



ANNO NONO

GEORGII IV. REGIS.

No. 4.

By His Excellency Colonel GEORGE ARTHUR, Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies, with the advice of the Legislative Council.

AN ACT to prevent the Removal of Wine and Spirituous Liquors without a Permit and to make further Provisions to restrain the illicit Dealing in and clandestine Importation of such Liquors.

WHEREAS it is expedient to make further provisions to restrain the illicit dealing in and retailing of Wine and Spirituous Liquors and to prevent the clandestine importation thereof without payment of Duty —BE IT THEREFORE ENACTED by His Excellency Colonel GEORGE ARTHUR Lieutenant-Governor of the Island of Van Diemen's Land and its dependencies with the advice of the Legislative Council that if any person whatsoever shall after the fifteenth day of the present month of October convey or remove or cause or procure to be conveyed or removed or willingly and knowingly assist in conveying or removing (either by land or by water) any wine in any quantity equal to or above three gallons or any rum cordials or other spirituous liquors in any quantity equal to or above one gallon without having first obtained a permit for such removal or conveyance of the same he or she shall forfeit and pay a penalty or sum of not less than one pound nor more than fifty pounds.

PREAMBLE.

No quantity of wine above three gallons
Or of spirits above one gallon
To be removed without permit.

II. PROVIDED ALWAYS AND BE IT FURTHER ENACTED that nothing in this Act contained shall extend to or affect any person

Proviso for liquors duly landed from vessels or removed

from place to place on the same premises.

in respect of the removal or conveyance of any such liquors between the hours of nine and four in the day-time from on board of any ship or vessel to any lawful quay or other duly authorised landing place for goods and merchandize by or under a sufferance or other authority in writing of or from the proper custom-house officer or the removal and conveyance of the same liquors thereupon to the house warehouse shop or other place of deposit of the owner or importer thereof or in respect of the removal and conveyance of any liquors from one part of any house warehouse shop or other place of deposit to another part of the same house or premises any thing herein contained to the contrary notwithstanding.

Liquors illegally removed may be seized with cart &c. used in conveying the same.

III. AND BE IT FURTHER ENACTED that all and every such liquors and liquor as shall be conveyed or removed contrary to the provisions of this Act shall or may (with or without any special warrant for that purpose) be seized by any officer employed in the collection of the revenue or any constable or other peace officer or (under the especial authority of any Justice of the Peace) by any other person either during or at any time after such conveyance or removal together with the package or packages and vessel or vessels containing such liquors or liquor and the carriage and cattle boat or vehicle used in conveying the same and upon proof of the facts before any two or more Justices such Justices shall adjudge such liquors and package or packages and vessel or vessels and may (at their discretion) adjudge such carriage also and cattle and boat or other vehicle to be condemned and thereupon the articles so condemned shall be sold by public auction and the proceeds of such sale (after deducting incidental expences to be approved of by such Justices) shall go and be distributed one moiety thereof to the use of His Majesty and the other moiety to the informer or to and amongst the informer and the person or persons having seized the same at the discretion of such Justices and in such proportions as they shall think fit—PROVIDED that the said convicting Justices may at their discretion notwithstanding any such seizure award that any such carriage and cattle boat or vehicle so seized shall be restored to the owner or owners thereof either on condition of payment by such owner or owners of a reasonable sum of money to the informer or party or parties so seizing or to both or each of them (at the discretion of such Justice) or without such condition or any other condition whatsoever.

Liquors to be forfeited but the cart or carriage &c. may be restored.

Form of permit and by whom issued.

IV. AND BE IT THEREFORE ENACTED that every permit for the conveyance or removal of any such liquors as aforesaid shall be (as nearly as may be) in the form contained in the Schedule to this Act marked A. and be issued and signed by the Collector or Acting Collector of Internal Revenue for the time being or by the person acting as Assistant Colonial Treasurer at Launceston for the time being or by

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such other person or persons either at or for Hobart Town or Launceston or in or for other districts or places within this Island as shall respectively be for that purpose appointed from time to time by the Governor Lieutenant Governor or person for the time being administering the Government and in every such permit there shall be set forth truly the particular places from and to which respectively the liquors therein referred to are to be conveyed or removed and the particular kind and quantity of such liquors and the kind and number of packages or vessels in which the same are contained and a reasonable time for the conveyance and removal and delivery thereof shall be in and by such permit mentioned and limited (and every such permit shall be in words at length only).

