

ACT No. XIII OF 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 18th March 1864).

*An Act to consolidate and amend the laws relating to the Emigration of Native Laborers.*

WHEREAS it is expedient to consolidate and amend the laws relating to the Emigration of Native Laborers; It is enacted as follows:—

Preamble.

I. From the date on which this Act shall come into operation, the Acts or parts of Acts set forth in the Schedule (A) annexed to this Act shall be held to be and are hereby repealed to the extent mentioned in the said Schedule, except so far as they repeal any other Act or Regulation, or part of any other Act or Regulation.

Acts repealed.

II. 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 word "Emigrate" shall denote the departure of any Native of India out of British India for the purpose of laboring for hire in some other place; and the word "Emigrant" shall denote any Native of India under engagement to emigrate:

"Emigrate".

"Emigrant".

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

"The Magistrate of the District."

The

ACT No. XIII OF 1864.

The words "British India" shall denote the Territories vested in Her Majesty by the Statute 21 and 22 Vic, cap. 106, entitled "An Act for the better government of India," except the settlement of Prince of Wales' Island, Singapore, and Malacca :

The words "local Government" shall denote the person authorized by law to administer Executive Government in any part of British India :

The word "Section" shall denote a section of this Act :

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

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

Words importing the masculine gender shall include females.

III. Except under and in conformity with the provisions of this Act, it shall not be lawful to make any contract with any Native of India for labor to be performed in any place beyond British India, or to enable any Native of India to emigrate, or to assist any Native of India in emigrating: provided that nothing in this Act shall apply to any contract with any Native of India for labor to be performed in any Foreign Settlement on the main land of India or in any Native State in India, or to emigration to any such Settlement or State; or shall apply to any contract for labor to be performed in or to emigration to the Island of Ceylon; or shall apply to any contract with or the emigration of any Native Seaman or other person who of his own free will shall contract to navigate or serve on board of any vessel or who shall embark on board such vessel in pursuance of such contract, or any person who shall contract to serve as a menial servant only, and who shall embark as such menial servant.

IV. Contracts may be made with Natives of India to emigrate to any of the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, and Seychelles, and to the Danish Colony



ACT No. XIII OF 1864.

From Bombay	...	...	{ To Mauritius and Seychelles ... .. } { To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts and St. Croix .. .. } { To Natal ... .. }	{ Between the months of April and September inclusive, 5 weeks; and between the months of October and March inclusive, 6 weeks. } } 19 weeks. } 10 weeks.
-------------	-----	-----	---	--

IX. In every notification issued under Section V, there shall be stated the probable length of the voyages from Calcutta, Madras, and Bombay respectively, to every place to which emigration is by such notification authorized, and thereupon such period shall, for the purposes of this Act, be taken to be the probable length of such voyage.

Notification legalizing emigration to any new place shall give the probable length of the voyage.

X. The Government of every place to which emigration shall be lawful under this Act may, from time to time, nominate a person to act as Emigration Agent in Calcutta, Madras, and Bombay respectively, but such nomination shall be subject to the approval of the local Government. Every Emigration Agent shall be liable to removal by the Government which nominated him.

Appointment of Emigration Agent.

XI. Every Emigration Agent who at the time when this Act shall come into operation shall have been nominated by the Government of any of the Colonies enumerated in Section IV, shall be deemed to have been nominated under this Act.

The present Emigration Agents to be recognized as Emigration Agents under this Act.

XII. The remuneration to be given to Emigration Agents shall not depend upon, or be regulated by, the number of Emigrants sent by such Agents, but shall be in the nature of a fixed annual salary.

Remuneration of Agents.

XIII. It shall be lawful for the local Government to nominate a proper person to act as Protector of Emigrants at each of the three ports aforesaid, and with the sanction of the Governor-General of India in Council to assign to such person such salary and establishment as shall be deemed proper. Every Protector of Emigrants shall be subject to removal by the local Government to which he is subordinate.

Appointment of Protector of Emigrants.

XIV. No Protector of Emigrants nominated under this Act shall, except with the permission of the local Government, hold any other office under Government, or follow any other profession or occupation.

No Protector to hold other Office without permission.

XV. Every

ACT No. XIII OF 1864.

XV. Every Protector of Emigrants who at the time when this Act shall come into operation shall have been nominated by the local Government, shall be deemed to have been nominated under this Act.

Existing Protectors to be deemed Protectors under this Act.

XVI. Every Protector of Emigrants, in addition to any special duties assigned to him by this Act, shall so far as is in his power generally protect and aid with his advice or otherwise all Emigrants; and shall cause all the provisions of this Act to be duly complied with: he shall also inspect on arrival all vessels bringing return Emigrants to the port at which he is Protector, and enquire into the treatment received by such Emigrants both during the period of their service in the place to which they emigrated, and also during the voyage, and shall make a report thereon to the local Government, and he shall aid and advise such return Emigrants so far as he reasonably can when called upon by them to do so.

General duties of the Protector of Emigrants.

As to inspecting vessels with return Emigrants.

