

VICTORIA.



ANNO VICESIMO SECUNDO

VICTORIÆ REGINÆ.

No. LXXX.

An Act to consolidate and amend the Laws affecting the Chinese emigrating to or resident in Victoria. [24th February, 1859.]

WHEREAS it is expedient to consolidate and amend the laws affecting the Chinese people emigrating to or resident in Victoria and to reduce the imposts on such residents Be it therefore enacted by the Queen's most excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows—that is to say :

Preamble.

I. From and after this Act shall come into operation the Acts set forth in the schedule to this annexed marked A shall be and the same are hereby repealed save and except as to any proceeding act matter or thing commenced or any penalty awarded or any sum due or incurred at the time this Act shall come into operation which proceeding act matter or thing penalty awarded or sum due or incurred may be proceeded with and completed recovered or enforced as if this Act had not been passed.

Repeal of 18 Vict. No. 39. 21 Vict. No. 44.

II. In the interpretation and for the purposes of the provisions of this Act the following words shall unless inconsistent with or repugnant to the context have the respective meanings hereby assigned them that is to say—

Interpretation clause.

The word "Master" shall be held to apply to any person in command of any vessel.

The word "Ship" shall mean any sea going vessel of any kind or description.

The word "Tonnage" shall signify tonnage according to the registry of the ship if British or according to the measurement fixed by the "Merchant Shipping Act 1854" if the ship be not British.

And the word "Immigrant" shall mean any male adult native of China or its dependencies or of any islands in the Chinese seas not born of British parents or any person born of Chinese parents.

III. It

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Governor in council
to appoint officers.

III. It shall be lawful for the Governor in Council to appoint such and so many persons to carry out the provisions of this Act with such designations as to such Governor in Council shall seem necessary or desirable.

Governor may make
rules and regula-
tions.

IV. It shall be lawful for the Governor in Council to make such rules and regulations as may be deemed necessary for defining the duties and conduct of the officers to be appointed under the authority of this Act the registration of such immigrants on their arrival at the district or place to which they may proceed the removal from such district of all or any of such immigrants if it shall be found necessary or desirable to do so the circumstances under which any such registration or removal shall be required the period for which such registry or removal is to last and the mode time and place of any such registration or removal also for the protection of such immigrants and the adjustment of disputes between them and generally for the management and good government of such immigrants and any such rules and regulations to alter vary or annul and substitute others as occasion may require and any immigrant or other person who shall be wilfully guilty of any breach or infringement of any such rule or regulation shall forfeit and pay a penalty not exceeding five pounds.

Sums to be paid for
entering this colony.

V. Every immigrant shall pay or shall have paid for him as hereinafter provided towards the consolidated revenue of Victoria the following sums for permission to enter Victoria for the purpose of residing therein exclusive of the annual sum of four pounds hereinafter provided to be paid by such immigrants—that is to say :

The sum of ten pounds if any such immigrant shall arrive in Victoria in any ship.

The sum of four pounds if any such immigrant shall arrive in or enter Victoria from any place by any other means than by a ship.

Passengers list to state
whether immi-
grants as defined by
this Act are aboard
or not.

VI. The master of every ship upon arrival at any port in Victoria having passengers on board shall distinctly specify and state in the list required by an Act of the Lieutenant Governor and Legislative Council of Victoria 18 Victoria and numbered V to be delivered to the collector or other chief officer of customs at the port of arrival whether any and which of such passengers are immigrants within the meaning of this Act and in default of his delivering such list without so specifying as aforesaid such master shall be liable to a penalty not exceeding two hundred pounds.

Number of immi-
grants ships may
carry.

VII. If any ship shall arrive in any part of Victoria having on board a greater number of passengers including the master and crew and cabin passengers than in the proportion of one person to every ten tons of the tonnage of such ship and any of such passengers shall be immigrants the owner charterer or master of such ship shall be liable on conviction to a penalty not exceeding ten pounds for each passenger so carried in excess.

Rate to be paid for
immigrants.

