

New Zealand.



ANALYSIS.

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1896, No. 64.

AN ACT to prevent the Influx into New Zealand of Persons of Alien Race who are likely to be hurtful to the Public Welfare. Title.

[Reserved for the signification of Her Majesty's pleasure thereon.]

WHEREAS it is expedient to safeguard the race-purity of the people of New Zealand by preventing the influx into the colony of persons of alien race: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Asiatic Restriction Act, 1896." Short Title.
2. In this Act, if not inconsistent with the context,— Interpretation.

"Asiatic" means any native of any part of Asia, or of the islands adjacent to Asia or in Asiatic seas, and the descendants of any such natives; but it does not include—

(1) Persons of European or Jewish extraction, nor

(2) British subjects, being natives of that portion of Her Majesty's Dominions known as the Indian Empire:

"Master" means the person, other than a pilot, for the time being in actual command of any ship:

"Owner" includes charterer:

“Prescribed” means prescribed by rules or regulations to be made by the Governor in Council under this Act :

“Ship” includes steamer and sailing-vessel of every description, whether British or foreign.

(1.) *Poll-tax.*

Limitation of Asiatic passengers.

3. If any ship arrives in any port or place in New Zealand having on board a greater number of Asiatics than in the proportion of one Asiatic to every two hundred tons of the tonnage of such ship, according to the registry thereof if British, and, if not, then according to the measurement prescribed by any Act for the time being in force regulating the measurement of British ships, the owner and master of such ship are severally liable to a penalty not exceeding one hundred pounds for each Asiatic so carried in excess.

Master to furnish list of Asiatics.

4. (1.) Such master shall, immediately on his arrival in any port or place in New Zealand, deliver to the Collector or other principal officer of Customs at such port or nearest to such place a list of all the Asiatics on board, specifying the name, the place of birth, the apparent age, and the former place of residence of each such Asiatic.

(2.) For any default in complying with this provision such master is liable to a penalty not exceeding two hundred pounds.

Master to pay £100 for every Asiatic.

5. Before making any entry at the Customs, and before any Asiatic is permitted to land in New Zealand, the master shall pay to such Collector or other principal officer, by way of poll-tax, the sum of one hundred pounds for every such Asiatic; and no entry shall have any legal effect until such payment has been made.

Penalty for breach, or if Asiatic lands or escapes.

6. (1.) If the master neglects to pay such poll-tax for any Asiatic, or if before the same is paid any Asiatic either lands in New Zealand or escapes from the ship, such master is liable to a penalty not exceeding fifty pounds for each such Asiatic :

Provided that neither the payment of such penalty, nor the suffering of imprisonment for the non-payment thereof shall be a discharge of the master's liability to pay such poll-tax.

Certificate of payment of poll-tax.

7. On payment of such poll-tax, and of any such penalty as aforesaid, in respect of any Asiatic, the Collector or other officer as aforesaid shall, without demand, forthwith supply such Asiatic with a certificate in writing under his hand of the payment of such poll-tax.

Certificate to be evidence of payment.

8. Such certificate shall be in the prescribed form, and, whensoever or wheresoever produced by such Asiatic, shall be conclusive evidence on behalf of himself, and of any other person who may have paid such poll-tax for him, that such poll-tax has been duly paid.

Penalty on Asiatic for evading the Act.

9. If any Asiatic lands or attempts to land in New Zealand, or escapes from such ship, without paying or having paid for him such poll-tax, then, in addition to such poll-tax, he is liable to a penalty not exceeding fifty pounds, or to imprisonment for twelve months unless such penalty be sooner paid, and may be apprehended and taken before any Justice of the Peace, who may take sufficient bail for his appearance at any sitting of a Magistrate's Court, or remand him to such Court to be there dealt with in due course of law :

Provided that neither the payment of such penalty nor the suffering of imprisonment for the non-payment thereof shall be a dis-

charge of such Asiatic's liability to pay such poll-tax, but proceedings for the recovery thereof may be taken from time to time until the same is fully paid.

10. Any ship on board which Asiatics are transhipped from another ship and brought to any port or place in New Zealand shall be deemed to be a ship bringing Asiatics into New Zealand from parts beyond New Zealand, and, together with the owner and master thereof and all such Asiatics, shall be subject to all the foregoing provisions of this Act.

Transhipping of
Asiatics.

11. The foregoing provisions of this Act shall not apply to any Asiatic being one of the crew of any ship arriving in any port or place in New Zealand :

Crew of any ship
exempt.

Provided that if such Asiatic is discharged or landed in New Zealand, or if at any time he goes or is permitted to go on shore, except in the performance of his duties in connection with such ship, both he and the master of the ship are severally liable to a penalty of one hundred pounds :

Provisoos.

Provided also that on the arrival of any vessel having Asiatics on board as part of the crew the captain shall, in the presence of an officer of Customs, muster the said crew and give the names and number to the said officer of Customs, and that immediately prior to the departure of the said vessel the captain shall again muster the said crew, and, if the original number be not accounted for, then for any shortage in number the captain shall pay the sum of one hundred pounds each for those so missing.

12. No ship shall be cleared out of any port in New Zealand unless and until all the provisions of this Act relating to such ship, its owner and master, have been duly complied with, nor until all penalties and other moneys payable by such owner or master have been fully paid and satisfied, or have been duly secured by bond in manner hereinafter provided.

