

Act No. 25, 1897.

QUARANTINE.

An Act to consolidate the Laws relating to
Quarantine. [6th December, 1897.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

Preliminary.

Short title
and division.

1. This Act may be cited as the "Quarantine Act, 1897," and is divided into Parts, as follows:—

PART I.—*Preliminary.*—ss. 1-3.

PART II.—*Quarantine stations.*—ss. 4-5.

PART III.—*Liability to quarantine.*—ss. 6-11.

PART IV.—*Proceedings on arrival of vessels.*—ss. 12-20.

PART V.—*Performance of quarantine.*—ss. 21-32.

PART VI.—*Miscellaneous provisions.*—ss. 33-37.

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2. (I) The Acts mentioned in the Schedule to this Act are hereby repealed. Repeal of Acts, Schedule.

(II) All rules, regulations, and orders made under the authority of any Act hereby repealed and being in force at the time of the passing of this Act shall be and continue in force hereunder, and shall be deemed to have been made under this Act.

3. In this Act, unless the context or subject matter otherwise indicates or requires— Interpretation, 58 Vic. No. 2, s. 2.

“Board” means the Board of Health incorporated by the Noxious Trades and Cattle-slaughtering Act, 1894.

PART II.

Quarantine stations.

4. The Governor may by proclamation published in the Gazette appoint places in New South Wales to be stations for the performance of quarantine by all vessels, persons, and things liable to perform quarantine. Governor may appoint stations and lazarets for performance of quarantine. 3 Wm. IV, No. 1, s. 3.

5. (I) The Governor may by proclamation published in the Gazette prohibit all persons, vessels, and boats whatsoever from going under any pretence whatsoever within the limits of any station appointed by the Governor for the performance of quarantine as aforesaid. Governor may prohibit intercourse with stations and lazarets. Ibid. s. 8.

(II) If any person whatsoever, after the publication of such proclamation, presumes, under any pretence whatsoever, to go within the limits of any such station, he shall for every such offence forfeit the sum of two hundred pounds.

PART III.

Liability to quarantine.

6. (I) Whenever any vessel arrives in any port or harbour in New South Wales, and Conditions involving liability to quarantine. Ibid. s. 1. 58 Vic. No. 2, s. 6.

- (a) there is at the time any infectious or contagious disease on board such vessel; or
- (b) there has been during the voyage of such vessel any infectious or contagious disease on board; or
- (c) such vessel has during the voyage communicated with any other vessel on board which any infectious or contagious disease existed; or
- (d) such vessel has during the voyage touched at any port or place where any infectious or contagious disease prevailed; or
- (e)

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- (e) such vessel has arrived from or after having touched at any place beyond the seas, and the Governor has by proclamation notified that such place is infected with any infectious or contagious disease highly dangerous to the public health, and that it is probable that such disease may be brought from such place to New South Wales,

then such vessel shall be and be deemed to have been liable to quarantine within the meaning of this Act, and of every proclamation of the Governor concerning quarantine and the prevention of infection, from the time the infectious or contagious disease broke out on board such vessel, or from the time such vessel communicated with such other vessel as aforesaid, or from the time such vessel touched at such port or place as aforesaid, or from the time such vessel sailed from or touched at such place beyond the seas, as the case may be.

(II) Such liability shall equally extend to and be incurred by—

- (a) every person whatsoever who, for any purpose whatsoever, is on board such vessel at the time of her arrival in New South Wales, or was on board such vessel at any time before her said arrival and after she became liable to quarantine as aforesaid, or goes on board such vessel at any time after her said arrival and before she is discharged from quarantine or from the performance thereof as hereinafter mentioned ;
- (b) every article whatsoever on board such vessel at the time of her arrival in New South Wales, or that was on board such vessel at any time before her said arrival and after she became liable to quarantine as aforesaid, or that is brought on board such vessel at any time after her said arrival and before she is discharged from quarantine or from the performance thereof ;
- (c) every vessel or boat receiving from such vessel any person whatsoever liable to quarantine, or any article whatsoever liable to quarantine ;
- (d) every person whatsoever, and every article whatsoever on board such receiving vessel or boat, at the time of receiving the person or thing liable to quarantine, or that goes or is put on board such receiving vessel or boat at any time after she so receives and before she is discharged from quarantine or from the performance thereof.