VIII. On arrival in any port of Victoria of any ship having any immigrants on board the master of such ship shall before permitting any immigrants to land and before making entry pay to the collector or other proper officer of customs a rate of ten pounds for every such immigrant conveyed in such ship and no entry shall be deemed to have been legally made or to have any legal effect whatever until such payment shall have been made and if any master neglect to pay such rate within the time aforesaid or shall land or permit any such immigrant to land at any place in Victoria before such payment shall have been made and with the intention of evading the payment of any such rate he shall

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on conviction be liable to a penalty not exceeding twenty pounds for each immigrant so landed or permitted to land in addition to the amount of such rate and in every such case in addition to the pecuniary fine hereby imposed upon the master the ship conveying such immigrants shall be forfeited and may be seized condemned and disposed of in the same manner as ships forfeited for a breach of any laws relating to the customs of this colony.

IX. On the arrival in any port of Victoria of any ship having any immigrants on board thereof the collector or other proper officer of customs shall deliver to every such immigrant for or on account of whom the rate of ten pounds imposed by this Act shall be paid a certificate in writing under his hand of the payment of the said rate and every person who shall receive or collect the amount payable under this Act by immigrants arriving in Victoria otherwise than by a ship shall give to each immigrant a certificate of such payment having been so made such certificates respectively to be in such form as the Governor in Council shall approve.

Immigrant on landing to obtain receipt for money paid for him.

X. Every immigrant shall pay towards the consolidated revenue of Victoria annually the sum of four pounds sterling by equal quarterly payments in advance on the first day of March the first day of June the first day of September and the first day of December in each year respectively but if any immigrant is desirous of making such payment at once for a whole year or by two equal half-yearly payments instead of by four quarterly payments and shall signify such desire to the officer appointed to collect or receive such payment it shall be lawful for such officer to receive the same and such annual payment shall be in addition to the sum by this Act made payable by or on account of such immigrant for permission to enter into the Colony of Victoria.

Residence money to be four pounds a year to include miner's right.

XI. The Governor in Council shall appoint so many places as may be necessary throughout Victoria either generally by naming certain offices or by particularizing each place or partly one and partly the other mode at which the yearly half-yearly and quarterly payments are to be made or such Governor in Council may if he shall so see fit appoint any person or persons either by the general designation of the office such persons shall hold or by name to collect and receive any such yearly half-yearly or quarterly payments as well as any payments to be made by immigrants for permission to reside in Victoria who shall not arrive in Victoria by any ship and all such appointments shall be inserted in the *Government Gazette* and made public in such other manner as to such Governor in Council shall seem desirable.

Governor to name places at which money is to be paid.

XII. Any person duly authorised who shall receive any yearly half-yearly or quarterly payments from any immigrant as herein provided shall give to such immigrant a receipt for the same in such form as the Governor in Council shall approve.

Receipt to be given for residence money.

XIII. The yearly half-yearly and quarterly payments as aforesaid shall be in lieu of all other charges dues or personal imposts after such immigrants shall have paid the authorised sum as herein provided for permission to enter Victoria during the period for which any such payment shall have been made and every such receipt shall during the period for which the payment mentioned in such receipt was made entitle the rightful owner thereof to all the rights and privileges conferred by the Act passed in the twenty-first year of the reign of Her present Majesty and numbered XXXII. upon the holders of the document designated therein as "The Miner's Right" except the right of voting in the election of a member of the Mining Board Provided that nothing herein contained shall relieve any such immigrant from the payment of any sum payable under

Residence money to include all dues &c. except business license fee.

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under the fifth section of the said recited Act for business licenses when any such immigrant shall require any such license to be issued to him And provided also that no such miner's right shall confer upon any immigrant any of the rights conferred by the last-mentioned Act upon the holder of a miner's right.

Licenses to expire together.

XIV. Every receipt for any quarterly half-yearly or yearly payment as aforesaid shall be dated if issued on any day hereinbefore set forth as the days of payment on the day of issue but if not then on the day of the quarterly payment next preceding the day such payment shall be actually made and if such payment be made for a quarter of a year the force and effect of any such receipt shall expire on the next day of quarterly payment succeeding the date of such receipt and if any such payment be made for a half year then the force and effect of such receipt shall expire the next quarterly day of payment but one succeeding the date of such receipt and if the payment be made for one year then the force and effect of such receipt shall expire on the same day the next year after the date of such receipt.

