

World Citizenship

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WORLD CITIZENSHIP

LEGAL anomalies have a persistence equalled only by their inconvenience—and fascination.

The history of nationality is so predominately characterized by the helplessness of the individual and the jealous exclusiveness and expansiveness of the State that the continued existence of two conditions apparently free from both influences arrests attention.

I.

Jurists have persistently inveighed against the “man without a country.” Weiss says¹ “man can no more conceive himself without a fatherland than he can without a family.” Mr. Justice Paterson² regarded “a citizen of the world” as “a creature of the imagination, far too refined for any republic of ancient or modern times”, and in a *Treatise on Citizenship* written fifty years ago the author³ declared: “‘A man without a country’ may be an interesting subject of fiction; but the public law of modern states is not disposed to recognize such a nondescript.”

Despite these positive assertions of their theoretical impossibility, men *sans patrie*, *heimathlosen*, have existed and continue to exist. “An individual may be destitute of nationality knowingly or unknowingly, intentionally or through no fault of his own”, says Oppenheim⁴ in recognition of a fact which he regards as a “blemish in Law.” During the second half of the nineteenth century the number of stateless persons in Europe was so great that many Continental powers, unwilling to harbor men not liable to military service anywhere, adopted legislation designed to lessen “international vagabondage.”⁵ David Dudley Field

¹ 1 DROIT INTERNATIONAL PRIVÉ (2d Ed. 1907) 20-21.

² Talbot v. Janson, 3 Dall. (U. S.) 133, 153 (1795).

³ ALEXANDER P. MORSE.

⁴ Int. Law (3d Ed. 1920) Vol. 1, Ch. III, Part V.

⁵ Weiss, *supra* note 1, at pp. 23-4; 1 WESTLAKE, INTERNATIONAL LAW (2d Ed. 1910) Ch. X. The States were not the only victims of statelessness. Prior to 1919 Jews in Roumania were treated as foreigners (really as state-

in his proposed *Outlines of an International Code* (1876) provided (Sec. 248) that "every person has a national character."

Notwithstanding this pressure against it, statelessness, resulting not only from inharmonious and conflicting nationality laws⁶ but even from the voluntary choice of the individual, continues to be recognized as a legal and valid status.⁷

In so far as statelessness is voluntary on the part of the individual, it must find its basic justification in the individual's right of expatriation.

The English common law recognized no such right of expatriation. "It is not in the power of any private subject to shake off his allegiance."⁸

less) for the purpose of being denied civil rights but were nevertheless held subject to military service. By its Treaty of Dec. 9, 1919, with the Allied and Associated Powers, Roumania recognized as subjects Jewish inhabitants who were otherwise stateless. Oppenheim, *supra* note 4, at p. 485.

⁶ Adolf Hitler, the German political leader, was until very recently a conspicuous modern example of a "man without a country." Born an Austrian he lost his Austrian citizenship by serving in the German Army during the World War. He did not, however, acquire German citizenship in accordance with German law until February 25, 1932 (New York Times, Feb. 26, 1932, p. 9).

⁷ France: Sequestre de Ullman, Tribunal Civil de la Seine, 44 Journal du Droit International 219 (1916), Sequestre de Friederick, Cour d'appel d'Aix, 48 Journal du Droit International 931 (1921), Sequestre de Kampf-meyer, Cour de Cassation, 49 Journal du Droit International 399 (1922).

Roumania: while theoretically acknowledging "statelessness" treats the stateless one as if he were a national of his country of origin, Zamfirco v. Minister of Finance, Tribunal of Ilov, 54 Journal du Droit International 1172 (1926).

England: The authorities are in conflict. It was said in *Stoeck v. Public Trustee*, 2 Ch. 67 (1921), "that the condition of a stateless person is not a condition unrecognized by the municipal law of this Country." In an earlier case, *Ex parte Weber*, 1 K. B. 280 (1916), followed in *Ex parte Liebman*, 1 K. B. 268 (1916), Lord Justice Phillimore said, "Modern national legislation has allowed persons to procure nationality in countries which are not the countries of their origin; but it is going a step further to say that any country has recognized that a man can shake off his position as a national of the country in which he was born without acquiring the duties and responsibilities of a national of some other country." *Ex parte Weber* was affirmed by the House of Lords, 1 A. C. 421 (1916), but the question whether England would recognize "statelessness" was expressly reserved. In a statement made to the House of Commons on Jan. 27, 1930, Arthur Henderson, then Foreign Secretary, recognized that under certain circumstances a British woman might become "a stateless person," New York Times, Jan. 28, 1930.