7. (I) It shall be lawful for the board by its officers to order into quarantine any vessel liable to quarantine as aforesaid :

Provided that, except in the case mentioned in section six, subsection (I) (e), no such order shall be made unless danger to the public health may reasonably be apprehended from the immediate admission of the vessel to entry.

(II) The board may take such further measures for the continuance of the vessel in quarantine, or for the release thereof, as may be judged expedient.

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8. Whenever the board orders a vessel into quarantine, then
- (a) such vessel; and
 - (b) every person whatsoever liable to quarantine in virtue of the liability thereto of such vessel, as aforesaid; and
 - (c) every article whatsoever liable to quarantine in virtue of the liability thereto of such vessel, as aforesaid; and
 - (d) every vessel or boat receiving or which has received from such vessel any person whatsoever liable to quarantine, or any article whatsoever liable to quarantine, as aforesaid; and
 - (e) every person whatsoever and every article whatsoever liable to quarantine in virtue of the liability of such receiving vessel or boat, as aforesaid

Effect of order.
3 Wm. IV. No. 1, s. 1.
58 Vic. No. 2, s. 6.

shall perform quarantine according to this Act, and to every proclamation of the Governor concerning quarantine and the prevention of infection.

9. (I) Any commander, master, or other person being in charge of any vessel liable to or ordered into quarantine who himself quits, or knowingly suffers any person whatsoever to quit such vessel before such vessel has been regularly discharged from the performance of quarantine (unless under any license granted by the Governor) shall, in every case for every such offence, forfeit the sum of four hundred pounds.

Penalty on masters.
3 Wm. IV No. 1, s. 6.

(II) Whosoever, coming in any vessel liable to or ordered into quarantine, or going on board the same before or after her arrival, quits such vessel (either before or after her arrival) before such vessel has been regularly discharged from the performance of quarantine, shall, for every such offence, be imprisoned for the term of six months, and shall forfeit the sum of three hundred pounds.

Or other persons quitting vessels liable to or ordered into quarantine.

(III) It shall be lawful for any person whatsoever by any kind of necessary force to compel any such person quitting any such vessel to return on board the same.

Persons may be compelled to return.

(IV) The word "quit" in this section shall include going on board any other vessel.

Meaning of "quit."

10. (I) It shall be lawful for any constable or any other person to seize and apprehend any person whatsoever who has, contrary to the provisions of this Act, quitted or come on shore from any vessel liable to quarantine, or who has escaped from or quitted any vessel under quarantine, or any vessel, or place appointed in that behalf, for the purpose of carrying such person before any justice of the peace.

Persons liable to quarantine may be seized.
Ibid. s. 7.
17 Vic. No. 29, s. 5.

(II) Any justice of the peace may grant his warrant for the apprehending and conveying of any such person to the vessel or place which he has so quitted, or for confining 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 such justice of the peace appear to be proper, until

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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 as to the disposal of such person, and may make any further order that may be necessary in that behalf.

Penalty for landing or receiving goods liable to quarantine. 3 Wm. IV No. 1, s. 13.

11. Whosoever lands or unships, or moves with intent to land or unship, any article whatsoever from any vessel liable to quarantine, or knowingly receives the same after it has been so landed or unshipped shall forfeit the sum of five hundred pounds.

PART IV.

Proceedings on arrival of vessels.

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.

Ibid. s. 4.

