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JOINT SELECT COMMITTEE REPORTS OF LEGISLATIVE ASSEMBLY - 1926

The Indian Natuaralization (Amendment) Bill

3624 (4)
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Act & Bills section

FB-60, PLB

List of Reports of Select or Joint Committees
presented in the Legislative Assembly in 1926.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Indian Naturalization(Amendment) Bill.	28.1.26.	
2.	The Insolvency (Amendment) Bill.	2.2.26.	
3.	The Indian Registration(Amendment) Bill by Dewan Bahadur T.Rangachariar.	9.2.26.	
4.	The Code of Civil Procedure(Amendment) Bill(Section 102 and 103).	9.2.26.	
5.	The Legal Practitioners(Amendment)Bill.	9.2.26.	
6.	The Hindu Religious and Charitable Trusts Bill by Dr.Hari Singh Gour.	10.2.26.	
7.	The Coparceners Liability Bill.by Dr.Hari Singh Gour.	19.2.26.	Copy not available.
8.	The Indian Tariff(Amendment) Bill.	23.2.26.	
9.	The Transfer of Property(Amendment) Bill by Sir Hari Singh Gour.	4.3.26.	
10.	The Indian Factories(Amendment) Bill.	8.3.26.	
11.	The Indian Income-tax(Amendment) Bill.	8.3.26.	
12.	The Indian Bar Councils Bill.	18.8.26.	

LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Bill to consolidate and amend the law relating to the naturalization in British India of aliens resident therein was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill annexed thereto.

We accept the Bill and have made no alteration in it. We recommend that it be taken into consideration without republication and that it be passed.

2. The Bill was published in the Gazette of India, dated the 29th August, 1925.

A. P. MUDDIMAN.

K. C. NEOGY.*

M. RAMACHANDRA RAO.*

B. VENKATAPATIRAJU.*

E. MONTEITH MACPHAIL.

H. TONKINSON.

DENYS BRAY.

The 27th January, 1926.

* Subject to the note appended.

NOTE.

We should like to invite the attention of Government to the difficulties that have arisen in regard to naturalisation of Indians in the United States. These difficulties have been referred to several times in the Legislative Assembly and need not be again set out in detail. While certificates of naturalisation of Indians in some of the States have been withdrawn in consequence of the decision of the Supreme Court of the United States, it is open to an American citizen to obtain a certificate of naturalisation under the British Nationality and Status of Aliens Act, 1914. A certificate granted under the Act confers on the

person concerned the status of a natural born British subject. The Legislature of this country cannot legislate so as to amend an Act of Parliament. The result is that an American is free to come to India with the status of a natural born British subject and the Government of India cannot deal with the problem on any principle of reciprocity. We suggest that steps should be taken to place India on the same footing as the Self-governing Dominions in granting or refusing a certificate of naturalisation to American citizens and other foreigners from outside India.

(Sd.) M. RAMACHANDRA RAO.

(Sd.) K. C. NEOGY.

(Sd.) B. VENKATAPATIRAJU.

A
BILL

TO

*Consolidate and amend the law relating to the
naturalization in British India of aliens
resident therein.*

WHEREAS it is expedient to consolidate and amend the law relating to the naturalization in British India of aliens resident therein; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian
Short title, extent Naturalization Act, 1926.
and commencement.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "British subject" means a British subject as defined in section 27 of the British Nationality and Status of Aliens Act, 1914; 4 & 5 Geo. 5, c. 17.

(b) "certificate of naturalization" means a certificate of naturalization granted under this Act; and

(c) "minor" means any person subject to the Indian Majority Act, 1875, who has not attained his majority within the meaning of that Act, or any other person who has not attained the age of eighteen years. IX of 1875.

3. (1) The Local Government may grant a certificate of naturalization to any person who makes an application in this behalf and satisfies the Local Government—

- (a) that he is not a minor;
- (b) that he is neither a British subject nor a subject of any state in Europe or America;
- (c) that he has, during a period of not less than five years immediately preceding the date of the application, either resided in British India or been in the service of the Crown under the Government;
- (d) that he is of good character;
- (e) that he has an adequate knowledge of a language which has been declared by the Local Government, by notification in the local official Gazette, to be a principal vernacular of the province; and
- (f) that he intends, if the application is granted, to reside in British India or to enter or continue in the service of the Crown under the Government:

Provided that nothing in clause (c) or clause (f) shall apply in the case of a woman who was a British subject previously to her marriage to a person not a British subject and whose husband has died or whose marriage has been dissolved.

(2) Nothing in this section shall be deemed to prevent the grant of a certificate of naturalization to any person to whom a certificate of naturalization has been issued under the Indian Naturalization Act, 1852. ^{XXX of 1852.}

4. (1) Every application for a certificate of naturalization shall be in writing and shall state, to the best of the knowledge and belief of the applicant,—

- (a) his age ;
- (b) his place of birth ;
- (c) his place of residence ;
- (d) his profession, trade, or occupation ;
- (e) full particulars regarding his qualifications in respect of the matters referred to in clauses (a) to (f) of sub-section (1) of section 3 ;
- (f) whether he has at any time previously applied for the grant of a certificate of naturalization under the British Nationality and Status of Aliens Act, 4 & 5 Geo. 1914, or the Indian Naturalization Act, 1852, or this Act ; ^{5, c. 17. XXX of 1852.}
- (g) whether any such application has been rejected ;
- (h) whether any such certificate has been granted to him ; and
- (i) whether any such certificate granted to him has been revoked.

