

UNDESIRABLE IMMIGRANTS EXCLUSION.

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p style="text-align: center;">PART I.</p> <p>3. Master to furnish list of immigrants.</p> <p>4. Immigration Officer may make examination and grant certificate.</p> <p>5. Immigration Officer may refuse certificate, but may grant same subject to appeal.</p> <p>6. Penalty for landing immigrants without certificate.</p> <p>7. Holder of D certificate to appeal.</p> <p>8. Stipendiary Magistrate to hear appeal.</p> <p>9. Bond given by master to bind owner.</p> <p>10. Penalty on master failing to furnish list or obstructing owner.</p> <p>11. No ship to be cleared out until Act complied with.</p> <p>12. Owner may be compelled to take immigrants within twelve months, and to pay costs of maintenance.</p> <p>13. Owner refusing liable to penalty.</p> <p>14. Exceptions from operation of Act.</p> <p>15. Tourist to become a prohibited person at expiration of six months. Proviso.</p>	<p style="text-align: center;">PART II.</p> <p style="text-align: center;">CHINESE AND OTHER ASIATIC IMMIGRANTS.</p> <p>16. Limitation of Chinese and other Asiatic passengers.</p> <p>17. Master to furnish list of Chinese and other Asiatics.</p> <p>18. Master to pay fifty pounds for every Chinese or other Asiatic passenger.</p> <p>19. Penalty for breach.</p> <p>20. Certificate of payment to be given.</p> <p>21. Penalty on evasion of Act.</p> <p>22. Imprisonment not a discharge of liability for poll-tax.</p> <p>23. Governor may remit penalties.</p> <p>24. Justices may give time.</p> <p>25. Exceptions to operation of Act.</p> <p>26. Transshipping of Chinese and other Asiatics.</p> <p>27. Asiatic not to carry on business of hawker or pedlar. Penalty.</p> <p>28. Chinese and other Asiatics now in the colony.</p> <p>29. Colonial Treasurer may grant exemption.</p> <p style="text-align: center;">PART III.</p> <p style="text-align: center;">GENERAL PROVISIONS.</p> <p>30. Recovery of penalties.</p> <p>31. Burden of proof.</p> <p>32. Rules.</p> <p>33. Repeal.</p> <p>34. Act reserved. Schedule.</p>
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A BILL INTITULED

AN ACT to exclude from New Zealand Undesirable Immigrants. Title.
 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

5 1. The Short Title of this Act is "The Undesirable Immigrants Exclusion Act, 1894." Short Title.

2. In this Act, if not inconsistent with the context,— Interpretation.
 "Chinese" means any person born of Chinese parents, or any native of China or its dependencies, or of any island in the China seas born of Chinese parents:

10 "Contract workman" means any workman as herein defined coming to New Zealand for the purpose of there carrying on any occupation or calling pursuant to any agreement or engagement, wholly or partly made with or on behalf of any person in New Zealand or elsewhere; but does not include any workman so coming for the purpose aforesaid, if the occupation or calling which he is to carry on consists of a new industry, or one for which suitable workmen cannot be obtained in New Zealand; nor does it include artists or persons engaged or to be engaged in teaching any branch of science or art, or such other classes of persons as the Governor may from time to time by Order in Council specify:

15 "Cripple" includes every person disabled from earning a livelihood:

20 "Immigrant" includes every person arriving in New Zealand waters in any ship, excepting any person whom the master of any ship (of which the owners carry on business

- or have regular agents in the colony) shall in the prescribed form certify to be a tourist, and excepting any person *bonâ fide* an officer of or member of the crew of any ship, and excepting any person domiciled in New Zealand who shall return after an absence of less than 5
three years :
- “Immigration Officer” means any person appointed by the Minister to perform the duties to be performed by such officer under this Act :
- “Master” includes every commander, captain, first or other 10
officer, other than a pilot, in actual command or control of any ship :
- “Minister” means Minister of Labour :
- “Other Asiatic” means any native of any part of Asia, or of the 15
adjacent archipelagos or of islands in Asiatic seas, and the descendants of any such natives ; but does not include Chinese as herein defined, nor Asiatics now naturalised in New Zealand, nor British subjects :
- “Owner” includes charterer and the agent or agents of such 20
owner or charterer in New Zealand :
- “Pauper” includes every adult who, in addition to his or her goods and chattels, shall, if unmarried, not possess at least *twenty* pounds ; if a male adult and married, *thirty* pounds, in addition to *ten* pounds in respect of every child 25
accompanying such adult :
- “Prescribed” means prescribed by rules or regulations made under this Act :
- “Prohibited person” shall include every contract workman, imbecile, idiot, insane person, cripple, pauper, habitual 30
drunkard, every person likely from any cause to become a charge on the public funds, every person suffering from tuberculosis or leprosy, every person who has been adjudged guilty in any country of any offence involving (if such offence were committed in New Zealand) im- 35
prisonment for not not less than twelve months :
- “Ship” includes steamer and sailing-vessel of every descrip-
tion, whether British or foreign :
- “Tourist” includes every person *bonâ fide* visiting New Zealand for any temporary purpose, and includes every 40
person not suffering from tuberculosis or leprosy who is visiting New Zealand temporarily for the benefit of his or her health :
- “Workman” means any person whose occupation or calling consists of any form of skilled or unskilled labour.