⁸ Proceedings against Aeneas Macdonald for High Treason, 18 How. S. Tr. 857, 859 (1747). For a brief résumé of "expatriation" in ancient times see MAXSON, CITIZENSHIP (1930), pp. 132-134.

The early American doctrine fluctuated between the English doctrine of "indissoluble" allegiance and the individualism of Thomas Jefferson, which found expression in the Virginia Law of 1779⁹ recognizing the "natural right" of a citizen of Virginia to expatriate himself.¹⁰

In 1867 two naturalized American citizens, Warren and Costello, actively participated in the Irish Fenian Movement. They were seized in Ireland and charged with treason. They demanded a trial by a jury *de medietate linguae*, then allowed by the law of England to aliens, on the ground of their American citizenship. This demand was refused because of their original British citizenship. Their trial and conviction which followed provoked widespread discussion of the subject of expatriation. In England it resulted in a law¹¹ declaring that any British subject who, when in a foreign country, becomes naturalized therein, ceases to be a British subject. The United States Congress declared¹² "the right of expatriation a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness" and branded as "inconsistent with the fundamental principles of the Republic" any denial or questioning of "the right of expatriation."¹³

At the present time the right of expatriation, subject

⁹ 10 HENING'S STATUTES-AT-LARGE, c. IV, p. 129.

¹⁰ 2 KENT'S COMM. 49; 3 MOORE'S DIGEST, INTERNATIONAL LAW 552-579.

¹¹ Act of May 14, 1870, 33 Vict. Ch. 14. This legislation followed a report in favor of expatriation submitted by a Special Committee appointed by the Queen. R. W. Flournoy, Jr., *Naturalization and Expatriation* (1922) 31 YALE L. J. 702, 713.

¹² Act of July 27, 1868, 8 U. S. C. A. sec. 15. An earlier proposed expatriation statute was not enacted, Flournoy, *supra* note 11 at pp. 711-713.

¹³ The right of expatriation extends to the relationship between Indians and their tribes, U. S. *ex rel.* Standing Bear v. Crook, 5 Dillon 453 (C. C. D. Neb., 1879). The right may not be exercised in times of war, 8 U. S. C. A. sec. 16; Rex v. Lynch, 1 K. B. 444 (1903). Nor may it be exercised by persons under disability, U. S. *ex rel.* Baglivo v. Day, 28 F. (2d) 44 (S. D. N. Y., 1928). Although courts have occasionally called attention to the inconsistency involved in limitations upon a "natural and inherent" right [*i.e.*, *Ex parte Griffin*, 237 Fed. 445 (N. D. N. Y., 1919)] it is accepted that Congress may impose limitations upon its exercise. For a suggestion that recent American immigration policies indicate the "*Decadence of the American Doctrine of Voluntary Expatriation*" see Borchard, 25 Am. Jr. Int. Law 312 (1931).

to varying qualifications and restrictions, is recognized by a great majority of nations.¹⁴

The right to be stateless does not necessarily follow from the mere right of expatriation.¹⁵ Whether it does or not depends upon whether the assumption of a new allegiance is an essential part of the act of expatriation.¹⁶

It may be stated as a universal principle that removal from the territory of the state of original nativity is an essential step in expatriation.¹⁷

The citizenship laws of Germany¹⁸ have been construed so as not to require the assumption of a new allegiance as a condition precedent to expatriation.¹⁹ On the other hand, certain expatriation statutes expressly require the assumption of a new allegiance.²⁰

¹⁴ See A COLLECTION OF NATIONALITY LAWS OF VARIOUS COUNTRIES AS CONTAINED IN CONSTITUTIONS, STATUTES AND TREATIES, edited by R. W. FLOURNOY, JR. and M. O. HUDSON (1929).

¹⁵ See Phillimore, L. J. in *Ex parte Weber*, *supra* note 7.

¹⁶ The problem was considered from the viewpoint of the state by Sir J. F. Williams in "*Denationalization*," 1927 BRITISH YEAR BOOK OF INT. LAW, p. 45. He concluded "Positive International Law does not forbid a state unilaterally to sever the relationship of nationality so far as the individual is concerned, even if the person affected possessed or acquires no other nationality, still a state cannot sever the tie in such a way as to release itself from the international duty, owed to other states, of receiving back a person denationalized who has acquired no other nationality, should he be expelled as an alien by the state where he happens to be."

