

1901.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

(As received from the Senate and read a first time 26 June, 1901.)

A BILL

FOR

An Act to provide for the recognition throughout the Commonwealth of the Laws, the Public Acts and Records, and the Judicial Proceedings of the States.

BE it enacted by the King's Most Excellent Majesty and the Senate and the House of Representatives of the Commonwealth of Australia as follows:—

PRELIMINARY.

5 **1.** This Act may be cited as the *State Laws and Records Recognition Act 1901.* Short title.

2. In this Act, unless the contrary intention appears— Definitions.

10 “Court” includes all judges justices and arbitrators, and all persons authorized by law or by consent of parties to hear receive and examine evidence.

15 “Courts within the Commonwealth” includes the High Court and all Federal Courts and Courts exercising federal jurisdiction, the Inter-State Commission when sitting as a Court for the hearing or determination of any matter, and all Courts of the several States and parts of the Commonwealth.

[C. 14]—500/27.6.1901.—F.5491.

“The

“The Governor of a State” means the person for the time being administering the Government of a State, and includes the Governor of a State with the advice of the Executive Council thereof.

JUDICIAL NOTICE.

5

State laws to be judicially noticed. See Qd., 62 Vic. No. 15, s. 3.

Fed. Council, 49 Vic. No. 2. Seals of States to be judicially noticed. See Qd., ib. s. 4.

Certain signatures &c. to be judicially noticed.

See Qd., ib. s. 10. F. C., ib. s. 6.

3. All Courts within the Commonwealth shall take judicial notice of all Acts of the Parliament of any State.

4. All Courts within the Commonwealth shall take judicial notice of the impression of the seal of any State without evidence of such seal having been impressed or any other evidence relating thereto. 10

5. All Courts within the Commonwealth shall take judicial notice—

(a) of the signature of any person holding in any State the office of Governor, Judge of the Supreme Court, Prothonotary, Master Registrar or Chief Clerk of the Supreme Court, Judge or Commissioner of any Court of Bankruptcy or Insolvency, Commissioner of Titles, Registrar of Titles, Assistant or Deputy Registrar of Titles, Registrar-General, Assistant or Deputy Registrar-General, Government Statist, Assistant or Deputy Government Statist, Judge or Presiding Magistrate of any County Court or District or Local Court or Court of Mines, Chairman of any Court of General or Quarter Sessions, or Police or Stipendiary or Special Magistrate or Justice of the Peace, or any office corresponding to any of the aforesaid offices, or any office to which the Governor-General may by Order published in the *Gazette* declare this section to apply; and 15 20 25

(b) of the seal of every such Court or person; 30
if such signature or seal purports to be attached or appended to any decree, order, certificate, or other judicial or official document.

PROOF OF CERTAIN DOCUMENTS.

Proof of proclamations, commissions, orders and regulations.

See N.S.W., No. 11, 1898, s. 18. Vic. No. 1088, s. 17. Qd., ib. s. 6.

6. (1) Evidence of any proclamation, commission, order, or regulation issued by the Governor of a State, or by or under the authority of any Minister of the Crown for a State, may be given in all Courts within the Commonwealth— 35

(a) by the production of the *Government Gazette* of the State purporting to contain the same; or
(b) by the production of a document purporting to be a copy thereof, and purporting to be printed by the Government Printer of the State, or by the authority of the Government of the State; or (c) by 40

(c) by the production (in the case of any proclamation, commission, order, or regulation issued by the Governor of a State) of a copy or extract purporting to be certified to be true by the Clerk of the Executive Council of the State ; or

(d) by the production (in the case of any proclamation, commission, order, or regulation issued by or under the authority of any Minister of the Crown for a State) of a copy or extract purporting to be certified to be true by any Minister of the Crown for the State.

(2) No proof shall be required of the handwriting or official position of any person certifying in pursuance of this section.

7. Evidence of any proclamation or other act of state of any State may be given in all Courts within the Commonwealth by the production of a copy thereof either—

- (a) proved to be an examined copy thereof, or
(b) purporting to be sealed with the seal of that State.

Proof of proclamations and Acts of State. See No. 11, 1898 (N.S.W.), s. 17.

