

*The Provincial Statutes of Canada*, passed in the year 1841. Kingston: Stewart Derbishire & George Desbarats, 1841.

4 & 5 Victoria – Chapter 7

**An Act to secure to, and confer upon, certain inhabitants of this Province, the civil and political rights of natural born British Subjects. 21th August, 1841.**

Whereas it is desirable to provide by some general Law for the naturalization of certain classes of persons who are not natural born subjects of Her Majesty, but have actually become domiciled in this Province: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland intituled *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that all Aliens who were actually residing within this Province on the tenth day of February, in the Year of Our Lord one thousand eight hundred and forty-one, and who were so resident continually for the seven years next before that day, or who shall have been continually resident for seven years from the said day, or from their first residence in this Province before that day, shall be deemed and taken to be natural born subjects of Her Majesty, to all intents and purposes whatsoever; Provided always, that residence within the late Province of Lower Canada, or residence within the late Province of Upper Canada, shall be deemed residence within this Province for the purposes of this Act.

II. Provided always, and be it enacted, that temporary personal absence from this Province, without any voluntary profession or act of renewal of allegiance to any Foreign State, and without any actual removal of domicile from this Province, shall not be held to interrupt any such residence as aforesaid, for the purposes of this Act.

III. And be it enacted, that each and every person naturalized under the provisions of this Act, shall be deemed and taken to have had, from the commencement of the term of residence, by virtue of which such naturalization shall be effected, capacity to have, hold, occupy, possess and enjoy, claim, recover, convey, devise, impart and transmit real estate within this Province, or either of the late Provinces aforesaid, notwithstanding the alien birth of such person.

IV. Provided nevertheless, And be it enacted, that no such alien (excepting females) who at the passing of this Act, has been resident within this Province seven years continually as aforesaid, shall be entitled to the benefit of this Act, unless within twelve months after the passing thereof, he shall take the oath and make the declaration in the Schedule hereunto annexed, or, being one of those persons who are allowed by the Laws of this Province to affirm, shall make affirmation to the same effect, before some person whom the Governor, Lieutenant Governor, or Person Administering the Government of this Province, shall, by Commission under the Great Seal thereof, empower to administer the same; and no such Alien who has not at the passing of this Act, been for seven years continually resident within this Province, (except as before excepted)

shall be entitled to the benefit of this Act, unless within twelve months after he shall have completed such seven years residence, he shall take such oath, or make such affirmation.

V. Provided always, and be it enacted, that any such Alien, who at the time of the passing of this Act, or at the time he shall have completed such stated residence of seven years as aforesaid, shall be a minor under the age of sixteen years, shall be entitled to the benefit of this Act, if he shall take such oath or make such affirmation within twelve months after he shall have attained the age of sixteen years.

VI. And be it enacted, that any person who shall wilfully swear falsely, or make any false affirmation before any person authorized to administer the oath or affirmation aforesaid, under the provisions of this Act, shall be deemed guilty of wilful 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 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, excepting 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.

VII. And be it enacted, that each and every person authorized to administer the oath or affirmation by this Act required, shall administer the same to any person above the age of sixteen years, who shall desire to take the same, and shall make such declaration as will, if true, entitle him to all the benefit of this Act, and shall keep Books of Registry, in the beginning of which shall be written the oath and affirmation required by this Act, and which shall contain the columns and specifications described in the declaration which follows the said oath; and in the column appointed for that purpose the person making the oath or affirmation shall set his signature, or, if unable to write, his mark, in the same line of the Register in which entry is made of the name and description of such person, and of the other particulars declared by him and referred to in his oath or affirmation.

VIII. And be it enacted, that Duplicate Books of such Registry shall be kept, both of which, being original, shall contain the actual signatures or marks of the persons subscribing; and that on or before the thirty first day of December in each and every year, each person keeping and having charge of any such Books shall transmit one of them to the Registrar of this Province for the time being, retaining the other in his own office; and such Books of Registry shall remain and be preserved in such respective offices, and shall have the form and effect of public Records.

IX. And be it enacted, that if either of such original Register Books, or any part thereof, shall be lost or destroyed, it shall be supplied by a copy taken from the other original Register Book, attested as a true copy on the oath of the person or officer having lawful custody of the same, made before any Judge of any Superior Court of Record in this Province: and every such copy so attested shall be regarded to all intents and purposes as the original Register.

X. And be it enacted, that a copy or extract from any Book of Registry made under the authority of this Act, of the whole entry made in such Register with respect to any person whose name is recorded therein, and certified by the person having the lawful custody thereof, under his proper hand, shall be deemed and taken to be sufficient evidence of the naturalization of the person therein described.

