

1925.

THE PARLIAMENT OF THE COMMONWEALTH

HOUSE OF REPRESENTATIVES.

## IMMIGRATION BILL 1925.

MEMORANDUM SHOWING THE ALTERATIONS PROPOSED TO  
BE MADE IN THE PRINCIPAL ACT.*(Circulated by the Prime Minister, the Rt. Hon. S. M. Bruce.)*

The words printed in erased type are words proposed to be omitted from the Principal Act.

The words printed in black type are words proposed to be added to the Principal Act.

## PROHIBITED IMMIGRANTS.

Section 3 of the Principal Act, as proposed to be amended by clause 2 of the Bill, will read as follows:—

3. The immigration into the Commonwealth of the persons described in any of the following paragraphs of this section (hereinafter called "prohibited immigrants") is prohibited, namely:—

(a) any person who fails to pass the dictation test: that is to say, who, when an officer or person duly authorized in writing by an officer dictates to him not less than fifty words in any prescribed language, fails to write them out in that language in the presence of the officer or authorized person.

No regulation prescribing any language or languages shall have any force until it has been laid before both Houses of the Parliament for thirty days and, before or after the expiration of such thirty days, both Houses of the Parliament, by a resolution, of which notice has been given, have agreed to such regulation;

(b) any person not possessed of the prescribed certificate of health;

(c) any idiot, imbecile, feeble-minded person, epileptic, person suffering from dementia, insane person, person who has been insane within five years previously, or person who has had two or more attacks of insanity;

- (d) any person suffering from a serious transmissible disease or defect ;
- (e) any person suffering from pulmonary tuberculosis, trachoma, or with any loathsome or dangerous communicable disease, either general or local ;
- (f) any person who, in the opinion of an officer, is likely, if he enters the Commonwealth, to become a charge upon the public by reason of infirmity of mind or body, insufficiency of means to support himself, or any other cause ;
- (g) any person suffering from any other disease, disability, or disqualification which is prescribed ;
- (ga) any person who has been convicted of a crime and sentenced to imprisonment for one year or more, unless five years have elapsed since the termination of the imprisonment ;
- (gb) any person who has been convicted of any crime involving moral turpitude, but whose sentence has been suspended or shortened conditionally on his emigration, unless five years have elapsed since the expiration of the term for which he was sentenced ;
- (gc) any prostitute, procurer, or person living on the prostitution of others ;
- (gd) any person who advocates the overthrow by force or violence of the established government of the Commonwealth or of any State or of any other civilized country, or of all forms of law, or who advocates the abolition of organized government, or who advocates the assassination of public officials or who advocates or teaches the unlawful destruction of property, or who is a member of or affiliated with any organization which entertains and teaches any of the doctrines and practices specified in this paragraph ;
- (ge) for the period of five years after the commencement of this paragraph, and thereafter until the Governor-General by proclamation otherwise determines, any person who in the opinion of an officer is of German, Austro-German, Bulgarian or Hungarian parentage and nationality, or is a Turk of Ottoman race ;
- (gf) any person who in the opinion of an officer is not under the age of sixteen years, and who, on demand by an officer, fails to prove that he is the holder of a passport—
  - (i) which was issued to him by and on behalf of the Government of the United Kingdom or any Government recognized by the Government of the United Kingdom ;
  - (ii) which contains a personal description sufficient to identify him and to which is attached a photograph of him ;
  - (iii) which is still in force ; and
  - (iv) which if not issued by or on behalf of the Government of the United Kingdom, is, except where a visa is dispensed with in pursuance of an arrangement to which the Commonwealth is a party, viséed or indorsed for Australia by a British consular or passport officer ; and
- (gg) any person who has been deported in pursuance of any Act ; and
- (gh) any person declared by the Minister to be in his opinion, from information received from the Government of the United Kingdom or of any other part of the British Dominions or from any foreign Government, through official or diplomatic channels, undesirable as an inhabitant of, or visitor to, the Commonwealth ;

But the following are excepted :—

- (h) any person possessed of a certificate of exemption as prescribed in force for the time being ;
- (i) members of the King's regular land or sea forces ;
- (j) the master and crew of any public vessel of any Government ;
- (k) the master and crew of any other vessel landing during the stay of the vessel in any port in the Commonwealth :