V. AND BE IT FURTHER ENACTED that if any of such liquors shall not be delivered within the time limited in or by any such permit (except in case of unavoidable accident to be proved by the party removing or having charge of the same) or shall not be removed from and delivered at or to the place or places in that behalf respectively specified in and by such permit such liquors shall be deemed and taken to have been removed and conveyed without a permit and be forfeited accordingly and the party or parties conveying or removing or knowingly assisting in conveying or removing the same be subject to the penalty by this Act provided for removing wine or spirituous liquors without a permit—AND if any fraud or wilful deceit shall be practised in the obtaining of any permit or if any unauthorised alteration shall wilfully be made in any part thereof such permit shall be absolutely void to all intents and purposes whatsoever.

Permit to extend only to the places and be in force during the time therein mentioned.

Permits void if fraud &c. practised.

VI. AND BE IT FURTHER ENACTED that if any person employed in the carrying or conveying of any such liquors as aforesaid (and having a permit for the same) shall refuse or wilfully neglect to produce and exhibit such permit to any Justice constable or peace officer or officer of Revenue after demand thereof he or she shall forfeit and pay a penalty or sum of not less than five pounds nor more than fifty pounds and if any such person so employed as aforesaid shall not in fact after any such lawful demand thereof produce and exhibit a permit authorising the removal of the liquors so carried or conveyed the fact of such omission shall be received as evidence that no valid permit for such removal or conveyance was then in force or subsisting and the seizure and detention of such liquors shall in all actions or proceedings for such seizure or detention be held justifiable and the plaintiff in any such action shall not recover or be entitled to any costs or damages therein and in all proceedings or prosecutions under this Act for removing or conveying liquors without a permit it shall for all purposes connected with such proceedings be assumed that there was no valid or subsisting

Neglecting to exhibit permit to any justice &c.

Penalty.

Proof of permit to lie on defendant.

permit for such conveyance or removal unless proof to the contrary shall be adduced by the defendant before the sitting Justices at the hearing of the case.

Fee for permit.

VII. AND BE IT FURTHER ENACTED that for every permit there shall be demanded and received by the person granting or issuing the same (whether there shall be included within such permit one or more package or packages) the sum of sixpence—PROVIDED that no quantity of liquors exceeding one hundred and fifty gallons shall be included in any one permit.

Provision for searching houses &c. to which liquors are suspected to have been removed without permit.

VIII. AND BE IT FURTHER ENACTED that upon information on oath being made before any Justice of the Peace by any constable or credible person that he or she doth verily suspect and believe that any such liquor or liquors as aforesaid hath or have been contrary to the provisions of this Act removed or conveyed to any particular house or other place and such constable or other person shall in such information set forth and show reasonable grounds for such belief and suspicion then and in such case it shall be lawful for such Justice in his discretion to grant his warrant to any constable to enter into or upon such house or other place in the day-time and proceed to search the same which said constable may break open the doors of any such house or place if not opened within a reasonable time after demand and seize all such wine or spirituous liquors as he shall there find and the vessel or vessels in which such liquors shall be contained and shall and may detain the same until the owner thereof shall appear before the said Justice to claim such liquors and if it shall appear to the said Justice (after due enquiry and examination) that such wine or liquors was or were not in fact removed conveyed or delivered contrary to the provisions of this Act then he shall cause such liquors and vessel or vessels to be forthwith restored to the person so owning the same but if otherwise then the same wine or liquors and vessel or vessels shall or may forthwith be by such Justice adjudged to be condemned and the same shall thereupon be sold and the proceeds thereof be distributed in the manner hereinbefore in that behalf provided.

Liquors found how to be dealt with.

All distillers of and dealers in liquors (by wholesale or retail) to make quarterly return of stock.

IX. AND BE IT FURTHER ENACTED that on the first Monday in every month of January April July and October after the present year every licensed dealer in or retailer of any such liquors as aforesaid and every licensed distiller shall make out and shall within one week thence next ensuing cause to be delivered to the Collector or Acting Collector of Internal Revenue (or other person or persons for that purpose to be appointed from time to time by the Governor Lieutenant Governor or person administering the Government as aforesaid) a true

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and particular return or account in writing under his or her hand of all and singular the quantities of all such liquors as aforesaid bought or imported or received or had by him or her during the preceding three calendar months and of all and singular the quantities of such liquors by him or her during the same period sold or exported or exchanged or otherwise disposed of or delivered out (whether by wholesale or retail) and of the quantity of liquor or liquors then on hand distinguishing in such account in all cases the several kinds of such liquors and the names of the persons from whom and particularly specifying the places from which the several quantities of liquor shall have been so bought imported received or had and the places to which and also (excepting in returns by *publicans* respecting liquors *retailed* in quantities under five gallons) the names of the persons to whom the several quantities of liquor or liquors shall have been so sold or exported exchanged or delivered and the date of such purchase importation or receipt and sale exportation exchange or delivery respectively and he or she shall also within one week next following the said first Monday in the said months of January April July and October cause a true copy of such return or account to be delivered to the Collector or Controller of Customs for the time being at Hobart Town at the Custom-house there.

