

**NATIONALITY: OR, THE LAW
RELATING TO SUBJECTS AND
ALIENS, CONSIDERED WITH A
VIEW TO FUTURE LEGISLATION**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649654994

Nationality: Or, The Law Relating to Subjects and Aliens, Considered with a View to Future
Legislation by Sir Alex. Cockburn

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

www.triestepublishing.com

SIR ALEX. COCKBURN

**NATIONALITY: OR, THE LAW
RELATING TO SUBJECTS AND
ALIENS, CONSIDERED WITH A
VIEW TO FUTURE LEGISLATION**

NATIONALITY:

OR THE

LAW RELATING TO SUBJECTS AND ALIENS,

CONSIDERED

WITH A VIEW TO FUTURE LEGISLATION.

BY

THE RIGHT HON. SIR ALEX. COCKBURN,

LORD CHIEF JUSTICE OF ENGLAND.



LONDON:

WILLIAM RIDGWAY, 169, PICCADILLY, W.

1869.

CONTENTS.

| | PAGE |
|---|------|
| INTRODUCTION | 3 |
| CHAPTER I.—NATIONALITY | 6 |
| Section 1. Nationality of Origin | 6 |
| " 2. Law of Great Britain | 7 |
| " 3. Law of the United States | 12 |
| " 4. Law of the Continental Nations | 13 |
| " 5. South American States | 22 |
| " 6. Nationality of Married Women abroad | 24 |
| CHAPTER II.—NATURALIZATION | 26 |
| Section 1. Conflict of Laws respecting it | 26 |
| " 2. British Naturalization | 27 |
| " 3. Naturalization in the Colonies | 37 |
| " 4. Naturalization in the United States of America | 38 |
| " 5. Continental Naturalization | 41 |
| CHAPTER III.—EXPATRIATION | 50 |
| Section 1. Expatriation in general | 50 |
| " 2. Foreign Law | 51 |
| " 4. Law of England and of the United States | 63 |
| CHAPTER IV.—DISPUTES ARISING FROM CONFLICT- ING CLAIMS | 68 |
| Section 1. Conflict of Laws | 68 |
| " 2. Disputes between Great Britain and the United States | 70 |
| " 3. Claims of Protection | 106 |
| " 4. Disputes between the United States and other Countries | 117 |
| " 5. Results of foregoing discussions | 135 |

| | PAGE |
|---|------|
| CHAPTER V.—ALIENS | 138 |
| Section 1. Rights and Disabilities in general | 138 |
| " 2. Position of Aliens in this country | 139 |
| " 3. Position of Aliens in other countries | 152 |
| CHAPTER VI.—AMENDMENT OF THE LAW | 177 |
| Section 1. As to rights of Aliens | 177 |
| " 2. As to double Nationality | 183 |
| " 3. Amendment as to Allegiance | 198 |
| " 4. Naturalization | 203 |
| CHAPTER VII.—CONCLUSION | 214 |

INTRODUCTION.

It seems to be admitted on all hands that the law of England respecting nationality, with reference to the circumstances under which the status of a subject arises, or may be acquired, or, on the other hand, may be put off, together with the law relating to the disabilities of aliens, requires to be considered with a view to its alteration and amendment. The conflict between the law of England and that of so many of the leading nations of the world as to the origin of nationality, and the inconvenience to which such conflict may give rise, as well as the inconsistency of our rule as to the immutability of allegiance, at a time when emigration from this country to America is annually taking place on so large a scale, are now so sensibly felt, that an alteration of the law has become inevitable. The observations of one of the ablest public writers of the present day in the columns of the *Times*, the recent Report of the Committee on Foreign Affairs of the House of Representatives of the United States on the rights of American citizens in foreign states, and the discussion of the subject by the press, having had the effect of directing public attention to the subject, a Royal Commission was appointed in May, 1868, to inquire and report on the laws of naturalization and allegiance. The Commissioners appointed under that Commission have

recently made their report, and have suggested certain amendments in the existing law. Some of their recommendations everyone will approve of. Others may be open to exception. In one highly important particular the report falls short of what, in the opinion of the minority of the Commission, it would have been expedient to recommend. As to this, a separate report having been sent in, with reasons for the difference of opinion, the public can judge for themselves. The Commissioners have supplied us with information which will be eminently useful in forming an opinion as to what is really required to be done in the way of alteration of the law. They have collected and published in the form of an appendix to the report a considerable body of valuable information as to the law of the various nations of Europe and America on the important subjects with which the Commission had to deal. Unfortunately the information thus furnished is not embodied in the report, and it is probable that but few persons will proceed further than the report, or take the trouble to go through the numerous documents contained in the appendix. Yet a knowledge of these matters is necessary to the proper understanding of the subject in all its bearings, it being important to see how the law of this country conflicts with that of other nations, and to appreciate the embarrassment and inconvenience which arise from this antagonism. This is the more necessary as the report of the Commissioners, however excellent in some respects, when the subject is looked at by the light thus thrown on

it, is not altogether satisfactory, and will leave at all events one great source of difficulty unremedied.

Under these circumstances, it has occurred to the writer that it might be useful to place before the public, so far as is necessary for the present purpose, the law of other countries on the subject of nationality, as collected from foreign codes and from the materials furnished by the Commissioners, to contrast those laws with our own, and to offer in a condensed form the information scattered over the pages of the appendix, not always in the most systematic manner, as to the instances in which embarrassment has arisen from the working of conflicting laws.

With these data before us, we shall be better able to judge between the opposite opinions of the two sections of the Commissioners, and to consider what ought properly to be done in the way of legislation, in order to place the law relating to nationality on a sound and satisfactory basis, so as at the same time to avoid collision with other nations, and to protect individuals against conflicting claims to their allegiance. We shall be then able to judge how far it is important, in order to prevent misunderstanding between governments, that the law relating to nationality should be uniform among civilized nations, and to form a rational opinion as to what the law ought to be, and what we ought to invite other nations to make it.