

WESTERN AUSTRALIA

ANNO TRIGESIMO QUINTO

VICTORIÆ REGINÆ

No. 2

An Act for the Naturalization of Aliens within the Colony of Western Australia. [*Assented to 4th August, 1871.*]

Preamble

WHEREAS an Act of Parliament was passed in the thirty-third year of the reign of Her Majesty Queen Victoria, intituled 'An Act to amend the law relating to the legal condition of Aliens and British subjects,' and it is expedient to adopt the provisions of the said recited Act in so far as the same can be made applicable in the Colony of Western Australia; be it therefore enacted, by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

Short title

1. This Act may be cited for all purposes as 'The Naturalization Act, 1871.'

Capacity of an alien as to property

2. Real and personal property of every description may be taken, acquired, held, and disposed of by an alien in the same manner in all respects as by a natural-born British subject; and a title to real and personal property of every description may be derived through, from, or in succession to an alien, in the same manner in all respects as though from or in succession to a natural-born British subject: provided,—

- (I.) That this section shall not qualify an alien for any office, or for any municipal, parliamentary, or other franchise.
- (II.) That this section shall not entitle any alien to any right or privilege as a British subject, except such rights and privileges in respect of property as are hereby expressly given to him.
- (III.) That this section shall not affect any estate or interest in real or personal property to which any person has or may become entitled, either mediately or immediately, in possession or expectancy, in pursuance of any disposition made before

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the passing of this Act, or in pursuance of any devolution by law on the death of any person dying before the passing of this Act.

(iv.) That this section shall not qualify an alien to be the owner of a British ship.

3. From and after the passing of this Act, an alien shall not be entitled to be tried by a jury *de medietate linguæ*, but shall be triable in the same manner as if he were a natural-born subject.

Alien not entitled to jury *de medietate linguæ*

4. Upon obtaining the certificate and taking the oath hereinafter prescribed, every alien now residing in, or who shall hereafter come to reside in, any part of the Colony, with intent to settle therein, shall be entitled to all political and other rights, powers, and privileges, and be subject to all obligations, to which a natural-born subject is entitled or subject in the Colony.

Aliens become naturalized on obtaining certificate

5. It shall be lawful for any such alien as aforesaid to present to the Governor a memorial, stating the age, profession, trade, or other occupation of the memorialist, and the duration of his or her residence in the Colony, and all other the grounds on which he or she seeks to obtain any of the rights and capacities of a natural-born British subject within the Colony, and praying the Governor to grant to the memorialist the certificate hereinafter mentioned.

Aliens to present memorial

6. Every such memorial shall be considered by the Governor in Council, who shall inquire into the circumstances of each case, and receive all such evidence as shall be offered, by affidavit or otherwise, as he may deem necessary or proper for proving the truth of the allegations contained in such memorial; and the Governor, if he so think fit, may issue a certificate reciting such of the contents of the memorial as he shall consider to be true and material, and granting to the memorialist (upon his or her taking the oath hereinafter prescribed) all the rights and capacities of a natural-born British subject within the Colony.

Memorial to be considered by Governor, who may grant certificate

7. Such certificate shall be enrolled for safe custody as of record in the Supreme Court, and may be inspected and copies thereof taken under such regulations as the Chief Justice shall direct.

Certificate to be enrolled

8. Within sixty days from the day of the date of such certificate, every memorialist to whom rights and capacities shall be granted by such certificate shall take and subscribe the following oath, that is to say—

Alien to take oath

I, A.B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors, according to law: so help me God.

Form of oath

Which oath shall be taken and subscribed by such memorialist and be duly administered to him or her before the Chief Justice or Resident or Police Magistrate, who shall grant to the memorialist a certificate of his or her having taken and subscribed such oath accordingly; and such certificate shall be signed by the Chief Justice or Resident or Police Magistrate.

9. The several proceedings hereby authorised to be taken for obtaining such certificate as aforesaid, shall be regulated in such manner as the Governor shall from time to time direct.

Rules to be made by Governor

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Fees payable

10. The sum of one pound shall be payable in respect of the several proceedings hereby authorised; and the same shall form part of the general revenue.

Alien previously naturalized may apply for certificate

11. An alien who has been naturalized previously to the passing of this Act may apply to the Governor for a certificate of naturalization under this Act, and it shall be lawful for the said Governor to grant such certificate to such naturalized alien upon the same terms and subject to the same conditions except payment of fee in and upon which such certificate might have been granted if such alien had not been previously naturalized in the Colony.

Women married to natural-born subjects deemed naturalized

12. Any woman married, or who shall be married, to a natural-born subject or person naturalized, shall be deemed and taken to be herself naturalized, and have all the rights and privileges of a natural-born subject.

Status of infant children

13. Where the father (or the mother, being a widow) has obtained a certificate of naturalization in the Colony, every child of such father or mother who during infancy has become resident in the Colony shall be deemed to be a naturalized British subject.

Hereditaments acquired or disposed of by aliens, not liable to escheat

14. All hereditaments which have heretofore been held, disposed of, or transmitted by or through any alien, shall be deemed to have been lawfully holden, disposed of and transmitted, and not to have been liable to escheat or forfeiture; and all hereditaments now held by any alien may be lawfully held, disposed of and transmitted, without being liable to escheat or forfeiture.

FRED. A. WELD,
GOVERNOR.
