

AN ACT to remove Doubts as to the Validity of Colonial Laws. [29th June, 1865.]

WHEREAS doubts have been entertained respecting the validity of divers laws enacted or purporting to have been enacted by the Legislatures of certain of Her Majesty's Colonies, and respecting the powers of such Legislatures, and it is expedient that such doubts should be removed :

BE IT HEREBY ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. The term "Colony" shall in this Act include all of Her Majesty's possessions abroad in which there shall exist a Legislature, as hereinafter defined, except the Channel Islands, the Isle of Man, and such territories as may for the time being be vested in Her Majesty under or by virtue of any Act of Parliament for the Government of India :

Definitions—  
"Colony."

The terms "Legislature" and "Colonial Legislature" shall severally signify the authority, other than the Imperial Parliament or Her Majesty in Council, competent to make laws for any Colony :

"Legisla-  
ture."  
"Colonial  
Legislature."

The term "Representative Legislature" shall signify any Colonial Legislature which shall comprise a Legislative Body of which one-half are elected by inhabitants of the Colony :

"Representa-  
tive Legisla-  
ture."

The term "Colonial Law" shall include laws made for any Colony either by such Legislature as aforesaid or by Her Majesty in Council :

"Colonial  
Law."

Act of Parliament, &c., when to extend to Colony.

An Act of Parliament, or any provision thereof, shall, in construing this Act, be said to extend to any Colony when it is made applicable to such Colony by the express words or necessary intendment of any Act of Parliament :

“Governor.”

The term “Governor” shall mean the officer lawfully administering the Government of any Colony :

“Letters Patent.”

The terms “Letters Patent” shall mean Letters Patent under the Great Seal of the United Kingdom of Great Britain and Ireland.

Colonial Law, when void for repugnancy.

2. Any Colonial Law which is or shall be in any respect repugnant to the provisions of any Act of Parliament extending to the Colony to which such law may relate, or repugnant to any Order or Regulation made under authority of such Act of Parliament, or having in the Colony the force and effect of such Act, shall be read subject to such Act, Order, or Regulation, and shall, to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative.

Colonial Law, when not void for repugnancy.

3. No Colonial Law shall be or be deemed to have been void or inoperative on the ground of repugnancy to the Law of England, unless the same shall be repugnant to the provisions of some such Act of Parliament, Order, or Regulation as aforesaid.

Colonial Law not void for inconsistency with instructions.

4. No Colonial Law, passed with the concurrence of or assented to by the Governor of any Colony, or to be hereafter so passed or assented to, shall be or be deemed to have been void or inoperative by reason only of any instructions with reference to such law or the subject thereof which may have been given to such Governor by or on behalf of Her Majesty, by any instrument other than the Letters Patent or instrument authorizing such Governor to concur in passing or to assent to laws for the peace, order, and good government of such Colony, even though such instructions may be referred to in such Letters Patent or last-mentioned instrument.

Colonial Legislature may establish, &c., Courts of Law.

5. Every Colonial Legislature shall have and be deemed at all times to have had, full power within its jurisdiction to establish Courts of Judicature, and to abolish and reconstitute the same, and to alter the constitution thereof, and to make provision for the administration of Justice therein, and every Represen-

tative Legislature, shall, in respect to the Colony under its jurisdiction, have, and be deemed at all times to have had, full power to make laws respecting the constitution, powers, and procedure of such Legislature; provided that such laws shall have been passed in such manner and form as may from time to time be required by any Act of Parliament, Letters Patent, Order in Council, or Colonial Law for the time being in force in the said Colony.

6. The certificate of the Clerk or other proper officer of a Legislative Body in any Colony, to the effect that the document to which it is attached is a true copy of any Colonial Law assented to by the Governor of such Colony, or of any Bill reserved for the signification of Her Majesty's pleasure by the said Governor, shall be *primâ facie* evidence that the document so certified is a true copy of such Law or Bill, and, as the case may be, that such law has been duly and properly passed and assented to, or that such Bill has been duly and properly passed and presented to the Governor; and any Proclamation purporting to be published by authority of the Governor in any newspaper in the Colony to which such Law or Bill shall relate, and signifying Her Majesty's disallowance of any such Colonial Law, or Her Majesty's assent to any such reserved Bill as aforesaid, shall be *primâ facie* evidence of such disallowance or assent.

Representative Legislature may alter constitution.

7. [*Certain Acts of Legislature of South Australia to be valid.*]

---