(2) Every such application shall be signed by the applicant and shall be accompanied by an affidavit sworn by him verifying that the statements contained therein are true to the best of his knowledge and belief.

(3) The Local Government shall satisfy itself as to the truth of the statements contained in the application, and for this purpose may cause to be made such further inquiry, if any, and may require such further evidence, if any, either by affidavit or otherwise, as it thinks necessary.

5. (1) If the Local Government is satisfied that the applicant is qualified under section 3 for the grant of a certificate of naturalization and is otherwise a fit person for the grant of such certificate, it may grant a certificate reciting the qualifications of the applicant for such grant and conferring upon him all the rights, privileges and capacities of naturalization under this Act, except such rights, privileges or capacities, if any, as may specifically be withheld by the certificate.

(2) Any such certificate may, if the applicant so requests, include the name of any minor child of the applicant, not being by birth a British subject, who was born before the date of the certificate and is for the time being resident in British

India and under the control of the applicant; and shall grant to any child so included all the rights, privileges and capacities of naturalization under this Act, except such rights, privileges or capacities, if any, as may specifically be withheld by the certificate.

(3) The grant of a certificate of naturalization shall be in the absolute discretion of the Local Government, and no appeal shall lie from any refusal to grant any such certificate or to include in any such grant any particular right, privilege or capacity.

6. Every person to whom a certificate of naturalization has been granted shall, within thirty days from the date of the grant thereof, take and subscribe the following oath, namely:—

“I, A. B., of

do hereby swear (or affirm) that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, His Heirs and Successors”:

Provided that the Local Government may extend the time allowed under this section in any case in which it is satisfied that failure to take and subscribe the oath within that time was due to sufficient cause.

7. (1) No certificate of naturalization shall have effect until the person

Effect of grant of certificate and taking of oath. to whom it is granted has taken and subscribed the

oath prescribed by section 6,

but upon the taking and subscribing of such oath such person, the wife of any such person, and any child of any such person who has been included in the certificate under sub-section (2) of section 5, shall, when in British India, be deemed to be British subjects and be entitled to all the rights, privileges and capacities of a British subject born within British India, except such rights, privileges or capacities, if any, as may have been withheld from them respectively by the certificate, and shall within British India be subject to all the obligations, duties and liabilities of a British subject.

(2) When the person to whom a certificate of naturalization has been granted has taken and subscribed the oath prescribed by section 6, any wife thereafter married by, and any child thereafter born to, such person shall, if she or he is not a British subject and if such person aforesaid at the date of the marriage or birth, as the case may be, retains any rights, privileges or capacities of a British subject under this Act, be entitled to the same rights, privileges and capacities, and be subject to the same obligations, duties and liabilities, to which such person aforesaid was at that date entitled and subject.

8. (1) Where the Local Government of the province in which a person to whom a certificate of naturalization has been granted

Revocation of certificate. under this Act, or the Indian Naturalization Act, 1852, resides, or, in the case of any such person who is not for the time being resident in British India, the Local Government, by which such a certificate was granted to such person, is satisfied that the certificate was obtained by false representation or fraud or by concealment of material circumstances, or that the person to whom the certificate

XXX
1852.

has been granted has shown himself by act or speech to be disaffected or disloyal to His Majesty, the Local Government shall, by order in writing, revoke the certificate.

(2) Without prejudice to the foregoing provisions, such Local Government shall, by order in writing, revoke such a certificate of naturalization as aforesaid in any case in which it is satisfied that the person to whom the certificate was granted—

- (a) has, during any war in which His Majesty is engaged, unlawfully traded or communicated with the enemy, or with a subject of an enemy state, or been engaged in, or associated with, any business which is to his knowledge carried on in such a manner as to assist the enemy in such war; or
- (b) has, within five years of the date of the grant of the certificate, been sentenced by any Court in His Majesty's dominions to transportation or to penal servitude, or to imprisonment for a term of not less than twelve months, or to pay a fine of not less than one thousand rupees; or
- (c) was not of good character at the date of the grant of the certificate; or
- (d) has since the date of the grant of the certificate been, for a period of not less than seven years, ordinarily resident out of His Majesty's dominions otherwise than as a representative of a British subject, firm or company carrying on business, or of an institution established, in His Majesty's dominions, or in the service of the Crown, and has not maintained substantial connection with His Majesty's dominions; or
- (e) remains, according to the law of a state at war with His Majesty, a subject of that state;

and that the continuance of the certificate is not conducive to the public good.

(3) Nothing in this section shall be deemed to authorise the revocation by one Local Government of a certificate granted by another Local Government without the concurrence of that other Local Government, or, if that Local Government refuses to concur, of the Governor General in Council.

