

X

ACT No. III OF 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 12th February 1864.)

*An Act to give the Government certain powers with respect to Foreigners.*

WHEREAS it is expedient to make provision to enable the Government to prevent the subjects of Foreign States from residing or sojourning in British India, or from passing through or travelling therein, without the consent of the Government; It is enacted as follows:—

Preamble.

I. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:—

Interpretation.

The words "British India," shall denote the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, Chap. 106, entitled "An Act for the better Government of India":

"British India."

The words "Local Government," shall denote the persons authorized to administer the Executive Government in any part of British India, or the Chief Executive Officer of any part of British India under the immediate administration of the Governor-General of India in Council, when such Chief Executive Officer shall, by an order of the Governor-General of India in Council published in the Gazette of India, be authorized to exercise the powers vested by this Act in a local Government:

"Local Government."

The word "Foreigner" shall denote a person, not being either a natural-born subject of Her Majesty within the meaning of the Statute 3 and 4 William IV, Chap. LXXXV, Section 81, or a Native of British India:

"Foreigner."

The words "the Magistrate of the District," shall denote the Chief Officer charged with the Executive administration of a District and exercising the powers of a Magistrate, by whatever designation

"Magistrate of the District."

ACT No. III OF 1864.

designation the Chief Officer charged with the Executive administration is styled, or, in the absence of such Officer from the Station at which his Court is usually held, the Senior Officer at the Station exercising the powers of a Magistrate as defined in the Code of Criminal Procedure :

The word " Vessel " shall include any thing made for the conveyance by water  
" Vessel." of human beings or property :

Words importing the singular number shall include the plural number, and  
Number. words importing the plural number shall include the singular number :

Gender. Words importing the masculine gender shall include females.

II. If a question shall arise whether any person alleged to be a Foreigner and  
Proof of being a Foreigner. to be subject to the provisions of this Act is a Foreigner or not, or is or is not subject to the provisions of this Act, the onus of proving that such person is not a Foreigner, or is not subject to the provisions of this Act, shall lie upon such person.

III. The Governor-General of India in Council may, by writing, order  
Government may order any Foreigner to remove himself. any Foreigner to remove himself from British India, or to remove himself therefrom by a particular route to be specified in the order ; and any local Government may, by writing, make the like order with reference to any Foreigner within the jurisdiction of such Government.

IV. If any Foreigner ordered to remove himself from British India, or  
Foreigner refusing to remove, or returning without license after removal, may be apprehended and detained. ordered to remove himself therefrom by a particular route, shall neglect or refuse so to do ; or if any Foreigner, having removed himself from British India in consequence of an order issued under any of the provisions of this Act, or having been removed from British India under any of the said provisions, shall wilfully return thereto without a license in writing granted by the Governor-General of India in Council or by the local Government under whose order he shall have removed himself or been removed,—such Foreigner may be apprehended and detained in safe custody, until he shall be discharged therefrom by order of the Governor-General of India in Council, or of the local Government within whose jurisdiction he shall be so apprehended or detained, upon such terms and conditions as the said Governor-General of India in Council or local Government shall deem sufficient for the peace and security of British India, and of the Allies of Her Majesty, and of the neighbouring Princes and States.

V. Whenever

ACT No. III OF 1864.

V. Whenever the Governor-General of India in Council shall consider it necessary to take further precautions in respect of Foreigners residing or travelling in British India or any part thereof, it shall be lawful for the Governor-General of India in Council, by a Notification published in the Gazette of India, to order that the provisions of this and the subsequent Sections of this Act shall be in force in British India, or in such part thereof as shall be specified in such Notification, for such period as shall be therein declared ; and thereupon, and for such period, the whole of this Act including this and the subsequent Sections shall have full force and effect in British India or such part thereof as shall have been so specified. The Governor-General of India in Council may from time to time, by a Notification published as aforesaid, cancel or alter any former Notification which may still be in force, or may extend the period declared therein. Provided that none of the provisions of this or the subsequent Sections of this Act shall extend to any Foreign Minister duly accredited by his Government ; to any Consul or Vice-Consul ; to any person under the age of fourteen years ; or to any person in the service of Her Majesty.

VI. Every Foreigner on arriving in any part of British India in which all the provisions of this Act are for the time being in force under an order issued as provided in the last preceding Section, from any port or place not within British India, or from any port or place within British India where all the provisions of this Act are not in force, shall, if he arrive at a Presidency Town forthwith report himself to the Commissioner of Police of such Town, or, if he arrive at any other place then he shall forthwith report himself to the Magistrate of the District, or to such other Officer as shall be appointed to receive such reports, by the Governor-General of India in Council or by the local Government of such place.

