

Aliens.

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| <ol style="list-style-type: none"> 1. May purchase land. May not hold office or vote. 2. Former purchases good. 3. May take by descent or devise. 4. Rights of alien mortgagee. 5. Their representatives may sue. 6. When exempt from militia duty. | <ol style="list-style-type: none"> 7. Tax on alien passengers. 8. Master to furnish list of. 9. Penalty for landing without permit. 10. Provision for the sick. 11. Penalties, how recovered. 12. Vested powers saved. |
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Rev. 604.

An act to authorize aliens to purchase and hold real estate in this state.

R. S. 1.

Revision—Approved April 10, 1846.

May purchase land.

1. It shall and may be lawful for any alien, not being the subject of any state or power which shall be at the time of such purchase at war with the United States, to purchase lands, tenements and hereditaments within this state, and to have and to hold the same to him or her and his or her heirs and assigns for ever, as fully, to all intents and purposes, as any natural-born citizen of the United States may or can do; (a) *Provided always*, That nothing in this act shall be so construed as to entitle any alien to be elected into any office of trust or profit in this state, or to vote at any town meeting, (b) or election of members of the senate and general assembly, or other officers, within this state, or for representatives in congress or electors of the president and vice president of the United States.

Not hold office or vote.

Former purchases good.

2. All purchases of lands, tenements and hereditaments within this state, which may have been made by aliens before the passing of this act, shall be deemed and held as good and effectual, to all intents and purposes, as if the same had been made after the passing thereof.

Take by descent or devise.

3. Any alien or aliens, not being the subject or subjects of any state or power at war with the United States, to whom any lands in this state may have descended from any ancestor, either alien or not, since the twenty-second of January, eighteen hundred and seventeen, or would have descended, or may or would hereafter descend, in case such person or persons claiming by descent were natural-born citizens of the United States, (c) or to whom any lands may have been, or may hereafter be devised, shall and may have and hold the same to him, her, or them, and his, her, or their heirs and assigns for ever, as fully, to all intents and purposes, as any natural-born citizen of the United States might, may, or can do.

Rev. 96.

An act empowering certain creditors to secure their debts by mortgage, and for other purposes therein mentioned.

R. S. 2.

Passed November 25, 1789.

Whereas it has been doubted whether an alien friend can secure debts due to himself, from subjects of the state of New Jersey, by deed of mortgage of lands and tenements within this state, given and executed, or to be given and executed by any of the citizens or subjects of this state to such alien friend; and as the removing such doubts, and providing security for foreigners, the better to enable them to recover their debts at the day assigned for payment, will greatly conduce to promote and encourage trade, and increase the credit of the citizens of this state, therefore—

Rights of alien friends being mortgagees, not to be defeated on account of alienism.

4. SEC. 1. The right, title, and claim of any alien friend or friends, his or their heirs, executors, administrators, or assigns, under any deed of mortgage of any lands, tenements, or real estate, lying and being within the state of New Jersey, granted or made to such alien or aliens, at any time before or after publication hereof, shall not be defeated merely upon pretence of alienism in the grantee or mortgagee, grantees or mortgagees; but that such right, title, and grant, by mortgage, shall be adjudged to be

(a) An alien competent to hold real estate, is competent to maintain an action for its recovery. *Den, Martin v. Brown*, 2 Hal. 305. See *Bonaparte v. Camden and Amboy R. R. Co.*, Bald. C. C. 205. *Crawford v. The William Penn. Pet. C. C.* 106. This act does not remove the disability of alienage from persons who would without it have been their heirs. *Den, Colgan v. McKeon*, 4 Zab. 566.

(b) An alien has no right to vote at an election held in

a school district, to alter the district. *State v. Deshler*, 1 Dutch. 177.

(c) The children, born in this country, of an alien, who purchased while he was an alien enemy, before January 22d, 1817, and continued to hold after that period and after he became an alien friend, may inherit his estate. *Yeo v. Mercereau*, 3 Har. 387. But see *Colgan v. McKeon*, 4 Zab. 573.

good in the mortgagee or mortgagees, his and their heirs, executors, administrators, and assigns, the plea or pretence of alienism in such case notwithstanding.