XVII. At each of the three ports aforesaid, it shall be lawful for the local Government to nominate a competent person to be Medical Inspector of Emigrants; and with the sanction of the Governor-General of India in Council to assign to the Medical Inspector so nominated such salary as shall be deemed proper.

Appointment of Medical Officer.

XVIII. In each of the Towns of Calcutta, Madras, and Bombay, or in the Suburbs of those Towns, a suitable depôt shall be established by the Emigration Agent of every place to which emigration shall be lawful under this Act, for the persons who shall be engaged as laborers for such place; and by the Emigration Agent nominated by the French Government under Act XLVI of 1860 (*to authorize and regulate the Emigration of Native Laborers to the French Colonies*), and Act VII of 1862 (*to amend Act XLVI of 1860*), for the persons who shall be engaged as laborers for the French Colonies.

Depôts to be established in Calcutta, Madras, and Bombay, for each Emigration Agency.

XIX. Every depôt shall be licensed by the Protector of Emigrants, after being inspected and approved of by him and by the Medical Inspector of Emigrants. No license shall be in force for a longer period than a year, and any license may be cancelled by the Protector of Emigrants if he shall consider that the depôt for which it was granted is unhealthy or in any respect has become unsuitable for the purpose for

Licensing of depôts.

ACT No. XIII OF 1864.

for which the depôt was established. For every license granted under this Section there shall be paid to the Protector a fee of ten Rupees.

XX. Every Protector of Emigrants and every Medical Inspector of Emigrants shall, from time to time, and at least once in every week, inspect the Emigrants in the various depôts for the reception of Emigrants about to embark from the port at which they are Protector and Medical Inspector respectively, and examine into the state of the depôts, and the manner in which the Emigrants are therein lodged, fed, clothed, and otherwise provided for and attended to.

XXI. It shall be the duty of the Medical Inspector to report to the Protector of Emigrants any circumstance which may come to his knowledge, showing that the depôt is not suitable for its purpose, or that the Emigrants are treated with any neglect or oppression.

XXII. Every Protector of Emigrants and every Medical Inspector of Emigrants shall be held to be a Public Servant within the meaning of the Indian Penal Code.

XXIII. It shall be the duty of every Emigration Agent, and of all persons in charge of or employed in any depôt, or in any vessel licensed to carry Emigrants as hereinafter provided, to give the Protector and the Medical Inspector every facility for making such inspections, examinations, and surveys as may be necessary or proper under this Act, and to afford them all such information as may be reasonably required by them.

XXIV. The Protector of Emigrants at each of the three ports aforesaid, shall license so many fit persons as shall to him seem necessary, to be Recruiters of laborers, and no person shall act or be employed as a Recruiter of laborers except under a license from a Protector of Emigrants.

XXV. Every Recruiter shall be licensed to obtain laborers for some particular place to which emigration shall be lawful under this Act, and no license to obtain laborers for any place shall be granted except on the application of the Emigration Agent of such place.

XXVI. No

ACT No. XIII of 1864.

XXVI. No license shall be in force for a longer period than one year; and in case of misconduct on the part of any Recruiter, the Protector of Emigrants may cancel his license before the expiration of the period for which it was granted.

Duration of license, and cancellation in case of misconduct.

XXVII. Every license shall be in the form set forth in the Schedule (B) to this Act annexed. For every license there shall be paid to the Protector a fee of ten Rupees.

Form of license, and fee to be paid.

XXVIII. Every person holding a license as a Recruiter of laborers shall wear a badge bearing the following inscription in English, and in the vernacular language of the Town, District or Districts in which he is licensed to engage laborers—[*Recruiter of Emigrants for the Mauritius (or other place as the case may be)*].

Recruiter to wear badge.

XXIX. No Recruiter shall engage or attempt to engage laborers in any District or in the Towns of Calcutta, Madras or Bombay, without having first exhibited his license to the Magistrate of such District, or a Magistrate of such Town, and obtained the countersignature of such Magistrate thereupon. Such countersignature shall be given, provided that the license is in force at the time.

Recruiter to have his license countersigned by a Magistrate where he is recruiting.

XXX. Every Native of India, who shall in any place other than the Towns of Calcutta, Madras or Bombay enter into any engagement with a Recruiter to emigrate, shall prior to leaving the District within which the engagement was entered into appear with the Recruiter before the Magistrate of such District, and no Recruiter shall remove such Emigrant from the said District until he shall have so appeared. Upon so appearing, the Magistrate shall examine the intending Emigrant with reference to his engagement; and if it appears that he comprehends the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Magistrate shall register in a book to be kept for the purpose, in such form as the local Government shall prescribe, the name, name of the father, and the age of such Emigrant, and the name of the village or place of which such Emigrant is a resident, the Emigration depôt to which it is intended he shall proceed, and the rate of wages and period of service, if any, agreed upon between the Emigrant and the Recruiter. If

Natives engaging to emigrate not to leave their district without appearing before Magistrate.

Examination and registration.

the

ACT No. XIII OF 1864.

the Magistrate shall be of opinion that the intending Emigrant does not comprehend the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name. A copy of every registration under this Section, written on substantial paper which shall not require a stamp, shall be furnished by the Magistrate to the Emigrant registered.