VII. The report shall be in writing, and shall be signed by the person reporting himself, and shall specify his name or names, the Nation to which he belongs, the place from which he shall have come, the place or places of his destination, the object of his pursuit, and the date of his arrival in such Presidency Town or other place. The report shall be recorded by the Officer to whom it is made.

VIII. The provisions of the last two preceding Sections shall not extend to any person being the Master or Commander of a vessel or employed therein, but if any such person shall be in any part of British India in which all the provisions of this Act

Governor-General may order all the provisions of this Act to be in force in British India, or in any part thereof.

Proviso.

Every Foreigner to report his arrival in India in certain cases.

What to be stated in the report.

Foreigners, being Masters of vessels or employed therein, to report themselves when they cease to be so employed.

Act

ACT No. III OF 1864.

Act are for the time being in force, after he shall have ceased to be actually employed in a vessel, he shall forthwith report himself in manner aforesaid.

IX. If any Foreigner shall neglect to report himself as required by this Act, he may be dealt with in the manner hereinafter provided in respect of Foreigners travelling without a license.

Foreigners neglecting to report themselves, may be dealt with in like manner as Foreigners travelling without a license.

X. No Foreigner shall travel in or pass through any part of British India in which all the provisions of this Act are for the time being in force without a license.

No Foreigner to travel in India without a license.

XI. Licenses under this Act may be granted by the Governor-General of India in Council or by any of the local Governments, under the signature of a Secretary to the Government of India or to such local Government as the case may be, or by such other Officers as shall be specially authorized to grant licenses by the Governor-General of India in Council, or by any of the local Governments.

License by whom to be granted.

XII. Every such license shall state the name of the person to whom the license is granted, the Nation to which he belongs, the District or Districts through which he is authorized to pass or the limits within which he is authorized to travel, and the period (if any) during which the license is intended to have effect.

What to be stated in license.

XIII. The license may be granted subject to such conditions as the Governor-General of India in Council or the local Government may direct, or as the Officer granting the license may deem necessary. Any license may be revoked at any time by the Governor-General of India in Council, or by the local Government of any part of British India in which all the provisions of this Act are for the time being in force and in which the Foreigner holding the same may be, or by the Officer who granted the license.

License may be granted subject to conditions, and may be revoked.

XIV. If any Foreigner travel in or attempt to pass through any part of British India without such license as aforesaid, or beyond the Districts or limits mentioned therein, or after such license shall have been revoked, or shall violate any of the conditions therein specified, he may be apprehended without warrant by any Officer exercising any of the powers of a Magistrate, or by any European Commissioned Officer in the service of Her Majesty, or by any member of a Volunteer

Foreigner travelling without or contrary to the conditions of license, may be apprehended.

ACT No. III OF 1864.

Volunteer Corps enrolled by authority of Government whilst on duty, or by any Police Officer.

XV. If any person be apprehended by a person not exercising any of the powers of a Magistrate and not being a Police Officer, he shall be delivered over as soon as possible to a Police Officer, and forthwith carried before the Magistrate of the District. Whenever any person shall be apprehended by or taken before the Magistrate of the District, such Magistrate shall immediately report the case to the local Government to which he is subordinate, and shall cause the person brought before him to be discharged, or to be conveyed to one of the Presidency Towns, or pending the orders of such Government to be detained.

XVI. Any person apprehended or detained under the provisions of this Act, may be admitted to bail by the Magistrate of the District, or by any Officer authorized to grant licenses, and shall be put to as little inconvenience as possible during his detention in custody.

XVII. The local Government of any part of British India in which all the provisions of this Act are for the time being in force, may order any person apprehended or detained under the provisions of this Act to remove himself from any such part of British India, by sea or by such other route as the said local Government may direct; or the said local Government may cause him to be removed from such part of British India by such route and in such manner as to such local Government shall seem fit. The Governor-General of India in Council may exercise all the powers given by this Section to any local Government.

