, Prohibition. [ond. III or 1986]

tee or by becoming a party to assumes any liability for payment hereby enables another person to

inge (not being a bill payable on other person, or

he sale of goods gives credit in the benefit of another person,

ises of sub-section (I) to make tuat other herson.

shall be taken to prohibit the sade before the commencement vernment or person other than as is mentioned in clause (q) aforesaid the provisions of this ithstanding anything in any

all apply to any loan to or for h is declared by the Governor e purposes of this section an 1 or religious object.

rovisions of section 2 shall be r a term which may extend

section 2 by a body corporate with the consent or approval ly neglect on the part of any other officer of such body corporate shall be deemed d shall be punishable with

> TINGDOAL pernor General.

ORDINANCE No. I OF 1939.

[26th August, 1939.]

An Ordinance to provide for the imposition of restrictions on foreigners.

(Published in the Gazette of India, Extraordinary, of the 26th August, 1939.)

WHEREAS an emergency has arisen which makes it necessary to provide for the imposition of restrictions on the entry of foreigners into British India, their presence therein and their departure therefrom ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance:-

1. (1) This Ordinance may be called the Foreigners Ordi-Short title. nance, 1939.

commencement.

- (2) It extends to the whole of British India.
- (3) It shall come into force at once,
- 2. In this Ordinance—

Detinitions

- (a) "foreigner" has the meaning assigned to it in the Foreigners Act, 1864, except that it does not in-
 - (i) any ruler or subject of any Indian State; or
 - (ii) any native of the tribal areas;
- (b) " prescribed " means prescribed by orders made under this Ordinance;
- (c) "specified" means specified by direction of a prescribed authority.
- 3. (1) The Central Government may, by order, make pro-Power to make vision, either generally with respect to all foreigners or with orders. respect to any particular foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting the entry of foreigners into British India or their departure therefrom or their presence or continued presence therein;

(2) In particular

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- (2) In particular, and without prejudice to the generality of the foregoing power, orders made under this section may provide that the foreigner—
 - (a) shall not enter British India, or shall enter British India only at such times and by such route and at such port or place and subject to the observance of such conditions on arrival as may be prescribed;
 - (b) shall not depart from British India, or shall depart only at such times and by such route and from such port or place and subject to the observance of such conditions on departure as may be prescribed;
 - (c) shall not remain in British India or in any pres cribed area therein;
 - (d) shall remove himself to, and remain in, such area in British India as may be prescribed;
 - (e) shall comply with such conditions as may be prescribed or specified—
 - (i) requiring him to reside in a particular place,
 - (ii) imposing any restrictions on his movements,
 - (iii) requiring him to furnish such proof of his identity and to report such particulars to such authority in such manuer and at such time and place as may be prescribed or specified;
 - (iv) requiring him to allow his photograph and finger impressions to be taken and to furnish specimens of his hand-writing and signature to such authority and at such time and place as may be prescribed or specified;
 - (v) prohibiting him from association with persons of a prescribed or specified description;
 - (m) prohibiting him from engaging in activities of a prescribed or specified description;
 - (vii) prohibiting him from using or possessing prescribed or specified articles; or
 - (viii) otherwise regulating his conduct in any such particular as may be prescribed or specified;
 - (f) shall enter into a bond with or without sureties for the due observance of, or as an alternative to the enforcement of, any or all prescribed or specified restrictions or conditions; or
- (y) shall be arrested and detained or confined; and may make provision for such incidental and supplementary matters as may, in the opinion of the Central Government

government, be expedient or necessary for giving effect to this Ordinance.

4. (1) Any foreigner (hereinafter referred to as an internee) Internees. in respect of whom there is in force any order made under clause (g) of sub-section (2) of section 3, directing that he be detained or confined, shall be detained or confined in such place and manner and subject to such conditions as to maintenance, discipline and the punishment of offences and breaches of discipline as the Central Government may from time to time determine.

(2) No person shall—

- (a) knowingly assist an internee to escape from custody or knowingly harbour an escaped internee; or
- (b) give an escaped internee any assistance with intent thereby to prevent, hinder or interfere with the apprehension of the internee.
- (3) The Central Government may by order provide for regulating access to, and the conduct of persons in, places in British India where internees are detained and for prohibiting or regulating the despatch or conveyance from outside such places to or for internees therein of such articles as may be prescribed.
- (4) No proceedings shall be taken by virtue of subsection (2) or sub-section (3) against any person in respect of any act done by him when he is himself an internee.
- 5. (I) No foreigner who is in British India on the date Chango of on which this Ordinance came into force shall, while in name. British India after that date, assume or use or purport to assume or use for any purpose any name other than that by which he was ordinarily known immediately before the said date.
- (2) Where, after the date on which this Ordinance came into force, any foreigner carries on or purports to carry on (whether alone or in association with any other person) any trade or business under any name or style other than that under which that trade or business was being carried on immediately before the said date, he shall, for the purposes of sub-section (1) be deemed to be using a name other than that by which he was ordinarily known immediately before the said date.
- (3) In relation to any foreigner who, not having been in British India on the date on which the Ordinance came into force, thereafter enters British India, sub-sections (1) and (2) shall have effect as if for any reference in those sub-sections

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nd supplee Central vernment, to the date on which this Ordinance came into force there were substituted a reference to the date on which he first enters British India thereafter.

- (4) For the purposes of this section—
 - (a) the expression "name" includes a surname, and
 - (b) a name shall be deemed to be changed if the spelling thereof is altered.
- (5) Nothing in this section shall apply to the assumption or use—
 - (a) of any name in pursuance of a Royal licence; or
 - (b) by any married woman, of her husband's name.

