



ANNO VICESIMO PRIMO

VICTORIÆ REGINÆ.

No. 20.

An Act to amend and consolidate the Acts relating to Aliens.

[Reserved, 27th January, 1858.]

*repealed by the
Lancaster 5th June 1858
Preamble.
Lancaster 19th Aug 1858*

WHEREAS it is expedient to amend and consolidate the Ordinance No. 7 of 1846, and the Act No. 8 of 1855-6, relating to Aliens: Be it therefore Enacted, by the Governor-in-Chief of the Province of South Australia, by and with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows—

1. An Ordinance, No. 7 of 1846, "To amend the Laws relating to Aliens," and an Act, No. 8 of 1855-6, intituled "An Act to amend the Laws relating to Aliens," are hereby repealed, save as regards all rights which may have been lawfully acquired by or under the said Ordinance and Act, or either of them, and as regards persons who shall have applied to be naturalized prior to the commencement of this Act.

Repeal of No. 7 of 1846, and No. 8 of 1855-6.

2. Every person now born or hereafter to be born, out of Her Majesty's dominions, of a mother being a natural born or naturalized subject of the United Kingdom, shall be capable of taking to him, his heirs, executors, or administrators, any estate, real or personal, within the said Province, by devise, or purchase, or inheritance of succession.

Every person born of a mother who is a natural born or naturalized subject, capable of holding real or personal estate.

3. From and after the passing of this Act, every Alien, being the subject of a friendly State, shall and may take and hold, by purchase, gift, bequest, representation, or otherwise, every species of personal property, except chattels real, as fully and effectually to all intents and purposes, and with the same rights, remedies, exemptions, privileges, and capacities, as if he were a natural born subject of the United Kingdom.

Aliens, friendly, may hold personal property, except chattels real.

4. Every

Alien, friendly, may hold lands for twenty-one years.

4. Every Alien now residing, or who shall hereafter come to reside in any part of the said Province, and being the subject of a friendly State, may, by grant, lease, demise, assignment, bequest, representation, or otherwise, take and hold any land, houses, or other tenements, for the purpose of residence or of occupation by him or her, or his or her servants, or for the purpose of any business, trade, or manufacture, for any term of years not exceeding twenty-one years as fully and effectually to all intents and purposes, and with the same rights, remedies, exemptions, and privileges, except the right to vote at elections for Members of Parliament, as if he were a natural born subject of the United Kingdom.

Alien become naturalized on obtaining certificate.

5. Upon obtaining the certificate hereinafter prescribed, every Alien now residing in, or who shall hereafter come to reside in, any part of the said Province, with intent to settle therein, shall enjoy within the same all the rights and capacities which a natural born subject of the United Kingdom can enjoy or transmit within the said Province, except that such Alien shall not be capable of becoming a Member of Her Majesty's Council, nor of Parliament, unless he shall have resided in the said Province for the period of five years, and until the expiration of three years after the granting of such certificate, nor of enjoying such other rights and capacities as shall be specially excepted in and by such certificate.

Aliens to present memorial.

6. It shall be lawful for any such Alien, as aforesaid, to present to the Governor a memorial stating his name, age, profession, trade, or other occupation, and the duration of his residence in the said Province, and all other the ground on which he seeks to become naturalized within the said Province, and offering to take and subscribe the oath of allegiance hereinafter directed when called upon so to do by the Governor, and praying the granting of the certificate hereinafter mentioned.

Memorial to be considered by Governor.

7. Every such memorial shall be considered by the Governor, who shall inquire into the circumstances of each case, and receive all such evidence as shall be offered by affidavit, declaration, or otherwise, as he may deem necessary or proper for proving the truth of the allegations contained in such memorial; and the Governor, if he shall be satisfied of the truth of the contents of the said memorial, and that the memorialist is a fit person to be naturalized, shall forward the name of the memorialist, together with such information as may be deemed requisite, to one of Her Majesty's Secretaries of State, for the purpose of obtaining Her Majesty's consent to the naturalization of such memorialist.

Name of memorialist to be forwarded to Her Majesty.

Alien to take oath of allegiance, whenever required.

