

No. 102.

2nd Session, 3rd Parliament, 12 Victoria, 1849.

BILL.

An Act to repeal a certain Act therein mentioned, and to make better provision for the Naturalization of Aliens.

Received and Read a first time, Tuesday, 20th
February, 1849.

Second Reading, Tuesday, 27th February, 1849.

MR. MERRITT.

102.

BILL.

An Act to repeal a certain Act therein mentioned, and to make better provision for the Naturalization of Aliens.

WHEREAS great inconvenience has been experienced in the practical operation of the Law granting to Aliens the rights and capacities of natural born British Subjects, and it is expedient to amend the same, as well for the purpose of remedying that inconvenience, as with the view of affording greater security and facility in the possession and transfer of property: Be it therefore enacted, &c.

And it is hereby enacted by the authority of the same, That a certain Act of the Parliament of this Province, passed in the ninth year of Her Majesty's Reign, and intitled, "*An Act to make further provision regarding Aliens,*" be and the same is hereby repealed: Provided always, that the repeal of the said Act shall not affect the naturalization of any person naturalized under it, or any rights acquired by such person or by any other party by virtue of such naturalization, which shall remain as valid, and such rights shall be possessed and enjoyed by such person or party, as if the said Act were not repealed.

The Alien Act of 9 Vict. repealed.

Proviso: rights acquired under it to remain valid.

II. And be it enacted, That all persons who had their settled place of abode in either of the late Provinces of Lower or Upper Canada, before the tenth day of February in the year of Our Lord one thousand eight hundred and forty-one, and who are still resident in this Province, shall be and are hereby admitted to and confirmed in all the privileges of British birth, and shall be deemed

Persons resident in Canada before 10th Feb., 1841, and still so resident, naturalized.

ed, adjudged and taken to be and to have been, natural born subjects of Her Majesty to all intents and purposes whatsoever, as if they and every of them had been born in this Province, and that the children or more remote descendants of every such person who may be dead, shall be and are hereby admitted to the same privileges which such parents or ancestors, if living, could claim under this Act: Provided always nevertheless, that none of such persons (except females) who have not taken the oath or affirmation of allegiance before some of Her Majesty's Justices of the Peace or other person duly authorized by law to administer the same, shall be entitled to the benefit of this Act unless they shall take such oath or affirmation before such Justice or other person as aforesaid.

And their children.

Proviso: they must have taken, or take the oath of allegiance.

Persons resident in Canada on 31st Dec., 1848, and continuing resident, so as to make up 7 years residence in all, naturalized.

Proviso; they must have taken or take oath of allegiance.

III. And be it enacted, That all persons who had their settled place of abode in this Province on the thirty-first of day of December in the year of Our Lord one thousand eight hundred and forty-eight, not being of either of the descriptions of persons before mentioned, who shall have resided or shall continue to reside therein, or in some other part of Her Majesty's Dominions until they shall have been resident inhabitants thereof for the space of seven years continually, without having been during that time stated residents in any foreign country, shall be and are hereby admitted to all the privileges of British birth, and shall be deemed, adjudged and taken to be and to have been natural born subjects of Her Majesty to all intents and purposes whatsoever, as if they and every of them had been born in this Province: Provided always nevertheless, that none of the persons described in this clause (except females) who have not taken the oath or affirmation of allegiance before some of Her Majesty's Justices of the Peace or other person duly authorized by law to administer the same, shall be entitled to the benefit of this Act, unless they shall take such

oath or affirmation before such Justice of the Peace or other person as aforesaid.

IV. And be it enacted, That every Alien Every person residing or coming hereafter to reside in Canada, and so residing 7 years, naturalized, on taking oaths of residence, &c. now residing in or who shall hereafter come 5 to reside in any part of this Province, with intent to settle therein, who, after a continued residence therein for a period of seven years or upwards, shall take the oaths of residence and allegiance, and procure the same 10 to be fyled of record as hereinafter prescribed, so as to entitle him or her to a certificate of naturalization as hereinafter provided, shall thenceforth enjoy all the rights and capacities which a natural born subject of Her 15 Majesty can enjoy or transmit.

V. And be it enacted, That every such Forms of oaths of residence and allegiance to be taken by such persons. Alien shall take and subscribe the following oaths of residence and allegiance, or, being one of those persons who are allowed by the 20 laws of this Province to affirm in judicial cases, shall make affirmation to the same effect, that is to say:

Oath of Residence.

I A. B. do swear *(or being one of the persons 25 allowed by law to affirm in judicial cases, do affirm)* that I have resided seven years in this Province with intent to settle therein, without having been, during that time, a stated resident in any foreign country; So 30 help me God.

Oath of Allegiance.

