



# Article 1, Section 8, Clause 4 (Citizenship)

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## Document 8

### House of Representatives, Rule of Naturalization

3--4 Feb. 1790 *Annals 1:1109--25*

[3 Feb.]

The House then went into a Committee of the whole on the bill establishing an uniform rule of Naturalization. Mr. Baldwin in the Chair. The first clause enacted, that all free white persons, who have, or shall migrate into the United States, and shall give satisfactory proof, before a magistrate, by oath, that they intend to reside therein, and shall take an oath of allegiance, *and shall have resided in the United States for one whole year*, shall be entitled to all the rights of citizenship, except being capable of holding an office under the State or General Government, which capacity they are to acquire after a residence of two years more.

Mr. Tucker moved to strike out the words "and shall have resided within the United States for one whole year;" because he conceived it the policy of America to enable foreigners to hold lands, in their own right, in less than one year; he had no objection to extending the term, entitling them to hold an office under Government, to three years. In short, the object of his motion was, to let aliens come in, take the oath, and hold lands without any residence at all.

Mr. Hartley said, he had no doubt of the policy of admitting aliens to the rights of citizenship; but he thought some security for their fidelity and allegiance was requisite besides the bare oath; that is, he thought an actual residence of such a length of time as would give a man an opportunity of esteeming the Government from knowing its intrinsic value, was essentially necessary to assure us of a man's becoming a good citizen. The practice of almost every State in the Union countenanced a regulation of this nature; and perhaps it was owing to a wish of this kind, that the States had consented to give this power to the General Government. The terms of citizenship are made too cheap in some parts of the Union; to say, that a man shall be admitted to all the privileges of a citizen, without any residence at

all, is what can hardly be expected.

The policy of the old nations of Europe has drawn a line between citizens and aliens: that policy has existed to our knowledge ever since the foundation of the Roman Empire; experience has proved its propriety, or we should have found some nation deviating from a regulation inimical to its welfare. From this it may be inferred, that we ought not to grant this privilege on terms so easy as is moved by the gentleman from South Carolina. If he had gone no further in his motion than to give aliens a right to purchase and hold lands, the objection would not have been so great; but if the words are stricken out that he has moved for, an alien will be entitled to join in the election of your officers at the first moment he puts his foot on shore in America, when it is impossible, from the nature of things, that he can be qualified to exercise such a talent; but if it was presumable that he was qualified by a knowledge of the candidates, yet we have no hold upon his attachment to the Government.

Mr. Sherman thought that the interests of the State where the emigrant intended to reside ought to be consulted, as well as the interests of the General Government. He presumed it was intended by the Convention, who framed the Constitution, that Congress should have the power of naturalization, in order to prevent particular States receiving citizens, and forcing them upon others who would not have received them in any other manner. It was therefore meant to guard against an improper mode of naturalization, rather than foreigners should be received upon easier terms than those adopted by the several States. Now, the regulation provided for in this bill, entitles all free white persons, which includes emigrants, and even those who are likely to become chargeable. It certainly never would be undertaken by Congress to compel the States to receive and support this class of persons; it would therefore be necessary that some clause should be added to the bill to counteract such a general proposition.

Mr. Page was of opinion, that the policy of European nations and States respecting naturalization, did not apply to the situation of the United States. Bigotry and superstition, or a deep-rooted prejudice against the Government, laws, religion, or manners of neighboring nations had a weight in that policy, which cannot exist here, where a more liberal system ought to prevail. I think, said he, we shall be inconsistent with ourselves, if, after boasting of having opened an asylum for the oppressed of all nations, and established a Government which is the admiration of the world, we make the terms of admission to the full enjoyment of that asylum so hard as is now proposed. It is nothing to us, whether Jews or Roman Catholics settle amongst us; whether subjects of Kings, or citizens of free States wish to reside in the United States, they will find it their interest to be good citizens, and neither their religious nor political opinions can injure us, if we have good laws, well executed.

Mr. Boudinot was against striking out the words, because he would rather choose to alter it from one year to two years, than strike out all that respected the capacity of

an alien to be elected into any office. He conceived, that after a person was admitted to the rights of citizenship, he ought to have them full and complete, and not be divested of any part.

Mr. White noticed the inconvenience which would result from permitting an alien to all the rights of citizenship, merely upon his coming and taking an oath that he meant to reside in the United States. Foreign merchants and captains of vessels might by this means evade the additional duties laid on foreign vessels; he thought, therefore, if the words were struck out, that another clause ought to be added, depriving persons of the privilege of citizenship, who left the country and staid abroad for a given length of time.

Mr. Lawrence was of opinion, that Congress had nothing [Volume 2, Page 562] more to do than point out the mode by which foreigners might become citizens. The constitution had expressly said how long they should reside among us before they were admitted to seats in the Legislature; the propriety of annexing any additional qualifications is therefore much to be questioned. But this bill is not confined to the qualifications of the General Government only, it descends to those of the State Governments; it may be doubly questioned how far Congress has the power to declare what residence shall entitle an alien to the right of a seat in the State Legislatures.