8. Whenever by any State Act at any time in force in any State—

- (a) any certificate or official or public document ; or
(b) any document or proceeding of any corporation or company ; or
(c) any certified copy of any document or by-law or of any entry in any register or other book or of any other proceeding,

Proof of certain public or corporation documents. See 8 and 9 Vic. c. 113, s. 1. Qd., ib. s. 11.

is admissible in evidence for any purpose in that State, it shall be admitted in evidence to the same extent and for the same purposes, in all Courts within the Commonwealth if it purports to be sealed or impressed with a stamp, or sealed and signed, or signed alone, or impressed with a stamp and signed, as directed by such State Act, without any proof of such seal stamp or signature or of the official character of the person appearing to have signed the same, and without any further proof thereof.

9. Any document which by any law at any time in force in any State is admissible in evidence for any purpose in any Court of that State without proof of—

- (a) the seal or stamp or signature authenticating the same, or
(b) the judicial or official character of the person appearing to have signed the same,

Document admissible in any State without proof to be admissible throughout the Commonwealth.

See 14 & 15 Vic. c. 99, s. 11.

Qd., ib. s. 7.

shall be admissible in evidence to the same extent and for the same purposes in all Courts within the Commonwealth without such proof.

10. Whenever

Proof of public books and documents of States. See 14 & 15 Vic. c. 99, s. 14. Qd. ib., s. 8.

10. Whenever any book or other document of any State is of such a public nature as to be admissible in evidence in that State on its mere production from the proper custody, any copy thereof or extract therefrom shall be admissible in evidence in all courts within the Commonwealth if—

5

- (a) it is proved to be an examined copy or extract ; or
- (b) it purports to be signed and certified as a true copy or extract by some officer of that State, who shall further certify that he is the officer to whose custody the original is trusted.

Proof of Votes and Proceedings of State Parliaments. See 8 & 9 Vic., c. 113, s. 3. Qd. ib., s. 9. Fed. Council, 49 Vic. No. 2, s. 5.

11. (1) All copies of the Votes and Proceedings of either House of the Parliament of any State, if purporting to be printed by the Government Printer of that State, shall on the mere production of the same be admitted as evidence thereof in all Courts within the Commonwealth.

10

(2) In this section "Votes and Proceedings" shall be deemed to include any papers purporting to be printed by the authority of and to be laid before either House of the Parliament of a State.

15

PROOF OF CERTAIN MATTERS.

Proof of Government Gazette of State. See No. 1088 (Vic.), s. 24. F. C., ib. s. 4.

12. The mere production of a paper purporting to be the Government Gazette of a State shall in all Courts within the Commonwealth be evidence that such paper is such Government Gazette and was published on the day on which it bears date.

20

Proof of printing by Government Printer of State. See Qd. ib., s. 12.

13. The mere production of a paper purporting to be printed by the Government Printer of a State or by the authority of the Government of a State shall in all Courts within the Commonwealth be evidence that such paper was printed by such Government printer or by such authority.

25

Proof of act done by Governor or Minister of a State. See No. 1088 (Vic.), s. 25.

14. Where by any law at any time in force the Governor of a State or a Minister of the Crown for a State is authorized or empowered to do any act whatsoever, production of the Government Gazette of the State purporting to contain a copy or notification of any such act shall in all Courts within the Commonwealth be evidence of such act having been duly done.

30

By-laws and regulations. See N.S.W. 1898, No. 11, s. 27.

15. Where, by any State Act, power to make by-laws or regulations is conferred upon any person or body, any printed paper purporting to be such by-laws or regulations, and to be printed by the Government Printer of the State, or by the authority of the Government of the State, shall in all Courts within the Commonwealth be evidence—

35

- (a) That by-laws or regulations in the words printed in such paper were duly made by such person or body ; and
- (b) that such by-laws or regulations have been approved of or confirmed by the Governor of the State, if they appear by such paper to have been so approved of or confirmed.

40

16. (1) All

16. (1) All Courts within the Commonwealth shall admit as evidence of the incorporation of a company incorporated or registered in any State a certificate of the incorporation or registration thereof which purports to be signed by the Registrar or an Assistant or Deputy-Registrar of companies in that State, and the date of incorporation or registration mentioned in such certificate shall be deemed to be the date on which the company was incorporated or registered.

Proof of Incorporation of company.
See Qd. ib., s. 13.

(2) Any copy of or extract from any document kept and registered at the office for the registration of companies in any State, if certified under the hand of the Registrar or an Assistant or Deputy-Registrar, shall in all Courts within the Commonwealth be admissible in evidence in all cases in which the original document is admissible in evidence and for the same purposes and to the same extent.