"I, A. B., do sincerely promise and swear *(or being one of the persons allowed by law to affirm in judicial cases, do affirm)* that I 35 will be faithful and bear true allegiance to Her Majesty Queen Victoria, as lawful Sovereign of the United Kingdom of Great Britain and Ireland and of the Province of Canada, dependent on and belonging to the 40 said United Kingdom, and that I will defend her to the utmost of my power against all

traitorous conspiracies and attempts whatever, which shall be made against Her Person, Crown and Dignity, and that I will do my utmost endeavour to disclose and make known to Her Majesty, Her Heirs and Successors, all treasons and traitorous conspiracies and attempts which I shall know to be against Her or any of them; and all this I do swear without any equivocation, mental evasion or secret reservation, and renouncing all pardons and dispensations from any person or persons whatever to the contrary; So help me God." 5

Justices, &c., may receive such oaths, and grant a certificate of the taking thereof, &c.

Which oaths or affirmations shall be taken and subscribed by the said Alien, and shall be 15 duly administered to him or her, by or before any Justice of the Peace or any person having *ex officio* the power and authority of a Justice of the Peace within the city, town, village or township in which the said alien 20 may reside, which said Justice of the Peace or person having such power as aforesaid, shall thereupon grant unto the said Alien a Certificate of Residence, setting forth that such Alien has taken and subscribed the said oaths 25 or affirmations and (if the fact is so) of such Justice or person having such power as aforesaid, having every reason to believe that such Alien had been so resident within the Province for a period of seven years or upwards, that 30 he is a person of good character, and that there exists to the knowledge of such Justice or person having such power as aforesaid, no reason why the said Alien should not be granted all the rights and capacities of a 35 natural born British subject.

Certificate of residence to be read in open Court of Quarter Sessions, &c.

VI. And be it enacted, That it shall be lawful for the said Alien to present the Certificate of residence from the said Justice of the Peace, or other person as aforesaid, to the 40 Court of Quarter Sessions of the Peace, or the Recorder's Court of the County or City within the jurisdiction of which he shall reside, in open Court, on the first day of some

general sitting thereof, and it shall thereupon be the duty of such Court to cause the same to be openly read in such Court, and thereupon, if the facts mentioned in the said Certificate of residence shall not be controverted, or any other valid objection made to the naturalization of such Alien, it shall and may be lawful for such Court to direct that such Certificate of residence shall be fyled of record in the said Court, and thereupon such Alien shall be thereby admitted and confirmed in all the rights and privileges of British birth, to all intents, constructions and purposes whatsoever, as if he or she had been born within this Province.

and fyled if no valid objection be then made, —whereupon the Alien shall be naturalized.

VII. And be it enacted, That every such person shall be thenceforth entitled to receive a Certificate of Naturalization under the seal of such Court, and the signature of the Clerk thereof, that he or she hath complied with the several requirements of this Act, which Certificate of Naturalization may be in the following form, or to the like effect, that is to say:

Alien so naturalized to receive a certificate of Naturalization.

25 CANADA.

County of

or,

Form of such certificate.

City of
To WIT:—

30 In the Court of Quarter Sessions of the Peace, in and for, &c.

Whereas A. B., of &c., (*describing him as formerly of such a place, in such a foreign country, and now of such a place, in this Province, and adding his addition,*) hath complied with the several requirements of a certain Act of the Parliament of this Province, passed in the _____ year of the Reign of Her Majesty Queen Victoria, intituled, "*An Act (insert the title of this Act)*" and the Certificate thereof hath been this day read in open Court, and thereupon by order of the said Court, duly fyled of record.

in the same, pursuant to the directions of the said Act; these are therefore to certify to all whom it may concern, that under and by virtue of the said Act, the said A. B. hath obtained all the rights and capacities of a natural born British subject within this Province, to have, hold, possess and enjoy the same upon, from and after the day of _____, (*the day of fying the Certificate of residence,*) in the year of Our Lord one thousand eight hundred and _____ and this Certificate thereof is hereby granted to the said A. B., according to the form of the Statute in such case made and provided.

Given under my hand, and the Seal of the said Court, this _____ day of _____, in the year of Our Lord one thousand eight hundred and _____ (*Signature,*) C. D., Clerk of the Peace, (*or Clerk of the Recorder's Court, as the case may be.*)

Such certificate may be registered.

VIII. And be it enacted, That a copy of the said Certificate of Nataralization may at the option of the party be entered and registered in the Registry Office of the County or Division of a County, in which the same shall have been granted, or any other County or Division of a County within this Province, in any of which cases, a certified copy of such registry shall be sufficient evidence of such naturalization in all Courts and places whatsoever.

Certified copies to be evidence.

Aliens naturalized under Sections 2 and 3, may take oaths and obtain certificates if they think proper.

