



Western Australia.

ANNO QUINQUAGESIMO

VICTORIÆ REGINÆ.

No. XIII.

AN ACT to regulate and restrict Chinese Immigration.

[Assented to, 28th July, 1886.]

WHEREAS it is expedient to regulate and restrict the immigration and introduction of Chinese into Western Australia: Be it enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

Preamble

1. 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 native of China or its dependencies, or of any island in the Chinese seas, not born of British parents, or any person born of Chinese parents.

“Vessel,”—Any ship or other sea-going vessel, of whatsoever kind or description.

“Master,”—The person, other than a pilot, for the time being in actual command of any such vessel.

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2. THE master of every vessel having Chinese on board shall, immediately on his arrival from beyond this Colony in any port of the Colony, and before making any entry at the Customs, deliver to the Collector or other Principal Officer of Customs a list of such Chinese, specifying 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. And for each default herein, such master shall be liable to a penalty not exceeding Two hundred pounds.

Master on arrival to give list of Chinese on board.

3. IF any vessel shall arrive in any port in this Colony having on board a greater number of Chinese passengers for any port in the Colony than in the proportion of one to every fifty tons of the tonnage of such vessel, according to the registry thereof if British, and if not, then according to the measurement defined by "The Merchant Shipping Act, 1854," the owner, charterer, and master of such vessel shall each be liable, on conviction, to a penalty not exceeding One hundred pounds for each Chinese passenger so carried in excess.

Number of Chinese ships may carry.

Penalty.

4. BEFORE any Chinese arriving from beyond this Colony shall be permitted to land from any vessel, and before making any entry at the Customs, the master of the vessel shall pay to such Collector or other Principal Officer the sum of Ten pounds for every such Chinese, to be applied in manner hereinafter provided; and no entry shall be deemed to have been legally made or to have any legal effect until such payment shall have been made.

£10 to be paid for each Chinese arriving by vessel.

Penalty.

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 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 not exceeding Fifty 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.

And in every such case, in addition to any such penalty, the vessel shall be forfeited and may be seized, condemned, and disposed of in like manner as ships forfeited for a breach of any law relating to the Customs.

5. EVERY Chinese arriving in this Colony after the passing of this Act, otherwise than by any vessel, shall pay, or there shall be paid for him to some officer whom, and at such places as the Governor in Council may appoint at or near the borders of the Colony or otherwise conveniently situated for that purpose, the sum of Ten pounds.

Like sum for Chinese arriving otherwise.

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6. THE Collector or other Officer receiving such sum from or for any Chinese shall, without demand, forthwith give a certificate in writing under his hand of the payment of such sum, and such certificate whensoever and wheresoever produced by such Chinese shall be conclusive evidence on behalf of such Chinese, and of any other person who may have paid such sum for him, that such sum has been duly paid.

Certificate of sum paid to be given and to be evidence.

7. ALL sums paid by or on behalf of any Chinese, and all penalties under this Act, and all moneys being the proceeds of any sale made under the authority of this Act, shall, unless herein otherwise provided, be paid over to the Colonial Treasurer for the public use of the Colony.

Application of moneys.

8. IF any Chinese shall enter or attempt to enter this Colony without paying or having paid for him the sum of Ten pounds aforesaid, he shall, besides such sum, be liable to a penalty not exceeding Twenty pounds, and on default of payment either of such penalty or sum shall, on summary conviction before two or more Justices of the Peace, be liable to imprisonment for twelve months, 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 non-payment of fee for entrance to the Colony.

9. FOR the purposes of all proceedings under this Act the Justices may decide, upon their own view and judgment, whether any person charged or produced before them is a Chinese within the meaning of this Act.

Evidence of person being a Chinese.

10. IT shall be lawful for the Colonial Treasurer or any person authorised by him, upon the application of any Chinese, and upon being satisfied that such Chinese was at the time of the passing of this Act a *bonâ fide* resident of this Colony, and that he desires to be absent therefrom for a temporary purpose only, to grant to such Chinese a certificate that he is exempt from the provisions of this Act for a time to be specified in such certificate. And during the time so specified, the holder of such certificate shall be exempt from all payments under this Act.

Certificate of exemption in certain cases.

11. NOTWITHSTANDING anything in this Act contained, any Chinese arriving in Western Australia who produces evidence to the satisfaction of the Collector or other Principal Officer of Customs or other duly authorised officer that he is a British 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,

British subjects exempted.

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shall, on being verified to the satisfaction of such Collector or other officer, be sufficient evidence of the claim of such Chinese to exemption under this section.

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, nor to any "laborer" within the meaning of "The Imported Labor Registry Act, 1884," brought into the Colony under the provisions of that Act.

Act not to apply to crew.

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 Western Australia, and who shall not be discharged therefrom or land except in the performance of his duties in connection with such vessel.

Rules and Regulations.

14. THE Governor in Council may make such Rules and Regulations, not inconsistent with this Act, as may be necessary for carrying out the provisions of this Act.

Burden of proof.

15. FOR the purposes of any proceeding under the provisions of this Act, the burden shall lie on the defendant of proving that he is exempt from the operation of any of such provisions, and it shall not be necessary in any information, complaint, summons, or conviction, or other document, to state or negative any exception in or exemption under this Act.

Collector or Sub-Collector of Customs may detain vessel in certain cases.

16. IT shall be lawful for the Collector of Customs or any Sub-Collector of Customs, by writing under his hand, to authorise any Customs or Police Officer to detain any vessel the master whereof shall, in the opinion of such Collector or Sub-Collector, 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 Collector or Sub-Collector may order such vessel to be brought. For the purposes of such detention the officer so authorised 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 Ordinances and Acts regulating the 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 or penalties and costs as may be adjudged to be paid, and such other sums as he shall be liable to pay under the provisions of this Act.

Such detention to cease on security being given.

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Provided that if default be made in payment of any penalty incurred by such master in terms of any conviction adjudging the payment thereof, or if default shall be made by such master in payment of any other sum or sums which he shall be liable to pay under the provisions of this Act, it shall be lawful for such officer to seize such vessel, and for him and any other person duly authorised 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 to the Colonial Treasurer of the Colony for the public use thereof; and after payment of the amount of such penalty or penalties and of all sums which such master shall be liable to pay under the provisions of this Act, and of all costs and expenses incurred in and about such sale and the proceedings leading thereto by virtue of this section, 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.

On default by master in payment of penalties, &c., vessel may be seized and sold.

Proceeds of sale how dealt with.

17. 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 Colony, and shall be subject to the provisions of this Act, and all Chinese so transhipped and brought to such port or place shall be deemed to be Chinese arriving from parts beyond Western Australia.

Chinese transhipped from one vessel to another.

18. ALL sums of money payable under this Act and all penalties imposed by this Act may be sued for, prosecuted, and recovered before two or more Justices of the Peace in Petty Sessions, in accordance with the provisions of the Ordinances and Acts regulating proceedings on summary conviction, in the name of some Officer of Customs or other person thereunto authorised by the Governor.

Penalties, &c., how recoverable.

In the name and on behalf of the Queen I hereby assent to this Act.

F. NAPIER BROOME, Governor.