the dangers of the seas terminated on entering the port, and that no sufficient cause is shown for not bringing back the cargo to the United States. *The case states that the governor of Porto Rico issued an [*176 order that the cargo should be landed and sold, "with which order the master was obliged to comply." As this case is staed, the Mary was driven into Porto Rico, and the sale of her cargo, while there, was inevitable. The dangers of the sea placed her in a situation which put it out of the power of the owners to reland her cargo within the United States. The obligors, then, were prevented, by the dangers of the seas, from complying with the condition of the bond; for an effect, which proceeds, inevitably, and of absolute necessity, from a specified cause, must be ascribed to that cause.

It is the unanimous opinion of this court, that there is no error in the proceedings of the circuit court, and that the judgment be affirmed.

Judgment affirmed.

Campbell *v.* Gordon and Wife.

Naturalization.

A certificate by a competent court, that an alien has taken the oath prescribed by the act respecting naturalization, raises a presumption that the court was satisfied as to the moral character of the alien, and of his attachment to the principles of the constitution of the United States, &c.[1]

The oath, when taken, confers the rights of a citizen. It is not necessary, that there should be an order of court, admitting him to become a citizen.

The children of persons duly naturalized, before the 14th of April 1802, being under age at the time of the naturalization of their parent, were, if dwelling in the United States on the 14th of April 1802, to be considered as citizens of the United States.

This was an appeal from a decree of the Circuit Court for the district of Virginia, dismissing the bill of the complainant.

The case was stated by Washington, J., in delivering the opinion of this court, as follows:—

"The object of the bill was to rescind a contract made between the appellant and Robert Gordon, the appellee, for the sale of a tract of land by the latter to the former, upon the ground of a defect of title. The facts in the case, which are not disputed, appear to be as follows: The land which forms the subject of dispute belonged to James Currie, a citizen of Virginia, who died seised thereof in fee, on the 23d of April 1807, intestate, and without issue. James Currie had one brother of the whole blood, named William, who, prior to the 14th day of October, in the year 1795, was a subject of the King of Great Britain, but who emigrated *to the United States, [*177 and on the day last mentioned, at a district court, held at Suffolk, in Virginia, took the oath prescribed by the act of congress, for entitling himself to the rights and privileges of a citizen. At the time when this oath was taken, William Currie had one daughter, Janetta, the wife of the appellee, who was born in Scotland. She came to the United States, in October 1797, whilst an infant, during the life of her father, and hath ever since continued to reside in the state of Virginia. William Currie died prior to the 23d of April 1807.

---

[1] And see Stark *v.* Chesapeake Ins. Co., 7 Cr. 420; Spratt *v.* Spratt, 4 Pet. 393; The Acorn, 2 Abb. U. S. 434.

C. Lee and *F. S. Key*, for the appellant, contended, 1. That William Currie was not duly naturalized. 2. That if he was, yet his daughter Janetta, being in Scotland at the time of her father's naturalization, was not thereby naturalized.

1. William Currie was not duly naturalized. The certificate of his naturalization was as follows, viz :—

"At a district court, held at Suffolk, October the 14th, 1795, William Currie, late of Scotland, merchant, who hath migrated into this commonwealth, this day, in open court, in order to entitle himself to the rights and privileges of a citizen, made oath, that for two years last past he hath resided in and under the jurisdiction of the United States, and for one year within this commonwealth, and also that he will support the constitution of the United States, and absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, or other state whatsoever, particularly to the King of Great Britain.

"A Copy, *Teste*, JOHN C. LITTLEPAGE."

*178] *The original memorandum made upon the minutes of the court, was as follows :—

"At a district court, held at Suffolk, October the 14th, 1795, William Currie, native of Scotland, migrated into the commonwealth, took the oath," &c.

There was also a deposition of a deputy-clerk, who states that he acted as deputy to Mr. Littlepage, at, before and after the date of the entry respecting Mr. Currie's naturalization. That upon examining the order-books of the said court, he finds the entries made in all cases where persons were admitted to become citizens under the act of congress, at and prior to October term 1795, to be agreeable to the form used in the case of Mr. Currie. That however informal these entries may have been, in not stating that it appeared to the court that the persons who took the oaths were of good moral character, and were admitted citizens ; he is sensible every requisite of the law in this, as well as in all other similar instances, was complied with to the satisfaction of the court, and that the omission has been a clerical one. He also finds, from the order-book, that at May term 1796, the form of the entry was altered, so as to express the applicant to be of good moral character, &c.

