

ANNO SECUNDO & TERTIO

VICTORIÆ REGINÆ.

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C A P. LXXIX.

An Act for the better Prevention of the Sale of Spirits by unlicensed Persons in *Ireland*.

[24th *August* 1839.]

WHEREAS an Act was passed in the Session of Parliament held in the Third and Fourth Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to amend the Laws relating to the Sale of Wine, Spirits, Beer, and Cider by Retail, in* Ireland: (3 & 4 W. 4. c. 68.) And whereas an Act was passed in the Session of Parliament held in the Sixth and Seventh Years of His said late Majesty, intituled *An Act to amend an Act passed in the Third and Fourth Years of the Reign of His present Majesty, intituled 'An 'Act to amend the Laws relating to Excise Licences, and to the Sale 'of Wine, Spirits, Beer, and Cider by Retail, in* Ireland:' (6 & 7 W. 4. c. 38.) And whereas it is expedient to make further Provision for the better Prevention of the Sale of Spirits by unlicensed Persons in *Ireland:* Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall and may be lawful for any Two or more Justices of the Peace, whether in or out of Petit Sessions, upon being satisfied, by the personal Examination on Oath of a credible Witness, that there is reasonable Ground for suspecting that Spirits are sold or

Justices to grant Warrant for the Seizure of Spirits sold

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in Places not being licensed.

kept for Sale in any House or Place within the County not licensed for the Sale thereof, or by some Person not having a Licence to sell Spirits in or at such House or Place, to grant a Warrant under their Hands and Seals, authorizing One of such Justices, or any other Justice of the Peace, or, within the Police District of *Dublin* Metropolis, any Superintendent, Inspector of Police, or in any other Part of *Ireland* any Sub-Inspector or Chief Constable of Police, with his Assistants, respectively, to enter such House or Place, at all Times in the Day between Sunrise and Sunset, to search for Spirits, and if any such shall be found in such House or Place, without a Permit or other legal Authority justifying the keeping thereof, to seize, and deliver the same to the next Excise Officer of the District; and such Warrant shall continue in force for Seven Days from the Day of the Date thereof, and shall be a sufficient Authority to the Justice of the Peace, Superintendent, Inspector, Sub-Inspector, or Chief Constable therein named, and his Assistants respectively, in his Presence, to enter into such House or Place, and seize all Spirits there illegally being, and to carry away and deliver the same to the next Revenue Officer, to be dealt with according to Law.

Penalty on unlicensed Persons selling Beer, &c.

II. And be it enacted, That if any Person, not being duly licensed to sell Beer, Cider, or Spirits, shall at any Time after the passing of this Act keep for Sale any Beer, Cider, or Spirits, he shall for every such Offence, in addition to any other Penalty to which he is liable, forfeit a Sum not exceeding Two Pounds, and such Sum shall and may be recovered as any other Penalty under the said recited Act of the Third and Fourth Years of the Reign of King *William* the Fourth or this Act; and in every Proceeding to recover such Penalty it shall be sufficient to prove that such Beer, Cider, or Spirits was kept for Sale by such Person, or on his Premises with his Knowledge, and thereupon the Person charged shall be convicted, unless he shall prove that at the Time of so keeping the same he was duly licensed to sell the Beer, Cider, or Spirits so kept for Sale.

Repeal of 6 & 7 W. 4. c. 38. s. 18.

III. And be it enacted, That so much of the said Act of the Sixth and Seventh Years of the Reign of His late Majesty King *William* the Fourth, whereby it is enacted, that if any Person not licensed to sell Beer, Cider, or Spirits, to be consumed on the Premises, shall after the passing of that Act permit or suffer any Beer, Cider, or Spirits to be consumed on any Premises occupied by him, or in which his Trade or Business is carried on, he shall for every such Offence forfeit a Sum not exceeding Two Pounds, shall be and the same is hereby repealed.

Justices empowered to grant Warrant for entering unlicensed Premises; and Persons found therein to be fined 5*s*.

IV. And be it enacted, That if, during the Space of Five Years from the passing of this Act, any Officer or Constable of Police shall make Oath in Writing, to be by him taken and subscribed before a Justice of the Peace within his Jurisdiction, (which Oath every such Justice is hereby empowered to administer and receive,) that he the said Officer or Constable has good Reason to believe that Spirits are retailed or sold without a Licence, or kept for Sale without Licence, in any Room, House, or other Place within the said District, at or over the outer Door of which Room, House, or Place no Sign or Notice is posted or written, importing that the Owner or Occupier

thereof is licensed to sell Spirits, it shall be lawful for such Justice, by Warrant under his Hand and Seal, to authorize and empower, within the Police District of *Dublin* Metropolis, any Justice, or Superintendent, Inspector of Police, and in any other Part of *Ireland* any Justice or Sub-Inspector or Chief Constable of Police, to enter into any such Room, House, or other Place as aforesaid, at or over the outer Door of which no such Sign or Notice shall be posted or written; and if any Person shall be found to be or to have recently been drinking or tippling on such unlicensed Premises as aforesaid, at or over the outer Door of which no such Sign or Notice shall be posted or written, and in which Spirits shall be then sold or kept for Sale, such Person shall and may be lawfully apprehended, and forthwith carried and conveyed before the nearest Justice of the Peace, and upon Conviction of his having been found in such unlicensed Premises at or over the outer Door of which no such Sign or Notice shall be so posted or written, and in which Spirits were then sold or kept for Sale, and to have been so drinking or tippling there, shall forfeit and pay any Sum not exceeding Five Shillings, and in default of Payment thereof shall and may be committed to the Common Gaol, House of Correction, or Bridewell for any Time not exceeding Twenty-four Hours.

