

Ordinances of the Lieutenant Governor and Council of His Majesty's Province of Cape Breton passed in the year 1809. National Archives of the United Kingdom CO 219/2.

49 George III – Chapter 3

An Ordinance for granting to his Majesty an Excise on all Rum & Other distilled Spiritous Liquors distilled in or brought into this Island or its Dependencies and for the more effectual improving and Extending the Trade of this Island

Whereas every means to prevent the pernicious practice of drinking Spiritous Liquors to a very great Excess have failed owing chiefly to the very low price at which Rum and Other distilled Spirits are imported and not being Subject to either import duty or Excise. And the prejudice and Injury done there-by to the morals Health and Industry of the Inhabitants are become Matters of the Most serious and necessary consideration. And it being an avowed and approved maxim in all well regulated States to endeavour to Make those vices which cannot be destroyed nor corrected, subservient as far as law and prudence will allow to the general benefit and advantage of the Community – And whereas the greatest general advantage to the prosperity of this Government and benefit to its Inhabitants evidently would arise by opening roads and forming practicable Modes of Communication by land from One Settlement to another – And there being no resource of any kind whatever for effecting this first and principal object in this infant Colony

Be it therefore Ordained and Ordered by his Excellency the Lieutenant Governor by and with the Consent and advice of His Majesty's Council and it is hereby Ordained and Ordered by the Authority of the same that from and after the first day of next there shall be paid on all rum and other distilled Spiritous Liquors brought into this Island or its Dependencies a Duty of Excise of one shilling for every gallon which said Duty of Excise shall be paid and collected in manner and form herein after directed that is to say all duty of Excise arriving by Virtue of this Ordinance on Rum or other distilled Spiritous Liquors brought into this Island or its Dependencies shall be paid at the time of entering the said Rum or other distilled Spiritous Liquors (if the sum to be paid by any one person on account of the said duty of Excise out of any one Cargo shall not exceed the sum of Twenty pounds and in case the amount of the duty of Excise so to be paid by any one Person as aforesaid shall exceed The sum of Twenty pounds. Then it shall and may be lawful for the Collector or Collectors of such duty to give such persons Six Months Credit for the payment thereof on his procuring one good and Sufficient Bondsman to Join with him in a Bond or Obligation to such Collector or Collectors and his or their Successors in Office for the use of this His Majesty's Government in double the amount of the sum so to be Credited. The Condition of which obligation shall be that such persons so bound their Heirs Executors or administrators shall will and truly pay to such Collector or Collectors or their successors for the use aforesaid in six Calender Months from the date thereof the full amount of such sum or sums so to be Credited, with-out any abatement or deduction whatsoever and in Case the person or persons importing any Rum or other distilled Spiritous Liquors into any Port harbour or Creek within this Island or its Dependencies shall after entry thereof refuse or neglect to pay or secure the payment of the said duty of Excise herein before Mentioned or to cause the same to be paid or secured it shall and may be Lawful for the said Collector or Collectors to take into custody, so much of the said rum or Other distilled Spiritous Liquors as shall be Sufficient to pay and discharge the whole amount of

such duty of Excise or shall be due on such importation, and after publickly advertising the same to have been Seized for such neglect it shall and may be Lawful for such Collector or Collectors, if no person or persons shall at the end of Ten says after such advertisement appear to pay or secure the payment of the said duty of Excise so due to set up and sell at publick Auction so much of the said rum or Other distilled Spiritous Liquors so seized as shall be sufficient to discharge the Duty of Excise so due and the necessary expences attending the said sale

II And be it further Ordained and Ordered by the authority aforesaid that if the Masters Owners or Crew of any Vessel or Vessels whatever having on Board any rum or other distilled Spiritous Liquors liable to pay the said duty of Excise after their arrival in any Port Harbour or Creek in His Island or its Dependencies shall on any account whatsoever, break bulk or discharge any part of the Cargo or permit or raise the same to be done until such Cargo shall be reported to the Collector or Collectors of the Duty of Excise for the District wherein such Port Harbour or Creek shall by or shall on any account after report so made, break bulk, or discharge any part of the Cargo of said Vessel, before permit in writing for that purpose had from such Collector or Collectors or shall discharge contrary to the Tenor of such permit, or shall after permit obtained, remove or carry away or suffer to be removed or carried away, from the wharf or Landing where the said Collector or Collectors shall direct such landing to be, any of the said Rum or other distilled Spiritous Liquors before the same shall be gauged by the proper Officer, and the Duty of Excise paid, or secured as aforesaid, and a special permit obtained from the said Collector or Collectors for that purpose. That then and in all such cases it shall and may be Lawful for such collector or Collectors and all others Lawfully Authorized, to Seize such Vessel and Cargo, and the same shall be Condemned and distributed in Manner herein after expressed, And all persons aiding and assisting in such Clandestine breaking bulk, discharging or removing any of the said Rum or other distilled Spiritous Liquors, shall on Conviction thereof forfeit and pay the sum of £50 Pounds each, to be recovered and distributed in Manner herein after expressed, And all Horses, Carts, Trucks, waggons, Boats, Shallops or other Craft of what kind soever found with any such Rum or other distilled Spiritous Liquors laden in or upon the same, before the said duty of Excise shall be paid or secured as aforesaid and permit had for the removal there of such Horses carts Trucks waggons [wagons] Boats shallops or Craft shall be seized as aforesaid and Condemned and distributed in Manner herein after director.

