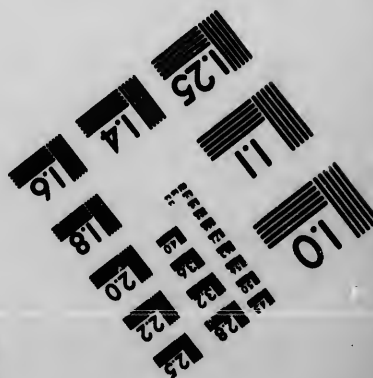
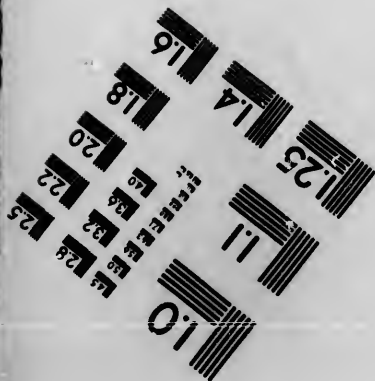
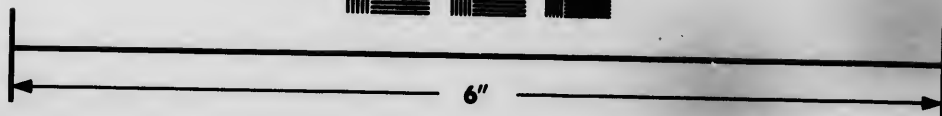
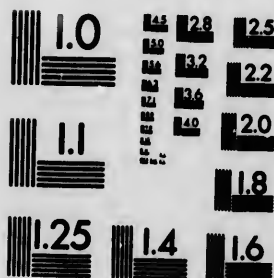


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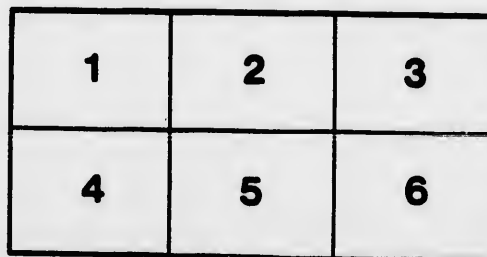
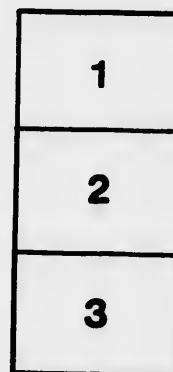
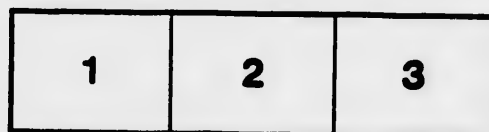
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HO

**Provincial Parliament**  
**OF**  
**UPPER CANADA.**

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**REPORT, &c.**  
**OF THE**  
**HON. LEGISLATIVE COUNCIL**  
**ON THE**  
**CIVIL RIGHTS**  
**OF**  
**CERTAIN INHABITANTS.**

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## **P. MAXCLAND.**

THE LIEUTENANT GOVERNOR thinks proper to call the attention of the Legislative Council to a subject, which he has long regarded as one of much importance to the Province and of particular interest to a large portion of its Inhabitants.

The Legislative Council is aware that of those persons who have come to this Province from foreign countries and more especially at an early period of its settlement, many had been citizens of the United States of America and subjects of that government.

Whatever difference of opinion may have formerly prevailed with respect to the civil rights of persons so situated from the circumstance of the United States of America having once been British colonies, the solemn decision of the question in the courts of the mother country, whose laws we have adopted, leaves no room for doubt. And these Inhabitants of the Province are exposed to the inconvenience of finding those rights denied which they have hitherto enjoyed, but which, whenever they may be questioned, must be decided upon by those to whom the administration of justice is committed, according to Law, and without regard to inconveniences which might be much regretted.



There are also in this Province a number of Emigrants from other foreign countries and many discharged Soldiers of foreign corps, who, not having strictly complied with the provisions of those British Statutes under which they might have been entitled to the privileges of subjects, are equally by law, exposed to the danger of being regarded as Aliens.

Of all the persons thus situated the greater part became inhabitants with the knowledge of the government; between those and others it does not appear necessary to discriminate. In the persuasion that they might all be safely received, and acknowledged as subjects, with no other qualifications than those which the Legislature of this Province has from time to time thought it expedient to impose. The Lieutenant Governor has earnestly pressed the subject upon the consideration of His Majesty's Government, and has it now in his power to communicate to the Legislative Council, that he has received His Majesty's express sanction to assent to an enactment which may afford relief to such persons as are now in the Province; and the Lieutenant Governor doubts not that a subject so important will receive the early and attentive consideration of the Legislative Council.

*Government House, }  
14th November, 1825. }*

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**P. MAITLAND,**

THE LIEUTENANT GOVERNOR thinks proper to transmit to the Legislative Council, an Extract from Earl Bathurst's despatch as it may the more clearly show the disposition of His Majesty's Government, on a subject respecting which the Governor has already communicated with the Legislative Council by Message.

*Government House,* }

*22d November, 1825.* }



*Extract of a Despatch from the Right Honorable the Earl Bathurst to His Excellency Major General Sir Peregrine Maitland, dated Downing Street, 22nd July, 1825.*

" I have had under my consideration the representations which I have had the honor of receiving from you, on the subject of Aliens who have become settlers in the Province of Upper Canada, and I regret that it arrived at a period of the Session too late to admit of any measure being proposed to Parliament.

" I am of opinion that it will be advisable to con-  
 " fer by a Legislative enactment, the civil rights  
 " and privileges of British subjects upon such citi-  
 " zens of the United States, as being heretofore set-  
 " tled in Canada, are declared by the judgment of  
 " the courts of law, in England, and by the opinion  
 " of the Law Officers to be Aliens ; and of including  
 " in the same enactment the disbanded Officers  
 " and Soldiers of foreign corps, which were in the  
 " British service and such other foreigners resident  
 " in Canada, as are in truth Aliens, altho' they have  
 " hitherto enjoyed, without question, the rights of  
 " British Subjects."

" If, therefore, you should deem it expedient to  
 " submit to the Legislature of the province at its  
 " next Session, a Bill for the relief of such persons as  
 " are now in the province, I have to convey to you  
 " His Majesty's sanction for assenting to it, notwith-  
 " standing the general royal instruction on that sub-  
 " ject, and there is no necessity for you to withhold  
 " such Bill for the signification of His Majesty's plea-  
 " sure, unless it shall pass in such a shape as may  
 " make you doubtful of its expediency." ●

(TRUE COPY.)

(Signed)

G. HILLIER.

*AN ACT to confirm and quiet in the possession of their Estates, and to admit to the Civil Rights of subjects, certain classes of Persons therein mentioned.*

WHEREAS many persons have become resident in this Province who having been formerly citizens of the United States of America, and being subjects of the Government of those States, have never been naturalized as British Subjects by any Act of Parliament; *And Whereas* there are also in this Province many persons who came from other foreign countries, and many reduced Officers and discharged Soldiers of foreign corps late in His Majesty's service, but not being subjects of His Majesty by birth or naturalization; *And Whereas* it is expedient that all such persons should be confirmed and quieted in the possession of their Estates, and should be admitted to the Civil Rights of Subjects, with such exceptions as have been from time to time provided by acts of the Legislature of this province with respect to persons having been resident in the United States of America, or having taken the oath of Allegiance to their Government; *And Whereas* His Excellency Sir PEREGRINE MAITLAND, Knight Commander of the Most Honorable Military Order of the Bath, Lieutenant Governor of the Province of Upper Canada and Major General commanding His Majesty's Forces therein, has been pleased to

HILLIER.

signify by Message to both Houses of the Legislature, that he has received His Majesty's express sanction to assent to the passing of such enactment as may afford relief to such persons being now in this province: Be it therefore enacted by the King's most Excellent Majesty. by and with the advice and consent of the Legislative Council and Assembly of the province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the parliament of Great Britain entitled an Act to repeal certain parts of an act passed in the fourteenth year of His Majesty's Reign, entitled. "An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province" and by the authority of the same, that from and after the passing of this act all persons who at the time of the passing thereof are resident inhabitants of this Province, shall be deemed, adjudged and taken within this Province. to be His Majesty's natural born Subjects, to all intents, constructions and purposes as if they, and every of them, had been or were born within this Province, so that no Estates of what nature or kind soever, heretofore purchased by them or any of them within this Province, or to which they or any of them shall have become, or may become, in any manner entitled, shall be liable

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to seizure into the hands of His Majesty, His Heirs, or Successors, or their titles thereto be otherwise impeached by reason of their having been Aliens at the time of their making the said purchases, or becoming otherwise entitled, any Statute, Law or thing whatsoever to the contrary notwithstanding.

II. And be it further enacted by the authority aforesaid, that all persons who have been at any time heretofore resident inhabitants of this Province and become possessed of real estate therein, other than and except such as have been, or hereafter may be under any express provision in the Statutes of this Province declared or found to be Aliens, shall be deemed and taken to have been natural born subjects of His Majesty, so that neither their title to any real estate within this province, nor the title of any persons claiming under them, shall be in any manner impeached by any proceeding on the part of His Majesty, His Heirs, or Successors, or otherwise howsoever by reason of their having been Aliens.

III. *Provided always nevertheless,* And be it further enacted by the authority aforesaid, that nothing in this Act contained shall extend or be construed to extend to repeal or make void, or in any manner interfere with any Law of this province respecting the qualification of persons entitled to vote in the elec-

tion of Members to be returned to the House of Assembly, or to be returned as Members of the said Assembly.

(SIGNED)

WILLIAM CAMPBELL,

*Speaker.*

*Legislative Council Chamber, }  
28th November, 1825. }*



Amendments made by the Commons' House of Assembly in and to the Bill, entitled, "An Act to confirm and quiet in the possession of their estates, and to admit to the civil Rights of subjects, certain classes of persons therein mentioned."

In the Title—After the word "Act" expunge the remainder of the Title, and insert "to  
' declare the law respecting the civil  
' Rights of certain inhabitants of this  
' province."

Press, 1 line 1—After the word "WHEREAS" expunge the remainder of the Bill, and insert  
' a very large portion of the inhabitants  
' of this province is composed of persons,  
' who have come from the United States  
' of America, and who were either natu-  
' ral born British Subjects themselves,

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Speaker.

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' or children of natural born British sub-  
' jects, which said persons have, with  
' the knowledge, approbation and en-  
' couragement, and in many cases, in  
' consequence of the invitations of His  
' Majesty's government, come into, set-  
' tled, and been received in this province,  
' and been treated and considered as  
' natural born British subjects, to all in-  
' tents, constructions and purposes what-  
' soever, not only entitled to all the  
' rights, privileges and immunities, but  
' also subject to all the duties, obliga-  
' tions and responsibilities of natural born  
' British subjects, and have manifested  
' the most loyal attachment to His Majes-  
' ty's government; *And whereas* doubts  
' have lately been expressed whether  
' they are entitled to the rights and pri-  
' vileges of British subjects, whereby  
' great uneasiness is likely to be excited  
' in the minds of the people of this Pro-  
' vince, and the honor and good faith of  
' His Majesty's government are liable to  
' be impeached; and it is therefore ex-  
' pedient for the purpose of removing  
' those doubts to declare the Law upon



' the subject: Be it therefore declared  
 ' and enacted by the King's most Excel-  
 ' lent Majesty, by and with the advice  
 ' and consent of the Legislative Council  
 ' and Assembly of the province of Upper  
 ' Canada, constituted and assembled by  
 ' virtue of, and under the authority of an  
 ' Act passed in the Parliament of Great  
 ' Britain, entitled "An Act to Repeal  
 ' certain parts of an Act passed in the  
 ' fourteenth year of His Majesty's reign,  
 ' entitled, "An Act for making more ef-  
 ' fectual provision for the Government  
 ' of the province of Quebec in North  
 ' America, and to make further provision  
 ' for the government of the said Pro-  
 ' vince," and by the authority of the  
 ' same, that all persons who were born,  
 ' or whose fathers, or paternal grandfa-  
 ' thers, were born in His Majesty's do-  
 ' minions, and who have since been re-  
 ' sident in this province, (notwithstand-  
 ' ing they may have resided in, or been  
 ' citizens of the said United States of  
 ' America, at or since the period when  
 ' the independence of the said United  
 ' States was recognized and acknowledg-

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' ed by His Majesty's government,) are,  
' and shall be considered to be, and to  
' have been to all intents, purposes, and  
' constructions whatsoever, natural born  
' British subjects, and to be, and to have  
' been, entitled (subject to any qualifica-  
' tions which the Legislature of this pro-  
' vince has from time to time thought it  
' expedient to impose,) to all the rights,  
' privileges, and immunities of natural,  
' born British Subjects."

SIGNED)

JOHN WILLSON,

Speaker.

*Commons' House of Assembly, }*  
*14th December, 1825.*

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AN ACT to secure to certain Inhabitants of this province  
rights and privileges as British Subjects.

WHEREAS there are in this province a number  
of persons not born in His Majesty's dominions and  
who have not strictly complied with the provisions of  
various British statutes for the naturalization of for-  
eigners, but who have become bona fide resident  
in this Province, and to whom it is expedient to ex-  
tend and confirm the privileges of British Subjects.  
Be it therefore enacted by the King's most Excellent

Majesty by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an act passed in the fourteenth year of His Majesty's Reign, entitled "An Act for making more effectual provision for the government of the province of Quebec in North America, and to make further provision for the Government of the said province," and by the authority of the same, That all persons domiciled in this province, who have taken, or may take the oath of allegiance to his Majesty, which the commissioners for administering the same are hereby required upon payment of one shilling to administer to any person offering and desiring to take the same, shall be entitled to all the rights and privileges of natural born British subjects, and subject to all the duties, obligations and responsibilities of the same, and that they shall be considered to be, and that they and all persons, now deceased who were bona fide resident in this province before and at the time of their decease shall be considered to have been to all intents purposes, and constructions, natural born British subjects: Subject nevertheless to the qualification now imposed by the Laws of this province with respect to the rights of

voting and of being elected to the house of Assembly.