XXXI. For the registration of every Emigrant, the Recruiter shall pay to the Magistrate a fee of one Rupee. On proof of the desertion of any Emigrant before reaching the depôt for which he was registered, the fee paid in respect of such Emigrant may be refunded by the Magistrate to the Recruiter by whom it was paid, under such Rules as shall from time to time be made in that behalf by the Governor-General of India in Council.

XXXII. Authentic copies of every registration shall be forthwith forwarded by the Magistrate to the Emigration Agent at the depôt to which the person named therein shall have been engaged to proceed, and to the Protector of Emigrants at the intended port of embarkation.

XXXIII. Every Native of India, who shall in the Towns of Calcutta, Madras or Bombay enter into any engagement with a Recruiter to emigrate, shall within forty-eight hours of making such engagement appear with the Recruiter before the Protector of Emigrants in such Town, and no Recruiter shall remove such Emigrant from the said Town, or to any emigration depôt, until he shall have so appeared. Upon his so appearing, the Protector of Emigrants shall examine the intending Emigrant with reference to his engagement; and if it appears that he comprehends the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Protector of Emigrants shall register in a book to be kept for the purpose, in such form as the local Government shall prescribe, the name, the name of the father, and the age of such Emigrant, and the name of the village or place of which such Emigrant is a resident, the Emigration depôt to which it is intended he shall proceed, and the rate of wages and period of service, if any, agreed upon between the Emigrant and the Recruiter. If the Protector of Emigrants shall be of opinion that the intending Emigrant does not comprehend the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he



ACT No. XIII OF 1864.

XXXVIII. The copy of the registration of every Emigrant, received by the Emigration Agent from the Magistrate or from the Protector of Emigrants, shall as soon as conveniently may be after the arrival of the Emigrant be exhibited to the Medical Inspector of Emigrants; and the Emigrant shall be examined by the Medical Inspector to ascertain if he is in a fit state of health to emigrate to the place to which he has contracted to proceed. The Medical Inspector, if satisfied of his fitness, shall give a certificate thereof to the Emigration Agent: if satisfied of his unfitness, he shall give a certificate thereof to the Protector of Emigrants.

Copy of registration to be exhibited to Medical Inspector.

And Emigrants to be inspected by him.

XXXIX. If the Medical Inspector shall certify that any Emigrant is not in a fit state of health to emigrate to the place to which he has contracted to proceed, or if any irregularity shall have occurred in the recruitment of any Emigrant, it shall be lawful for the Protector of Emigrants to order the Emigration Agent in whose depôt such Emigrant may be, forthwith to pay to him, the Protector of Emigrants, such reasonable sum as shall be necessary to enable the laborer to return to the place where he was registered, and the Protector may take any steps he thinks necessary for the conveyance of the laborer to such place.

If unable to proceed from had health, or if irregularly recruited, Emigrant to be sent back to place where he was registered.

XL. On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any such sum of money as in the last preceding Section mentioned, it shall be lawful for the Protector to pay the same to or on behalf of the Emigrant, and every sum so disbursed shall be recoverable by the Protector, with six per cent. interest from the date of disbursement, from the Emigration Agent on whose default it may be paid, as money paid to the use of such Emigration Agent. No further proof shall be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay the same, and that the Emigration Agent for a space of twenty-four hours made default in complying therewith. Provided that any Emigrant who from his state of health is in the opinion of the Medical Inspector unfit to undertake the journey back to the place where he was registered, shall in addition to his being conveyed back at the expense of the Emigration Agent, be entitled to continue in the depôt and to be fed, clothed, lodged and attended to there, by and at the expense of the Emigration Agent, until such time as the Protector shall otherwise order.

Provision for case of Emigration Agent failing to pay sum required to enable Emigrant to return.

XLI. The

ACT No. XIII OF 1864.

he shall refuse to register his name. A copy of every registration under this Section, written on substantial paper which shall not require a stamp, shall be furnished by the Protector to the Emigrant registered.

XXXIV. For the registration of every Emigrant under the last preceding Section, the Recruiter shall pay to the Protector of Emigrants a fee of one Rupee. On proof of the desertion of any Emigrant before reaching the depôt for which he was registered, the fee paid in respect of such Emigrant may be refunded by the Protector to the Recruiter by whom it was paid, under such rules as shall from time to time be made in that behalf by the Governor-General of India in Council.

XXXV. An authentic copy of every registration by a Protector of Emigrants shall be forthwith forwarded by the Protector to the Emigration Agent of the place for which the person named therein shall have been engaged.

XXXVI. 1. Every Emigrant recruited under the provisions of this Act, shall be conveyed by land or river with all convenient despatch to the depôt at the port of embarkation, established by the Emigration Agent of the place to which such Emigrant has contracted to emigrate.

2. The registered Emigrants engaged by any Recruiter shall, while proceeding to a depôt, be accompanied throughout the journey either by the Recruiter himself or by a competent person appointed by him with the approval of the Magistrate by whom the Emigrants may have been registered. The Magistrate shall give to the person so appointed a certificate under his signature, stating that he has been appointed for the journey to the depôt.

