

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1831. Fredericton, NB: John Simpson, Printer to the King's Most Excellent Majesty, 1831.

1 William IV – Chapter 40

An Act to make more effectual Provision for preventing the Importation and Spreading of Infectious Distempers within the Towns and Settlements in the Counties of Charlotte and Northumberland. Passed 31st March 1831.

Whereas from the great Augmentation of the Population of the Town of Saint Andrews and other Towns in the County of Charlotte, and also of the Towns of Newcastle and Chatham and other Towns or Villages on the Miramichi River, it has become expedient for the Safety of the Inhabitants to make more effectual Regulations for preventing the Importation of infectious Distempers in those Districts than are already by Law provided:

- I. Be it therefore enacted by the President, Council, and Assembly, That an Act made and passed in the Eighth Year of the Reign of His late Majesty George the Fourth, intituled An Act to make more effectual Provision for preventing the Importation or Spreading of infectious Distempers within the Towns or Settlements on the River Miramichi; and also an Act made and passed in the Ninth and Tenth Years of the Reign of His late Majesty George the Fourth, intituled An Act in Addition to an Act, intituled An Act to make more effectual Provision for preventing the Importation or Spreading of infectious Distempers to within the Towns or Settlements on the River Miramichi, be and the same are hereby repealed.
- II. And be it further enacted, That no Vessel having on board the Small Pox, Yellow Fever, Putrid Bilious Fever, or other pestilential or contagious Distemper, or coming from any Place infected with such Distempers, or at which any such Distempers at the Time of her Departure were known or supposed to prevail, or on board of which Vessel any Person during the Voyage had died, or been sick of any such Distemper, shall come, proceed or be navigated further from the Sea into the Bay of Passamaquoddy or towards any Port or Place in the County of Charlotte, or further from the Sea into the River Miramichi, than such Place or Places as the Justices of the Peace for the Counties of Charlotte and Northumberland at their General Sessions of the Peace, or at any Special Sessions to be for that Purpose convened, shall in said Counties respectively order and appoint, until such Vessel shall have been duly inspected and examined by the Physician or Physicians to be for that Purpose, as herein after mentioned, appointed, and shall have received a Licence for that Purpose from Two of His Majesty's Justices of the Peace; and in case such Licence shall be denied, and it shall be judged expedient by the Justices of the Peace of the said Counties respectively, or by any Two of them, that such Vessel with her Cargo and all Persons on board shall ride or perform Quarantine, then the Master or Commander of such Vessel for the Time being shall forthwith cause such Vessel, with all the Persons, Goods and Cargo on board thereof, to be removed to and anchor at such Place, and for such length of Time (not exceeding Forty Days), as the said Justices or any Two of them in either County shall direct or appoint; and during the Time such Vessel shall be performing such Quarantine, the Master or Commander thereof shall not permit any Intercourse between the Persons on board such Vessel and the Shore or Shores, or

between such Vessel and any other Vessel in the said Harbour or Harbours, except under the Direction of the said Physician or Physicians; and the Master or Commander of any such Vessel, and all and every other Person or Persons belonging to and being on board such Vessel, who shall disobey any such Orders and Directions as aforesaid, or shall neglect to execute and perform the same, or who shall come on Shore or go on board of any other Vessel within the said Harbour or Harbours, or shall presume to bring or put, or aid or Assist in bringing or putting on Shore or on board any other Vessel as aforesaid, any Person or any Goods from any such Vessel so having come to Anchor, or which shall be ordered to perform Quarantine as aforesaid, without the Licence or Permission of the said Physician or Physicians being for that Purpose First obtained, shall for each and every Offence severally forfeit and pay a Sum not less than Fifty Pounds nor more than Two hundred Pounds current Money of this Province.

III. And be it further enacted, That the Master or Commander of every Vessel having on board the Small Pox, Yellow Fever, Putrid Bilious Fever, or any other pestilential or contagious Distemper, or coming from any Place infected with such Distemper or Distempers, or at which any such Distempers at the Time of her Departure were known or supposed to prevail, or on board of which Vessel any Person during the Voyage had died or been sick of any such Distemper, shall immediately after her Arrival at such Place or Places as shall be appointed as aforesaid by the Justices of the Peace of the County of Charlotte in General or Special Sessions convened, or after her Arrival at or within Fox Island in the Bay of Miramichi, in the said County of Northumberland, hoist such Vessel's Ensign with the Union down, or if there be no Ensign on board, then he shall hoist such other Colours as shall be on board half-mast, and continue the said Signals so hoisted until a Licence be had to remove the same, from the said Justices or any Two of them for the said Counties respectively, under the Penalty of Twenty Pounds for each and every Offence.

