

Immigration and Naturalization

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Since the seventeenth century, new arrivals to America have been expected to show their allegiance to their new land. That allegiance has been shown in a few different ways throughout the history of what became the United States of America. Because these records often include information about age, birthplace, and approximate arrival, they can be quite useful to family historians.

Early Years

Even before the American Revolutionary War created the United States of America, there were some immigrants to the American colonies who were required to state their allegiance. Because the American Colonies were part of the British Empire, this meant that any immigrants coming from somewhere other than Great Britain may have needed to state their allegiance in one way or another. These include:

- Certificates of Communion
- Denizations
- Oaths of Allegiance

Certificate of Communion

Based on an Act passed by Parliament under King George II in 1740, this method of naturalization required proof from a Protestant minister, that the alien had partaken of the sacrament within the last three months.

Denizations

Under English law, aliens who moved to England or one of its colonies were not allowed to own and dispose of or bequeath property, or to inherit it. There were also limitations on their involvement in trade and ownership of vessels or to be master of a ship. During the early colonial period denization by letters patent from the King was an easier method of naturalization than naturalization by special act of Parliament. Eventually, some colonial governors issued letters of denization in New York, though these ceased after 1708.

Oath of Allegiance

An oath of allegiance is a vow of loyalty made by a subject to a ruling power, country, or colony taken by those free to make such a declaration. Indentured servants could not make such an oath until they were free of their servitude.

Several colonies required residents to take an oath of allegiance. One of the most notable examples concerns the German migration to the colony of Pennsylvania in the early 1700s. Fearing German

immigrants would demand that Pennsylvania swear allegiance to Germany, the Pennsylvania Assembly passed a law that required ship captains to provide a list of all German immigrants aboard. Males of majority age were then required to take an oath of allegiance.

The Naturalization Process

As the United States began to grow and expand its lands, the enticements for immigrants would increase. Newly created territories and states would help in advertising abroad and with the exception of the period of the United States Civil War, most of the years of this century would see an increase in the arrival of immigrants.

As those numbers grew and issues took place in America, concerns would escalate as well in regard to who should be allowed in the United States and what the process should be, including waiting periods. It would be these waiting periods that would present the research problems we experience today in finding the naturalization records for an ancestor.

The first naturalization acts passed by Congress required terms of residency and followed a standard three-step process for filing. Each free, white, male immigrant had to complete:

1. Declaration of Intention (“first papers”) – usually allowed to submit after three years residency in the U.S.
2. Application or Petition for Naturalization (“second papers”) – usually allowed to submit two years after submission of “first papers.”
3. Certificate of Naturalization – usually received at the time the application is submitted or within a couple of months.

During these years, naturalization and the individual steps to citizenship could be done at any “court of record.” This includes:

- Municipal courts
- County courts
- State courts
- Federal courts

There were two copies of these records generated during this period. The first was given to the alien to show that he had completed the required steps. The second was recorded in the court(s) in which the alien had completed each step.

One of the issues with this period is that an immigrant could file his first and second papers in two different places and then receive his certificate of naturalization at another. Because there were only two

copies, this required you to seek out every place that your ancestor resided to see if he completed one of the steps there.

After the U.S. Civil War, with the passage of the Fourteenth Amendment in 1868, the Dred Scott decision of 1857 was nullified (this had ruled that African Americans were not, and could not, become citizens). Section one of the amendment began, “all persons born in or naturalized by the United States and of the State wherein they reside.”

Post-1906

The year 1906 is the year when the courts began to forward copies of the naturalizations to the Immigration and Naturalization Service. This division year, while important, often causes genealogists to forsake repositories because they assume the records they want won't be there.

In fact, many of the State and local court naturalizations have since been deposited in the National Archives and may be available through one of the regional NARA facilities. There are microfilmed indexes to some of these records.

Women and Naturalization

When researching immigrant ancestors, specifically women, there are many situations in which records that would be generated for a man are not an option when researching a woman. Such is the case when it comes to naturalization. Many are unaware that women were not always required to submit their own naturalization records and spend time looking for a record that does not exist.