Provided that the master shall upon being so required by any officer, and before being permitted to clear out from or leave the port, muster the crew in the presence of an officer ; and if it is found that any person, who according to the vessel's articles was one of the crew when she arrived at the port, and who would in the opinion of the officer be a prohibited immigrant but for the exception contained in this paragraph, is not present, then such person shall not be excepted by this paragraph, and until the contrary is proved shall be deemed to be a prohibited immigrant and to have entered the Commonwealth contrary to this Act :

Provided also that identification cards bearing the full name, thumb-print, photograph, and prescribed description of each member of the crew, and indorsed by the master, have been produced to any officer on demand :

Provided further that the exception contained in this paragraph shall not apply to any member of the crew as to whom the master reports in writing to an officer that the member has deserted or is absent without leave, and, until the contrary is proved, the member shall be deemed to be a prohibited immigrant and to have entered the Commonwealth contrary to this Act ;

- (l) any person duly accredited to the Government of the Commonwealth by the Government of the United Kingdom or any other Government or sent by any Government on any special mission.

#### PROHIBITION BY PROCLAMATION.

Section 3, proposed to be inserted in the Principal Act by clause 3 of the Bill, is as follows :—

**3κ.—(1.)** The Governor-General may by Proclamation prohibit, either wholly or in excess of specified numerical limits, and either permanently or for a specified period, the immigration into the Commonwealth, or the landing at any specified port or place in the Commonwealth, of aliens of any specified nationality, race, class or occupation, in any case where he deems it desirable so to do—

- (a) on account of the economic, industrial or other conditions existing in the Commonwealth ;
- (b) because the persons specified in the Proclamation are in his opinion unsuitable for admission into the Commonwealth ; or
- (c) because they are deemed unlikely to become readily assimilated or to assume the duties and responsibilities of Australian citizenship within a reasonable time after their entry.

**(2.)** Any person who enters the Commonwealth in contravention of the prohibition contained in any such Proclamation shall be deemed to be a prohibited immigrant.

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IMMIGRANTS EVADING THE OFFICERS OR FOUND WITHIN THE  
COMMONWEALTH.

Section 5 of the Principal Act, as proposed to be amended by clause 4 of the Bill, will read as follows :—

5.—(1.) Any immigrant who—

- (a) evades an officer ;
- (b) enters the Commonwealth at any place where no officer is stationed ;
- (c) obtains entrance or re-entrance into the Commonwealth by means of any certificate, credentials or identification card which was not issued to him or is forged, or has been obtained by false representations ;
- (d) has been admitted temporarily into the Commonwealth in pursuance of any special arrangement between the Commonwealth Government and any other Government and fails to observe the conditions of his admission ; or
- (e) has been admitted into the Commonwealth as an indentured labourer for service in the pearling industry and is deemed by the Minister to be an undesirable person,

may, if at any time thereafter, he is found within the Commonwealth, be required to pass the dictation test, and shall, if he fails to do so, be deemed to be a prohibited immigrant offending against this Act.

(2.) Any immigrant may at any time within three years after he has entered the Commonwealth be required to pass the dictation test, and shall if he fails to do so be deemed to be a prohibited immigrant offending against this Act.

(3.) In any prosecution under either of the last two preceding sub-sections, the averment of the prosecutor, contained in the information, that the defendant is an immigrant who—

- (a) has evaded an officer ;
- (b) has entered the Commonwealth at a place where no officer is stationed ;
- (c) has obtained entrance or re-entrance into the Commonwealth by means of any certificate, credentials or identification card which was not issued to him or is forged or was obtained by false representations ;
- (d) has been admitted temporarily into the Commonwealth in pursuance of a special arrangement between the Commonwealth Government and another Government and has failed to observe the conditions of his admission ;
- (e) has been admitted into the Commonwealth as an indentured labourer for service in the pearling industry and is deemed by the Minister to be an undesirable person ; or
- (f) has entered the Commonwealth within three years before failing to pass the dictation test,

shall be deemed to be proved in the absence of proof to the contrary by the personal evidence of the defendant either with or without other evidence.