And be it further Ordained and Ordered by the Authority aforesaid That from and after the first day _____ of next there shall be paid a duty of Excise on all rum and other Spiritous Liquors distilled in this Government of 1/6d on every Gallon which said duty of Excise shall be paid and Collected in the manner and form herein after directed, That is to say all distillers shall on the first day of each and every Month after the said first day of _____ next render to the Collector of the Duty of Excise within whose district such distill Houses shall by an Account in writing and upon oath, of all rum and other Spiritous Liquors, distilled by them during the month then Last past under the penalty of £50 Pounds each to be recovered and distributed in the manner herein after mentioned, and shall also at the same time of rendering such account pay to the said Collector, the said duty of Excise of 1/6d on every Gallon of such rum or other Spiritous Liquors by them distilled, during the said Month then last past on payment whereof the said Collector is hereby Authorized and directed to grant such dis-tiller a Certificate to that effect. And in case such distiller shall at the time of rendering such account

as aforesaid refuse in neglect to pay the said duty of Excise. It shall and may be Lawful for such Collector to enter the Dwelling Houses out Houses distilleries shops stores or Cellars of such distiller or distillers so refusing or neglecting to pay the said duty of Excise as aforesaid and to Seize and take into his custody all such Rum and other distilled Spiritous Liquors, as the said Collector shall find therein which said rum and other distilled Spiritous Liquors shall be condemned and sold as herein after is directed, and the net proceeds thereof applied to the publick uses of this Government, and in case any person or persons ^whatever, shall object such Collector or shall refuse to permit him to enter & search such dwelling house Out house distillery shop store or Cellar of such distiller (so refusing or neglecting to pay the said duty of Excise as aforesaid) or to take and Carry away the rum and other distilled Spiritous Liquors that may be found therein, such person or persons on Conviction thereof shall forfeit and pay for every such Offence the sum of one hundred pounds each to be recovered and distributed as herein after is directed, and in case any dis-tiller or distillers of rum or other Spiritous Liquors shall remove or cause to be removed from his or their distillery or distilleries or shall secret any rum or other Spiritous Liquors by him or them distilled with intent to evade the payment of the said duty of Excise, every such distiller on conviction thereof shall forfeit and pay for every such Offence the sum of £100 to be recovered and distributed in Manner here-in after directed

And be it further Ordained and Ordered by the authority aforesaid, That if any person or persons shall transport or Carry any rum or other distilled Spiritous Liquors The Quantity which shall exceed five Gallons from place to place, whether by Land or water, without a permit first had and obtained from the Collector of the district from whence such Articles are to be removed, which permit shall specify the place to which such articles are to be carried or shall be found going a road or course contrary to that specified in such case it shall and may be Lawful for the said Collectors or any of them or any other person Legally Authorized to seize such rum or other distilled Spiritous Liquors found in the possession of any person or persons Contrary to these Rules and Regulations and the same shall be Condemned and distributed in the Manner-herein after directed.

And be it further Ordained and Ordered by the authority aforesaid, That if any Merchant, Trader, or other person Inhabitant, residing within the Government shall lade or have Laden on board any Ship or Vessel, Two third parts thereof at least being the property of persons Inhabitants residing within this Government, a Cargo which shall be the produce or Manufactory of this Government and Two thirds thereof at Least owned by persons Inhabitants residing within the same and shall export the said Cargo to any of the British Settlements and import from thence in the same Vessel directly into this Government any Rum or other distilled Spiritous Liquors purchased with the said Cargo carried from this Island as aforesaid, On oath thereof being made by the said Merchant or Trader or master of such ship or vessel (which oath the Collector of the duty of Excise for the Port or district when then said ship or vessel shall report his Cargo is hereby Authorized to administer) such Rum and other distilled Spiritous Liquors shall only be subject to and pay a duty of Excise of six pence for every Gallon so imported notwithstanding any thing herein before Mentioned to the Contrary. Provided always That if any such Vessel on her Outward bound Voyage shall be should or Lost or damaged in such Manner as to render her unfit to return back with the rum or other distilled Spiritous Liquors so purchased as aforesaid, upon the Master or owners of said vessel producing and delivering to the Collectors of the duty of Excise Authentic Certificates signed by

the principal officers of the Customs for the part wherein such Outward bound Cargo shall be dispersed of and Two of the principal Merchants at such port, setting forth the said causes which prevented such vessel from returning with the Homeward bound Cargo. That then and in such case it shall and may be Lawful for the Collectors of the said duty of Excise upon the several other proofs required by this Ordinance being also made To exempt such rum or other distilled Spiritous Liquors from any more or other duty of Excise except the said Six pence per Gallon