¹⁷ *The Santissima Trinidad*, 7 Wheat. (U. S.) 283, 347-8 (1822); *Comitis v. Parkerson*, 56 Fed. 556, 559-560 (C. C. E. D. La., 1893); *Fish v. Stoughton*, 2 Johns (N. Y.) 407 (1801). The Virginia Act, *supra* note 9, made expatriation effective from the time of departure. The German statutes, *infra* note 18, expressly require removal within a stated period after renunciation of citizenship. At common law a woman did not lose her citizenship by marrying an alien without leaving the country, *Wallenberg v. Mo. Pac. Ry.*, 159 Fed. 217 (C. C. D. Neb., 1908); *In re Fitzroy*, 4 F. (2d) 541 (D. C. Mass., 1925); *Petition of Zogbaum*, 32 F. (2d) 911 (D. C. So. Da., 1929). *Contra: In re Wohlgenuth*, 35 F. (2d) 1007 (D. C. W. D. Mich., 1929). Under the Act of March 2, 1907, a woman lost her citizenship under such circumstances, *Mackenzie v. Hare*, 239 U. S. 299, 36 Sup. Ct. 106 (1915); *In re Martorana*, 159 Fed. 1010 (E. D. Penna., 1908).

¹⁸ Law of June 1, 1870, of North German Confederation translated in House Doc. No. 326, 59th Cong. 2d Sess., pp. 329-330, and in *Ex parte Risse*, 257 Fed. 102 (D. C. S. D. N. Y., 1919); The German Imperial and State Citizenship Law of July 22, 1913 (Delbruck Law) translated in Supplement to Vol. 8, Am. Jr. Int. Law (1914).

¹⁹ Cases cited, *supra* note 7. It is interesting to note that even in Germany men who were "stateless" were seized for military service during the World War, see *Ex parte Gilroy*, 257 Fed. 110, 120 (D. C. S. D. N. Y., 1919).

²⁰ *i.e.*, Norway, see Law (No. 3) of Aug. 8, 1924, Sec. 10, printed in British Parl. Papers, 1927 Misc. No. 2, Cmd. 2852, p. 52.

The United States statutes provide:²¹

"Any American citizen shall be deemed to have expatriated himself when he has been naturalized in any foreign state in conformity with its laws, or when he has taken an oath of allegiance to any foreign state."²²

Are the two indicated methods of expatriation for native-born citizens (naturalization and oath of allegiance) exclusive?

Counsel in 1795 arguing before the Supreme Court²³ urged that,

"A man's last *will* as to his citizenship may be likened to his last will as to his estate; * * * —but in both cases, as good Christians and good Republicans it must be presumed that he rises to another, if not to a better, life and country,"

and in the same case²⁴ Mr. Justice Iredell stated that he had no doubt that the method of expatriation set forth in the Virginia statute already noted was exclusive.

However, in two cases²⁵ before the Statute of 1868, the Supreme Court expressly reserved the question as to whether one may divest himself of his citizenship except in a manner indicated by the legislature.

The state courts were generally of the opinion that assumption of a new citizenship is essential to expatriation.²⁶

Attorneys-General of the United States who were called upon to consider the question were of the opinion that a new naturalization, or at least a submission to the obligations

²¹ 8 U. S. C. A., Sec. 17, enacted March 2, 1907, as result of recommendations made by a Citizenship Board appointed by the Secretary of State, House Doc. No. 326, 59th Cong., 2d Sess.

²² In the case of naturalized citizens provision is also made for presumptions of loss of citizenship arising out of residence in country of origin.

²³ *Talbot v. Janson*, *supra* note 2.

²⁴ At p. 164.

²⁵ *Murray v. Schooner Charming Betsy*, 2 Cranch (U. S.) 64, 120 (1804); *The Santissima Trinidad*, 7 Wheat. (U. S.) 283, 347-8 (1822).

