

ANNO TERTIO
GULIELMI IV. REGIS.

No. I.

QUARANTINE.

An Act for subjecting Vessels coming to New South Wales from certain places to the performance of Quarantine. [28th July, 1832.]

Preamble.

Vessels goods and passengers arriving from places notified by the Governor with the advice of the Executive Council as infected and persons having communication with them to be liable to perform Quarantine.

WHEREAS it is expedient that regulations should be made to prevent the introduction of the disease called the malignant Cholera or any other infectious disease highly dangerous to the health of His Majesty's subjects into the Colony of New South Wales Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council of the same That as often as the Governor of New South Wales for the time-being with the advice of the Executive Council shall by Proclamation notify that any place or places beyond the seas is or are infected with the Cholera or other such infectious disease as aforesaid and that it is probable such disease may be brought from such place or places to the said Colony then and immediately from and after such notification all ships and vessels whatever arriving from or having touched at any such place or places and all vessels and boats receiving any person goods wares and merchandise packets packages baggage wearing apparel books letters or any other article whatsoever from or out of any vessel so coming from or having touched at such infected place or places as aforesaid whether such persons goods wares and merchandise packets packages baggage wearing apparel books letters or other articles shall have come or been brought in such vessels or such person shall have gone or articles have been put on board the same either before or after the arrival of such vessels at any port or place in the Colony of New South Wales and whether such vessels were or were not bound to any port or place in New South Wales and all persons goods wares and merchandise packets packages baggage wearing apparel books letters or any other article whatsoever on board of any vessel so coming from or having touched at such infected place as aforesaid or on board of any such receiving vessels or boats as aforesaid shall be and be considered to be liable to Quarantine within the meaning of this Act and of any Order made by the Governor with the advice of the Executive Council and notified by Proclamation concerning Quarantine and the prevention of infection from the time of the departure of such vessels from such infected place as aforesaid or from the time such persons goods wares merchandise packets packages baggage wearing apparel books letters or other articles shall have been received on board respectively and all such vessels and boats as aforesaid and all persons (as well pilots as others) goods wares and merchandise and all other articles as aforesaid whether coming or brought in such vessels or boats from such infected place as aforesaid or going or being put on board the same either before or after the arrival of such vessels or boats at any port

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port or place in New South Wales and all persons goods wares and merchandise and other articles as aforesaid on board such receiving vessel or boat as aforesaid shall upon their arrival at any such port or place be obliged to perform Quarantine in such place or places for such time and in such manner as shall be from time to time directed by the Governor for the time-being by any Order made with the advice of the Executive Council and notified by Proclamation as aforesaid and that until such vessels and boats persons goods wares and merchandise or other articles as aforesaid or any of them shall have respectively performed and shall be duly discharged from Quarantine no such person goods wares or merchandise or other articles as aforesaid or any of them shall either before or after the arrival of such vessels or boats at any port or place in New South Wales come or be brought on shore or go or be put on board any other vessel or boat in order to come or be brought on shore in any such port or place (unless in such manner and in such cases and by such license as shall be directed or permitted by any such order as aforesaid) and all such vessels and boats whether coming from such infected place as aforesaid or being otherwise liable to Quarantine as aforesaid and all persons (as well pilots as others) goods wares and merchandise and other articles as aforesaid whether coming or brought in such vessels or boats or going or being put on board the same either before or after the arrival of such vessels or boats at any port or place in New South Wales and all commanders masters or other persons having the charge or command of any such vessels or boats whether coming from any infected place or being otherwise liable to Quarantine as aforesaid shall be subject to all the provisions rules regulations and restrictions contained in this Act or in any Order or Orders which shall be made by the Governor with the advice of the Executive Council as aforesaid concerning Quarantine and prevention of infection and to all the pains penalties forfeitures and punishments contained in this Act or Ordinance for any breach or disobedience thereof or of any Order or Orders of the Governor with the advice of the Executive Council as aforesaid made under the authority thereof.

