

1909.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

Read 1° 20 July, 1909.

*(Brought in by the Minister of External Affairs, the Honorable
L. E. Groom.)*

A BILL

FOR

AN ACT

To provide for the acceptance of Norfolk Island as a Territory under the authority of the Commonwealth, and for the Government thereof.

WHEREAS by an Act of the Parliament of the United Kingdom, 6 and 7 Vic c. 36. made and passed in the sixth and seventh years of the reign of Her late Majesty Queen Victoria, intituled "An Act to amend so much of an Act of the last Session, for the Government of New South Wales and Van Diemen's Land, as relates to Norfolk Island," 5 it was, amongst other things, enacted that it should be lawful for Her Majesty to sever Norfolk Island from the Government of New South Wales and to annex it to the Government and Colony of Van Diemen's Land :

10 And whereas Her late Majesty Queen Victoria, in exercise of the powers vested in Her by the said Act, by a Commission under the Great Seal of the United Kingdom bearing date the twenty-fourth day of October, 1843, appointed that from and after the twenty-ninth day of September, 1844, Norfolk Island should be severed Commission, 24th October, 1843. from the Government of New South Wales and annexed to the 15 Government and Colony of Van Diemen's Land :

And whereas by an Act of the Parliament of the United Kingdom, 18 and 19 Vic. c. 56. called the Australian Waste Lands Act 1855, it was, amongst other things, provided that it should be lawful for Her Majesty at any 20 time, by Order in Council, to separate Norfolk Island from the Colony of Van Diemen's Land and to make such provision for the Government of Norfolk Island as might seem expedient : And

Order in Council
24th June, 1856.

And whereas by an Order in Council dated the twenty-fourth day of June, 1856, made by Her Majesty in pursuance of the last-mentioned Act, it was ordered and declared, amongst other things, that from and after the date of the proclamation of the Order in New South Wales Norfolk Island should be thereby separated from the said Colony of Van Diemen's Land (now called Tasmania) and that from that date all power, authority, and jurisdiction of the Governor, Legislature, Courts of Justice, and Magistrates of Tasmania over the said Island should cease and determine, and that from the said date the said Island should be a distinct and separate Settlement, the affairs of which should until further Order in that behalf by Her Majesty be administered by a Governor for that purpose appointed by Her Majesty with the advice and consent of Her Privy Council :

And whereas the said Order in Council was proclaimed in New South Wales on the first day of November, 1856 :

Order in Council,
15th January,
1897.

And whereas by an Order in Council dated the fifteenth day of January, 1897, made in pursuance of the said last-mentioned Act, Her late Majesty, after reciting that, in prospect of the future annexation of Norfolk Island to the Colony of New South Wales or to any Federal body of which that Colony might thereafter form part, it was expedient that in the meantime the affairs of Norfolk Island should be administered by the Governor of New South Wales as therein provided, was pleased to order that the affairs of Norfolk Island should thenceforth, and until further Order should be made in that behalf by Her Majesty, be administered by the Governor and Commander-in-Chief for the time being of the Colony of New South Wales and its Dependencies :

Order in Council
18th October,
1900.

And whereas by an Order in Council dated the eighteenth day of October, 1900, made in pursuance of the said last-mentioned Act, Her late Majesty was pleased to order that the affairs of Norfolk Island should thenceforth, and until further Order should be made in that behalf by Her Majesty, be administered by the Governor for the time being of the State of New South Wales and its Dependencies :

And whereas the Parliament of the Commonwealth is willing that Norfolk Island should be placed under the authority of, and accepted as a Territory by, the Commonwealth :

Constitution
s. 122.

And whereas by the Constitution it is provided that the Parliament may make laws for the Government of any Territory placed by the King under the authority of and accepted by the Commonwealth :

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

Short title.

1. This Act may be cited as the *Norfolk Island Act* 1909.

Commencement.

2.—(1.) This Act shall not come into operation until the King has been pleased to place Norfolk Island under the authority of the Commonwealth, and the Governor-General has been pleased, by proclamation, to fix a day for the commencement of this Act.

(2.) Subject

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(2.) Subject to sub-section (1), this Act shall come into operation on the day fixed by the Governor-General for the commencement of this Act.

3. Norfolk Island is by this Act declared to be accepted by the Commonwealth as a Territory under the authority of the Commonwealth by the name of Norfolk Island.

Acceptance of
Norfolk Island,
Cf. 1905, No. 9,
s. 5.

4.—(1.) Subject to this Act, the laws, rules, and regulations in force in Norfolk Island at the commencement of this Act shall continue in force, but may be altered or repealed by Ordinance made in pursuance of this Act.