See N.S.W., 1898,
No. 11, s. 32.

PROOF OF JUDICIAL PROCEEDINGS.

17. Evidence of any judgment decree rule order or other judicial proceeding of any Court of a State, and of any affidavit pleading or other legal document filed or deposited in any such Court, may be given in all Courts within the Commonwealth by the production of a copy thereof—

Proof of judicial proceedings of State Court.
See N.S.W., ib. 21.
No. 1088 (Vic.) s. 16
U.S.

(a) proved to be an examined copy thereof; or
(b) purporting to be sealed with the seal of such Court; or
(c) purporting to be signed by a Judge of such Court with a statement in writing attached by him to his signature that such Court has no seal and without proof of his judicial character or of the truth of such statement.

SUPPLEMENTAL.

18. All public acts records and judicial proceedings of any State, if proved or authenticated as required by this Act, shall have such faith and credit given to them in every Court and public office within the Commonwealth as they have by law or usage in the Courts and public offices of the State from whence they are taken.

Faith and credit to be given to documents properly authenticated.
See Constitution s. 118.
U.S. Stat. II. 1790 c. 11; Stat. I. 1804 c. 56.

19. The provisions of this Act shall be in addition to and not in derogation of any powers existing at common law, or given by any law at any time in force in any State.

This Act not to derogate from existing powers.
Qd. ib. s. 14.
F. C., ib. s. 7.

1901.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

Read 1° 26 June, 1901.

(As reported from Committee of the Whole 24 July, 1901.)

A BILL

FOR

An Act to provide for the recognition throughout the Commonwealth of the Laws, the Public Acts and Records, and the Judicial Proceedings of the States.

BE it enacted by the King's Most Excellent Majesty the Senate and the House of Representatives of the Commonwealth of Australia as follows:—

PRELIMINARY.

5 **1.** This Act may be cited as the *State Laws and Records Recognition Act 1901.* Short title.

2. In this Act, unless the contrary intention appears— Definitions.

10 “Court” includes all judges and justices and all arbitrators under any Act or State Act, and all persons authorized by law or by consent of parties to hear receive and examine evidence.

15 “Courts within the Commonwealth” includes the High Court and all Federal Courts and Courts exercising federal jurisdiction, the Inter-State Commission when sitting as a Court for the hearing or determination of any matter, and all Courts of the several States and parts of the Commonwealth.

“The Governor of a State” means the person for the time being administering the Government of a State, and includes the Governor of a State with the advice of the Executive Council thereof.

JUDICIAL NOTICE.

State laws to be judicially noticed. See Qd., 62 Vic. No. 15, s. 3.

Fed. Council, 49 Vic. No. 2.

Seals of States to be judicially noticed.

See Qd., ib. s. 4.

Certain signatures &c. to be judicially noticed.

See Qd., ib. s. 10.

F. C., ib. s. 6.

3. All Courts within the Commonwealth shall take judicial notice of all Acts of the Parliament of any State. 5

4. All Courts within the Commonwealth shall take judicial notice of the impression of the seal of any State without evidence of such seal having been impressed or any other evidence relating thereto. 10

5. All Courts within the Commonwealth shall take judicial notice—

(a) of the signature of any person who holds or has held in any State the office of Governor, Judge of the Supreme Court, Prothonotary, Master Registrar or Chief Clerk of the Supreme Court, Judge or Commissioner of any Court of Bankruptcy or Insolvency, Curator of Intestate Estates, Commissioner of Titles, Registrar of Titles, Assistant or Deputy Registrar of Titles, Registrar-General, Assistant or Deputy Registrar-General, Government Statist, Assistant or Deputy Government Statist, Judge or Presiding Magistrate of any County Court or District or Local Court or Court of Mines, Chairman of any Court of General or Quarter Sessions, or Police or Stipendiary or Special Magistrate or Justice of the Peace, or any office corresponding to any of the aforesaid offices, or any office to which the Governor-General may by Order published in the *Gazette* declare this section to apply; and 15 20 25 30

(b) of the seal of every such Court or person;

if such signature or seal purports to be attached or appended to any decree, order, certificate, or other judicial or official document.

PROOF OF CERTAIN DOCUMENTS.

Proof of proclamations, commissions, orders and regulations.