The reason of admitting foreigners to the rights of citizenship among us is the encouragement of emigration, as we have a large tract of country to people. Now, he submitted to the sense of the committee, whether a term, so long as that prescribed in the bill, would not tend to restrain rather than encourage emigration? It has been said, that we ought not to admit them to vote at our elections. Will they not have to pay taxes from the time they settle amongst us? And is it not a principle that taxation and representation ought to go hand and hand? Shall we then restrain a man from having an agency in the disposal of his own money? It has been also observed, that persons might come and reside amongst us for some time, and then leave the country; he did not doubt that such might be the case, but it was not presumable, that after they had once taken an oath that they meant to reside here, and had become citizens, that they would return as soon as the occasion which required their absence had terminated.

Mr. Madison.--When we are considering the advantages that may result from an easy mode of naturalization, we ought also to consider the cautions necessary to guard against abuses. It is no doubt very desirable that we should hold out as many inducements as possible for the worthy part of mankind to come and settle amongst us, and throw their fortunes into a common lot with ours. But why is this desirable? Not merely to swell the catalogue of people. No, sir, it is to increase the wealth and strength of the community; and those who acquire the rights of citizenship, without adding to the strength or wealth of the community are not the people we are in want of. And what is proposed by the amendment is, that they shall take nothing more than an oath of fidelity, and declare their intention to reside in the United States.

Under such terms, it was well observed by my colleague, aliens might acquire the right of citizenship, and return to the country from which they came, and evade the laws intended to encourage the commerce and industry of the real citizens and inhabitants of America, enjoying at the same time all the advantages of citizens and aliens.

I should be exceedingly sorry, sir, that our rule of naturalization excluded a single person of good fame that really meant to incorporate himself into our society; on the other hand, I do not wish that any man should acquire the privilege, but such as would be a real addition to the wealth or strength of the United States.

It may be a question of some nicety, how far we can make our law to admit an alien to the right of citizenship, step by step; but there is no doubt we may, and ought to require residence as an essential.

Mr. Smith, of South Carolina, thought some restraints proper, and that they would tend to raise the Government in the opinion of good men, who are desirous of emigrating; as for the privilege of electing, or being elected, he conceived a man ought to be some time in the country before he could pretend to exercise it. What could he know of the Government the moment he landed? Little or nothing: how then could he ascertain who was a proper person to legislate or judge of the laws? Certainly gentlemen would not pretend to bestow a privilege upon a man which he is incapable of using?

How far the Government may admit a man to the rights of citizenship by progression, is called in question. The Constitution vests in Congress the power to establish a uniform rule of naturalization; it is not various rules they have the power to make, but one complete uniform rule; now, is it one rule, if a man is admitted progressively? It is; because it is only part of a rule, that a man shall be entitled to certain privileges at the end of one year's residence. Another part is to give more in two years, and the whole is completed at the end of three years. The naturalization laws of Carolina proceed upon this plan: they do not there conceive it proper to give the complete right at once; they give citizenship for certain purposes at first, extending them afterwards as the person is fitted to receive them.

The intention of the present motion is, to enable foreigners to come here, purchase and hold lands; but this will go beyond what the mover has required, and therefore it will be better to draught a separate clause, admitting them to purchase and hold lands upon a qualified tenure and pre-emption right, than thus admit them at once to interfere in our politics. The quality of being a freeholder is requisite, in some States, to give a man a title to vote for corporation and parish officers. Now, if every emigrant who purchases a small lot, but for which perhaps he has not paid, becomes in a moment qualified to mingle in their parish or corporation politics, it is possible it may create great uneasiness in neighborhoods which have been long accustomed to live in peace and unity.

Mr. Hartley said, that the subject had employed his thoughts for some time, and that he had made up his mind in favor of requiring a term of residence. The experience of all nations, and the Constitution of most of the States induced the same opinion. An alien has no right to hold lands in any country, and if they are admitted to do it in this, we are authorized to annex to it such conditions as we think proper. If they are unreasonable, they may defeat the object we have in view, but they have no right to complain; yet, considering the circumstances of this country, he was favorable to easy terms of admission, because, he thought, it might be some inducement to foreigners to come and settle among us. It has been remarked, that we must admit those whom we call citizens to all the rights of citizenship at once. This opinion, he presumed, was not well founded; the practice of this country in no instance warrants it. The Constitutions of the several States admit aliens to the privilege of citizenship, step by step; they generally require a residence for a certain time, before they are admitted to vote at elections; some of them [Volume 2, Page 563] annex to it the condition of payment of taxes and other qualifications; but he believed none of the States render a foreigner capable of being elected to serve in a legislative capacity, without a probation of some years. This kind of exception is also contemplated in the Constitution of the United States. It is there required, that a person shall be so many years an inhabitant before he can be admitted to the trust of legislating for the society. He thought, therefore, that this part of the objection is not well supported.