~~(3A) The personal evidence of the defendant shall include a definite statement as to the date and place of his arrival in the Commonwealth, and the name of the vessel by which he travelled to Australia.~~

(3A.) Proof to the contrary by the personal evidence of the defendant, within the meaning of the last preceding sub-section, shall not (unless it is proved that the defendant was born in Australia) be deemed to have been given unless the defendant in his personal evidence states truly the name of the vessel by which he travelled to Australia and the date and place of his arrival in the Commonwealth.

(3B.) Where the prosecutor applies to the Court for an adjournment of the proceedings to obtain evidence in rebuttal of any evidence tendered by the defendant, the Court shall grant an adjournment for such time as is necessary for that purpose.

(3C.) Official documents of the Commonwealth, or of a State, or of a Territory under the authority of the Commonwealth, and telegrams and affidavits produced out of the official custody of the Commonwealth purporting to have been sent or taken by an officer, shall, if they contain information or statements upon matters relevant to the proceedings, be admissible in evidence.

(4.) In any prosecution for an offence against sub-section (1.) or sub-section (2.) of this section, a defendant who gives evidence shall not be excused from answering any question put to him on the ground that the answer may tend to criminate him or make him liable to a penalty; but his answer shall not be admissible in evidence against him in any criminal proceeding other than a prosecution for perjury.

(4A.) In any prosecution under this section where it is alleged that the defendant was a member of the crew of a vessel, the averment of the prosecutor that the defendant was a member of the crew of that vessel shall be deemed to be proved in the absence of proof to the contrary if the prosecutor produces an identification card in the prescribed form relating to a member of the crew of a vessel of that name, and bearing a personal description, photographs and thumb prints of the defendant.

(5.) If an immigrant is within three years of his entering the Commonwealth found to be suffering from or affected with any disease or disability either specifically mentioned or of a class mentioned in this Act or the regulations, he shall be deemed to be a prohibited immigrant, unless it is proved to the satisfaction of the Minister that he was free from the disease or disability at the time he entered the Commonwealth.

#### SURETIES TO BE FOUND WHERE APPEAL LODGED.

Section 7A, proposed to be inserted in the Principal Act by Clause 5 of the Bill, is as follows:—

7A. Where a person is convicted under the last preceding section and appeals against his conviction, he shall not be released on bail unless he finds two sureties, each in the sum of One hundred pounds and each approved by the Collector of Customs or Sub-collector of Customs at the port concerned, for his appearance at the hearing of the appeal.

#### DEPORTATION OF CERTAIN PERSONS.

Section 8A of the Principal Act, as proposed to be amended by clause 6 of the Bill, will read as follows:—

8A.—(1.) Where the Minister is satisfied that, within three years after the arrival in Australia of a person who was not born in Australia, that person—

(a) has been convicted in Australia of a criminal offence punishable by imprisonment for one year or longer;

- (b) is living on the prostitution of others ;  
 (c) has become an inmate of an insane asylum or public charitable institution ;  
 or  
 (d) is a person who advocates the overthrow by force or violence of the established government of the Commonwealth or of any State, or of any other civilized country, or of all forms of law, or who advocates the abolition of organized government, or who advocates the assassination of public officials, or who advocates or teaches the unlawful destruction of property, or who is a member of, or affiliated with, any organization which teaches any of the doctrines and practices specified in this paragraph,

he may, in the case of a person to whom he is satisfied that the provisions of paragraph (a), (b), or (c) apply, make an order for his deportation, and, in the case of a person to whom he is satisfied that the provisions of paragraph (d) apply, he may, by notice in writing, summon the person to appear before a Board at the time specified in the summons and in the manner prescribed, to show cause why he should not be deported from the Commonwealth.

(2.) A Board appointed for the purposes of the last preceding sub-section shall consist of three members to be appointed by the Minister.

(3.) The Chairman shall be a person who holds or has held the office of Judge, or Police, Stipendiary or Special Magistrate.

(4.) (a) If the person fails to appear at the time specified in the summons to show cause why he should not be deported, or

(b) the Board recommends that he be deported from the Commonwealth, the Minister may make an order for his deportation.