3. Every Recruiter by or through whom Emigrants may be forwarded to a depôt, shall throughout their journey provide them with suitable lodging and food.

XXXVII. The arrival of each Emigrant at a depôt shall immediately be reported by the person in charge of the depôt to the Emigration Agent, and by such Agent to the Protector of Emigrants.

XXXVIII. The

ACT No. XIII OF 1864.

XII. The Emigration Agent, in the presence of the Protector of Emigrants and within forty-eight hours after the arrival of each Emigrant at the depôt, shall ascertain by personal communication with such Emigrant whether or not he has been properly fed and otherwise properly treated on his journey to the depôt. The Emigration Agent shall also, in the presence of the Protector and within such time as aforesaid, examine the copy of the registration furnished to the Emigrant under Section XXX or Section XXXIII. If for any reason further enquiry be necessary, such enquiry shall be made forthwith. Unless the Emigration Agent shall with the consent of the Protector refuse to recognize or to be bound by the contract entered into by the Recruiter with the Emigrant, as shown by the copy of the registration produced by the Emigrant, such copy if it be a copy furnished under Section XXX shall be countersigned by both the Emigration Agent and the Protector, and if it be a copy furnished under Section XXXIII shall be countersigned by the Emigration Agent alone; and the copy so countersigned, under whichever Section it may have been furnished, shall be delivered back to the Emigrant. If the Emigration Agent shall, without the consent of the Protector, refuse to be bound by the contract entered into by the Recruiter with the Emigrant, the Protector may thereupon order the Emigration Agent forthwith to pay to him, the Protector of Emigrants, such reasonable sum as shall be necessary to enable the Emigrant to return to the place where he was registered, and on failure of the Emigration Agent to pay such sum within twenty-four hours of his being ordered so to do, the Protector may pay the same to or on behalf of the Emigrant, and all the provisions of the last preceding Section as to sums paid by the Protector shall be applicable, so far as the circumstances of the case will permit, to sums paid by him under this Section. The Protector shall also, in every case in which it shall seem to him proper to do so, institute a suit on behalf of the Emigrant against the Emigration Agent, for the recovery of damages for the breach of contract committed by the Emigration Agent. In every such suit, the contract entered into by the Recruiter shall be deemed to have been entered into by and to be binding on the Emigration Agent.

Duty of Emigration Agent.

Provision for case of Agent refusing without consent of Protector to be bound by contract made by Recruiter.

XLII. After the examination in the last preceding Section provided, and if the Medical Inspector shall have given a certificate of the fitness of the Emigrant to emigrate, the Emigration Agent shall deliver to the Emigrant a Pass, countersigned by the Protector of Emigrants as hereinafter provided, stating

After examination and Medical Inspector's certificate, Emigration Agent to grant a Pass.

the

ACT No. XIII or 1864.

the name and age of the Emigrant and the name of his father, and certifying that he is in a fit state of health to emigrate to the place to which he has contracted to go.

XLIII. The Protector of Emigrants shall attend personally at the examination and passing of Emigrants by the Emigration Agent under Sections XLI and XLII, and shall see that the Emigration Agent makes all such enquiries of the Emigrants as it may be his duty to make ; and if such Protector is satisfied with such enquiries, but not otherwise, he shall countersign the Pass granted by the Emigration Agent.

Protector of Emigrants to attend personally at examination and passing of Emigrants.

And to countersign Pass.

XLIV. If any Emigrant shall without good and sufficient cause refuse or neglect to embark when called upon by the Emigration Agent so to do, it shall not be lawful to compel such Emigrant to embark or to put him on board-ship against his will, or to detain him against his will at the depôt or elsewhere : but nothing in this Section shall be taken to diminish or affect in any way the legal liabilities, Civil or Criminal, of such Emigrant incurred by him by reason or in respect of his refusal or neglect aforesaid. Every case in which an Emigrant is charged before a Magistrate of a Presidency Town with refusing or neglecting to embark without good and sufficient cause, shall be heard and determined by such Magistrate in a summary manner, and every such laborer shall, on conviction, be punished in the manner provided in Section CCCCXCII of the Indian Penal Code for the punishment of offences under that Section.

Emigrants refusing to embark, not to be compelled to embark.

Proviso.

XLV. Emigrants may leave India for any place East of the Cape of Good Hope to which emigration may be lawful under this Act, at all times of the year. For any such place West of the Cape of Good Hope, Emigrants may leave only between the thirty-first of July and the sixteenth of March, unless they embark in vessels using steam power, in which case they may leave at any time of the year.

Time of sailing for places East of Cape of Good Hope.

For other places.

XLVI. 1. It shall not be lawful to receive any Emigrant on board any vessel unless a license to carry Emigrants in such vessel shall have been obtained from the local Government, and the granting or withholding any such license shall be entirely discretionary with the local Government.

Emigrant not to be received on board an unlicensed ship.

2. The

ACT No. XIII of 1864.

