

PART II.—CANADIAN CITIZENSHIP*

EARLY NATURALIZATION PROCEDURE AND EVENTS LEADING UP TO THE CANADIAN CITIZENSHIP ACT

In the years prior to 1763, aliens had no political rights in Canada because kings were so sparing of their privileges that naturalization was seldom granted. Naturalization was given as a reward for a very meritorious service or deed and only by "lettres de nationalité" or "lettres de bourgeoisie". This is the reason no law on naturalization or nationality is found in France during that period and up to the time of the cession of Canada to England.

After the cession of Canada in 1763 the inhabitants, by the fact of conquest, became British subjects and were subjected to the common law of England. By this law, which was modified and extended by later statutes (see p. 154), every person born within the Dominions of the Crown, no matter whether of British or foreign parents, and in the latter case whether the parents were settled or merely temporarily sojourning in the country, was considered British. Also, all persons being children or grandchildren of British parents, though born in a foreign State, were considered British subjects, owing their allegiance to and entitled to the protection of the Sovereign. The only exceptions were: children of foreign ambassadors (whose fathers carried their own nationality with them) and children born to foreigners during the hostile occupation of any part of the territories of England.

It is seen that, in the years since Confederation, Canada has advanced in citizenship matters from a status wherein citizenship and the right to legislate on citizenship matters was almost non-existent to a condition to-day wherein there is practically complete sovereignty in respect to Canadian citizenship and the authority to legislate thereon.

For many years before and after Confederation doubt existed as to what class of persons had become British subjects. The Act of the British Parliament 13 Geo. II, c. 7, provided for the naturalization of "foreigners who have resided or shall reside seven years or more in any of His Majesty's Colonies in America, and shall not have been absent more than two months at any one time during the said seven years, and shall take and subscribe the Oaths, and make, repeat and subscribe the Declaration appointed by 1 Geo. I, c. 13 and make and subscribe the Profession of the Christian belief, appointed by I William and Mary, c. 13, before a Judge of the Colony, and receive the Sacrament in some Protestant Congregation in Great Britain or some of the said Colonies in America, shall be deemed Your Majesty's Natural born Subjects to all intents".

Although this Act was passed before the cession of Canada to Great Britain, it later had a considerable bearing on the status of many inhabitants of Lower Canada, for since 1763 there had been a considerable immigration to Quebec of Europeans born outside the Dominions of Great Britain. People falling within this class had petitioned Lieutenant-Governor Clarke in March, 1792, asking that the doubts regarding their rights be removed. The question was referred to the British Law Officers and their opinion was that only those foreigners naturalized upon the terms of the Act quoted above or at the time of the Cession were capable of voting at the elections or of being elected members of the Assembly.

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