And be it further Ordained and Ordered by the authority aforesaid That when any per-son or persons shall apply to the Collectors of the duty of Excise for a Permit to remove either by land or water any rum or other distilled Spiritous Liquors exceeding in quantity five Gallons such person or persons shall make and subscribe an affidavit to the following effect which affidavit The said Collectors or either of them is hereby Authorized to Administer Vizt

I A.B. do Solemnly swear that the rum or other distilled Spiritous Liquors for which I now require a Permit have paid or secured the duty of Excise laid thereon by Virtue of an Ordinance passed in the thirtieth Year of his Majesty's Reign Entitled an Ordinance for granting to his Majesty an Excise on all rum &c, (take in the Title) and that the Articles for which I now require a permit were imported into this Government _____ in the _____ from _____ And in case such person or persons applying for a Permit shall not be the Original Imported or distiller and therefore am able to swear in what Vessel or from whom the said Rum or other distilled Spiritous Liquors came such Person shall swear in Lieu of the Latter part of the foregoing affidavit That the rum or other distilled Spiritous Liquors from which I now require a Permit were purchased by me from _____ and at the time of such purchase I received a Lawfull Permit for the same – all which affidavits shall kept and filed by the said Collectors in their respective Offices.

And be it further Ordained and Ordered by the Authority aforesaid that the permits herein before Mentioned shall be in the following words that is to say. A Permit to break bulk to be as follows.

_____ Permit _____ Master of the _____ to begin to unload the Cargo of the said Vessel at _____ Wharf or Landing within the District of _____ and to Continue to unload the same betwixt sun Rising and sun setting each day Until such Vessels Cargo shall be discharged Given under my hand at _____ this ____ day of _____ 17__

And a Permit to remove Rum and other distilled Spiritous Liquors from the place of landing after the duties are secured or from any Place to another or from any district to another shall be as follows

_____ Permit _____ to remove _____ from _____ within the district of _____ to _____ the duty of Excise Hereon having been already paid or secured to be paid in the Collectors Office at _____ Given under my hand at The _____ Day of _____ 17__.

And be further Ordained and Ordered by the Authority aforesaid That if any rum or other distilled Spiritous Liquors the Quantity whereof shall exceed five Gallons or that shall not have been imported into or distilled in this Government before the said first day of _____ next shall be found in the custody or possession of any person or persons whatsoever in this Government (Except in the Distillery where the same shall have been distilled and the time not then Elapsed in which an Account thereof ought to have been rendered to the said Collector or Collectors) without a Certificate from the Collector or Collectors of the duty of Excise That an Account thereof has been rendered to such Collector or Collectors such rum or other distilled Spiritous Liquors shall be Liable to siezed Condemned and distributed in Manner-herein after mentioned.

And be it further Ordained and ordered by the authority aforesaid That it shall and may be Lawful for His Excellency the Lieut Governor or the Commander in Chief for the time being to appoint a Treasurer for this Island and its Dependencies who shall be sworn to the faithful discharge of his duty and shall before he entered on his Office execute a Bond to his Majesty his heirs and Successors with two good and sufficient Sureties in the penalty of £500. Conditioned for the faithful execution at the rate of £7-10 on every hundred pounds by him received and paid in Virtue of this Ordinance, which said bond shall be lodged in the Secretary Office of this Island. And it shall and may be Lawful for his Excellency the Lieutenant Governor or Commander in Chief for the time being to appoint as many Gaugers for the Different districts of this Government as he shall deem necessary who shall be sworn to the faithful discharge of their duty and who are hereby Authorized to Gauge all Rum and other distilled Spiritous Liquors brought into or distilled in this Government, and it shall and may be Lawful for the said Gaugers to demand and receive the following fees.

For Gauging a Puncheon or pipe	Six pence
A Hogshead or Sieve.....	four do.
A Barrel.....	two do.

And all other Casks in proportion and no More to be paid by the Importer or seller to the Gauger And in case any Gauger to be appointed as aforesaid shall neglect to attend upon due notice given for the Gauging any Rum or other distilled Spiritous Liquors imported into or Distilled within this Government He shall forfeit and pay for every such neglect the sum of £5 to be recovered and distributed in Manner herein after Mentioned.