With respect to the policy of striking out the words altogether from the clause, and requiring no residence before a man is admitted to the rights of election, the objections are obvious. If, at any time, a number of people emigrate into a seaport town; for example, from a neighboring colony into the State of New York, will they not, by taking the oath of allegiance, be able to decide the fate of an election contrary to the wishes and inclinations of the real citizens? And are gentlemen disposed to throw such an undue influence into the hands of foreigners? Besides, they will acquire a capacity of evading your revenue laws, intended for the encouragement of the citizens. I have mentioned this example, and might enumerate many others, to point out the impropriety of this policy; but presuming them to be within every gentleman's knowledge, I shall not enlarge upon it.

With respect to the propriety of enabling foreigners to acquire and hold lands on a qualified tenure, I have no objection to such a clause.

Mr. White doubted whether the constitution authorized Congress to say on what terms aliens or citizens should hold lands in the respective States; the power vested by the Constitution in Congress, respecting the subject now before the House, extend to nothing more than making a uniform rule of naturalization. After a person has once become a citizen, the power of Congress ceases to operate upon him; the rights and privileges of citizens in the several States belong to those States; but a citizen of one State is entitled to all the privileges and immunities of the citizens in the several States. Now, if any State in the Union should choose to prohibit its citizens from the privilege of holding real estates, without a residence of a greater

number of years than should be thought proper by this House, they could do it, and no authority of the Government, he apprehended, could enforce an obedience to a regulation not warranted by the constitution. So, in the case of elections, if the constitution of a particular State requires four, five, or six years residence, before a man is admitted to acquire a legislative capacity, with respect to the State Government, he must remain there that length of time, notwithstanding you may declare he shall be eligible after a residence of two years; all, therefore, that the House have to do on this subject, is to confine themselves to an uniform rule of naturalization, and not to a general definition of what constitutes the rights of citizenship in the several States.

Mr. Jackson conceived the present subject to be of high importance to the respectability and character of the American name; the veneration he had for, and the attachment he had to, this country, made him extremely anxious to preserve its good fame from injury. He hoped to see the title of a citizen of America as highly venerated and respected as was that of a citizen of old Rome. I am clearly of opinion, that rather than have the common class of vagrants, paupers, and other outcasts of Europe, that we had better be as we are, and trust to the natural increase of our population for inhabitants. If the motion made by the gentleman from South Carolina, should obtain, such people will find an easy admission indeed to the rights of citizenship; much too easy for the interests of the people of America. Nay, sir, the terms required by the bill on the table are, in my mind, too easy. I think, before a man is admitted to enjoy the high and inestimable privileges of a citizen of America, that something more than a mere residence amongst us is necessary. I think he ought to pass some time in a state of probation, and at the end of the term, be able to bring testimonials of a proper and decent behavior; no man, who would be a credit to the community, could think such terms difficult or indelicate: if bad men should be dissatisfied on this account, and should decline to emigrate, the regulation will have a beneficial effect; for we had better keep such out of the country than admit them into it. I conceive, sir, that an amendment of this kind would be reasonable and proper; all the difficulty will be to determine how a proper certificate of good behaviour should be obtained; I think it might be done by vesting the power in the grand jury or district courts to determine on the character of the man, as they should find it.

Mr. Page.--I observed before, Mr. Chairman, that the European policy did not apply to the United States. I gave my reasons for it; they are such as have not been controverted, and I presume cannot.

With respect to the idea of excluding bad men from the rights of citizenship, I look upon it as impracticable; hard terms of admission may exclude good men, but will not keep out one of the wretches alluded to; they will come in various forms, and care little about citizenship. If we make use of the grand jury for this purpose, as proposed by the member from Georgia, (Mr. Jackson,) we must, to complete the plan, authorize the grand jury to indict such emigrants as are unworthy to become citizens, and expel them. We must add an inquisition, and as it will not be sufficient

for our views of having immaculate citizens, we should add censors, and banish the immoral from amongst us. Indeed, sir, I fear, if we go on as is proposed now, in the infancy of our republic, we shall, in time, require a test of faith and politics, of every person who shall come into these States. As to any precautions against admitting strangers to vote at elections, though I think them of less importance than some gentlemen, I object not to them; but contend, that every man, upon coming into the States, and taking the oath of allegiance to the Government, and declaring his desire and intention of residing therein, ought to be enabled to purchase and hold lands, or we shall discourage many of the present inhabitants of Europe from becoming inhabitants of the United States.