2. The Master or owner of any vessel who is desirous of obtaining a license to carry Emigrants in such vessel, shall apply in writing through the Protector of Emigrants to the local Government for such license.

Application for license.

3. Every application for a license shall state the number of men, women, and children proposed to be carried, and the tonnage and other particulars respecting the vessel.

What to contain.

4. The Protector of Emigrants shall cause the vessel to be carefully surveyed by a competent person, with a view to ascertain her sea-worthiness and the extent and nature of her accommodation for Emigrants, and to ascertain that she is properly ventilated and is supplied with all the requisite tackle for her voyage.

Survey of vessel.

5. The Protector of Emigrants shall make a full report on the survey to the local Government; and if he is of opinion that the vessel is in all respects suitable for the carrying of Emigrants under this Act, but not otherwise, he shall give a certificate to that effect to the Master of the vessel.

Report after survey, and certificate to Master.

6. In consideration of his obtaining a license to carry Emigrants, the Master of every vessel intended to carry Emigrants shall, upon the requisition of the Protector of Emigrants and before any Emigrant shall embark on board of such vessel, execute in duplicate a bond, in such form as the local Government shall prescribe, binding himself and his owners in a penal sum of ten thousand Rupees to conform to the several conditions in this Act provided. It shall be the duty of the Protector of Emigrants to require the Master to execute such bond as aforesaid in duplicate, and to forward one copy of it to the Government of the place to which the Emigrants are to be carried, and the other copy of it to the local Government.

Bond to be executed by Master.

XLVII. 1. No certificate under the last preceding Section shall be granted, unless there shall be provided for the Emigrants, either between decks or in cabins on the upper deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

Space and accommodation required on board Emigrant ships.

2. No

ACT No. XIII OF 1864.

2. No compartment shall take more than one adult Emigrant for every ten superficial feet on deck, and for every cubic space of seventy-two feet.

3. A distinct and separate place shall be fitted up for a hospital in every Emigrant Ship.

4. Women and children shall occupy a compartment of the vessel distinct and separate from the compartments of the single men.

5. An Emigrant above the age of ten years shall for the purposes of this Act count as an adult, and two children from one to ten years of age shall count as one adult.

XLVIII. 1. There shall be actually laden and on board of every vessel carrying Emigrants, at the time of the departure of such vessel from the port at which the Emigrants shall embark, in such quantity and of such description and quality as may be prescribed by any rule framed by the Governor-General of India in Council under Section LXIII, good and wholesome provisions for the use and consumption of the said Emigrants, with fuel for cooking the same, over and above the victualling of the Captain, Officers and crew, and of the Cabin and other passengers, if any, and a supply of water, which shall be carried in tanks or casks to be approved by the Protectors of Emigrants, to the amount of seven gallons for every week of the computed voyage for every Emigrant on board such ship or vessel. When casks are used they shall be sweet and tight, of sufficient strength, and if of wood properly charred inside, and shall not be capable severally of containing more than three hundred gallons each: the staves of the water casks shall not be made of fir, pine or soft wood.

2. Every such vessel shall, at the time of departure aforesaid, have actually on board and shall carry with her a properly qualified European or Native Surgeon, and such Medicines and other stores in such quantity and of such quality as may be prescribed by any Rules made under Section LXIII.

3. When any vessel shall be destined to call at a port or place in the course of her voyage for the purpose of filling up her tanks or casks, a supply of water at the rate hereinbefore mentioned, for every week of the probable voyage to such port or place of calling, shall be deemed to be a compliance with this Section. The probable length of the voyage to such port or place of calling shall be determined from

ACT No. XIII OF 1864.

from time to time by the Protector of Emigrants, subject to the approval of the local Government.

4. When any such vessel is fitted with Normandy's apparatus, or other apparatus approved by the Protector of Emigrants, for distilling sea water, and with proper and sufficient means for working the same, a reduction shall be allowed of one-third in the quantity of water required under this Section.

5. It shall be the duty of the Protector of Emigrants and of the Medical Inspector of Emigrants to see personally that all the provisions of this Section are complied with.

XLIX. Before any vessel carrying Emigrants clears out for any place westward of the Cape of Good Hope, between the first day of March and the fifteenth day of September, the Protector of Emigrants shall personally see that every Emigrant is supplied with at least one extra double blanket, and that the same is placed with his other clothing or luggage. Every Emigrant shall be allowed to make use of such double blanket so long as the vessel is outside of the Tropics.

L. Before any vessel licensed to carry Emigrants shall be cleared out from the port of Calcutta, Madras or Bombay, it shall be necessary for the Master of such vessel to obtain from the Protector of Emigrants at the port of clearance, and from the Emigration Agent for the place to which the Emigrants are intended to proceed, certificates under the hands of such Protector and Emigration Agent respectively, to the effect following, that is to say:—that such Protector and Emigration Agent have, in respect of the Emigrant's proceeding in such vessel, done all which is hereinbefore by this Act required to be done on the part of such Protector and Emigration Agent respectively; and that all the directions contained in this Act, for ensuring the health, comfort, and safety of the Emigrants, have been duly complied with, as well as all such rules as the Governor-General of India in Council shall from time to time frame under Section LXIII.