17 Vic. No. 29, s. 4.

12. (i) Every commander, master, or other person having the charge of any vessel arriving at any port in New South Wales from parts beyond the seas shall give to the pilot or person boarding or conducting such vessel, or to any person appointed by the Governor to board such vessel, a written paper containing a true account of the names of the place and country at which such vessel loaded, and also of all the places at which such vessel touched on the voyage out to New South Wales, and shall truly answer all such questions as are 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 of the death of any person, should such have taken place on board, whether such appointed person actually boards such vessel, or only goes alongside the same and demands such paper or puts such questions as aforesaid without such actual boarding.

And failing so to do, to be deemed guilty of a misdemeanour.

Ibid. s. 1.

(ii) Any such commander, master, or other person having charge of any such vessel, who—

- (a) neglects or refuses to give such written paper ; or
- (b) delivers such written paper with any false statement contained therein ; or
- (c) wilfully omits to make in such written paper any statement required by this Act ; or
- (d) makes any false answer to any such question,

shall be guilty of a misdemeanour, and shall on conviction be imprisoned with or without hard labour for any period not exceeding two years, or fined in any sum not exceeding three hundred pounds, at the discretion of the court or judge before whom he is convicted.

Copy of this Act to be given to master on arrival.

Ibid. s.12.

13. A copy of this Act shall be given by the pilot or person boarding any such vessel to the master thereof immediately on her arrival in any such port. **14.**

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14. (I) The surgeon, dispenser, or other medical officer of every vessel arriving at any port in New South Wales from parts beyond the seas shall truly answer all such questions as are put to him by such pilot or other person as aforesaid, 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 who may have died on board, or of any of the passengers or crew who may have died on shore in the course of the voyage, and touching the existence of any infectious or contagious disease at any port or place from which such vessel has come or at which it touched.

Surgeon, &c., to truly answer all questions as to health of crew and passengers, &c.
17 Vic. No. 29, s. 2.

(II) Any such surgeon, dispenser, or other medical officer who refuses to answer any such question so put to him, or makes any false answer to any such question, shall be guilty of a misdemeanour, and shall on conviction be imprisoned with or without hard labour for any period not exceeding two years, or fined in any sum not exceeding three hundred pounds, at the discretion of the court or judge before whom he is convicted.

And failing so to do to be guilty of a misdemeanour.
Ibid. s. 3.

15. (I) Whenever any vessel arriving at any port in New South Wales from parts beyond the seas has come from any place proclaimed by the Governor as infected as aforesaid, the pilot or person boarding or conducting such vessel 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.

Pilot to give notice to master if vessel has arrived from proclaimed part.
3 Wm. IV No. 1, s. 4.

(II) Upon receipt of such notice, such commander or other person in charge shall immediately hoist a signal and shall keep such signal hoisted until such vessel is legally discharged from the performance of quarantine. Such signal shall be, in the day-time a yellow flag of six breadths of bunting at the main topmast head, and in the night-time a large signal lantern at the same mast head.

Master to hoist signal.

(III) Any commander or other person in charge of any such vessel who, after receiving such notice, fails to hoist or keep hoisted such signal as aforesaid shall forfeit for every such offence the sum of one hundred pounds.

Penalty.

16. The provisions of subsections (II) and (III) of the next preceding section shall apply to every vessel ordered into quarantine and to the commander or other person in charge of such vessel, from the time when such commander or other person receives notice of such order.

All vessels ordered into quarantine to hoist signal.
58 Vic. No. 2, s. 6.

17. Any pilot who, after receipt of such written paper as aforesaid, whereby it is made to appear that the vessel is liable to quarantine, or without requiring and receiving such written paper, brings or causes to be brought or conducted any vessel liable to quarantine into any place not specially appointed for the reception of vessels so liable, shall, unless compelled thereto by stress of weather, adverse winds, or accidents of the sea, for every such offence forfeit the sum of two hundred pounds.

Pilot to incur penalty on wrongly conducting a vessel liable to quarantine.
3 Wm. IV No. 1, s. 4.