Mr. Lawrence.--We are authorized to establish a uniform rule of naturalization; but what are the effects resulting from the admission of persons to citizenship, is another concern, and depends upon the constitutions and [Volume 2, Page 564] laws of the States now in operation. I have therefore an objection to that part of the bill which respects the qualification of the members of the State Legislatures. But with respect to residence, before a man is admitted, I am of opinion with the gentleman from Virginia, (Mr. Page,) at least it may be questioned, whether any good can result from it, to compensate for the evil it may effect by restraining emigration. The gentleman has said he would admit none but such as would add to the wealth or strength of the nation. Every person who comes among us must do one or the other; if he brings money, or other property with him, he evidently increases the general mass of wealth, and if he brings an able body, his labor will be productive of national wealth, and an addition to our domestic strength. Consequently, every person, rich or poor, must add to our wealth and strength, in a greater or less degree.

Whether there shall be any particular regulation with respect to the character of the man who is to be naturalized, will be an after consideration; but I think it will be sufficient that we are able, by laws, to restrain and regulate the conduct of an individual. Nor do I believe, sir, there is any just ground of apprehension that people will come to this city, from Nova Scotia, or any other part of the world, in bodies of three or four thousand, to turn our elections, or interfere in our politics. And while I am free from these apprehensions, and suppose that the true policy of this country is to make the terms of admission easy, in order to people our country, I shall be against every measure which has a tendency to throw obstacles in the way.

Mr. Tucker had no object in making his motion, but to enable people to hold lands, who came from abroad to settle in the United States. He was otherwise satisfied with the clause, so far as it made residence a term of admission to the privilege of election; but there was a seeming contradiction in making them freeholders, and, at the same time, excluding them from the performance of duties annexed to that class of citizens. He thought the citizens had a right to require the performance of such duties, by every person who was eligible under their State laws and constitutions. Now, if the motion could be modified in any way to accomplish his object with

consistency, he would cheerfully acquiesce therein.

As to the privilege of being elected to office, he was of opinion, the term of three or four years was a term sufficiently short to acquire it in; it was a much easier method of obtaining citizenship, than was practised by other nations: neither would he object to any precaution being introduced into the bill, that had a tendency to prevent the admission of bad men, if such precaution could be devised, consistent with their constitutional power, and could be carried into easy and safe execution. The mode mentioned by the gentleman from Georgia, of a recommendation by the grand jury, or district court, would throw a very great embarrassment into the way of an emigrant's becoming a citizen; but if some more eligible mode can be devised, of making the inhabitants of the United States a select society of good moral men, he was ready to agree to it, yet he almost despaired of its being accomplished.

He had no doubt the Government had a right to make the admission to citizenship progressive, the Constitution pointed out something of this kind, by the different ages and terms of residence they annexed to the right of holding a seat in this House and in the Senate, and of being chosen President. No inhabitant can become President of the United States, unless he has been an inhabitant fourteen years; which plainly infers that he might have been a citizen for other purposes, with a shorter residence. But it goes still further, it enables Congress to dictate the terms of citizenship to foreigners, and to prevent them from being admitted to the full exercise of the rights of citizenship by the General Government; because it declares that no other than a natural born citizen, or a citizen at the time of the adoption of this constitution, shall be eligible to the office of President.

With respect to their interference with the State Governments, he believed it to be improper; and hoped, therefore, that the bill would be confined solely to the objects of the General Government.

Mr. Madison remarked, that the arguments had extended themselves beyond the simple question before the committee, and called into view matters of considerable importance, but of which, at this time, he did not mean to give an opinion. Whether residence is, or is not, a proper quality to be attached to a citizen, is the question? In his own mind, he had no doubt but residence was a proper pre-requisite, and he was prepared to decide in favor of it.

Mr. Smith, (S. C.) hoped the question would not be put to-day, as he wished to reflect further on the subject. A variety of observations had been made, which merited the serious attention of the committee; he would suggest another. An alien, in Great Britain, is not permitted to inherit, or hold real estate for his own use; consequently, a citizen of the United States, and a subject of Great Britain, would not be on an equal footing with respect to estates descended to them by inheritance. He thought this, and other weighty observations, would induce the House to



postpone the subject till to-morrow.

Mr. Sedgwick was against the indiscriminate admission of foreigners to the highest rights of human nature, upon terms so incompetent to secure the society from being overrun with the outcasts of Europe; besides, the policy of settling the vacant territory by emigration is of a doubtful nature. He believed, in the United States, the human species might be multiplied by a more eligible and convenient mode, than what seemed to be contemplated by the motion now before the committee. He was well satisfied for himself, that there existed no absolute necessity of peopling it in this way; and, if there was no absolute necessity, he thought Congress might use their discretion, and admit none but reputable and worthy characters; such only were fit for the society into which they were blended. The citizens of America preferred this country, because it is to be preferred; the like principle he wished might be held by every man who came from Europe to reside here; but there was at least some grounds to fear the contrary; their sensations, impregnated with prejudices of education, acquired under monarchical and aristocratical Governments, may deprive them of that zest for pure republicanism, which is necessary in order to taste its beneficence with [Volume 2, Page 565] that gratitude which we feel on the occasion. Some kind of probation, as it has been termed, is absolutely requisite, to enable them to feel and be sensible of the blessing. Without that probation, he should be sorry to see them exercise a right which we have gloriously struggled to attain.

