



WESTERN AUSTRALIA.

ANNO QUINTO

GULIELMI IV. REGIS,

No. 3.

An Act to impose certain Duties on Imported Spirituous Liquors

WHEREAS it is expedient that the Public expenses of this Colony should be defrayed in part by certain Duties to be imposed on Imported Spirituous Liquors.

I. BE it therefore enacted, that from and after the passing of this *Scale of Duties.* Act the following Duties shall be imposed and levied, that is to say—

- 1.—On British Spirits imported into the said Colony or its Dependencies from any part of the United Kingdom or from any Bonded Warehouse in any of the British Colonies, a duty of Three Shillings for each and every Imperial Gallon, not exceeding the strength of Hydrometer proof, and in the same proportion for like spirits of greater strength. On British Spirits imported from the United Kingdom or from Bonded Warehouse in British Colony.

On foreign Spirits imported from the United Kingdom or from Bonded Warehouse in any British Colony.

2.—On Spirits of Foreign production and manufacture imported into the said Colony or its Dependencies from any part of the United Kingdom, or from any Bonded Warehouse in any of British Colonies, a duty of Four Shillings for each and every Imperial Gallon not exceeding the strength of Hydrometer Proof, and in the same proportion for the like spirits of greater strength.

On Foreign Spirits imported from places without the United Kingdom.

3.—On Spirits of Foreign production and manufacture imported into the said Colony or its Dependencies from any place not being within the limits of the United Kingdom or of any of the British Colonies, a duty of Five Shillings for each and every Imperial Gallon not exceeding the strength of Hydrometer Proof, and in the same proportion for the like spirits of greater strength.

Duties to be received by Collector of Colonial Revenue and Sub-Collector, whose receipts alone to be good discharges.

II. AND be it further enacted, that the several rates and duties aforesaid shall be paid to, and received by, the Collector and Sub-Collectors of Colonial Revenue for the time being, to be appointed from time to time by the Proclamation of the Governor for the time being of the said Colony.—And that in the meantime, and until some such proclamation to the contrary, the Governments Residents at the ports of Fremantle, Augusta and King George's Sound, shall be Sub-Collectors for the said ports respectively. And that the receipts of the said Collector or some one of the said Sub-Collectors (and such receipts only) shall be good and sufficient discharges for the payment of any duties payable under this Act, and alleged in such receipts to have been received.

Government Residents at Fremantle and other ports to act as Sub-Collectors.

Inferior Officers of Customs to be appointed by Collector and Sub-Collector with concurrence of Governor.

III. And be it further enacted, that it shall be lawful for the said Collector or Sub-Collectors to appoint in writing (with the approbation of the said Governor) all necessary inferior officers for the purposes of this Act.

Every person employed in the Service of the Customs to be deemed an Officer of Customs.

IV. AND be it further enacted, that every person employed on any duty or service relating to the Customs of the said Colony by the order or with the concurrence of the said Governor, or of the Commissioners of His Majesty's Customs (whether previously or subsequently expressed) shall be deemed to be an officer of the customs for that duty or service; and if a question shall arise in the course of any legal proceeding whether any such person be an officer duly authorised, evidence of his having acted as such shall be deemed sufficient, and such person shall not be required to produce his Commission or Deputation, unless sufficient proof be given to the contrary; and every such officer or any person acting in his aid or assistance shall be deemed a competent witness on the trial of any suit or information on account of any penalty sued for, notwithstanding such

Proof of such service to be sufficient prima facie evidence of being an Officer of the Customs.

Such Officers to be competent Witnesses, notwithstanding their being entitled to any share of any seizure or penalty in a suit for such seizure or penalty.

officer or other person may be entitled to any part of such seizure or penalty.

V. AND be it further enacted, that it shall be lawful for the said Collector or Sub-Collectors to require and exact all Declarations requisite under this Act or by any Law in force in this Colony for the purposes of this Act. Collector or Sub-Collectors to require all necessary Declarations.

VI. AND be it further enacted, that if any Officer of the Customs or other person duly authorised to act as such shall make any collusive seizure, or deliver up, or make any agreement to deliver up, or not to seize any vessel or boat or goods liable to forfeiture, or shall take any bribe, gratuity, recompence or reward, for the neglect or non-performance of his duty, every such officer or other person shall forfeit, for every such offence, the sum of one hundred pounds. Officers making collusive seizure or accepting bribes, to forfeit £100.