And be it further Ordained & Ordered by the authority aforesaid That it shall and may be Lawful for his Excellency the Lieutenant Governor or the Commander in Chief for the time being to appoint in each district within this Government one or More Collector or Collectors of the Duty of Excise to arise by Virtue of this Ordinance, who shall be sworn to the faithful discharge of their duty and shall given Bond in the said Treasurer's Office each with two good and sufficient persons Joined with each of them in the penal sum of £250. Conditioned for their faithful discharge of the duties of such Office, And in case any Person or persons Commissioned for that purpose shall execute said Office of Collector of Excise before such Bond given and oath of Office taken, he or they shall forfeit and pay each the sum of £50 to be recovered and distributed in Manner herein after Mentioned.

And be it further Ordained and Ordered by the authority aforesaid That there shall be allowed to the Collector or Collectors of Excise out of all and Singular the Duties respectively collected and received by them in Virtue of this Ordinance and paid into the Treasury [Treasury] of this Government That is to say to defray the Charges of Collection in this district of Sydney £6. and no more on every hundred pounds there Collected and paid and £8 – and no More on every hundred pounds collected and paid at all and every the other Districts and out posts of this Government, which several allowances shall be in Lieu of all Fees perquisites and Expences whatever

And be it further Ordained and ordered by the authority aforesaid that this Ordinance shall be the Rule and guide of the said Collectors of Excise And the said Collectors of Excise for the time being shall render to the said Treasurer of this Government a Just and true Account in the Form in which they shall be directed from time to time by the said treasurer to account, and pay into his hands after deducting therefrom the allowance to them herein before given all such sums of Money by them or any of them by Virtue of this Ordinance, The Collector for the District of Sydney in Ten days and every other collector in 30 – Days after the end of each Quarter under the penalty of £50 – for his or their neglect and such Collectors shall keep regular accounts of all Pounds and Certificates by given or received, And no Collector of the said duty of Excise shall be a Dealer or Trader in any Rum or other distilled Spiritous Liquors under the penalty of £50 – and shall be dismissed from their said employment

And be it further Ordained and Ordered by the authority aforesaid that the monies arising from the Duty of Excise imposed by this Ordinance shall be applied by the said Treasurer for such public uses of this Government as are or shall be voted & and agreed ^on by his Excellency the Lieutt Governor or Commander in Chief for the time being by and with the Consent and advice of his Majestys Council and to an other use or purpose whatsoever, The said rum so appropriated to be Issued by warrant from the Lieutt Governor or Commander in Chief for the time being by and with advice and Consent of his Majestys Council for the purposes of the said appropriation, And if the said Treasurer shall Issue or pay any of the said monies for any other purpose he shall forfeit and pay treble the sum so Issued and paid, which said forfeiture shall be applied to the public uses of this Government and be recoverable in his Majestys Supreme Court of Judicature within the same

And be it further Ordained and Ordered by the authority aforesaid that the Monies arising by the Operation of this Ordinance shall be accounted for unto his Majesty in the Kingdom of great Britain and to the Commissioners of His Majestys Treasurry, or High Treasurer for the time being, And Audited by the Auditor General of His Majestys Plantations or his Deputy

And be it further Ordained & Ordered by the authority aforesaid that all suits to be brought for forfeitures and Penalties on a breach of this Ordinance or any part thereof shall and May commence by Bill Plaint or Information in his Majestys Supream [Supreme] Court of Judicature for this Island and its dependencies and the defendant or Defendants in such suits may plead the general Issue and May on Motion have a struck Jury to try the said Issue of Issues, And in case the said Jury shall find a Verdict against the Defendant or Claimant, He or they pay all Costs to be taxed, And in Case any person or persons when Testimony may be necessary to be used by either party on Trial shall or are obliged to Leave this Government, It shall and May be Lawful to take the Depositions of such Witness – before on the Judges of the said Court,

notice being first given to the adverse party of the time and place of taking such Deposition or Depositions, and such Depositions shall be sealed up by the said Judge and used and admitted as evidence to the Jury on such Trial, and the Money Arising from all penalties and forfeitures adjudged Under this Ordinance (except such as are herein before particularly appropriated) shall after deducting the necessary charges and any extraordinary expences of prosecution not taxed against the Defendant go to and be applied one half thereof to His Majesty and shall be paid into the Treasury of this Government for the public uses of this Government, and the other half to him or them who shall seize or inform and sue for the same and all prosecutions in pursuance of this Ordinance shall be Commenced within Twelve Months from the time of the Offence committed.

Provided allways that nothing in this Ordinance contained, shall extend, or be deemed or Construed to extend to be in force or to have any effect, until his Majestys pleasure is Known thereon.