IV. And be it further enacted, That the several Branch Pilots in the aforesaid Counties of Charlotte and Northumberland respectively, shall be furnished with printed or written Instructions containing such Memorandum or Abstract of the Provisions of this Act, and of the Regulations to be made in pursuance thereof, as the said Justices of the Peace of the said Counties respectively at any General or Special Sessions may direct; and such Instructions shall in all Cases contain a Notice to the following Effect, 'That the Master or Commander of any such Vessel, shall not put on Shore, or on board any other Vessel, or suffer any other Person to go or put on Shore or on board any other Vessel, any Person or Goods out of the said Vessel until such Vessel shall have been inspected by the Physician or Physicians and his or their Licence for that Purpose obtained, under the Penalty of not less than Fifty Pounds nor more than Two hundred Pounds, and further, that the said Master for Commander shall cause the said Vessel's Ensign or such other Colours as shall be on board to be hoisted half-mast (if the Ensign with the Union down), and shall continue the same so hoisted until Leave be granted by Two Justices of the Peace to remove the same, under the Penalty of Twenty Pounds;' and it shall be the Duty of the said Pilots respectively, on first boarding any Vessel coming into the said Bay of Passamaquoddy or any Port or Place in the County of Charlotte, or into the said River Miramichi, to read such Notice to the Master or Commander of such Vessel, or to communicate to him the Purport and Effect of such Notice; and any Branch Pilot who shall neglect his Duty in this Respect shall for the First Offence forfeit and pay

the Sum of Ten Pounds, and for the Second Offence, in Addition to the further Penalty of Ten Pounds, be prevented forever after from holding a Branch.

V. And be it further enacted, That if any Person or Persons shall be found to have been landed, or attempting to land, from any such Vessel so coming from any infected Place as aforesaid, or having any Person on board so infected as aforesaid, it shall and may be lawful for any Justice of the Peace in such Counties respectively, by Warrant under his Hand and Seal directed to any Constable of said County, to cause such Person to be taken and reconveyed on board such Vessel; and the said Constable having such Warrant is hereby authorized and empowered to command the necessary Assistance to enable him to force back and convey on board the said Vessel any and all Persons so landed or attempting to land as aforesaid; and that it shall be lawful for the Persons so called upon by the said Constable or Officer to assist or use such Force as may be necessary to carry the said Order into Effect, by forcing such Persons landed or attempting to land back to and on board such Vessel; and the Master or Person having Command or Charge of such Vessel from which such Persons shall have landed or attempted to land, shall, on Request of the Constable or Officer having the Execution of such Warrant, receive, take and detain on board his said Vessel such Person or Persons, under the Penalty of Fifty Pounds for each and every Person that he shall refuse to receive, or neglect to detain and keep on board after being so returned.

VI. And be it further enacted, That the Justices of the Peace in the said Counties respectively, in General or Special Sessions convened, or the Major Part of them, be and they are hereby authorized and required to nominate and appoint by Warrant under their Hands and Seals One or more Physician or Physicians, who shall have Power and Authority to go on board, visit and inspect all Vessels arriving as aforesaid which may be suspected for having on board the said Small Pox, Yellow Fever, Putrid Biliious Fever, or other pestilential or contagious Distemper, and who are required, at the Instance of the said Justices or any One of them, to go on board such suspected Vessel or Vessels, and make full Inquiry and Examination into the State of the Health of all Persons on board, or who have been on board during any Part of the Voyage, and whether the said Vessel or Vessels came from or touched at any Place infected with any of the Distempers aforesaid, and into and concerning all Circumstances and Matters in anywise touching or concerning the Prevalence of any of the said Distempers at any Place where the said Vessel or Vessels may have touched, or from which the said Vessel or Vessels may have sailed; and the said Physician or Physicians are hereby respectively fully authorized and empowered, on going on board of any Vessel or Vessels as aforesaid, to examine the Master, and such other Persons on board said Vessel or Vessels as he or they may think necessary, on Oath, as to the Health of all Persons on board or who have been on board during any Part of the Voyage, and into and concerning all Circumstances and Matters in anywise touching or concerning the Prevalence of any of the said Distempers at any Place where the said Vessel may have touched or from which she may have sailed; which Oath the said Health Officers respectively are hereby fully authorized and empowered to administer; and the said Physician or Physicians performing such Duty shall make Report, in Writing, to the said Justices or any One of them so requesting him or them to go on board and make Examination as aforesaid, of the Result of such Examination and Inquiry, with his or their Opinion and Advice thereon; and shall for each and every Visit so made be entitled to

demand and receive from the said Master or Owner the Sum of Thirty Shillings, to be sued for and recovered as is herein after directed.