PART I.

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3. The master of every ship arriving in New Zealand shall, before any immigrant shall leave the same, deliver to the Immigration Officer a full and true list or lists of all immigrants on board such ship.

Such list shall be in the Form A in the Schedule hereto, and 50
shall respecting each immigrant on board such ship contain the information intended to be conveyed by the said Form A.

Master to furnish
list of immigrants.

Each such list shall have appended thereto a declaration in the Form B in the Schedule hereto, or to the effect thereof, made by the master of such ship and the surgeon thereof before a Notary Public, or the British Consul, at every port where any immigrant has
5 joined such ship.

4. The Immigration Officer may, with or without the assistance of a medical officer, make such examination as he may think expedient of any immigrant or immigrants on board any ship, or at some other convenient place, and for such purpose may have all the
10 immigrants removed from any ship at the expense of the owners thereof to such place as he may consider convenient, and shall give his certificate in the Form C in the Schedule hereto to every immigrant who he shall be satisfied is not a prohibited person; but such removal shall not be deemed a landing in New Zealand.

5. The Immigration Officer shall refuse to grant the said certificate to any immigrant who shall appear to him to be a prohibited person: Provided always that if the master shall enter into the bond in the Form E in the Schedule hereto, the Immigration Officer may
15 grant to any immigrant named in such bond, not suffering from tuberculosis or leprosy, a certificate in the Form D in the Schedule hereto.

6. If any immigrant shall land in New Zealand without having first received from the Immigration Officer a certificate in the Form C or D in the Schedule hereto, the master or owner of the ship
25 from which such immigrant shall have landed shall be liable to pay a penalty not exceeding *fifty* pounds.

7. If any immigrant to whom an Immigration Officer has given a certificate in the Form D in the Schedule hereto shall land in New Zealand, he shall lodge his certificate with and appeal to the
30 nearest Stipendiary Magistrate in the manner and within the time prescribed.

8. The Stipendiary Magistrate shall hear such appeal, and may dismiss the same with or without costs, to be paid by the owners of the ship, or may order the Immigration Officer to grant to such
35 immigrant a certificate in the Form C in the Schedule hereto, either unconditionally or on such terms as to security by the master or owners or otherwise as to the Stipendiary Magistrate may seem just.

9. Every bond given under this Act shall, when executed by the master of any ship, bind the owner and the assigns of such
40 ship, as effectually as if such bond had been duly executed by such owner or assigns respectively; and on breach of any condition thereof the amount thereof may be recovered in any Court of competent jurisdiction, and for this purpose service of any document on the master in any proceeding on such bond shall be deemed to be
45 service on the owner.

10. If any master shall refuse or neglect to deliver to the Immigration Officer the list and declaration required by section *three* of this Act, or shall refuse or neglect to produce for examination any immigrant, or shall obstruct or hinder the Immigration Officer in the
50 discharge of his duties, or shall falsely certify that any person is a tourist, he shall be liable to a penalty not exceeding *fifty* pounds.

11. No ship shall be cleared out of any port in New Zealand until all the provisions of this part of the Act affecting such ship, or the master or owner thereof, shall have been complied with.

Immigration Officer may make examination and grant certificate.

Immigration Officer may refuse certificate, but may grant same subject to appeal.

Penalty for landing immigrants without certificate.

Holder of D certificate to appeal.

Stipendiary Magistrate to hear appeal.

Bond given by master to bind owner.

Penalty on master failing to furnish list or obstructing owner.

No ship to be cleared out until Act complied with.

Owner may be compelled to take immigrants within twelve months, and to pay costs of maintenance.