(SIGNED)

JOHN WILLSON,

*Speaker.*

*Commons' House of Assembly }  
17th December, 1825. }*



### *Report of the Select Committee.*

THE select Committee to whose consideration your hon. house referred the amendments made by the commons house of Assembly on the bill which passed your house on the 28th November last, conferring the Civil rights and privileges of British subjects upon such persons now resident in this province as have been citizens of the United States of America and other foreigners, deeply sensible of the difficulty and delicacy of the duty imposed upon them, have taken much pains to examine the questions which are involved in these amendments, and, after the fullest deliberation, have agreed to the following REPORT:

When His Excellency the Lieutenant Governor or communicated from the Throne and afterwards by message, the gracious intentions of his Majesty towards the different descriptions of Aliens residing

in this province, they were received by this House with much satisfaction, and a Bill was immediately introduced to carry the royal intentions into effect.

The late war had most happily freed the Colony from the greater number of suspicious and disaffected characters, and measures had been wisely taken to prevent their return. The present time appeared therefore exceedingly propitious for rewarding those, who emigrating, from a foreign land, had proved their fidelity in the hour of trial—for putting an end to all distinctions, and for uniting the whole population by conferring upon them the rights, privileges and immunities of British subjects.

With the view of producing these beneficial results, the Bill went through its different stages in this house almost without question. Several members, indeed, observed when it came first under discussion, that the Provincial Legislature had not the power of naturalizing foreigners, as it would be acting in repugnance to the 31st of the late King and to the royal instructions on the table, except an express and special instruction were given to meet the case. But as such an instruction had been graciously communicated by His Majesty to the government of this province, all difficulty vanished. The royal pleasure was recited accordingly in the pre-

amble of the bill, and on the strength of this it passed your hon house, and was sent down for the concurrence of the commons house of Assembly. If it be contended that a bill of this nature, is illegal and must continue so if carried through the usual stages, the answer is plain and obvious. It confers nothing more than that which His Majesty's government approves, and therefore, if it should be found on examination when sent home that it cannot be allowed, His Majesty's Ministers, knowing themselves pledged by the Royal Instruction, would immediately feel it to be their duty to settle the matter by an Act of the Imperial parliament: and as they would have the advantage of this Bill before them, containing the provisions which the Legislature of this country thought necessary, it would have been easy for them to perceive the difficulty and to apply the proper remedy. In either case the Bill would become effectual; and, under this impression, it was sent to the Commons' House of Assembly.

It was reasonable to expect that the satisfaction entertained by your honorable house, would have been universal and that the same alacrity would have been every where felt to remove the disabilities which press hard upon a small, but industrious and respectable portion of the community and that what had been the eager object of entreaty and supplica-

tion, for many years, would be received with every demonstration of grateful affection.

In these reasonable expectations the house has been grievously disappointed. The other branch of the Legislature has thought fit to stand between the Royal Grace and those it was intended to benefit, and to propose measures subversive of every law that connects society together. Had the Commons' House of Assembly found your Bill imperfect in its provisions, and proposed the necessary alterations in accordance with the messages of his Excellency, this house, whose wish it was to confer the rights, privileges & immunities of British subjects without reserve, would have willingly concurred even had the house of assembly preferred to proceed by resolutions rather than by bill—such your Committee is persuaded was, and still is, the feeling of your house and the anxiety of every member to settle this great question, that you would have overlooked the rejection of your bill and concurred in such Resolutions, had they been framed in a way calculated to obtain their proposed object. But the house of assembly having rejected these obvious courses, has adopted one altogether new and extraordinary.

The principles and facts assumed and acted upon in the amendments made by that House, are so

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directly contrary to what has ever been advocated in a British colony, that your Committee would have been more disposed to advise your Honourable House to treat them with silent neglect than serious consideration. were not the consequences so injurious to many respectable individuals; but when they reflected that ruin to hundreds may be the result of the refusal on the part of the House of Assembly, to adopt the recommendation from the Throne, they think it their duty to enter with some minuteness into the subject; for though exceedingly clear in itself, it has been perplexed and darkened by ignorance and misrepresentation.

It seems to be imagined that to place the measure upon the ineffectual footing of a declaratory law, would be more popular than a direct and positive enactment. Were it so, it would be no less the duty of your House to oppose amendments, which they consider repugnant to the principles of the constitution, but it cannot be;—and your Committee are convinced that the course adopted by your Honourable House, when seen in its true light, can scarcely fail to be approved of by those whom it is intended to relieve.

I By the first statute of this Legislature it was enacted, that in all matters of controversy relative to



property and civil rights, resort shall be had to the laws of England as the rule for the decision of the same. This general principle having never been repealed, is therefore the law of the province at this moment; and however contrary its application may, in many cases, be to the opinion of individuals, it must be the directing rule in the courts of justice. Among other consequences following this adoption of the laws of England, is the doctrine of allegiance which prevails in that happy country, and which, though simple and natural, and such as has ever been recognized by the most enlightened nations, has in modern times, like every other good principle, been called in question.—In England, and therefore in this province, no man can abjure his allegiance. With the consent only of the government to which he owes natural allegiance, can he be absolved. Protection and allegiance are reciprocal, and include obligations from which neither party can withdraw without the concurrent act of the other. It is therefore a sacred and incontrovertable truth, that no subject can more rightfully divest himself of his allegiance to his government without its consent, than his government can, without his consent, deprive him of its protection, because it is founded on the nature of civil society, and essential to its very existence. The contrary doctrine immediately leads to the most danger-

ous errors: for those who tell us, that since no man has the power of choosing under what government he shall be born, he is therefore under no obligation to continue his allegiance to it longer than he pleases, must likewise admit that children are under no obligation to love, honour and obey their parents, except so far as it accords with their inclination, because they were never consulted whose children they should be.

The doctrine of allegiance which prevails in Great Britain and this province, was also that of the United States while they continued appendages of the British empire. The inhabitants of those states were British subjects, sharing in all the privileges of such, and liable to the duties incident to that honorable appellation;—they could not withdraw from their allegiance at their own pleasure, nor divest themselves of the obligations which it imposes, without the consent of the British Legislature. The history of the rebellion illustrates the truth of this doctrine, and proves that it was so understood on both sides of the Atlantic. For when the inhabitants of the colonies, now the United States, revolted from the parent state, and by a solemn and formal public act, renounced their allegiance to the king and government by their declaration of independence in the year 1776, they were not by this *exparte* proceeding discharged or absolved from their allegiance, and

all their subsequent acts during the war, were by the law of nations as much overt acts of treason and rebellion, as if they had made no such formal renunciation. But when His Majesty, by the treaty of 1763, which was concluded by authority of Parliament, recognized that independence, which the revolted colonies had declared seven years before, then, and not till then, was the bond of union for ever cancelled, and the constitutional obligations on both sides were by this concurrent act, as completely dissolved as if they had never existed. This positive and express dissolution of the original compact extended to all the inhabitants of the revolted colonies excepting such as were still disposed to adhere to their former allegiance, to whom a given time to evince that disposition was allowed. but of which if they did not avail themselves, they were to be considered citizens of the United States, and consequently aliens, and for ever excluded from the rights and privileges of British subjects, unless subsequently naturalized by conforming to the laws regarding foreigners.—From the ratification of the treaty of 1763 the inhabitants of the revolted colonies, now the United States, became with respect to British subjects, as much foreigners as the people of France or China.\* Upon this principle the two nations have acted both in their external and internal policy, and it has been their uniform

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practice to treat each other as foreigners.

## II. *The Public or External policy of the two Nations.*

THE Navigation Laws were put in force against the United States as soon as the Treaty was signed; they were restricted in their intercourse with the West India Colonies, and prohibited from any commercial dealing with the possessions still remaining to Great Britain on this Continent. In the order in council, dated 26th December, 1783, some modifica-

### DECLARATION OF

INDEPENDENCE

JULY 4TH, 1776.

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\* WE, the representatives of the United States of America in General Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do in the name, and by the authority of the good people of these Colonies, solemnly publish and declare, that these United Colonies are, and of right ought to be free and independent States; and that they are absolved from all allegiance to the British Crown, and that all political connexion between them and the State of Great Britain, is and ought to be totally dissolved; and that as free and independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and do all other acts and things which independent States may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other, our lives, our fortunes, and our sacred honor.

Signed by order, and in behalf of the Congress,

JOHN HANCOCK, *President.*

ATTEST,

CHARLES THOMSON, *Secretary.*

tions in favor of the United States, are admitted, but these are all prefaced with the words "until further order," which implies that they were not considered matter of right but of grace, and might be recalled at pleasure. Now, this very order regulating trade and the exceptions allowed in certain cases, clearly prove, that the British Government considered that of the United States as a foreign power, and that no other privileges were to be granted to its citizens than were permitted to Swedes,

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By the 22d Geo. 3. } AN ACT of Parliament was passed granting to the  
Chap. 46. } Crown powers for negocia tug, or concluding, a general  
or particular peace, or truce, with the whole or with any part of the Colonies,  
and for setting aside all former laws whose operation was in contravention  
of that purpose.

In consequence of this law the definitive Treaty of Peace and Friendship between His Britannic Majesty and the United States of America, was concluded and signed at Paris, the 3d day of September, 1783; the first article of which is this,

"His Britannic Majesty acknowledges the said United States, viz.—  
"New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, and Georgia to be Free, Sovereign and Independent States; that he treats with them as such, and for himself, His heirs and successors, relinquishes all claims to the Government, Propriety, and Territorial rights of the same, and every part thereof."

"This made one of the Provisional articles of Agreement, and was confirmed by Parliament on the 21st February, 1783, which adopted among other resolutions respecting the Treaty of Peace, the following,

"That His Majesty in acknowledging the independence of the United States of America by virtue of the powers vested in him by an act of the last Session of Parliament, entitled, "AN ACT to enable His Majesty to conclude a Peace or Truce with certain Colonies in North America therein mentioned," has acted in perfect compliance with the necessity of the times, and in conformity with the sense of Parliament."

This treaty was afterwards accepted and confirmed by Congress; and from that moment, the two nations were foreigners to each other.

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Danes or Russians. In the act of Parliament passed early in 1783, for regulating the commerce between England and the United States the words "British Subjects" are used in contradistinction to the words "inhabitants and people of the United States;" and in the intercourse with the West India Islands only British subjects and British built Ships, owned by His Majesty's Subjects, are allowed, and the Inhabitants of the United States are strictly excluded. The same phraseology is observed in the Law passed for regulating the commercial intercourse between Great Britain and America in 1784, and so much exasperated were the people of Massachusetts at this Act, by which that State was excluded from a most lucrative trade which had enriched it while a Colony, that in its feeble madness it passed an Act on the 23d of June, 1785, prohibiting the exportation from any Port or Harbour of the common-wealth, of any goods, Wares or Merchandize the growth, manufacture or produce of any of the United States, in British Ships, on pain of forfeiting the Vessel, &c. &c. Thus giving the first specimen of the non-intercourse and embargo laws, which were to prostrate the power of Great Britain, but which all recoiled on the heads of their promoters.

That the British government never relaxed from enforcing the Navigation laws against the Inhabi-

tants of the United States, is sufficiently evident from its conduct every year. till the Commercial Treaty in 1794; for, in 1785, an Act passed the British Parliament, confining, for a limited time, the trade between the ports of the United States and His Majesty's subjects in the Island of Newfoundland. to bread, flour and live stock, to be imported in none but British built Ships, actually belonging to British subjects and navigated according to Law. These various restrictions gave much offence to the U. States, which had, while colonies, complete freedom of trade with all their Sister colonies as well as the Mother country, and although proud of having achieved their independence, they were unwilling to pay the penalty.

It must be confessed that the restrictions under which their commerce laboured, were productive of the most serious evils; the merchants found themselves incapable of contending even in their own ports with foreigners, nor did matters assume a better aspect untill the new constitution went into operation in 1789, which enabled Congress to regulate commerce and cloathed the Executive branch of the Legislature with sufficient authority to form commercial treaties and to secure on the part of the United States, their faithful observance which the former Government was unable to do.

The two nations from mutual irritation, caused by the new relation in which they stood to one another, seemed to be receding further and further from one another till Jay's Treaty went into operation, the ninth article of which proves that the Legislature of each considered the subjects of the other aliens; for it is stipulated. "that the British subjects who now hold lands in the Territories of the United States, and American citizens who now hold lands in the dominions of His Majesty, shall continue to hold them according to the nature and tenure of their respective States and titles therein; and may grant, sell or devise the same to whom they please in like manner as if they were natives; and that neither they, nor their heirs, or assigns, shall so far as may respect the said lands and the legal remedies incident thereto, be regarded as aliens."

An exception is often the most convincing proof of the existence of the rule. Here British subjects and American citizens are declared by a deliberate act of the legislatures of each nation respectively, aliens to one another, to all intents and purposes, except in the single instance of certain lands held at the signing of the treaty; but the privilege does not extend to other lands that might afterwards be acquired, nor to any other right or privilege. In truth, the



whole treaty proves the subjects of each, alien to the other; for if they had not been so, had not the American citizens been aliens, no such treaty would have been necessary, and they would have very quickly availed themselves of their privilege as British subjects, in renewing that free and gainful trade with the British West Indies, which had enriched them while colonies. But, as citizens of an independent state and aliens, these ports were closed against them, and the navigation laws strictly enforced.

### III. *Internal Policy of the two Nations.*

YOUR Committee having thus proved that in all their public transactions, both nations considered themselves foreign or alien to one another, are desirous of calling the attention of your honourable house towards their internal policy.