Penalty on Persons delaying to admit Justice, &c.

V. And be it enacted, That if any Person occupying such Premises, or any Person aiding or assisting such Occupier, on Demand made of Entrance by such Justice, Superintendent, Inspector, Sub-Inspector, or Chief Constable respectively, and on his stating that he seeks to enter by virtue of a Warrant from a Justice of the Peace (which Warrant he shall produce, when required so to do), shall delay to admit such Justice, Superintendent, Inspector, Sub-Inspector, or Chief Constable into such Premises, for the Purpose of executing such Warrant as aforesaid, such Person shall forfeit and pay a Sum not exceeding the Sum of Two Pounds, unless Proof shall be made, to the Satisfaction of Two Justices who may hear the Complaint, that there was reasonable Cause for giving such Delay: Provided always, that if any Person shall maliciously or without probable Cause make such Oath, or enter such Premises, or take or apprehend any Person who shall not be or shall not have recently been tippling therein, he shall, in case the Party aggrieved shall so elect, pay to such Party a Sum not less than One Pound nor more than Five Pounds, in lieu of any Damages to which such Party may be entitled, to be recovered by Civil Bill before the Chairman, or Assistant Barrister, or Recorder having Jurisdiction in Actions by Civil Bill in the Place where such Oath shall have been taken, or where such Premises shall be situate, or where such Person shall be so taken or apprehended: Provided also, that for the Purpose of such Conviction as last aforesaid Proof that Spirits were so sold or kept for Sale in such Room, House, or Place, and that at or over the outer Door thereof no such Sign or Notice was posted or written where such Person was so found therein, shall be sufficient Evidence that no Licence then existed for selling Spirits there, until the contrary be proved.

Persons duly licensed to sell Beer, &c. may carry on

VI. Provided always, and be it enacted, That nothing herein contained shall extend to prohibit any Person or Persons duly licensed to sell Beer, Cider, or Perry by Retail, to be drank or consumed in his,

Business in Booths, &c. at Fairs, &c.

his, her, or their House or Premises, or any Retailer of Spirits (not being a Retailer of Spirits in *Ireland* licensed as a Grocer to trade in, vend, and sell Coffee, Tea, Cocoa Nuts, Chocolate, or Pepper), or any Retailer of Foreign Wine, or Retailer of Sweets or Made Wines, or of Mead or Metheglin, he or she being duly licensed respectively for such respective Purpose, to carry on his or her Trade or Business for which he or she respectively shall be so licensed as aforesaid in Booths, Tents, or other Places, at the Time and Place and within the Limits of holding any lawful and accustomed Fair by virtue of any Law or Statute in that Behalf, or any public Races, or shall authorize the Seizure of Spirits in any such Booth, Tent, or other Place within the Limits aforesaid, in which such Person so licensed shall so carry on his Trade, or the taking or apprehending of any Person therein at any Time or Hour during which the Sale of Spirits is not prohibited by Law.

The Penalties hereby imposed may be recovered in the same manner as is directed by the recited Act 3 & 4 W. 4. c 68. save as altered by this Act.

VII. And be it enacted, That, except so far as is herein otherwise provided, all Penalties and Forfeitures imposed by this Act, and the legal Costs of the Conviction, if awarded, shall be sued for, levied, recovered, mitigated, and distributed, and any Conviction under this Act shall be appealed from, by such Ways, Means, and Methods, and in such Manner, as by the said recited Act of the Third and Fourth Years of the Reign of His late Majesty King *William* the Fourth is directed, provided, and enacted with respect to any Penalty or Forfeiture thereby created or imposed; and that in every respect, save where it is hereby otherwise provided, the said recited Act, and every Clause, Matter, and Thing therein contained, shall apply to the several Penalties and Forfeitures imposed by this Act, and to the several Offences hereby created, as if the same were herein re-enacted.

Form of Conviction.

VIII. And be it enacted, That every Conviction to be had under this Act shall and lawfully may be drawn up in the Form following, or in any other Form of Words to the same Effect; (that is to say,)

'} BE it remembered, That on the Day of
'to wit. } in the Year of our Lord *A. B.* is convicted
'before us, Two of Her Majesty's Justices of the Peace of the said
'County [*or* City *or* Town, *as the Case may be*], on the Oaths of
'*C. D. &c.* [*as the Case may be*], in the Sum of Pounds,
'for that [*here specify the Offence, and when and where committed*].
'Given under our Hands and Seals the Day and Year above
'written.'

Interpretation Clause.

IX. And be it enacted, That in the Construction of this Act every Word importing the Singular Number only shall extend and be applied to several Persons or Things as well as One Person or Thing; and every Word importing the Masculine Gender only shall extend and be applied to a Female as well as a Male.

Act may be altered this Session.

X. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

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