ANNO QUARTO & QUINTO

GULIELMI IV. REGIS.

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C A P. XCV.

An Act to empower His Majesty to erect *South Australia* into a *British* Province or Provinces, and to provide for the Colonization and Government thereof. [15th *August* 1834.]

WHEREAS that Part of *Australia* which lies between the Meridians of the One hundred and thirty-second and One hundred and forty-first Degrees of East Longitude, and between the Southern Ocean and Twenty-six Degrees of South Latitude, together with the Islands adjacent thereto, consists of waste and unoccupied Lands which are supposed to be fit for the Purposes of Colonization: And whereas divers of His Majesty's Subjects possessing amongst them considerable Property are desirous to embark for the said Part of *Australia*: And whereas it is highly expedient that His Majesty's said Subjects should be enabled to carry their said laudable Purpose into effect: And whereas the said Persons are desirous that in the said intended Colony an uniform System in the Mode of disposing of Waste Lands should be permanently established: Be it therefore enacted by the King'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, That it shall and may be lawful for His Majesty, with the Advice of His Privy Council, to erect within that Part of *Australia* which lies between the Meridians of the One hundred and thirty-second and One hundred and forty-first Degrees of East Longitude, and between the Southern Ocean and the Twenty-six Degrees of South Latitude, together with all and every the Islands adjacent thereto, and the Bays and Gulfs thereof, with the Advice of His Privy Council, to establish One or more Provinces and to fix the respective Boundaries of such Provinces; and that all and every

His Majesty may establish One or more Provinces in that Part of Australia herein described.

9 O Person

Person who shall at any Time hereafter inhabit or reside within His Majesty's said Province or Provinces shall be free, and shall not be subject to or bound by any Laws, Orders, Statutes, or Constitutions which have been heretofore made, or which hereafter shall be made, ordered, or enacted by, for, or as the Laws, Orders, Statutes, or Constitutions of any other Part of *Australia*, but shall be subject to and bound to obey such Laws, Orders, Statutes, and Constitutions as shall from Time to Time, in the Manner herein-after directed, be made, ordered, and enacted for the Government of His Majesty's Province or Provinces of *South Australia*.

His Majesty may empower Persons resident in the Colony to make Laws.

II. And be it further enacted, That it shall and may be lawful for His Majesty, His Heirs and Successors, by any Order or Orders to be by Him or Them made with the Advice of His or Their Privy Council, to make, ordain, and, subject to such Conditions and Restrictions as to Him and Them shall seem meet, to authorize and empower any One or more Persons resident and being within any One of the said Provinces to make, ordain, and establish all such Laws, Institutions, or Ordinances, and to constitute such Courts, and appoint such Officers, and also such Chaplains and Clergymen of the Established Church of *England* or *Scotland*, and to impose and levy such Rates, Duties, and Taxes, as may be necessary for the Peace, Order, and good Government of His Majesty's Subjects and others within the said Province or Provinces; provided that all such Orders, and all Laws and Ordinances so to be made as aforesaid, shall be laid before the King in Council as soon as conveniently may be after the making and enacting thereof respectively, and that the same shall not in anywise be contrary or repugnant to any of the Provisions of this Act.

Such Laws to be laid before the King in Council.

Commissioners may be appointed to carry this Act into execution.

III. And be it further enacted, That it shall be lawful for His Majesty, His Heirs and Successors, by Warrant under the Sign Manual, to be countersigned by His Majesty's Principal Secretary of State for the Colonies, to appoint Three or more fit Persons to be Commissioners to carry certain Parts of this Act, and the Powers and Authorities herein-after contained, into execution, and also from Time to Time at Pleasure to remove any of the Commissioners for the Time being, and upon every or any Vacancy in the said Number of Commissioners, either by Removal or by Death or otherwise, to appoint some other fit Persons to the said Office; and until such Appointment, it shall be lawful for the surviving or continuing Commissioners or Commissioner to act as if no such Vacancy had occurred.

Style of Board of Commissioners.

IV. And be it further enacted, That the said Commissioners shall be styled "The Colonization Commissioners for *South Australia*"; and the said Commissioners or any Two of them may sit from Time to Time, as they deem expedient, as a Board of Commissioners for carrying certain Parts of this Act into execution.

All Proceedings to be sealed.

V. And be it further enacted, That the said Commissioners shall cause to be made a Seal of the said Board, and shall cause to be sealed or stamped therewith all Rules, Orders, and Regulations made by the said Commissioners in pursuance of this Act; and all such Rules, Orders, and Regulations, or Copies thereof, purporting to be sealed or stamped with the Seal of the said Board, shall be received as

Evidence of the same respectively without any further Proof thereof; and no such Rule, Order, or Regulation, or Copy thereof, shall be valid, or have any Force or Effect, unless the same shall be so sealed or stamped as aforesaid.