No ship to be cleared
out until Act
complied with.

13. In any case where the Commissioner of Customs is of opinion that the owner or master of any ship has committed any offence, or made any default, or is liable for the payment of any moneys under this Act, the following special provisions shall apply :—

Ship may be
detained if Act not
complied with.

- (1.) The Commissioner may by writing under his hand authorise any person, being an officer of Customs or member of the Police Force, to detain such vessel.
- (2.) Such detention may be either at the port or place where such vessel is found, or at any port or place to which the Commissioner orders such vessel to be brought.
- (3.) For the purposes of such detention, the person authorised to effect the same 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 the ship as would be available in the case of ships or goods seized under any Act relating to the Customs.
- (4.) Such detention shall be for safe custody only, and shall be discontinued if a bond with two sufficient sureties to the satisfaction of the Commissioner is given by the master or owner for the full payment of all penalties and other

sums of money then payable or that may thereafter be adjudged to be payable under this Act in respect of any such offence, default, or liability (including the costs incurred in and about the detention of the ship).

In default of payments due under this Act ship may be sold.

14. If default is made by the owner or master of any ship in paying, or in securing by bond as aforesaid, the full payment of any penalty or other sums of money payable under this Act by such owner or master, then the following provisions shall apply:—

(1.) Such ship may be seized and sold under the provisions for seizure and sale of ships or goods contained in any Act relating to the Customs, and for that purpose the provisions of subsection three of the last-preceding section hereof shall apply.

(2.) The proceeds of such sale shall be applied—first, in payment of the costs incurred in and about the detention, seizure, and sale of the ship; secondly, in payment of all penalties and other sums of money payable under this Act as aforesaid by the owner or master; and the surplus (if any) shall be paid to the owner or other person lawfully entitled thereto.

Court may give time to pay.

15. Upon the conviction of any Asiatic under any of the foregoing provisions of this Act, whereby he is adjudged to pay a sum of money, the Court if it sees fit may order that such sum or any part thereof shall be payable at some future day, not being longer than two months from the date of such order, provided security by way of recognisance to Her Majesty to the satisfaction of the Court is given for the payment of the amount mentioned in and at the time fixed by any such order.

Governor may remit penalties.

16. The Governor may remit the whole or any part of any penalty, forfeiture, or sum of money payable under any of the foregoing provisions of this Act.

(2.) *General.*

Non-naturalised Asiatics to be deemed aliens.

17. (1.) Every Asiatic not already naturalised within the colony is hereby declared to be an alien within the meaning of "The Aliens Act, 1880."

(2.) The Governor may from time to time make such regulations as he thinks fit in order to prevent evasions of that Act or this Act by Asiatic aliens.

Naturalisation of Chinese prohibited.

18. (1.) After the coming into operation of this Act no letters or certificate of naturalisation shall on any ground whatever be issued to any Asiatic being a Chinese, and every such Asiatic who leaves the colony not having been previously naturalised therein shall on returning be deemed to be an Asiatic arriving in the colony for the first time, and shall be subject to the provisions of this Act accordingly: Provided that this section shall not apply to any minister or teacher of the Christian religion duly accredited to the satisfaction of the Colonial Secretary.

(2.) For the purposes of this section, "Chinese" means any person of the Chinese race.

(3.) The Colonial Secretary, or any person appointed by him for the purpose, may decide upon his own view and judgment whether

any person applying for naturalisation is a Chinese within the meaning of this section: Provided that this section shall not apply to any Chinese who prior to the first day of September, one thousand eight hundred and ninety-six, have communicated to the Colonial Secretary their desire to be naturalised.

19. In any proceeding under this Act the Court may decide upon its own view and judgment whether any person charged before it is an Asiatic within the meaning of this Act. Court to decide nationality.

20. All sums and penalties paid by or on behalf of any Asiatic shall be paid into the Public Account and form part of the Consolidated Fund. Moneys received payable to Public Account.

21. (1.) All sums and penalties payable under this Act may be recovered in a summary manner, upon the prosecution of an officer of Customs or other person authorised for that purpose by the Governor. Recovery of sums and penalties.

(2.) In any proceeding taken under any of 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. Burden of proof.

22. The Governor in Council may from time to time make such rules and regulations as he deems necessary for prescribing forms and generally giving effect to this Act, and all such regulations shall be gazetted. Regulations.

23. (1.) "The Chinese Immigrants Act, 1881," "The Chinese Immigrants Act Amendment Act, 1888," and "The Chinese Immigrants Act Amendment Act Continuance Act, 1889," are hereby repealed. Repeals.

(2.) But such repeal shall not affect any regulations made nor any bond or other instrument given, executed, or made under the repealed Acts or any of them, nor be deemed to release or discharge any person from any subsisting liability thereunder; and all such regulations may be revoked and liabilities enforced under this Act. Saving.

24. This Act shall not apply to—

- (1.) Her Majesty's land and sea forces; nor to
 - (2.) The officers and crew of any ship of war of any Asiatic Government; nor to
 - (3.) Any person duly accredited to New Zealand by or under the authority of the Imperial or any other Government; nor to
 - (4.) Any minister or teacher of the Christian religion duly accredited to the satisfaction of the Colonial Secretary.
- Exceptions to operation of Act.