The application was made under the 2d section of the act of January 29th, 1795 (1 U. S. Stat. 415), which provides, that any alien, then residing within the limits, and under the jurisdiction of the United States, may be admitted to become a citizen, on his declaring, on oath or affirmation, "that he has resided two years at least within and under the jurisdiction of the same, and one year at least within the state or territory where such court is at the time held ; that he will support the constitution of the United States, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state or sovereignty whatever, and particularly by name, the prince, potentate, state or sovereignty

*179] *whereof he was before a citizen or subject ; and moreover, on its appearing to the satisfaction of the court, that during the said term of two years, he has behaved as a man of good moral character, attached to the constitution of the United States, and well disposed to the good order and happiness of the same." "All of which proceedings, required in this

proviso to be performed, in the court, shall be recorded by the clerk thereof."

The first section of the act requires only the oath of the party himself to be recorded ; but the 2d section requires all the proceedings to be recorded. When a matter is directed by act of parliament to be recorded, it cannot be proved otherwise than by record. Peake's Cas. 132. The deposition of the deputy-clerk is not competent evidence, to prove what ought to have appeared upon the record.

It does not appear upon the record, that the court was satisfied as to the moral character of Mr. Currie, or his attachment to the constitution of the United States, or that the court admitted him to become a citizen. They must either show an order of the court for his admission, or they must show that everything has been done to entitle him to become a citizen.

No decision goes further than that the declaration of a competent court that everything has been done according to law, is sufficient, and dispenses with showing how it was done. But the court has not said so, nor does the record show it. Proof of good character, &c., is not a prerequisite to permission to take the oath ; if it was, the admission to take the oath might be considered as evidence that the court was satisfied as to the moral character, &c. His application to the court was not to take the oath, but to be admitted a citizen.

The "&c." in the minutes, might have been extended by the clerk, according to his usual custom ; but this court cannot undertake to extend it, or to say *what it means. Certainly, not without direct and positive proof of its meaning. [*180

2. But if William Currie was duly admitted a citizen, yet his daughter Janetta, being then in Scotland, was not thereby naturalized. The words of the 3d section of the act of 1795 are, "that the children of persons duly naturalized, dwelling within the United States, and being under the age of 21 years, at the time of such naturalization," "shall be considered as citizens of the United States." Janetta, the daughter of William Currie, was not dwelling within the United States, at the time of his naturalization. The words, "at the time of such naturalization," apply as well to the residence of the child as to her age. If the child be naturalized, by the naturalization of the father, she must be naturalized *eo instanti*. It cannot be a naturalization, or not, according to a future event.

The case would rarely happen of a parent coming to this country, residing two years, becoming a citizen, and leaving his children in a foreign country. Congress meant to provide for the more common case of a man coming with his children. They intended, that all that were with him, under age, at the time of his naturalization, should partake of the benefit of his act. But they could not mean, that the naturalization of a father should naturalize all his progeny, under age, wherever they resided. Reasons of policy would forbid it. Their education, manners, habits, prejudices and prepossessions would all be foreign and uncongenial with our manners, principles and systems of government. A child might in this manner become a citizen, without renouncing his title of nobility.

The act of 1795 is to have the same construction *as the act of 1802, § 4 (2 U. S. Stat. 155) ; 2 Tuck. Bl. 249 ; 1 Ibid. part 2, Appendix, 101. [*181

Swann, contrà.—The "&c.," in the clerk's minutes, means everything that was necessary to be done to entitle Mr. Currie to become a citizen. If the requisites of the statute were complied with, it required not the order of the court, to admit him to become a citizen. He became such by virtue of the act of congress. The testimony as to moral character, and attachment to the constitution of the United States, may be taken out of court, or the court may be satisfied of their own knowledge. He was naturalized *de facto*, when he complied with the requisites of the act, and the neglect or error of the clerk cannot deprive him of the privileges of a citizen.

It was immaterial, where the child was, if she was under age at the time of her father's naturalization.

February 20th, 1810. WASHINGTON, J., after stating the case as before mentioned, delivered the opinion of the court, as follows:—

The title of the appellees to the land in question being disputed only upon the ground of the alienage of the female appellee, the court take it for granted that there is no other objection to its validity. It is contended, by the counsel for the appellant, that Janetta, who claims as heir to James Currie, is an alien, inasmuch as she has, by no act of her own, entitled herself to the rights and privileges of a citizen, and cannot claim those rights in virtue of her migration to the United States, and of any acts performed by her father. First, because her father was not duly naturalized; and, secondly, because, if he were, she was not, at the time of her father's naturalization, dwelling within the United States.

