

Laws of Her Majesty's Province of Upper Canada, passed in the year 1849. Montreal: Stewart Derbyshire & George Desbarats, 1849.

12 Victoria – Chapter 197

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

30th May, 1849.—Presented for Her Majesty's Assent, and Reserved for the signification of Her Majesty's pleasure thereon.

30th October, 1849.—Assented by Her Majesty in Privy Council.

23d November, 1849.—The Royal Assent signified by the Proclamation of His Excellency the Earl of Elgin and Kincardine, Governor General.

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 by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the 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 a certain Act of the Parliament of this Province, passed in the Ninth year of Her Majesty's Reign, and intituled, *An Act to make further provision regarding Aliens*, he and the same is hereby repealed; Provided always, that the repeal of the said Act shall not affect the Naturalization of any person Naturalized under it, or any Rights acquired by such person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remain as valid, and such Rights shall be possessed and enjoyed by such person or party as if the said Act were not repealed.

II. And be it enacted, That all Aliens 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, 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.

III. And be it enacted, That all Aliens who had their settled place of abode in this Province, on the Tenth day of February, 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 lime 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 now residing in or who shall hereafter come 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 upward, shall take the oaths or affirmations of residence and allegiance (or the oath or affirmation of residence only if a female) and procure the same to be filed of record as hereinafter prescribed, so as to entitle him or her to a Certificate of Naturalization as hereinafter provided, shall thenceforth enjoy and may transmit all the rights and capacities which a Natural-born subject of Her Majesty can enjoy or transmit.

V. And be it enacted, That every such Alien shall take and subscribe the following Oath of Residence, or being one of those persons who are allowed by the 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 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 help me God."

And every such Alien being a male shall also take and subscribe the following Oath of Allegiance, or being one of those persons who are allowed by the Laws of this Province to affirm in judicial cases, shall make affirmation to the same effect, that is to say:

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 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 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.”

Which oath or oaths, or affirmation or affirmations, shall be taken and subscribed by the said Alien, and shall be 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, Parish, Village or Township in which the said Alien 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 oath or oaths, or affirmation or affirmations, and (if the fact is so) that such Justice or person having such power as aforesaid has every reason to believe that such Alien had been so resident within the Province for a period of seven years or upwards; that he or she 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 Natural-born British Subject.

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 Court of Quarter Sessions of the Peace, or the Recorder’s Court of the District, County or City within the jurisdiction of which he shall reside in Upper Canada, or to the Circuit Court in and for the Circuit within which he shall reside in Lower Canada, 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 in the interval 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, on the last day of such General Sitting, to direct that such Certificate of Residence shall be filed 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.

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:

Canada

Circuit,

or

District of

or

County of

or

City of

To wit:

In the Court of

Whereas A. B., of, &c. (describing him or her as formerly of such a place, in such a foreign Country, and now of such a place in this Province, and adding his or her 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 had been this day read in open Court, and thereupon, by order of the said Court, duly filed 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 within the limits thereof, upon, from and after the _____ day of _____ (the day of filing 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, or Clerk of the Circuit Court, as the case may be.)

VIII. And be it enacted, That a copy of the said Certificate of Naturalization may, at the option of the party, be entered and registered in the Registry Office of any County or Division of a County within this Province, and a certified copy of such Registry shall be sufficient evidence of such Naturalization in all Courts and places whatsoever.

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 Certificates as aforesaid in the same

manner as Aliens entitled to be naturalized under the provisions of the fourth section of this Act only, and with the same effect to all intents and purposes.

X. And be it enacted, That any women married or who shall be married to a Natural-born British 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 British Subject.

XI. And be it enacted, That the said Justice of the Peace or other persons as aforesaid, for administering the oath or oaths or affirmation or affirmations 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, or Clerk of the Circuit Court shall, for reading and filing 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 one shilling and three 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 one shilling and three pence, and a further sum of one shilling and three pence for every search and certified copy of the same, and no more.

XII. And be it enacted, That from and after the passing of this Act, every Alien shall have the same capacity to take, hold, possess, enjoy, claim, recover, convey, devise, impart and transmit Real Estate in all parts of this Province, as Natural-born or Naturalized Subjects of Her Majesty, in the same parts thereof respectively; Provided always, that nothing herein contained shall alter, impair or affect or be construed to alter, impair or affect in any manner or way whatsoever, any right or title legally vested in or acquired by any person or persons whomsoever previous to or at the time of the passing of this Act.

XIII. Provided always, and it is hereby declared, That the privileges of Naturalization imparted by this Act to the several classes of persons herein mentioned, are imparted to such persons respectively on the respective terms and conditions herein stated and set forth, and to be. by such persons exercised and enjoyed within the limits of this Province, according to the true intent and meaning of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, in the Tenth and Eleventh years of Her Majesty's Reign, and intituled, *An Act for the Naturalization of Aliens*.

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*.

XV. And be it enacted, That any person who shall wilfully swear falsely or make 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 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 or she 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 or her, 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 or her was created.

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