Continuance
of laws.
Cf. 1905, No. 9,
s. 6.

(2.) Where in any law, rule, or regulation in force in Norfolk Island at the commencement of this Act, any reference is made to the Governor, the reference shall be deemed to be made to the Governor-General.

5. The Acts of the Parliament (except this Act) shall not be in force in Norfolk Island unless expressed to extend thereto.

Commonwealth
Acts not in
force.
Cf. 1905, No. 9,
s. 6.

6. The Executive Council of Norfolk Island, as existing at the commencement of this Act, shall continue in existence, but may be altered or abolished by Ordinance made in pursuance of this Act.

Continuance of
Executive
Council.

7. Judges, Magistrates, and other public Officers for Norfolk Island shall continue in office as if appointed under this Act.

Continuance of
officers.
Cf. 1905, No. 9,
s. 9.

8.—(1.) Subject to this Act, the Governor-General may make Ordinances for the peace, order, and good government of Norfolk Island.

Laws for
Norfolk Island.

(2.) Ordinances made by the Governor-General shall be published in Norfolk Island in the manner directed by the Governor-General, and shall come into force at a time to be fixed by the Governor-General, not being before the date of their publication in Norfolk Island.

(3.) Every Ordinance made by the Governor-General shall be laid before both Houses of the Parliament within thirty days after the making thereof if the Parliament is then sitting, and if not, then within thirty days after the next sitting of the Parliament.

(4.) If within thirty days after any Ordinance has been laid before it, either House of the Parliament passes a resolution disagreeing with the Ordinance or any part of it, the Ordinance or part, as the case requires, shall cease to have effect.

9.—(1.) The Governor-General may constitute and appoint such Judges, Magistrates, and Officers as he thinks necessary for the good government of Norfolk Island.

Appointment
of officers.
Cf. 1905, No. 9,
s. 17

(2.) Judges, Magistrates, and Officers appointed under this section shall hold office during the pleasure of the Governor-General.

(3.) This

(3.) This section does not apply to the President, Vice-President, and Members of the Executive Council.

(4.) This section shall not affect any power of appointment vested in the Chief Magistrate or other person under the law for the time being in force in Norfolk Island.

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Grants of land.
Cf. 1905, No. 9,
s. 20.

10. The Governor-General, or any person authorized by him, may, in accordance with law, make grants or other dispositions of Crown lands in Norfolk Island :

Provided that no grant of an estate in fee simple shall be made, except for carrying into effect any agreement in force at the commencement of this Act.

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Appeals.
Cf. 1905, No. 9,
s. 43.

11.—(1.) The High Court shall have jurisdiction, with such exceptions, and subject to such conditions as are prescribed by Ordinance made by the Governor-General, to hear and determine appeals from all judgments, decrees, orders, and sentences of any Judge or of the Chief Magistrate acting judicially in Norfolk Island, and the judgment of the High Court shall be final and conclusive.

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(2.) The Governor-General may by Ordinance provide that an appeal to the High Court, in pursuance of this section, may, *inter alia*, be by case stated with the legal argument attached thereto in writing, and that it shall not be necessary for the parties to appear either personally or by counsel.

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Grant of
pardon to
accomplice.
Cf. 1905, No. 9,
s. 44.

12. Where an offence has been committed within Norfolk Island, or for which the offender may be tried therein, the Governor-General may, in the name of the King, grant a pardon to any accomplice who gives evidence that leads to the conviction of the principal offender or any of the principal offenders.

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Grant of
pardon and
remission of
sentences and
forfeitures.
Cf. 1905, No. 9,
s. 45.

13.—(1.) The Governor-General may, in the name of the King, grant to any offender convicted in any Court or before any Judge or Magistrate in Norfolk Island a pardon, either free or conditional, or any remission of sentence, or any respite of the execution of the sentence, and may remit any fines, penalties, and forfeitures due or accrued to the Crown in Norfolk Island.

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Provided that the Governor-General shall not, except in the case of a political offence unaccompanied by any other grave crime, make it a condition of any pardon or remission of sentence that the offender shall be banished from or shall absent himself or be removed from Norfolk Island.

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Revenue and
expenditure.
Cf. 1905, No. 9,
ss. 46, 47.

14. The revenue of Norfolk Island shall be available for defraying the expenditure thereof.

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15. Duties of Customs shall not be chargeable on goods imported into Australia from Norfolk Island if the goods—

Tariff preference
to goods
produced in
Norfolk Island.

- (a) are the produce or manufacture of Norfolk Island ; and
- (b) are shipped direct from Norfolk Island to Australia ; and
- 5 (c) are not goods which if manufactured or produced in Australia, would be subject to any Duty of Excise.

