil status of women." Responses from international women's organizations from 1936-1937 were published by the League. On September 1937, the General Assembly approved a resolution to "prepare a comprehensive study on the issues of women political and civil status." A preliminary report was published in 1939 and another prepared in 1942, but it was not published. World War II interrupted the process and the League of Nations was dissolved after World War II.⁵⁰⁰

The Montevideo convention reads as follows:

Convention on the Nationality of Women

The Governments represented in the Seventh International Conference of American States:

Wishing to conclude a convention on the Nationality of Women, have appointed the following Plenipotentiaries:

Who, after having exhibited their Full Powers, which were found in good and due form, have agreed upon the following

Article I

There shall be no distinction based on sex as regards nationality, in their legislation or in their practice.

Article II

The present convention shall be ratified by the High Contracting Parties in conformity with their respective constitutional procedures. The Ministry of Foreign Affairs of the Republic of Uruguay shall transmit authentic certified copies to the governments for the aforementioned purpose of ratification. The instrument of ratification shall be deposited in the archives of the Pan American Union in Washington, which shall notify the signatory governments of said deposit. Such notification shall be considered as an exchange of ratifications.

Article III

The present convention will enter into force between the High Contracting Parties in the order in which they deposit their respective ratifications.

Article IV

The present convention shall remain in force indefinitely but may be denounced by means of one year's notice given to the Pan American Union, which shall transmit it to the other signatory governments. After the expiration of this period the convention shall cease in its effects as regards the party which denounces but shall remain in effect for the remaining High Contracting Parties.

Article V

The present convention shall be open for the adherence and accession of the States which are not signatories. The corresponding instruments shall be deposited in the archives of the Pan American Union which shall communicate them to the other High Contracting Parties.

In witness whereof, the following Plenipotentiaries have signed this convention in Spanish, English, Portuguese and French and hereunto affix their respective seals in the city of Montevideo, Republic of Uruguay, the 26th of December, 1933.

United States of America: The delegation of the United States of America, in signing the Convention of the Nationality of Women makes the reservation that the agreement on the part of the United States is, of course and of necessity, subject to congressional action.

Alexander W. Weddell
J. Butler Wright

Even though all women in the United States had finally received independent citizenship, a few caveats remained. The U.S. government retained the right to expatriate when necessary. In keeping with prior policy, not all immigrants were allowed to naturalize. Concerns remained about the cultural and economic effects of immigration and some people groups' ability and willingness to assimilate into American culture. Immigration and naturalization laws remained stringent, just not as much for married women.⁵⁰¹

In 1936, an amendment passed Congress stating that all women who had remained in the U.S. and married a foreign-born man prior to the Cable Act of 1922 were granted, upon repatriation, the same citizenship status as women in the post-Cable era.⁵⁰² All expatriated women had to go through a formal process of repatriation. They had to provide three proofs of citizenship prior to their expatriation and take an oath of allegiance. It was critical that as of 1936, gender no longer served as a class of discrimination for immigrants-- although race and national origin remained.⁵⁰³

Repatriation Oaths

In the Act of Congress June 25, 1936, the procedures for women expatriated only by marriage prior to 1922, to be repatriated were established. The oaths were administered by a district naturalization court judges in certain months of the year. The forms used for the process were changed by the U.S. Department of Labor through 1940, and in 1941, the Justice department took over. The original forms quoted from 1936 law directly stating,

“This form is for use under the Act of June 25, 1936 (Public – No. 793 – 74th Congress) by a woman residing within or under the jurisdiction of the United States, who was a native-born citizen of the United States and who has, or is believed to have, lost United States citizenship solely by reason of marriage prior to September 22, 1922, to an alien, an whose marital status with such alien has been terminated.”

The form goes on to say that women who are overseas need to go to the U.S. embassy in the country where they are living. It also states that they could take the oath of allegiance in any naturalization court with the petition and provides instructions for where the copies of the repatriation oath go.