LI. The Protector of Emigrants shall, from the report of the Medical Inspector and by personal communication with every Emigrant before embarkation, ascertain that the Emigrant is in good health and not incapacitated from labor

by

ACT No. XIII of 1864.

7. And generally to provide for the security, well-being and protection of Emigrants.

All such Rules shall be published in the Gazette of India and shall have the same force and effect as if they were contained in this Act.

LXIV. Whenever the Governor-General of India in Council shall have reason to believe, that in any place to which emigration is lawful under this Act, proper measures have not been taken for the protection of Emigrants immediately upon their arrival in such place or during their residence therein, or for their safe return to India, or to provide a return passage to India for any such Emigrants at or about the time at which they are entitled to such return passage, it shall be lawful for the said Governor-General of India in Council, by notification published in the Gazette of India, to declare that emigration to such place shall cease and be prohibited from a certain day to be specified in the notification.

Governor-General in Council may prohibit emigration of Native laborers to any place to which emigration is allowed.

LXV. After any notification shall have been published under the last preceding Section, emigration to such place as is specified in such notification shall be suspended from the day specified in the notification: but such suspension shall not affect any act done, offence committed, or proceedings commenced before such suspension.

Emigration to place mentioned to be suspended from the day specified in the notification.

LXVI. During the time of such suspension, any provisions of this or of any other Act in force for the time being, prohibiting emigration, or the aiding or abetting of emigration, or the making of any contract for labor to be performed by any Native of India out of the British Territories in India, shall take effect and be in force so far as relates to the place specified in the notification, in the same manner and to the same extent as if emigration to such place had never been declared to be lawful.

During such suspension, all the laws against emigration shall be in force as to the place specified in the notification.

LXVII. Whenever the Governor-General of India in Council shall be satisfied that, in the place specified in any notification under Section LXIV, proper measures have been taken and will be adopted for the protection of Emigrants immediately upon their arrival thereat and during their residence therein, and for their safe return to India, and for providing return passages to India for such Emigrants at or about

Revocation of suspension.



ACT No. XIII or 1864.

about the time at which they are entitled to such return passages, it shall be lawful for the said Governor-General of India in Council to notify in the Gazette of India that emigration to such place shall again be allowed from a day to be specified in such notification; and thereupon all the provisions of this or any other Act in force for the time being authorizing emigration to such place shall, from the day so specified, be revived and have the same force and effect as if such emigration had not been suspended, except as to acts done, offences committed, and proceedings commenced during the time of such suspension.

LXVIII. All fees received by any Magistrate, Protector of Emigrants, or other Officer under this Act, shall be accounted for to Government in such manner as the Governor-General of India in Council may direct.

Fees received are to be accounted for to Government.

LXIX. Whoever shall, except under and in conformity with the provisions of this Act, make any contract with any Native of India for labor to be performed in any place beyond British India to which emigration is not authorized under this Act, or under the said Acts XLVI of 1860 and VII of 1862, shall be deemed to have committed the offence specified in Section 363 of the Indian Penal Code: and whoever shall knowingly enable or assist any Native of India to emigrate to any such place, or aid in or abet the emigration of any Native of India to any such place, shall be deemed to have abetted the commission of that offence.

Penalty for making unlawful contract of labor.

LXX. Whoever not being a Recruiter duly licensed under this Act, shall act or be employed as a Recruiter of laborers, or shall contrary to the provisions of this Act enter into any contract with a Native of India for labor to be performed by such Native of India in any place beyond British India (whether emigration to such place is or is not authorized under this Act, or under the said Acts XLVI of 1860 and VII of 1862), shall be liable to a fine not exceeding five hundred Rupees.

Penalty for recruiting without being licensed.

LXXI. Whoever being a duly licensed Recruiter, shall remove any Emigrant whom he may engage in any District or place other than the Towns of Calcutta, Madras, or Bombay, from such District or place, without such Emigrant having appeared along with the Recruiter before the Magistrate of the District in order that such person might be examined and registered

Penalty for Recruiter failing to take the laborers he has engaged before the Magistrate of the District, or the Protector of Emigrants.

ACT No. XIII of 1864.

registered; and whoever shall remove any Emigrant whom he may engage in any one of the Towns of Calcutta, Madras, or Bombay, from such Town, or to an Emigration depôt, without such Emigrant having appeared with the Recruiter before the Protector of Emigrants in order that such person might be examined and registered; and whoever shall by means of intoxication,

For inducing laborer to contract by fraud, &c.

violence, fraud, or false pretences induce any Native of India to enter into a contract for labor to be performed by him in any place to which emigration shall be lawful under this Act, or to proceed to any such place without having entered into any contract; and whoever shall fail to supply any Emigrant whom he shall have engaged,

For not supplying proper food, &c.

and who shall be registered, with suitable food, or shall otherwise ill treat such Emigrant on his journey to the depôt; and whoever shall forward, send, or convey any such Emigrant otherwise than is provided in Section XXXVI, or to any house or place in or near

And for not taking the laborer to the depôt for the place at which he has contracted to labor.

the Towns of Calcutta, Madras, or Bombay respectively, other than the depôt for the Emigrants for the place at which such Emigrant shall have contracted to labor—shall be liable to a fine not exceeding five hundred Rupees.

