

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1833. Fredericton, NB: John Simpson, Printer to the King's Most Excellent Majesty, 1833.

3 William IV – Chapter 21

An Act to prevent the Importation and Spreading of infectious Distempers in the City of Saint John. Passed 19th March 1833.

Whereas the several Acts relative to the Importation and Spreading of infectious Distempers in the City of Saint John, have by Experience been found inadequate;

I. Be it enacted by the Lieutenant Governor Council and Assembly, That an Act made and passed in the Tenth and Eleventh Years of the Reign of His late Majesty King George the Fourth, intituled *An Act to repeal all the Acts now in Force relative to the Importation and Spreading of infectious Distempers in the City of Saint John, and to make more effectual Provision for preventing the same*; and also an Act made and passed in the First Year of the Reign of His present Majesty, intituled *An Act to amend an Act, intituled An Act to repeal all the Acts now in Force relative to the Importation and Spreading of infectious Distempers in the City of Saint John, and to make more effectual Provisions for preventing the same*; and also an Act made and passed in the Second Year of the Reign of His present Majesty, intituled *An Act further to amend the Act relative to the Importation and Spreading of infectious Distempers in the City of Saint John, and to extend the Provisions thereof*, be and the same are hereby repealed.

II. And be it enacted, That no Vessel arriving in or near the Harbour of Saint John, having on board the small Pox, yellow Fever, or other pestilential or contagious Distemper, or coming from any Port or Place infected with any such Distempers, or at or near which any such Distempers at the Time of her Departure were known or supposed to prevail, or from any Port or Place in the West Indies, South America, the United States of America, from Boston and the Southward of Boston, Bermuda, Africa, or the Mediterranean, or having Passengers on board from any Port or Place in the World (save and except in this Province, Canada, Nova Scotia, Prince Edward Island, Newfoundland, and the United States of America to the Northward of Boston), between the First Day of May and the First Day of November in any Year, or on board of which said Vessel any Person during the Voyage had been sick or had died of any such Distemper, shall come, proceed, or be navigated or conducted further or higher up into the Harbour of Saint John than a Line running from the West Point of Partridge Island Westerly until it meets Negro Town Point, and East from the Eastern Point of Partridge Island and extending till it reaches the Shore to the Northward of Black Point, or, in case the Mayor, Aldermen and Commonalty of the City of Saint John in Common Council convened shall by their Order or Notice in Writing grant Permission, further or higher up than a Line to run from the Breakwater to Sand Point in Carleton, until such Vessel shall have been duly inspected and examined by the Physician or Physicians to be for that Purpose appointed as herein after mentioned, nor until the said Physician or Physicians shall signify his or their Consent and Permission, in Writing, that such Vessel may proceed without Danger to the Inhabitants of the said City; and if on such Inspection and Examination as aforesaid, the said Physician or Physicians shall consider that Danger is likely to result to the Inhabitants of

the said City, from permitting the said Vessel to proceed further than the said outer Line, or inner Line if so ordered by the said Common Council, or if the said Physician or Physicians shall be directed by the said Common Council so to do, he or they shall order the said Vessel to be brought to anchor without the outer Line aforesaid, or the said inner Line if so established for that Purpose by the said Common Council, and remain there for such Space of Time, not exceeding Three Days, to be fixed by the said Common Council, unless the said Common Council of the said City shall ordain and direct that the said Vessel shall perform Quarantine; in which Case the Master or Commander of such Vessel shall either cause the same to remain in the Place where she was First brought to anchor under the Orders of the visiting Physician or Physicians as aforesaid, or shall forthwith cause the said vessel with all the Persons, Goods, and Cargo on board thereof, to be removed to, and to anchor at such Place and for such Length of Time, not exceeding Forty Days, as the said Common Council may think proper to direct and appoint; and the same Vessel, with the Persons, Goods or Cargo, or either of them, a Committee of the said Common Council, consisting of the Mayor or Recorder and not less than Two of the Aldermen of the said City, may at any Time discharge from the said Quarantine; and during the Time such Vessel shall be detained by the said Physician or Physicians as aforesaid, or shall be performing such Quarantine, the Master or Commander thereof shall not permit or suffer any Intercourse between the Persons on board the said Vessel and the Shores on either Side of the said Harbour, or within the County of Saint John, or between the said Vessel and any other Vessel or Vessels in near the said Harbour, except under the Direction of the said Physician or Physicians; and the Master or Commander of any such Vessel who shall bring such Vessel further up than either of the Lines aforesaid without the Permission in Writing of the Physician or Physicians aforesaid, and if the inner Line, without the Permission of the said Common Council in Addition thereto, 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 or Vessels within or near to the said Harbour, or shall presume to bring or put, or aid or assist in bringing or putting on Shore or on board any other Vessel or Vessels as aforesaid, any Person or any Goods from any such Vessel so detained by such Physician or Physicians as aforesaid, or which shall be ordered to perform Quarantine as aforesaid, without the Licence and Permission of the said Physician or Physicians being for that Purpose First obtained, and the Permission of the said Common Council, shall for each and every Offence forfeit and pay the Sum of Two hundred Pounds of current Money of the Province of New Brunswick, or to be imprisoned for a Time not exceeding Twelve Months, in cast the same shall not be paid.