Naturalization in the 19th Century

The earliest of naturalization legislation shortly after the ratification of the Constitution (1790, 1795) and the Act of 1802 used the wording “free white persons” to describe who was eligible for naturalization. Of course, women were basically an afterthought in this period because they couldn't hold property or vote. In essence they were not “persons” as the term was used.

The first naturalization act to address women and children was that of *March 26, 1804*, under the Eighth Congress in which Sec. 2 stated “*And be it further enacted, That when any alien who shall have complied with the first condition specified in the first second of the said original act, and who shall have pursued the directions prescribed in the second section of the said act, may die, before he actually naturalized, the widow and the children of such alien shall be considered citizens of the United States, and shall be entitled to all rights and privileges as such, upon taking the oaths prescribed by law.*”

Basically, this meant that as long as the husband had completed the declaration of intention before he died, then his wife and children need only take the oath of allegiance and renunciation. As a result, a researcher might find record of a woman taking the oath and have no additional records.

Perhaps the most influential naturalization act for women in the 19th century was that of the act of *February 10, 1855* which in general allowed for any immigrant woman who married a U.S. citizen (either by birth or having already become naturalized), then she was automatically granted citizenship. As such, there will be no paper trail for such an immigrant female in regard to citizenship. There were some women who did not qualify under this act if their husbands were those who were racially ineligible.

Note: If she married a U.S. Citizen abroad, or if her husband came to the U.S. and naturalized before sending for her, then she would have arrived as a "U.S. Citizen" on passenger lists until 1922.

A modification of the 1855 Act in 1860 resulted in some confusion as to the citizenship status of native-born and naturalized women. The modification referred to a woman who left the U.S. to reside with her unnaturalized husband in a foreign residence (which could be as close as Canada or as far as Russia). Her residence in the foreign country negated her U.S. citizenship. The problem with this modification was that some courts assumed it applied to any woman married to an alien husband, even if they remained in the United States. So, in some instances, a woman who didn't need to may have felt the need to naturalize, especially if she was a widow.

Marital Status and Citizenship

It was the connection of a woman to her husband via the 1855 Act in regard to her naturalization status in the United States that began to influence the courts across the country, especially before the Immigration and Naturalization Service was established and rules were standardized.

Many courts assumed that if the husband had not naturalized that an alien wife could not apply on her own behalf. By the same token, an alien wife immediately became a citizen the moment her husband's naturalization record was approved by a judge. However, until 1906, you are unlikely to find the wife mentioned in any of the papers generated for the husband. In fact, there may be no way of even determining if the man who is naturalizing is married.

While there was confusion between 1866 and 1907 about the citizenship status of a woman who had married an alien, that confusion was put to rest with the passage of the act of *March 2, 1907*, also known as the *Expatriation Act*. This act established that "any American woman who marries a foreigner shall take the nationality of her husband." This meant that the woman could have been the descendant of many generations of Americans and a member of, say, the Daughters of the American Revolution, only to discover that as she said, "I do," that she was no longer a U.S. citizen. Of course, if her husband naturalized, then she would again become an American citizen. She could also submit all the required papers and go through the naturalization process on her own—just as any other immigrant did. However, if her husband would not have qualified for naturalization for some reason, then she too would be denied citizenship.

Repeal of the Expatriation Act

The Cable Act, named for Ohio Congressman John L. Cable, was passed on *September 22, 1922*. Also known as the Married Women's Citizenship Act or the Married Women's Independent Nationality Act, this act broke the marriage bond when it came to citizenship. Any woman marrying a U.S. citizen after this date did not automatically become a U.S. citizen. Likewise, if she and her husband were immigrants and her husband naturalized after this date, she did not become a citizen with him. She was required to submit the proper papers following the naturalization policies of the time.

Perhaps part of the impetus for this act was the fact that with the acceptance of the 19th Amendment which gave women the right to vote, some men were being denied their citizenship because judges believed that their wives could not meet the eligibility requirements—one of which was the requirement to speak English, and therefore should not be allowed to vote. Regardless of what pushed it through, it finally allowed a woman to marry almost whomever she chose without fear of losing her citizenship. And for researchers, it began a paper trail of places of birth and arrivals of immigrant women. She may have had less paper though. If her husband had already become a citizen when she began the process, then she only had to submit the petition of naturalization, getting to forgo the declaration of intent.

