

ACT No. XXI OF 1858.



PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 25th May 1858.)

AN ACT for the regulation of Native Passenger Ships, and of Steam Vessels intended to convey Passengers on coasting voyages.

WHEREAS abuses have occurred in the over-crowding of Ships conveying Native Passengers between Ports and places within the territories in the possession and under the Government of the East India Company and Ports and places in the Red Sea or Persian Gulf; and whereas it is expedient to prevent such abuses, and to provide for the regulation of all Ships carrying Native Passengers as aforesaid which shall depart from or arrive at any of the Ports or places within the said territories, and also for the regulation of Steam Vessels intended to carry passengers on coasting voyages; It is enacted as follows:—

I. Every Vessel carrying more than thirty passengers being natives of Asia or Africa, which may depart or proceed on any voyage from a Port or place within the said territories to any Port or place in the Red Sea or Persian Gulf, or which may arrive at any Port or place within the said territories from any Port or place in the Red Sea or Persian Gulf, having on board more than thirty such passengers, shall be deemed a Native Passenger Ship within the meaning of this Act.

II. No Native Passenger Ship shall depart or proceed upon any voyage to which this Act extends from any Port or place within the said territories other than such Ports and places as the local Government may from time to time appoint; and after any Native Passenger Ship has departed or proceeded upon any such voyage from a Port or place so to be appointed, no person

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person whatsoever shall be received on board as a passenger, except at some other duly appointed Port or place.

III. No Native Passenger Ship shall depart or proceed upon any such voyage from any Port or place appointed under this Act, until the Master shall have obtained a certificate from an Officer authorized to grant the same.

Not to sail without obtaining a certificate.

IV. If any Native Passenger Ship departs or proceeds upon a voyage from any Port or place within the said territories, or if any person is received as a passenger on board a Native Passenger Ship in contravention of the provisions of the last two preceding Sections, the Owner or Master shall be liable to a penalty not exceeding one hundred Rupees for every passenger conveyed on a Ship unlawfully departing or proceeding on such voyage, or for every passenger unlawfully received on board; and the Ship, if found within two years in any place within the said territories, may be seized and detained by any Chief Officer of Customs until the penalties incurred under this Act have been adjudicated, and the payment thereof, with all costs, have been enforced under the provisions of Section XXIX.

Penalty.

V. The local Government shall appoint such persons as it may deem proper to exercise or perform the powers and duties conferred or imposed by this Act.

Appointment of Officers.

VI. The Master of any Native Passenger Ship sailing from any Port or place appointed under this Act, shall give notice to the proper Officer that the Ship is to carry Native Passengers, and of her destination, and of the proposed day of sailing; such notice shall be given not less than three days before the proposed day of sailing.

Master to give notice of day of sailing &c.

VII. After receiving such notice, the Officer aforesaid, or any person authorized by him, shall be at liberty at all times to enter and inspect the Ship and the fittings, provisions, and stores therein; and any person impeding or refusing to allow such inspection, shall be liable, on conviction, to a penalty not exceeding five hundred Rupees for each offence.

Power to enter and inspect Ship.

VIII. The

VIII. The Officer aforesaid may, if he think fit, cause the Ship to be surveyed at the expense of the Master by a competent surveyor, who shall report whether the Ship is, in his opinion, sea-worthy and fit for her intended voyage.

Officer to be satisfied before giving certificate—

IX. The Officer aforesaid shall not give his certificate, unless he shall be satisfied—

1. That the Ship is sea-worthy and properly manned, equipped, fitted, and ventilated; and has not on board any cargo likely, from its quality, quantity, or mode of stowage, to prejudice the health or safety of the passengers.

2. That the space appropriated to the passengers in the between-decks contains at the least nine superficial and fifty-four cubical feet of space for every adult passenger on board, that is to say, for every passenger above twelve years of age, and for every two passengers between the ages of one year and twelve years.

3. That a space of four superficial feet per adult is left clear on the upper deck for the use of the passengers.

4. That provisions, fuel, and water have been placed on board, of good quality, properly packed, and sufficient to supply the passengers on board during the declared duration of the intended voyage, according to the scale hereinafter contained.

X. No such Ship shall carry any greater number of passengers than, together with the Master and crew, shall amount to the proportion of two persons for every three tons of the registered or estimated tonnage of the Ship.