²⁶ *Aisberg v. Hawkins*, 9 Dana (Ky.) 177 (1839); *Quinby v. Duncan*, 4 Har. (Del.) 383 (1846); *Ludlam*, 26 N. Y. 356, 374-5 (1863).

owing to a new country, were essential to effectuate expatriation.²⁷

No case has arisen since the Act of 1907 involving the status of a native-born American citizen voluntarily seeking release from citizenship in ways other than enumerated in the statute. The few courts which have considered the possibility are divided in their opinions. A Circuit Court of Appeals has said²⁸ that the Act provides the "only means by which the expatriation of a native-born American citizen may be accomplished." But two District Court judges have expressed contrary views.²⁹

Although there is no direct authority to that effect, and some dicta to the contrary, it is believed that at the present time, having in mind the early common-law doctrines and the opposition of jurists to the notion of statelessness, it would be held that a new allegiance is essential to the surrender of an old. A contrary holding would involve a more complete acceptance than presently prevails of the view that states receive no more or greater benefits from citizens than citizens receive from states. Of course, the development of international government may gradually bring greater tolerance for "citizens of the world," as the United States now has citizens who are not citizens of any one of the states.³⁰

Those who are convinced of the evils of statelessness have offered many proposals for its eradication. They include (a) that citizenship follow domicile;³¹ (b) that the country of residence require residents either to become

²⁷ BLACK, 9 Op. 62, 356 (1857-9); WILLIAMS, 14 Op. 295 (1873).

²⁸ *Leong Kwai Yin v. United States*, 31 F. (2d) 738 (C. C. A., 9th, 1929).

²⁹ *Ex parte Griffin*, 237 Fed. 445 (D. C. N. D. N. Y., 1916); *U. S. Ex rel. Rojak v. Marshall*, 34 F. (2d) 219 (D. C. W. D. Penna., 1929).

³⁰ *Slaughter-house Cases*, 16 Wall. (U. S.) 36, 74, 83 U. S. 36 (1872); *Hammerstein v. Lyne*, 200 Fed. 165 (D. C. W. D. Mo., 1912); *Hough v. Societe Electric Westinghouse*, 231 Fed. 341 (D. C. S. D. N. Y., 1916). As to whether Indians are not "stateless aliens" see D. O. McGovney, *American Citizenship* (1911) 11 COL. L. REV. 231, 326-337. For a discussion of British citizenship see Pollak, 20 Am. Jr. Int. Law 714. The development of international government has been materially influenced by the organization of the modern federal systems, see MOWER, *INTERNATIONAL GOVERNMENT*, pp. 21-23.

³¹ Hall, *Int. Law* (8th ed.) Sec. 74; Weiss, *supra* note 1, at p. 24.

naturalized or to leave;³² or (c) that expatriation be made expressly contingent upon the assumption of a new nationality.³³

II.

The opposite side of the shield of world citizenship to statelessness is multi-citizenship. As the unfortunate result of different laws of nationality the not infrequent person with dual nationality has long been an object of commiseration on the part of international jurists. Double allegiance has uniformly been declared impossible in theory and vicious in consequences.³⁴ In practice, most states have jealously demanded a single undivided allegiance. The contrary practice is, however, not without precedent. The ancient Grecian City-States recognized "*multarum cives civitatem*."³⁵ The feudal system permitted the holding of fiefs under more than one lord.³⁶ France and the United States after the American Revolution granted citizenship to certain nationals of the other as a mark of honor. It was probably nothing more solid than these courtesy-citizenships that led Chief Justice Rutledge to state that "a man may at the same time enjoy the rights of citizenship under two governments."³⁷ United States law is now certainly to the contrary. As we have seen, the assumption of a new nationality *ipso facto* results in loss of United States

³² Oppenheim, *supra* note 4.

³³ Weiss, *supra* note 1. This last method appears to be the one in greatest favor with international lawyers, see Draft Convention submitted to Comm. of Experts for the Progressive Codification of Int. Law of League of Nations, reprinted in 20 Am. Jr. Int. Law, Supp., pp. 21-61, and Draft Convention on Nationality prepared by Research in Int. Law of Harvard Law School, 23 Am. Jr. Int. Law Supplement.

³⁴ Weiss, *supra* note 1, at pp. 24-32; 1 WESTLAKE, INT. LAW (2d Ed.), Ch. X; "Citizenship," A. P. Morse; "Domicile, Double-Allegiance, and World Citizenship," I. H. Wigmore, 21 ILL. L. REV. 761; 1 BLACKSTONE 370, cited with approval in *Ex parte Griffin*, 237 Fed. 445, 450 (D. C. N. D. N. Y., 1916).

³⁵ Cicero, Pro Balbo, cited by Weiss, *supra* note 1; Mason, *supra* note 8. Modern Greece for two years (1925-27) had provisions for the naturalization of non-residents, see Law of Sept. 10, 1925, repealed by Decree Law of Oct. 15, 1927, reprinted in Nationality Laws, etc. (note 14) at pp. 318-320.

³⁶ WESTLAKE, *supra* note 34.

