

## Renunciation (History)

### 1. Pre-1870: Position at common law

- 1.1 Under common law, persons could not divest themselves of their allegiance. This began to cause problems towards the end of the eighteenth century, after the loss of the American colonies. Although George III executed an instrument purporting to enable British subjects to renounce their allegiance, the lawyers, on the whole, were of the opinion that it could not be done.
- 1.2 The situation became increasingly unsatisfactory in view of a number of incidents between the American colonists and the British colony in what is now Canada. There was a certain amount of cattle rustling across the border. The Canadians made careful enquiries into the origins of any Americans they caught. If the Americans originated from a country other than Britain, they were fined heavily and released. If, however, they or their fathers or grandfathers had been born in Britain, they were hanged as traitors because they were British subjects (although they were also American citizens, the view was taken that it was not possible for these people to have divested themselves of their allegiance to the Crown).
- 1.3 Similar difficulties arose at sea. Ships of the Royal Navy used to overhaul American merchantmen and ask similar questions of the crew. Any crewmen who had been born in Britain, or whose fathers or grandfathers had been born in Britain, were pressed into service in the Royal Navy on the grounds that they had a continuing allegiance to the Crown.
- 1.4 This harassment gradually petered out, but it had become clear that some provision should be made for the renunciation of British status.

### 2. Naturalization Act 1870 - British Nationality Act 1948

- 2.1 **Section 4** of the **Naturalization Act 1870** introduced a provision that persons born in Her Majesty's dominions, who were, at birth, both British subjects and nationals of a foreign country, could renounce British status in favour of the foreign one by making a declaration of alienage. A person born outside Her Majesty's dominions, whose father was a British subject, could also make a declaration of alienage (whether or not that person had any other nationality). Provision was also made that persons voluntarily acquiring a foreign nationality abroad (i.e. through naturalization) should automatically lose their British nationality (**s.6**).
- 2.2 **Section 4** was subsequently amended by **s.14** of the **British Nationality and Status of Aliens Act 1914** to make it possible for persons born within the Crown's dominions, who had acquired a foreign nationality during their minority, to make a declaration of alienage.
- 2.3 Those who were British subjects by naturalisation could make a declaration of alienage only in the very limited circumstances set out in **s.3** of the **1870 Act** and **s.15** of the **1914 Act**.
- 2.4 The **British Nationality and Status of Aliens Act 1943** stated that a

declaration of alienage would be of no effect until it had been registered in accordance with the regulations, and that any such declaration made in time of war could only be registered with the permission of the Secretary of State.

- 2.5 Declarations of alienage could not be made by persons who were not of full age or who were under a disability (i.e. infants, lunatics, idiots and married women).

### 3. **The 1948 Act**

- 3.1 **Section 19** of the **British Nationality Act 1948**, as amended by **s.2** of the **British Nationality Act 1964**, provided that citizens of the United Kingdom and Colonies, of full age and capacity, could renounce that citizenship if they were, or were about to become, a citizen of some other country. Persons ceased to be citizens of the United Kingdom and Colonies on the date on which their declaration was registered.

- 3.2 If the renunciation was on the basis that the declarant was about to become a citizen of another country and this was not done within 6 months of the date of registration of the declaration, the declarant was deemed never to have ceased to be a citizen of the United Kingdom and Colonies. The declaration was then endorsed as follows:

"This declaration of renunciation is void because another citizenship was not acquired within 6 months. The holder is therefore deemed to be, and to have remained, a citizen of the United Kingdom and Colonies."

- 3.3 The onus of establishing non-acquisition of the new citizenship and consequent retention of citizenship of the United Kingdom and Colonies was on the declarant. During the period between renunciation of CUKC and the acquisition of a new citizenship it was held that the declarant was technically stateless.
- 3.4 A person who ceased to be a citizen of the United Kingdom and Colonies as a result of a declaration of renunciation could, in certain circumstances, apply to resume that citizenship.