12. If within twelve months of his landing in New Zealand any person shall on the ground that he is destitute apply for work or assistance to any local body, Charitable Aid Board, or other public institution, or shall become a charge on the public funds, the owner of the ship from which such person landed in New Zealand shall forthwith, on written notice to do so having been left with the owner by any Immigration Officer, take such person to the port whence he came, and shall pay to the Immigration Officer claiming the same the cost (if any) of the maintenance of such person which has been borne by any public institution, and any expenses incurred by the general Government in respect of such person, unless such owner can prove to the satisfaction of a Stipendiary Magistrate that the necessities of such person as aforesaid (if any) have not arisen from causes existing at the time of his landing in New Zealand. 5

Owner refusing liable to penalty.

13. Any owner refusing or failing to take such person as aforesaid to the port from which he came shall be liable to a penalty not exceeding *fifty* pounds, and the cost (if any) of or incidental to the maintenance of such person which has been borne by any public institution, and any expenses incurred by the general Government in respect of any such person, shall be recoverable from the owner by any Immigration Officer as a debt in any Court of competent jurisdiction. 15

Exceptions from operation of Act.

14. The provisions of this Part of this Act shall not extend to immigrants who may be specially excepted therefrom from time to time by the Governor by Order in Council, nor to shipwrecked mariners brought to New Zealand without charge by the master of some other ship than that in which they were wrecked, nor to Her Majesty's land and sea forces. 25

Tourist to become a prohibited person at expiration of six months. Proviso.

15. A tourist shall cease to be such and shall become a prohibited person at the expiration of six months after his landing in New Zealand: 30

Provided that, upon application in that behalf, any Immigration Officer or Stipendiary Magistrate may, by writing under his hand, extend such period of six months for any further period not exceeding six months: Provided, further, that at any time before the expiration of such period or extended period, such officer or Magistrate, upon application in that behalf, and upon being satisfied that such tourist if continuing to reside in New Zealand will not come within the definition of a prohibited person, may, by certificate in the prescribed form, exempt such tourist from the provisions of this Act. 35 40

PART II.

CHINESE AND OTHER ASIATIC IMMIGRANTS.

Limitation of Chinese and other Asiatic passengers.

16. If any ship shall arrive in any port or place in New Zealand, having on board a greater number of Chinese or other Asiatic passengers than in the proportion of one to every one 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 or master of such ship shall be liable, on conviction, to a penalty not exceeding *one hundred* pounds for each Chinese or other Asiatic passenger so carried in excess. 45 50

17. The master of every ship having Chinese or other Asiatics on board shall, immediately on his arrival in any port or place of the colony, deliver to the Collector or other principal officer of Customs at such port or nearest to such place a list of such Chinese or other Asiatics, specifying the name, the place of birth, the apparent age, and the former place of residence of each such Chinese or other Asiatic. For any default in complying with this provision, such master shall be liable to a penalty not exceeding *two hundred* pounds.

Master to furnish list of Chinese and other Asiatics.

18. Before making any entry at the Customs, and before any Chinese or other Asiatic shall be permitted to land, the master shall pay to such Collector or other principal officer, by way of poll-tax, *fifty* pounds for every such Chinese or other Asiatic; and no entry shall be deemed to have been legally made, or to have any legal effect, until such payment shall have been made.

Master to pay fifty pounds for every Chinese or other Asiatic passenger.

19. (1.) If the master of any ship which shall have brought Chinese or other Asiatics to the colony shall neglect to pay any such sum, or shall land or permit to land any Chinese or other Asiatics at any place in the colony, or shall permit or suffer any Chinese or other Asiatics to escape from such ship, before such sum shall have been paid for or by such Chinese or other Asiatics, with the intent in any of the above cases to evade the payment thereof, such master in addition to such sum shall be liable for every such offence to a penalty not exceeding *fifty* pounds for each Chinese or other Asiatic so landed or permitted to land, or suffered to escape from such ship.

Penalty for breach.

(2.) And in every such case, in addition to any such penalty, the ship 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 of this colony.

20. (1.) On payment of such sum in respect of any Chinese or other Asiatic, the Collector or other officer as aforesaid shall, without demand, forthwith supply each Chinese or other Asiatic in respect of whom any such payment is made with a certificate in writing under his hand of the payment of such sum.

Certificate of payment to be given.

(2.) Such certificate shall be in a form to be prescribed by the regulations hereinafter mentioned, and, whensoever or wheresoever produced by such Chinese or other Asiatic, shall be conclusive evidence on behalf of himself, and of any other person who may have paid such sum for him, that such sum has been duly paid.

(3.) All sums so paid by or on behalf of any Chinese or other Asiatic shall be paid into the Public Account and form part of the Consolidated Fund.