The alien law, passed on the 6th of July, 1798, during the administration of President Adams, made it lawful for the President of the United States to order all such aliens as he should judge dangerous to the peace and safety of the United States, or should have reasonable grounds to suspect were concerned in any treasonable or secret machinations against the government thereof, to depart out of the terri-

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pressed in the said order; and if such alien disobey-  
ed, not having obtained a licence from the President,  
he should, on conviction, be imprisoned three years.  
The act proceeded to allow the President to give a  
licence to remain to aliens who proved to his satis-  
faction by evidence, taken before such persons as he  
might direct, that no danger was to be apprehended  
from them, on such conditions and limitations as the  
President might judge proper. A prodigious clam-  
mour was raised by the democrats in the United  
States against this law when first enacted; but all  
parties are satisfied that it was salutary at the time;  
but whether it has been repealed, or modified into  
the alien enemy-law now in force, your committee  
have not the means of discovering. The provisions  
of this law are so very similar to one of our own sta-  
tutes, against which so unreasonable a clamour has  
been excited, that your committee have appended  
both to this report, by which it will be seen that  
where the two laws differ, it is where the law of the  
United States is the more severe \*.—All British sub-

### THE ALIEN LAW OF THE UNITED STATES.

\* Section 1st.—BE it enacted by the Senate and House of Represen-  
tatives of the United States of America in Congress assembled, That it shall  
be lawful for the President of the United States at any time during the continu-  
ance of this act to order all such aliens as, he shall judge dangerous to the  
peace and safety of the United States, or shall have reasonable grounds to  
suspect are concerned in any treasonable or secret machinations against the  
Government thereof, to depart out of the territory of the United States within

jects residing in the United States are subject to an alien law, which is more rigid than the law in England, although the position of the two countries, in respect of danger from a vast influx of foreigners, is very different. As in the United States all persons born within the territories of the British empire are deemed aliens, so in Great Britain citizens of the United States coming to that country are held to be foreigners, and were obliged to report themselves to the alien office, and some of them were ordered to depart the kingdom, among others, the famous Aaron Burr.

such time as shall be expressed in such order, which order shall be served on such alien by delivering him a copy thereof or leaving the same at his usual abode and returned to the office of the Secretary of state by the Marshal or other person to whom the same shall be directed; and in case any alien so ordered to depart shall be found at large within the United States after the time limited in such order for his departure, and not having obtained license from the President to reside therein, or having obtained such license shall not have conformed thereto, every such alien shall on conviction thereof be imprisoned for a term not exceeding three years, and shall never after be admitted to become a citizen of the United States. Provided always and be it further enacted, that if any alien so ordered to depart, shall prove to the satisfaction of the President by evidence to be taken before such person or persons as the President shall direct, who are for that purpose hereby authorized to administer oaths, that no injury or danger to the United States will arise from suffering such alien to reside therein, the President may grant a license to such alien to remain within the United States for such time as he shall judge proper, and at such place as he may designate; and the President may also require of such alien to enter into a bond to the United States in such penal sum as he may direct, with one or more sufficient sureties to the satisfaction of the person authorised by the President to take the same, conditioned for the good behaviour of such alien during his residence in the United States, and not violating his license, which license the President may revoke whenever he shall think proper—July 6th, 1789.

1804 } *Be it enacted &c.* That from and after the passing of  
44th Gen. 3. } this Act, it shall and may be lawful for the Governor, Lieu-  
Cap. 1. Sec 1 } tenant Governor, or Person administering the Government  
of this Province, for the Members of the Legislative and Executive Councils,  
the Judges of His Majesty's Court of King's Bench for the time being,

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It is further worthy of remark, that during the late unhappy contest between the two countries, citizens of the United States in Great Britain, or in this province, were treated with far more consideration and lenity than British subjects residing in the United States. Now that there is peace and friendship between the two nations, and great mutual intercourse, it might be expected, if any relaxation were thought expedient, that the time for making it has arrived, nevertheless the situation of a subject of ei-

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respectively, or for any person or persons authorized in that behalf, by an instrument under the hand and seal of the Governor, Lieutenant Governor, or person administering the Government for the time being, or any one or more of them, jointly or separately, by warrant or warrants under his or their hand and seal, or hands and seals, to arrest any person or persons, not having been an inhabitant or inhabitants of this Province for the space of six months next preceding the date of such warrant or warrants, or not having taken the oath of allegiance to our Sovereign Lord the King, who by words, actions or other behaviour or conduct, hath or have endeavoured, or hath or have given just cause to suspect that he, she or they is or are about to endeavour to alienate the minds of His Majesty's subjects of this Province from his person or government, or in any wise with a seditious intent to disturb the tranquility thereof, to the end that such person or persons shall forthwith be brought before the said person or persons so granting such warrant or warrants against him, her or them, or any other person or persons duly authorized to grant such warrant or warrants by virtue of this Act; And if such person or persons, not being such inhabitant or inhabitants as aforesaid, or not having taken such oath of allegiance, shall not give to the person or persons so granting such warrant or warrants, or so authorized as aforesaid, before whom he, she or they shall be brought, full and complete satisfaction that his, her or their words, actions, conduct or behaviour had no such tendency, or were not intended to promote or encourage disaffection to His Majesty's person or government, it shall and may be lawful for each or any of the said persons so granting such warrant or warrants, or so authorized as aforesaid, and he and they is and are hereby required to deliver an order or orders in writing, to such person or persons, not being such inhabitant or inhabitants as aforesaid, or not having taken such oath of Allegiance, requiring of him, her or them to depart this Province within a time to be limited by such order or orders, or if it shall be deemed expedient that he, she or they should be permitted to remain in this Province, to require from him, her or them good and sufficient security, to the satisfaction of the person or persons acting under the authority hereby given, for his, her or their good behaviour, during his, her or their continuance therein.

ther nation residing within the dominions of the other is that of an alien.

*A British subject in the United States—*

1. Cannot serve as a jurymen.
2. Can enjoy no station of profit or honour under the government.
3. Can hold no land.
4. Cannot vote for a member of Assembly or Congress.
5. Cannot become a member of the Legislature.
6. Can derive no benefit from the navigation laws above other foreigners.

*An American citizen in Great Britain.*

1. Cannot serve as a jurymen.
2. Can enjoy no station of profit or honour under the government.
3. Can hold no land.
4. Can neither vote for nor become a member of parliament.
5. Can derive no benefit from the navigation laws above other foreigners.

These disabilities may be wholly or in part, removed by laws existing in either country, or by a special law for a particular case, provided aliens qualify themselves to receive the benefit; but so long as they preserve their respective allegiances unimpaired, they are aliens in either country. As the concurrent act of a subject, and the government to

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which he owes natural allegiance, may dissolve this tie, so may the concurrent act of a government and an emigrant produce this tie: and the emigrant may thus become entitled to all the benefits and privileges of a natural born subject. This is called naturalization, and obtains both in Great Britain and the United States, though in a different manner. In regard to naturalization, it is to be remarked, that it proceeds upon the fact, that the person to be naturalized is an alien or foreigner, otherwise it would be an anomaly. Most nations have been very cautious in admitting strangers into the rights and privileges of natives, and therefore their laws on this subject, have been in general very carefully drawn up. Nations may, in many respects, be compared to families, but families are not much disposed to admit strangers to share in their domestic privileges, unless compelled by a strong necessity; and accordingly we find among all ancient nations the greatest jealousy exercised in this matter, and that, unless for the purpose of providing for future defence, strangers were seldom admitted to a full participation of the privileges and immunities of natural born subjects. This jealousy is sanctioned by the feelings of nature; persons to associate must have a common object, a community of sentiment and feeling, and the same language. But these elements of union are seldom

found in a foreigner, and are therefore difficulties to his admission in limine, which he is rarely able to overcome. Some particular causes have produced relaxations. After a long war, strangers have been invited to fill the place of those who had fallen in battle; or they have been invited to assist in the wars of the natives, or to people parts of their territories laid waste by pestilence or war, or to assist in the settlement of foreign possessions; and exceptions have sometimes been made for commercial advantages.

Nations frequently at their commencement are disposed to associate strangers with them without any difficult preparation. Thus Athens, under its first king, admitted strangers on easy terms to become citizens, but after she became a republic, and distinguished in Greece, it was extremely difficult to become a citizen; nay, it was considered presumptuous for foreigners, though at the head of armies, or on thrones, to aspire to so great an honour; and only a very few persons who were eminently celebrated, were admitted to this distinction. Among the Romans, no foreigner was allowed the privilege of a native, except the inhabitants of some Italian cities, until after the destruction of the republic, when the Emperors conferred it first upon whole provinces, and at length upon the whole empire.

In England and Scotland partial naturalization laws have not been unfrequent, but till the 7th of Queen Ann, chapter 5, (1709,) no law of a general character on this head had ever been enacted. During that session an act was passed for the general naturalization in England of foreign protestants, which continued in force about three years. The law was unpopular; it was considered unwise to open the door so widely, although many conditions and qualifications were necessary to acquire its benefits, and it was therefore repealed.

The naturalization laws now in force in England, are partial, extending to particular classes, such as foreigners serving in the navy, army, or whale fishery, with the exception of sitting in Parliament, being of the privy council, or holding offices or grants of land from the crown. It is not, however, difficult for individuals to get private acts of naturalization passed in their favour, with the like limitations; but although a general naturalization law was not endured in England for any length of time, as there was no necessity for measures to increase the population more rapidly than it was naturally doing, it seemed advantageous to encourage emigration to the North American colonies, which embraced immense tracts of uncultivated lands. Accordingly the 13th Geo. II. cap. 7. was passed for naturalizing foreign-



ers in the North American colonies, and was nearly a transcript of the general one, which had been, for a short time, in force in England. This act was passed chiefly for the purpose of inducing foreign protestants to come and settle in the colonies, [now the United States,] which were at that time weak, and exposed to the danger of incursions from the Indians or French of Canada. It was passed at a time when there was no such nation as that of the United States, and consequently could not have any reference to it; yet as it has been recognized by subsequent acts of the British Parliament, it has been construed to extend to foreign protestants who have emigrated from the United States. Assuming this construction as correct, then *ipso facto* it can apply to them only as foreign protestants; for the preamble of the law asserts this, and consequently, if it include Americans, it is because they are *Aliens*. In order therefore to benefit by its provisions, they must comply with its conditions; nor are these so hard or revolting (as will afterwards appear) as those required of British subjects before they can become citizens of the United States. Much stress has been laid upon the 30th Geo. 3. Cap. 27. but it merely remits to settlers the duty on the goods they bring with them, and has no reference whatever to their civil rights.

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These two laws contain all the provisions made for the naturalization of Emigrants into this colony; but before your committee advert to the conditions they required, it becomes necessary to examine the laws of the United States on the same subject, that we may be enabled to contrast them with one another.

After the peace of 1783, the United States found themselves possessed of an immense territory, a small part of which only was thinly inhabited, while thousands of square miles were without a settler. It was natural and wise, therefore, for them to encourage emigration; and accordingly an act for establishing an uniform rule for naturalization, was passed on the 29th of July, 1795. This law has undergone some trifling modifications since that period; and your committee beg leave to contrast its provisions, as it is now acted upon, with those required by the 13th Geo. II. cap. 7. that it may be seen how much more honourable and delicate the demands of our parent state are upon those who seek to become her subjects, than those made by the United States.

*The 13th Geo. 2, Cap. 7 requires of American Protestant citizens in order to become a British subject in this Province.*

*The naturalization laws of the United States (14th APRIL, 1802) requires of a Canadian or any British subject in order to become American citizens.*

1st. That they shall remain in the colony seven years without being absent more than two months at any one time, before they can sit in the House of Assembly.

1st. That they shall report themselves to some court of Record immediately on their arrival in the United States, mentioning their names, place of birth, age, nation, and allegiance, with the country whence they have emigrated; and the place of their intended residence.

2ndly. That they shall take the Oath of Allegiance to King George, another oath abjuring the Pretender, once required, now omitted.

2ndly. That this report be recorded by the clerk and a certificate granted, to be afterwards exhibited to the court as evidence of the time of their arrival in the United States.

3rdly. That they profess themselves to be Christians.— This, with the oath, to be taken before the Chief Judge or other Judge of the colony.

3rdly. That they must reside five years, at least, in the United States, one of which in the State in which the court sits to which they applied for naturalization.

4thly. That the oath and subscription be recorded in the Court where the Judge presides, and also in the Secretary's office.

4thly. That they declare at least three years before they can be naturalized in open court, upon oath or affirmation, that it is *bona fide* their intention to become citizens of the United States.

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5thly. That, if not a Quaker  
or Jew, they shall receive the  
Sacrament in some Protestant  
and reformed congregation.

5thly. That they shall at the  
same time renounce *for ever all*  
allegiance to any foreign Prince,  
Potentate, or State or Sovereign-  
ty, and particularly by name the  
Prince, Potentate, State, or So-  
vereignty, whereof they may at  
the time be citizens or subjects.

6thly. A certificate of all this  
must be exhibited to the court  
when application is made for  
naturalization.

7thly. They must satisfy the  
court that they have resided  
within the limits and under the  
jurisdiction of the United States  
*five years*, and prove by two  
witnesses, that they have beha-  
ved as persons of good moral  
character, are attached to the  
principles of the Constitution of  
the United States and well dis-  
posed towards the peace and  
good order of the same.

8thly. Upon the proofs be-  
ing made the oaths of abjura-  
tion and allegiance shall be ad-  
ministered.

9thly. In case they belong to  
any order of Nobility, they shall  
in addition to the above requi-  
sites, renounce under oath, in  
the open Court, their Title or  
Titles, which renunciation shall  
be recorded in the said court:

10thly Before they can sit in Congress they must have been seven years a citizen, which with five naturalizing, make twelve years. A Senator must be nine years a citizen—*five* during naturalizing—*Fourteen* (double the time in this Province.)