Commissioners to make Orders for the Sale of Land.

VI. And be it further enacted, That the said Commissioners shall and they are hereby empowered to declare all the Lands of the said Province or Provinces (excepting only Portions which may be reserved for Roads and Footpaths) to be Public Lands, open to Purchase by *British* Subjects, and to make such Orders and Regulations for the surveying and Sale of such Public Lands at such Price as the said Commissioners may from Time to Time deem expedient, and for the letting of the Common of Pasturage of unsold Portions thereof as to the said Commissioners may seem meet, for any Period not exceeding Three Years; and from Time to Time to alter and revoke such Orders and Regulations, and to employ the Monies from Time to Time received as the Purchase Money of such Lands, or as Rent of the Common of Pasturage of unsold Portions thereof, in conducting the Emigration of poor Persons from *Great Britain* or *Ireland* to the said Province or Provinces: Provided always, that no Part of the said Public Lands shall be sold except in public for ready Money, and either by Auction or otherwise as may seem best to the said Commissioners, but in no Case and at no Time for a lower Price than the Sum of Twelve Shillings Sterling *per English* Acre: Provided also, that the Sum *per* Acre which the said Commissioners may declare during any Period to be the upset or selling Price at which Public Lands shall be sold shall be an uniform Price; (that is to say,) the same Price *per* Acre whatever the Quantity or Situation of the Land put up for Sale: Provided also, that the whole of the Funds from Time to Time received as the Purchase Money of the said Lands, or as the Rent of the Common of Pasturage of unsold Portions thereof, shall constitute an "Emigration Fund," and shall, without any Deduction whatsoever, except in the Case herein-after provided for, be employed in conveying poor Emigrants from *Great Britain* or *Ireland* to the said Province or Provinces: Provided also, that the poor Persons who shall by means of the said "Emigration Fund" be conveyed to the said Province or Provinces shall, as far as possible, be adult Persons of the Two Sexes in equal Proportions, and not exceeding the Age of Thirty Years.

Funds received as Purchase Money to form a Fund for conveying poor Emigrants to the Province.

No poor Person to be allowed a Passage from Fund unless Family also conveyed.

VII. And be it further enacted, That no poor Person having a Husband or Wife (as the Case may be), or a Child or Children, shall, by means of the said "Emigration Fund," obtain a Passage to the said Province or Provinces, unless the Husband or Wife (as the Case may be), or the Child or Children of such poor Person, shall also be conveyed to the said Province or Provinces.

A Resident Commissioner to be appointed.

VIII. And be it further enacted, That it shall be lawful for His Majesty, His Heirs and Successors, by Warrant under the Sign Manual, to be countersigned by His Majesty's Principal Secretary of State for the Colonies, to appoint a Commissioner of Public Lands to be resident in the said Colony, and to act under the Orders of the said Board of Commissioners as herein-after directed.

IX. And

Treasurer and other Officers may be appointed and removed.

IX. And be it further enacted, That the said Commissioners shall and they are hereby empowered to appoint such Person or Persons as they may think fit Treasurer, Assistant Surveyors, and other Officers, for carrying this Act into execution respecting the Disposal of the said Public Lands and the Purchase Money thereof, and to remove such Treasurer or Assistant Surveyors or other Officers at their Discretion, and on every or any Vacancy in the said Office of Treasurer, Assistant Surveyor, or other Officer, by Removal or by Death or otherwise, to appoint, if they see fit, some other Person to the said Office.

Powers may be delegated to Colonial Commissioner.

X. And be it further enacted, That it shall and may be lawful for the said Commissioners to delegate to the said Colonial Commissioner, Assistant Surveyor, or other Officer, or to any of them, such of the Powers and Authorities with respect to the Disposal of the Public Lands of the said Province or Provinces as the said Commissioners shall think fit; and the Powers and Authorities so delegated, and the Delegation thereof, shall be notified in such Manner, and such Powers and Authorities shall be exercised at such Places, for such Periods and under such Circumstances, and subject to such Regulations, as the said Commissioners shall direct; and the said Commissioners may at any Time revoke, recall, alter, or vary all or any of the Powers and Authorities which shall be so delegated as aforesaid.

Treasurers to receive and pay all Monies, and to give Security.

XI. And be it further enacted, That all Monies under the Controul of the said Board of Commissioners shall be received and paid by the Treasurers who may be appointed by the said Board, and who shall give Security for the faithful Discharge of their Duties to such Amount and in such Manner as to the said Commissioners may seem fit.