XI. The Master of any such Ship, before departing or proceeding on any such voyage from any Port or place within the said territories, shall sign two lists, specifying (as accurately as may be) the names of all the passengers, and stating the number of the

the crew; and shall deliver them to the Officer aforesaid, who shall thereupon (after having first mustered the passengers and compared the number and names of such passengers with the lists) countersign and return to the Master one of such lists. The Master shall note in writing on such last mentioned list, and on any additional list to be made under this Act, the date and supposed cause of death of any passenger who may die on the voyage, and shall forthwith, on the arrival of the Ship at her destination or at any Port in the said territories at which it may be proposed to land passengers and before any passengers are landed, produce the list, with any additions thereto made, to any person lawfully exercising Consular authority on behalf of Her Majesty at the Port of arrival if it be a Foreign Port, or to the Chief Officer of Customs, or the Officer (if any) appointed under this Act, at any Port or place within the said territories at which it shall be intended to land the passengers or any of them. In case of non-compliance with any of the requirements of this Section on the part of the Master, or if any false entry be wilfully made in any such list, the Master shall be liable to a penalty not exceeding five hundred Rupees for each offence.

XII. If, after the Ship shall have departed or proceeded on any such voyage, any additional passengers are taken on board at a Port or place, within the said territories, appointed under this Act for the embarkation of passengers, or if such Ship shall, upon her voyage, touch or arrive at any such Port, having previously received on board additional passengers at any place out of the said territories, the Master shall obtain a fresh certificate from the Officer at such Port, and lists of all such additional passengers shall be made; and all the provisions hereinbefore contained in that behalf shall be applicable to any certificate to be granted or any list to be made under this Section.

Ship taking additional passengers and touching at intermediate Port.

XIII. If any Master of a Ship, after having obtained a certificate under Section III or Section XII of this Act, shall fraudulently do or suffer to be done any act or thing whereby such certificate shall become inapplicable to the altered state of the Ship, its passengers, or other matters to which such certificate relates, he shall be liable to a penalty not exceeding two thousand Rupees.

Penalty for fraudulent alteration in Ship after certificate obtained.

XIV. The

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XIV. The Chief Officer of Customs, or the Officer (if any) appointed under this Act, at any Port or place within the said territories at which the Ship shall touch or arrive, shall, with advertence to the requirements of this Act, transmit any particulars which he may deem important respecting the Ship and the passengers conveyed therein, to the Officer at the Port from which the Ship commenced her voyage, and also to the Officer at any other Port within the said territories where the passengers or any of them embarked.

Information to be transmitted to Ports of embarkation.

XV. In any proceeding for the adjudication of any penalty incurred under this Act, any document purporting to be a report of such particulars as are referred to in the last preceding Section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising Consular authority on behalf of Her Majesty in any Foreign Port, shall be received in evidence, if the same appears to have been officially transmitted to any Officer at or near the place where the proceeding under this Act is had.

Report of Consul, &c., to be admissible in evidence.

XVI. It shall be lawful for the local Government, by any proclamation to be from time to time issued for that purpose and published in the Government Gazette (if any), or in one of the public newspapers, to declare what shall be deemed, for the purposes of this Act, the duration of the voyage of any Native Passenger Ship from any Port or place to any other Port or place.

Length of voyage to be fixed by proclamation.

XVII. Every Native Passenger Ship, at the time of departure from the Port or place at which passengers shall be embarked under this Act, shall have on board good and wholesome provisions for the use and consumption of the passengers, over and above the victualling of the crew, to the amount or in the proportion following, that is to say, a supply of water to the amount of five gallons to every week of the computed voyage for every passenger on board, such water being carried in tanks or sweet casks, and a supply of rice, flour, oatmeal, or bread stuffs to the amount of seven pounds weight to every week of the computed voyage for every such passenger; provided always that, when any such Ship shall be destined to call at a Port or place in the course

course of her voyage for the purpose of filling up her water-casks, a supply of water at the rate before mentioned for every week of an average voyage to such Port or place of calling, shall be deemed to be a compliance with this Act. The provision of this Section regarding food shall be deemed to have been complied with in any case where it shall appear that, by the special authority of the local Government, any other articles of food were substituted for the articles above enumerated as being equivalent thereto.

XVIII. The requirements of this Act respecting the supply of provisions for passengers shall not, except as to the supply of water, be applicable to any passenger who may have contracted to furnish his own provisions.

Contract by passengers for supply of their own provisions.

XIX. If any Ship, bringing passengers from any Port or place in the Red Sea or Persian Gulf to any Port or place within the said territories, shall have on board a greater number of passengers or persons than in the proportion prescribed by this Act, the Master of such Ship shall, in addition to any other penalty which he may have incurred under the provisions of this Act, be liable, on conviction, to a penalty not exceeding fifty Rupees for each person in excess of such proportion.

Penalty on Ships bringing excessive number of passengers from certain foreign Ports to Indian Ports.