³⁷ Talbot v. Janson, *supra* note 2.

citizenship.³⁸ The Naturalization Statute requires all applicants for citizenship "to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty,"³⁹ and requires residence within the United States.⁴⁰ These requirements are typical of those of most modern states. There are, however, interesting exceptions.

The German Imperial and State Citizenship Law of July 22, 1913,⁴¹ provided for the granting of German citizenship to "a former German who had not taken up his residence in Germany,"⁴² and provided that "Citizenship is not lost by one who before acquiring foreign citizenship has secured on application the written consent of the competent authorities of his home State to retain his citizenship."⁴³ These "new interpretations of citizenship" which carried the "principle of dual nationality further than it has ever been carried before" provoked considerable adverse criticism.⁴⁴ Dr. Hill saw a possible, but "grossly sophistical," theoretical justification for the legislation as a derivation from the old conception that there can be no expatriation without the consent of the country of origin. If the state's consent is necessary, it may, on this view, grant the consent with reservations. Mr. Flournoy recognized as underlying the German statute the notion that service to the state rather than domicile within its borders is the basis for citizenship. This view, indeed, is expressly stated in the laws of certain states. Persia admits to citizenship "without fulfilling the conditions of domicile" persons "who have rendered a public service to Persia or who have given Persia considerable assistance."⁴⁵ Brazil extends like privilege to a person "recommended by his talent and learning, or by

³⁸ 8 U. S. C. A., sec. 17.

³⁹ 8 U. S. C. A., secs. 373, 379.

⁴⁰ 8 U. S. C. A., secs. 379, 382.

⁴¹ *Supra* note 18.

⁴² Sec. 33. This was also applicable to descendants of former Germans and to their adopted children.

⁴³ Sec. 25.

⁴⁴ See Flournoy, (1914) 8 Am. Jr. Int. Law 477; Hill, 12 Am. Jr. Int. Law (1918) 356.

⁴⁵ Art. V, Law of Sept. 7, 1929, reprinted in Nationality Laws, etc. (note 14) at p. 474.

professional capability," as well as to all who are married to Brazilians or who own real estate in Brazil.⁴⁶

The opposition to the German statute culminated in Article 278 of the Treaty of Versailles⁴⁷ whereby Germany undertook "to recognize any new nationality which has been or may be acquired by her nationals under the laws of the Allied and Associated Powers * * * and to recognize such persons as having * * * in all respects severed their allegiance to their country of origin."

Notwithstanding the unsuccessful life of this German legislation the idea did not perish. The laws of Soviet Russia contemplate the granting of a special form of citizenship in the Soviet Union to non-resident foreigners.⁴⁸ More interesting, however, is the very new constitution of Republican Spain,⁴⁹ which seems to look forward to the possibility of creating a world-wide Spanish Unity. It provides:⁵⁰

"The procedure whereby persons of Spanish origin living in other countries may obtain Spanish citizenship shall be established by law" (Art. 23).

* * * * *

"On the basis of effective international reciprocity and by means of requirements and procedure fixed by law, citizenship shall be granted to the natives of Portugal and Spanish-American countries, including Brazil, should they request it, provided that they reside in Spanish territory, without losing or modifying the citizenship of their country of

⁴⁶ Art. 6 of Legislative Decree No. 904 of Nov. 12, 1902, reprinted in *Nationality Laws, etc.* (note 14) at p. 5.

⁴⁷ Dated June 28, 1919, between Germany and Allied and Associated Powers.

⁴⁸ Pars. 9, 11, Decree 202 of Oct. 29, 1924, reprinted in *Nationality Laws, etc.* (note 14) at pp. 511, 513-514. Something of this character was probably contemplated by Field in his suggested Outline of an International Code (1876) when he stipulated (sec. 248) "No person is a member of two nations at the same time; but any nation may extend to a member of another nation, with his consent, the rights and duties of its own members, within its own jurisdiction, in addition to his own national character."

⁴⁹ Adopted Dec., 1931.

⁵⁰ The author is indebted to a translation made by Pedro Villa Fernandez and Warren Moss for Current History and by it made available to him.

origin. In such countries, if not legally forbidden, and even if the rights of reciprocity are not recognized, Spaniards may be naturalized without losing the citizenship of their country of origin" (Art. 24).