LXXII. Whoever being a duly licensed Recruiter, shall forward or send

Penalty for forwarding laborers, or allowing them to go, without being duly registered.

any Emigrant from the District or Town in which he has entered into an engagement, to any emigration depôt, without such Emigrant having been duly registered in accordance with the provisions of Sections XXX and XXXIII; and whoever being a duly licensed Recruiter, shall induce or knowingly permit any such Emigrant to leave such District or Town, or to proceed to any emigration depôt, for the purpose of emigrating to any place, without the Emigrant being duly registered as aforesaid—shall be liable to a fine not exceeding five hundred Rupees.

LXXIII. Whoever without lawful authority, shall issue any written per-

Penalty for false representation of Government authority.

wannah or order to the Police to assist himself or any other person to procure laborers to proceed to any place beyond British India, or shall falsely represent that such laborers are required by the Government or are to be engaged on behalf of Government, shall be liable to a fine not exceeding five hundred Rupees.

LXXIV. If the Master of any vessel which shall not have been licensed

Penalty for receiving Emigrants in an unlicensed vessel.

as provided in Section XLVI, shall knowingly receive any Emigrant on board in order to convey such Emigrant

ACT No. XIII OF 1864.

Emigrant to any place contrary to the provisions of this Act, such Master of such vessel shall be liable to simple or rigorous imprisonment for a period not exceeding one year, and also to a fine not exceeding one thousand Rupees for every such Emigrant received on board, and the vessel shall be liable to be forfeited.

LXXV. If the Master of any vessel shall, at the port of Calcutta, the port of Madras, or the port of Bombay, clear such vessel for any place to which emigration shall be lawful under this Act and take on board any Emigrant without having fully complied with every particular required in Sections XLVIII and L, he shall be liable to a fine not exceeding two hundred Rupees for every Emigrant so taken on board.

Penalty for clearing ship without complying with rules.

LXXVI. If the Master of any vessel shall, after having cleared such vessel for any place to which emigration shall be lawful under this Act, take on board any Emigrant without such Emigrant having been duly entered in the lists mentioned in Sections LIII and LIV, and in the manner in those Sections prescribed, he shall be liable to a fine not exceeding two hundred Rupees for every Emigrant so taken on board his vessel.

Penalty for taking on board after clearance, Emigrants not entered in list.

LXXVII. If the Master of any vessel cleared for any place to which emigration shall be lawful under this Act, shall after having obtained a certificate in accordance with the provisions of Section XLVI fraudulently do, or suffer to be done, any act or thing whereby such certificate shall become inapplicable to the altered state of the vessel, or other matter to which such certificate relates, such Master shall be liable to a fine not exceeding five thousand Rupees, besides incurring a forfeiture of any bond executed in consideration of any license obtained for the vessel as originally described.

Penalty for fraudulent acts whereby certificate becomes inapplicable to the altered state of the vessel.

LXXVIII. If the Master of a vessel sailing from the port of Calcutta, licensed under Section XLVI and sailing with Emigrants on board, shall without reasonable excuse cause or allow his vessel to proceed from Garden Reach to Sea, or to proceed any part of the distance between Garden Reach and Sea, without his vessel being under tow of a competent Steamer, or if such vessel shall not have left Garden Reach and proceeded on her voyage within the time prescribed in Section LIX,

Penalty for proceeding to Sea without steam.

the

ACT No. XIII of 1864.

the Master of such vessel shall be liable to a fine not exceeding one thousand Rupees.

LXXIX. All the powers vested by law in the Officers of Customs in regard to the searching and detention of vessels, or otherwise, for the prevention of smuggling on board thereof, may be exercised by such Officers for the prevention of the illegal embarkation of Emigrants on board vessels bound for any place to which emigration shall be lawful under this Act, and of other offences against this Act; and all Pilots in the service of or licensed by Government are hereby vested with the same powers and charged with the same duties as Officers of Customs in this behalf.

LXXX. Any Officer of Customs or Pilot who shall wilfully make a false, erroneous, or incomplete report of the Emigrants on board of any vessel, or who shall connive at the unauthorized embarkation of any Emigrants, shall be liable, besides dismissal, to a fine of five hundred Rupees.

LXXXI. All prosecutions under this Act shall be instituted, on information laid at the instance of an Emigration Agent, or of a Protector of Emigrants, or of an Officer appointed for the purpose by the local Government, before a Magistrate of Police, or before the Magistrate of the District, according as they shall be instituted for offences committed within or for offences committed beyond the limits of the Towns of Calcutta, Madras, and Bombay. All fines imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of the Officer imposing the fine. When a warrant of distress is issued, the said Officer may order the offender to be detained and kept in safe custody until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such recognizance; but if, before issuing such warrant of distress, it shall appear to the Officer imposing the fine, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Officer whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall

Customs Officers and Pilots may search and detain for purposes of this Act.