XI. And be it enacted, that whenever any person shall transmit any Book of Registry to the Registrar of the Province as hereinbefore provided, he and his Deputy, if he have a lawful Deputy, (and each and every person appointed to be a Commissioner for the purposes of this Act is hereby authorised to appoint a Deputy,) shall verify the same by an affidavit subscribed by him or them and written as near as may be to the last entry contained in such book, such affidavit being taken before some one of Her Majesty's Justices of the Peace; and in such affidavit such person and his Deputy shall severally depose, that to the best of his and their knowledge and belief, such Book of Registry forms a true and correct record of the statements made to him or them by the several persons therein described, and which they severally verified by oath or affirmation taken before him or them.

XII. And be it enacted, that if any person, to whom it shall belong to attest the truth of any such record, shall neglect or omit to attest, the same in manner aforesaid, he shall forfeit and pay the sum of two hundred pounds, to be recovered by information in any Superior Court of Record in this Province: but no such omission shall prejudice the right of any person who may have taken the oath or made the affirmation required by this Act, or preclude him from receiving a certificate or extract according to the provisions thereof.

XIII. And be it enacted, that a general alphabetical list shall be kept by the Registrar of the Province, and also by the several other persons entrusted with the making and keeping the said Books of Registry, of the names of all persons whose names and descriptions are recorded in such Books, referring to their places in such Books respectively; and such lists and books shall be open at all times to inspection during the hours of business, in the office in which they are kept; and any person desirous of searching the said lists or books shall pay to the person keeping the same one shilling for each name which he shall search for.

XIV. And be it enacted, that for administering the oath or affirmation aforesaid, making the entry required by this Act, and giving a certified copy or extract of such entry, the person authorized to administer or to give the same shall be entitled to demand, receive, and recover from every person making such oath or affirmation the sum of one shilling and three pence, and for searching and giving any such certified copy or extract the sum of one shilling and three pence, and that no greater or other fees than are expressly allowed by this Act shall be demanded, received or recovered for any services done under all or any of its provisions.

XV. And be it enacted, that if any person being an Alien who on the said tenth day of February, one thousand eight hundred and forty one, was domiciliated in this Province, shall the before the period limited by this Act for his taking the oath or affirmation according to the provisions thereof, such person shall nevertheless be deemed to have been a natural born subject of Her Majesty so far as regards the taking, holding, imparting and transferring of any real estate by grant, marriage, dower, devise, inheritance, or any lawful conveyance of the same.

XVI. 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.

XVII. And be it enacted, that each and every person, who being by birth an Alien, had on the said tenth day of February, in the year of Our Lord one thousand eight hundred and forty one, become entitled to any or all of the privileges of British Birth within any part of this Province, by virtue of any general or special Act of naturalization then in force in such part of this Province, shall be and shall be deemed to have been since the said day, entitled to the same privileges in every part of this Province, to which he was on the said day entitled within any part thereof under any such Act as aforesaid.

XVIII. 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 any lands, tenements or hereditaments in this Province, on the ground of his being or having been an Alien, or on the ground of any person from, or through whom he may claim being, or having been an Alien, provided the person against whom such disability shall be so objected, was resident in the Province on the tenth day of February aforesaid, and was then under the age of sixteen years.

XIX. And be it enacted, that no person shall be disturbed in the possession, or shall be precluded from the recovery of any lands, tenements, or hereditaments in this Province, on the ground of his claim to the same being derived from or through an Alien, provided such claim be not so derived after the passing of this Act.

XX. Provided always, and be it enacted, that in all cases where any person claim lag to hold any 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 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 have then 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 invalid 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.

Schedule.  
Oath.

I do swear (or solemnly affirm, as the case may be) that I was actually resident within the Province of Canada, on the tenth day of February in the year of Our Lord one thousand eight hundred and forty one, at the place named in the declaration to which I have set my name in this Register; that I

was continually resident in the said Province for a term of seven years, in which the said day was included; that all the other particulars in the said declaration are true to the best of my knowledge and belief, and that I do truly believe myself entitled to be admitted to all the privileges of British birth within the said Province, under the provisions of an Act of the Legislature thereof passed in the fifth year of the Reign of Her Majesty Queen Victoria, and intituled *An Act to secure to, and confer upon, certain inhabitants of this Province, the civil and political rights of natural born British Subjects*, and I do further swear (or solemnly affirm, as the case may be) that I will be faithful and bear true allegiance to the Sovereign of the United Kingdom of Great Britain and Ireland and of this Province as dependent thereon—So help me God.

Declaration.

Name in full.	Residence on 10th February, 1841.	Present Residence.	Date of the expiration of the seven years residence.	Whether the party was or was not under 16 years of age at the date named in the next preceding column, and if he was, then the date at which he attained that age.	Signature.	Date of Registry	No. of Registry