III. And be it enacted, That the Master or Commander of every Vessel having on board the small Pox, yellow Fever, or other pestilential or contagious Distemper, or coming from any Port or Place infected with such Distempers, or at or near which any such Distempers at the Time of her Departure were known or supposed to prevail, or from any Port or Place in the West Indies, South America, the United States of America, from Boston and the Southward of Boston, Bermuda, Africa, or the Mediterranean, or having Passengers on board from any Port or Place in the World (save and except in this Province, Canada, Nova Scotia, Prince Edward Island, Newfoundland, and the United States of America to the Northward of Boston), between the First Day of May and the First Day of November in any Year, or on board of which said Vessel any Person during the Voyage

had been sick, or had died of any such Distemper, before coming abreast of Partridge Island, at the Entrance of the Harbour of Saint John, shall cause the said Vessel's Ensign, or such other Colour as shall be on board, to be hoisted in the Larboard main Rigging, and shall continue the said Signal so hoisted until the said Vessel shall have been inspected and examined by the said Physician or Physicians, and a Licence be had from him or them to remove the same, and if detained by the said Physician, or ordered into Quarantine, shall hoist such other Signal as the said visiting Physician shall give to the Master or Commander for that Purpose, or any Signal which may be on board, and continue the same hoisted during the Day Time in such Part of the Vessel as may be directed, so long as detained, in order to give Notice of the Detention of the said Vessel under this Act, under the Penalty of Twenty Pounds for each and every Offence.

IV. And be it enacted, That no Master or Commander of any Vessel arriving in the Bay of Fundy, and having on board any pestilential or contagious Distemper, or in any Particular circumstanced as in the Second and Third Sections of this Act specified, shall land, or suffer or permit to be landed, any Person or Persons whomsoever, or himself land from the said Vessel, on any Part or Place whatever within the City and County of Saint John, until he shall bring the said Vessel into the Harbour of Saint John, in order that he may comply with the several Requisitions of this Act, under the Penalty of Two hundred Pounds.

V. And be it enacted, That the several Branch Pilots belonging to the City of Saint John, shall be furnished with printed Instructions containing a Notice to the following Effect, viz: 'That no Vessel having the small Pox, yellow Fever or other pestilential or contagious Distemper on board, or having come from any Place infected with any such Distempers, or at or near which any such Distempers were known or supposed to prevail at the Time of her Departure, or from any Port or Place in the West Indies, South America, the United States of America, from Boston and the Southward of Boston, Bermuda, Africa, or the Mediterranean, or having Passengers on board from any Port or Place in the World (save and except in this Province, Canada, Nova Scotia, Prince Edward Island, Newfoundland, and the United States of America to the Northward of Boston), between the First Day of May and the First Day of November in any Year, or on board of which any Person had been sick or had died of any such Distempers during the Voyage, shall proceed or be navigated further or higher up into the Harbour than a Line running Westerly from the Western Point of Partridge Island till it meets Negro Town Point, and East from the Eastern Point of Partridge Island, and extending till it reaches the Shore to the Northward of Black Point, or to the Northward of a Line running Westwardly from the Break Water to Sand Point in Carleton, in case the said inner Line shall be permitted by the said Common Council; and that the Master or Commander of any such Vessel shall not go or put on Shore or on board of 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 and examined by the Physician or Physicians, and his or their Licence for that Purpose obtained, under the Penalty of Two hundred Pounds; and further, that the said Master or Commander shall cause the said Vessel's Ensign, or such other Colour as shall be on board, to be hoisted in the Larboard main Rigging, before the said Vessel shall come abreast of Partridge Island, and shall continue the same so hoisted until Leave be granted by the said Physician or Physicians to remove the same, under the Penalty of Twenty Pounds; and further, that no Master or Commander of any Vessel arriving in the