Mr. Burke thought it of importance to fill the country with useful men, such as farmers, mechanics, and manufacturers, and, therefore, would hold out every encouragement to them to emigrate to America. This class he would receive on liberal terms; and he was satisfied there would be room enough for them, and for their posterity, for five hundred years to come. There was another class of men, whom he did not think useful, and he did not care what impediments were thrown in their way; such as your European merchants, and factors of merchants, who come with a view of remaining so long as will enable them to acquire a fortune, and then they will leave the country, and carry off all their property with them. These people injure us more than they do us good, and, except in this last sentiment, I can compare them to nothing but leeches. They stick to us until they get their fill of our best blood, and then they fall off and leave us. I look upon the privilege of an American citizen to be an honorable one, and it ought not to be thrown away upon such people. There is another class also that I would interdict, that is, the convicts and criminals which they pour out of British jails. I wish sincerely some mode could be adopted to prevent the importation of such; but that, perhaps, is not in our power; the introduction of them ought to be considered as a high misdemeanor.

Mr. Stone had no doubt but an alien might be admitted to the rights of citizenship, step by step; but he questioned the power of the House to say that a man shall be citizen for certain purposes, as it respects the individual State Governments; he concluded that the laws and constitutions of the States, and the constitution and

laws of the United States, would trace out the steps by which they should acquire certain degrees of citizenship. Congress may point out a uniform rule of naturalization; but cannot say what shall be the effect of that naturalization, as it respects the particular States. Congress cannot say that foreigners, naturalized under a general law, shall be entitled to privileges which the States withhold from native citizens.

Mr. Boudinot.--An exchange of sentiment on this floor I find always tends to throw more light on a subject than is generally to be obtained in any other way. But, as the subject is not yet fully elucidated, I shall be in favor of letting it remain undecided till to-morrow, for which reason, I move the committee to rise.

[4 Feb.]

Mr. Page wished it delayed until he saw the gentleman from South Carolina (Mr. Burke) in his place.

Mr. Smith, (of S. C.) said, he believed the object of his colleague was nothing more than to let foreigners, on easy terms, be admitted to hold lands; that this object could be better effected by introducing a clause to that purpose, and he had no doubt but it would be equally satisfactory to his colleague.

Mr. Goodhue was against the motion, because it made our citizenship too cheap; after it was decided against, he would move to make the term two years, instead of one, before an alien should be entitled to the privilege of a citizen.

Mr. Stone.--I would let the term of residence be long enough to accomplish two objects, before I would consent to admit a foreigner to have any thing to do with the politics of this country. First, that he should have an opportunity of knowing the circumstances of our Government, and in consequence thereof, shall have admitted the truth of the principles we hold. Second, that he shall have acquired a taste for this kind of Government. And in order that both these things may take place, in such a full manner as to make him worthy of admission into our society, I think a term of four or seven years ought to be required. A foreigner who comes here is not desirous of interfering immediately with our politics; nor is it proper that he should. His emigration is governed by a different principle; he is desirous of obtaining and holding property. I should have no objection to his doing this, from the first moment he sets his foot on shore in America; but it appears to me, that we ought to be cautious how we admit emigrants to the other privileges of citizenship, and that for a reason not yet mentioned; perhaps it may allude to the next generation more than to this, because the present inhabitants, or most of them, have been engaged in a long, hazardous, and expensive war. They have been active in rearing up the present Government, and feel, perhaps, a laudable vanity in having effected what the most sanguine hardly dared to contemplate. There is no danger of these people losing what they so greatly esteem; but the admission of a great number of foreigners to all the places of Government, may tincture the system with the dregs

of their former habits, and corrupt what we believe the most pure of all human institutions.

Mr. Jackson.--It was observed yesterday, Mr. Chairman, that we could not modify or confine our terms of naturalization; that we could not admit an alien to the rights of citizenship progressively. I shall take the liberty of supporting the contrary doctrine, which I contend for, by the reference to the very accurate commentator on the laws of England, *Justice Blackstone*, I, 10.--"Naturalization," says he, "cannot be performed but by an act of Parliament; for by this an alien is put in exactly the same state as if he had been born in the King's legiance, *except* only, that he is incapable, as well as a denizen, of being a member of the Privy Council, or Parliament, holding offices, grants, &c. No bill for naturalization can be received in either House of Parliament without such disabling clause in it." So that here we find, in that nation from which we derive most of our ideas on this subject, not only that citizens are made progressively, but that such a mode is absolutely necessary to be pursued in every act of Parliament for the naturalization of foreigners.