5. SEC. 2. All and every person or persons, his or their executors, administrators, or assigns, being alien friend or friends, shall and may hereafter lawfully commence and prosecute any action or actions, suit or suits, in any court or courts of law or equity in this state, upon any deed or deeds of mortgage of any lands, tenements, or real estate, lying and being within this state, as fully, freely, and effectually, to all intents and purposes, as if such mortgagee or mortgagees, his or their executors, administrators, or assigns, had been naturalized or natural-born subjects.

Executors, &c. of
alien mortgagee
may prosecute
upon mortgage.

An act respecting aliens.

Passed November 27, 1822.

6. That from and after the passing of this act, all aliens in this state, who have been in the United States for a less term than five years, be and they are hereby exempted from the performance of common militia duty. (a)

Harr. 31.

R. S. 3.

When exempt
from militia duty

An act relative to alien passengers arriving in this state.

Passed February 19, 1838.

7. SEC. 1. From and after the first day of April next, the corporate authorities of any city or township in this state shall be, and are hereby authorized to impose and collect from the master, owner or owners, agents or consignee of any and every ship or vessel, arriving from any country out of the United States, at any such city or township, with alien passengers, a sum not less than one dollar, and not exceeding ten dollars, for each and every alien passenger, brought in said ship or vessel as aforesaid; *provided*, where the boundaries of any city are coextensive with the boundaries of any township, that then and in that case the powers conferred by this act shall vest in and be exclusively exercised by the corporate authorities of such city; *and provided also*, where the boundaries of any city are included within, and not coextensive with, the boundaries of any township, and any such ships or vessels should arrive at any such city, then, and in that case, the powers conferred by this act shall vest in and be exercised exclusively by the corporate authorities of such city.

P. L. 1838, 77.

R. S. 3.

Tax on alien
passengers.

Proviso.

8. SEC. 2. It shall be the duty of the master or commander of every ship or vessel so arriving, within twenty-four hours thereafter, and before any passenger or passengers are permitted to land from on board said ship or vessel, to furnish to the president, mayor, or chief officer of any such city, or the clerk of any such township, or such person as the corporate authorities of any such city or township may respectively designate, a full and correct list of all the passengers arriving in his vessel, with the name, age, occupation, and place of birth of each and every passenger, under the penalty of five hundred dollars.

Lists to be fur-
nished by master.

9. SEC. 3. No passenger shall be permitted to land from on board any ship or vessel arriving as aforesaid, without permission from the corporate authority of any such city or township, under the penalty of fifty dollars for each and every passenger so landed.

Penalty.

Penalty for land-
ing without per-
mit.

10. SEC. 4. In case any alien passenger arriving as aforesaid, and landed by authority and permission of the corporate authority of any such city or township, is or shall become sick, infirm, or otherwise incapable of providing for his or her own maintenance, then it shall be the duty of such city or township to provide for the maintenance and support of the said sick or infirm passenger, so long as he or she shall remain incapable of providing for his or her own maintenance. (b)

Provision for
sick.

11. SEC. 5. The aforesaid penalties shall and may be sued for and recovered, with full costs of suit, by action of debt, in any court having cognizance thereof, in the corporate name of any such city or township in this state, where the penalty or forfeiture may have accrued; and that the defendant or defendants, in every such suit, may be held to special bail; and that it shall and may be lawful for the corporate authority of

Penalties, how
recovered.

(a) An alien having his domicile in this state, is not exempt from taxation for military purposes. *State, Beckett v. Collector of Bordentown*, 2 Vr. 192.

(b) The overseer of the poor, if he permits such passengers

to land, is bound to provide for them, and may bind the township without a special order of a justice of the peace. *Perth Amboy ads. Smith*, 4 Har. 52.

any such city or township to compound for said penalties, or either of them, either before or after suing for the same, upon such terms as they may think proper.

Vested powers saved.

12. SEC. 6. Nothing contained in this act shall be construed to impair, or in any wise counteract, the full force and execution of the powers already vested in the corporate authorities of any such city or township, by their charters or acts of incorporation, or any supplements thereto.

Amendments.