(4) The Local Government may, if it thinks fit, before making an order under this section, refer the case for such inquiry as is hereinafter specified, and, in any case to which sub-section (1) or clause (a), clause (c) or clause (e) of sub-section (2) applies, the Local Government shall, by notice given to, or sent by post to the last known address of, the holder of the certificate, give him an opportunity of claiming that the case be referred for such inquiry, and, if the holder so claims in accordance with the notice, the Local Government shall refer the case for inquiry accordingly.

(5) An inquiry under this section shall be held by such person or persons and in such manner as the Local Government may direct in each case.

(6) Where a certificate is revoked under this section, the revocation shall have effect from such

date as may be directed by the Local Government, and thereupon the certificate shall be given up and cancelled; and any person who, without reasonable cause the burden of proving which shall lie upon him, fails to give up his certificate within one month from the aforesaid date, shall be punishable with fine which may extend to one thousand rupees.

(7) For the purposes of this section, any person who has acquired any of the rights, privileges or capacities of naturalization under sub-section (2) of section 5 or sub-section (2) of section 7 by reason of the grant to his parent of a certificate of naturalization, may, after he has attained majority, be deemed to be a person to whom a certificate of naturalization has been granted.

9. (1) Where a certificate is revoked under section 8, the former holder thereof shall cease to be deemed to be a British subject.

Effect of revocation of certificate.

(2) On such revocation, the Local Government may, by order in writing, direct that the wife and minor children (or any of them) of the person whose certificate is revoked shall cease to be deemed to be British subjects; but, where no such direction is made, the status of the wife and minor children of the person whose certificate is revoked shall not be affected by the revocation:

Provided that, in the case of a wife who was at birth a British subject, no such order as aforesaid shall be made unless the Local Government is satisfied that, if she had held a certificate of naturalization in her own right, the certificate could properly have been revoked under section 8, and the provisions of that section as to referring cases for inquiry shall apply to the making of any such order as they apply to the revocation of a certificate.

10. (1) A declaration of alienage in such manner as may be prescribed by rules made under this Act may be made.—

Declaration of alienage.

(a) within one year of his attaining majority, by any child who has acquired any of the rights, privileges or capacities of naturalization under sub-section (2) of section 5 or sub-section (2) of section 7; or

(b) within six months from the date of the revocation of a certificate under section 8, or of the death of, or of the dissolution of her marriage with, the holder of any such certificate as is therein referred to, by the wife of the person whose certificate has been revoked, or who has died, or whose marriage to her has been dissolved, as the case may be.

(2) Where a declaration of alienage has been made in the manner aforesaid, the person making the same, and the wife of any such person, and any children of any such person who are minors and are not by birth British subjects, shall cease to be deemed to be British subjects.

11. Every person making an inquiry under the orders of a Local Government under sub-section (3) of section 4, and every person appointed to hold

Inquiries.

an inquiry under sub-section (5) of section 8, shall be deemed to be a public servant within the meaning of the Indian Penal Code, and shall for the XLV of 1860. purposes of such inquiry have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of V of 1908. the following matters :—

- (i) enforcing the attendance of any person and examining him on oath ;
- (ii) compelling the production of documents and material objects ; and
- (iii) issuing commissions for the examination of witnesses ;

and every such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code. XLV of 1860.

12. 1. All oaths and affidavits for the purposes of this Act shall be sworn before a Magistrate or such other person as may be appointed in this behalf by the Local Government.

(2) The Magistrate or other person by whom an oath of allegiance is administered under section 6 shall grant to the person making the same a certificate in writing of his having taken and subscribed such oath and of the date of his taking and subscribing the same, and shall forward to the Local Government the oath so taken and subscribed together with a copy of such certificate.

13. (1) The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, make rules to give effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :—

- (a) the form or forms in which certificates of naturalization shall be granted, and the manner in which they shall be recorded ;
- (b) the manner in which declarations of alienage shall be made and recorded ;
- (c) the recording of oaths of allegiance ; and
- (d) the fees which may be imposed for the issue of any certificate, whether of naturalization or otherwise, granted under this Act.

14. Nothing contained in this Act shall be deemed to entitle to any grant of naturalization of the rights, privileges or capacities of a British subject the child of any person who is himself so entitled by reason only of the inclusion of his name in a certificate of naturalization under sub-section (2) of section 5 or of the grant of a certificate of naturalization to his parent.

15. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

EXACTMENTS REPEALED.

(See section 15.)

Year	No.	Short title.	Extent of repeal.
1852	XXX	The Indian Naturalization Act, 1852.	So much as has not been repealed.
1897	XIV	The Indian Short Titles Act, 1897.	So much of the Schedule as relates to the Indian Naturalization Act, 1852.
1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Naturalization Act, 1852.
1919	XVI	The Indian Naturalization (Amendment) Act, 1919.	The whole.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

Report of the Select Committee on the
Bill to consolidate and amend the
law relating to the naturalization in
British India of aliens resident therein.