



ANNO TERTIO

GULIELMI IV. REGIS.

No. 1.

By His Honor Captain FREDERICK CHIDLEY IRWIN, Lieutenant-Governor and Commander-in-Chief of the Colony of Western Australia and its Dependencies, and Vice-Admiral of the same, with the Advice of the Legislative Council.

AN ACT to enforce and regulate the performance of Quarantine in certain cases in Western Australia.

[February 8, 1833.]

WHEREAS, it is expedient that the performance of Quarantine in certain cases in the Colony of Western Australia, should be duly enforced and regulated to prevent the introduction, or spread, within the said Colony, of any infectious disorders, highly dangerous to the health of His Majesty's subjects: Be it therefore enacted, by His Honor the Lieutenant Governor of Western Australia and its Dependencies, with the advice of the Legislative Council, that as often as the Governor of Western Australia for the time being, with the ad-

Preamble.

Vessels with their Crews,
Passengers and Cargoes,
liable to Quarantine; when.

vice of the Executive Council, shall notify by proclamation, that any Place or Places beyond the seas, is, or are infected with any such infectious disease as aforesaid, and that it is probable that 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 merchandize, packets, packages, baggage, wearing appural, 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 merchandize, packets, packages, baggage, wearing apparel, books, letters, or other articles shall have come, or been brought in such Vessels, or such persons 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 said Colony, and whether such Vessels were, or were not bound to any port or place in the said Colony; and all persons, goods, wares, and merchandize, packets, packages, baggage, wearing apparel, books, letters, or any other article whatsoever, on board of any Vessel 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; and all such Vessels, and Boats as aforesaid, and all persons, (as well Pilots, as others), goods, wares, and merchandize, 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 or place in the said Colony; and all persons, goods, wares, and merchandize, and other articles as aforesaid, on board such receiving vessel or boat, 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 such 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 merchandize, 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, and merchandize, 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 the said Colony, 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

The time place and manner of performing Quarantine.

Until Quarantine be performed, no person or thing to leave the ship.

persons, as well pilots, as others, goods, wares, and merchandize, 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 the said Colony; 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, 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.

II. AND be it further enacted, that it shall be lawful for the Governor, with the advice of the Executive Council, to make such order, prospective or otherwise, as shall be deemed necessary and expedient, to provide for sudden emergencies, or for subjecting to Quarantine, any Vessels 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 persons, goods, wares and merchandize, and other articles as aforesaid, on board the same; and in case of any such infectious disease appearing, or breaking out in the said Colony, or its Dependencies, to make such orders, and give such directions, in order to cut off all communication, between any persons infected with such disease, and the rest of His Majesty's subjects, as shall appear to the said Governor and 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, merchandize, 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 as 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 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 may issue special orders relative to any vessel

and relative to any infectious disease breaking out in the colony;

and to shorten the time of Quarantine in particular cases.

Orders shall have the same force and effect as Government proclamations.

Masters, &c., to give a true account of port of departure &c., under penalty of £100

If from infected port Pilot shall give notice thereof to the Master, under penalty of £100,

Immediately on notice, the Master shall hoist signal under penalty of £100.

Pilots conveying vessels to the wrong place, penalty £100.

Master shall deliver his Bill of Health, manifest, logbook and journal.

III. AND be it further enacted, that from and after the passing of this Act, every Commander, Master, or other person, having the charge of any vessel, coming from ports beyond the seas, shall give the Pilot, or Quarantine Officer hailing, 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 of the said Colony; and shall truly answer all such questions as shall be put to him, by such Pilot, or Officer, touching the health of the crew, and passengers of such vessel, during the voyage, and the cause or causes of the deaths, of any person or persons, should such have taken place on board, on pain of forfeiting any sum not exceeding One Hundred Pounds, for any neglect or refusal to give any 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, or Officer shall immediately give notice thereof, to the Commander, or other person in charge of such vessel, on pain of forfeiting any sum not exceeding 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 Lantern, 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, any sum not exceeding One hundred Pounds; and in case any Pilot, or Quarantine officer 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, or accidents of the sea, such Pilot or Officer shall, for every such offence, forfeit and pay, any sum not exceeding Two hundred Pounds.

