

GSP RESEARCH TIP

NATURALIZATION RECORDS

By Antoinette J. Segraves

Naturalization is the granting of rights of citizenship to an alien as though he were native-born. The process of naturalization in America has been a matter of concern to its inhabitants from colonial times to the present. Before 1709, for non-British subjects, naturalization was required and each colony could determine the length of residency as well as other requirements which varied from colony to colony. Since a noncitizen could not buy, own or convey land, it was important for them to become naturalized. Because the vast majority of immigrants were British subjects and their citizenship status remained the same as they moved from one part of His Majesty's Empire to another, there were not as many naturalizations during the colonial period as one might imagine.

From 1709 to 1740, requirements were to include an oath of allegiance and the partaking of the sacrament of communion in the Church of England in the presence of witnesses. An Act of Parliament in 1740 stated that an alien should reside in a particular colony at least 7 years before appearing before a magistrate to take his oath of loyalty to the Crown and colony and become a citizen.

At the time of the Declaration of Independence, any white adult person of European descent, born in the colonies and loyal to the cause of the American Revolution, automatically became a citizen. The problem of naturalization was addressed with the adoption of the Constitution. A basis for action was supplied in Article 1, section 8, which provided that "Congress shall have the Power. . . to establish a uniform Rule of Naturalization..."

All citizenship was still said to be in the state and not in the nation. The 14th Amendment, adopted in 1868, changed this: All persons born or naturalized in the United States and subject to the jurisdictions thereof, are citizens of the United States and of the state wherein they reside.

This national citizenship still excluded Native Americans. Certain tribes were granted citizenship on 8 February 1887 and any Native Americans who had honorably served in World War I were granted citizenship on 25 October 1919. All Native Americans were given citizenship on 2 June 1924.

On 26 March 1790, the first Congress under the Constitution, in its second session, took action and passed an act (1 Stat. 103) stating that any free white adult alien, male or female, who had resided within the limits and jurisdiction of the United States for a period of 2 years, was eligible for citizenship. An individual who desired to become a citizen under this act was to apply to "any common law court of record, in any one of the states wherein he shall have resided for the term of one year at least." Those who proved to the court's satisfaction that they were of good moral character and who took an oath of allegiance to the Constitution were granted citizenship. Children of successful applicants, if under the age of 21, automatically became citizens.

Congress repealed the 1790 act and passed a new one (1 Stat. 414) on 29 January 1795. This increased the residency requirement from 2 to 5 years. Applicants were also required to publically declare their intention to become citizens of the United States and to renounce any allegiance to a foreign prince, potentate, state or sovereignty 3 years before being admitted as citizens. Any immigrants who had "borne any hereditary title or been of the order of nobility" had to renounce that status.

The residency requirement for naturalization is important for genealogists for it helps to pinpoint a date of immigration for the ancestor. If you can locate the date of the naturalization of the ancestor, knowing the residency requirement of the time period, you can go back that number of years to arrive at the latest possible date of immigration.

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With the passage of the Alien and Sedition Acts of 1798, the filing of a declaration of intention at least 5 years before admission to citizenship and residence of 14 years in the United States and 5 years in a state was required by one of these laws (1 Stat. 566). This act was repealed on 14 April 1802 and replaced by a new law (2 Stat. 153), which in effect, represented a return to the requirements of the 1795 law and formed the basis upon which all subsequent naturalization legislation has been built. The 1802 law stated that any free, white alien might be admitted to citizenship provided the alien: (1) completed a declaration of intention to become a citizen before a court at least 2 years before admission to citizenship; (2) took an oath of allegiance to the United States; (3) resided in the United States at least 5 years and in the state for 1 year; and (4) had established good moral character and an attachment to the United States government.

There were minor modifications in naturalization laws from 1802 to 1855 which were to clarify the details of evidence or certification. In 1855, citizenship was automatically granted to alien wives of U.S. citizens (10 Stat. 604). The 14th Amendment to the Constitution (1868) granted citizenship without regard to color of skin. This granted automatic citizenship to a large portion of our population without naturalization and opened the naturalization process to persons of African descent in 1870 (16 Stat. 256).

Other large groups of people became citizens without going through the naturalization process when the territory or land where they lived became part of the United States through Federal land acquisition. For example, residents of the Louisiana Purchase (1803), West Florida (1810 and 1812), East Florida (1819), Alaska (1867) and the Virgin Islands (1927) all became citizens through various treaties. Residents of Texas (1845), Hawaii (1898) and Puerto Rico (1917) all became citizens by special legislation. Residents of East and West Florida were given an option to remain Spanish citizens if they so desired.

The comprehensive Naturalization Act of 29 June 1906 centralized the naturalization process with the establishment of the Bureau of Immigration and Naturalization in the Department of Labor. In 1933, the title was changed to Immigration and Naturalization Service [hereafter INS] and the Service was transferred to the Department of Justice in 1940. Up until 1906, all naturalization work was done by the courts. Now, officers of the INS would examine all petitions for citizenship and make recommendations to the courts for admission, denial or continued investigation.

The Cable Act, passed on 22 September 1922, (42 Stat. 1021) repealed the act of 1855 (10 Stat. 604) which had allowed alien wives of U.S. citizens to derive their citizenship from that of their husbands. Now, wives were required to file a petition, but only after 1 year of residency and with no previous filing of a petition.

Today, the general requirements for naturalization are: 18 years of age, 5 years permanent residence in the country and 6 months in the particular state where applying, knowledge of English, an understanding of the American form of government, good moral character and an attachment to the principles of the Constitution.

Remember that the first naturalization act passed in 1790 stated "any common law court of record." Therein lies the problem in locating naturalization papers. A man desiring to become naturalized had his choice of courts - Federal, state or local - and would usually apply to the nearest one. He may file his "first papers" in a court in or near the port of arrival and then file his final papers in a court at his then residence. For naturalizations before 27 September 1906, you must determine in which court the process took place and then contact that court clerk for the records. These original records may be indexed by the name of the alien or by the naturalization

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certificate number. The courts kept dockets of records so the minute books of the court proceedings should be searched. Naturalization papers may also be among the "loose papers" of the court. You will need to know the approximate date the process took place to begin your search.

Some of these records may now be housed in your State Archives, State Library, Historical Society or Federal Archives and Records Center serving that state. If the records are not in the court, then contact the appropriate depository as indicated by the court clerk. Most records in the Federal District Courts before 1906 have been transferred to the Federal Archives and Records Center serving the state and are available for public inspection. After 27 September 1906, again contact the clerk of the particular court of interest, the Federal Archives and Records Center OR the Immigration and Naturalization Service. A court order may be necessary to obtain information from these INS files. Uncertified copies of naturalization records may be obtained from the clerk of the particular court without restriction, but if problems arise, politely refer the clerk to the INS directive of 5 December 1972, giving access to the records.

The bulk of naturalization work was and still is done in the state, county and local courts. Since 1906, it has been obligatory for Federal courts to naturalize aliens - all other courts have an option whether to or not. This may explain time gaps in the naturalization records of some courts.

Many naturalization petitions are also now available online through fee-based websites such as Ancestry.com and Footnote.com; however, complete years for the Federal Naturalizations may not yet be available as the digitization of these collections is in progress. Pennsylvania state, and local county, declarations and petitions are also available on microfilm through your local LDS Family History Center. You can find the films you need to order through the LDS online catalog at http://www.familysearch.org/eng/Library/FHLC/frameset_fhlc.asp

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