The same learned Judge then goes on to show the attempts that were made to introduce a general system of naturalization, and how they failed; and that, to this day, even of their meritorious naval and military characters they make an exception, as to sitting in Parliament, &c. [Volume 2, Page 566] and holding grants of land from the Crown, within the Kingdoms of Great Britain and Ireland. After this, I presume, it will not be contended that we cannot found our law on the principle of a progressive and probational naturalization.

With respect to the approbation which a foreigner ought to acquire before he becomes a citizen, I am most clear, and as arguments enough have been used to place it in its strongest point of light, I will not trouble the committee with a repetition; but I believe it essentially necessary to render the American name as honorable as it merits.

Mr. Lawrence knew that Congress had power to say on what terms aliens should be admitted to the rights of citizenship, and affix any length of residence they thought proper; so that there was no occasion to bring a commentator on the English law to prove it to him. But he contended, that when the alien was admitted to the right of citizenship, that the law of the United States could not vary any of the effects of that citizenship in the State to which he belonged. He would elucidate this, by referring to the Constitution and practice of this State. No person in New York can be naturalized but by an act of the Legislature; and when he is naturalized, there are certain rights which, perhaps, he cannot exercise, because he is not qualified according to the terms of the Constitution. For example, he may not vote for Representatives in Assembly, unless he has resided six months in the State. Now, the act of Assembly naturalizing him, cannot bestow on him the right of voting, unless he either has before, or shall after, reside in the State for the term of six months. He contended, that the law of the United States could not alter the right of any man to vote after six months' residence in New York, provided he had

conformed to the laws of the United States, in remaining one year, as the words, now moved to be struck out, seemed to imply. It is undoubtedly a question of policy, how long a person shall remain here before he is admitted to the rights of a citizen; but as a short term appeared to him to be best, he was for striking out the words proposed.

Mr. Jackson understood the gentleman yesterday, as having advanced the argument to which he replied; but, if he was mistaken in regard to him, some other gentleman had made the observation, and the authority he adduced would serve to do away any doubts it might have given rise to.

Mr. Huntington.--The terms of the bill are too indefinite; they require the emigrant to take an oath that he intends to reside in the United States; but how long, and for what purpose, are not ascertained. He may determine to stay here until he accomplishes a particular object; and he may go into the most obscure part of the Union to take this oath. The community certainly will not be benefited by such emigrants, and therefore they ought not to be admitted to the privileges of citizenship. The mode of naturalization, pointed out in this bill, is much too easy. In the State to which I belong, said he, no person could be naturalized, but by an act of the Legislature; the same is the case in several of the other States, and in Britain. He never knew a good inhabitant, who wished to be admitted to the rights of citizenship, but what found this mode sufficiently easy. The term that an emigrant should reside ought to be sufficiently long to give him an opportunity of acquiring a knowledge of the principles of the Government, and of those who are most proper to administer it; otherwise he cannot exercise his privilege with any advantage to himself, or to the community. He therefore wished that the clause might be amended, in such a manner as to leave the naturalization of foreigners to the State Legislatures.

Mr. Clymer was of opinion, that foreigners ought to be gradually admitted to the rights of citizens; and that a residence for a certain time should entitle them to hold property; but that the higher privileges of citizens, such as electing, or being elected into office, should require a longer term; permitting these rights to be assumed, and exercised at a shorter period, would not operate as any inducement to persons to emigrate; as the great object of emigration is generally with the view of procuring a more comfortable subsistence, or to better the circumstances of the individuals: the exercise of particular privileges was but a secondary consideration. He then observed, that it might be good policy to admit foreigners to purchase and hold lands in fee simple, without ever coming to America; it would, perhaps, facilitate the borrowing of money of Europeans, if they could take mortgages, and be secure. One State (Pennsylvania) had granted this liberty to aliens, and they have experienced no inconvenience therefrom; he wished Congress to pass a similar law, and was convinced it would not be dishonorable.

Mr. Stone gave it as his opinion, that a person, who meant to qualify himself for becoming a citizen of the United States, ought to take the oath of residence and

allegiance within six months, and be thereupon entitled to hold property; but that he should not be capable of holding an office, or electing others into one, for seven years.

Mr. Burke.--Unless some residence is required, it may be attended with confusion. In large cities, like Boston, New York, or Philadelphia, an election may be carried by the votes of the body of sailors who happened to be in port. If the French fleet was here at such a time, and a spirit of party strongly excited, perhaps one of the candidates might get the crews of every ship in the fleet, and after qualifying them, by taking an oath of no definite meaning, carry them up to the hustings, and place himself or his friend on this floor, contrary to the voice of nine-tenths of the city. Even a residence of one year is too short, it ought to be two, three, or four; but seven is too long. Indeed, the whole of this bill seems somehow objectionable; there are some cases also omitted, which may show the necessity of recommitting it.

