



ANNO QUINQUAGESIMO PRIMO ET QUINQUAGESIMO
SECUNDO

VICTORIÆ REGINÆ.

A.D. 1888.

No. 439.

An Act for the Restriction of Chinese Immigration.

[Assented to, December 8th, 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 uniform Australasian legislation should be adopted for the restriction of Chinese immigration: And whereas the chief provisions of this Act were approved by such representatives as the basis of such uniform legislation: And whereas it is desirable to legislate on such basis accordingly—Be it therefore Enacted by the Governor of the Province of South Australia, by and with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

1. In the construction of this Act the following words shall have the following meanings:— Interpretation.

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

“Vessel” shall include every ship, boat, or vessel:

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

2. This Act shall not apply—

- I. To any person duly accredited to any Australasian colony by any Government, as its representative, or on any special mission: Exemptions.
- II. To

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ii. To the crew of any vessel not being discharged therefrom in the province, and not landing in the province, except in the discharge of duties in connection with such vessel:

iii. To any persons, or any class of persons, who shall for the time being be exempted from the provisions hereof under sections 3, 14, and 15.

Power to declare exemptions.

3. It shall be lawful for the Governor in Council from time to time, by Proclamation to be published in the *Government Gazette*, to declare that the provisions of this Act shall not apply to any person or any class of persons to be mentioned in such Proclamation, either generally or for any time to be fixed by such Proclamation, and any such Proclamation may be revoked by the Governor in Council by Proclamation to be published in the *Government Gazette*.

Master on arrival, to report Chinese on board.

4. The master of every vessel, upon arrival at any port or place in this province from parts beyond the province, and having any Chinese on board, shall forthwith, and before making any entry at the Customs, deliver to the Collector or other principal officer of Customs at such port or place a statement specifying, to the best of his knowledge and means of information, the number of Chinese on board such vessel, and the places of shipment and destination, and the name, calling, or occupation of each such Chinese. And for any default in the observance of this section such master shall, on conviction, be liable to a penalty not exceeding One Hundred Pounds.

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

5. No vessel shall enter any port or place in the province having on board a greater number of Chinese than in the proportion of one Chinese to every five hundred tons of the registered tonnage of such vessel, such tonnage to be ascertained if the vessel shall be British by her certificate of registry, and if otherwise, or if such certificate shall not be produced, then according to the rules of measurement provided by the Imperial Statute "Merchant Shipping Act, 1854." And if any vessel shall enter any port or place in the colony, 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.

Penalty on entry by land without permit.

6. Any Chinese who shall enter this province 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 Treasurer, 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 by the Governor in Council, by Proclamation similarly published.

7. Any

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- 7.** Any Chinese convicted in any Australasian colony of any offence against the provisions of any Act for the restriction of Chinese immigration in force in such colony by entering such colony by land from South Australia without lawful authority, and who shall be directed by any warrant or order under any such Act to be removed or deported to South Australia, shall be liable to be so removed or deported, and the warrant or order for such removal or deportation shall be valid and effectual for all the purposes of such Act in this province. Chinese convicted, liable to be removed or deported.
- 8.** 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 General Revenue. Appropriation of penalties and payments under Act.
- 9.** For the purposes of all proceedings under this Act, the Special Magistrate or Justices may decide, upon his or their own view and judgment, whether any person produced before him or them is a Chinese within the meaning of this Act. Evidence of person being a Chinese.
- 10.** Any vessel on board which Chinese shall be transhipped from another vessel and be brought to any port or place in this province shall be deemed to be a vessel bringing Chinese into the said province from parts beyond the said province, and shall be subject to the provisions of this Act. Provision against evading Act by transshipping Chinese into other vessels.
- 11.** 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 of both Houses within fourteen days thereafter, they shall have the force of law. Power to make regulations.
- 12.** 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 or other officer authorised by the Treasurer, before any Special 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 Treasurer, by writing under his hand, to authorise 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 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 Act or Acts regulating Customs with reference to seizure of vessels or goods. But such detention shall

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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 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 province: 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 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.

Appeal.

13. There shall be an appeal from any decision by any special magistrate or justices under this Act, or from any order dismissing any information or complaint, which appeal shall be to the Local Court of Full Jurisdiction nearest to the place where such decision or order was made, or, in the option of the appellant, to the Local Court of Adelaide of Full Jurisdiction, and the proceedings on such appeal shall be conducted in manner provided for appeals to the Local Courts by the Acts regulating appeals in summary proceedings, and the Local Court hearing such appeal may make such order as to the payment of the costs of appeal as it shall think fit, although such costs may exceed Ten Pounds.

Repeal.

14. "The Chinese Immigration Act, 1881," is hereby repealed; but every Chinese being the holder of an exemption certificate granted under the authority of the said Act shall, during the time specified in such certificate, be exempt from all provisions of this Act.

Exemption of Chinese
now in the colony.

15. Every Chinese within the province at the date when this Act comes into operation may, at any time thereafter, apply to the Treasurer, or any officer appointed by him, or to any Special Magistrate, for a certificate of exemption from the provisions of this Act, and thereupon the person to whom the application shall be made shall deliver to the Chinese making such application a certificate, signed by such person, specifying the name of the Chinese to whom the same is granted, and such particulars necessary for the identification of such Chinese and otherwise as may be prescribed in regulations; and the person to whom such certificate shall be granted shall be exempt from all the provisions of this Act.

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16. No poll-tax shall hereafter be taken or demanded from or in respect of any Chinese. Abolition of poll-tax.

17. This Act may be cited for all purposes as the “Chinese Immigration Restriction Act, 1888.” Short title.

18. This Act shall cease to be in operation on the first day of January, one thousand eight hundred and ninety, unless the Governor, by proclamation published in the *Government Gazette*, shall have previously declared that the colonies of Victoria, New South Wales, and Queensland shall have passed Acts containing substantially the same provisions as are herein contained. Expiry of Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. C. F. ROBINSON, Governor.