Bay of Fundy, and having on board any pestilential or contagious Distemper, or in any Particular circumstanced as herein before in the said Notice mentioned, shall land or suffer or permit to be landed, any Person or Persons whomsoever, or himself land, from the said Vessel, on any Part or Place whatever within the City and County of Saint John, until he shall bring the said Vessel into the Harbour of Saint John, in order that he may comply with the several Requisitions of this Act, under the Penalty of Two hundred Pounds for such Offence:’ And it shall be the duty of the said Pilots on First boarding every Vessel coming or intending to come into the Harbour of Saint John, to read such Notice to the Master or Commander of such Vessel, or 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 Penalty of Ten Pounds be prevented for ever after from holding a Branch: and if any Person or Persons, whether Pilots or others, shall come or be put on Shore from any such Vessel, unless by the Direction of the said Physician or Physicians, it shall and may be lawful for the Mayor or any One of the Aldermen of the said City, or of the Justices of the Peace for the City and County of Saint John, to cause such Person or Persons to be apprehended and carried back to such Vessel, or to such other Place as may be appointed for the Reception of Persons under such Circumstances, so as to prevent the Spread of Infection; and if any such Person should be a Pilot, he shall forfeit and pay the Sum of Twenty Pounds.

VI. And be it enacted, That the Mayor, Aldermen and Commonalty of the said City in Common Council convened be and they are hereby authorized and required, at the usual Time of appointing Charter Officers in every Year, and oftener if need be, to nominate and appoint One or more Physician or Physicians, who shall have Power and Authority, and whose Duty it shall be, to go on board, visit, inspect and examine all Vessel arriving in the Harbour of Saint John, and on board of which such Signal shall have been so hoisted in the Larboard main Rigging as aforesaid, or on board of any other Vessel which may be suspected of having on board the small Pox, yellow Fever, or other pestilential or contagious Distemper, and to make full Inquiry and Examination into the State of the Health of all Persons on board any such Vessels, or who have been on board during any Part of the Voyage, and whether the said Vessel came from or near or touched at any Place infected with any of the Distempers aforesaid, or at or near which at the Time of her Departure any such Distempers were known or Supposed to prevail: and if the said Physician or Physicians, on such Inspection and Examination, shall consider that no Danger is likely to result to the Inhabitants of the said City, from suffering such Vessel to proceed into the Harbour, and he or they have no Order to the contrary from, the Common Council of the said City, he or they shall give a Licence in Writing to the Master or Commander of such Vessel for that Purpose, and thereupon such Vessel may proceed; but if the said Physician or Physicians should entertain any Doubts as to such Danger, then he or they shall immediately require the Master or Commander of such Vessel to bring the said Vessel to anchor without the outer Line aforesaid, or the said inner Line if appointed by the Common Council aforesaid; and the said Physician or Physicians shall thereupon forthwith make a Report thereof in Writing to the Mayor, or, in his Absence, the Recorder of the said City, with his or their Opinion or Advice relative thereto: and any Master or Commander of any such Vessel who shall refuse to give, or who shall not give to such Physician or Physicians, a full, true and accurate Statement and Report of the State of Health of all Persons onboard the said Vessel, or who have been on board thereof during any Part of the Voyage, and of

all and every the Particulars aforesaid, shall forfeit and pay the Sum of Two hundred Pounds: and the said Physician or Physicians who shall be guilty of any unnecessary Delay in going on board, inspecting and examining any such Vessel as aforesaid, or any other Breach of his or their Duty specified in this Act, shall be by them displaced from Office, which may also be done by the said Common Council in their Discretion, in any Case where they shall conceive the public Good requires it: and such Physician or Physicians who shall go on board, visit, inspect and examine any such Vessels as aforesaid, shall for each and every such Visit, Inspection and Examination, be entitled to demand and receive from the Master, Owner or Consignee of such Vessel so visited, inspected and examined, according to the following Scale; (to wit,)

For Vessels under One hundred Tons Burthen, the Sum of Seventeen Shillings and Six Pence;

For ditto of One hundred Tons and under Two hundred Tons, Twenty Shillings;

For ditto of Two hundred Tons and under Three hundred Tons, Twenty five Shillings;

For ditto of Three hundred and more than Three hundred Tons, Thirty Shillings;

the said Sums to be sued for and recovered in any Court competent to take Cognizance of the same: Provided always, That in case it shall be found necessary for the said Physician or Physicians to make more than One Visit on board any such Vessel or Vessels, he or they shall be entitled to receive One Third only of the aforementioned Rates for every additional Visit so made according to the Size of the Vessel.