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Vessels not to pass certain limits till granted pratique.
17 Vic. No. 29, s. 6.
58 Vic. No. 2, ss. 4, 5.

18. (I) No vessel arriving in any port or harbour in New South Wales from parts beyond the seas shall, until boarded by the health officer and granted pratique, be brought higher up such port or harbour than such spot or place in such port or harbour as the Governor may, by proclamation to be published in the Gazette, specify as the limit for such vessels.

Persons not to quit vessels.

(II) No person whatsoever on board any such vessel shall quit such vessel until pratique is granted as aforesaid.

Penalty.

(III) Whosoever offends against either of the above provisions of this section shall, on conviction before any two justices of the peace, forfeit any sum not exceeding one hundred pounds.

Exemption of vessels arriving from any Australasian Colony.
17 Vic. No. 29, s. 7.

19. The provisions contained in the last preceding section shall not apply to vessels arriving from any of the Australasian Colonies, including New Zealand, unless—

(a) at the time of the arrival of any such vessel, or within fourteen days previously, there is or has been an infectious or contagious disease on board thereof ; or

(b) any such vessel arrives from any port or place in any of the said Australasian Colonies proclaimed by the Governor as infected as aforesaid.

Boats not to go alongside vessels until health-officer has boarded.
Ibid. s. 8.
58 Vic. No. 2, s. 5.

20. No person shall with any boat whatever, other than the boat belonging to the pilots, the post-office, the police, and the customs, board or go alongside any vessel arriving in any port or harbour in New South Wales from any place other than those coming within the exemption contained in the last preceding section, until such vessel has been boarded by the health-officer and the visiting-flag has been hauled down ; and no person other than a pilot shall go on board such vessel from any post-office, police, or customs boat which has gone alongside until such time as aforesaid.

Penalty.

Whosoever offends against the provisions of this section, or, being a master of a merchant vessel in any such port or harbour, orders, or permits, or suffers any of his boats or crew to board or go alongside any such vessel so arriving as aforesaid for the purpose of communicating with the persons in such vessel whilst the visiting-flag continues to be flying at the mast thereof, shall, for every such offence, on conviction before any two justices of the peace, forfeit a sum not exceeding fifty pounds.

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PART V.

Performance of quarantine.

21. Any commander, master, or other person in charge of any vessel ordered into quarantine as aforesaid, who does 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 shall forfeit the sum of four hundred pounds.

Penalty on masters not conveying vessels into quarantine.
3 Wm. IV No. 1, s. 6.

22. Every commander, master, or other person in charge of any vessel ordered into 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 authorised 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 wilfully refuses or neglects to do so.

Masters to deliver to superintendent of quarantine their bill of health, manifest, &c.
Ibid. s. 5.

23. All goods and other articles ordered into quarantine as aforesaid shall be opened and aired in such place and for such time and in such manner as shall be directed by the Governor by any order notified by proclamation; and after such order has been duly complied with, then and in every such case the officer or person in charge of the vessel or place in which such goods and other articles have been opened and aired shall grant a certificate to such effect under his hand, and upon such certificate being approved and allowed by the Governor, then such goods and other articles shall be liable to no further restraint or detention either at the port or place where such quarantine was performed, or at any other place in New South Wales whereto they may be conveyed.

Goods ordered into quarantine to be opened and aired in places appointed by the Governor.
Ibid. s. 11.

24. Whosoever clandestinely conveys, or secretes or conceals with intent to convey, any article whatsoever from any vessel actually performing quarantine, or from the place where such article is performing quarantine, shall forfeit the sum of one hundred pounds.

Penalty on persons conveying, &c., goods actually performing quarantine.
Ibid. s. 13.

