

No. IV.

CHINESE
RESTRICTION AND
REGULATION.

An Act to repeal the "Influx of Chinese Restriction Act of 1881"; to provide for the protection of the Colony from the disturbances and national dangers of Chinese immigration, to provide specially for the regulation of Chinese at present resident within the Colony, and to indemnify the Government for all acts done by Executive or Ministerial authority in relation to Chinese immigrants, or vessels carrying such immigrants, since the first day of May, one thousand eight hundred and eighty-eight. [11th July, 1888.]

Preamble.

WHEREAS it is expedient to provide for the protection of the Colony of New South Wales from the disturbances and national dangers which may arise from the influx of Chinese under restrictions hitherto existing, and also to provide for the regulation of Chinese resident within the said Colony: And whereas it is just and expedient to indemnify the Executive Government for all acts done by any member thereof in relation to Chinese immigrants, or any ship carrying such immigrants, since the first day of May, one thousand eight hundred and eighty-eight: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Repeal of 45 Vic.
No. 11.

1. The Act, entitled "*An Act to restrict the Influx of Chinese into New South Wales*," forty-fifth Victoria number eleven, is hereby repealed. But the repeal hereby enacted shall not affect the past operation of the said Act, or the rights of any Chinese resident in this Colony at the time of the passing of this Act, or any offence committed, penalty incurred, or proceeding taken under or pursuant to the said repealed Act before the passing of this Act.

Members of
Government
indemnified.

2. All Members of the Executive Government, or any Member thereof, and all persons duly authorized by the said Executive Government, or any Member thereof in that behalf who may have committed any act in preventing the landing of Chinese, or otherwise in relation to Chinese immigrants, or to vessels carrying such immigrants since the first day of May, one thousand eight hundred and eighty-eight, are hereby fully indemnified, and shall in all Courts of Law in New South Wales and elsewhere be held harmless in respect thereof. Provided that nothing in this Act shall be taken to deprive any person or corporation whatsoever of any right or cause of action against the Government of New South Wales which, by reason of any such acts, exists or shall have accrued before the passing of this Act.

Proviso.

Naturalization of
Chinese not allowed.
Chinese leaving Colony
to be subject on return-
ing to provisions of Act.

3. After the passing of this Act no certificate of naturalization shall be issued to any Chinese on any ground whatever, and all Chinese leaving the Colony except those who have been naturalized therein shall on returning be subject to all the provisions of this Act.

Chinese Restriction and Regulation.

4. The master of every vessel upon arrival at any port or place in this Colony from parts beyond the Colony having Chinese on board shall, before making any entry at the Customs, deliver to the Collector, or other principal officer of the Customs, a list of such Chinese, specifying to the best of his knowledge the name, the place of birth, the apparent age, the ordinary place of residence, the place and date of shipment, and the calling or occupation of each such Chinese, under a penalty for not delivering such list not exceeding two hundred pounds.

Master on arrival to give list of Chinese on board.

5. If any vessel having on board a greater number of Chinese than in the proportion of one Chinese to every three hundred tons of the tonnage of such vessel shall arrive at any time in any port in this Colony, the owner, master, or charterer of such vessel shall be liable on conviction to a penalty of five hundred pounds for each Chinese carried in excess of the foregoing limitation unless the defendant shall show that the Chinese so carried is by birth a British subject or one of the crew, or has not been landed in the Colony, and is not intended to be so landed, or who shall prove to the satisfaction of the Collector of Customs or other duly authorized officer, that he is the *bonâ fide* holder of a certificate of naturalization in New South Wales, or of an exemption certificate duly granted under the provisions of the "Influx of Chinese Restriction Act of 1881." For the purposes of this Act the tonnage of a vessel shall be ascertained (if she be a British ship) by her certificate of registry, and, if not, or if the said certificate shall not be produced, then according to the rules of measurement prescribed by the "Merchant Shipping Act, 1854," being the Act of the Imperial Legislature seventeenth and eighteenth Victoria, chapter one hundred and four.

Number of Chinese to be brought to Colony by vessel.

Penalty.

6. Before any Chinese arriving from parts beyond this Colony shall be permitted to land from any vessel at any port or place in the said Colony, and before making any entry at the Customs, the master of the vessel by which such Chinese shall so arrive shall pay to the said Collector or other principal officer the sum of one hundred pounds for every such Chinese, and no entry shall be deemed to have any legal effect until such payment shall have been made, and such Chinese for whom such sum has been paid shall receive from the said Collector or other principal officer a certificate to that effect. And if any master shall neglect to pay any such sum or shall land, or permit to land, or suffer to land, or to escape from such vessel at any port or place in the said Colony any Chinese before such sum shall have been paid by such master or his agent, or before such list shall have been delivered, such master shall be liable for every such offence to a penalty of five hundred pounds for each Chinese so landed, or permitted, or suffered to land, or to escape, and in addition to such penalty shall also pay the sum hereby required to be paid for each such Chinese.

One hundred pounds to be paid for each Chinese arriving by vessel.

Penalty.

7. Every Chinese arriving in this Colony after the passing of this Act, otherwise than by a vessel shall pay, or there shall be paid for him, to some officer whom and at such places as the Governor, with the advice of the Executive Council, may appoint at, on, or near the borders of the Colony, or otherwise conveniently situated for that purpose, the sum of one hundred pounds.

The like sum to be paid for Chinese arriving otherwise than by sea.