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The qualifications required under the British acts, are easy, simple, and delicate. They offer no violence to early feelings & associations, nor do they extort from the applicant an oath, which honor and probity alike forbid. The only condition to which an objection has been raised, is, that of taking the Sacrament, but to those who are truly christians, it surely ought not to be considered objectionable, because they are only required to take it in their own Churches, the words "in some protestant and reformed congregation," confine them not to one denomination.—The contrast in favor of British dignity and high mindedness, which these laws exhibit, is particularly striking. Before any emigrant can become a citizen of the United States, the law prescribes that he shall, upon oath, absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign Prince, Potentate, State or Sovereignty

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whereof he was born a citizen or subject. No condi-  
tion could have been better imagined than this, for  
excluding the *good*, and securing admission to  
the *bad*. Had the oath been intended for the  
express purpose of admitting the refuse of all other  
nations, and repelling the conscientious, it could not  
have been better framed. Is it possible to find a man  
of high feeling, who will come into open Court and  
solemnly abjure all fidelity to his lawful Sovereign  
and his native land? Two citizens come and swear,  
that the person wishing to become a citizen, is of a  
good moral character, and that he is attached to the  
constitution of the United States; and then the  
courts gravely administer an oath, which, in spite  
of this evidence, proves him to be void of all proper  
feeling, and without attachment to any country or  
government on earth. The condition requiring a  
public renunciation of nobility requires no comment.  
Can any one with propriety, (after reading this na-  
turalization law of the United States\*) prentend to

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LAWS OF GREAT BRITAIN ON THE SUBJECT OF  
NATURALIZATION.

\* AND for the better encouraging of foreign mariners and seamen to  
come and serve on board ships belonging to the Kingdom of Great Britain;  
Be it further enacted by the authority aforesaid, That every such foreign  
mariner or seaman who shall from and after the said 25th day of April, have  
faithfully served on board Her Majesty's ships of war, or any privateer or  
merchant or trading ship or ships, vessel or vessels, which at the time of such  
service shall belong to any of her Majesty's subjects of Great Britain for the  
space of two years, shall to all intents and purposes be deemed and taken to  
be a natural born subject of her Majesty's Kingdom of Great Britain, and  
have and enjoy all the privileges, powers, rights and capacities which such

argue, that it is easy for emigrants to become citizens? Can a truly conscientious man comply with its requisites?—I round all which it appears sufficiently clear, that the policy of Great Britain and the United States, both external and internal, proceeds upon the principle, that the subjects of each are Aliens to the other.

But it has been said, that the inhabitants of the United States have been encouraged to come in by Provincial statutes, and have enjoyed and exercised, without let or hindrance, *all* the rights and privileges of British subjects.

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foreign mariner or seamen could, should or ought to have had and enjoyed in case he had been a natural born subject of her Majesty, and actually a native within the Kingdom of Great Britain—6 Anne, Chap. 37 Sec. 30

By Statute 13 Geo. 2. Cap. 3. every foreign seaman who in time of war serves two years on board an English ship by virtue of the King's Proclamation, is ipso facto naturalized under the like restrictions as in 12 Wm. 3 Cap. 2. which Statute of Wm. merely prohibits such naturalized foreigner from being a member of the Privy Council or Parliament, and from having grant of lands from the crown: and by Statutes 13 Geo. 2. Cap. 7—20 Geo. 2. Cap. 44—22 Geo. 2. Cap. 45—2 Geo. 3. Cap. 25, and 13 Geo. 3. Cap. 25, all foreign Protestants and Jews, upon their residing seven years in any of the American colonies without being absent above 2 months at a time, and all foreign protestants serving two years in a Military capacity there, or being 3 years employed in the Whale fishery without afterwards absenting themselves from the King's Dominions for more than one year, and none of them failing within the stipulated period to declare by a Statute 4 Geo. 2. Cap. 21, shall be, upon taking the oath of allegiance and supremacy, or in some cases making an affirmation to the same effect, naturalized to all intents and purposes as if they had been born in this Kingdom, except as to sitting in Parliament or being of the Privy Council, and holding offices and grants of land, &c. from the Crown, within the Kingdom of Great Britain and Ireland.

By Statute 20 Geo. 3. Cap. 20 Sec. 24, 27, 28 and 29. Geo. 3. Cap. 20 sec. 25, every foreigner who has established himself and family in Great Britain, and carried on the Whale fishery, and imported the produce thereof for the space of five years successively, is declared to be entitled to all the privileges of a natural born subject

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#### IV. *The Constitutional and Provincial ACTS.*

It is quite evident that this Legislature has no power to enact laws repugnant to the constitution conferred upon us by the 31st of the late King. In cases not provided for by that law, we are at liberty to act, and in no other. In as far, therefore, as rights of property are concerned, we may proceed in affording ample security and protection. But, as res-

##### NATURALIZATION LAWS OF THE UNITED STATES

By the Laws of the United States as they now stand, there are two descriptions of Aliens, viz: those who were in the United States at any time between the 18th June 1798, and the 14th April 1802, and those who have arrived in the United States since the last mentioned period. The following are the conditions on which they can be naturalized, and not otherwise.

1st. CLASS—By proving that they were residing within and under the Jurisdiction of the United States before the 14th April 1802, and that they have ever since continued to reside within the same.

2d. CLASS—1st. All who have arrived in the United States since the 14th April 1802, shall make report of him or herself to the clerk of any Court of record, which report shall contain the name, place of birth, age, nation and allegiance with the country whence he or she migrated, and the place of his or her intended residence. This report the Clerk records, and grants a certificate under his hand and seal of office. If the Alien be under 21 years of age, the report must be made by the Parent, Guardian, Master or Mistress of the Alien. This certificate is to be exhibited in the court as evidence of the time of the applicant's arrival in the United States.

2nd. After this report is made the alien must reside five years at least in the United States, one of which must be in the state or Territory where the court sits to which application is made for naturalization. But he or she must at least three years before that time, declare in open Court, upon oath or affirmation, that it was bona fide his or her intention to become a citizen of the United States, and renounce, for ever, all allegiance and fidelity to any foreign Prince, Potentate, State or Sovereignty whereof such alien may at that time be a citizen or subject. Of this notice the Clerk makes a record, and gives a certificate under his hand and seal of Office, which, along with the certificate of report and registry, must be exhibited to the court where application is made for naturalization.



pects civil rights, we can do nothing but in accordance with the constitutional statute. Now, by this law no persons are capable of voting at any election for a member to serve in the House of Assembly, in either of the provinces, or of being elected at any election, who shall not be of the full age of twenty-one years, and a natural born subject of His Majesty, or a subject of His Majesty naturalized by Act of the British parliament, or a subject of His Majesty having become such by the conquest and cession of the province of Canada. Now it is evident, that persons coming from the United States of America, belong to none of these three classes. Not to the first, for, if born before 1783, (unless they were U. E. Loy-

3rd. The Court must be satisfied of the aforesaid residence, and it must be proved by the testimony of two citizens, that the alien during the time has behaved as a person of good moral character, and attached to the principles of the constitution of the United States, and well disposed towards the good order of the same. Upon this proof being made the oath of abjuration, viz: that the applicant doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty whatever, and particularly by name the Prince, Potentate, State or Sovereignty, whereof he was before a citizen, or subject, is administered, and afterwards the oath of Allegiance to the United States. The oath of the applicant, cannot in any case, be admitted to prove the residence.

4th. In case the alien applying to be admitted to citizenship, shall have borne any hereditary title or been of any of the orders of Nobility in the Kingdom or state from which he came, he shall, in addition to the above requisites, make an express renunciation of his title or order of Nobility in the court to which his application shall be made, which renunciation shall be recorded in the said court.

5th. Provided, that no person heretofore proscribed by any state, or who has been legally convicted of having joined the army of Great Britain during the late (or revolutionary) war, shall be admitted a citizen as aforesaid, without the consent of the Legislature of the state in which such person was proscribed. Provided always, that no subject of any country, state or sovereignty, with whom the United States shall be at war, at the time of his application, shall be then admitted to be a citizen of the United States.

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alists, or adhered to their allegiance) their title to be deemed a British subject, is cancelled, as has been fully shewn. Nor can they belong to the second class, for they have not complied with the conditions of the naturalization laws; and that they cannot belong to the third class, is sufficiently evident.

In regard to the Provincial Acts, which appear to bear on the subject, they are all of a disqualifying nature. The first 35th Geo. 3. cap 2, provides, that no person or persons of what condition soever, coming from any port, place, or country, not being under His Majesty's government, at the time of the passing of the Act, and not having been bona fide subjects of the King, for and during the term of seven years next preceding the passing thereof, should be eligible to be proposed, chosen, or elected as a Representative, and until such person or persons should have resided for and during the space of seven years, next ensuing the day of his coming into and settling as a subject of the said province. When we revert to the situation of Europe at this period, and the numbers of disaffected persons continually going from the Imperial kingdom to France and the United States, it is evident that this law had such persons particularly in view; and if it be construed to refer to the case of persons born in the United States, it

presupposes them to have lost their allegiance, and that they can only become entitled by complying with the provisions of 13th Geo. 2 cap. 7. It is manifestly a law of purgation. British born subjects have, by swearing allegiance to another state, placed themselves, at least for a time, in the situation of aliens, and may consequently, during that time, have imbibed ideas and sentiments hostile to British views and institutions. Therefore, it was deemed reasonable, to prevent them from exercising any civil rights until after a residence of seven years.

The 54th of the late King chap. 4. extended the period to fourteen years and required the candidate to be possessed of lands assessed at £40 and of other ratable property to the amount of £160, in all £200. This, which considering the situation of the colony, and the way in which many acquire a settlement in it, was certainly an excellent law, and a great improvement on the former, was repealed in 1818 by 58th Geo. 3. cap. 9. which reduced the time to seven years, and the qualification to £80.— This is now the law of the land, and proceeds in its provisions in accordance with the 13th Geo. 2, which must still be complied with before it can take effect. In fine, these two last statutes, take their bearing from the first, which evidently points at those British sub-

jects who had left their country, relinquished their allegiance for a time, and were now to resume it.

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### V. IT IS ASSERTED THAT AMERICAN CITIZENS WERE INVITED INTO THE PROVINCE.

DURING the American Revolution, the inhabitants were divided into two divisions, those who adhered to the King, and those who joined the standard of revolt. The latter prevailed, and on the re-establishment of peace, the former, who had preserved their allegiance, sought an asylum in the colonies that remained faithful to the crown. Numbers removed to Bermuda, New Brunswick and Nova Scotia, and still greater numbers came and settled in this Province. The Provincial corps, and one or two regiments of the line, were the first to settle in Upper Canada, in the district of Niagara, and along the lower part of the St. Lawrence, between Kingston and the Point au Boudet. Soon after, all the Refugee Loyalists, who had, from time to time, escaped into the Lower Province, and were living in Montreal and its vicinity, removed to this country and were settled in the Bay of Quinte, and in the Johnstown and Eastern districts. All these had left the colonies during the rebellion; but there were

thousands who had not taken arms on either side, but yet who were strongly attached in their hearts, to the King, and who could not endure to become the subjects of the United States. These made earnest enquiries to know whether they would be received if they should remove into the province. There were many likewise who had been active in the contest, but who were, at first, inclined to remain on account of their connexions and property, but the hostile feelings which had been excited, and the jealousy and suspicion with which they were treated by the new government, became at length so harassing, that they determined to remove into the British dominions. These different classes with their connexions, were for many years coming into the country, as their circumstances permitted, and the British government, appreciating their loyal motives, with its usual kindness and paternal solicitude, instructed the Governor in Chief to give them an affectionate reception.

Instructions were sent to General Haldimand immediately after the peace in 1783, to give lands to the refugee loyalists, and to take measures for their comfortable settlement, with as much despatch as possible. In consequence of which, early in May, 1784, Deputy-surveyor General Collins was directed to

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locate such loyalists in the neighbourhood of Sorel, and steps were, at the same time, taken for settling others of them along the Saint Lawrence and around Kingston.

In 1786, additional instructions were sent to Lord Dorchester, the fortieth article of which is the following:—"Whereas many of our loyal subjects  
 "inhabitants of our colonies and provinces now in  
 "the United States of America, are desirous of re-  
 "taining their allegiance to us, and of living in our  
 "dominions, and for this purpose are disposed to  
 "take up and improve lands in our province of Que-  
 "bec; and we being desirous to encourage our said  
 "loyal subjects in such their intention, and to testify  
 "our approbation of their loyalty to us, and obedience  
 "to our government, by allotting lands for them in  
 "our said province; and whereas we are also desi-  
 "rous of testifying our approbation of the bravery  
 "and loyalty of our forces serving in our said pro-  
 "vince, and who may have been reduced there, by  
 "allowing a certain quantity of land to such of the  
 "non-commissioned officers and private men of our  
 "said forces who are inclined to become settlers  
 "therein, it is our will and pleasure, that immediate-  
 "ly after you shall receive these our instructions,  
 "you do direct our Surveyor General of lands for  
 "our said province of Quebec, to admeasure and lay

" out such a quantity of land as you, with the advice  
 " of our Council, shall deem necessary and conveni-  
 " ent for the settlement of our said loyal subjects,  
 " and the non-commissioned officers and private men  
 " of our forces, which may have been reduced in our  
 " said province, who shall be desirous of being set-  
 " tled therein, &c." This article then descends into  
 details, as well as the other articles, and mentions  
 the quantity of lands to be given to each master of a  
 family, to children of such family and single men  
 which do not bear on the present question. The  
 part of the fortieth article now given, is that which  
 has been ever adhered to as particularising the de-  
 scription of persons to whom the waste lands of the  
 crown were to be granted; and from 1736 to the pre-  
 sent day, this has been the directing and ruling prin-  
 ciple of granting lands to applicants. On the 4th of  
 June, 1787, Mr. Collins is directed by Lord Dorches-  
 ter to accommodate such loyalists as had not receiv-  
 ed lands, and to give additional grants to such  
 as had cultivated their first locations, supported their  
 former characters for loyalty to the king and attach-  
 ment to the British government, and were of decent  
 and peaceable deportment. Mr. Collins is, at the  
 same time, instructed to state to the loyalists how es-  
 sential it is to their safety and the public tranquillity,  
 to guard against the admission of any persons among

them of suspicious characters, and commands him to inquire and report if there be any such, and not to give this addition to persons of doubtful principles and reputation.