VII. And be it further enacted, that every person who shall give, offer, or promise to give any bribe, recompence or reward, or make any collusive agreement with any such officer as aforesaid to induce him in any way to neglect his duty, or to do, conceal, or connive at any act whereby any of the provisions of this Act, or any other law, rule, order or regulation in force within the said colony, may be evaded, every such person shall (whether the offer be accepted or performed or not) forfeit the sum of one hundred pounds. Persons attempting to bribe or corrupt Officers, to forfeit £100.

VIII. AND be it further enacted, that it shall be lawful for the said Governor, from time to time, to appoint the hours of attendance of the said Collector, Sub-Collectors and other subordinate officers of Customs, at their respective offices. Governor to appoint hours of attendance at the offices of the Collector and Sub-Collectors.

IX. AND be it further enacted, that if the master of any ship or vessel arriving in any port of the said Colony shall neglect or refuse to bring to at the proper stations in such ports appointed by the proclamation of the said Governor for the boarding of officers of Customs, the master of such ship or vessel shall forfeit the sum of one hundred pounds. Masters of vessels not bringing-to at proper stations, to forfeit £100.

X. AND be it further enacted, that it shall be lawful for the Collector or any Sub-Collector of Customs to station any officer on board any ship or vessel within the limits of any port in the said colony. And the master of every ship or vessel on board of which any such officer shall be so stationed shall provide such officer sufficient room under the deck in some part of the steerage or forecastle for his bed or hammock; and in case of neglect or refusal so to do, shall forfeit the sum of one hundred pounds. Officer may be stationed on or board of vessels in port.

Masters of vessels to report arrival and cargo.

Particulars of Report.

Penalty for unloading Spirits before report—not making such report—or making untrue report—or not answering questions truly.

Importer or Consignee of Spirits to enter same inwards.

Particulars of such Entry.

Duties to be paid at the time of entry, unless the Spirits may be warehoused.

Warrant for landing to be granted on entry and payment of duties.

Spirits unladen or landed before entry, or at unau-

XI. AND be it further enacted, that the master of every ship or vessel arriving in any of the ports or harbours of this colony shall, within twenty-four hours after his arrival and before bulk shall have been broken, deliver into the Collector or Sub-Collector of the port of arrival, a report in writing of the arrival and voyage of such ship, stating her name, country and tonnage, (and if British the port of registry), the name and country of the master, the country of the owners, the number of the crew, and how many are of the country of such ship, and whether she be laden or in ballast—and, if laden, the marks, numbers, and contents of every package and parcel of goods on board, and where the same was laden, and where and to whom consigned, and when any and what goods (if any) had been unladen during the voyage, and particularly of all spirits on board of such ship or vessel, whether intended for importation into this colony or not, and where the same was laden, and where and to whom consigned; and the master shall further answer all such questions concerning the ship and the cargo and the crew and the voyage, as shall be demanded of him by such Collector or Sub-Collector, and shall sign a solemn declaration of the truth of such report; and if any spirits be unladen before such report, or if the master fail to make such report, or make an untrue report, or do not truly answer the questions demanded, or refuse to sign such declaration, he shall forfeit the sum of one hundred pounds,—and if any spirits be not reported, the same shall be forfeited.

XII. AND be it further enacted, that the Importer or Consignee of any Spirits shall, within twenty-one days next after the arrival of the ship or vessel importing the same, deliver to the Collector or Sub-Collectors of the port of arrival an entry in writing, in words at length, containing the names of the importer or consignee of the importing ship, of the master thereof, and of the place from whence such ship has arrived; and setting forth the quantity, in Imperial gallons, of spirits consigned or imported to or by the person making such entry, the strength of such spirits, and the marks and numbers of the vessels containing the same; and shall also deliver to such Collector or Sub-Collector two or more duplicates, as may be required, of such entry, in which all sums and numbers may be expressed in figures: and such importer or consignee shall, at the time of delivering in such entry, pay down all duties on the spirits so entered, (unless the same shall be warehoused in manner hereinafter provided), and the Collector or Sub-Collector receiving the same shall thereupon grant a warrant for the unloading or landing of such spirits.

XIII. AND be it further enacted, that if any spirits shall be landed

or unladen from any ship or vessel in any part of the said colony before due entry shall be made thereof and warrant granted for the unlading and landing thereof, or if any spirits shall be landed at any place not duly authorised and appointed for that purpose, or shall be landed without the presence of some officer of the customs, all such spirits shall be forfeited.

thorised places, or without the presence of an officer, to be forfeited.