VII. And be it enacted, That no Person or Persons whatsoever, 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 in the Larboard main Rigging as aforesaid, or which having come to anchor shall continue to have such Signal so hoisted as aforesaid, or which shall be lying at anchor before being licensed to come up the Harbour, or before or after being ordered into Quarantine as aforesaid, under the Penalty of Twenty 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 Vessel, then and in such Case the Master or Commander, or any Person in charge of such Vessel for the Time being, is hereby authorized and required to keep and detain such Person or Persons on board the said Vessel until such Licence as aforesaid be given for the said Vessel to proceed, or until the Expiration of such Time as she shall be detained by the said Physician or Physicians, or be lying in Quarantine, or an Order from the said Common Council or a Committee thereof as aforesaid, for that Purpose to be obtained on Report of the said Physician or Physicians; and if any Person or Persons so having unlawfully gone on board any such Vessel as aforesaid, shall go on Shore or depart from said Vessel before such Licence as aforesaid, or before the Expiration of the said Time the said Vessel shall be so detained by the said Physician, or 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 Person 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 the Sum of Fifty Pounds; and it shall and may be lawful for the Mayor, or Deputy Mayor, or any One of the Aldermen of the said City, or One of the Justices of the Peace for the said City and County, to cause such Person or Persons to be carried back to such Vessel, or to such other Place as may be appointed by the Mayor, Aldermen and Commonalty of the City of Saint John in Common Council convened, for the Reception of Persons under such Circumstances, so as to prevent the Spread of the Infection.

VIII. And be it enacted, That before and during the Time any such Vessel shall be ordered to perform Quarantine as aforesaid, it shall and may be lawful for the Mayor, Aldermen and Commonalty of the City of Saint John in Common Council convened, if on the Report of the Physician or Physicians aforesaid it shall be judged expedient, to order and direct that the Persons on board such Vessel, whether Passengers or otherwise, may be landed therefrom and conveyed to Partridge Island, or such other Place or Places as may be appointed for the Reception of Persons under such Circumstances, in order to facilitate the Recovery of those who are infected, to prevent the spreading of Disease among such Persons so on board such Vessel, or any other such Purpose, and have the Vessel cleansed and fumigated; and the Persons so landed as aforesaid shall remain at such Place or Places so appointed as aforesaid until they are restored to Health and their Clothes thoroughly cleansed, if diseased, under the Direction of the Physician or Physicians aforesaid, and his or their Certificate be obtained that they may safely proceed to the City without Danger to the Inhabitants thereof, to be laid before the said Committee of the said Common Council of the said City, and their Order had for Liberty to leave such Place or Places as aforesaid: and the said Vessel from which the said Persons shall be so landed shall be thoroughly cleansed and purified as far as convenient under the Direction of the said Physician or Physicians, and when so cleansed and purified, the said Physician or Physicians shall report the same to the Mayor or Deputy Mayor, or in case of his Absence, the Recorder, who shall lay the same before the said Committee of the said Common Council of the said City, who may in their Discretion grant a Licence or Order for the Liberation of the said Vessel from Quarantine as aforesaid; and in case any Person or Persons shall depart from the Place or Places to which they may have been conveyed from the said Vessel, without the Order of the said Committee of the said Common Council for that Purpose had as aforesaid, it shall and may be lawful for the Mayor, Recorder or any One of the Aldermen of the said City, or One of the Justices of the Peace for the City and County of Saint John, to cause such Person or Persons to be apprehended and carried back to the Place or Places whence he or they may have so departed, or to be otherwise disposed of so as to prevent the Spread of the Infection.