See N.S.W., No. 11, 1898, s. 18.

Vic. No. 1088, s. 17. Qd., ib. s. 6.

6. (1) Evidence of any proclamation, commission, order, or regulation issued by the Governor of a State, or by or under the authority of any Minister of the Crown for a State, may be given in all Courts within the Commonwealth— 35

(a) by the production of the *Government Gazette* of the State purporting to contain the same; or 40

(b) by the production of a document purporting to be a copy thereof, and purporting to be printed by the Government Printer of the State, or by the authority of the Government of the State; or (c) by

5 (c) by the production (in the case of any proclamation, commission, order, or regulation issued by the Governor of a State) of a copy or extract purporting to be certified to be true by the Clerk of the Executive Council of the State; or

10 (d) by the production (in the case of any proclamation, commission, order, or regulation issued by or under the authority of any Minister of the Crown for a State) of a copy or extract purporting to be certified to be true by any Minister of the Crown for the State.

(2) No proof shall be required of the handwriting or official position of any person certifying in pursuance of this section.

15 7. Evidence of any proclamation or other act of state of any State may be given in all Courts within the Commonwealth by the production of a copy thereof either—

(a) proved to be an examined copy thereof, or

(b) purporting to be sealed with the seal of that State.

Proof of
proclamations and
Acts of State.
See No. 11, 1898
(N.S.W.), s. 17.

20 8. Whenever by any State Act at any time in force in any State—

(a) any public document; or

(b) any record required by law to be kept of any public document or proceeding; or

(c) any certified copy of any public document or by-law or of any entry in any public register or book.

Proof of certain
public
documents.

See 8 & 9 Vic.
c. 113, s. 1.
Qd., ib. s. 11.

25 is admissible in evidence for any purpose in that State, it shall be admitted in evidence to the same extent and for the same purposes, in all Courts within the Commonwealth if it purports to be sealed or impressed with a stamp, or sealed and signed, or signed alone, or impressed with a stamp and signed, as directed by such State Act,
30 character of the person appearing to have signed the same, and without any further proof thereof in every case in which the original document could have been received in evidence.

35 9. Any public document which by any law at any time in force in any State is admissible in evidence for any purpose in any Court of that State without proof of—

(a) the seal or stamp or signature authenticating the same, or

(b) the judicial or official character of the person appearing to have signed the same,

40 shall be admissible in evidence to the same extent and for the same purposes in all Courts within the Commonwealth without such proof.

Public document
admissible in any
State without proof
to be admissible
throughout the
Commonwealth.

See 14 & 15 Vic.
c. 99, s. 11.
Qd., ib. s. 7.

10. Whenever

Proof of public books and documents of States. See 14 & 15 Vic. c. 99, s. 14. Qd. ib., s. 8.

10. Whenever any book or other document of any State is of such a public nature as to be admissible in evidence in that State on its mere production from the proper custody, any copy thereof or extract therefrom shall be admissible in evidence in all courts within the Commonwealth if—

- (a) it is proved to be an examined copy or extract; or
- (b) it purports to be signed and certified as a true copy or extract by some officer of that State, who shall further certify that he is the officer to whose custody the original is trusted.

Proof of Votes and Proceedings of State Parliaments. See 8 & 9 Vic., c. 113, s. 3. Qd. ib. s. 9.

11. (1) All copies of the Votes and Proceedings of either House of the Parliament of any State, if purporting to be printed by the Government Printer of that State, shall on the mere production of the same be admitted as evidence thereof in all Courts within the Commonwealth.

Fed. Council, 49 Vic. No. 2, s. 5.

(2) In this section "Votes and Proceedings" shall be deemed to include Journals and Minutes, and any papers purporting to be printed by the authority of and to be laid before either House of the Parliament of a State.

PROOF OF CERTAIN MATTERS.

Proof of Government Gazette of State. See No. 1088 (Vic.), s. 24. F. C., ib. s. 4.

12. The mere production of a paper purporting to be the *Government Gazette* of a State shall in all Courts within the Commonwealth be evidence that such paper is such *Government Gazette* and was published on the day on which it bears date.

Proof of printing by Government Printer of State. See Qd. ib., s. 12.

13. The mere production of a paper purporting to be printed by the Government Printer of a State or by the authority of the Government of a State shall in all Courts within the Commonwealth be evidence that such paper was printed by such Government printer or by such authority.