XIV. AND be it further enacted, that if the importer or consignee of any spirits shall refuse or neglect to make due entry of such spirits and to pay all duties for the same (unless the same shall be warehoused in manner hereinafter provided) within twenty-one days next after the arrival of the importing ship or vessel, it shall be lawful for the Collector or Sub-Collector of the port of arrival to cause such spirits to be conveyed to the King's warehouse; and if the duties due upon such Spirits be not paid within three calendar months after such twenty-one days shall have expired, together with all charges of removal and warehouse rent, the same shall be sold, and the produce of such sale shall be applied, in the first place, to the payment of freight and charges, and in the next place to the payment of duties due on the spirits so sold, and the overplus, if any, shall be paid to such Importer or other person duly authorised to receive the same.

All Spirits not duly entered and paid for (unless warehoused) within 21 days after arrival of importing ship, may be landed and conveyed to the King's warehouse, and if duties thereon be not paid within three calendar months further, the same may be sold.

XV. AND be it further enacted, that it shall be lawful for the Importer or Consignee of any Spirits to warehouse the same in warehouses to be appointed as hereinafter provided without payment of any duty on the first entrance thereof, subject, nevertheless, to rules and conditions hereinafter contained.

Spirits may be warehoused without immediate payment of duties.

XVI. AND be it further enacted, that it shall be lawful for the said Collector of Colonial Revenue to license by writing under his hand, with the approbation of the said Governor, such private warehouses as shall by him be approved of for the warehousing and securing of spirits for the purposes of this Act.

Warehouses to be licensed by Collector of Colonial Revenue.

XVII. AND be it further enacted, that the owner of every such licensed warehouse shall be deemed and taken to be an Officer of the Customs to all intents and purposes under this Act.

Owners of licensed warehouses to be deemed Officers of Customs.

XVIII. AND be it further enacted, that it shall be lawful for the owner of every such licensed warehouse to charge and receive rent for all spirits therein warehoused, after such rate as the said Collector shall from time to time notify and appoint, with the concurrence of the said Governor.

Owners of licensed warehouses to charge rent after rates to be fixed by Collector with approbation of Governor.

XIX. AND be it further enacted, that the times and manner of

Management of licensed warehouse to be under

control of Collector or Sub-Collector of each port. stowing spirits and all other matters and things connected with the management of every such licensed warehouse (so far as the management thereof may have relation to the purposes of this Act) shall be subject to the control and regulation of the said Collector or Sub-Collector of each port.

Bond to be taken upon warehousing of Spirits. XX. AND be it further enacted, that, upon the entry of any spirits to be warehoused under the provisions of this Act, the Importer of such Spirits, instead of paying down the duties due thereon, shall give bond, with one sufficient surety, to be approved of by the Collector or Sub-Collector of the port of importation, in treble the amount of duties payable on such spirits and conditioned for the safe depositing of such spirits in the warehouse mentioned in such entry, and for the payment of all duties due on such spirits or for the exportation thereof, without any abatement on account of deficiency except as by this Act is provided, and that no part thereof shall be taken out of such warehouse until cleared from thence upon due payment of duty or upon due entry for exportation; and if, after such bond shall have been given, the spirits or any part thereof shall be sold or disposed of so that the original bonder shall have no longer any interest or control in or over the same, it shall be lawful for the Collector or Sub-Collector to admit fresh security to be given by the bond of the new proprietor or other person having control over such spirits, with one sufficient surety, and to exonerate the original bonder to the extent of the fresh security.

Fresh bond to be taken upon a transfer of property in warehoused Spirits.

If the conditions of such bond be violated, Spirits to be forfeited. XXI. AND be it further enacted, that if any spirits which have been entered to be bonded or warehoused shall not be deposited in the proper warehouse, or shall afterwards be taken out of the warehouse without due entry and clearance, or having been entered and cleared for exportation from the warehouse, shall not be duly shipped, such Spirits shall be forfeited.

Fraudulently gaining access to warehouse, to incur a penalty of £100. XXII. AND be it further enacted, that if any Importer or Proprietor of Spirits warehoused under this Act, or any other person shall, by any contrivance, fraudulently open the warehouse or gain access to the Spirits except in the presence of the proper Officer acting in the execution of his duty, such Importer, Proprietor or other person, shall forfeit and pay, for every such offence, the sum of One hundred pounds.

Samples may be taken of warehoused Spirits without immediate payment of duty. XXIII. AND be it further enacted, that it shall be lawful for the Collector or any Sub-Collector, at discretion, to allow moderate sam-

ples to be taken of any Spirits so warehoused as aforesaid without payment of duty, except as the same shall ultimately become chargeable with such duty.