(5.) ~~Any person for whose deportation the Minister has made an order in pursuance of this section shall be deported accordingly, and pending deportation shall be kept in such custody as the Minister directs.~~

#### DEPORTATION UPON PROCLAMATION OF INDUSTRIAL DISTURBANCE.

Section 8AA, proposed to be inserted in the Principal Act by clause 7 of the Bill, is as follows :—

**8AA.—(1.) If at any time the Governor-General is of opinion that there exists in Australia a serious industrial disturbance prejudicing or threatening the peace, order or good government of the Commonwealth, he may make a Proclamation to that effect, which Proclamation shall be and remain in force for the purposes of this section until it is revoked by the Governor-General.**

**(2.) When any such Proclamation is in force, the Minister, if he is satisfied that any person not born in Australia has been concerned in Australia in acts directed towards hindering or obstructing, to the prejudice of the public, the transport of goods or the conveyance of passengers in relation to trade or commerce with other countries or among the States or the provision of services by any department or public authority of the Commonwealth and that the presence of that person in Australia will be injurious to the peace, order or good government of the Commonwealth in relation to matters with respect to which the Parliament has power to make laws,**

may, by notice in writing, summon the person to appear before a Board at the time specified in the summons and in the manner prescribed to show cause why he should not be deported from the Commonwealth.

(3.) Sub-sections (2.), (3.) and (4.) of section eight A of this Act shall apply in relation to the Board mentioned in the last preceding sub-section.

#### DEPORTATION FOR OFFENCES TO PREJUDICE OF PUBLIC.

Section 8AB, proposed to be inserted in the Principal Act by clause 7 of the Bill, is as follows :—

**8AB.** Where any person who was not born in Australia has, at any time, been convicted in Australia of an offence against the laws of the Commonwealth relating to trade and commerce or conciliation and arbitration for the prevention or settlement of industrial disputes, and the Minister is satisfied that any of the Acts constituting the offence were directed towards hindering or obstructing, to the prejudice of the public, the production or transport of goods or the conveyance of passengers or the provision of necessary services, and that the presence of that person in Australia will be injurious to the peace, order or good government of the Commonwealth, the Minister may make an order for his deportation.

#### CUSTODY PENDING DEPORTATION.

Section 8c, proposed to be inserted in the Principal Act by clause 8 of the Bill, is as follows :—

**8c.** Where the Minister has made an order under this Act for the deportation of any person, that person shall be deported accordingly, and may—

- (a) pending deportation and until he is placed on board a vessel for deportation from Australia ;
- (b) at any port in Australia at which the vessel calls after he has been placed on board ; and
- (c) on board the vessel until her departure from her last port of call in Australia,

be kept in such custody as the Minister or an officer directs.

#### DUTY OF MASTER, ETC., OF VESSEL BRINGING PROHIBITED IMMIGRANT TO PROVIDE RETURN PASSAGE.

Section 13A of the Principal Act, as proposed to be amended by clause 9 of the Bill, will read as follows :—

**13A. (1.)** The master, owners, agents, or charterers of a vessel in which a prohibited immigrant, or a person who under section three or section five of this Act becomes a prohibited immigrant or a person whose deportation has been ordered by the Minister in pursuance of section eight A, eight AA or eight AB of this Act, comes to the Commonwealth, shall, on being required in writing by any Collector of Customs so to do, without charge to the Commonwealth, provide a passage for the prohibited immigrant or person to the place whence he came, and shall also be liable to pay to the Commonwealth for the State a fair sum to recoup the State for the cost of keeping and maintaining the prohibited immigrant or person while awaiting his deportation from Australia.

(2.) The master, owner, agents or charterers of any vessel shall, on being required in writing by a Collector of Customs so to do, receive on board for conveyance to any port to which the vessel is bound and which is specified by the Collector, any person against whom an order for deportation under this Act has been made, and shall also receive on board for such time as is required by the Collector, any person charged with the custody of the person against whom the order has been made.

(3.) For the services specified in the last preceding sub-section the Minister shall pay to the master, owner, agents, or charterers such passage money as is prescribed.