2. And be it further enacted That it shall be lawful for the Governor with the advice of the Executive Council to make such Order as shall be deemed necessary and expedient upon any unforeseen emergency or in any particular case or cases with respect to any vessel arriving and having any such infectious disease on board or on board of which any such infectious disease may have appeared in the course of the voyage or arriving under any other alarming or suspicious circumstances as to infection although such vessels shall not have arrived from any place from which the Governor with the advice of the Executive Council may have adjudged and declared it probable that any such infectious disease may be brought and also with respect to the persons goods wares and merchandise and other articles as aforesaid on board the same and in case of any such infectious disease appearing or breaking out in the Colony of New South Wales or its Dependencies to make such Orders and give such directions in order to cut off all communication between any persons infected with any such disease and the rest of His Majesty's subjects as shall appear to the said Governor and the said Council to be necessary and expedient for that purpose and likewise to make such Orders as the said Governor with the advice of the said Council shall see fit for shortening the time of Quarantine to be performed by particular vessels or particular persons goods wares merchandise or any other articles or for absolutely or conditionally releasing them or any of them from Quarantine and all such Orders so made as aforesaid shall be as good valid and effectual to all intents and purposes as well with respect to the commander master

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master or other person having charge of any vessel and all other persons on board the same as with respect to any other persons having any intercourse or communication with them and to the penalties forfeitures and punishments to which they may respectively become liable as any Order or Orders concerning Quarantine made by the Governor with the advice of the Executive Council and notified by Proclamation as aforesaid.

Governor and Executive Council to appoint lazarets and places for performing Quarantine.

3. And be it further enacted That it shall and may be lawful for the Governor with the advice of the Executive Council from time to time as he may think fit and expedient by any Order or Orders notified by Proclamation to appoint certain stations or places within the harbour of Port Jackson or within or near any other harbour or place within the said Colony for the performance of Quarantine under this Act or Ordinance where all vessels liable to Quarantine and the crews passengers and persons on board thereof shall perform the same and also if necessary to appoint lazarets and other places where the crews passengers and other persons and the goods wares and merchandise which shall or may be on board the said vessels shall and may be detained and kept for the performance of Quarantine.

Masters of vessels arriving to report to pilot the places at which they loaded and touched and to answer all questions respecting the health of the crew and passengers.

4. And be it further enacted That from and after the passing of this Ordinance every commander master or other person having the charge of any vessel coming from parts beyond the seas shall give the pilot or person boarding or conducting any such vessel a written paper containing a true account of the names of the place and country at which such vessel shall have loaded and also of all the places at which any such vessel shall have touched on the voyage out to the said Colony and shall truly answer all such questions as shall be put to him by such pilot or other person touching the health of the crew and passengers of such vessel during the voyage and the cause or causes of the death of any person or persons should such have taken place on board on pain of forfeiting the sum of one hundred pounds for any neglect or refusal to give such paper or for any false representation or wilful omission therein or false answer to such questions And if such vessel shall have arrived or come from any place which shall be notified by any Proclamation or Order of the Governor with the advice of the Executive Council as being infected as aforesaid such pilot shall immediately give notice thereof to the commander or other person in charge of such vessel on pain of forfeiting the sum of one hundred pounds for any neglect therein and such commander or other person shall immediately after such notice hoist a signal to denote that such vessel is liable to the performance of Quarantine which signal shall be in the day-time a yellow flag of six breadths of bunting at the main-top-mast head and in the night-time the signal shall be a large signal lanthorn such as is commonly used on board His Majesty's ships of war at the same mast head and such commander master or other person shall keep such signal hoisted until such time as the said vessel shall be legally discharged from the performance of Quarantine and on failure thereof such commander master or other person having the charge of such vessel shall forfeit and pay for every such offence the sum of one hundred pounds and in case any pilot shall bring or cause to be brought or conducted any vessel liable to the performance of Quarantine into any place which is not or shall not be specially appointed for the reception of vessels so liable after receiving such paper as aforesaid whereby it shall have been made to appear that such vessel was liable to the performance of Quarantine or without requiring and receiving such paper as aforesaid unless compelled thereto by stress of weather adverse winds

Pilot to give notice to master if vessel be liable to Quarantine whereupon he shall hoist a yellow flag.