8. Every such memorialist shall, when at any time required to do so by the Governor, take and subscribe the following oath, that is to say—

Form of oath.

“ I, A.B., do sincerely promise and swear, that I will be faithful, and bear true allegiance to Her Majesty Queen Victoria, as lawful Sovereign of the United Kingdom of Great Britain and
and

and Ireland, and of this Province of South Australia, dependent on and belonging to the said United Kingdom, and that I will defend Her to the utmost of my power against all traitorous conspiracies and attempts whatsoever, which shall be made against Her person, crown, and dignity; and that I will do my utmost endeavor to disclose and make known to Her Majesty, Her heirs, and successors, all treasons and traitorous conspiracies and attempts which I shall know to be against Her or any of them; and all this I do swear without any equivocation, mental evasion, or secret reservation, and renouncing all pardons and dispensations from any person or persons whatever to the contrary. So HELP ME GOD."

Which oath shall be taken and subscribed by such memorialist, and be duly administered to him before any Judge or Commissioner of the Supreme Court, or the Registrar or any of the Deputy Registrars of the said Province, who shall grant to the memorialist a certificate of his having taken and subscribed such oath accordingly.

9. After the memorialist shall have taken the said oath of allegiance in manner aforesaid, the Governor upon the signification by Her Majesty of Her consent to such memorialist being naturalized, and after a notice of such consent shall be published in the *South Australian Government Gazette*, may issue a certificate reciting such of the contents of the said memorial as he shall consider to be true and material, and that Her Majesty has signified her approval of such memorialist being naturalized, and that such memorialist has taken the oath hereinbefore prescribed, and granting to the memorialist all the rights and capacities within the said Province of a natural born British subject, except the capacity of being a Member of Her Majesty's Council, or of Parliament, until after a residence in the said Province for the period of five years, and until the expiration of three years after the granting of such certificate, and except the rights and capacities, if any, specially excepted in and by such certificate.

When oath taken, and Her Majesty's assent notified, Governor to issue certificate of naturalization.

10. In case any such Alien shall wilfully make any false statement in the memorial so to be presented, or in any affidavit or declaration which may be made by him as aforesaid, with intent to deceive the Governor, the certificate so granted shall be utterly void.

Fraud, to render certificate void.

11. The certificate shall be in duplicate, and one part shall be deposited in the Registry Office of the said Province, and may be inspected, and copies thereof taken, as in the case of other instruments deposited in the said office.

Certificate in duplicate; one to be deposited.

12. Every certificate of naturalization, and every certified copy of any certificate of naturalization already granted, or hereafter to be granted shall be admissible in evidence, without proof of the signature or seal authenticating the same, and shall be *prima facie* proof of the person named therein being duly naturalized, and of the signature or seal authenticating the same, and of all the matters contained

Certificate to be *prima facie* evidence of naturalization, without further proof.

contained or recited in such certificate, or certified copy respectively, and of the official character of the persons appearing to have signed the same.

Governor to make rules.

13. The several proceedings hereby authorized to be taken for obtaining such certificate as aforesaid, shall be regulated in such manner as the Governor shall, from time to time, direct.

Fee payable.

14. The fee payable in respect of the several proceedings hereby authorized, shall be the fee specified in the Schedule hereunto annexed, and no other.

Act not to affect pre-existing right.

15. Nothing herein contained shall prejudice, or be construed to prejudice, any rights or interests in law or in equity, whether vested or contingent, under any will, deed, or settlement executed by any natural born subject of Great Britain or Ireland before the passing of this Act, or under any descent or representation from or under any such natural born subject who shall have died before the passing of this Act.

Act not to take away rights.

16. Nothing herein contained shall be construed so as to take away or diminish any right, privilege, or capacity heretofore possessed by, or belonging to Aliens residing in the said Province, so far as relates to the possession or enjoyment of any real or personal property, but that all such rights shall continue to be enjoyed by such Aliens in as full and ample a manner as such rights were enjoyed before the passing of this Act.

Woman married to a natural born or naturalized subject, to be deemed naturalized.

17. Any woman who shall have been, or hereafter shall be married to a natural born subject or person naturalized, shall be deemed to have thereby become naturalized within the meaning of this Act.