25. In case it is deemed necessary by the Governor to appoint any medical officer to take charge of any of the crew and passengers of a vessel placed in quarantine, it shall be competent to the Governor to fix the amount of remuneration to be paid to such medical officer for his services, and to cause the same to be paid by the Colonial Treasurer, and the amount so paid shall be repaid to the said Colonial Treasurer by the owners or agents of such vessel before she is permitted to clear out and leave the port in which she then is:

Medical officer may be appointed for persons in quarantine at the cost of the owners of vessel.
17 Vic. No. 29, s. 9.

Provided that this section shall not apply to any vessel chartered by the Government for the conveyance of immigrants.

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Proper provisions and medicines to be supplied for persons in quarantine.

17 Vic. No. 29, s. 10.

26. It shall be the duty of the owners and agents of any vessel placed in quarantine to supply the crew and passengers thereof with such wholesome and suitable provisions and medicines as are required by the medical practitioner in charge; and if such provisions and medicines are not forthwith supplied accordingly the same may be provided under the order of the Governor, and the cost thereof, including the conveyance of the same, shall be paid by the said owners or agents into the hands of the Colonial Treasurer before such vessel shall be permitted to clear out or leave the port in which she then is:

Provided that nothing herein contained shall apply to or in respect of immigrants conveyed at the charge of the Government under charters by which the owners are exempted from liability for the maintenance and care of such immigrants whilst under quarantine.

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

3 Wm. IV No. 1, s. 10.

27. After quarantine has been duly performed by any vessel or person obliged to perform quarantine as aforesaid according to this Act, and to such order made as aforesaid, the chief officer who superintended the quarantine of the said vessel, or the 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 then every such vessel and every such person so having performed quarantine shall be liable to no further restraint or detention upon the same account for which such vessel or person has performed quarantine as aforesaid.

Penalty on neglect of duty by officials.

Ibid. s. 9.

28. Any officer or person whatsoever to whom it appertains to execute any order made or to be made concerning quarantine, and notified by proclamation, or to see the same put in execution, who is knowingly and wilfully guilty of any breach or neglect of his duty in respect of the vessels, persons, goods, or chattels performing quarantine shall forfeit and pay the sum of two hundred pounds.

Officials deserting or permitting departure without authority guilty of felony.

Ibid. s. 9.

29. Any such officer or person who—
(I) deserts from his duty when employed as aforesaid; or
(II) knowingly and willingly permits any person, vessel, goods, or merchandise to depart or be conveyed out of the said vessel or other place as aforesaid unless by permission under the order of the Governor shall be guilty of felony.

Persons giving false certificates guilty of felony.

Ibid. s. 9.

30. Any person hereby authorised and directed to give a certificate of a vessel having duly performed quarantine or airing who knowingly gives a false certificate thereof shall be guilty of felony.

Penalty on officials damaging goods.

Ibid. s. 9.

31. Any such officer or person, as in the last three preceding sections mentioned, who knowingly or wilfully damages any goods performing quarantine under his direction shall be liable to pay one hundred pounds damages and full costs of suit to the owner of the same.

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- (I) knowingly or wilfully forges or counterfeits, interlines, erases, or alters any certificate, directed or required to be granted by any order of the Governor touching quarantine; or
- (II) procures to be forged or counterfeited, interlined, erased, or altered any such certificate; or
- (III) publishes any such forged or counterfeited, interlined, erased, or altered certificate, knowing the same to be forged or counterfeited, interlined, erased, or altered; or
- (IV) knowingly and wilfully utters and publishes 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,

shall be guilty of felony.

Persons forging or uttering false certificates guilty of felony.
3 Wm. IV No. 1, s. 12.

PART VI.

Miscellaneous provisions.

33. The Governor may make such order as shall be deemed necessary and expedient upon any unforeseen emergency or in any particular case with respect to any vessel arriving under any alarming or suspicious circumstances as to infection, though not being liable to quarantine within the meaning of this Act, and also with respect to any person and any article on board the same; and in case of any infectious or contagious disease highly dangerous to the public health appearing or breaking out in New South Wales may make such order and give such directions in order to cut off all communication between any persons infected with any such disease and the rest of Her Majesty's subjects as appear to the Governor to be necessary and expedient for that purpose; and likewise to make such order as the Governor sees fit for shortening the time of quarantine to be performed by particular vessels or particular persons or articles, or for absolutely or conditionally releasing them or any of them from quarantine.