IX. And be it enacted, That if any Persons from any Ship or Vessel, before or whilst the said Vessel is performing Quarantine as aforesaid, shall be landed by the Order of the said Mayor, Aldermen and Commonalty in Common Council convened, either at Partridge Island or any other Place or Places to which by the Authority of this Act they may be conveyed, it shall and may be lawful for the said Mayor, Aldermen and Commonalty so convened, to appoint such and so many special Constables, and so often as may be found expedient, to prevent Intercourse with the said Person so landed, and the said Constables or any of them, at any Time when the said Mayor, Aldermen and Commonalty so convened shall think proper, to displace and discharge, and another or others, if need be, to put in their Room: and the said Constables are hereby authorized and

empowered to prevent all Intercourse between the Persons so landed and Persons from the Shores on either Side of the Harbour, or from any Part of the City and County of Saint John, and those which may remain on board the Vessel, or between the said Persons so landed and any Vessel in the said Harbour, except under the Direction and by the Order of the said Common Council of the said City; and no Person or Persons other than the Physician or Physicians appointed as aforesaid, or some Person or Persons by the said Common Council authorized for that Purpose, shall be permitted to have any Intercourse with the Persons so landed as aforesaid, under the Penalty of Twenty Pounds for each and every Offence; and if any Person or Persons other than the said Physician or Physicians, or any Person or Persons so by the said Common Council authorized for that Purpose, shall have any Intercourse with the Persons so landed, then and in such Case the Constable or Constables appointed as aforesaid are hereby authorized and required to keep and detain such Person or Persons at the Place or any One of the Places appointed as aforesaid for the said Persons as aforesaid to be kept, until Permission be had from the said Common Council for him, her or them to depart; and if any such Person or Persons so having unlawfully had Intercourse with the said Persons so landed as aforesaid, shall depart from the Place so appointed as aforesaid, before such Permission as aforesaid shall have been given for him, her or them to depart, every Person so offending shall forfeit and pay the Sum of Fifty Pounds; and it shall and may be lawful for the Mayor of the said City, or Recorder, or any One of the Aldermen thereof, or One of the Justices of the Peace for the said City and County, to cause such Person or Persons to be apprehended and carried back to the Place whence he, she or they may have so departed, or to be otherwise disposed of so as to prevent the Spread or Danger of Infection.

X. And be it enacted, That if any Disease of an infectious, contagious, or pestilential Nature should break out among any Persons landed or coming into any Part of the City and County of Saint John, whether contrary to the Provisions of this Act or otherwise, or on board of any Vessel which shall be in the Harbour or at any of the Wharves of the said City, either with or without Permission of the visiting Physician or Physicians, or other proper Authority under this Act, it shall and may be lawful for the said Committee of the said Common Council, to order and direct the Removal of the said Person or Persons so diseased, and any other Person or Persons by or among whom it may be feared the Infection may spread, to some proper Place as far as conveniently may be, to prevent communicating the Infection to others, and also to remove the said Vessel so having the said Infection on board to the Quarantine Ground.

XI. And be it enacted, That all the Penalties and Forfeitures herein before mentioned may be prosecuted, sued for and recovered in the Supreme Court, or in the Inferior Court of Common Pleas for the said City and County of Saint John, by Action of Debt, Bill, Plaint or Information, by any One who shall prosecute for the same within Forty five Days after the Commission of the Offence, and when recovered shall be paid One Moiety to the Person so suing and prosecuting, and the other Moiety to be paid into the Treasury of the Province for the Use and Support of the Government thereof; and if no Person shall so sue and prosecute within Forty five Days, that then the said Penalties and Forfeitures shall be sued for and recovered by Information of His Majesty's Attorney General in the said Supreme Court, and when recovered to be paid after deducting the Costs and Charges of Prosecution into the said Treasury for the Use aforesaid; and all and every Person and Persons guilty of a Breach of any One or more of the Provisions of this Act before

specified, shall and may be arrested and held to Bail according to the Practice of the said Courts, for the Penalty or Penalties accruing by reason of such Breach or Breaches thereof, at the Suit of the Person herein before entitled to sue for the same, by virtue of an Order for that Purpose to be obtained under the Hand of any Judge of either of the said Courts, on proper Affidavits being laid before him, satisfactorily establishing the Breach of all or any of the Provisions aforesaid, which Order any One of the Judges of the said Courts is hereby authorized to grant; and in Default of giving such Bail, such Person or Persons so as aforesaid ordered to be held to Bail shall be committed to Prison, or to such other Place within the said City and County, in case he or they should be infected with any such infectious, contagious or pestilential Distemper aforesaid, as the said Mayor, Aldermen and Commonalty of the said City shall order, to prevent the spreading of such Distemper to await his or her Trial.