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| <ol style="list-style-type: none"> 1. Mistakes in process, etc., amended. 2. Judgments not reversed for rasures, etc. 3. Misprisions of clerks amended. 4. And variance between record, etc. 5. Misprisions of others amendable. 6. No prejudice by ancient terms, etc. 7. Records not to be altered. 8. No reversal for mispleading, etc. 9. Nor for want of form. 10. Nor for certain variances. | <ol style="list-style-type: none"> 11. Nor for want of pledges, etc. 12. What judgment on demurrer. Defects in pleading amendable. 13. Not extended to judgments confessed. 14. Variance in writ of error amended. 15. No reversal for form of writ, etc. 16. How far act extended, etc. 17. Proceedings to be in English. 18. Construction of this act. 19. To what act not extended. |
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Rev. 137.

An act respecting amendments and jeofails.

Passed November 21, 1794.

R. S., 986.

Mistakes in process and records may be amended, etc.

1. By the misprision of a clerk, no process shall be annulled or discontinued by mistaking in writing a syllable or a letter, too much or too little; but as soon as such misprision is perceived, by challenge of the party, or in other manner, it shall be instantly amended in due form, without giving advantage to the party challenging the same; and the court, before whom such plea or record is made, or shall be depending, as well by adjournment as by way of error, shall have full power, both after and before judgment given therein, to amend such record or process, as long as the same is before them.

Judgments not to be reversed for rasures, etc.

2. For error assigned, or to be assigned, in any record, process, warrant of attorney, writ original or judicial, panel, or return, because there are any rasures or interlineations, or any addition, subtraction, or diminution of words, letters, or titles, or parcel of letters, in any such record, process, warrant of attorney, writ, panel, or return, no judgment or record shall be reversed or annulled.

Court may order misprision of clerks to be amended.

3. The court in which any record, process, declaration, count, plea, warrant of attorney, writ, panel, or return, is or may be, shall, while the same remains before them, have power to examine such record, process, declaration, count, plea, warrant of attorney, writ, panel, or return, by them and their clerks, and to rectify and amend, in affirmance of the judgment of such record or process, whatever to them, in their discretion, shall seem to be the misprision of the clerk, in such record, process, declaration, count, plea, warrant of attorney, writ, panel, or return; so that, by such misprision of the clerk, no judgment shall be reversed or annulled. (a)

Variance betw'n a record, and certificate thereof, amendable.

4. If any record, process, declaration, count, plea, warrant of attorney, writ, panel, or return, be certified defective, otherwise than according to the writing which thereof remains in the office, court, or place from whence the same is certified, the parties, in affirmance of the judgment of such record or process, may allege that the same writing is variant from the said certificate, and that being found and certified, the said variance shall be, by the said court, rectified and amended according to the first writing. (b)

(a) In an action on a bond with special condition and verdict not entered for the penalty, judgment was suspended until amendment could be made. *Webb v. Fish*, 1 *South*, *371 (b). So in debt on bail bond. *Hunt v. Allen*, 2 *Zab*, 533. A non-suit granted at the circuit for a variance caused by a mistake in copying the record, will be set aside. *Den v. Hull*, 4 *Hal*, 277. In making up the record the clerk omitted the notice annexed to a plea of the general issue. A motion to amend was denied, because such notice forms no part of the record. *Stevenson v. Schenck*, *Pen*, *431. See *State v. Atkinson*, 3 *Dutch*, 420.

(b) After joinder in error, neither party can allege diminution, yet the court may award a *certiorari* to supply any defect in the body of the record, or in its out branches. *Gilliland v. Rappleyea*, 3 *Gr*, 138. So a *ca. sa.* and *fi. fa.* may be read after their return. *Allen v. Craig*, 2 *Gr*, 112. A court

of error will upon motion amend the record sent up, in mere matters of form or clerical mistakes, but not in matters of substance. But it will permit the court below to amend the record in matters of substance, and will for that purpose, upon diminution alleged, call upon the court below to certify as to the matter alleged, even after argument. *Appar v. Hiller*, 4 *Zab*, 808. Where the Sessions for a defect in their first return to a *certiorari*, made another return, a rule was taken to amend such second return for ambiguity. *State v. Hunt*, 1 *Hal*, 303. See *Sheppard v. Miller*, *Coxe* 402. The supreme court cannot compel the sessions to state the case, nor receive affidavits to prove that they have acted improperly. *Newton v. Gloucester*, 1 *Hal*, 405. The caption of an indictment may be so amended. *Nicholls v. The State*, 2 *South*, *542. (a). *The State v. Jones*, 4 *Hal*, 235. *The State v. Zule*, 5 *Hal*, 350. *State v. Norton*, 3 *Zab*, 33. A certified