The form indicates the location of the district court receiving the repatriation petition and the presiding judge. The form next asks for the woman's full name, where she was born, the date of her birth and then the date of her marriage. Next, the husband's name is typed in and the form indicates that he was “an alien, a citizen or subject of” his country of origin. In conformity to the law, the form states, “I lost, or believe I lost, United States citizenship solely by

reason of such marriage. My marital status with such alien terminated on...(the date) by...(either death or divorce and the state where it occurred).” Next, the woman had to supply three proofs of her native-born U.S. citizenship, which often included birth certificates, baptismal records, family Bible records, affidavits of two individuals who witnessed the woman’s birth, marriage certificates, divorce certificates and death certificates.

Once the proof was approved by the judge, the woman signed the following statement: “I hereby apply to take the oath of allegiance as prescribed in section 4 of the Act of June 29, 1906 (34 Stat. 596; U.S.C. t.8, sec.106), to become repatriated and obtain the rights of a citizen of the United States.” Next two witnesses signed underneath the woman’s signature, which were the clerk of the court and the deputy clerk, and it was dated. Initially, the woman had to come back to take the oath of allegiance so the date for providing proof of her native-born citizenship and when she took the oath of allegiance were different. Women sometimes had to wait until the next time the judge was administering the oath.

Next, the judge approved the petition, dating it, and upon the woman taking the oath of allegiance to the United States, she would be repatriated. Following the judges signature, the Oath of Allegiance is written out for the woman to read and then sign. The oath read as follows:

I hereby declare an oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly to ... (the name of her husband's country of origin) of whom (which) I have or may heretofore been a subject (or citizen); that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will take this obligation freely without any mental reservation or purpose of evasion; SO HELP ME GOD. In acknowledgement whereof I have hereunto affixed my signature.

Next the repatriated woman and the two clerks signed their names and dated the petition. The seal of the court was placed near the section showing proof of the woman's native-born status and the oath of allegiance. The form looked similar to the following:

In the _____ Court at _____

Before _____, J., presiding.

I, _____, was born at _____ (City or town, and State)

on _____ (Month, day and year), and was married on _____ (Month, day and year) to

_____ then an alien, a citizen or subject of _____.

I lost, or believe I lost, United States citizenship solely by reason of such marriage. My marital status with such alien terminated on _____ by _____ (State and by what means marital status with alien terminated) _____.

The following available documents which support the foregoing facts are herewith exhibited by me: _____

I hereby apply to take the oath of allegiance as prescribed in section 4 of the Act of June 29, 1906 (34 Stat. 596; U.S.C. t.8, sec.106), to become repatriated and obtain the rights of a citizen of the United States.

(Signature of applicant)

Subscribed and sworn to me this _____ day of _____, 19_____.

(SEAL)

_____(Clerk) _____(Deputy)

Upon consideration of the foregoing, it is hereby ORDERED and DECREED that the above application be granted; that the applicant names therein be repatriated as a citizen of the United States, upon taking the oath of allegiance to the United States; and that the clerk of this court enter these proceedings of record.

Dated _____ J. _____(U.S. District Judge)

OATH OF ALLEGIANCE

I hereby declare an oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly to _____ of whom (which) I have or may heretofore been a subject (or citizen); that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will take this obligation freely without any mental reservation or purpose of evasion; SO HELP ME GOD. In acknowledgement whereof I have hereunto affixed my signature.

_____(Signature of applicant)

The foregoing oath was administered to the applicant in open court this ____ day of____, 19____.