XVIII. The Governor-General of India in Council may by order prohibit any person or any class of persons not being natural-born subjects of her Majesty within the meaning of the Statute 3 and 4 William IV, chap. LXXXV, Section 81, from travelling in or passing through any part of British India in which all the provisions of this Act may for the time being be in force, and from passing from any part thereof to another without a license to be granted by such Officer or Officers as shall be specified in the order: and if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the Officers specified in Section XIV of this Act, and carried before the Magistrate of the District, and dealt with under the provisions of Section XVII in the same manner as if he were a Foreigner: and the Governor-General

ACT No. III OF 1864.

General of India in Council may order such person to be detained in safe custody or under the surveillance of the Police so long as it may be deemed necessary for the peace and security of British India or any part thereof.

XIX. The local Government of any Presidency or place in which all the provisions of this Act may for the time being be in force, may by order prohibit any person or any class of persons not being natural-born subjects of Her Majesty within the meaning of the Statute 3 and 4 William IV, chap. LXXXV, Section 81, from travelling in or passing through such Presidency or place or any part thereof, and from passing from any part thereof to another, without a license to be granted by such Officer or Officers as shall be specified in the order; and if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the Officers specified in Section XIV of this Act, and carried before the Magistrate of the District, and dealt with under the provisions of Section XVII in the same manner as if he were a Foreigner; and the local Government may order such person to be detained in safe custody or under the surveillance of the Police so long as it may be deemed necessary for the peace and security of British India or any part thereof.

Also the local Governments within their respective jurisdictions.

XX. It shall be lawful for the Commissioner of Police, or for the Magistrate of the District, or for any Officer appointed to receive reports as mentioned in the sixth Section of this Act, or for any Police Officer under the authority of such Commissioner or Magistrate, to enter any vessel in any port or place within British India in which all the provisions of this Act may for the time being be in force, in order to ascertain whether any Foreigner bound to report his arrival under the said Section VI of this Act is on board of such vessel; and it shall be lawful for such Commissioner of Police, Magistrate, or other Officer as aforesaid, to adopt such means as may be reasonably necessary for that purpose; and the Master or Commander of such vessel shall also, before any of the passengers are allowed to disembark, if he shall be required so to do by such Commissioner of Police, Magistrate, or other Officer as aforesaid, deliver to him a list in writing of the passengers on board, specifying the ports or places at which they embarked, and the ports or places of their disembarkation or intended disembarkation, and answer to the best of his knowledge all such questions touching the passengers on board the said vessel, or touching those who may have disembarked in any part of British India, as shall be put to him by the Commissioner of Police, Magistrate,

Certain Officers may board vessels to ascertain whether Foreigners are on board.

Master of vessel to furnish list of passengers, and to give information respecting them.

or

ACT No. III OF 1864.

or other Officer as aforesaid. If any Foreigner on board such vessel in any part of British India shall refuse to give an account of his objects of pursuit in India, or if his account thereof shall not be satisfactory, the Officer may refuse to allow him to disembark, or he may be dealt with in the same manner as a Foreigner travelling in British India without a license.

Foreigner refusing to give account of himself, not to be allowed to disembark.

XXI. If the Master or Commander of a vessel shall wilfully give a false answer to any question which by Section XX of this Act he is bound to answer, or shall make any false report, he shall be held to have committed the offence specified in Section 177 of the Indian Penal Code.

Penalty for false answer or report.

XXII. If the Master or Commander of any vessel shall wilfully neglect or refuse to comply with the requisitions of this Act, he shall, on conviction before the Magistrate of the District or a Justice of the Peace, be liable to a fine not exceeding two thousand Rupees.

Penalty for neglect by Master of vessel to comply with requisitions of Act.

XXIII. Whoever intentionally obstructs any Officer in the exercise of any of the powers vested in him by this Act, shall be held to have committed the offence specified in Section 186 of the Indian Penal Code.

Penalty for obstructing Officers.

XXIV. All fines imposed under this Act may, according as they shall have been imposed for offences committed within or for offences committed beyond the limits of the Towns of Calcutta, Madras and Bombay, be recovered by a Magistrate of Police or by the Magistrate of the District in the manner prescribed in Section XXVI of Act XLVIII of 1860 (*to amend Act XIII of 1856 for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*).

Fines imposed under this Act how to be recovered.

XXV. The Governor-General of India in Council, or the local Government of any part of British India in which this Act may for the time being be in force, may exempt any person, or any class of persons, either wholly or partially, or temporarily or otherwise, from all or any of the provisions of this Act contained in any of the Sections subsequent to Section V, and may at any time revoke any such exemption.

Persons may be exempted from provisions of this Act.