Accounts to be audited.

XII. And be it further enacted, That all Accounts of the said Treasurer shall be submitted to the Lords of His Majesty's Treasury, and be audited in the same Manner as other Public Accounts.

Appointment of Officers.

XIII. And be it further enacted, That the said Commissioners may and they are hereby empowered from Time to Time to appoint a Secretary, Treasurer, and all such Clerks, Messengers, and Officers as they shall think fit, and from Time to Time, at the Discretion of the said Commissioners, to remove such Secretary, Treasurer, Clerks, Messengers, and Officers, or any of them, and to appoint others in their Stead.

Commissioners to take Oath.

XIV. And be it further enacted, That every Commissioner and Colonial Commissioner to be appointed from Time to Time shall, before he shall enter upon the Execution of his Office, take the following Oath before one of the Judges of His Majesty's Court of Common Pleas, or one of the Barons of the Court of Exchequer, or (in the Case of such Colonial Commissioners) before the Judge of one of His Majesty's Courts in the said Province or Provinces; (that is to say,)

'I *A. B.* do swear, That I shall faithfully, impartially, and honestly, according to the best of my Skill and Judgment, execute and fulfil all the Powers and Duties of a Commissioner [*or* Colonial Commissioner, *as the Case may be,*] under an Act passed in the Fifth Year of the Reign of King *William* the Fourth, intituled [*here set forth the Title of this Act*].'

XV. Pro-

Salaries to be fixed by Lords of Treasury.

XV. Provided always, and be it further enacted, That the Salaries to be paid to all such Persons as may be appointed to any Office under this Act shall be fixed by the Lords of His Majesty's Treasury, and by them shall be revised from Time to Time as they may deem expedient.

Proceedings of Commissioners to be reported to Secretary of State, and laid before Parliament.

XVI. And be it further enacted, That the said Commissioners shall, at least once in every Year, and at such other Times and in such Form as His Majesty's Principal Secretary of State for the Colonies shall direct, submit to the said Secretary of State a full and particular Report of their Proceedings; and every such Report shall be laid before both Houses of Parliament within Six Weeks after the Receipt of the same by the said Secretary of State, if Parliament be then sitting, or if Parliament be not sitting, then within Six Weeks after the next Meeting thereof.

Until Sale of Lands, Money to be raised by Bond for conveying out poor Emigrants.

XVII. And be it further enacted, That it shall and may be lawful for the said Commissioners, previously and until the Sale of Public Lands in the said Province shall have produced a Fund sufficient to defray the Cost of conveying to the said Province or Provinces from Time to Time such a Number of poor Emigrants as may by the said Commissioners be thought desirable, from Time to Time to borrow and take up on Bond or otherwise, payable by Instalments or otherwise, at Interest not exceeding Ten Pounds *per Centum per Annum*, any Sum or Sums of Money not exceeding Fifty thousand Pounds, for the sole Purpose of defraying the Costs of the Passage of poor Emigrants from *Great Britain* or *Ireland* to the said Province or Provinces, by granting and issuing to any Person or Persons willing to advance such Monies Bonds or obligatory Writings under the Hands and Seals of the said Commissioners or of any Two of them, which Bonds or other obligatory Writings shall be termed "*South Australia* Public Lands Securities;" and all such Sum or Sums of Money not exceeding in the whole Fifty thousand Pounds so borrowed or taken up by means of the Bonds or Writings obligatory aforesaid, for the sole Purpose aforesaid, shall be borrowed on the Credit of and be deemed a Charge upon the whole of the Fund to be received as the Purchase Money of Public Lands, or as the Rent of the Common of Pasturage of unsold Portions thereof; and it shall and may be lawful for the said Commissioners from Time to Time to appropriate all or any Part of the Monies which may be obtained by the Sale of Public Lands in the said Province or Provinces to the Payment of Interest on any such Sum or Sums borrowed and taken up as aforesaid, or to the Repayment of such Principal Sum or Sums.

Power to borrow Money to pay Expences of Colony.