Penalty on not paying or having had paid fee for entrance to the colony.

XV. If any immigrant shall enter or attempt to enter the colony of Victoria without paying or having had paid for him the authorized sum for permission to enter as herein provided every such immigrant shall forfeit besides the authorized sum for such entrance a penalty not exceeding ten pounds and if found so entering or attempting to enter without such payment having been made such immigrant may be apprehended and taken before the nearest justice of the peace or the justice most conveniently situated for that purpose and such justice may take sufficient bail for the appearance of such immigrant at the nearest court of petty sessions or remand such immigrant to such court as to such justice shall seem fit and if any such immigrant shall not at the time of hearing the case produce a certificate or receipt authorized under this Act or a receipt or a license authorized under either of the Acts contained in the schedule to this Act and hereby repealed the proof that such immigrant had paid the sum directed to be paid by this Act shall lie upon the defendant but the production of any such certificate license or receipt applicable to the defendant shall be sufficient evidence of the authorized payment having been made.

Penalty on non-payment of residence fee.

XVI. If any immigrant shall be in the colony of Victoria for the period of two months after this Act shall come into operation without paying the quarterly half-yearly or annual payment by this Act made payable he shall forfeit and pay besides the quarterly payments that may then be due by such immigrant for the first offence as a penalty a sum equal in amount to the quarterly payments then due for a second offence double the amount of such first penalty and in the absence of any certificate under this Act or any receipt or license under this Act or the repealed Acts referred to in the schedule of this Act every such immigrant shall be deemed to have been so resident in this colony for two months contrary to the provisions of this Act unless the contrary be proved.

Chinese residing without a license unable to sue.

XVII. No immigrant shall after this Act shall come into operation be entitled to institute proceedings in any court of mines or in any other court or before any of Her Majesty's wardens of the gold fields to recover possession of any land occupied by virtue of any miner's right receipt or business license or of any share in such land or to recover any damages for the occupation of or encroachment upon such land or any part thereof or to obtain any relief as tenant in common joint tenant co-partner or co-adventurer in any such land against his tenant in common joint tenant co-partner or co-adventurer unless such person shall

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shall have made the quarterly half-yearly or yearly payments and obtained a receipt of the same as required by this Act at the time when his alleged title to recover such possession or damages or to obtain such relief first arose or accrued.

XVIII. If any person shall hinder molest obstruct or assault any officer appointed under this Act or any person acting under his authority or under any power or authority given by this Act every such person shall on conviction forfeit and pay a penalty not exceeding ten pounds. Penalty for obstructing officers.

XIX. It shall be lawful for the Governor in Council to remit the whole or any part of any penalty or sum of whatever description due or payable under the provisions of this Act. Governor may remit penalties &c.

XX. Upon the conviction of any immigrant under the provisions of this Act whereby any such immigrant may be awarded to pay a sum of money it shall be lawful for the justice or justices if he or they shall see fit to 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 recognizance to Her Majesty to the satisfaction of such justice or justices shall be given for the payment of the amount mentioned in and at the time fixed by any such order. Justices may fix time to pay penalties.

XXI. It shall be lawful for the Governor in Council whenever any immigrants are sentenced to imprisonment or imprisonment and hard labor to direct that such immigrants so sentenced shall be worked and employed at such places and on such public work or local work for the public benefit or convenience and to make such rules and regulations and to alter or annul the same for the safe custody control and general management of such immigrants so sentenced as aforesaid as such Governor in Council shall deem desirable. Immigrants imprisoned may be set to labor on local works approved of by the Governor.

XXII. All offences under this Act shall be heard and determined and all penalties recovered in a summary manner before any two or more justices by distress and at the hearing of any case the justices adjudicating shall decide upon their own view and judgment whether any person charged before them is or is not an immigrant within the meaning of this Act. Penalties recovered in a summary manner

XXIII. This Act shall come into operation on and from the twenty-eighth day of February One thousand eight hundred and fifty-nine. Commencement of Act.

SCHEDULE A.

Date of Acts.	Titles of Acts.
18 Vict., No. 39	"An Act to make provision for certain Immigrants."
21 Vict., No. 41	"An Act to regulate the Chinese population in Victoria."

MELBOURNE:

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