There is no reason for assuming that this attempt to legalize a voluntary dual-nationality, although limited in scope, will achieve any greater success than earlier attempts. States are still competitive, and the unfortunate predicament of an individual doubly blessed with citizenship in the event of a conflict between his two countries is too obvious to require elaboration. Even in the possible case of reciprocal legislation on the subject the ultimate achievement would be a sort of "alternate citizenship," the controlling one being the one of the current domicile.

III.

Even when outside the territorial limits of his state a citizen is, in many important respects, subject to its laws.⁵¹ He may be recalled and penalized for his failure to return.⁵² He may be taxed.⁵³ He may be punished for crimes against its laws even when they are committed outside its territory.⁵⁴

⁵¹ *Blackmer v. United States*, decided by U. S. Supreme Court, Feb. 15, 1932, 52 S. Ct. 252; Borchard, *Diplomatic Protection of Citizens Abroad*, pp. 21-24; American Law Institute *Restatement of Law of Conflicts of Law*, Proposed Final Draft No. 1, sec. 86. The exercise of this extra-territorial jurisdiction over non-resident nationals may, of course, be limited by constitutional and treaty limitations. And, of course, the alien simultaneously owes duties to the state wherein he resides, *Carlisle v. United States*, 16 Wall. (U. S.) 147, 83 U. S. 147 (1872).

⁵² *Blackmer v. United States*, *supra* note 51; 1 Hyde *Int. Law*, pp. 668-9. Of course he may not be seized on foreign territory and forcibly brought back, see *Crapo v. Kelly*, 16 Wall. (U. S.) 610, 83 U. S. 610 (1872) *re* the Trent affair.

⁵³ *Cook v. Tait*, 265 U. S. 47, 44 S. Ct. 444 (1924).

⁵⁴ *Blackmer v. United States*, *supra* note 51. *Rex v. Sawyer*, 2 C. & K. 101; *Rex v. Casement* (1917) 1 K. B. 98; REPORT OF THE LEAGUE OF NATIONS COMM. ON PROGRESSIVE CODIFICATION OF INT. LAW, "*Criminal Competence of States in Respect of Offenses Committed Outside their Territory*," reprinted in 20 *Am. Jr. Int. Law* (1926), Spec. Supp. at pp. 252-8. Such punishment does not necessarily bar punishment by the state wherein the crime was committed; *People v. Papaccio*, 140 Misc. 696, 18 Griff. 696 (N. Y. 1931). Moore (2 *Digest Int. Law*, 255-7) indicates great doubt as to the "expediency and justice" of the exercise by a state of the extra-territorial criminal jurisdiction over its citizens except in special cases.

In American law this penal jurisdiction is limited by the notion that "the character of an act as lawful or unlawful must be determined wholly by the law of the country where the act is done."⁵⁵ However, even here it continues at least as to acts which may react prejudicially upon the state itself.⁵⁶ He may be subjected to judgments obtained against him *in absentia*.⁵⁷ And, of course, his conduct abroad may deprive him of the right to demand the protection due a citizen.⁵⁸ Within his own state he will, generally, not be accepted as a diplomatic representative of another.⁵⁹ These exercises of extra-territorial control over citizens are recognized as legitimate by international law⁶⁰ and although they need not be enforced by other states, except as required by treaty, they are valid as between the citizen and his own state⁶¹ and so offer well-nigh insurmountable difficulties to the "double-citizen" even in times of peace.

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⁵⁵ Holmes, J., in *American Banana Co. v. United Fruit Co.*, 213 U. S. 347, 356, 29 Sup. Ct. 493 (1908); 1 Hyde Int. Law 423.

⁵⁶ *United States v. Bowman*, 260 U. S. 94, 43 Sup. Ct. 39 (1922); 18 U. S. C. A., Sec. 5 (The Logan Act prohibiting unauthorized correspondence with foreign governments).

⁵⁷ *Grubel v. Nassauer*, 210 N. Y. 149, 103 N. E. 1113 (1914) recognizing the validity of such a judgment against a German in Germany but refusing to give it effect here.

⁵⁸ Borchard, *supra* note 51 at p. 713 *et seq.* Certain writers fail to note the distinction between loss of this right of protection and expatriation.

⁵⁹ 2 Phillimore, Int. Law (3d Ed.) Sec. 135; *Ex parte Baiz*, 135 U. S. 403 (1889); *cf.* *Macartney v. Garbutt*, 24 Q. B. D. 368 (1890).

⁶⁰ 1 Oppenheim, Int. Law (4th Ed.) 281; authorities cited note 51.

⁶¹ Borchard, *supra* note 51, at pp. 22-3.