

VICTORIA.



ANNO QUINQUAGESIMO SECUNDO

VICTORIÆ REGINÆ.

No. MV.

An Act for the further Restriction of Chinese Immigration.

[22nd December 1888.]

WHEREAS at a meeting of representatives of Australasian Governments held at Sydney in the month of June One thousand eight hundred and eighty-eight it was amongst other things resolved that it was desirable that the laws of the various Australasian Colonies for the restriction of Chinese immigration should be assimilated upon a basis at such meeting approved: And whereas it is expedient that the laws for restricting Chinese immigration into Victoria should be amended accordingly: Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

Preamble.

1. This Act may for all purposes be cited as "*The Chinese Immigration Restriction Act 1888.*"

Short title.

2. The Acts mentioned in the Schedule hereto to the extent to which the said Acts are in and by the said Schedule expressed to be repealed, and all regulations made under such repealed portions of Acts are hereby repealed; and any unrepealed enactment referring to any of the Acts or portions thereof hereby repealed shall be construed to apply to the corresponding provision (if any) of this Act: Provided that this repeal shall not affect—

Repeal.

Schedule.

Any matter or thing duly done or suffered before the passing of this Act : Any

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Any right privilege liability or obligation acquired accrued or incurred before the passing of this Act :

Any penalty forfeiture or punishment incurred in respect of any offence committed before the passing of this Act :

The institution or continuance of any investigation proceeding or other remedy in respect of any such right privilege liability obligation or penalty forfeiture or punishment or for the recovery of any penalty incurred or for the punishment of any offence committed before the passing of this Act.

Interpretation.

3. In this Act unless inconsistent with the subject matter or context the words and expressions following shall have the meanings hereinafter respectively assigned to them (that is to say) :—

“Collector” shall mean the Collector of Customs or other principal acting officer of Customs at the port or place in connexion with which the term is used.

“Chinese” shall include every person of Chinese race not exempted from the provisions of this Act.

“Master” shall include every person (other than a duly licensed pilot) for the time being in command or charge of any vessel.

“Vessel” shall include every sea-going steamship ship boat and other vessel of any kind or description.

General exemptions

4. This Act shall not apply—

(i.) To any person duly accredited to the Government of any of Her Majesty's possessions in Australasia by any Government as its representative, nor to any person sent by any Government on any special mission.

(ii.) To any person being a member of the crew of any vessel if such person is not discharged therefrom in Victoria and does not land in Victoria except in the discharge of his duties in connection with such vessel.

(iii.) To any persons or any class of persons who are for the time being exempted (as hereinafter provided) from the provisions hereof.

(iv.) To any Chinese who has taken out or who shall take out letters of naturalization in Victoria: Provided that each departure and each return of such Chinese shall be registered with the Collector of Customs.

Special exemptions by proclamation.

5. It shall be lawful for the Governor in Council from time to time by proclamation to be published in the *Government Gazette* to exempt any person or class of persons from the provisions of this Act and to declare that such provisions shall not at any time or for any specified period apply to the person or class of persons mentioned in such proclamation. Any such proclamation may at any time be revoked by the Governor in Council by proclamation to be published in the *Government Gazette*.

6. No

6. No vessel shall enter any port or place in Victoria having on board a greater number of Chinese than one for every five hundred tons of the tonnage of such vessel. The tonnage of a vessel shall for the purposes of this Act be that set forth in her certificate of registry if she be of British registry, and if she be not of British registry or if her certificate of registry be not produced, then her tonnage shall be ascertained in the manner in which it is provided by an Act of the Imperial Parliament called "*The Merchant Shipping Act 1854*" and by any Act amending the same that tonnage shall be ascertained. If any vessel enters any port or place in Victoria having on board any Chinese in excess of such number, the owner master or charterer of such vessel shall on conviction be liable to a penalty of Five hundred pounds for each Chinese in excess of such number.

No vessel to bring more than one Chinese passenger for every 500 tons burthen.

7. The master of every vessel arriving at any port or place in Victoria from parts beyond Victoria and having any Chinese on board shall forthwith upon arrival and before making any entry at the Customs deliver to the Collector at such port or place a list showing the number and names of all the Chinese on board such vessel including the crew thereof.

Master on arrival to report Chinese on board.

Such list shall show clearly the place of shipment and the destination and the calling or occupation of each such Chinese distinguishing crew passengers and stowaways (if any).

The master on delivery of the list shall if required by the Collector produce the vessel's articles and muster the whole of the crew and passengers of the vessel for examination by the Collector, and the Collector may search or cause a search to be made in every part of such vessel with a view of ascertaining whether any Chinese have been introduced contrary to the provisions of this Act; and the master of every vessel shall afford to the Collector every facility for making such search.