While the Cable Act was a big step forward, it still required of the wishing to naturalize, that their husband be an alien eligible to naturalize. In the 1920s, Asian aliens were still considered racially ineligible for U.S. Citizenship. As such, if an American woman married an Asian alien after the passage of the Cable Act, she would still have lost her citizenship, and any woman married to an Asian alien would have been denied the opportunity to apply for citizenship.

Unfortunately, for those women who lost their citizenship from 1907 until the passage of the Cable Act, they were still considered non-citizens, as there was no provision in the Cable Act to address their situation. American women expatriated by marriage had to go through the same steps of naturalization as any immigrant who had arrived in the last few years. And if they were living abroad and wished to return to the United States to regain their citizenship, they could find themselves denied entry as a result of the Immigration Quota Law of 1924.

It was not until 1931 that Congress removed the final two limitations of naturalization for women: the ineligibility of the spouse to naturalize and the foreign residence.

Repatriation

Repatriation was not just limited to women. There were ways in which native born men could lose their U.S. citizenship—usually as a result of fighting in the army of another country. This would affect many Americans in World War I who felt they needed to fight before the U.S. actually entered the war. Unlike a man who was an American citizen, who perhaps lost his citizenship by serving in the Canadian military

during World War I and needed only to take an oath of allegiance to regain his U.S. citizenship, women who lost their citizenship under the 1907 Expatriation Act had to fulfill all naturalization requirements to regain their citizenship.

Commissioner of Naturalization, Raymond Crist, upon the passing of the Cable Act, broached the subject in his annual report in 1923, offering the women who were repatriating a similar option as that of men. However, it would not be until the act of *June 25, 1936* that repatriation, as opposed to full naturalization, would be an option, and then only if the alien husband was deceased or the American-born wife had divorced him. The Act of *July 2, 1940* would eliminate the stipulation of an ending of the marriage.

Repatriation records for women, while not including the records cited as document attachments, are useful for the fact that they supply you with the exact dates and places of birth, marriage, divorce and death of spouse. During their repatriation process, they would bring in the documents and those are cited on the form as having been viewed by the naturalization clerk. At the very least they let you know where to focus efforts on searching for such documents.

Repatriation records are often found on Form N-415, Application to Take Oath of Allegiance to the United States, and are generally filed in separate volumes within a court. You may find them listed under a variety of titles, but all of them will include the word *repatriation*. Within the records filed at the National Archives, and its branches, these repatriation records are catalogued under Record Group 21.

Was My Ancestor Naturalized

There are different ways to know if you ancestors naturalized. One of the most often used record that may assist with this is the U.S. Federal census. There wasn't always a question about naturalization, but there may have been another question that can assist with understanding if your ancestor had become naturalized.

Census Year	Naturalization Information Provided
1820, 1830	Identified the number of persons within the household who were foreigners not naturalized
1870	Asked if males aged 21 or above could vote (only naturalized foreign-born males could vote)
1900	Column 18 provided status of naturalization
1910	Column 16 provided status of naturalization
1920	Column 14 provided status of naturalization; column 15, year of naturalization*
1930	Column 23 provided status of naturalization
1940	Column 16 provided status of naturalization
1950	Column 14 provided status of naturalization

*Be flexible with the year supplied, as memory of the date could be slightly off.

Within the column asking for naturalization status from 1900 to 1950, you will find one of three abbreviations used:

- Na = Naturalized
- Pa = Papers (first papers, also known as Declaration of Intention, filed)
- Al = Alien (has not begun the process)

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https://www.census.gov/library/publications/1975/compendia/hist_stats_colonial-1970.html

National Archives: Naturalization Records

<https://www.archives.gov/research/immigration/naturalization/microfilm>

Overview of INS History <https://www.uscis.gov/sites/default/files/document/fact-sheets/INSHistory.pdf>