VII. And be it further enacted, That during the Time any Vessel shall be ordered to perform Quarantine as aforesaid, it shall and may be lawful for the Justices the Peace for the said Counties respectively, in their General Sessions, or at any Special Sessions to be for that Purpose holden, there being not less than Three such Justices present, to authorize and order the landing of either the healthy or the diseased Persons from on board such Vessel at such Lazaretto or Place detached from the settled Part of the County, and under such Restrictions as they may think expedient and necessary, in order to facilitate the Recovery of those infected and to prevent and guard as much as possible against the spreading of the Disease among the Passengers and Crew, and after such landing, at any Time before the said Vessel shall be discharged from Quarantine, by like Order of General or Special Sessions, cause any or all Persons so landed to be again taken on board such Vessel and detained on board said Vessel for such Time as they may think necessary, or until the said Vessel shall be discharged from Quarantine; and, subject always to such Order of the General or Special Sessions as aforesaid, the Persons so landed as aforesaid shall remain at such Place or Places as shall be appointed therefor until they are restored to Health, their Clothes thoroughly cleansed under the Direction of the said Physician or Physicians, and his or their Certificate be obtained that they may proceed into the said Town, Towns, Villages or Country without Danger to the Inhabitants thereof; and the said Vessel from which the said Passengers shall be so landed, shall be thoroughly cleansed and purified under the Directions of the said Physician or Physicians, and when so cleansed and purified the said Physician or Physicians shall report the same to the said Justice or Justices, and any Two of the said Justices shall upon such Report give a Licence under their Hands and Seals for the said Vessel to depart from such Quarantine as aforesaid.

VIII. And be it further enacted, That if any Person after being landed or permitted to land from such Vessel, shall escape or depart from the Lazaretto or Limits assigned by the Justices, such Person so offending shall forfeit and pay the Sum of not exceeding Twenty Pounds, and be liable to be arrested and forced back to the Limits assigned as aforesaid, or to the Vessel from which he or she was permitted to land, as the Justice or Justices shall order or direct, and there be kept in close Confinement at the Discretion of any Two of such Justices.

IX. And be it further enacted, That if any Passenger or other Person whatsoever, such Physician or Physicians as aforesaid excepted, being on board any Vessel having on board the before recited or other pestilential or contagious Distempers, or coming from any Place infected with such Distemper, shall land from such Vessel, or shall leave the said Vessel and approach within Eighty Rods of the Shore, without Licence First had and obtained from the Justices according to the true Intent and Meaning of this Act, each and every Passenger or other Person so offending shall forfeit and pay for every Offence a Sum not less than Five Pounds nor more than Ten Pounds.

X. And be it further enacted, That if any Passenger or Person who shall have landed from any Vessel so coming from any infected Place as aforesaid, and who shall have obtained Licence to land as aforesaid, shall after landing be attacked by such infectious Distemper or Disease, it shall

be lawful for the said Justice or Justices, by Warrant under his or their Hand and Seal aforesaid directed, to cause such Person to be removed to the Lazaretto or other Place appointed as aforesaid, and there kept and detained for such Time as may be found necessary to prevent the spreading of such Distemper or Disease.

XI. And be it further enacted, That if at any Time it shall be made to appear to the Satisfaction of any Justice of the Peace, on Oath, that any Person has escaped from any such Vessel, or from the Lazaretto, or Limits assigned or to be assigned as aforesaid, and is kept or concealed in any House or other Building within the said Counties respectively, or if Oath be made by some credible Person or Persons that there is good Reason to suspect, and that such Person or Persons do verily believe, that any Person so escaping as aforesaid is so kept or concealed, it shall and may be lawful for such Justice to issue his Warrant to any of the Constables of such County, authorizing and requiring him or them to enter and search such House or other Building, and if such Person so escaping as aforesaid shall be found therein, to arrest, take and convey him or her on board of such Vessel or to the Lazaretto or Limits or Place appointed or assigned aforesaid for such Person to be kept in.