So early as June, 1787, Mr. Collins is informed by Lord Dorchester, that a number of persons, who are in no shape entitled to the protection and encouragement of government, have, through the connivance of connections and friends crept in and settled themselves among the loyalists, without any authority whatever. His Excellency goes on to say, that as this may prove an object of consequence to the future welfare of the settlement, it is proposed that an inquiry be held into the character and pretensions of all new comers since the original settlement. Such an inquiry actually took place; for, on the 11th June, 1787, Messrs. Collins and Powell, the late chief justice, were appointed to make it. Such was the anxiety of government to prevent any from settling in the province who had not given decided proofs of their loyalty.

In 1789 Lord Dorchester established land boards in every district for the purpose of settling with greater facility the soldiers and loyalists; and your committee beg leave to call the attention of your Honourable House to the third and fourth articles of the



instructions by which they were to be governed.—  
 “ Article 3d. It shall be the duty of such Board, &c.  
 “ to give free and easy access to petitioners, and to  
 “ examine into their loyalty, character, and preten-  
 “ sions.”—“ Article 4th. The safety and propriety  
 “ of admitting the petitioner to become an inhabitant  
 “ being well ascertained to the satisfaction of the  
 “ Board, they shall administer to every such person  
 “ the oath of fidelity and allegiance directed by law.”

Such was the system of granting lands before the division of the province of Quebec into Lower and Upper Canada; and so far was the government from encouraging settlers promiscuously from the United States, that the greatest care was taken that none should be admitted who could not give decided proofs of their loyalty and attachment to the British constitution.

When, therefore, General Simcoe arrived at Quebec, he found that, instead of inviting settlers from the United States, the government was anxious to discourage any person from that quarter from coming into the province who was not of the most approved loyalty.

His Excellency landed at Quebec too late in the autumn of 1791, to proceed to Upper Canada; and during the winter he was actively employed in mak-

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ing himself acquainted with the land-granting department, and in getting such documents copied as it was necessary to bring up with him, in order to enable the Surveyor General appointed for this province, to commence and proceed with the duties of his office.

It was during this winter's residence at Quebec, that General Simcoe issued his proclamation, stating the conditions upon which lands would be granted to such as were desirous of settling on the lands of the Crown in Upper Canada. It is most worthy of remark, that the same proclamation, word for word, was issued by Sir Alured Clarke, then Lieutenant Governor, on the 4th February, 1792, or three days before that of Governor Simcoe. It is therefore evident that Sir Alured Clarke and Lieutenant Governor Simcoe acted in concert \*.

\* A PROCLAMATION,  
*To such as are desirous to settle on the lands of the crown in the  
Province of Upper Canada.*

BY HIS EXCELLENCY  
JOHN GRAVES SIMCOE, ESQUIRE,  
Lieutenant Governor and Commander in Chief of the said Province, and  
Colonel Commanding His Majesty's Forces, &c. &c. &c.

BE IT KNOWN to all concerned, that his Majesty hath, by his royal commission and instructions to the governor, and in his absence the Lieutenant Governor or person administering the government for the time being, of the said province of Upper Canada, given authority and command to grant the lands of the crown in the same by patent under the great seal thereof; and it being expedient to publish and declare the royal intention respecting such grants and patents, I do accordingly hereby make known the terms of grant and settlement to be.

1st. That the crown lands be granted to be parcel of township, if an inland township, of ten miles square; and if a township on naviga-

To this proclamation of General Simcoe, all persons, other than loyalists coming from the United States, have been in the habit of appealing, and with a degree of assurance, which, after perusing the instrument, is particularly astonishing, as it contains not a word, which, either directly or indirectly, invites any person not attached to the unity of the empire and the supremacy of the British parliament. The proclamation makes no particular reference to applicants, nor was it intended that it should do so; its object was simply to state the conditions of grants of land, and the mode of proceeding in order to obtain them. The description of persons was well known

ble waters, of nine miles in front and twelve miles in depth, be run out and marked by his Majesty's surveyor or deputy surveyor general, or under his sanction and authority.

2d. That only such part of the township be granted as shall remain, after a reservation of one-seventh part thereof, for the support of a protestant clergy, and one other seventh part thereof, for the future disposition of the crown.

3d. That no farm lot shall be granted to any one person which shall contain more than two hundred acres; yet the governor, lieutenant governor or person administering the government, is allowed and permitted to grant to any person or persons such further quantity of land as they may desire, not exceeding one thousand acres, over and above what may have been before granted to them.

4th. That every petitioner for lands make it appear, that he or she is in a condition to cultivate and improve the same, and shall, besides taking the usual oaths, subscribe a declaration (before proper persons to be for that purpose appointed) of the tenor of the words following, viz. "I A B. do promise and declare that I will maintain and defend to the utmost of my power the authority of the king in his parliament as the supreme legislature of this Province."

5th. That applications for grants be made by petition to the governor lieutenant governor, or person administering the government for the time

in both provinces, and had been strictly confined to those designated in the instructions to Lord Dorchester already noticed.

No change took place in the instructions to the land boards, which confined them in their admission, to loyal subjects; and however much Governor Simcoe desired the rapid settlement of the province, he desired good and loyal settlers much more. But we are not left to conjecture as to General Simcoe's policy; for in his speech, on opening the first provincial legislature, he says, "The great and meritorious

being; and where it is advisable to grant the prayer thereof a warrant shall issue to the proper officer for a survey thereof, returnable within six months with a plot annexed, and he followed with a patent granting the same, if desired, in free and common socage, upon the terms and conditions in the royal instructions expressed, and herein after suggested.

6th. That all grants reserve to the crown, all coals, commonly called sea coals, and mines of gold, silver, copper, tin, iron and lead; and each patent contain a clause for the reservation of timber for the royal navy of the tenor following: 'And provided also, that no part of the tract or parcel of land hereby granted to the said and his heirs, be within any reservation heretofore made and marked for us, our heirs and successors, by our surveyor general of woods, or his lawful deputy, in which case, this our grant for such part of the land hereby given and granted to the said and his heirs forever as aforesaid, and which shall upon survey thereof being made, be found within any such reservation, shall be null and void, any thing herein contained to the contrary notwithstanding."

7th That the two-sevenths reserved for the crown's future disposition and the support of a protestant clergy, be not severed tracts, each of one seventh part of the township, but such lots or farms therein, as the surveyor general's return of the survey of the township, shall be described as set apart for these purposes, between the other farms of which the said township shall consist, to the intent that the lands to be reserved may be nearly of the like value with an equal quantity of the other parts to be granted out as aforementioned.

8th That the respective patentees are to take the estates granted to them severally free of quit rent and of any other expences than such fees as are or may be allowed to be demanded and received by the different officers

“ trusts and duties which have been committed to the  
 “ representatives of this province, in a degree infinitely  
 “ beyond whatever, till this period, have distinguished any colony, have originated from the British  
 “ nation, upon a just consideration of the energy  
 “ and hazard with which its inhabitants have so conspicuously supported and defended the British constitution.”

Is it to be credited, without the strongest evidence, that a Governor using this language, would invite those who had been but a few years before, in open rebellion, and who, instead of supporting and defending the British constitution, had abjured their

concerned in passing the patent and recording the same, to be stated in a table authorized and established by the government, and publicly fixed up in the several offices of the clerk of the council, of the surveyor general, and of the secretary of the Province.

9th That every patent be entered upon record within six months from the date thereof, in the secretary's or register's offices, and a docket thereof in the auditor's office.

10. Whenever it shall be thought advisable to grant any given quantity to one person of one thousand acres or under, and the same cannot be found by reason of the said reservations and prior grants within the township in the petition expressed, the same, or what shall be requisite to make up to such person the quantity advised, shall be located to him, in some other township, upon a new petition for that purpose to be preferred.

And of the said several regulations, all persons concerned are to take notice, and govern themselves accordingly.

Given under my hand and seal, in the city of Quebec, the seventh day of February, in the thirty-second year of his majesty's reign, and in the year of our Lord, one thousand, seven hundred and ninety-two.

JOHN GRAVES SIMCOE.

By His Excellency's command,

THOMAS TALBOT, *Acting Secretary.*

sovereign, and trampled that constitution under their feet? On the contrary, General Simcoe always demanded proofs of attachment to the British constitution from all applicants for land, and the petitioners' rest upon loyalty as the ground of their claim. Accordingly the orders for land generally run thus:—  
 "That A. B.'s petition for land having been read,  
 "His Excellency and Council, in consideration of the  
 "well known loyalty and sufferings of A. B. and family, are of opinion that they came precisely under  
 "the description of those who ought to be encouraged  
 "to settle in this province, and grant the prayer of  
 "this petition," &c.

It uniformly appears, that the merit of declared loyalty and adherence to the unity of the empire, were in general the ground of recommending petitions, and when this ground was not found, the prayer was refused.

The assertion so frequently made, that General Simcoe not only admitted Americans promiscuously into the province, but repeatedly invited them, is the most groundless that ever was made, and stands opposed by the strongest facts. The printed order in Council of 6th November, 1794, directs that no settlers are to be admitted but those whose loyalty, in

dustry, and morals shall appear to entitle them to His Majesty's bounty.\* But there is a standing proof of the policy of government, of which thousands are still reaping the benefit, which is alone sufficient to settle for ever this question, viz. the privileges of U. E. loyalists. On the 6th of April, 1796, General Simcoe issued his gratifying proclamation respecting this meritorious class of His Majesty's subjects, which evinces so clearly the views and intentions of gov-

\* EXECUTIVE COUNCIL CHAMBER, OF THE PROVINCE OF UPPER CANADA, November 8, 1794

Present in Council his Excellency JOHN GRAVES SIMCOE, Esq.  
Lieutenant Governor and Commander in Chief of the said Province, and Colonel commanding his Majesty's Forces, &c. &c. /

WHEREAS the existing state of the Province renders the continuation of the Boards established expressly for the purposes of facilitating the settling of such lands as his Majesty, in his royal Beneficence has been pleased to grant to the Loyalists and reduced troops, inexpedient and unnecessary. It is hereby resolved that the authority heretofore granted to such Boards, shall from and after the sixth day of November, one thousand seven hundred and ninety four, cease and determine.

And whereas it is expedient, agreeably to the proclamation of his Excellency the Lieutenant Governor, bearing date February 7th 1792, that adequate provision should be made for the compliance therewith, in the most effectual manner. It is hereby resolved, that all petitions whatsoever for grants of the waste lands of the crown, be made to the Governor, Lieutenant Governor, or person administering the government in council, through the Clerk of the council, except for the immediate location and encouragement of all such as it may be proper to admit, as settlers within his Majesty's Province, and more especially for the due care and observance that none such be admitted but those whose loyalty, industry and morals shall appear to entitle them to the benefits of his Majesty's Bounty, and render them useful inhabitants of this Province. It is hereby resolved, that all persons professing the Christian Religion, and being capable of manual labor, who can adduce satisfactory vouchers of their having paid obedience to the laws, and led a life of inoffensive manners in the country where they last resided, shall in future be considered, as qualified to be admitted to the possession of lands within this Province, after having taken and subscribed the oaths of allegiance and settlement prescribed by act of Parliament.

Therefore any magistrate living and residing in the county wherein any person of such a description may wish to become a resident, is duly au-

ernment as to those whom they wished to become inhabitants of this province, that your committee cannot forbear quoting the preamble, and annexing the whole document to this report.

"Whereas it appears by the minutes of the council of the late province of Quebec, dated Monday the ninth day of November, 1789, to have been the desire of His Excellency Lord Dorchester, the Governor General, to put a mark of honour upon the families who had adhered to the unity of the

thorized to give him a recommendation to the deputy surveyor of the county or district for a location of lands in the following words.

"The bearer A. B. of years of age, born in professing the Christian Religion, and by trade a having been this day examined by me, and taken the oaths prescribed by law, is recommended for a location of two hundred acres of land within this county, provided it does not appear from the surveyor's books, that he has had any prior grant of lands in any district of this Province.

"Given under my hand, &c.

"To the deputy surveyor of the district of

And it is hereby resolved that the deputy surveyor on the receipt of this certificate, shall proceed to make an assignment agreeable to the usual form and manner.

And as it is expedient that the fees upon such grant be made public, resolved that they be stated in this proclamation.

The fee to the magistrate who administers the oath, and grants the certificate,  
To the deputy surveyor for the search,  
For the assignment,  
To the governor for licence of occupation,  
To the clerk of the Council,

# HALIFAX.

£	0	1	0.
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Total £0 18 6

Title deed when the grant is delivered,

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(Signed)

JOHN SMALL, clerk of the council.



" empire, and joined the royal standard in America  
 " before the treaty of separation in the year 1783, and  
 " for that purpose it was ordered by His Excellency  
 " in Council, that the several land boards should take  
 " course for preserving a registry of the names of all  
 " the persons falling under the description aforementioned,  
 " to the end that their posterity might be discriminated  
 " from (the then) future settlers, in the parish registers  
 " and rolls of the militia of their respective districts,  
 " and other public remembrances of the province,  
 " as proper objects for their perseverance in the fidelity  
 " and conduct so honourable to their ancestors for distinguished  
 " benefits and privileges." \* The proclamation proceeds to grant  
 " them the advantages so well known to every individ-

\* UPPER CANADA.