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winds or accidents of the sea such pilot shall for every such offence forfeit and pay the sum of two hundred pounds.

5. And be it further enacted That every commander master or other person having charge of any vessel which shall be liable to perform Quarantine as aforesaid shall forthwith after his arrival at the place appointed for the performance of Quarantine deliver on demand to the Superintendent of Quarantine or his assistant or other officer authorized to act in that behalf (and which Superintendent assistant or other officer as aforesaid is hereby required to make such demand) his bill of health and manifest together with his log-book and journal under pain of forfeiting the sum of one hundred pounds if he shall wilfully refuse or neglect to do so.

6. And be it further enacted That if any commander master or other person being in charge of any vessel liable to perform Quarantine shall himself quit or shall knowingly permit or suffer any seaman or passenger or other person to quit such vessel by going on shore or by going on board any other vessel or boat before such Quarantine shall be fully performed (unless by such license as shall be granted by virtue of any Orders made by the Governor with the advice of the Executive Council as aforesaid) or in case any commander or other person having charge of such ship shall not within a convenient time after due notice given for that purpose cause such vessel and the lading thereof to be conveyed into the place or places appointed for such vessel and lading to perform Quarantine then and in every such case every such commander master or other person as aforesaid for every such offence shall forfeit and pay the sum of four hundred pounds and if any such person coming in any such vessel liable to Quarantine (or any pilot or other person going on board the same either before or after the arrival of such vessel at any port or place within the said Colony) shall either before or after such arrival quit such vessel unless by such license as aforesaid by going on shore or by going on board any other vessel or boat with intent to go on shore as aforesaid before such vessel so liable to Quarantine as aforesaid shall be regularly discharged from the performance thereof it shall and may be lawful for any person whatsoever by any kind of necessary force to compel such pilot or other person so quitting such vessel so liable to Quarantine to return on board the same and every such pilot or other person so quitting such vessel so liable to Quarantine shall for every such offence suffer imprisonment for the space of six months and shall forfeit the sum of three hundred pounds.

7. And be it further enacted That it shall be lawful for any Constable or other Peace Officer or any other person to seize and apprehend any person that shall contrary to the provisions of this Act have quitted or come on shore from any vessel liable to perform Quarantine or who shall have escaped from or quitted any vessel under Quarantine or from any lazaret vessel or place appointed in that behalf for the purpose of carrying such person or persons before any Justice of the Peace and it shall be lawful for any such Justice of the Peace to grant his warrant for the apprehending and conveying of any such person to the vessel from which he or she shall have come on shore or to any vessel performing Quarantine or lazaret from which he or she shall have escaped or for confining any such person in any such place of safe custody (not being a public gaol) and under such restrictions as to having communication with any other persons as may in the discretion of any such Justice of the Peace appear to be proper until such person can safely and securely be conveyed to some place appointed for the performance of Quarantine or until directions can be obtained from the Governor of the said Colony for the time-being as to the disposal of any such person and to make any further order that may be necessary in that behalf.

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Intercourse with lazarets and stations allotted for Quarantine may be prohibited by Order of the Governor and Executive Council.

Penalty on persons neglecting their duty

or deserting or permitting persons vessels &c. to depart without authority

or giving false certificates

or damaging goods &c.

After proof of performance of Quarantine and proper certificate to that effect vessels or persons shall be liable to no further detention.

Goods &c. liable to Quarantine shall be opened and aired in certain places to be appointed by the Governor and Executive Council.