21. If any Chinese or other Asiatic shall enter or attempt to enter the colony without paying or having paid for him the sum of *fifty* pounds aforesaid, he shall, besides such sum, be liable to a penalty not exceeding *ten* pounds, and in default in payment of such penalty he shall be liable to imprisonment for twelve months unless such penalty 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 evasion of Act.

22. No imprisonment in default of the payment of a penalty as aforesaid shall be a discharge to any Chinese or other Asiatic of his liability to pay the poll-tax of *fifty* pounds aforesaid; but, at any time after any such imprisonment, if a Chinese or other Asiatic who is liable to pay the aforesaid tax is at large within the colony he 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 at or nearest to the place where such Chinese or

Imprisonment not a discharge of liability for poll-tax.

other Asiatic may be, or remand him to such other Court as to such Justice shall seem fit, until such Chinese or other Asiatic shall produce a certificate of payment as aforesaid.

Governor may remit penalties.

23. The Governor may remit the whole or any part of any penalty, forfeiture, or sum of whatever description due or payable under this Part of this Act. 5

Justices may give time.

24. Upon the conviction of any Chinese or other Asiatic under this Act, whereby he may be awarded to pay a sum of money, the Justices, if they shall see 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 such Justices be given for the payment of the amount mentioned in and at the time fixed by any such order. 10

Exceptions to operation of Act.

25. The penalties and restrictions imposed by this Part of this Act shall not, nor shall any of them, be held to be applicable in the case of— 15

(1.) Any Chinese or other Asiatic duly accredited to this colony by the Government of China or any other Asiatic country, or by or under the authority of the Imperial Government, on any special mission ; or 20

(2.) Any officers or the crews of any ship or ships of war of the ruler of China or any other Asiatic country, who shall have all the privileges and immunities enjoyed by the officers and crews of the ships of war of any other friendly power ; or 25

(3.) Any Chinese or other Asiatic being one of the crew of any ship arriving in any port or place in New Zealand.

But no such Chinese or other Asiatic, being one of such crew, shall be discharged and landed from such ship within the colony, or shall at any time go on shore, except in the performance of his duties in connection with such ship ; and every such Chinese or other Asiatic so discharged and landed shall be liable to a penalty of *twenty* pounds. 30

Transshipping of Chinese and other Asiatics.

26. Any ship on board which Chinese or other Asiatics shall be transhipped from another ship and be brought to any port or place in this colony shall be deemed to be a ship bringing Chinese or other Asiatics into the said colony from parts beyond the said colony, and shall be subject to all the requirements and provisions of this Part of this Act ; and all Chinese or other Asiatics so transhipped and brought to such port or place shall be deemed to be Chinese or other Asiatics arriving from parts beyond New Zealand. 40

Asiatic not to carry on business of hawker or pedlar.

27. (1.) Every Asiatic (being a British subject, but not a Chinese) coming to New Zealand shall, before landing, sign a declaration in the prescribed form that he will not carry on the business of a hawker or pedlar in New Zealand :

Penalty.

(2.) Every such Asiatic who lands in New Zealand without signing such declaration, or who carries on such business in New Zealand, shall be liable to a penalty of *fifty* pounds, and to a further penalty of *ten* pounds for every day after the first during which he continues to carry on such business. 45

Chinese or other Asiatics now in the colony.

28. (1.) Every Chinese or other Asiatic within the Colony of New Zealand at the date when this Act comes into operation may, within two months thereafter, apply to the Magistrate's Court nearest to his place of abode for a certificate of exemption from payments under this Act. 50

(2.) Any Stipendiary Magistrate exercising jurisdiction at such Court shall deliver to any Chinese or other Asiatic so applying a certi- 55

ificate, which shall bear on the face of it the name of such Chinese or other Asiatic, and the signature of the Magistrate granting such certificate, and such other matters which may be prescribed in the regulations; and the holder of such certificate shall be exempted from
5 payments under this Act.

(3.) For the purposes of this section the term "Magistrate" shall include a Warden having jurisdiction within any mining district proclaimed under any Act for the time being in force relating to
10 mining.

29. (1.) The Colonial Treasurer, or any person authorised by him, may, upon the application of any Chinese or other Asiatic, and upon being satisfied that such Chinese or other Asiatic was, at the time of the coming into operation of this Act, a *bona fide* resident of the colony, and that he desires to be absent therefrom for a temporary
15 purpose only, grant to such Chinese or other Asiatic a certificate that he is exempt from the provisions of this Act for a time to be specified in such certificate.

Colonial Treasurer may grant exemption.

(2.) And, during the time so specified, the holder of such certificate shall be exempt from all payments under this Part of this Act.

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PART III.

GENERAL PROVISIONS.