8. If any Chinese shall enter or attempt to enter this Colony who shall not have paid or had paid for him the said sum of one hundred pounds, he shall be liable to a penalty of fifty pounds, and to the payment in addition thereto of the said sum of one hundred pounds required to be paid by section six hereof, and on default of payment of such penalty and sum shall be liable to imprisonment for two years, unless such penalty and sum be sooner paid, and may be apprehended and taken before any Justice of the Peace to be dealt with in due course of law.

Penalty on not paying or having had paid fee for entrance to the Colony.

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Appropriation of penalties and payments under Act.

9. All penalties and all moneys ordered to be paid or being the proceeds of any sale made under the authority of this Act shall be paid into the Consolidated Revenue.

Evidence of person being a Chinese.

10. For the purposes of all proceedings under this Act, the Stipendiary or Police Magistrate or the Justices may decide, upon his or their own view and judgment, whether any person produced before them is a Chinese within the meaning of this Act.

Not to be allowed to engage in mining.

11. No Chinese who shall arrive in this Colony after the passing of this Act shall be permitted to engage in the work of any gold, silver, or other mine, or in any mining pursuit whatever, without express authority under the hand and seal of the Minister in charge of the Department of Mines.

Exemption of certain officials, &c.

12. The provisions of this Act shall not be applicable to any Chinese duly accredited to this Colony by the Government of China, or by or under the authority of the Imperial Government on any special mission.

Exemption of crews.

13. The penalties and restrictions imposed by this Act shall not, nor shall any of them, be held to be applicable in respect of any Chinese being one of the crew of any vessel arriving in any port in New South Wales, and who shall not be discharged therefrom or land, except in the performance of his duties in connection with such vessel.

Penalties how recovered.

14. All penalties and sums of money recoverable under this Act shall be recovered in a summary way at the suit of some officer of Customs authorized by the Colonial Treasurer, or of other officers appointed for such purpose, by like authority before any Stipendiary or Police Magistrate or two or more Justices of the Peace, in accordance with the provisions of the Acts regulating proceedings on summary conviction. And it shall be lawful for the Colonial Treasurer, by writing under his hand, to authorize any officer to detain any vessel, the master whereof shall, in the opinion of the said Treasurer, have committed an offence, or be a defaulter under this Act. Such detention may be either at the port or place where such vessel is found, or at any port or place to which the said Treasurer may order such vessel to be brought. For the purposes of such detention the officer so authorized shall be entitled to obtain in the customary manner such writ of assistance or other aid and assistance in and about the detention of or other lawful dealing with such vessel as are by law provided under the Act or Acts regulating Customs with reference to seizure of vessels or goods. But such detention shall be for safe custody only, and shall cease and be discontinued if a bond with two sufficient sureties be given by such master for the payment of the amount of such penalty and other sums as may be adjudged to be paid under the provisions of this Act. Provided that if default be made in payment of any such penalty incurred by such master in terms of any conviction adjudging the payment thereof it shall be lawful for such officer to seize such vessel and for him and any other officer or person duly authorized or empowered in that behalf to take all such proceedings for the purpose of procuring the condemnation and sale of such vessel as are provided by law in case of condemnation or forfeiture of a vessel for a breach of the Customs Laws of the said Colony. Provided that the proceeds of sale of any such vessel shall be paid into the Consolidated Revenue, and after payment of the amount of such penalty and of all costs incurred in and about such sale and the proceedings leading thereto, the balance shall be placed by the Colonial Treasurer to a trust account and be held in trust for the owners of or other persons lawfully entitled to the vessel so condemned and sold.

Exemption of Chinese who are British subjects.

15. Notwithstanding anything in this Act contained, any Chinese arriving in the Colony who produces evidence to the Collector of Customs or other duly authorized officer that he is by birth a British subject

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subject shall be wholly exempt from the operation of this Act, and a certificate of the Governor of any British Colony or of a British Consul shall be sufficient evidence of the claim of such Chinese to exemption under this section, nor shall anything in this Act apply to any Chinese who shall prove to the satisfaction of the Collector of Customs, or other duly authorized officer, that he is the *bonâ fide* holder of a certificate of naturalization in New South Wales, or of an exemption certificate duly granted under the provisions of the "Influx of Chinese Restriction Act of 1881."

16. Any vessel on board which Chinese shall be transhipped from another vessel and be brought to any port or place in this Colony shall be deemed to be a vessel bringing Chinese into the said Colony from parts beyond the said Colony, and shall be subject to the provisions of this Act. Provision against evading Act by transhipping Chinese into other vessels.

17. The Governor, with the advice of the Executive Council, may make regulations for carrying out the provisions of this Act. A copy of such regulations shall, within fourteen days, be laid before both Houses of Parliament, if Parliament be then in Session, and if not then in Session, within fourteen days after the commencement of the next Session; and if disapproval of such regulations is not expressed by resolution within fourteen days thereafter, they shall have the force of law. Power to make regulations.

18. For the purposes of this Act the following words in inverted commas shall, unless the context otherwise indicate, bear the meanings set against them respectively— Interpretation.

"Chinese"—Any person of the Chinese race.

"Vessel"—Any ship or vessel of whatsoever kind or description.

"Master"—The person (other than a pilot) for the time being in actual command or charge of any vessel.

19. This Act may be cited as the "Chinese Restriction and Regulation Act of 1888." Short title.