8. And whereas it may be necessary for the public security to prevent all communication whatever with stations or places appointed as hereinbefore directed for performing Quarantine Be it therefore further enacted That it shall and may be lawful to and for the Governor of the said Colony with the advice of the Executive Council by Order notified by Proclamation to prohibit all persons vessels and boats whatsoever from going under any pretence whatsoever within the limits of any station which by any Order or Orders of the Governor with the advice of the Executive Council as aforesaid has been or may be assigned for the performance of Quarantine and if any person whatsoever after such notification of any such Order or Orders of the Governor with the advice of the Executive Council shall presume under any pretence whatsoever to go within the limits of any such station he or she shall for every such offence forfeit and pay the sum of two hundred pounds.

9. And be it further enacted That if any officer or person whatsoever to whom it shall appertain to execute any order or orders made or to be made concerning Quarantine and notified as aforesaid or to see the same put in execution shall knowingly and wilfully be guilty of any breach or neglect of his duty in respect of the vessels persons goods or chattels performing Quarantine every such officer or person so offending shall forfeit and pay the sum of two hundred pounds and if any such officer or person shall desert from his duty when employed as aforesaid or shall knowingly and willingly permit any person vessels goods or merchandise to depart or be conveyed out of the said lazaret vessel or other place as aforesaid unless by permission under the order of the Governor of the said Colony with the advice of the Executive Council or if any person hereby authorized and directed to give a certificate of a vessel having duly performed Quarantine or airing shall knowingly give a false certificate thereof every such person so offending shall be guilty of felony and if any such officer or person shall knowingly or wilfully damage any goods performing Quarantine under his direction he shall be liable to pay one hundred pounds damages and full costs of suit to the owner of the same.

10. And be it further enacted That after Quarantine shall have been duly performed by any vessel person or persons obliged to perform Quarantine as aforesaid according to this Law or Ordinance and to such Order or Orders made as aforesaid the chief officer who superintended the Quarantine of the said vessel or person acting for him shall and he is hereby required to give a certificate thereof under his hand and upon the same being approved and allowed by the Governor with the advice of the Executive Council then every such vessel and all and every such person or persons so having performed Quarantine shall be liable to no further restraint or detention upon the same account for which such vessel person or persons shall have performed Quarantine as aforesaid.

11. And be it further enacted That all goods wares merchandise and other articles liable to Quarantine as aforesaid shall be opened and aired in such place or places and for such time and in such manner as shall be directed by the Governor of the said Colony for the time-being with the advice of the Executive Council by any such Order or Orders to be made as aforesaid and after such Orders shall have been duly complied with then and in every such case the officer or person in charge of the lazaret or vessel or other place in which the goods wares and merchandise and all other articles shall have been opened and aired shall grant a certificate to such effect under his hand and upon the same being approved and allowed by the Governor with the advice of the Executive Council then such goods wares and merchandise and other

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other articles shall be liable to no further restraint or detention either at the port or place where such Quarantine shall have been performed or at any other place within the said Colony and its Dependencies whereto they may be afterwards conveyed.

12. And be it further enacted That if any person shall knowingly or wilfully forge or counterfeit interline erase or alter or procure to be forged or counterfeited interlined erased or altered any certificate directed or required to be granted by an Order of the Governor of the said Colony for the time-being with the advice of the Executive Council hereafter to be made touching Quarantine or shall publish any such forged or counterfeited interlined erased or altered certificate knowing the same to be forged or counterfeited interlined erased or altered or shall knowingly and wilfully utter and publish any such certificate with intent to obtain the effect of a true certificate to be given thereto knowing the contents of such certificate to be false he or she shall be guilty of felony.