By His Excellency JOHN C. RAVES SIMCOE, Esquire, Lieutenant  
 Governor and Major General of His Majesty's  
 Forces, &c. &c. &c.

PROCLAMATION.

WHEREAS it appears by the minutes of the council of the late Province  
 of Quebec, dated Monday the ninth day of November, 1789, to have  
 been the desire of His Excellency Lord Dorchester the Governor General,  
 " to put a mark of honor upon the families who had adhered to the Unity of  
 " the Empire, and joined the Royal Standard in America, before the treaty  
 " of separation in the year 1783 and for that purpose it was then ordered  
 " by His Excellency in council, that the several Land Boards should take  
 " course for preserving a registry of the names of all the persons falling  
 " under the description aforementioned, to the end that their posterity might  
 " be discriminated from (the then) future settlers, in the Parish Registers and  
 " Rolls of the Militia of their respective districts, and other public remem-  
 " brances of the Province as proper objects, for their persevering in the fidelity  
 " and conduct so honorable to their ancestors, for distinguished benefits and  
 " privileges." But as such registry has not been generally made; and as  
 " it is still necessary to ascertain the persons and families, who may have dis-  
 " tinguished themselves as above mentioned; as well for the causes set forth,  
 " as for the purposes of fulfilling His Majesty's gracious intention of settling

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ual of this province, and which so many are enjoying at this day. There is a distinction made between that class of persons who wised well to the British government, but who, from want of energy or other causes, did not rise in its defence, and those who boldly joined the royal standard. The former might come into the province, and, on convincing the local government that they were loyal, although they had not been active during the rebellion, lands were assigned them on certain conditions; but on those who joined the British army, in order to put down rebellion, before 1783, peculiar marks of royal grace and

such persons and families upon the lands now about to be confirmed to them, without the incidental expences attending such grant. NOW KNOW YE, that I have thought proper by and with the advice and consent of the Executive Council, to direct and do hereby direct all persons, claiming to be, confirmed by deed under the seal of the Province, in their several possessions who had adhered to the Unity of the Empire and joined the Royal Standard in America, before the treaty of separation in the year 1713, to ascertain the same upon oath, before the Magistrates in the Michaelmas Quarter sessions assembled, now next ensuing the date of this Proclamation, in such manner and form, as the Magistrates are directed to receive the same; and all persons will take notice, that if they neglect to ascertain, according to the mode above set forth, their claims to receive deeds without fee, they will not be considered as entitled in this respect, to the benefit of having adhered to the Unity of the Empire, and joined the Royal Standard in America before the treaty of separation, in the year 1783.

Given under my hand and seal at arms, at our Government House in the Town of York, this sixth day of April, in the year of our Lord one thousand seven hundred and ninety-six, and in the thirty sixth year of His Majesty's Reign.

(SIGNED)

JOHN GRAVES SIMCOE.

GOD SAVE THE KING.

By His Excellency's Command,

(SIGNED)

E. B. LITTLEHALES

favour were to be conferred. And is it now to be maintained that a government thus anxious to reward loyalty, and even to apportion the reward to the degree in which it was manifested, was equally disposed to receive cidevant rebels, and to introduce into the province those who had fought against the fathers and brothers of its loyal inhabitants? General Simcoe finding that his proclamation, issued at Quebec, had been fraudulently acted upon by many land speculators, issued a proclamation on the 25th May, 1796, annulling all such orders as had been given for whole townships, but, at the same time, compensating the leaders with a grant of twelve hundred acres, and their followers, each with two hundred acres.\* General Simcoe had previously explained to some of the leaders, as appears from a letter writ-

#### UPPER CANADA.

\* By His Excellency JOHN G. SIMCOE, Esquire, Lieutenant Governor and Major General of His Majesty's Forces, &c. &c. &c.

#### PROCLAMATION.

WHEREAS in pursuance of His Majesty's gracious intention respecting the granting and settling of the waste lands of the Crown in this Province, made known by my Proclamation bearing date the seventh day of February 1792, many persons made applications for certain portions of the ungranted lands of the crown in their own names and the names of their associates, which applications have in various instances been complied with, subject to the terms held out in the Proclamation aforesaid.

And whereas it is a matter of public notoriety that many of the said applicants have failed in the performance of the conditions required of them; And whereas others of the said applicants who have received orders of council, preparatory to His Majesty's grant under the seal of the Province, subject to the terms aforesaid, from the Lieutenant Governor in Council, have wilfully perverted His Majesty's most gracious intentions, signified in the Proclamation aforesaid, namely, "that the respective Patentees of such lands

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ten by his private secretary, Major Littlehales, dated 20th May, 1795, addressed to Jacob Watson, a gentleman then residing in New York, the description of persons to be admitted, and his views in settling the province. The following paragraph from this

should take their Estates granted to them, severally, free of quit rent, and of any other expences than such fees as are duly authorized and established, by publicly and openly offering for sale such Townships or portions of Townships, or by affixing an annual rent charge, to be paid for the grant of the same and by many other sinister and illegal transactions, in manifest violation of the principles and conditions of the Proclamation aforesaid, and of the terms under which they solicited for themselves and associates, such Townships and portions of Townships. BE IT KNOWN therefore to all concerned, that it was this day resolved in council, that all persons claiming to hold lands by virtue of an order of council to receive his Majesty's grant in and for the Townships hereinafter named, have forfeited the same; that the Townships of Osgood, Wolford, Montague, Russell, Kitley, Loughborough, Huntingdon, Rowdon, Murray, Clarke, Whithy and Windham, are, and they are hereby declared to be vacant, and free for the admission of such persons as shall be desirous of occupying and settling the same, agreeably to the terms and conditions of the Proclamation aforesaid.

And whereas many other townships and tracts of land have been appropriated under orders of the Lieutenant Governor in Council, to various applicants and their associates; And whereas for want of information in respect of the present improvement of the same, if any such be made, or the future intentions of the said applicants, it does not appear to be expedient that such township or tracts should at present be declared vacant. It was further resolved that all persons who intend to avail themselves of the benefit of any appropriations made in any townships or tracts of land whatsoever, should be directed, and they are hereby directed accordingly, to signify the same to the clerk of the Honorable the Executive Council, on or before the 1st day of June, 1797, and to shew cause why the order in council, made in their behalf, should not be declared null and void.

And it was further resolved, that all persons who occupy lots of land in any of the townships or tracts aforesaid, should be directed to apply, and they are hereby directed to apply, for their respective patents or title deeds, agreeably to the terms and conditions specified in the proclamation aforesaid, within the space of six months, or such lands may be considered as vacant, and given to other applicants; of which all persons will take notice and govern themselves accordingly.

Given under my hand and seal at the government house at Navy Hall, the twenty-fifth day of May, in the year of our Lord one thousand seven hundred and ninety-six, in the thirty sixth year of His Majesty's reign.

(SIGNED)

J. G. S.

By Command of His Excellency in Council.

(Signed)

JOHN SMALL, C. C.

letter, which appeared, it is believed, in the newspapers of the day, bears so completely on the present inquiry as to merit particular attention. Major Littlehales informs Jacob Watson, "that no person but "a British subject of course, can hold property in "Upper Canada, nor is the rapid population of the "country by any means so equally desirable as that "its subjects should be honest and faithful to the union with Great Britain." This policy has never been changed on the part of government; and no public encouragement has at any time, been held forth to American citizens, other than loyalists, much less any invitation given them to come into the province; and on the part of the loyal inhabitants, no feeling in their favour has ever been entertained, nor is now entertained, except for those who, during the late war, manifested their fidelity to the country of their choice. It is not however contended, that a rigorous investigation was always had; there is no doubt but much carelessness prevailed at many of the land boards, and that under every administration, citizens of the United States came into the province through family connexions, cheapness of land, easiness of settlement, a spirit of enterprise, &c. &c. who were by no means of the description marked in His Majesty's instructions, and who, instead of feeling attached to our laws and government, were rather hostile, or totally indif-

ferent as to what form of government they lived under, provided it suited their views.

From all which the committee are entitled to infer, that every American citizen who has come into this province, and who has not conformed to the 13th Geo. II. has come in entirely at his own risque; but the number of such is very few compared with the mass of population, and may be aptly divided into two classes. 1st, The friends and connexions and acquaintances of loyalists, who were followed by their neighbours and kinsfolks, so as to produce a sort of continued stream, more or less rapid, from 1784 to 1812. 2d, Those who came in merely from speculation, or fled from the laws of the United States which they had offended.

The former class, though not numerous, contains the most valuable, and those of them who were born since 1783, may be naturalized at any time under the provisions of the 13th Geo. II. cap. 7, which requires the performance of no difficult or revolting conditions, but are infinitely more delicate and easy of performance, as has been already proved, than the conditions demanded of a British subject before he can be naturalized in the United States.

The second class were numerous previous to the late war, and though neither class obtained, or

could obtain, land from government, unless under fraudulent pretences, by which its vigilance might be deceived, yet by purchase from individuals, many became permanent inhabitants. Of American citizens coming in and purchasing lands, and settling upon them at their own peril, the local government could not take cognizance, unless on regular complaint, which was not likely to be made while they continued quiet and peaceable, and while the intercourse between the two nations continued friendly, as was the case during the administration of General Washington and President Adams; but when the hostile disposition of Mr. Jefferson's administration began to manifest itself, the attention of the loyal inhabitants, as well as of the colonial government, began to be directed to the state of emigration from the United States. As matters between Great Britain and the United States became more alarming, the question of admitting American citizens acquired greater importance; and although, on account of the smallness of their number, no serious apprehensions were entertained, yet a general feeling against admitting a greater increase became to prevail. This feeling became more general when it was found, after the declaration of war, that the enemy expected to conquer the province by the assistance to be derived from the citizens of the United States, who had settled among us. — "Raise not your hand against

"your brother," said General Hull in his proclamation to the inhabitants of this country. "Many of your fathers fought for the freedom and independence we now enjoy; being children, therefore, of the same family, and heirs to the same heritage, the arrival of an army of friends must be hailed by you with a cordial welcome."

Many of the second class of American emigrants, believing with General Hull that the conquest of the province was certain, threw off the mask, and were so far from contributing to its defence, that they forsook their allegiance on the first favorable opportunity, and not only retired into the territories of the enemy, but returned with his armies, and wrecked their ruthless vengeance upon the loyal inhabitants. Yet we are told by some that American emigrants generally behaved as well, and even better, than the rest of the inhabitants. Is this assertion to pass uncontradicted in the face of the most notorious facts of the contrary? That there were many among them who vied with their brethren in arms in gallantly defending the soil, is fully granted; but in proof that many openly displayed their disaffection, can it be denied that a part of the London district, where American speculators were most numerous, was for a time in actual revolt; and did not, in other parts, many of them throw themselves under the protection of the



American generals to avoid serving in the militia? And further, has it not been deemed the greatest benefit accruing to this province from the war, that it has been purged from such dangerous characters.— The prevailing feeling of the settlers in this province who had been avowed citizens of the United States, was not loyal during the late war; but as such disaffected persons, fortunately for us, almost all deserted, or disappeared, it is but reasonable that those who remain should be marked with honour; and, as they united with us in the day of danger, that they should become partakers with us in all our rights and privileges, so that henceforth the inhabitants of Upper-Canada may be entirely one people; and never, as we have already remarked, was there so favorable a moment for doing this as the present. The late war has purified the colony of all violently disaffected persons, and we may now, with little exception, confidently hope to unite the whole population by communicating to all the same rights and privileges.

Since the restoration of peace, the question of aliens has been frequently agitated, particularly in the other branch of the legislature, and great anxiety has been manifested for its final settlement. In 1817 some steps were taken, and in 1823 resolutions were brought up from the House of Assembly for the concurrence of your honourable House, so reasona-

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ble in their nature, that nothing prevented their unanimous adoption but the assurance given that the matter was under the consideration of the Imperial Government.\* And now that His Majesty's pleasure has been communicated, it is certainly the duty of the other two branches of the legislature to carry it into effect. And it must be confessed that, in as far as your House is concerned, great exertions have been made to settle the question, and to tranquilize the public mind for ever on the subject; and it must be regretted that a corresponding spirit has not manifested itself in another place.

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\* RESOLUTIONS OF THE HOUSE OF ASSEMBLY.

1823.

**RESOLVED**, That by the laws now in force in this province, all foreign Protestants are admissible to become settlers therein, on conforming to the provisions contained in the said Laws; and that on having done so, many hold lands and enjoy all the privileges and immunities of natural born subjects within the province.

**RESOLVED**, That from ignorance of the Law and unavoidable difficulties, many inhabitants of the province, otherwise qualified have neglected or been unable to qualify themselves according to law, by which means they cannot legally exercise and enjoy the rights of subjects within the same.

**RESOLVED**, That some Legislative provision is absolutely necessary for quieting the minds of all such persons and securing to them the enjoyment of their rights and properties, as His Majesty's subjects

**RESOLVED**, That this Provision can only be made by the Imperial Parliament.

A true copy from the minutes,

(SIGNED)

G. POWELL,

*Clerk Assembly.*

The range of inquiry embraced by your committee, though wide, will not be found more extensive than necessary to a clear elucidation of the subject, and to set at rest many misrepresentations which have been most industriously circulated through the province. It also enables your committee more completely, and yet with brevity and fairness, to expose the tendency of the extraordinary amendments on the bill which passed your honourable House on the 28th November last. This bill intended to confer the civil rights and privileges of British subjects upon all citizens of the United States now resident in this province, and included the disbanded officers and soldiers of foreign corps, which were in the British service, with other strangers residing in the colony, but not subjects of His Majesty by birth or naturalization. It has indeed been said, that the bill was not sufficiently explicit as respects civil rights, but as it was the intention of your honourable House freely to confer them, any amendment removing this obscurity would have been readily concurred in. Instead of this, the amendments sent up amount to a total rejection of your bill, and to the adoption of principles altogether different, as will appear from the following brief analysis.