Obligations of masters of vessels, etc.

- 6. Any District Magistrate and any Commissioner of Police or, where there is no Commissioner of Police, any Superintendent of Police, may, for any purpose connected with the enforcement of this Ordinance or any order made thereunder, enter, with such assistance as he may think fit, any vessel or aircraft at any port or place in British India and may—
 - (a) direct the master of the vessel or the pilot of the aircraft, as the case may be,—
 - (i) before any passenger disembarks, or before the vessel or aircraft leaves such port or place, is the case may be, to furnish a list in writing of the passengers who are on board or who have been carried on board at any time since the vessel or aircraft commenced its journey who have signified their intention of depaing from British India on board such vessel or aircraft, setting out the ports or places at will they embarked, the ports or places of disembarkation or intended disembarkators and such other particulars as may be present
 - (ii) to answer to the best of his ability any quist, relating to the passengers who are on host who have disembarked in any part of his India; and
 - (b) if any foreigner seeking to enter British board such vessel or aircraft does in satisfactory reasons for entering British either—
 - (i) refuse to allow such foreigner to from such vessel or aircraft, or

e on which this Ordinance came into force if ituted a reference to the date on which he the purposes of this sectione expression "name" includes a surname,

name shall be deemed to be changed if

g in this section shall apply to the assumption ny name in pursuance of a Royal licence;

ny married woman of her husband's nam rict Magistrate and any Commissioner 3 there is no Commissioner of Police, and of Police, may, for any purpose connected nent of this Ordinance or any order made with such assistance as he may think fif raft at any port of place in British Indi

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iny passenger disembarks, or before or aircraft leaves such port or place, may be, to furnish a list in writing egers who are on hoard or who has ged on board at any time since the aircraft commenced its journey. signified their intention of depart Thish India on board such vessel the out the ports or places at whin the ports or places of their or intended disembarkation Particulars as may be prescribed

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to enter British India off breraft does not entering British Indias give

opeigner to disembark (ii) place

(ii) place him under such restraint as may be prescribed or specified.

Kany question arises with reference to this Ordinance Burden of order made or direction given thereunder, whether proof. person is or is not a foreigner or is or is not a foreigner particular class or description, the onus of proving that person is not a foreigner or is not a foreigner of such socular class or description, as the case may be, shall, seithstanding anything contained in the Indian Evidence 1872, lie upon such person.

8. The Contral Government may, by order, declare that Power to or all of the provisions of this Ordinance or the orders application of made thereunder shall not apply, or shall apply only with Ordinance. med modifications or subject to such conditions as may be pecified, to and in relation to any individual foreigner or any class or description of foreigner.

9. (1) Any authority empowered by or under or in pur-Power to give suance of the provisions of this Ordinance to give any directions, etc. tion or to exercise any other power, may, in addition to any other action expressly provided for in this Ordinance, take, or cause to be taken, such steps and use, or cause to be used, such force as may, in its opinion, be reasonably necessary for securing compliance with such direction or for preventing or rectifying any breach thereof, or for the effective exercise of such power, as the case may be.

(2) Any police officer may take such steps and use such force as may, in his opinion, be reasonably necessary for securing compliance with any order made or direction given under or in pursuance of the provisions of this Ordinance or for preventing or rectifying any breach of such order or direction.

(3) The power conferred by this section shall be deemed to confer upon any person acting in exercise thereof a right of access to any land or other property whatsoever.

10. Any authority upon which any power to make or rower to give any direction, consent or permission or to do any other authority act is conferred by this Ordinance or by any order made thereunder may, unless express provision is made to the contrary, in writing authorise, conditionally or otherwise, any authority subordinate to it to exercise such power on its behalf, and thereupon the said subordinate authority shall, subject to such conditions as may be contained in the authorisation, be deemed to be the authority upon which such power is conferred by or under this Ordinance,

11. (I) Any

Attempts, etc., to contravene Ordimanou, etc.

- 11. (1) Any person who attempts to contravene, or abets, ontravence provisions or attempts to abet, or does any act preparatory to, a contravention of, the provisions of this Ordinance or of any order made or direction given thereunder, or fails to comply with any direction given in pursuance of any such order, shall be deemed to have contravened the provisions of this Ordinance.
 - (2) Any person who, knowing or having reasonable cause to believe that any other person has contravened the provisions of this Ordinance or of any order made or direction given thereunder, gives that other person any assistance with intent thereby to prevent, hinder or otherwise interfere with his arrest, trial or punishment for the said contravention, shall be deemed to have abetted that contravention.
 - (3) The master of any vessel or the pilot of any aircraft, as the case may be, by means of which any foreigner enters or leaves British India in contravention of any order made under, or direction given in pursuance of, section 3 shall, unless he proves that he exercised all due diligence to prevent the said contravention, be deemed to have contravened

Penalties.

12. If any person contravenes the provisions of this this Ordinance. Ordinance or of any order made thereunder, or any direction given in pursuance of this Ordinance or such order, he shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine, and if such person has entered into a bond in pursuance of clause (f) of subsection (2) of section 3, his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting Court why such penalty should not be paid.

Protection to persons doting Ordinance.

13. No suit, prosecution of other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Ordinance.

Application of other laws not barred.

14. The provisions of this Ordinance shall be in addition to, and not in derogation of, the provisions of the Foreign Act, 1864, the Registration of Foreigners Act, 1939, and of any other enactment for the time being in force.

LINLITHGOW, Viceroy and Governor General

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