The case of the children of American parents born abroad ought to be provided for, as was done in the case of English parents, in the 12th year of William III. There are several other cases that ought to be likewise attended to.

Mr. Page had given his sentiments yesterday, and was clearly against throwing any obstacles in the way of good men desirous of becoming citizens.

Mr. Lee did not approve of the motion; but was in favor of as short a term as would be consistent, because he apprehended it would tend considerably to encourage emigration.

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Mr. Seney thought Congress had no right to intermeddle with the regulations of the several States, while prescribing a rule of naturalization. If they were disposed to say that two, three, or four years' residence in the United States was proper, before an alien should be eligible to an office under the General Government, they might; but after they have admitted a foreigner to citizenship, he did not believe they were authorized to except him, for two years more, from being capable of election, or appointment to any office, Legislative, Executive, or Judicial, under the State Governments, provided the State laws or constitutions admit him at a shorter period. Nor did he believe Congress could admit foreigners to such privilege so early as two years in States requiring a longer term of probation. He had, however, no objection to foreigners being admitted to hold property, without any previous residence; but he did not like the idea of admitting them to a participation in the Government, without a residence sufficiently long to enable them to understand their duty. As the bill was not satisfactory to his mind, in its present form, he would vote for a recommitment.

Mr. Jackson had an objection to any persons holding land in the United States

without residence, and an intention of becoming a citizen; under such a regulation the whole Western Territory might be purchased up by the inhabitants of England, France, or other foreign nations; the landholders might combine, and send out a large tenantry, and have thereby such an interference in the Government as to upset the principles upon which it is established. It will be totally subversive of the old established doctrine, that allegiance and land go together; a person owing no allegiance to a Sovereign ought not to hold lands under its protection, because he cannot be called upon and obliged to give that support which invasion or insurrection may render necessary. But, with respect to residence and probation, before an alien is entitled to the privilege of voting at elections, I am very clear it is necessary; unless gentlemen mean to render the rank of an American citizen the maygame of the world. Shall stories be told of our citizenship, such as I have read in the Pennsylvania Magazine of the citizenship there? If my memory serves me right, the story runs, that at a contested election in Philadelphia, when parties ran very high, and no stone was left unturned, on either side, to carry the election, most of the ships in the harbor were cleared of their crews, who, ranged under the masters and owners, came before a Magistrate, took the oath of allegiance, and paid half a crown tax to the Collector, as the Constitution required, then went and voted, and decided the contest of the day. On the return of one of the vessels, whose crew had been employed in the affair of the election, they fell in with a shoal of porpoises off Cape Henlopen: "Ha!" said one of them, "what merry company have we got here! I wonder where they are going so cheerfully?" "Going," replied one of his comrades, "why, going to Philadelphia, to be sure, to pay taxes, and vote for Assembly men!" I hope, Mr. Chairman, we have more respect for our situation as citizens, than to expose ourselves to the taunts and jeers of a deriding world, by making that situation too cheap.

Mr. Smith, (of S. C.) admitted the propriety of recommitting the bill; but he wished some principles to be first established for the direction of the committee; for, at present, he was at a loss to conceive what was the prevailing opinion. Many gentlemen had suggested new ideas, which occasioned new difficulties; he hoped they would settle and remove some of them before they rose. The gentleman from Maryland (Mr. Seney) has observed, that we have no right to declare upon what terms an alien shall be admitted to the offices of the State Governments; the same argument extends also to the voters. This opinion opens a new field of argument, and entirely changes the system; it ought, therefore, to be decided. For his part, he was of opinion, that an uniform rule of naturalization would extend to make a uniform rule of citizenship pervade the whole Continent, and decide the right of a foreigner to be admitted to elect, or be elected, in any of the States.

He would suggest another idea for consideration. What is to become of those inchoate rights of citizenship, which are not yet completed? Can the Government, by an *ex post facto* law, deprive an alien of the advantage of such an inchoate right?

Mr. Seney.--The gentleman last up has different ideas of the jurisdiction of the United States from me. He believes we have not only the power of prescribing the

qualifications of our own officers, but the officers of every State in the Union; but I conceive, with respect to the latter, we have nothing to do. We can go no further than to prescribe the rule by which it can be determined who are, and who are not citizens; but we cannot say they shall be entitled to privileges in the different States which native citizens are not entitled to, until they have performed the conditions annexed thereto.