XX. Nothing in the foregoing provisions of this Act contained shall apply to any Ship-of-War or Transport belonging to or in the service of Her Majesty or of the East India Company, or to any Ship-of-War belonging to any Foreign Prince or State, or to any Ship under contract with the Government of any European State, or to any sea-going Steam Vessel regularly employed in the conveyance of the public mails under a contract.

Act not to apply to Ships-of-War &c.

Or to sea-going Steam Vessels conveying public mails.

XXI. Steam Vessels which may be intended to carry passengers on coasting voyages from or to any Port or place whatsoever within the said territories, shall, before proceeding on such voyages, be furnished with certificates to be granted in the manner hereinafter provided.

Certificates to be furnished to Coasting Steam Vessels intended to carry passengers.

XXII. Every

XXII. Every such certificate shall be granted at the discretion of an Officer authorized to grant the same by the local Government, and shall remain in force for the period therein specified, unless sooner revoked. The Officer so authorized shall not grant such certificate, or suffer the same to remain in force, unless he is satisfied, by inspection or survey (to be made at least twice in each year at the expense of the Master or Owner, and upon payment of a fee not exceeding twenty Rupees), that such Steam Vessel is sea-worthy and properly equipped with boats and otherwise, and that the engines and machinery are in a fit state to enable her to proceed on her voyage. The certificate shall state the limits (if any) within which the Vessel is to ply, and the number of Native Passengers which the Vessel is permitted to carry: such number to be subject to such conditions and variations according to the time of year, the nature of the voyage, and the cargo carried, as the case requires.

Certificates to Coasting Steam Vessels how to be granted, &c.

XXIII. The Owner or Master of any such Steam Vessel shall put up in a conspicuous part of the Ship, so as to be visible to persons on board the same, a copy of the said certificate, and shall cause it to be continued in such position so long as the certificate remains in force; and in default, such Owner or Master shall for each offence be liable to a fine not exceeding two hundred Rupees.

Copy of certificate to be placed in conspicuous part of Ship.

XXIV. If such Steam Vessel has on board thereof any number of passengers which, having regard to the time of the year and other circumstances, is greater than the number allowed by the certificate, the Owner or Master shall be liable to a fine not exceeding twenty Rupees for every passenger over and above the number allowed by the certificate.

Penalty for excess of number specified in certificate.

XXV. If any such Steam Vessel shall proceed on any such voyage without such certificate as aforesaid, the Owner or Master shall be liable to a fine not exceeding five hundred Rupees.

Penalty for proceeding without certificate.

XXVI. In the grant or revocation of any certificate whatsoever under this Act, the Officer granting the same shall be subject to the control of the local Government or of any intermediate authority which that Government may appoint.

Grant of certificate to be subject to control of Government.

XXVII. If

XXVII. If any Native Passenger in any Ship shall be landed at any Port or place other than the Port or place at which he may have contracted to land, unless with his previous consent, or unless such landing is made necessary by perils of the sea or other unavoidable accident, the Master shall, for each offence, be liable to a penalty not exceeding two hundred Rupees.

Penalty on landing passenger at a place other than that at which he has contracted to land.

XXVIII. Nothing in this Act contained shall take away or abridge any right of action which may accrue to any Native Passenger, or to any other person, in respect of the breach or non-performance of any contract made with the Master or Owner of the Ship or his Agent.

Passenger's right of action preserved.

XXIX. All offences against this Act shall be punishable in a summary manner by a Magistrate. If the person directed to pay any penalty is the Master or Owner of a Ship, and the same is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the said Ship, her tackle, furniture, and apparel.

Adjudication of offences and recovery of penalties.

Sum ordered to be paid leviable by distress on Ship.

XXX. For the purpose of the adjudication of penalties under this Act, any offence shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

Jurisdiction.

XXXI. The penalties to which Masters and Owners of Ships are liable by this Act, shall be enforced only by information laid at the instance of the Officers appointed to grant certificates under this Act; or at any Port or place where there is no such Officer, by the Chief Officer of Customs.

By whom proceedings for penalties to be instituted.

XXXII. Any Magistrate imposing any penalties under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect

Application of penalties.

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pect of which such penalty is imposed, or in or towards payment of the expenses of the proceedings.

XXXIII. The word "Magistrate" in this Act shall include a Magistrate of Police appointed under Act XIII of 1856, a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate, and at the Port of Aden the Political Resident and his Assistant.

Interpretation.

"Magistrate."

The words "local Government" shall mean the person or persons for the time being immediately administering the Executive Government of that portion of the said territories where the Port or place in question is situate.

"Local Government."

"Master."

The word "Master" shall include every person having command or charge of a Ship or Steam Vessel.

Commencement of Act.

XXXIV. This Act shall commence and take effect from and after the 1st day of August 1858.