(SEAL) _____(Clerk)

_____(Deputy)⁵⁰⁴

The Nationality Act of 1940 was another attempt by the U.S. Congress to clarify nationality at birth, nationality through naturalization, and loss of nationality. The act reaffirmed it's in insistence on the principle of *jus soli* but expanded the meaning of *jus sanguinis*. A child was declared a citizen if born outside the United States to parents who were both citizens, but at least one had lived in the United States at all. In addition, the act reasserts that a person's sex or marital status cannot be used as criteria for eligibility for naturalization. In

addition to allowing “white persons,” and those of African descent, the act included people who were “descendants of races indigenous to the Western Hemisphere.”⁵⁰⁵ The Nationality Act of 1940 did not automatically make enemy aliens ineligible for citizenship, but it did enumerate the strict conditions upon which an enemy alien could naturalize. Because the U.S. continued to have difficulty defining what caused expatriation, the 1940 Act worked to clarify even further specific reasons a person would be expatriated as a U.S. citizen. Living in a foreign country was a presumed assumption of loss of citizenship for naturalized U.S. citizens as described by the Expatriation Act of 1907. Under the Nationality Act of 1940, a naturalized citizen who lived three years abroad in the person’s native country or five years in any other country was proclaimed to have definitely expatriated himself if he was not working in an official capacity for the United States as described in Section 406.⁵⁰⁶ In addition, the Nationality Act of 1934 granted the same naturalization requirements to alien men as had been granted to alien women if they married American-born women after the passage of the act. The Act of 1940 extended the same naturalization requirements to alien men who married American women between the passage of the Cable Act in 1922 and the 1934 Nationality Act.⁵⁰⁷ Finally, women were allowed to repatriate even if they remained married. The 1936 statute had only allowed women to repatriate if their marriage had terminated.⁵⁰⁸ Looking through the Repatriation Oaths for Texas, 1940 by far marked an influx in the number of women in Texas

who filed for repatriation. The first date of where the form indicated that the marriage was not terminated appeared on a petition dated November 12, 1940; the last date it was seen on a repatriation form was June 1, 1939.

The Nationality Act of 1940 passed on October 14. No changes to forms for the Repatriation Oaths in Texas appear until October 1941. The forms for the oaths taken in April 1941 matched those of 1936-1940. Interestingly, the 1941 forms began including a physical description of the women applying for repatriation. Men's naturalization records also reveal the interest in the person's physical characteristics. The description included the following: sex, color, complexion, color of eyes, color of hair, height, weight, and distinctive physical marks. A possible reason for this was that the issue of who was considered a "white person" was still a point of contention and the 1940 act did nothing to clarify the term.⁵⁰⁹ The Supreme Court had decided in the case of *United States v. Bhagat Singh Thind* in 1923 that "white persons" were "words of common speech, to be interpreted in accordance with the understanding of the common man, synonymous with the word 'Caucasian' only as that word is popularly understood."⁵¹⁰ No more clarification had been added to statutory law. The physical description aspect of the oaths could also have been a part of recognizing the new standards of the law, which allowed for indigenous descendants of those living in the Western Hemisphere to be eligible for citizenship. The *Harvard Law Review* commented sarcastically on the adjustment in context of the "white

persons” controversy, “It remains to be seen whether the limitation will be interpreted in the light of the common man's conception of the territorial extent of this hemisphere or whether the cartographer's determinations will govern.”

Agreeing to naturalize alien men and women born in Central and South America was part of a convention the U.S. signed with the Pan-American Union in the hopes of affirming the strength of Pan-Americanism.⁵¹¹ Interestingly, on some of the forms, a disagreement as to the petitioning woman’s complexion warranted clarifications such as “Med-dk” indicating a medium-dark complexion and others where the first appraisal was crossed off and replaced such as the one where the word “fair” was crossed out and replaced with “med” for medium complexion.

The forms designed to conform to the 1940 Nationality Act reinforced the requirement of the 1936 law that women who lost their citizenship solely due to marriage after 1907 had to have remained continuously living in the United States since the date of their marriage. On the new forms, the change was included, but when using the older forms, sometimes the clerks typed in the wording that the women had remained continuously in the United States since the date of their marriage.