For vesting certain powers in the Governor to prevent infection in certain cases of emergency.
Ibid. s. 2.

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, or other person having charge of any vessel, and all other persons on board the same, as with respect to any other person having any intercourse or communication with them, and to the penalties, forfeitures, and punishments to which they may respectively become liable, as any order concerning quarantine made by the Governor and notified by proclamation as aforesaid.

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Power to make regulations.
58 Vic. No. 2, s. 7.

34. The Governor may, on the recommendation of the Board make regulations for the purpose of carrying this Act into effect, and by such regulations may impose for any breach thereof a penalty not exceeding one hundred pounds, to be recovered in a summary way before a stipendiary or police magistrate, or any two justices of the peace, and in default of payment the offender shall be liable to imprisonment for any period not exceeding six months.

All regulations shall be published in the Gazette, and shall thereupon if not inconsistent with this or any other Act have the force of law.

Recovery and appropriation of penalties.
3 Wm. IV No. 1, s. 14.

35. All forfeitures and penalties incurred by reason of any offence committed against this Act may, except as hereinbefore otherwise provided, be recovered by action in the Supreme Court, and two-thirds of every such forfeiture and penalty shall be given to the person who informs and sues for the same.

Answers of persons having charge of vessels shall be received as evidence in certain cases.
Ibid. s. 15.

36. (I) In any prosecution, action, or other proceeding against any person 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 made by the Governor concerning quarantine, and the prevention of infection, and notified as aforesaid, the statement and answer of the commander, master, or other person having charge of any vessel, made as hereinbefore directed to the pilot or person boarding or conducting such vessel shall be received as *prima facie* evidence so far as the same may relate to the place from which such vessel has arrived or come, or to the place at which such vessel touched in the course of the voyage, and also as *prima facie* evidence that such vessel was liable to quarantine.

Evidence of liability to quarantine.

(II) Where any such vessel has, in fact, been put under quarantine at any port or place and is actually performing the same, such vessel shall in any prosecution, action, or other proceeding against any person whatever for any offence against this Act or against any other Act which may hereafter be passed concerning quarantine, and the prevention of infection, or against any order made by the Governor as aforesaid, be deemed to be liable to quarantine without proving in what manner or from what circumstance such vessel became liable thereto.

General issue and limitation of actions, &c.
Ibid. s. 16.

37. (I) In any action or other proceeding brought against any pilot, superintendent, constable, or other person for any matter or thing done in pursuance of any order of the Governor made for the preventing the introduction of any such infectious or contagious disease as aforesaid, or in pursuance of the provisions of this Act, the defendant may plead the general issue, and may give this Act and the special matter in evidence.

(II) In any such action or other proceeding, if the verdict is for the defendant, or if the plaintiff is nonsuited or discontinues his action

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action after the defendant has appeared, or if upon demurrer judgment is given against such plaintiff, the defendant shall have treble costs, and shall have the like remedy for the same as any other defendant has in any other case to recover costs by law.

(III) No such action or other proceeding shall be brought against any person for any matter or thing done as aforesaid, but within the space of six months after such matter or thing has been done.

SCHEDULE.

Section 2.

| Reference to Act. | Title or short title. | Extent of Repeal. |
|---------------------|---|-------------------|
| 3 Wm. IV. No. 1 ... | An Act for subjecting vessels coming to New South Wales from certain places to the performance of quarantine. | The whole. |
| 17 Vict. No. 29 ... | An Act to amend the Quarantine Laws in certain particulars. | The whole. |
| 58 Vict. No. 2 ... | Quarantine Law Amendment Act, 1894 | The whole. |