13. And be it further enacted That if any person shall land or unship or shall move in order to the landing or unshipping thereof any goods wares or merchandise packets packages baggage wearing apparel books letters or other articles from on board any vessel liable to perform Quarantine as aforesaid or shall knowingly receive the same after they have been so landed or unshipped every such person shall forfeit and pay the sum of five hundred pounds and if any person or persons shall clandestinely convey or secrete or conceal for the purpose of conveying any letters goods wares or merchandise or other article as aforesaid from any vessel actually performing Quarantine or from the lazaret or other place where such goods wares merchandise or other articles as aforesaid shall be performing Quarantine every such person so offending as last aforesaid shall forfeit the sum of one hundred pounds.

14. And be it further enacted That all forfeitures and penalties that shall be incurred by reason of any offence committed against this Act shall and may be recovered by suit in the Supreme Court of this Colony in which no essoign or wager of law or more than one imparlance shall be granted and every such forfeiture and penalty shall belong and be given two-thirds to the person who shall inform and sue for the same and the remainder to His Majesty His Heirs and Successors.

15. And be it further enacted That in any prosecution suit or other proceeding against any person or persons whatsoever for any offence against this Act or any Act which may hereafter be passed concerning Quarantine or for any breach or disobedience of any Order or Orders which shall be made by the Governor of the said Colony for the time-being with the advice of the Executive Council concerning Quarantine and the prevention of infection and notified as aforesaid the statement or statements answer or answers of the commander master or other person having charge of any vessel made as hereinbefore is directed to the pilot or person boarding or conducting such vessel shall be given and received as evidence so far as the same relates or relate to the place from which such vessel shall arrive or come or to the place or places at which such vessel touched in the course of the voyage and that such vessel was liable to Quarantine unless satisfactory proof shall be produced by the defendant in any such prosecution suit or other proceeding to shew that the vessel did not arrive from or touch at any such place or places as is or are mentioned in the said statement or statements answer or answers or that such vessel although directed to perform Quarantine was not liable to the performance thereof and where any such vessel shall have in fact been put under Quarantine at any port or place by the Superintendent of Quarantine

Persons forging or uttering false certificates guilty of felony.

Penalty on persons landing or receiving goods &c. from vessels liable to perform Quarantine

or secreting them from vessels actually performing Quarantine

For recovery and appropriation of penalties.

Answers of persons having charge of vessels shall be received as evidence in certain cases.

Courts of Requests.

Quarantine or his assistant or other Officer of Customs authorized as aforesaid to act in that behalf and shall actually be performing the same such vessel shall in any prosecution suit or other proceeding against any person or persons whatever for any offence against this Act or any other Act which may hereafter be passed concerning Quarantine and the prevention of infection or any Order or Orders which shall be made by the Governor of the said Colony for the time-being with the advice of the Executive Council as aforesaid be deemed and taken to be liable to Quarantine without proving in what manner or from what circumstance such vessel became liable to the performance thereof.

*General issue and
limitation of actions
&c.*

16. And be it further enacted That if any action suit or other proceeding shall be brought or prosecuted against any pilot superintendent constable or other person or persons for any matter or thing done since the twentieth day of this instant July in pursuance of any Order of the Governor of the said Colony made for the preventing the introduction of any such infectious disease as aforesaid or which shall at any time hereafter be done during the continuance of this Act or Ordinance in pursuance of the provisions thereof the defendant or defendants in every such action suit or other proceeding may plead the general issue and may give this Act and the special matter in evidence in any trial to be had thereupon and if the verdict shall be for the defendant or defendants in any such action suit or other proceeding or if the plaintiff or plaintiffs be nonsuited or discontinue his her or their action or suit after the defendant or defendants shall have appeared or if upon demurrer judgment shall be given against such plaintiff or plaintiffs the defendant or defendants shall have treble costs and shall have the like remedy for the same as any other defendant or defendants hath or have in any other case to recover costs by law and that no such action suit or other proceeding shall be brought against any person for any matter or thing done since the said twentieth day of July as aforesaid or which shall hereafter be done in pursuance of this Act or Ordinance but within the space of six months after such matter or thing shall have been done.