XXIV. AND be it further enacted, that it shall be lawful for the Collector or any Sub-Collector, to allow any Spirits so warehoused as aforesaid to be regauged when the same shall be cleared and delivered from the warehouse, and the duties for the same shall be paid according to the quantity ascertained upon such regauging.

Spirits to be regauged when delivered from the warehouse.

XXV. AND be it further enacted, that all Spirits so warehoused as aforesaid, shall be duly cleared, either for exportation or for consumption within the said colony, within three years from the day of the first entry thereof; and if any such Spirits be not so cleared, it shall be lawful for the said Collector of Colonial Revenue to cause the same to be so sold, and the produce shall be applied, first to the payment of duties, next to warehouse rent and other charges, and the surplus, if any, shall be paid to the Proprietor: Provided, always, that it shall be lawful for the said Governor at his discretion to allow further time for such goods to remain warehoused.

Warehouse Spirits to be cleared out within three years from first entry, or may be sold.

Governor may grant further time.

XXVI. AND be it further enacted, that if any Spirits entered or warehoused, or entered to be delivered from the warehouse, shall be lost or destroyed by any unavoidable accident, either on shipboard or in the landing or shipping the same for exportation, or in the receiving into or delivering from the warehouses, it shall be lawful for the said Governor to remit or return the duties payable or paid on the Spirits so lost or destroyed.

Governor may remit or return duties on Spirits lost or destroyed in certain cases.

XXVII. AND be it further enacted, that if any embezzlement, waste, spoil, or destruction shall be made of any Spirits warehoused under the provisions of this Act by or through any wilful misconduct of any Officer or Officers of Customs, such Officer or Officers shall be deemed guilty of a misdemeanour, and shall, upon conviction, suffer such punishment as may be inflicted by law in cases of misdemeanour; and if such Officer shall be prosecuted to conviction by the Importer, Consignee, or Proprietor of the Spirits so embezzled, wasted, spoiled or destroyed, then, and in such case, no duty shall be payable for or in respect of such last mentioned Spirits,—and no forfeiture or seizure shall take place of any Spirits so warehoused in respect of any deficiency caused by such embezzlement, waste, spoil, or destruction, and such deficiency and all damage consequent thereon shall be repaid and made good to such Importer, Consignee or Pro-

Officers embezzling or wilfully wasting warehoused Spirits, guilty of a misdemeanour.

If owner of Spirits embezzled or wasted prosecute officer to conviction, his loss shall be made good to him by the Customs.

prietor, by the said Collector, under such orders and regulations as shall be made by the said Governor for that purpose.

Drawback upon exportation.

Proviso that value of Spirits on which drawback is claimed, amounts to £50.

Bond upon entry for exportation.

Spirits on which duties are payable but not paid found concealed in any vessel or boat, to be forfeited with the vessel or boat.

Power to Governor to remit forfeitures and mitigate penalties in certain cases.

Persons aiding in unlawful landing of Spirits, or harbouring, or concealing the same, to forfeit £100.

XXVIII. AND be it further enacted, that there shall be allowed upon the exportation of Spirits imported into the said colony, a drawback of the duties payable thereon: Provided, always, that proof by a solemn written declaration be made to the satisfaction of the Collector or Sub-Collector at the port of export, that the full duties on importation had been paid, and that such goods had been duly landed at the port for which the same were cleared, and no drawback shall be allowed unless the Spirits upon which the same is claimed shall be shipped within three years from the day of importation thereof, and unless the value of the Spirits upon which the same is claimed shall amount to fifty pounds, and shall be claimed within one year from the day of such shipment.

XXIX. AND be it further enacted, that upon the entry outwards of any Spirits to be exported from the warehouse, the person entering the same shall give security by bond in treble the amount of the duties of importation payable on such Spirits, with one sufficient surety that the same shall be landed at the place for which they are entered outwards, or shall be otherwise satisfactorily accounted for.

XXX. AND be it further enacted, that if any Spirits liable to the payment of duties under this Act, shall be found concealed, without due entry thereof, on board of any ship or vessel or boat, such ship or vessel or boat and the Spirits so concealed shall be forfeited.

XXXI. AND be it further enacted, that if any ship or vessel shall have become forfeited on account of any spirits unladen therefrom or concealed therein, or if the master of any ship or vessel shall have become liable to any penalty on account of any Spirits unladen from or concealed in such ship or vessel, and such spirits shall be small in quantity, and it shall be made to appear to the satisfaction of the said Governor that such Spirits had been unladen or concealed contrary to the intention of the owners of such ship or vessel, or without the privity of the master thereof, as the case may be, it shall be lawful for the said Governor to remit such forfeiture, and also to remit or mitigate such penalty at his discretion; and every forfeiture and penalty so remitted, or part of such penalty so remitted, shall be null and void, and no suit or action shall be brought or maintainable thereon.