Penalty for false report by Customs Officer or Pilot.

Prosecutions under this Act where and how to be instituted.

Levy of fines.

shall

ACT No. XIII of 1864.

shall have been issued and upon the return thereof such insufficiency as aforesaid shall be made to appear to the Officer imposing the fine, he shall, by warrant, commit the offender to jail, there to be imprisoned with or without hard labor, for any term not exceeding two months where the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four months where the amount shall not exceed one hundred Rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount. The fine or any part thereof which remains unpaid may be levied at any time within six years after the passing of the order imposing it; and the death of the offender does not discharge from the liability any property which would after his death be legally liable for his debts.

LXXXII. It shall be lawful for the local Government from time to time to authorize any person invested with the powers of a Magistrate as defined in the Code of Criminal Procedure, to perform the duties and exercise the powers by this Act assigned to and conferred on the Magistrate of the District: and every person so authorized shall in all respects for the purposes of this Act be deemed to be included in the words "the Magistrate of the District."

Any person specially authorized may exercise the powers of the Magistrate of the District under this Act.

LXXXIII. So much of Section VIII of Act XLVI of 1860 as enacts that a fee not exceeding one Rupee per Emigrant as may be regulated from time to time by the local Government shall be demandable in respect of every license in the said Section mentioned, is hereby repealed. Save as aforesaid, nothing in this Act shall be held to repeal the said Act XLVI of 1860, or Act VII of 1862; but Section XIX to Section XLI, both included, being provisions for regulating the recruitment of Native laborers which will have effect on the recruitment of laborers for British Colonies, shall, as provided in Section IV of the said Act XLVI of 1860, apply to emigration under the said Acts XLVI of 1860 and VII of 1862.

This Act, except certain Sections, not to apply to emigration to the French Colonies.

LXXXIV. This Act shall come into operation on the first day of July 1864.

Commencement of Act.

LXXXV. Nothing in this Act or in any Rule to be made by the Governor-General of India, in Council under Section LXIII, shall apply to any vessel in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's vessels.

Act and Rules made under it not to apply to certain vessels.

SCHEDULE

ACT No. XIII OF 1864.

SCHEDULE A.

Number and date of Acts.	Title.	Extent of Repeal.
Act XIV. 1839 ...	Relating to contracts for labour in British or Foreign Colonies.	The whole Act.
Act XV. 1842 ...	For regulating the Emigration of the Native Inhabitants of the Territories under the Government of the East India Company to the Island of Mauritius.	The whole Act.
Act XXI. 1843 ...	For regulating the Emigration of Laborers from India to Mauritius.	The whole Act.
Act XXI. 1844 ...	For regulating the Emigration of the Native Inhabitants of the Territories under the Government of the East India Company to Jamaica, British Guiana, and Trinidad.	The whole Act.
Act XXV. 1845 ...	For regulating the time of sailing of ships carrying Emigrants from Madras to Jamaica, British Guiana, and Trinidad.	The whole Act.
Act VIII. 1847 ...	For rendering lawful the Emigration of Laborers from the Port of Madras, in the Presidency of Fort St. George to Mauritius.	The whole Act.
Act XIII. 1847 ...	For repealing Act XIV of 1839, so far as it relates to the Emigration of Natives of India to the Island of Ceylon.	The whole Act.
Act IV. 1852 ...	To amend the law relating to Emigrant Vessels and the Emigration of Laborers.	The whole Act.
Act XXIV. 1852 ...	For amending and explaining Act XIV. 1839, and for the better prevention of crimping.	The whole Act.
Act XXXI. 1855 ...	Relating to the Emigration of Native Laborers to the British Colonies of Saint Lucia and Grenada.	The whole Act.
Act XIX. 1856 ...	To enable the Governor-General of India in Council to suspend the operation of certain Acts relating to the Emigration of Native Laborers.	So much of the Act as is not incorporated in Acts XLVI of 1860 and VII of 1862.
Act XII. 1860 ...	Relating to the Emigration of Native Laborers to the British Colony of St. Vincent.	The whole Act.
Act XXXIII. 1860..	Relating to Emigration to the British Colony of Natal.	The whole Act.

Number

ACT No. XIII OF 1864.

Number and date of Acts.	Title.	Extent of Repeal.
Act XLI. 1860 ...	Relating to the Emigration of Native Laborers to the British Colony of Saint Kitts.	The whole Act.
Act XLIX. 1860 ...	Relating to vessels carrying Emigrant Passengers to the British Colonies.	The whole Act.
Act XXII. 1862 ...	Relating to Emigration to the British Colonial Dependency of Seychelles.	The whole Act.
Act VII. 1863 ...	Relating to the Emigration of Native Laborers to the Danish Colony of Saint Croix.	The whole Act.

SCHEDULE B.

Office of the Protector of Emigrants at the Port of

A. B. is hereby licensed under Act XIII of 1864 of the Governor-General of India in Council to be a Recruiter for engaging persons to proceed to for the purpose of laboring for hire.

This license will be in force for one year only from this date.

Dated the      day of

(Signed) C. D.,  
*Protector of Emigrants.*