

preceding year. In that sense these Acts were, and have been, practised upon; and cotemporaneous and continued practice is a good rule for the interpretation of Statutes.

General Simcoe, the first Lieutenant Governor of the Province, having been a member of the British Parliament when both of the Acts were passed, and in the confidence of the ministry that framed them, and organized the Provincial Government under them, in pursuance of his instructions, and in prosecution of the liberal policy of the settling Act, issued a Proclamation, in His Majesty's name, dated February 7, 1792, and caused it to be published in all the northern parts of the United States, addressed "To such as are desirous to settle on the lands of the Crown in Upper Canada," inviting them to come and receive grants of these lands, upon making it appear that they were in a condition to cultivate and improve them, and taking the oaths of allegiance, &c. to which they were to be immediately admitted.

In compliance with that public invitation, and with full confidence in the security and good faith of the British Government, after consulting Counsel in and out of the Province, as to the legal effect of the Acts of 30th and 31st Geo. 3d, several thousand of such settlers, from time to time, became inhabitants of the Province, obtained lands here, by grants from the Crown and purchases from grantees under the Crown, erected buildings thereon, and expended their money and their labour in clearing, cultivating and improving their farms. They were received as subjects, and admitted at once to the full enjoyment of all civil rights.

Three years afterwards, in consequence of their having been resident in, and under allegiance to the United States, the Provincial Legislature, in 1795, thought proper to suspend, for a limited time, the exercise of their right of eligibility; and in 1800 they suspended, for a similar length of time, their right of suffrage. These restrictive Acts, to which His Excellency alludes, as imposing qualifications upon these inhabitants, were predicated upon their character as subjects, recognizing the existence of their civil rights, even those which were thus temporarily suspended, and indeed implying that without such temporary suspension of them they might be still exercised immediately, and that they could of course come again into unrestricted exercise, after the expiration of the limited term of suspension. The preamble of the first of those qualification Acts, the 35th Geo. 3d, cap. 2, was in these words—"Whereas many natural born subjects of His Majesty, who have sworn allegiance to other States or Powers, and been resident in the dominions of the same, have been induced, or may hereafter be induced, by the excellency and lenity of His Majesty's Government, to become inhabitants of this Province; and whereas it is expedient that such persons should be *immediately* admitted to all the Privileges of British subjects, therefore be it enacted &c. that "*from and after the passing of this Act,*" they shall not be *eligible* &c. "*until such person or persons shall have resided for and during the space of seven years next ensuing the day of his coming into and settling as a subject in the said Province.*" Here is an acknowledgment of them as *subjects*. This Provincial Statute, thus acknowledging them to be subjects, by His Majesty's Representatives in the Province; and, being transmitted to the Secretary of State, in the manner prescribed by the Constitution, and not thereupon disallowed within two years, it thereby received the sanction of His Majesty himself and his ministers. The Act now proposed to be passed, for the acknowledgment of these persons as subjects, under the same qualification, may be more formal and explicit, but cannot be more constitutional or obligatory.

It is observed, that the Provincial Acts of restriction applied only to the rights of eligibility and suffrage. They did not restrict or suspend, even for a limited time the capacity of these inhabitants to hold land, of which they were then, and from the commencement of the Province have ever been, in the actual and undisturbed possession, and in the exercise of which, they have taken, held, conveyed, and transmitted innumerable tracts of land, until a large proportion, probably one half of a

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