Mr. Burke said, no person ought to be permitted to inherit by descent, in America, unless the same privilege was reciprocated by other nations; perhaps this point would be properly settled by treaty, and it would be well to introduce a provisionary clause to this effect. He was also in favor of admitting foreigners to hold lands on easy terms, if they would come to reside among us; and here he would take an opportunity of doing justice to some of them, as it might be supposed, from what had fallen from various parts of the House, that foreigners, educated under a Monarchy, were inimical to the pure principles of Republicanism. He was convinced that this doctrine was untrue, because he had often remarked, that foreigners made as good citizens of Republics as the natives themselves. Frenchmen, brought up under an absolute Monarchy, evinced their love of liberty in the late arduous struggle; many of them are now worthy citizens, who esteem and venerate the principles of our Revolution. Emigrants from England, Ireland, and Scotland, have not been behind any in the love of this country; so there is but little occasion for the jealousy which appears to be entertained for the preservation of the government.

Mr. Clymer observed, that though Congress have authority to make a uniform rule of naturalization throughout the States, yet it was not true that it would apply with equal advantage to them all; that it might be proper every where, indeed, that aliens should be admitted, early, to the inferior rights of citizens, but that it would be unsuitable [Volume 2, Page 568] they should be admitted to the higher privileges at the same period, in all the States, however differently circumstanced. In States newly formed, it might be useful to fix a short period; but in the old States, fully peopled, he did not think the longest which had been mentioned too great; for this reason he thought the power of naturalizing should be referred to the States, to make such provision as they pleased, and therefore approved the recommitment; but not till the House had passed on to a following clause, which respects the objects of the bill. When that came under consideration, he thought it might be both a generous and wise policy to make an easy way to the return of those, with exception to one character only, who had been once citizens of the United States, and who would, many of them, gladly again become so; he meant the refugees, who were adding to the wealth and strength of a Power no ways friendly to us, and are actually injuring some of the States by the rivalship they create in the fisheries.

Mr. Tucker thought the bill must be recommitted; but he did not wish it done till the sense of the House was known on some of the various points that had presented themselves during the debate. With respect to the latter part of the first clause, he agreed with the gentleman from Maryland, (Mr. Seney,) that we ought to provide a

rule of naturalization, without attempting to define the particular privileges acquired thereby under the State Governments. By the Constitution of the United States, the electors of the House of Representatives are to have the qualifications requisite for electors of the most numerous branch of the State Legislatures. He presumed it was to be left to the discretion of the State Constitutions, who were to be the electors of the State Legislatures, and therefore the General Government had no right to interfere therein. The motion he had made for striking out the words, "and shall have resided within the United States for one whole year," not coming up to, or sufficiently explaining his wishes, he would withdraw, and propose to new model the clause, so as to allow aliens to be admitted to so much of the rights of citizenship as to be able to hold lands, upon taking the necessary oaths; but not to elect, or be elected, to any office under the General Government, until they had resided three years within the United States; with a proviso, that the titles to real estates should not be valid, unless they continued to reside for the term of three years in America.

Mr. Hartley observed, that the subject was entirely new, and that the committee had no positive mode to enable them to decide; the practice of England, and the regulations of the several States, threw some light on the subject, but not sufficient to enable them to discover what plan of naturalization would be acceptable under a Government like this. Some gentlemen had objected to the bill, without attending to all its parts, for a remedy was therein provided for some of the inconveniences that have been suggested. It was said, the bill ought to extend to the exclusion of those who had trespassed against the laws of foreign nations, or been convicted of a capital offence in any foreign kingdom; the last clause contains a proviso to that effect, and he had another clause ready to present, providing for the children of American citizens, born out of the United States.

Mr. Livermore thought the bill very imperfect, and that the committee ought to rise, and recommend it to be referred to a select committee; observing, that it was extremely difficult for fifty or sixty persons to arrange and make a system of a variety of motions and observations that had been brought forward.

Mr. Sedgwick was in favor of the committee rising. He did not recollect an instance wherein gentlemen's ideas had been so various as on this occasion; motions and observations were piled on the back of each other, and the committee, from the want of understanding the subject, had involved themselves in a wilderness of matter, out of which he saw no way to extricate themselves but by the rising of the committee.

Mr. Smith, (of S. C.) as a member of the Committee of the whole, wished to take his share of the blame for not understanding the subject; but he thought, nevertheless, that some of the points suggested had been so fully discussed, as to enable them to decide, particularly with respect to residence.

Mr. Page did not approve of the rising of the committee, until they had expressed



their sense on the point they had had so long under consideration.

Mr. Sylvester thought it neither for the honor nor interest of the United States to admit aliens to the rights of citizenship indiscriminately; he was clearly in favor of a term of probation, and that their good behavior should be vouched for. He suggested the idea of lodging the power of admitting foreigners to be naturalized in the District Judges.

Mr. Sedgwick meant to blame no gentleman, and hoped no gentleman understood him to intend such a thing. He conceived himself as much in fault as any member, because he had not yet turned his attention so seriously to the subject as he ought.

On the question being put, the committee rose and reported, and the bill was recommitted to a committee of ten.

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### **The Founders' Constitution**

Volume 2, Article 1, Section 8, Clause 4 (Citizenship), Document 8

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