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*Amendments sent up by the House  
of Assembly.*



WHEREAS a very large portion of the inhabitants of this Province, is composed of persons who have come from the United States of America, and who were either natural born subjects themselves, or children of natural born British subjects,

# REMARKS.



THERE has through the whole discussion been an evident anxiety to exaggerate the number of the persons likely to be affected by the question, and this is manifested in the part of the preamble now quoted, the words "a very large portion," imply what is exceedingly incorrect, for instead of "a very large portion" it ought to have been a small, or even very small portion as will appear from the following deductions.

In the Eastern district there are scarcely any such persons.

In the Ottawa District very few.

In Bathurst district it is believed none.

In the Johnstown district not one-tenth, and these confined chiefly to the county of Leeds.

In the Midland district scarcely any.

In the Newcastle district a considerable number, but few compared to the rest of the population.

The same may be said of the Home district.

REMARKS.

In the Niagara and Gore districts very few.

In the London district a considerable number.

In the Western district scarcely any.

Thus, only four of the eleven districts, contain any considerable portion of such persons, and even that is small compared with the rest of the population. It is indeed impossible that the number of such persons can be great for the question refers only to the Father or Stock, and extends not to the children born in the Province, who are all subjects.

There is another important and material objection to this part of the preamble. It includes all persons coming from the United States of America; thus confounding the U. E. and other Loyalists with such as came in of their own accord.

The population of this Province may be divided into the following clauses

1st. U. E. Loyalists including refugees

## REMARKS.

## 2d. British Europeans.

3d. Persons from the United States who did not take up arms, but who gave undoubted proofs of their attachment to the King and the supreme Legislature.

4th. All persons born before 1783, who have come into the Province from the United States and who have taken the oath of allegiance to the said States or can give no proof of their loyalty.

5th. All such persons born since 1783, who have come into the Province from the United States, whether they have or have not taken the oath of allegiance to those states.

6th. All Europeans not British born.

Of these six classes, which embrace all the inhabitants of this province, only three, viz : the fourth, fifth and sixth can be affected by this question.— Now it is evident, that by far the greater portion of these three classes can at any time, qualify themselves under the 13th Geo. 2. Cap. 7. leaving

*Amendments sent up by the House  
of Assembly.*

which said persons have with the knowledge, approbation and encouragement, and, in many cases, in consequence of the invitation of His Majesty's Government, come into, settled and been received into this Province,

and been treated and considered as natural born British subjects to all intents constructions and purposes whatsoever, not only entitled to all the

## REMARKS.



only such persons as were born before the peace of 1783, and have taken the oath of allegiance to the United States, but who have since come into this province; and such foreigners as are Roman Catholics. For these two descriptions of persons, and for these only, is an act of naturalization absolutely necessary.

These assertions have been proved to be totally unwarranted by facts; no document can be produced in their support, but many to contradict them.— It has, indeed, been fully shewn that no encouragement or inducement, was ever held out by the Colonial government to persons from the United States, other than Loyalists, to become settlers. There was indeed no power to prevent them from coming in during peace, but they came as foreigners and settled at their own peril.

It has been already shewn that no pledge was ever given; but it ought to be admitted that persons coming from the United States, have been indulged in all the privileges and rights of

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*Amendments sent up by the House  
of Assembly.*

REMARKS.

rights privileges and immunities  
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of natural born British subjects.

British subjects ; and so far is  
it from being the wish of His  
Majesty's Government to cir-  
cumscribe this indulgence, that  
the moment it is found to be con-  
trary to law, the King gracious-  
ly offers to make them legal ;  
and the grace appears to have  
been virtually refused. So that  
in as far as the sentiments of  
the persons settled in the Pro-  
vince, included in the 4th and  
fifth classes, can be ascertained  
through their Representatives,  
they are disposed not only to  
continue aliens, but to assume  
a novel attitude in respect to  
the government under whose  
laws and protection they are liv-  
ing.

Now it should be remember-  
ed, that possession by con-  
vance or indulgence, cannot  
make that legal which is not so.

When such persons are said  
to be entitled, it must be from  
some legal qualification, but we  
have already seen that there  
are only two British statutes  
that have ever been applied to  
the subject.

The 1st, viz. 13th Geo. 2,



## REMARKS.



cap. 7, is certainly available to all American protestant citizens born since 1783, who have come into the province and complied with its provisions ; and if they have not complied, they may still do so, and thus entitle themselves to all the rights and privileges of British subjects within the province ; but so long as they refuse to qualify, they are aliens ; and although neither the colonial government nor their neighbours have restrained them in the exercise of the civil rights of subjects, every vote they give is illegal. The conditions required are, however, so delicate and easy, that to stand out evinces a non-conforming disposition to law and authority.

The 2d British statute, 30th Geo. III. cap. 27, must be considered in connexion with the former, and in that view, it confers a benefit on those subjects of the United States who came into the province, and complied with its provisions ; but, like the 13th Geo. II. cap. 7, it proceeds upon the principle that the persons to whom it is applicable are aliens, and to none else can it refer. To such it allows a certain amount of goods to come in du-

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## REMARKS.

ty free, and from calling them  
settlers, and preventing them  
from selling their negroes, house-  
hold furniture, and utensils of  
husbandry, during the space of  
one year. It admits them to be-  
come planters or settlers, from  
which it is no constrained infer-  
ence that they might become  
possessors of landed property,  
after taking the oath of allegi-  
ance ; but to assert that this law  
confers all the advantages of na-  
turalization is to delude. Had  
it conferred the privileges of  
British subjects, it would have  
clearly expressed them, but it  
evidently leaves the law on these  
particulars as it stood upon the  
former unrepealed statute of the  
13th Geo. II.

That no such persons can be  
naturalized under the provincial  
statutes, appears manifest from  
the remarks made upon them  
in another part of this report.--  
They are all of a disqualifying  
nature ; their provisions are all  
negative, and confer neither right  
nor privilege. Only one of them  
now remains in force, (the 58th  
Geo. 3, cap. 9.) In as far,  
therefore, as the provincial sta-  
tutes are concerned, no relief  
whatever is afforded to Ameri-

*Amendments sent up by the House  
of Assembly.*

and have manifested most loyal attachment to His Majesty's government ;

" And whereas doubts have lately been expressed, whether they are entitled to the rights and privileges of British subjects, whereby great uneasiness is likely to be excited in the minds of the people of this province, and the honor and good faith of His Majesty's government are liable to be impeached,

## REMARKS



can citizens resident in this province.

The attachment of American citizens who have come into the colony, to His Majesty's government, has been already noticed, and its existence forms the only claim that can be allowed for admitting them to the rights and privileges of British subjects. On such His Majesty's government have sufficiently manifested their desire to confer these benefits. But this bill goes much further, and renders them citizens of the United States, and subjects of His Majesty, at the same time. Loyal attachment, however, is not a vapour : to be of any use, it must be an undivided principle of action.

Instead of being matter of doubt, it is matter of fact, that American citizens coming into this province are aliens ; and finding it to be so, His Majesty wishes to relieve them by the most effectual remedy. But an obstacle has been unexpectedly placed between them and the royal grace, and therefore what-

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and it is therefore expedient for the purpose of removing these doubts to declare the law on the subject.

REMARKS.



ever uneasiness or injury may arise, cannot in justice be attributed to the Legislative Council, but to the Commons' House of Assembly.

It is humiliating to take of the liability of impeaching the honor and good faith of His Majesty's government. Such language was never perhaps used in a legislative enactment before ; and it is the less excusable on the present occasion, since it is His Majesty's government that is trying to remove disabilities under which certain descriptions are suffering ; and instead of being thanked, it is now arraigned.

Such is the preamble of this bill, which the Commons' House of Assembly are desirous of having substituted for the one sent down from your honourable House, proceeding upon assertions which your committee have shewn to be altogether unfounded, and offering a remedy for the evil which aggravates instead of removing it.

Be it therefore declared and enacted, that all persons who

There is only one enacting clause in the bill, and it begins

*Amendments sent up by the House  
of Assembly.*



were born, or whose fathers, or paternal grandfathers were born in His Majesty's dominions, and who have since been resident in this province, notwithstanding they may have resided in, or been citizens of the said United States of America, at or since the period when the independence of the said United States was recognized and acknowledged by His Majesty's government, are, and shall be considered to be, and to have been, to all intents, purposes, and constructions whatsoever, natural born British subjects; and to be, and to have been, entitled (subject to any qualifications which the legislature of this province has from time to time thought it expedient to impose,) to all the rights, privileges, and immunities of natural born British subjects.

# REMARKS.



with declaring that to be law, which the government and judges of Great Britain, and the government and judges of the United States, have decided not to be law, and which this House of Assembly decided in 1823, not to be law.

Hence it appears to your committee impossible that your honourable House can for a moment entertain this clause, which virtually places traitors to the king's government, the destroyers of our parents and friends during the American revolution, upon an equal footing with ourselves. Treason and loyalty are here confounded, and no distinction whatever is made between those who in the last war invaded the province, and those by whom it was defended. By this law the whole population of the United States are made British subjects on coming into this province, and that without any qualification or restraint.

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The messages of His Excellency the Lieutenant Governor included under the appellation of aliens, not only persons coming from the U. States, but foreigners from Europe, and those who had served during the war, and desired them all to be placed on the same footing. But the Commons' House of Assembly separate those persons coming from the United States from other descriptions of aliens; and although, for the most obvious reasons, the former have much less claim to the consideration of government than other foreigners, it seeks to prefer them. Either the citizens of the United States are aliens, and must remain so until regularly naturalized, or they are not. If not foreigners to us, neither can we be foreigners to them; and therefore we have an equal right to go into their country, and exercise all the rights and enjoy all the privileges of natural born subjects, but this they will not admit. We must go through a tedious and mortifying process before we are allowed any privileges in the United States; and are they to enjoy here what they deny us in their country? Is there to be no reciprocity? Are we to give every thing, and they nothing?

The second bill, which naturalizes all who chuse to come into the province, without regard to nation or character, would not deserve the consideration of

your honourable House. were not the spirit of the enactment totally inconsistent with British feeling and British law.

# PREAMBLE OF THE BILL.



“WHEREAS there are in this Province a number of persons not born in His Majesty’s dominions and who have not strictly complied with the provisions of various British statutes for the naturalization of Foreigners, but who have become bona fide resident in this province, and to whom it is expedient to extend and confirm the privileges of British subjects.

# ENACTMENT.

“Be it therefore enacted, &c. That all persons domiciled in this province who have taken or may take the oath of allegiance to His Majesty which the commissioners for administering the same, are hereby required, upon payment of one shilling, to administer to any person offering and desiring to take the same, shall be entitled to all the rights and privileges of natural born

# REMARKS.



This Preamble does not designate the Strangers in the same way that the messages of His Excellency the Lieutenant Governor describes them. Many of them had served in the army and navy, and, having exposed their lives in our defence, have a right even in England, on taking the oath of allegiance, to all the rights and privileges of British subjects, with the exception of sitting in Parliament or being a member of the Privy council, or receiving grants of Land from the Crown, which exceptions it is the wish of His Majesty’s Government to abrogate within this province.

In the opinion of your committee this law is so indefinitely worded, that under it all the world may become British subjects by coming into this province.—Even after the Roman Emperors had given the freedom of Rome to cities and whole provinces, it cost a large sum for any other person to become a Roman citizen, and those who were free born were still con-

## ENACTMENT.

## REMARKS.

British subjects, and subject to all the duties, obligations, and responsibilities of the same, and that they shall be considered to be, and that they and all persons deceased who were bona fide resident in this province before, and at the time of their decease, shall be considered to have been, to all intents, purposes and constructions, natural born British subjects—subject nevertheless to the qualifications now imposed by the laws of this province with respect to the rights of voting and of being elected to the House of Assembly.”

considered superior to such as had purchased freedom—but this law values the rights and privileges of a British subject at one shilling only. It confines not itself to the descriptions of emigrants pointed at, but opens the door for the worthless of all nations. It requires not any character—it allows of no delay, and so carelessly is it expressed, that the refuse of all the world may boldly come into this province (were it passed into a law) and claim the rights and privileges of British subjects. All other nations, even the United States, demand of all strangers many years trial before admitting them to the rights and privileges of natives—but this bill requires no security from emigrants. It admits all character, and nations without distinction, American citizens, Danes, Germans, Spaniards. Russians, Turks, &c. &c. &c.

The committee would now gladly close their report, but the tendency of these amendments is so foreign to the sentiments and feelings of British subjects, that they cannot forbear from calling the attention of the House more particularly to their consequences. By classing the defenders of the unity of



the British empire with those who sought its division and destruction, these amendments attempt to sap the foundations of society, and to consider the duty of allegiance as a relict of tyranny. That allegiance which is founded upon the analogy of nature, and is essential to the harmony of the world. The duties of a good subject to his country, are similar to those of a son to his father; for what does the word country comprehend? but all those characters which spring from the domestic relations of parents, children, kindred, and friends. When a son has attained to manhood, and the father's care is no longer necessary to support and guard him from evil, he is at liberty to quit the paternal roof, to become, if he chuses, the inmate of another family, to form connexions with it essential to his happiness, and to take upon himself obligations of respect, affection and tenderness, as the adopted son of other parents. But is nature's first bond utterly severed? Can he return at the bidding of his new friends, to ravage and destroy the house of his childhood, and pollute it with the blood of those from whom he had received life? And yet, this is the doctrine of the amendments!

