

in British territory, the common law admitted as British subjects, though born abroad, the children of the King, the children of British ambassadors abroad, the children of British soldiers on active service abroad, and children born on British ships on the high seas. In the last case the reason given is that a ship is in some respects like a floating island and belongs to the state whose flag it carries. Conversely there are one or two exceptional cases in which a child, though born on British soil, is not a British subject. The child born in England to a foreign sovereign, or to a foreign ambassador to the Court of St. James is not a British subject, nor is a child born on British soil to a foreign soldier who belongs to an invading force. The common law of England clung with the utmost tenacity to the principle that nationality depended on birthplace and not on parentage. The child of a Chinaman born on British territory is a British subject, and would have been so considered at any period since there has been an English law of nationality. And, until the common law was changed by statute, the child of an English father, though it were a peer of the realm, was an alien if it was born abroad. The reason why nationality was fixed by the child's birthplace rather than by considerations of race or family was because in England and in Western Europe generally the law of nationality grew out of feudalism. The sovereign was the liege lord, and all persons born in his dominions, wherever their parents came from, were born under his protection and owed him allegiance. The two things, protection and allegiance, are correlative. The ancient form of the oath of allegiance, now long superseded, brings out very clearly the feudal idea. The subject swore "to be true and faithful to the King and his heirs and truth and faith to bear of life and limb and terrene honour, and not to know or hear of any ill or damage intended him, without defending him therefrom."

But the old writers are careful to explain that the subject's duty does not depend on his taking the oath, but is a duty antecedent to any promise. "All subjects are equally bounden to their allegiance as if they had