XVIII. And be it further enacted, That for defraying the necessary Costs, Charges, and Expences of founding the said intended Colony, and of providing for the Government thereof, and for the Expences of the said Commissioners (excepting always the Purpose whereunto the said Emigration Fund is made solely applicable by this Act), and for defraying all Costs, Charges, and Expences incurred in carrying this Act into execution, and applying for and obtaining this Act, it shall and may be lawful for the said Commissioners from Time to Time to borrow and take up on Bond or otherwise, payable by Instalments or otherwise, at Interest not exceeding Ten Pounds *per Centum per Annum*, any Sum or Sums of Money required for the

Purposes last aforesaid, not exceeding in the whole the Sum of Two hundred thousand Pounds, by granting or issuing to any Person or Persons willing to advance such Monies Bonds or obligatory Writings under the Hands and Seals of the said Commissioners or any Two of them, which Bonds or other obligatory Writings shall be termed "*South Australia* Colonial Revenue Securities;" and all such Sum or Sums of Money by the said Commissioners so borrowed and taken up as last aforesaid shall be and is and are hereby declared to be a Charge upon the ordinary Revenue or Produce of all Rates, Duties, and Taxes to be levied and collected as herein-before directed within the said Province or Provinces, and shall be deemed and taken to be a Public Debt owing by the said Province to the Holders of the Bond or Bonds or other Writings obligatory by the said Commissioners granted for the Purposes last aforesaid.

Commissioners may reduce Rate of Interest.

XIX. And be it further enacted, That it shall and may be lawful for the said Commissioners at any Time to borrow or take up any Sum or Sums of Money for any of the Purposes of this Act at a lower Rate of Interest than any Security or Securities previously given by them under and by virtue of this Act which may then be in force shall bear, and therewith to pay off and discharge any existing Security or Securities bearing a higher Rate of Interest as aforesaid.

Lands of Colony to be deemed a collateral Security.

XX. And be it further enacted, That in case it should so happen that the said Commissioners shall be unable to raise by the Issue of the said Colonial Revenue Securities the whole of the said Sum of Two hundred thousand Pounds, or that the ordinary Revenue of the said Province or Provinces shall be insufficient to discharge the Obligations of all or any of the said Securities, then and in that Case, but not otherwise, the Public Lands of the said Province or Provinces then remaining unsold, and the Monies to be obtained by the Sale thereof, shall be deemed a collateral Security for Payment of the Principal and Interest of the said Colonial Debt: Provided always, that no Monies obtained by the Sales of Public Lands in the said Province or Provinces shall be employed in defraying the Principal or Interest of the said Colonial Debt so long as any Obligation created by the said *South Australian* Public Lands Securities shall remain undischarged: Provided also, that in case, after the Discharge of all Obligations created by the said *South Australian* Public Lands Securities, any Part of the Monies obtained by the Sale of Public Lands in the said Province or Provinces shall be employed to discharge any of the Obligations created by the said Colonial Revenue Securities, then and in that Case the Amount of such Deduction from the said Emigration Fund shall be deemed a Colonial Debt owing by the said Province to the Colonization Commissioners for *South Australia*, and be charged upon the ordinary Revenue of the said Province or Provinces.

Commissioners may sue and be sued in the Name of One Commissioner or of their Clerk or Secretary.

XXI. And be it further enacted, That the Commissioners nominated and appointed by His Majesty as aforesaid may sue and be sued in the Name or Names of any One of such Commissioners, or of their Secretary, Clerk or Clerks for the Time being; and that no Action or Suit to be brought or commenced by or against any of the said Commissioners in the Name or Names of any One of such Commissioners, or their Secretary or Clerk, shall abate or be discontinued by the Death or Removal of such Commissioner, Secretary, or Clerk, or any of them, or by the Act of such Commissioner, Secretary, or Clerk,

or

or any of them, without the Consent of the said Commissioners, but that any One of the said Commissioners, or the Secretary or Clerk for the Time being to the said Commissioners, shall always be deemed to be the Plaintiff or Defendant (as the Case may be) in every such Action or Suit: Provided always, that nothing herein contained shall be deemed, construed, or taken to extend to make the Commissioners who shall sign, execute, or give any of the Bonds or obligatory Writings so hereby authorized or directed to be given personally, or their respective Estates, Lands, or Tenements, Goods and Chattels, or such Secretary or Clerk, or their or either of their Lands and Tenements, Goods and Chattels, liable to the Payment of any of the Monies so borrowed and secured by reason of their giving any such Bonds or Securities as aforesaid, or of their being Plaintiff or Defendant in any such Action as aforesaid; but that the Costs, Charges, and Expences of every such Commissioner, Secretary, or Clerk, by reason of having been made Plaintiff or Defendant, or for any Contract, Act, Matter, or Thing whatsoever made or entered into in the *bonâ fide* Execution of this Act, from Time to Time be defrayed by the said Commissioners out of the Money so borrowed and taken up as aforesaid.

Convicts not to be transported to the Colony.

XXII. And be it further enacted, That no Person or Persons convicted in any Court of Justice in *Great Britain* or *Ireland*, or elsewhere, shall at any Time or under any Circumstances be transported as a Convict to any Place within the Limits herein-before described.