The requirement of three proofs of being native-born in America were no longer listed on the oaths, because the women were required by Sec. 317 (a)(4) to see a naturalization examiner in which they proved that they were native-born citizens, and attach the examiner’s report to their petition for repatriation. Proof

from visiting naturalization examiners was documented on some of the petitions with clauses such as:

- A. Sworn statement made on the 25th instant before the Naturalization Examiner Allan C. Skinner by Mrs. W.C.H. Witte, as to my marriage.
- B. As to examination of family bible record and marriage certificate.
- C. Written report of the Immigrant Inspector Q. W. Bynum to the effect that the records of the District Court, Victoria County, Texas show a decree of divorce was entered as above alleged.
- D. NOTE: evidence of the above facts [birth, marriage and death of husband] have been satisfactorily established by the Immigration Service, and may be found on file of the Inspector in Charge, Immigration and Naturalization Service, Laredo, Texas, No. 995/147.

The wording of the oath of allegiance was changed with the phrase indicating which country the woman was renouncing her allegiance deleted. Reference to the woman renouncing her allegiance to a foreign country started disappearing from the oaths after July 11, 1939.

The personal information portion of the “Application to take the Oath of Renunciation and Allegiance and Form of Such Oath” Filed under Section 317(b) of the Nationality Act of 1940, 54 Stat. 1146-1147 is as follows:

This application to take the oath of renunciation and allegiance, hereby made and filed, respectfully shows:

- (1) My full, true, and correct name is (Full, true name, without abbreviation, and any other name which has been used, must appear here)
- (2) My present place of residence is _____

- (3) My occupation is _____
- (4) I am ___years old.
- (5) I was born on _____ in (City or town) (County, district, province or state) (Country)
- (6) My personal description is as follows: Sex ___; color___; complexion___; color of eyes_____; color of hair_____; height ___ft ___in; weight _____pounds: visible distinctive marks _____
- (7) I am ___ married; the name of my husband is _____; we were married on _____ at _____; he was born at (City or town) (County, district, province or state) (Country) on _____ and now resides at (City or town) (County, district, province or state) (Country).⁵¹²

The Immigration and Nationality Act of 1952 attempted to codify immigration and naturalization law into one bill. Two significant changes in the bill regarded the races of people who would be considered eligible for naturalization. Section 301 stated, “The right of a person to become a naturalized citizen of the United States shall not be denied or abridged because of race or sex or because such person is married.”⁵¹³ Section 201(a) established the quotas for immigrants particularly from the Asian Pacific. The quota for the Chinese was firmly set at one hundred people per year, but for the other Asian countries, the quota was set at one-sixth of one percent in the inhabitants of the United States in 1920.⁵¹⁴

The Act of Congress June 27, 1952 continued the political requirements of previous acts, but set new restrictions on people who could not naturalize in the United States, which centered on Communist affiliations as stated in the following:

(a) Notwithstanding the provisions of section 405(b) of this Act, no person shall hereafter be naturalized as a citizen of the United States—

(1) who advocates or teaches, or who is a member of or affiliated with any organization that advocates or teaches, opposition to all organized government; or

(2) who is a member of or affiliated with

(A) the Communist Party of the United States;

(B) any other totalitarian party of the United States;

(C) the Communist Political Association;

(D) the Communist or other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state;

(E) any section, subsidiary, branch, affiliate, or subdivision of any such association or party; or

(F) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt, unless such alien establishes that he did not have knowledge or reason to believe at the time he became a member of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist-front organization; or

(3) who, although not within any of the other provisions of this section, advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who is a member of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under authority of such organization or paid for by the funds of such organization;”⁵¹⁵

If someone was found to have knowingly joined and maintained membership in a Communist organization within ten years before filing a petition for naturalization, they would be disqualified. Congress allowed people to claim that they were under sixteen when they joined Communist organizations or they were coerced into joining and maintaining membership. Naturalization restrictions

against Communist sympathizers have their origins in the Internal Security Act of 1950.⁵¹⁶

In addition, the Immigration and Nationality Act of 1952 added the following requirements to the oath of allegiance: “to bear arms on behalf of the United States when required by the law, or to perform noncombatant service in the Armed Forces of the United States when required by the law, or to perform work of national importance under civilian direction when required by the law.”⁵¹⁷

The change to the oath of allegiance is evident on the Repatriation Oaths as early as November 1952. As early as April 10, 1953, the Repatriation Oaths in Texas added to the application the following statements:

I have not acquired any other nationality by an affirmative act other than by marriage.

