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SENATE

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No. 1121

## MRS. MARGHERITA CAROLI

JANUARY 28 (legislative day, JANUARY 10), 1952.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

### R E P O R T

[To accompany H. R. 4877]

The Committee on the Judiciary, to which was referred the bill (H. R. 4877) for the relief of Mrs. Margherita Caroli, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE OF THE BILL

The purpose of the bill is to provide for the admission into the United States of a former citizen of the United States who was expatriated through the naturalization of her father in Italy while she was a minor.

#### STATEMENT OF FACTS

The beneficiary of the bill was born in Missouri on October 24, 1905, and when she was 15 years of age she returned to Italy with her father. Her father was naturalized as an American citizen in 1904. Following his return to Italy he reacquired Italian citizenship under Italian law. Under the provisions of the Nationality Act of 1940, the beneficiary of the bill lost United States citizenship and under the present bill she will be able to return to the United States as an immigrant.

A letter dated August 10, 1951, to the chairman of the Committee on the Judiciary of the House of Representatives from the Assistant Secretary of State with reference to the case reads as follows:

DEPARTMENT OF STATE,  
Washington, August 10, 1951.

Hon. EMANUEL CELLER,  
Chairman, Committee on the Judiciary,  
House of Representatives.

MY DEAR MR. CELLER: Further reference is made to your letter of August 1, 1951, transmitting a copy of H. R. 4877, for the relief of Mrs. Margherita Caroli.

It appears from the passport file of Margherita Bertotti Caroli that she was born at Ardmore-Macon, Mo., on October 24, 1905, and resided in the United States from birth to 1920, when she accompanied her parents to Italy, where she has since resided. Her father, John Bertotti, was born in Italy and was naturalized as an American citizen on October 7, 1904. He resided in Italy from 1920 until his death in 1930.

Mrs. Caroli applied for a passport at Turin, Italy, on January 9, 1931, and stated in her application that she intended to return to the United States to reside permanently within 3 months. In an instruction of March 17, 1931, the Department authorized the American consul at Turin to issue a passport to Mrs. Caroli valid for 2 years. Mrs. Caroli applied at Venice, Italy, on April 28, 1933, for the renewal of her passport and, under date of July 12, 1933, the consul at Venice was authorized to renew her passport for a further period of 2 years. Mrs. Caroli again applied for a passport at the American consulate at Turin on September 6, 1940, and the Department authorized the issuance to her of a passport valid for travel to the United States.

On June 17, 1946, Mrs. Caroli executed a passport application at the American consulate at Turin and again indicated, as she had indicated in her previous applications in 1931 and 1940, that she intended to return to this country as soon as possible. This application was disapproved by the Department on the ground that Mrs. Caroli had lost her American citizenship under the provisions of section 401 (a) of the Nationality Act of 1940. In explanation of this holding, it is pointed out that Mrs. Caroli's father reacquired Italian nationality under article IX (3) of the Italian nationality law of June 13, 1912, upon completing 2 years of residence in Italy in 1922. Under article XII of the Italian law mentioned, Mrs. Caroli became an Italian national through her father's acquisition of Italian nationality.

Mrs. Caroli attained her majority on October 24, 1926. She, therefore, had a period of more than 15 years between the date on which she attained majority and the date on which the United States entered World War II within which to return to this country. She held a valid passport from April 13, 1931, to April 12, 1935, with which she might have traveled to the United States, and, in October 1940, the Department authorized the issue of a new passport to her for that express purpose. In the Department's opinion Mrs. Caroli has had ample opportunity to take up residence in this country and thus preserve her American citizenship and is not entitled to the relief which is provided for in H. R. 4877. The Department perceives no reason why Mrs. Caroli should be accorded the privilege of regaining her citizenship expeditiously by a process of naturalization while abroad, whereas many other persons having cases of superior merit can regain citizenship only by returning to the United States as aliens and complying with all the requirements of the naturalization laws.

Sincerely yours,

JACK K. MCFALL,  
Assistant Secretary  
(For the Secretary of State).

Congressman William K. Van Pelt, the author of the bill, has submitted to a subcommittee of the Committee on the Judiciary of the House of Representatives the following information in support of the bill:

BERTOTTI'S BAKERY,  
Campbellspoint, Wis., September 20, 1951.