A Constitution to be established when there shall be Fifty thousand Inhabitants.

XXIII. And be it further enacted, That it shall and may be lawful for His Majesty, by and with the Advice of His Privy Council, to frame, constitute, and establish a Constitution or Constitutions of Local Government for any of the said Provinces possessing a Population of Fifty thousand Souls, in such Manner, and with such Provisoes, Limitations, and Restrictions, as shall to His Majesty, by and with the Advice of His Privy Council, be deemed meet and desirable: Provided always, that the Mode herein-before directed of disposing of the Public Lands of the said Province or Provinces by Sale only, and of the Fund obtained by the Sale thereof, shall not be liable to be in anywise altered or changed otherwise than by the Authority of His Majesty and the Consent of Parliament: Provided also, that in the said Constitution of Local Government for the said Province or Provinces, Provision shall be made for the Satisfaction of the Obligations of any of the said Colonial Revenue Securities which may be unsatisfied at the Time of framing such Constitution of the said Province or Provinces.

20,000*l.* to be invested in Exchequer Bills as a Security upon the Mother Country.

XXIV. And be it further enacted, That for the Purpose of providing a Guarantee or Security that no Part of the Expence of founding and governing the said intended Colony shall fall on the Mother Country, the said Commissioners shall and are hereby empowered and required, out of the Monies borrowed and taken up as aforesaid on the Security of the said *South Australian* Colonial Revenue Securities, to invest the Sum of Twenty thousand Pounds in the Purchase of Exchequer Bills or other Government Securities in *England*, in the Names of Trustees to be appointed by His Majesty; and the said Trustees shall hold the said Exchequer Bills, or other Government Securities so long as may seem fit to His Majesty's Principal Secretary of State for the Colonies; or shall, in Case

case it shall seem fit to His Majesty's Principal Secretary of State for the Colonies, dispose of the same for any of the Purposes to which the Monies raised by the Issue of the said *South Australian* Colonial Revenue Securities are hereby made applicable: Provided always, that if the said Secretary of State should dispose of any Part of the said Twenty thousand Pounds, a Sum or Sums equal to the Sum or Sums so disposed of shall be invested in the Names of the said Trustees by the said Commissioners, so that the said Guarantee or Security Fund of Twenty thousand Pounds shall not at any Time be reduced below that Amount: Provided always, that the Interest and Dividends accruing from Time to Time upon the said Exchequer Bills, or other Government Securities, shall be paid to the said Commissioners, and by them be devoted to the Purposes to which, as herein-before directed, the Monies to be raised by the Issue of the aforesaid *South Australian* Colonial Revenue Bonds are made applicable.

If after Ten Years from the passing of this Act the Population shall be less than 20,000 natural born Subjects Lands to be liable to be disposed of by His Majesty.

XXV. And be it further enacted, That if after the Expiration of Ten Years from the passing of this Act the Population of the said Province or Provinces shall be less than Twenty thousand natural born Subjects, then and in that Case all the Public Lands of the said Province or Provinces which shall then be unsold shall be liable to be disposed of by His Majesty, His Heirs and Successors, in such Manner as to him or them shall seem meet: Provided always, that in case any of the Obligations created by the said *South Australian* Public Lands Securities should then be unsatisfied the Amount of such Obligations shall be deemed a Charge upon the said unsold Public Lands, and shall be paid to the Holders of such Securities out of any Monies that may be obtained by the Sale of the said Lands.

Powers of Commissioners not to commence until the Money is raised, except for that Purpose.

XXVI. And be it further enacted, That until the said Commissioners shall, by the granting and issuing of Bonds and Writings obligatory as aforesaid, that is to say, "*South Australian* Colonial Revenue Securities," have raised the Sum of Twenty thousand Pounds, and have invested the same in the Purchase of Exchequer Bills, or other Government Securities, as herein-before directed, and until the Persons intending to settle in the said Province or Provinces and others shall have invested, (either by Payment to the said Commissioners, or in the Names of Trustees to be appointed by them), for the Purchase of Public Lands in the said Province or Provinces, the Sum of Thirty-five thousand Pounds, none of the Powers and Authorities hereby given to His Majesty, or to the said Commissioners, or to any Person or Persons, except as respects the Exercise by the said Commissioners of such Powers as are required for raising Money by means of and on the Security of the Bonds or Securities last aforesaid, and for receiving and investing the aforesaid Sum of Thirty-five thousand Pounds for the Purchase of Public Lands, shall be of any Effect, or have any Operation whatsoever.

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