I am not and have not been for a period of at least 10 years immediately preceding the date of this application a member of or affiliated with any organization proscribed by the Immigration and Nationality Act or any section, subsidiary, branch affiliate, or subdivision thereof, nor have I during such period engaged in or performed any of the acts prohibited by that Act.⁵¹⁸

The Immigration and Nationality Act of 1965 replaced immigrant quotas with “annual ceilings,” which limited immigrants from the Western Hemisphere to 120,000 per year and the Eastern Hemisphere to 170,000 per year. Family preferences were established in immigration law, so family members who were

naturalized U.S. citizens sponsored their relatives, which developed a chain of immigrants consistently moving to the United States. The Immigration and Nationality Act of 1980 concentrated on refugee immigration. The Repatriation Oath forms remained basically the same, through to the last known petition granted on August 24, 1981. Bernardina Tobias married Fortunato Tobias from Monterrey, Mexico, on June 10, 1922. They remained married until his death on February 9, 1976. Bernardina Tobias petitioned the court and made her oath of allegiance the same day in Houston, Texas.

Chapter 7

Conclusion

The repatriation oaths sitting in the National Archives branches all over the United States, including those examined in this study, are symbols of what many people believe to be one the best gifts they have been granted – citizenship in the United States of America. During the first half of the twentieth century, the United States and Great Britain, fearing the dramatic changes occurring in the Atlantic world due to increased migration and threats from war, denied many of their female citizens their natural-born right of citizenship. What was the reason for stripping these women of such a precious possession that previously had been guaranteed by law? They married non-citizens.

The scholarly literature that mentions women’s citizenship rights generally has concentrated on women’s efforts to obtain political access—specifically voting rights. That literature also describes the transatlantic connections among political reformers interested in women’s legal status, especially the links between British and United States women’s political activists. The review of such studies that has been included in this research, underlines the presence of the legal and political issue of independent nationality within larger-scale (specifically international) reform efforts concerning women. This research has examined how

questions about citizenship rights for women played out in one region of the United States, the Southwest—as well as in diverse locations such as the Southern Cone of South America.

In their efforts to gain the vote and reform nationality laws, women's suffrage movements in the U. S. and Britain formed transatlantic relationships in order to place international pressure on their governments to grant independent citizenship (the British used the term 'nationality') to native-born married women. American suffragists convinced Congress to confer independent citizenship to American women in 1934 with the ratifying of the Pan-American Union convention. British women had to wait until 1948 to gain independent nationality. Both suffrage movements pushed for women's right to vote as well as independent citizenship, but the two movements differed in their approach. The U. S. women's suffrage movement held independent citizenship as an auxiliary goal to obtaining the vote, whereas the British women's suffrage movement embraced independent nationality and the right to vote in a symbiotic relationship.

No other scholar has used the repatriation oaths at the Fort Worth branch of the National Archives for research. Repatriation oaths in other jurisdictions have been the object of only limited study. Previous studies of the effects of the Expatriation Act contain little reference to the repatriation oaths. In other words, the main documentary material in which this study has been grounded is

untouched by scholars, and the topic of repatriation as a whole is relatively unexplored, particularly in relation to repatriation oaths. This study has considered repatriation in relation to U.S. fears about European ideologies and cultures. It also incorporates newer legal histories such as Bredbenner's work on women's citizenship, into the existing literature about immigration between Europe and the U.S. in the twentieth century. Finally, through a transnational approach the study has included research on international efforts concerning independent citizenship, especially as those efforts were fuelled by considerations of women's political and social roles in Latin America.

This study of the pursuit of independent nationality by women demonstrates that individuals in many nations -- for a variety of reasons -- can mobilize and directly change national and international policy, when a fundamental freedom is taken away.

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