The peace and independence of every state, and of none more than this colony, demand that our inhabitants should not be bound by a doubtful allegiance, but be really and truly British subjects; but if the

citizens of the United States have the same rights and privileges that we have, and can come into the province when they please, to claim and exercise them, what is this but to place us under the control and dominion of a foreign power? and thus surrender the most valuable section of the province of Quebec, a province which has ever been considered one of the most brilliant ornaments of the British crown, and is associated in our minds with some of the most splendid events which emblazon the pages of our history. Recent achievements still more splendid, have indeed obscured the glory of the conquest of Quebec, but it was once the theme of the orator's eloquence and the statesman's pride, inspiring the soldier with valour and the civilian with patriotism; and we may be still allowed to read in the possession of the Canadas, the fruit of those mighty councils by which Chatham elevated the character of our country, and spread her glory through the world.

To see the promiscuous admission of all foreigners into the province, and the declaration that American citizens coming in to reside, are all British subjects on taking the oath of allegiance, not merely argued, but actually formed into enactments, and sent up for the concurrence of your honourable House, places the question respecting aliens in such extraordinary circumstances, that your committee feel

great diffidence in recommending any course of proceeding. Had it been a matter of local concern or of ordinary public interest, it might have been considered most judicious to drop the subject for the present, in the hope that next session matters would come round; but the interest of too many respectable persons are in hazard; and, therefore, it becomes an imperative duty on the part of the Legislative council, to use all the lawful means in their power to relieve from the disabilities under which they labour the different descriptions of persons mentioned in the two messages.

What course is most likely to produce this much to be desired result, your committee are not able with confidence, to determine. They, nevertheless, beg leave to submit to the consideration of your honourable House the following resolutions, as leading to a reasonable course of proceeding.

RESOLVED, That the Legislative council, by their bill passed on the 28th day of November last, and sent down for the concurrence of the House of Assembly, evinced their intention to confer, without reserve, the rights, privileges, and immunities of British subjects upon all persons, now resident in this province, who have been formerly citizens of the United States, and have never been naturalized by any act of the

British parliament, and likewise upon persons who have come from other foreign countries, and upon the reduced officers and discharged soldiers of foreign corps late in His Majesty's service.

RESOLVED, That the bill was intended by this House to carry into complete effect the gracious intentions of His Majesty, as communicated to this House by His Excellency the Lieutenant Governor in his messages of the 15th and 22d of November, and if passed into a law, would have completely secured those different descriptions of persons in all the rights, privileges and immunities of British subjects, and for ever prevented them from being exposed to the inconvenience of having them called in question.

RESOLVED, That the amendments sent up by the Commons' House of Assembly to the said bill, are, in the opinion of this House, at variance with the laws and established policy of Great Britain, as well as of the United States; and therefore if passed into a law by this legislature, would afford no relief to many of those persons who were born in the United States, and who have come into and settled in this province.

RESOLVED, That this House, still anxious, to carry into effect the messages of His Excellency of the 15th and 22d of November, is willing to concur with

the Commons' House of Assembly in such enactments as may accomplish that desirable object.

**RESOLVED**, That a message be sent to the Commons' House of Assembly, requesting a conference on the subject matter of the amendments made to the bill which was sent down from this House, entitled "an act to confirm and quiet in the possession of their estates, and to admit to the civil rights of subjects certain classes of persons therein mentioned." And also upon the subject matter of the bill sent up from the Commons' House of Assembly, entitled, "an act to secure to certain inhabitants of this province rights and privileges as British subjects."\*

\* THE Bill sent down by the Legislative Council to the House of Assembly, having been returned with amendments, a free conference was requested, and the following instructions were prepared for the guidance of the committee appointed for that purpose, viz:—that,

The Conference be instructed to propose the following amendments to the Bill sent down by this house, viz: "To introduce before the word "naturalized," in the preamble, the word "regularly," to expunge the words "so that" and insert "and," after "Alien," introduce "having never been regularly naturalized."

Should these amendments not meet the wishes of the conference from the House of Assembly, that a joint address to the King be proposed, founded upon the following Resolutions

**RESOLVED**, That this house received with great satisfaction the assurances conveyed in His Excellency the Lieutenant Governor's messages of the 15th and 22d. of November last, that in the opinion of His Majesty's government, it is advisable by legislative enactment to confer the civil rights and privileges of British subjects upon all persons now resident in the province, who have been formerly citizens of the United States, and have never been naturalized by any act of the British Parliament, and likewise upon persons who have come from other foreign countries, and upon reduced officers and discharged soldiers of foreign corps, late in His Majesty's service, and that His Excellency had received His Majesty's express sanction to assent to the same.

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**RESOLVED**, That this House would have most cheerfully concurred in such enactments as would have given effect to His Majesty's gracious intentions, but as doubts have arisen whether we could, consistently with the provisions of the statute by which the Legislature of this province is created, confer the rights and privileges of natural born subjects, upon any who may not be entitled to them, it seems more expedient to petition His Majesty in Parliament.

**RESOLVED**, That this house present an humble address to His Majesty, supplicating His Majesty's most gracious recommendation to His Parliament to confer upon all persons now resident in this province, all those rights and privileges which His Majesty's natural born subjects enjoy in this colony, with such limitations only as have been heretofore imposed by the Provincial enactments; and to pass such a law for the naturalization of all Foreigners who may hereafter come into the province, as shall in the wisdom of Parliament, be best adapted to our circumstances and situations; and that His Majesty would in the mean time, be graciously pleased to increase the emigration from the United Kingdom, which has been so happily begun.

#### THE COMMITTEE OF CONFERENCE REPORTED.

THAT after much discussion and an unsuccessful attempt on the part of the conferees of the Legislative Council, to induce the conferees of the House of Assembly to concur in certain proposed modifications of the first of the said bills, the conferees of that house proposed the following Resolution as the result of their unanimous opinion to be adopted by the Joint committee of Conference.

Viz:—"That if there are aliens in this province no act of the Provincial Legislature can naturalize them," which resolution being in the opinion of the Conferees of the Legislative Council, decidedly at variance with the instructions they had received, and indeed incompatible with any thing which they could have proposed, it precluded all further proceedings of the Joint committee of Conference.

#### THE LEGISLATIVE COUNCIL THEN PASSED THE FOLLOWING RESOLUTIONS

- 1st. **RESOLVED**, That on the ratification of the Treaty of 1783 by Great Britain and the United States of America the bond of union between the inhabitants of the two countries was for ever cancelled, and the constitutional obligations on both sides were by this concurrent act, as completely dissolved as if they had never existed.
- 2d. **Resolved**—That since the ratification of the aforesaid Treaty, the inhabitants of Great Britain and the citizens of the United States, have been considered by all other governments, as well as their own, distinct and independent nations.
- 3d. **Resolved**—That the external and internal policy of Great Britain and the United States, has proceeded upon the principle that the inhabitants of each country were aliens to those of the other.
- 4th. **Resolved**—That the province of Quebec remained faithful to His late Majesty King George 3d. and to the supremacy of the Imperial Parliament during the American revolution.

- 5th. *Resolved*—That the said province was made an asylum by His late Majesty King George 3d. for such His loyal subjects, who, during the American revolution, adhered to their allegiance.
- 6th. *Resolved*—That the most earnest and gracious instructions, were from time to time transmitted by His Majesty to His Governors General, to admit into His Province of Quebec all such persons from the United States as had manifested their loyalty during the revolutionary war.
- 7th. *Resolved*—That in consequence of these instructions the Inhabitants of the colonies, now the United States, who had openly during the Rebellion adhered to the King, or who were able to give proofs of their loyalty, were kindly invited and cordially received into the province of Quebec, and had lands and other benefits bestowed upon them.
- 8th. *Resolved*—That no encouragement or invitation was ever given or held out to persons living in the United States, and who had made their election by settling or swearing allegiance to those States, to come into the province of Quebec either by the Colonial or Imperial governments.
- 9th. *Resolved*—That after the division of the province into Lower and Upper Canada, the same policy of encouraging and inviting loyal subjects only, from the United States continued in each, and has ever been the mode of proceeding to this day.
- 10th. *Resolved*—That notwithstanding the vigilance of the Provincial government, many persons contrived to gain admission into the colony, who were by no means of the description intended by the Royal instructions, and who instead of feeling attached to British laws and government, were rather hostile or totally indifferent as to what government they lived under, provided it suited their present interests, and who deserted to the enemy during the late war.
- 11th. *Resolved*—That many causes combine to perplex the alien question, when applied to persons coming from the United States, which can never apply to the case of Foreigners from other nations.
- 1st. The impossibility of distinguishing persons, who were a few years ago the same people, and who still exhibit the same manners, speak the same language and have the same features.
- 2d. The facility of procuring false proofs of former loyalty, which the colonial government had seldom reason at the time, to suspect, or means to disprove.
- 3d. The remissness of the Land Boards employed in admitting settlers in the several districts of the province.
- 4th. The desire of many loyalists to bring their friends, connexions and acquaintances into the province, by which they were induced privately to invite them, or to connive at their arrival. These again inviting their friends &c. a sort of stream of emigration from the United States continued to the commencement of the late war.

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5th The temptation of fertility of soil, easiness of settlement, and room for enterprise, induced many adventurers to come from the United States into the Province and purchase real estate, which from the great extent of the colony could be done without the knowledge of the local government.

12th. *Resolved*, That when the Constitutional act of the 31st of His late Majesty King George 3d. Cap. 31 came into operation, the Colonial government had no means of ascertaining in many cases, who had or had not the rights and privileges of natural born subjects, without entering into a minute investigation of the claims of numerous individuals, which during a period of peace and tranquillity appeared altogether inexpedient.

13th. *Resolved*—That as the hostile disposition of the United States began to manifest itself previous to the late war, the attention of the loyal Inhabitants, was directed to the state of emigration from the United States, and a general desire of greater strictness in admitting settlers from that country began to be entertained.

14th. *Resolved*—That the great number of persons, who had come into the Province from the United States, and who declared for the enemy after the commencement of hostilities, caused much alarm to the loyal Inhabitants, and produced a general desire among His Majesty's loyal subjects, to put a stop after the War to future emigration from that quarter unless under the provisions of a naturalization law, adapted to the circumstances and situation of the province, and applicable to the citizens of the United States in common with other foreigners.

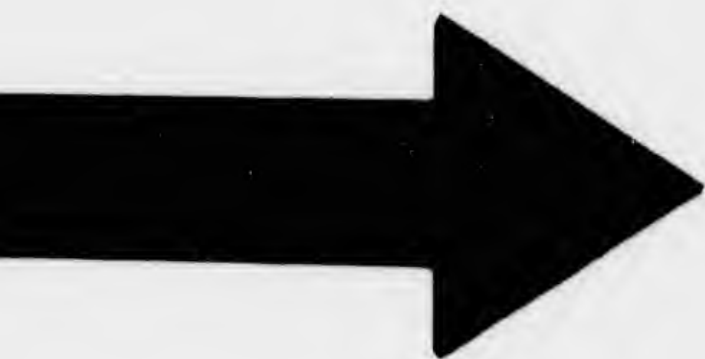
15th. *Resolved*—That while this House is anxious that His Majesty's government would continue to encourage emigration from the United empire to this Province, as in every way more beneficial, it has much satisfaction in bearing testimony to the loyal conduct of those settlers from the United States, who remained during the late war, and bravely assisted in the defence of the Province, and would rejoice in their admission, without reserve, to all the rights privileges and immunities of British subjects.

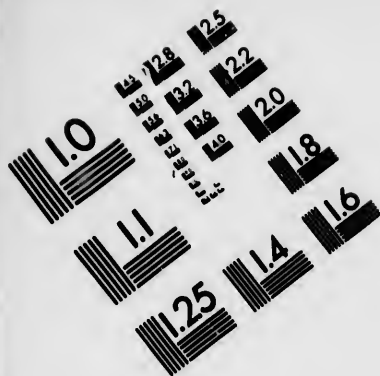
16th. *Resolved*, That this house was highly gratified with the assurances conveyed in His Excellency the Lieutenant Governor's Messages of the 15th and 22d. of November last, that in the opinion of His Majesty's Government it is advisable to confer by Legislative enactments the civil rights and privileges of British subjects upon such citizens of the United States and other foreigners, as are in truth Aliens, although they may have hitherto enjoyed without question, the rights of subjects.

17th. *Resolved*—That in consequence of these assurances and His Excellency the Lieutenant Governor's recommendation, this House passed a bill on the 28th day of November last, and sent the same down for the concurrence of the House of Assembly, which was clearly intended to confer, without reserve or any reservations except those contained in the Provincial statutes, the rights privileges and immunities of British subjects, upon all persons now resident in the province, who have been formerly citizens of the United States, and have never been naturalized by any act of the British Parliament, and likewise









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upon persons who have come from other foreign countries, and upon reduced officers, and discharged soldiers of foreign Corps late in his Majesty's service.

18th. *Resolved*—That the amendments adopted by the house of Assembly amount to a virtual rejection of the said bill, and are in opposition to the laws and established policy of Great Britain and the United States, and therefore if passed into a statute by this legislature would afford no relief to many of those persons who were born in the United States and are now settled in and have deserved well of this Province.

19th. *Resolved*—That as these amendments are at variance both with law and fact and inconsistent with the safety and welfare of the province; and as there seems to be no prospect that the two branches of the legislature will agree in any proper method of carrying His Majesty's gracious intentions, respecting Aliens residing in this Province, into effect, it appears expedient to appeal without delay to the Imperial Government to remedy the evils resulting from the course adopted by the House of Assembly by which they have placed themselves between the Royal grace and a respectable portion of the inhabitants of this colony.

20th. *Resolved*—That this house present an humble address to His Majesty supplicating His Majesty's Most gracious recommendation to His parliament to confer upon such American citizens and other Foreigners now resident in this Province as are not subjects, all the rights and privileges of natives; and to pass such a law for the naturalization of all foreigners, whether from the United States or other countries, who may hereafter come into the province as shall in the wisdom of parliament, best suit our situation and circumstances; and in the meantime to increase the emigration from the United Kingdom which has been so happily begun.

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BY ORDER OF THE HONORABLE THE LEGISLATIVE COUNCIL.

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