

ANNO TRICESIMO & TRICESIMO PRIMO

VICTORIÆ REGINÆ.

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CAP. CXXVIII.

An Act for the Protection of War Department Stores. [20th *August* 1867.]

BE it 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, as follows:

1. This Act may be cited as The War Department Stores Act, 1867. Short Title.

2. This Act shall not extend to *Scotland* or *Ireland*. Extent of Act.

3. In this Act— Interpretation of Terms.

The Term "the Secretary of State for War" means such One of Her Majesty's Principal Secretaries of State as Her Majesty is for the Time being pleased to intrust with the Seals of the War Department:

The Term "Dealer in Marine Stores" means a Person bound to conform with the Regulations of The Merchant Shipping Act, 1854, Section Four hundred and eighty: 17 & 18 Vict. c. 104. s. 480.

The Term "Dealer in Old Metals" has the same Meaning as in The Old Metal Dealers Act, 1861: 24 & 25 Vict. c. 110.

The Term "Stores" includes all Goods and Chattels and any single Store or Article.

4. The

Repeal of Enactments in Schedule to this Act.

4. The Enactments described in the Schedule to this Act are hereby repealed as far as they relate to Military or Ordnance Stores, or other Her Majesty's Stores under the Charge or Control of the Secretary of State for War; but this Repeal or anything in this Act shall not apply to or in respect of any Offence, Act, or Thing committed or done before the passing of this Act, save that this Act shall apply to Stores bearing any such Mark or Part of a Mark as in this Act mentioned, whether applied before or after the passing of this Act.

Marks appropriated for War Department Stores.

5. The following Marks, namely, the Broad Arrow with or without the Letters W. D. or the Letters B. O., may be applied in or on Stores to denote Her Majesty's Property in Stores so marked.

It shall be lawful for the Secretary of State for War and the Contractors, Officers, and Workmen of the War Department to apply those Marks or any of them in or on Stores.

If any Person without lawful Authority (Proof of which Authority shall lie on the Party accused) applies any of those Marks in or on any Stores, he shall be deemed guilty of a Misdemeanor, and shall on Conviction thereof be liable to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour.

Obliteration with Intent to conceal, &c., Felony.

6. If any Person, with Intent to conceal Her Majesty's Property in any Stores, takes out, destroys, or obliterates wholly or in part any such Mark as aforesaid, he shall be deemed guilty of Felony, and shall on Conviction thereof be liable, in the Discretion of the Court before which he is convicted, to be kept in Penal Servitude for any Term not exceeding Five Years, or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour, and with or without Solitary Confinement.

Knowingly receiving, &c. marked Stores a Misdemeanor.

7. If any Person without lawful Authority (Proof of which Authority shall lie on the Party accused) receives, possesses, keeps, sells, or delivers any Stores bearing any such Mark as aforesaid, or any Part of any such Mark, knowing them to bear such Mark or Part of a Mark, he shall be deemed guilty of a Misdemeanor, and shall on Conviction thereof be liable to be imprisoned for any Term not exceeding One Year, with or without Hard Labour.

Knowledge of Stores beingmarked presumed against Dealers, &c.

8. Where a Person charged with such a Misdemeanor as last aforesaid was, at the Time at which the Offence is charged to have been committed, in Her Majesty's Service or a Dealer in Marine Stores or in Old Metals, or a Pawnbroker, Knowledge on his Part that the Stores to which the Charge relates bore such a Mark or Part of a Mark as aforesaid shall be presumed until the contrary is shown.

9. A Person

Summary Conviction in certain Cases.

9. A Person charged with such a Misdemeanor as last aforesaid in relation to Stores the Value whereof does not exceed Five Pounds shall be liable, on summary Conviction before a Justice of the Peace, to a Penalty not exceeding Five Pounds, or in the Discretion of the Justice to be imprisoned for any Term not exceeding Six Months, with or without Hard Labour.

Penalty on Dealer, &c. found in possession of unmarked Stores, and not accounting.

10. If Stores are found in the Possession of a Person being in Her Majesty's Service, or being a Dealer in Marine Stores or in Old Metals, or a Pawnbroker, and he is taken or summoned before a Justice of the Peace, and such Stores do not bear any such Mark or Part of a Mark as aforesaid, but the Justice sees reasonable Grounds for believing them to be or to have been Her Majesty's Property, then if such Person does not satisfy the Justice that he came by the Stores so found lawfully he shall be liable on summary Conviction before the Justice to a Penalty not exceeding Five Pounds.

Effect of Conviction of Dealer in Old Metals.

11. A Conviction under this Act of a Dealer in Old Metals shall for the Purposes of Registration and its Consequences under The Old Metal Dealers Act, 1861, be equivalent to a Conviction under that Act.

Penalty on Persons not Dealers, &c. found in possession of marked Stores and not accounting.

12. In order to prevent a Failure of Justice in some Cases by reason of the Difficulty of proving Knowledge of the Fact that Stores bore such a Mark as aforesaid,—

If Stores bearing such a Mark or Part of a Mark are found in the Possession of a Person not being in Her Majesty's Service, and not being a Dealer in Marine Stores or in Old Metals, or a Pawnbroker, the following Provisions shall have effect :—

(1.) If such Person when taken or summoned before a Justice of the Peace does not satisfy the Justice that he came by the Stores so found lawfully, he shall be liable on summary Conviction before the Justice to a Penalty not exceeding Five Pounds :

(2.) If he satisfies the Justice that he came by the Stores so found lawfully, the Justice, at his Discretion, as the Evidence given and the Circumstances of the Case require, may summon before him every Person through whose Hands such Stores appear to have passed, and if any such Person as last aforesaid who has had Possession thereof does not satisfy the Justice that he came by the same lawfully, he shall be liable on summary Conviction before the Justice to a Penalty not exceeding Five Pounds.