30. Except as elsewhere expressly provided in this Act, all penalties and sums payable under this Act may be recovered in a summary manner under "The Justices of the Peace Act, 1882,"
25 before two Justices of the Peace or a Stipendiary Magistrate, upon the prosecution of some officer of Customs, or other person authorised for that purpose by the Governor.

Recovery of penalties.

At any hearing, the Justices or Magistrate may decide upon their own view and judgment whether any person charged before them is
30 a Chinese or other Asiatic within the meaning of this Act.

31. For the purpose of 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; and it shall not be necessary in any information, summons, or conviction,
35 or other document, to state or negative any exception in or exemption under the Act.

Burden of proof.

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

Rules.

33. (1.) "The Imbecile Passengers Act, 1882," "The Chinese Immigrants Act, 1881," "The Chinese Immigrants Act Amendment Act, 1888," and "The Chinese Immigrants Act Amendment Act Continuance Act, 1889," are hereby respectively repealed, without prejudice
45 however to anything lawfully done or suffered thereunder.

Repeal.

(3.) But such repeal shall not prejudice or affect any bond or other instrument given, executed, or made under the said repealed Acts or any of them, or be deemed to release or discharge any person from any subsisting liability thereunder respectively.

50 34. This Act shall be reserved for the signification of Her Majesty's pleasure thereon.

Act reserved.

SCHEDULE.

Schedule.

FORM A.

Name in full:
Age:
Sex:

Married or single :
 Calling or occupation :
 Whether able to read and write :
 Nationality :
 Last residence :
 The seaport of landing in New Zealand :
 Final destination, if any, beyond the seaport of landing :
 Whether having a ticket through to such final destination :
 Whether immigrant has paid his own passage, or whether it has been paid by
 other persons, or by any corporation, society, municipality, or Government :
 Whether in possession of money, and, if so, how much :
 Whether going to join a relative, and, if so, what relative, name, and address :
 Whether ever before in New Zealand, and, if so, when and where :
 Whether ever in prison :
 Whether ever in an almshouse, or supported by charity :
 Whether under contract, express or implied, to perform labour in New Zealand :
 What is the immigrant's condition of health, mentally and physically; and
 whether deformed or crippled, and, if so, from what cause :

FORM B.

WE, _____, Master, and _____, Surgeon of the ship "_____" do, severally,
 solemnly and sincerely declare that, to the best of our knowledge, information, and
 belief, the information contained in the foregoing list is as to each immigrant named
 therein correct.

Severally declared before me, this _____ day of _____, 18 _____.

Notary public [or British Consul at _____].

FORM C.

The ship "_____" _____ Master, _____ Owners.
 I HEREBY CERTIFY that _____ is qualified to land in New Zealand.
 Dated this _____ day of _____, 18 _____.

Immigration Officer for the Port of _____.

FORM D.

The ship "_____" _____ Master, _____ Owners.
 I HEREBY CERTIFY that _____ is not qualified to land in New Zealand, excepting
 subject to section 7 of "The Undesirable Immigrants Exclusion Act, 1894."

Immigration Officer for the Port of _____.

FORM E.

Know all men by these presents that the owners of the ship "_____" now
 in the Port of _____ in New Zealand, are by these presents held
 firmly bound to _____, Immigration Officer at the said port, in the sum
 of £ _____, for the payment of which sum well and truly to be made I
 bind the said owners, their heirs, executors, administrators, successors or
 assigns. Sealed with my seal, and dated this _____ day of _____,
 18 _____.

_____ Master [or Acting Master] of the ship "_____"
 Signed, sealed, and delivered by _____, Master [or Acting Master] of the
 ship "_____" in the presence of—

WHEREAS _____ the Immigration Officer at the Port of _____, in New
 Zealand, has refused to give a certificate in the Form C, but has given a certificate in
 the Form D in the Schedule to "The Undesirable Immigrants Exclusion Act, 1894,"
 to _____, an immigrant on board the ship "_____" lying in the said port :
 Now, the condition of the above-written bond or obligation is that if the said immi-
 grant, on his landing in New Zealand from the said ship, shall lodge his certificate
 in the Form D in the said Schedule with a Stipendiary Magistrate, and appeal to
 him from the refusal of the said Immigration Officer within the time and in manner
 prescribed, and if the said Stipendiary Magistrate shall dismiss the said appeal shall
 return to the said ship, and having so returned shall not leave the said ship while the
 same shall be in New Zealand waters, the above-written bond shall be null and
 void, but otherwise shall remain in full force and virtue.

_____ Master [or Acting Master].
 Signed by the said _____ in the presence of—