*182] *In support of the first objection, it is contended, that, although the oath prescribed by the 2d section of the act of congress entitled "an act to establish a uniform rule of naturalization, and to repeal the act heretofore passed on that subject," passed the 29th of January 1795, was administered to the said William Currie, by a court of competent jurisdiction, still it does not appear, by the certificate granted to him by the court, and appearing in the record, that he was, by the judgment of the court, admitted a citizen, or that the court was satisfied that, during the term of two years, mentioned in the same section, he had behaved as a man of good moral character, attached to the constitution of the United States, and well disposed to the good order and happiness of the same.

It is true, that this requisite to his admission is not stated in the certificate; but it is the opinion of this court, that the court of Suffolk must have been satisfied as to the character of the applicant, or otherwise a certificate, that the oath prescribed by law had been taken, would not have been granted.

It is unnecessary to decide, whether, in the order of time, this satisfaction, as to the character of the applicant, must be first given, or whether it may not be required, after the oath is administered, and if not then given, whether a certificate of naturalization may not be withheld. But if the oath be administered, and nothing appears to the contrary, it must be presumed, that the court, before whom the oath was taken, was satisfied as to the character of the applicant. The oath, when taken, confers upon him the rights of a citizen, and amounts to a judgment of the court for his admission to those rights. It is, therefore, the unanimous opinion of the court, that William Currie was duly naturalized.

The next question to be decided is, whether the naturalization of William Currie conferred upon his daughter the rights of a citizen, after her coming to, and residing within, the United States, she having been *a resident in a foreign country at the time when her father was naturalized? [*183

Whatever difficulty might exist as to the construction of the 3d section of the act of the 29th of January 1795, in relation to this point, it is conceived, that the rights of citizenship were clearly conferred upon the female appellee, by the 4th section of the act of the 14th of April, 1802. This act declares, that the children of persons duly naturalized under any of the laws of the United States, being under the age of 21 years, at the time of their parent's being so naturalized, shall, if dwelling in the United States, be considered as citizens of the United States. This is precisely the case of Mrs. Gordon. Her father was duly naturalized, at which time, she was an infant; but she came to the United States before the year 1802, and was, at the time when this law passed, dwelling within the United States.

It is, therefore, the unanimous opinion of the court, that, at the time of the death of James Currie, Mrs. Gordon was entitled to all the right and privilege of a citizen; and therefore, that there is no error in the decree of the circuit court for the district of Virginia, which is to be affirmed, with costs.

Judgment affirmed.

McKnight *v.* Craig's administrator.

Plea by administrator.—Costs on reversal.

In Virginia, if the defendant die after interlocutory judgment and a writ of inquiry awarded, his administrator, upon *scire facias*, can only plead what his intestate could have pleaded.[1]

In all cases of reversal, if this court directs the court below to enter judgment for the plaintiff in error, the court below will, of course, enter the judgment, with the costs of that court.

Error to the Circuit Court for the district of Columbia, sitting at Alexandria, in an action of debt, upon a judgment and *devastavit*, brought by McKnight against Craig, as executor of Mitchell.

After an office judgment by default against Craig, and a writ of inquiry awarded, in November 1807, at the rules, Craig died. At the July term 1808, his death was suggested, and a *scire facias* awarded against J. G. Ladd, his administrator. At the July term *1809 (being the fourth term after the office judgment), Ladd appeared by his attorney, and [*184 offered to plead a special plea of *plene administravit*, by himself, as administrator of Craig, to which the plaintiff objected, but the court overruled the objection, and admitted the plea to be filed.

The substance of the plea was, that Craig had made a deed of trust of certain real estate, to secure Ladd for his indorsements for Craig, at the bank, by which deed, Craig covenanted to indemnify Ladd. That Ladd had indorsed the notes of Craig to the amount of $8000, which were discounted at the bank, and continued the indorsements to the time of Craig's death. That the bank had recovered judgment against Ladd, as indorser of some of those notes, to the amount of $6009, and that Ladd had paid other of the

---

[1] Janney *v.* Mandeville, 2 Cr. C. C. 31.