Proof of act done by Governor or Minister of a State. See No. 1088 (Vic.), s. 25.

14. Where by any law at any time in force the Governor of a State or a Minister of the Crown for a State is authorized or empowered to do any act whatsoever, production of the *Government Gazette* of the State purporting to contain a copy or notification of any such act shall in all Courts within the Commonwealth be evidence of such act having been duly done.

By-laws and regulations. See N.S.W. 1898, No. 11, s. 27.

15. Where, by any State Act, power to make by-laws or regulations is conferred upon any person or body, any printed paper purporting to be such by-laws or regulations, and to be printed by the Government Printer of the State, or by the authority of the Government of the State, shall in all Courts within the Commonwealth be evidence—

- (a) That by-laws or regulations in the words printed in such paper were duly made by such person or body; and
- (b) that such by-laws or regulations have been approved of or confirmed by the Governor of the State, if they appear by such paper to have been so approved of or confirmed.

16. (1) All

16. (1) All Courts within the Commonwealth shall admit as evidence of the incorporation of a company incorporated or registered in any State a certificate of the incorporation or registration thereof which purports to be signed by the Registrar or an Assistant or Deputy-Registrar of companies in that State, and the date of incorporation or registration mentioned in such certificate shall be evidence of the date on which the company was incorporated or registered.

Proof of Incorporation of company.
See Qd. ib., s. 13.

(2) Any copy of or extract from any document kept and registered at the office for the registration of companies in any State, if certified under the hand of the Registrar or an Assistant or Deputy-Registrar, shall in all Courts within the Commonwealth be admissible in evidence in all cases in which the original document is admissible in evidence and for the same purposes and to the same extent.

See N.S.W., 1898,
No. 11, s. 32.

PROOF OF JUDICIAL PROCEEDINGS.

17. Evidence of any judgment decree rule order or other judicial proceeding of any Court of a State, including any affidavit pleading or other legal document filed or deposited in any such Court, may be given in all Courts within the Commonwealth by the production of a copy thereof—

Proof of judicial proceedings of State Court.
See N.S.W., ib. 21.
No. 1088 (Vic.) s. 16
U.S.

(a) proved to be an examined copy thereof; or

(b) purporting to be sealed with the seal of such Court; or

(c) purporting to be signed by a Judge of such Court with a statement in writing attached by him to his signature that such Court has no seal and without proof of his judicial character or of the truth of such statement.

SUPPLEMENTAL.

18. All public acts records and judicial proceedings of any State, if proved or authenticated as required by this Act, shall have such faith and credit given to them in every Court and public office within the Commonwealth as they have by law or usage in the Courts and public offices of the State from whence they are taken.

Faith and credit to be given to documents properly authenticated.

See Constitution s. 118.

U.S. Stat. II. 1790 c. 11; Stat. I. 1804 c. 56.

19. The provisions of this Act shall be in addition to and not in derogation of any powers existing at common law, or given by any law at any time in force in any State.

This Act not to derogate from existing powers.
Qd. ib. s. 14.

F. C., ib. s. 7.

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
5708 SOUTH CAMPUS DRIVE
CHICAGO, ILLINOIS 60637

STATE LAWS AND RECORDS RECOGNITION BILL.

(Amendments to be proposed in Committee by the Attorney-General.)

- Preamble, page 1, line 1, omit "and."
- Clause 2, page 1, line 8, omit "justices and arbitrators," insert "and justices and all arbitrators under any Act or State Act."
- Clause 5, page 2, line 14, omit "holding," insert "who holds or has held."
- Clause 8, page 3, line 19, omit "certificate or official or."
- Clause 8, page 3, line 20, before "document" insert "record required by law to be kept of any public."
- Clause 8, page 3, lines 20, 21, omit "of any corporation or company."
- Clause 8, page 3, line 22, before "document" insert "public."
- Clause 8, page 3, lines 23, 24, omit "register or other book or of any other proceeding;" insert "public register or book."
- Clause 8, page 3, line 32, at end of clause add "in every case in which the original document could have been received in evidence."
- Clause 9, page 3, line 33, before "document" insert "public."
- Clause 11, page 4, line 16, after "include" insert "Journals and Minutes, and."
- Clause 16, page 5, line 7, omit "deemed to be;" insert "evidence of."
- Clause 17, page 5, line 18, omit "and of;" insert "including."