For any default in the observance of any of the provisions of this section such master shall on conviction be liable to a penalty of One hundred pounds.

8. The master of every vessel arriving in any port or place in Victoria having Chinese on board such vessel shall before being permitted to clear out from or leave such port or place cause the whole of the Chinese on board such vessel to be mustered in the presence of the Collector or of some officer of the police force of or above the rank of sergeant.

Master to muster Chinese before clearance.

The names and number of the crew present at such muster shall be carefully checked with the names and number appearing on the vessel's articles and on the list hereinbefore required to be delivered by the master to the Collector on arrival.

If on mustering the Chinese crew on board of any vessel it be found that any Chinese who arrived at the port or place and who formed part

part of the crew of the vessel is not present at such muster he shall be deemed to be a Chinese introduced into Victoria contrary to the provisions of this Act, and the master or charterer of the vessel to the crew of which any such Chinese so belonged shall be liable to a penalty not exceeding One hundred pounds.

Penalty on entry by land without permit.

9. Any Chinese who shall enter the colony of Victoria by land without first obtaining a permit in writing from some person to be appointed by the Governor in Council shall be guilty of an offence against this Act, and shall be liable on conviction to a penalty of not less than Five pounds nor more than Twenty pounds, and in addition or substitution for any such penalty shall be liable, pursuant to any warrant or order of the Commissioner of Trade and Customs, to be removed or deported to the colony from whence he shall have come: Provided that this section shall only operate during such time as may from time to time be fixed by the Governor in Council by Proclamation to be published in the *Government Gazette*, and any such Proclamation may be revoked or varied by the Governor in Council by Proclamation similarly published.

Evidence of person being a Chinese.

10. For the purposes of all proceedings under this Act the justices adjudicating may decide upon their own view and judgment whether any person produced before them is a Chinese within the meaning of this Act, and the averment in any information in any proceedings for a breach of this Act that a person named or referred to therein is a Chinese shall be sufficient proof thereof until the contrary is shown.

Provision against evading Act by transshipping Chinese into other vessels.

11. Any vessel to which Chinese are transhipped from another vessel by which such Chinese so transhipped are brought to any port or place in Victoria shall be deemed to be a vessel bringing Chinese into Victoria from parts beyond Victoria and shall be subject to the provisions of this Act.

Power to make regulations.

12. The Governor in Council may from time to time make regulations for carrying out the provisions of this Act, and such regulations may at any time alter or revoke. 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 ensuing session thereof; and if disapproval of such regulations be not expressed by resolution of either House of Parliament within fourteen days after the same have been laid before such House they shall have the force of law.

Penalties how recovered.

13. 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 Commissioner of Customs before any two or more justices.

14. The

14. The Commissioner of Customs may by writing under his hand authorize any officer of Customs or member of the police force to detain any vessel the master whereof has in the opinion of the said Commissioner committed an offence against or is 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 Commissioner may order such vessel to be brought.

Commissioner of Customs may detain vessel.

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 relating to the Customs with reference to seizure of vessels or goods.

Officer detaining may obtain writ of assistance.

Such detention shall be for safe custody only and shall cease and be discontinued if a bond with two sufficient sureties to the satisfaction of the said Commissioner be given by such master for the payment of the amount of any penalty and other sums of money which may be adjudged to be paid for such offence or default under the provisions of this Act: Provided that if default be made in payment of any such penalty and other sums of money incurred by such master in terms of any conviction adjudging the payment thereof, it shall be lawful for such officer to seize such vessel; the like proceedings shall thereupon be taken for forfeiting and condemning such vessel as in the case of a vessel seized and forfeited for breach of any law relating to the Customs, and such vessel shall be sold: Provided also that the proceeds of the sale of such vessel shall be applied first in payment of the amount of such penalty and other sums of money and of all costs incurred in and about such sale and the proceedings leading thereto and the balance shall be repaid to owners of or other persons lawfully entitled to such vessel before condemnation and sale.

Vessel may be delivered on master entering into bond.

Vessel may be sold in default of payment of penalty.

SCHEDULE.

Section 2.

Date of Act.	Short Title of Act.	Extent of Repeal.
28 Vict. No. 259 ...	"Chinese Immigrants Statute 1865"	Sections 4 to 9, both inclusive.
45 Vict. No. 723 ...	"The Chinese Act 1881" ...	Sections 2 to 10, both inclusive.

MELBOURNE:

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