IX. Provided always, and be it enacted, That it shall be lawful for any Alien entitled to be naturalized under the provisions of the second or of the third section of this Act, to take the oaths or affirmations of residence and of allegiance, and to obtain a certificate as aforesaid, in the same manner as Aliens entitled to be naturalized under the provisions of the third section of this Act only, and with the same effect to all intents and purposes.

X. And be it enacted, That any woman married or who shall be married to a natural born subject or person naturalized under the authority of this or any other or former Act, either of this Province or of either of the late Provinces of Lower or Upper Canada, shall be deemed and taken to be herself naturalized, and have all the rights and privileges of a natural born subject.

Women married to British subjects to be *ipso facto* naturalized.

XI. And be it enacted, That the said Justice of the Peace or other persons as aforesaid, for administering the oath or affirmation above mentioned, shall be entitled to recover and receive from the person to whom the same may be administered, the sum of *one shilling and three pence* and no more; and that the Clerk of the Peace or Clerk of the Recorder's Court shall for reading and fying the Certificate of Residence, and preparing and issuing the certificate of naturalization under the Seal of the Court, be entitled to recover and receive from such person the sum of *two shillings and six pence* and no more; and that the Registrar of the County shall, for recording the said last mentioned Certificate be entitled to recover and receive from such person the sum of *two shillings and six pence*, and a further sum of *one shilling and three pence* for every search and certified copy of the same, and no more.

Fees upon the said oaths and certificates.

XII. And be it enacted, That from and after the passing of this Act, no person shall be disturbed in the possession or shall be precluded from the recovery of, or prevented from purchasing or disposing of any lands, tenements or hereditaments in this Province, on the ground of his or her being or having been an Alien, or on the ground of any person from or through whom he or she may claim being or having been an Alien; and any such purchase or disposal of property by such person or persons shall be held and taken to be as valid and effectual in law, as if

Aliens may hold and transmit real property.

the party or parties had respectively been natural born subjects of Her Majesty.

Proviso: as to certain cases having arisen before the passing of this Act.

XIII. Provided always, and be it enacted, That in all cases where any person claiming to hold any real estate as next entitled on account of any person nearer in the line of descent having been an Alien, shall, in virtue of such claim have taken actual possession of such real estate before the passing of this Act, and have made improvements thereon, and also in all cases where any person claiming to hold as next entitled to any real estate on account of the person nearer in the line of descent having been an Alien, shall have actually sold or departed with, or shall have actually contracted to sell or depart with such estate before the passing of this Act, (no person whose claim would then have been good but for his or her claiming through an Alien, being at the time when such estate was so sold or departed with, or when the contract to sell or depart with the same was made, in adverse possession of such estate,) the provisions of this Act shall not extend to render valid any right or title to such estate, but such right or title shall be taken and adjudged to be as if this Act had never been passed.

This Act not to affect the Act of U. C., 54 Geo. III, c. 9,

or any other Act except that of 9 Vict.

XIV. And be it enacted, That nothing in this Act contained shall be taken to repeal or in any manner affect, or interfere with a certain Act of the Legislature of Upper Canada, passed in the fifty-fourth year of the Reign of His late Majesty King George the Third, intituled, "*An Act to declare certain persons therein described Aliens, and to vest their estates in His Majesty,*" or any proceedings had under the said Act, or to repeal or affect any law now in force in this Province, or in any part thereof, for the naturalization of any Alien or class of Aliens; save and except the Act passed in the ninth year of Her Majesty's Reign, and intituled, "*An Act to make further provisions regarding*"

“*Aliens*,” which by the first section of this Act is repealed.

XV. And be it enacted, That any person who shall wilfully swear falsely, or make
 5 any false affirmation under the authority of this Act, before any Justice of the Peace or before any person having *ex officio* the power and authority of Justice of the Peace as aforesaid, shall be deemed guilty of wilful
 10 and corrupt perjury, and every such person shall, on conviction thereof, in addition to any other punishment authorized by law, forfeit all the privileges and advantages which he would otherwise, by making such
 15 oath or affirmation, have been entitled to under this Act; but the rights of others in respect to estates derived from or held under him shall not thereby be prejudiced, except-
 20 ing always such others as shall have been cognizant of the perjury at the time the title by which they claim to hold under him was created.

False oath or affirmation to be perjury.

Forfeiture of rights acquired thereby.

Saving those of innocent third parties.

XVI. And be it enacted, That every word
 in this Act importing the masculine gender
 25 shall, when necessary, extend and be applied to a female as well as a male.

Interpretation clause.

XVII. And be it enacted, That this Act
 may be amended, altered or repealed by any
 Act to be passed in the present Session of
 30 the Provincial Parliament.

This Act may be amended this Session.