XII. And be it further enacted, That if any Person whatsoever shall aid, assist, or procure any Person to aid, abet or assist, any Person in landing from such Vessel, or in escaping from such Lazaretto or other Place to be so appointed as aforesaid, previous to a Licence for that Purpose obtained as aforesaid, or shall keep secret or conceal, or shall procure any Person to keep secret or conceal, any such Person landing or leaving as aforesaid, or in any Manner assist in preventing the Detection and Apprehension of such Person so landing without a Licence as aforesaid, every such Person so offending shall for every such Offence forfeit and pay a Sum not less than Five Pounds nor more than Twenty Pounds.

XIII. And be it further enacted, That if any Person who shall be commanded by any Constable or Officer having a Warrant from any Justice of the Peace as aforesaid for the Enforcement of the Quarantine, or compelling the Return of Persons who have landed or shall be attempting to land without Licence as aforesaid, shall refuse or neglect to render or afford such Assistance, shall for every Offence forfeit and pay a Sum not less than Two Pounds nor more than Five Pounds; and that in case of any Action of Trespass or other Prosecution or Suit whatsoever being or ought or prosecuted against the said Constable, or any Person aiding and assisting, for any Arrest, Assault or Violence, or Force necessarily used towards Persons so landing or attempting to land, or having escaped from such Vessel or Place appointed as aforesaid, the Defendant or Defendants in such Action shall be allowed to plead the General Issue, and give the special Matter in Evidence at the Trial in like Manner as if such Matter had been fully and specially pleaded; and if the Plaintiff shall become nonsuit, or shall discontinue the Action, or if upon Verdict or Demurrer Judgment shall be given against the Plaintiff, the Defendant shall recover Double Costs of Suit; and have such Remedy for the same as any Defendant can have in other Cases where Costs are given by Law:

XIV. And be it further enacted, That in all Cases where a Pilot shall be detained on board of any Ship or Vessel, under and by virtue of this Act, each and every Pilot so detained shall be entitled to receive from the Master or Owner of such Ship or Vessel (in Addition to the Pilotage Money) a

Sum at and after the Rate of Twelve Shillings and Sixpence per Day for each and every Day he shall be so detained, to be sued for and recovered as is herein after directed.

XV. And be it further enacted, That the Master or Commander of every Vessel arriving and coming from any such infected Place as aforesaid, or having on board any Person or Persons infected, or who during the Voyage shall have been infected with the Small Pox or any of the Fevers or Distempers aforesaid, or on board of which Vessel any Person shall have died of any such Fever or Distemper, or being infected therewith shall have landed or quitted the said Vessel during the said Voyage, shall permit such Physician or Physicians at all reasonable Times to come on board and make the Inquiry and Examination aforesaid, and make and give to him a true and full Discovery and Relation of all the Matters, Things and Circumstances aforesaid; and if any such Master or Commander shall refuse or neglect to make such full and true Discovery and Relation as aforesaid, or shall suppress, conceal or deny the Truth in any Particular relating thereunto, he shall forfeit and pay for each and every Offence a Sum not under Fifty Pounds nor more than Two hundred Pounds.

XVI. And be it further enacted, That no Person or Persons whosoever, other than the Physician or Physicians appointed as aforesaid, shall go on board any Vessel so arriving as aforesaid which shall have such Signal so hoisted as aforesaid, or which having come to Anchor shall continue to have such Signal so hoisted as aforesaid, under the Penalty of Ten Pounds for each and every Offence; and if any Person or Persons, other than the Physician or Physicians aforesaid, shall go on board any such Ship or Vessel, then and in such Case the Master or Commander of such Vessel for the Time being is here by authorized and required to keep and detain such Person or Persons on board the said Vessel, until such Licence as aforesaid be given, or until the Expiration of such Time as shall be directed and appointed for the said Vessel to perform Quarantine as aforesaid; and if any such Person or Persons so having unlawfully gone on board any such Vessel as aforesaid, shall go on Shore or depart from the said Vessel before such Licence as aforesaid shall be given, or before the Expiration of the Time appointed for the said Vessel to perform Quarantine, or Permission be given for him or them to depart as aforesaid, then and in such Case every such Persons or Persons so offending as aforesaid, and the Master or Commander of any such Vessel so permitting such Person or Persons to go on Shore or to depart from the said Vessel, and every other Person aiding and assisting therein, shall for each and every Offence severally forfeit and pay a Sum not less than Five Pounds nor more than Fifty Pounds; and it shall and maybe lawful for any One of His Majesty's Justices of the Peace to order such Person or Persons to be taken back, in Manner directed in the Fifth Section of this Act, to such Vessel, or to such other Place as the said Justices of the Peace for the said respective Counties at any General or Special Sessions may have appointed for the Reception of Persons under such Circumstances; and the Provisions and Penalties contained in the said Fifth Section shall apply to Cases arising under this Section, in like Manner as if herein expressly contained.