Hon. WILLIAM K. VAN PELT,  
Congress of the United States,  
House of Representatives, Washington, D. C.

DEAR MR. VAN PELT: With reference to your letter dated September 17, regarding the State Department's report to bill H. R. 4877, for the relief of Mrs. Margherita Caroli, I wish to emphasize the following points:

Passport issued in 1931 could not be used because of serious illness of my sister, who at that time was confined to bed for quite a long period. Not only illness

interfered with my sister's departure at that time, but strenuous opposition from her husband was an important factor for her failure to leave. It is only natural for a mother to want her children with her and my sister tried all what was in her power to have her son follow her to this country. My nephew was born September 30, 1930, and was a very small baby at that time. At times it seemed that her husband would be willing to allow the child to follow his mother, but then at the opportune moment would refuse. Finally my sister separated from her husband and the child was placed and still is under her custody. My sister's last passport expired in 1935. From 1931 to 1935 she was definitely and sincerely trying to arrange for her departure, but her plans never materialized due to the above reasons.

In 1940 again she was granted an American passport with the condition that she leave promptly for the United States. Again my sister was forced to delay her return when she started the necessary procedure to have her son follow her. While this case was in course, World War II started and her return to this country was rendered impossible. Rather than leave her 10-year-old son in such a situation alone, my sister refused to leave without him.

After the war was over my sister applied for an American passport on June 17, 1946; but after months she was told that she had lost her American citizenship because of the Nationality Act of 1940, which provided that all American citizens were to return to the United States before 1943 or forfeit American citizenship. At that time (June 1946) when my sister applied for her passport, she never was told that the provision of the Nationality Act of 1940 had been extended to October 14, 1946. Could the State Department refuse to give my sister her passport as long as her application was definitely made during the prescribed period of time? Why was it necessary to send her application to Washington and create such a situation?

Therefore I believe that the decision of the State Department in disapproving my sister's application on the ground that she had lost her American citizenship under the provision of section 401 (a) of the Nationality Act of 1940, is unfair.

If my sister had lost her citizenship because of our father reacquiring Italian nationality, then why was she granted her other passport? The fact that she was granted a passport in 1931 and 1933 and 1940 proved that her citizenship, if ever lost, had been restored.

It is true that my sister had ample opportunity to take up residence in this country, but the circumstances, when analyzed, will show that her action was justified. Her persistent desire to return to this country is well apparent in the fact that she has never relented in her efforts and has used every means at her command to obtain an American passport and to return to the land of her birth.

In summary, the explanation of her failure to return to this country in 1931 and 1935 and 1940 can be found only in the above-mentioned facts; her desire of having her son following her and the strenuous opposition of her husband.

I hope that this will give you an idea of the situation; I was in Italy at the time and know the facts very well. If you need additional information please contact me at once.

Thanks again for your assistance, and let's hope for good results.  
Sincerely yours,

DOMINIC L. BERTOTTI.

#### STATEMENT OF FACTS

My father, Giovanni Bertotti, was born in Valperga, Province of Turin, Italy, in the late 1870's and emigrated to America at about the turn of the century. He married Rosalie Cresto, who bore him four daughters and one son. He was naturalized as an American citizen soon after his arrival in this country. For several years he resided at Ardmore, Mo., where my sister, Margaret, was born on the 24th day of October 1905, the first child of the family. I was born 2 years later at the same place.

In 1909 my father took the entire family, then consisting of his wife and three children, to Italy, and a few months later returned to America with his family. We all traveled on an American passport.

On his return to this country my father became general agent for the Falstaff Brewing Co., of St. Louis, Mo., and was assigned to the Virden district, and we moved to Virden, Ill.

In 1912 my father and mother took me and my four sisters to Italy again for a brief sojourn, after which we all returned to the United States.

In 1920, following an illness and on the advice of his physician, my father found it necessary to take an extensive rest and so together with the entire family

he returned to Italy, with the intention of returning to his business in Illinois as soon as he felt better. My father's health showed very little improvement during his stay in Italy and, on the advice of his physician there, and also in America, he postponed his return to America. He died in April 1930 of heart trouble.

My sister, Margaret, who had attended the public schools in America, continued her studies in Italy, taking several courses in English, until she was past 20. In 1930 she married Gastone Caroli, and from said marriage there was born one son, Giovanni, now 20 years old.

