

Naturalization being an attribution of the Crown, that privilege was jealously guarded and authority was always denied to Colonies to pass Naturalization Acts. On June 5, 1832, however, His Majesty sanctioned an Act of Legislation of Lower Canada (I Will. IV, c. 53) passed at the solicitation of many inhabitants, real estate or office holders in the Province, confirming them in all rights and privileges of British subjects by birth, and in order to quiet any doubt as to their status as British subjects.

By the same Act the same privileges were extended to any other person actually domiciled in the Province of Lower Canada who might have been residing seven years in this or any of His Majesty's Dominions and might have held real estate. The only formality to naturalization was the taking of the Oath of Allegiance before a Clerk of the Peace in the district. This last Act appeared to be complete in that it dictated the procedure for naturalization much along the lines of the Revised Statutes of Canada, 1906, c. 77, but for the appearance before a Judge. It was the duty of the Clerk of the Peace to keep registers of the naturalization and to supply copies to the Secretary of the Province together with lists of all the names of the persons so naturalized. It provided also for the fee, the issue of copies and prosecution in cases of offences against the Act.

However, like all other Imperial Acts, it referred to a special class of persons which shows that, up to the union of Lower and Upper Canada, naturalization was granted only by special Act applicable to certain classes of people and that the procedure consisted merely in the taking of the Oath of Allegiance; the main qualification being bona fide residence in the Dominions concerned.

In England, under the common law, British nationality was acquired only by birth within the United Kingdom. It amply responded to the needs of the Saxons, owing to the isolation of the British Isles and the difficulty of relations with the exterior. After the Conquest and the beginning of territorial and commercial expansion, the relations with the continent were facilitated, immigration began and numerous children were born abroad to British subjects. It was then that the first objections were raised to naturalization by birth within the Kingdom only, as persons born abroad could not inherit, in England, the estates of their British parents. A statute, in the year 1350 (25 Edw. III, Stat. 2) granted British nationality to children born abroad to British subjects in order to enable them to inherit, but it was only in 1708 that Queen Anne (7 Anne, c. 5) gave those new British subjects all rights and privileges attached to English nationality.

Naturalization is now the modern mode of acquisition of nationality and can be traced back through the ages to the ancient times when naturalization could be attained by straight purchase. Until 1844, the kings of England granted rights and privileges of British nationality to foreigners, but only in certain circumstances and for recognized meritorious services, and those grants applied only to one person or groups of persons. It was in 1844 that the United Kingdom first passed naturalization legislation. The British North America Act confirmed the power of Canada to legislate in this matter, and the first Naturalization Act was adopted in Canada in 1870. It copied in its entirety the Imperial Act, but gave the rights and privileges to aliens within Canada only. The procedure at that time consisted of filing with the court a declaration of three years continuous residence in Canada and an Oath of Allegiance. The certificate of naturalization was granted by a judge.