IV. 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, is hereby required to make such demand,) his

Bill of Health, and Manifest, together with his Log Book, and Journal, under pain of forfeiting any sum, not exceeding One hundred Pounds, if he shall wilfully refuse or neglect to do so.

V. 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 to 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 any sum not exceeding 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 any 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 whomsoever, 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 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 any sum not exceeding Three hundred Pounds.

Master quitting vessel under Quarantine or neglecting to convey vessel to Quarantine station,

Any other person quitting such vessel in quarantine; fine and imprisonment.

VI. AND be it further enacted, that it shall be lawful for any Constable, 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 under Quarantine, or from any Lazaret Vessel or place appointed in that behalf, for the purpose of carrying such person or persons before a 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 person as may, in the discretion of any such Justice of the Peace, appear to be proper, until such person can be safely and securely 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

Any one may seize persons quitting vessel under quarantine.

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

Governor may prohibit all persons from entering Quarantine Station,

VII. AND be it further enacted, that it shall be lawful for the Governor, with the advice of the Executive Council, by order notified by proclamation, to prohibit all persons, vessels, and boats from going under any pretence whatever, within the limits of any Station which by any order of the Governor with the advice of the Executive Council as aforesaid, shall be assigned for the performance of Quarantine; and if any person after such notification of any such prohibitory order of the Governor with the advice of the Executive Council, shall presume, under any pretence whatsoever, to go within the limits of such Station, he or she shall forfeit and pay any sum not exceeding Two hundred Pounds.

Quarantine officers guilty of any wilful breach or neglect or duty.

VIII. AND be it further enacted, that if any officer or person whosoever, to whom it shall appertain to execute any order 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 any sum not exceeding Two hundred Pounds; and if any such officer or person shall desert from his duty when employed as aforesaid, or shall knowingly and wilfully permit any person, vessel, goods or merchandize 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 to grant Certificates 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 any sum not exceeding One hundred Pounds, damage, and full cost of suit to the owner of the same.

On certificate of performance of Quarantine, then vessel free.

IX. AND be it further enacted, that after Quarantine shall have been duly performed by any vessel, person, or persons obliged to perform the same according to this Act, and to such order or orders made as aforesaid, the Officer who superintended the Quarantine of the said vessel, or the person acting for him, is hereby authorized and 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.

Cargoes to be opened and aired in manner directed.

X. AND be it further enacted, that all goods, wares, and merchandize, and other articles liable to Quarantine as aforesaid, shall be opened and aired in such place or places, for such time, and in such manner, as shall be directed by the Governor of the said Colony, with

the advice of the Executive Council, by any such order or orders 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, merchandize, and 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, merchandize, and 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 afterward conveyed.

XI. 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, counterfeited, interlined, erased or altered, any Certificate directed to be granted by this Act, or which shall be directed to be granted by any order of the Governor of the said Colony, with the advice of the Executive Council, touching Quarantine; or shall publish any such forged or counterfeited, interlined, erased, or altered Certificate, knowing the contents of such Certificate to be false, he or she shall be guilty of felony.

Forging or uttering forged certificate.

XII. 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 merchandize, 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 any sum not exceeding Five hundred Pounds; and if any person shall clandestinely convey or secrete, or conceal any letters, goods, wares, merchandize, or other articles as aforesaid, for the purpose of conveying the same from any vessel actually performing Quarantine, or from the Lazaret, or other place where such goods, wares, merchandize, or other articles as aforesaid, shall be performing Quarantine, every such person so offending as last aforesaid, shall forfeit any sum not exceeding One hundred Pounds.

Landing or unshipping cargo of a vessel subject to Quarantine, or receiving the same when landed—penalty £500.

Clandestinely conveying any articles from such vessel—penalty £100.