XXXII. AND be it further enacted, that every person who shall assist or be otherwise concerned in the landing or unshipping, for the

purpose of landing, of any Spirits upon which the duties shall not have been paid or secured by entry, or who shall knowingly harbour, keep, or conceal any such Spirits, shall forfeit the sum of one hundred pounds.

XXXIII. AND be it further enacted, that the master of any vessel bonâ fide engaged in the coasting trade between the different ports of the said colony shall be allowed a sufficient quantity of Spirits from bond free of duty for the use of his crew, in the proportion of one gallon for each man for every month the vessel may reasonably be expected to be absent. The master or owner to enter into a bond, if required, with one sufficient surety in three times the amount of duties otherwise payable that no part thereof shall be relanded in the said colony without due entry.

Masters of vessels in the Coasting Trade may ship free of duty from bond sufficient Spirits for their crew.

XXXIV. AND be it further enacted, that if any person shall counterfeit or falsify, or wilfully use when counterfeited or falsified, any Entry Warrant or other Document requisite under this Act, or shall procure any such Document to be made by any false statement, every person so offending shall be deemed guilty of a misdemeanour, and, being thereof convicted, shall suffer such punishment as can by law be inflicted for a misdemeanour.

Persons counterfeiting or falsifying any Document used in the Customs, guilty of a misdemeanour.

XXXV. AND be it further enacted, that all spirits, ships, vessels, and boats, and all carriages and cattle liable to forfeiture under this Act, shall and may be seized, and secured by any Officer of the Customs or Royal Navy, and any person who shall hinder, molest, or obstruct any Officer of the Customs or Navy in the exercise of his office, or any person acting in his aid or assistance, shall, for every such offence, forfeit the sum of Fifty Pounds.

Spirits, Vessels, Boats and Carriages liable to forfeiture under this Act may be seized by any Officer of the Customs.

XXXVI. AND be it further enacted, that if any Officer of the Customs shall state upon oath to any Justice of the Peace for the said colony any reasonable grounds for suspecting that any spirits liable to forfeiture under this Act are concealed in any particular building or place, it shall be lawful for such Justice to grant his warrant to any constable to enter and search such house or place, either by day or night for such spirits, and, in case of necessity, to break open any doors, and to open any vessels capable of containing spirits.

Justices of the Peace may grant warrants to search for forfeited goods.

XXXVII. AND be it further enacted, that if any person shall by force or violence assault, resist, oppose, molest, hinder or obstruct any Officer of the Customs or navy in the exercise of his office, or any person acting in his aid or assistance, such person being thereof con-

Obstructing Officers by force to be felony.

Notice of Action to be given to Officers of Customs.

XLIX. AND be it further enacted, that no writ shall be sued out against, nor a copy of any process served upon any Officer of the Customs or Navy for any thing done in the exercise of his office, until one calendar month after notice in writing shall have been delivered to him or left at his usual place of abode; in which notice shall be clearly set forth the cause of the Action, the name and place of abode of the person about to bring such Action, and no evidence of any other cause of Action, except such cause as shall be stated in such notice, shall be admitted on the trial.

Judge may certify probable ground of seizure.

L. AND be it further enacted, that every such last mentioned Action shall be brought within one month after the cause thereof.

Officer (may tender amends.

LJ. AND be it further enacted, that in case any information or suit shall be brought to trial on account of any seizure made under this Act, and a verdict shall be found for the claimant of the things seized, and the Judge or Court before whom the cause shall be tried shall certify that there was probable cause of seizure, the Claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any Action, Indictment, or other Suit or Prosecution on account of such seizure.

Limitation of such Action.

LII. AND be it further enacted, that it shall be lawful for such Officer at any time within one calendar month after receipt of such notice of action as aforesaid, to tender amends to the party complaining or his Agent, and to plead such tender in bar to such action, together with any other pleas; and if the Jury (or the Court in case such action shall be tried without a Jury) shall think the amends sufficient, a verdict shall be given for the defendant.

JAMES STIRLING,
GOVERNOR AND COMMANDER-IN-CHIEF.

Passed the Legislative Council, }
this 26th day of September 1834. }

PETER BROWN,
Clerk to the Council,