XVII. And be it further enacted, That the several and respective Penalties and Forfeitures in this Act mentioned may be prosecuted, sued for and recovered by Action of Debt in the Supreme Court, or in the Inferior Court of Common Pleas for the said respective Counties, or may be prosecuted, sued for and recovered in a Summary Way before any Three Justices of the Peace for

the said respective Counties, of whom One at least shall always be a Judge of the Inferior Court of Common Pleas, by any Person who shall prosecute for the Same within Two Months after the Commission of the Offence, and when recovered shall be paid to the Treasurer of the County in which the Offence was committed for the Use of the County; or any Person may be prosecuted for any Offence under this Act, either before or after the Expiration of the said Period of Two Months, by Indictment before any Court of Oyer and Terminer or General Sessions of the Peace for the said respective Counties, and upon Conviction thereof before such Court shall be liable to the Penalty and Forfeiture in this Act allotted to the Offence, to be paid in like Manner to the Treasurer of the County for the Use of the County: Provided always that in case of Summary Proceedings before Three Justices of the Peace as aforesaid, for any Offence in which the greater Limit of the Penalty shall exceed Ten Pounds, the Party charged shall, if he require it, be tried by a Jury of Twelve Men; and in such Case it shall be lawful for the said Justices to issue a Precept under their Hands and Seals commanding the Sheriff to return a Jury for the Trial of such Offence; and the Men summoned to serve on such Jury, being so summoned Three Days before the Day of Appearance, shall be bound to attend and serve on such Jury, under the like Penalties for Default as if summoned to serve as Jurors at the General Sessions of the Peace.

XVIII. And be it further enacted, That it shall and may be lawful for any Judge of the Supreme Court, or of the Inferior Court of Common Pleas for the said respective Counties, upon Affidavit made of the Commission of any Offence under this Act, to issue a Warrant under his Hand and Seal for the Apprehension and Arrest of the Person charged with such Offence, and to bind such Person by Recognizance, with good and sufficient Sureties, to appear and take his Trial before the Court or Tribunal at which the Trial is intended to be, and, in Default of Bail being so given, to commit the Person charged to Prison to await his Trial: Provided always, that in case the Physician or Physicians herein before mentioned should deem it dangerous, from the Fear of spreading any such infectious Distemper, that any such Person should be committed to the County Gaol, it shall and may be lawful for such Judge of the Supreme Court, or Inferior Court of Common Pleas as aforesaid, to commit such Person to any Place of Confinement that may be appointed for that Purpose by any General or Special Sessions of the Peace as aforesaid in the said respective Counties, to be there kept in Confinement until the Time of Trial.

XIX. And be it further enacted, That the several and respective Penalties and Forfeitures herein before mentioned, together with Costs of Prosecution (unless in Cases where sued for by Action of Debt as aforesaid), shall and may be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, rendering the Overplus (if any) to the Offender; and if there shall not be sufficient Goods and Chattels whereon to levy the same, the Offender may be committed to the common Gaol, or, in case of Danger of spreading Infection as in the last foregoing Section mentioned, to such Place of Confinement as is therein mentioned, there to remain without Bail or Mainprize for any Term not exceeding the Term of Twenty Days for every Five Pounds of which the Penalty may consist: Provided always, that if the Master or Commander of any Ship or Vessel be the Offender, and have not sufficient Goods and Chattels of his own whereon to levy the Penalty and Costs as aforesaid, such Penalty and Costs shall and may be levied on the Boats, Tackle and Apparel of such Ship or Vessel.

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XX. And be it further enacted, That this Act shall continue and remain in Force until the First Day of January which will be in the Year of our Lord One thousand eight hundred and thirty seven.