Copy to be sent to the custom-house.

X. AND BE IT FURTHER ENACTED that if any such licensed dealer seller publican retailer or distiller shall neglect or omit to make out any such return or account as aforesaid or to cause the same return or account or such copy thereof as aforesaid to be delivered as aforesaid respectively or shall knowingly insert or omit or cause to be inserted or omitted any thing in any such account or return contrary to or for the purpose of concealing the truth he or she shall for every such offence forfeit and pay a penalty or sum of not less than five pounds nor more than fifty pounds.

Omitting to send return or sending a false return.

XI. PROVIDED ALWAYS AND BE IT FURTHER ENACTED that it shall be sufficient for any licensed publican (in respect of all liquors *retailed* by him or her in quantities under five gallons at any one time) to specify and he or she shall specify in every such return as aforesaid in respect of all liquors so *retailed* in his or her licensed house the gross amount or quantity of liquors so *retailed* therein in each *week* during the quarter to which the account or return shall relate provided that the gross amount of each kind of liquor so *retailed* during each week be therein truly specified.

Publicans compellable in respect of liquors *retailed* to specify *weekly* quantity *retailed* merely.

XII. AND BE IT FURTHER ENACTED that in all proceedings by this Act directed to be had or matters authorised to be heard or determined by or before any Justice or Justices such proceedings shall

Proceedings to be in a summary way.

Time within which
prosecutions are to
be commenced.

be had and such matters be so heard and determined in a summary way—AND (in other cases) all offences against this Act not otherwise provided for shall or may upon information in that behalf exhibited be also in a summary way heard and determined and all fines and penalties in respect of the same be awarded and imposed by any two or more Justices—PROVIDED that every such information shall be exhibited or other prosecution under this Act be commenced within three calendar months next after the time of the offence committed—AND PROVIDED ALSO that no determination award or other adjudication by any Justice or Justices under this Act shall be enforced or carried into effect until after the expiration of one week next after the time of such determination award or adjudication.

Proceedings
where no claimant
of liquors &c.
seized.

XIII. AND BE IT FURTHER ENACTED that in all cases of seizures of liquors and vessels or boats vehicles and cattle under any of the provisions of this Act if no person shall appear to claim the same it shall be lawful for any Justice or for two Justices (as the case may require) after notice for that purpose given by advertisement inserted in three successive numbers of one of the public newspapers and after the expiration of one week next following the time of such third insertion to proceed in respect of such seizure or seizures in the same manner as if the owner had been duly summoned and appeared.

Appeal allowed.

XIV. AND BE IT FURTHER ENACTED that if any person shall feel aggrieved by any summary judgment or conviction under this Act he or she shall be entitled to appeal therefrom in the manner in that behalf provided in and by the Act intituled "An Act to regulate "Summary Proceedings before Justices of the Peace."

Application of
duties.

XV. AND BE IT FURTHER ENACTED that the amount of all and singular the fees or sums of money paid or payable for permits under and by virtue of this Act shall be reserved and the same fees and sums are hereby reserved to His Majesty his heirs and successors for the support of the Police Establishments of this Island and shall go and be applied in aid of the Colonial Fund of this Island for that purpose accordingly.

GEORGE ARTHUR.

Passed the Council the first day
of October one thousand eight
hundred and twenty-eight.

JOHN MONTAGU, *Clerk of the Council.*

SCHEDULE A.

Form of Permit.

WHEREAS [Name] of [Place] [Description] hath on behalf of [Name] of [Residence] in the said Island [Description] applied to me for permission to remove [Kind and number of vessels and packages] containing [Quantity] of [Liquor] from [state particularly the place] to [state particularly the place.]

This is to permit and authorize the removal of the said [Quantity] of [Liquor] in the said [Packages or vessels] accordingly.

The present Permit to be in force for and during [] days [or hours] from the date hereof (that is to say) for the present day and up to and until [Day of the week] the [Date] instant and no longer.

Given under my hand at [Place] the
day of 18