Hereditaments acquired or disposed of by Aliens, not liable to escheat.

18. All hereditaments which have been or shall be acquired by, and which have been or shall be transmitted to, or disposed of by or through any person not being a natural born subject of Her Majesty, or naturalized according to law, shall notwithstanding be deemed and taken to have been lawfully acquired, transmitted, and disposed of, and not to have been escheated or forfeited, or to be liable to escheat or forfeiture.

Aliens heretofore naturalized, may become Members of Council or Legislature.

19. Every Alien who shall have received such certificate and taken such oath as are authorized and prescribed by Ordinance No. 7 of 1846, and who shall have resided five years within the said Province, shall be capable of becoming a Member of Her Majesty's Council and of Parliament, in like manner as a natural born subject of Her Majesty; and every such oath shall be deemed effectual, although the same may have been administered by a Deputy Registrar of the said Province.

This Act when to take effect.

20. This Act shall commence and take effect from the day of the Proclamation in the *South Australian Government Gazette* of Her Majesty's approval of the same having been received.

SCHEDULE

SCHEDULE REFERRED TO.

Certificate in duplicate, depositing, oath, confirmation being notified .. £ s. d.
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Government Gazette 19th Aug. 1858.

Chief Secretary's Office, Adelaide, August 19th, 1858.

NOTICE is hereby given that His Excellency the Governor-in-Chief has received a Despatch, No. 1, of the 11th June, 1858, from the Right Hon. Sir Edward Bulwer Lytton, Bart., Her Majesty the Queen's Principal Secretary of State for the Colonies, transmitting the following Order of the Queen in Council confirming the Act of 1857-8 passed by the Parliament of South Australia, and reserved by His Excellency for the signification of the Queen's pleasure, intituled "An Act to amend and consolidate the Laws relating to Aliens." By command,

WM. YOUNGHUSBAND,
Chief Secretary.

At the Court at Buckingham Palace, the fifth day of June, 1858.

Present—

The Queen's Most Excellent Majesty.

Lord Chancellor	Lord Stanley
Lord President	Mr. Secretary Walpole
Lord Privy Seal	General Peel
Duke of Beaufort	Sir Edward Bulwer Lytton, Bart.
Lord Steward	Sir John Pakington, Bart.
Lord Chamberlain	Mr. Chancellor of the Ex- chequer
Earl of Derby	Mr. Henley.
Earl of Malmesbury	
Lord John Manners	

WHEREAS, by an Act passed in the fifth and sixth years of Her Majesty's reign, intituled "An Act for the Government of New South Wales and Van Diemen's Land," it is amongst other things enacted, that no Bill which shall be reserved for the signification of Her Majesty's pleasure thereon shall have any force or authority within the Colony of New South Wales, until the Governor of the said Colony shall signify either by speech or message to the Legislative Council of the said Colony, or by Proclamation as therein aforesaid, that such Bill has been laid before Her Majesty in Council, and that Her Majesty has been pleased to assent to the same: And whereas, by another Act passed in the thirteenth and fourteenth years of Her Majesty's reign, intituled "An Act for the better Government of Her Majesty's Australian Colonies," it was provided amongst other things that the provisions of the said former Act concerning the Reservation of Bills for the signification of Her Majesty's pleasure thereon,

should apply to and be in force in the Colony of South Australia: And whereas, on the 27th day of January, 1858, the Governor of the said Colony of South Australia reserved a certain Bill passed by the Legislative Council and Legislative Assembly of the said Colony, intituled "An Act to amend and consolidate the Acts relating to Aliens," for the signification of Her Majesty's pleasure thereon: And whereas the said Bill so reserved as aforesaid, has been laid before Her Majesty in Council, and it is expedient that the said Bill should be assented to by Her Majesty: Now, therefore, Her Majesty in pursuance of the said Acts and in exercise of the powers thereby reserved to Her Majesty as aforesaid, doth by this present order, by and with the advice of Her Privy Council, declare Her assent to the said Bill.

And the Right Hon. Sir Edward Bulwer Lytton, Bart., one of Her Majesty's Principal Secretaries of State is to give the necessary directions herein accordingly.

WM. L. GIBBS.