Following the death of my father, and on the advice of the then American vice consul in Turin, during the year 1931 my four sisters and I registered at the United States consulate as American-born United States citizens.

My sister Margaret then applied for and obtained an American passport, intending to return to the United States. Because of illness and also because of the opposition of her husband to have her bring the son to the United States, she was unable to leave at that time.

In 1937 I made application for an American passport, intending to return to the United States, but my application was denied on the ground that I had lost my American citizenship. As it was my fervent desire to return to the United States, and being unable to obtain an American passport, I applied for and obtained an Italian passport and a visa from the United States consulate in Turin, and came to the United States as a tourist. Shortly after my arrival in the United States, on the basis of the decision of the Supreme Court in the case of *Perkins v. Elg*, I applied for and obtained the reinstatement of my United States citizenship.

At about that time I entered the services of the Stella Cheese Co., at Campbellsport, Wis., as warehouse superintendent, and I have resided in this community ever since. I am married to Katherine Bauer, an American-born citizen, and have three children. For some years I operated a very substantial bakery shop in Campbellsport. At present I am in charge of the management of the estates of my mother-in-law, my wife, and my own. I have never returned to Italy.

In 1940 Margaret applied for an American passport, which was granted her with the condition that she leave promptly for the United States. While she was attending to the necessary procedure to have her son accompany her, World War II started and her return to America was rendered impossible. During the entire period of the war, and now, she and her son live with my mother in Valperga. During the allied occupation of Italy, Margaret served as interpreter with the American Service Club of the American Army in Turin.

At the end of the war my sister Margaret applied at the American consulate in Turin for an American passport, and was told that her application had to be transferred to Washington for action. After many months following the filing of said application, during which period she repeatedly called at said consulate she was informed that she had lost her American citizenship because of the nationality law of 1940, which provided that all American citizens born in America or naturalized were to return to the United States before 1943 or forfeit American citizenship.

My sister had lived in Italy during the entire period of the hostilities because during all that time there was no way of finding transportation to the United States, and this did not become possible until 1946. During the years 1945 and 1946 my sister called many times at this American consulate in Turin but she was never advised that the provisions of the nationality law of 1940 concerning the return to the United States of American citizens residing abroad had been extended to October 14, 1946.

During the last 5 years my sister has frequently called at the United States consulate in Turin and made requests for an American passport to return to her native land. During the last 5 years, through Attorney Allen Rubin of Chicago, and through the Congressman for my district, I have repeatedly taken this matter up with the Department of State, but with negative results. I have never been advised and I had never known that said nationality law was amended and that the time limit was extended as above indicated. I mention these facts in order to show that since 1940 my sister has not in any way relented her efforts in trying to come to the United States, and to secure the reinstatement of her American citizenship.

Margaret has never made application for Italian citizenship, and had never of her own direct or voluntary action done anything to acquire Italian citizenship. My father had not, up to the time my sister Margaret was over 21 years of age, and in full possession of her American citizenship, occupied any public office or applied for reinstatement of his Italian citizenship. The records show that only

in the month of September 1927, when my sister was 22 years of age, and in order to be able to travel in Italy, did he apply for an Italian certificate of residency.

In the same way that my status as an American citizen through birth was reinstated in accordance with the provisions of the Elg case above mentioned it is logical to presume that my sister also was in full possession of her American citizenship at the time the Supreme Court rendered its decision in the Elg case. The fact that she applied for and obtained an American passport in 1940 proved that her citizenship, if ever lost, had been restored. From that time to this she has used every means at her command to obtain an American passport and to return to the land of her birth.

Because of the state of war which prevailed from 1939 to 1945 and over which my sister had no control, she was prevented from taking advantage of the provisions of the Elg case, and later of the provisions of the Nationality law of 1940, as amended.

My wife and I are more than willing and ready to receive my sister Margaret and provide her a home. We are financially and otherwise abundantly capable of assuming this responsibility.

Dated at Campbellsport, Wis., July 9, 1951.

DOMINIC BERTOTTI.

Senator Alexander Wiley has introduced in the Senate S. 1801, which is a related bill. Inasmuch as the committee is reporting favorably on H. R. 4877, the bill S. 1801 will be indefinitely postponed.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H. R. 4877) should be enacted.