XIII. AND be it further enacted, that all informations and proceedings on account of any offence against the provisions of this Act, for which any pecuniary penalty is hereby imposed, shall be heard and determined, and all forfeitures and penalties, in respect of the same, shall be awarded and imposed, in a summary way, by any two Justices of the Peace; and that it shall be competent for any one Justice of the Peace, to receive the original information or complaint, and thereupon to issue, either a summons, or a warrant, to procure the appearance of the party accused, and to summon all necessary witnesses, before any two Justices of the Peace, of whom such summoning Justice need not be one; and upon appearance of the party accused (or in his absence upon proof of oath, of his having been served with a summons or upon reasonable presumptive evidence, on oath, to the satisfaction

Penalties recoverable before two Justices.

If penalty not paid within three days after conviction, distress and sale,

If no sufficient effects imprisonment for any term not exceeding twelve calendar months.

Appropriation of penalties.

Right of appeal to Quarter Sessions.

Answers and statements of Masters of vessels to Pilots or acting Pilots, to be received as evidence for certain purposes.

of such two Justices, that the accused party has absconded, or concealed himself purposely to avoid the execution of such summons or warrant), such two Justices shall hear the matter of such information, and examine all necessary witnesses upon oath, and make such order thereon, as to them shall seem meet; and in case the party accused shall be by them convicted, and shall fail to pay any penalty, or costs or expenses awarded by such order, within three days next after such order shall have been personally served on him or her, or left at his or her usual place of abode, or place of abode at the time of such conviction, it shall be lawful for the said convicting Justices to levy and raise such penalty, costs, or expenses, by distress and sale of the goods and chattels of the party so convicted: and in case such goods and chattels shall be insufficient for that purpose, it shall be lawful for the convicting Justices, to commit the party so convicted, to any Gaol, or House of Correction, for any term not exceeding Twelve Calendar Months.

XIV. AND be it further enacted, that all forfeitures and penalties imposed under this Act, shall be payable, two-thirds thereof to the party informing, and the remainder to the use of His Majesty, His Heirs, and Successors.

XV. AND be it further enacted, that if any person shall think himself aggrieved by any Judgment or Conviction under this Act, such person may appeal therefrom to the next Court of Quarter Sessions; which Court shall hear and determine the matter of such Appeal, and shall summon all necessary parties and witnesses, and shall make such order in affirmance or reversal of the Judgment, or Conviction appealed from, and for payment of the costs of the Appeal, as to such Court shall seem meet; and shall enforce such order if necessary, by distress and sale of the goods, and chattels of any person refusing or neglecting to obey such order, or by imprisonment of any such person, for any time not exceeding six calendar months; Provided, that notice of such Appeal be given by the Appellant, to the Justices from whose Judgment or Conviction such Appeal shall be made, within three days, next after such Judgment or Conviction; and that such Appellant deposit the sum of Five Pounds with the last mentioned Justices, and enter into a recognizance with two Sureties, for abiding the result of such Appeal.

XVI. AND be it further enacted, that in any information, or other proceeding, against any person or persons whomsoever, 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 Quarantine Officer, hailing, boarding, or conducting such vessels, 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 information, 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 such vessel shall have in fact been put under Quarantine, at any Port or Place by the Superintendent of Quarantine, or any Officer of Customs, authorized as aforesaid to act in that behalf, and shall actually be performing the same, such vessel shall in any information or other proceeding against any person or persons whomsoever; for any offence against this Act, or any other Acts hereafter passed concerning Quarantine, 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.

XVII. AND be it further enacted, that all actions, suits, or other proceedings against any Pilot, Superintendent, Officer of Customs, or other person whomsoever for any matter or thing done, or alledged to be done, in pursuance of the provisions of this Act, or in pursuance of any order of the Governor of the said Colony for the time being, with the advice of the Executive Council, shall be commenced within Six Calender Months after such matter or thing shall have been done.

Limitation of actions.

FREDERICK CHIDLEY IRWIN,
LIEUTENANT-GOVERNOR AND COMMANDER-IN-CHIEF.

Passed the Legislative Council
This 8th Day of February, 1833,

H. C. SUTHERLAND,
Clerk to the Council.