Provision for Regimental Necessaries, &c.

13. The Provisions of this Act relative to the taking out, destroying, or obliterating of Marks, or to the receiving, possessing, keeping, selling, or delivering of marked Stores, or to the possessing of unmarked

unmarked Stores, shall not apply to Stores issued as Regimental Necessaries or otherwise for any Soldier, Militiaman, or Volunteer; but nothing herein shall relieve any Person from any Obligation or Liability to which he may be subject under any other Act in respect of any such Stores.

Criminal Possession explained.

14. For the Purposes of this Act, Stores shall be deemed to be in the Possession or Keeping of any Person if he knowingly has them in the actual Possession or Keeping of any other Person, or in any House, Building, Lodging, Apartment, Field, or Place, open or inclosed, whether occupied by himself or not, and whether the same are so had for his own Use or Benefit, or for the Use of Benefit of another.

Power for Policemen to search Vehicles, &c.

15. A Constable of the Metropolitan Police Force may, within the Limits for which he is sworn, stop, search, and detain any Carriage, Boat, or Vessel on or in which there is reason to suspect that any of Her Majesty's Stores stolen or unlawfully obtained may be found, or any Person reasonably suspected of then and there having in his Possession any such Stores stolen or unlawfully obtained.

Sections 98, 99, 100, 103, 107 to 113, and 115 to 121 of 24 & 25 Vict. c. 96. incorporated with this Act.

16. The following Sections of the Act of the Session of the Twenty-fourth and Twenty-fifth Years of Her Majesty's Reign, (Chapter Ninety-six), "to consolidate and amend the Statute Law "of *England* and *Ireland* relating to Larceny and other similar "Offences," shall be incorporated with this Act, and shall for the Purposes of this Act be read as if they were here re-enacted, namely, Sections Ninety-eight to One hundred, One hundred and three, One hundred and seven to One hundred and thirteen, and One hundred and fifteen to One hundred and twenty-one (all inclusive), and for this Purpose the Expression "this Act" where used in the Sections herein incorporated shall be taken to include the present Act.

No Person to gather or search for Stores within Ranges, unless authorized.

17. It shall not be lawful for any Person without Permission in Writing from the Secretary of State for War, or from some Person authorized by him in that Behalf (Proof of which Permission shall lie on the Party accused), to gather or search for Stores, or to creep, sweep, or dredge in the Spaces or Distances marked out and appropriated for Ranges under the Provisions of The Artillery Ranges Act, 1862, whether covered with Water or not, or in the Sea or any tidal Water within One thousand Yards of any Battery or Fort used for the Practice of Artillery either by the Royal Artillery or by Militia or Volunteer Artillery.

Penalty.

If any Person acts in contravention of this Provision he shall be liable on summary Conviction before a Justice of the Peace to a Penalty

a Penalty not exceeding Five Pounds, or to be imprisoned for any Term not exceeding Three Months, with or without Hard Labour.

Application of Penalties, &c.

18. Notwithstanding anything in any Act relating to Municipal Corporations, or to the Metropolitan Police Force, or in any other Act, any pecuniary Penalty or other Money recovered under this Act shall be paid or applied as the Secretary of State for War directs.

Provision for Indictments, &c.

19. Nothing in this Act shall prevent any Person from being indicted under this Act or otherwise for any indictable Offence made punishable on summary Conviction by this Act, or prevent any Person from being liable under any other Act or otherwise to any other or higher Penalty or Punishment than is provided for any Offence by this Act, so that no Person be punished twice for the same Offence.

Power for Secretary of State to sue, &c.

20. The Secretary of State for War may institute and prosecute any Action, Suit, or Proceeding, Civil or Criminal, concerning Military or Ordnance Stores, or other Her Majesty's Stores under the Charge or Control of the Secretary of State for War, or any Stores sold or contracted to be delivered to or by the Secretary of State for War for the Use or on account of Her Majesty, or the Price to be paid for the same, or any Loss or Injury of or to any such Stores as aforesaid, and may defend any Action, Suit, or Proceeding concerning any such Stores, Matter, or Thing as aforesaid; and in every such Action, Suit, or Proceeding the Secretary of State for War may be so described, without more; and any such Action, Suit, or Proceeding shall not be affected by any Change in the Person for the Time being holding the Office of Secretary of State for War; Provided always as follows:

(1.) Nothing herein shall take away or abridge in or in relation to any such Action, Suit, or Proceeding any legal Right, Privilege, or Prerogative of the Crown; and in all such Actions, Suits, and Proceedings, and in all Matters and Proceedings connected therewith, the Secretary of State for War may exercise and enjoy all such Rights, Privileges, and Prerogatives as are for the Time being exercised and enjoyed in any Proceeding in any Court of Law or Equity by the Crown, as if the Crown were actually a Party to such Action, Suit, or Proceeding:

(2.) It shall be lawful for Her Majesty, Her Heirs and Successors, if and when it seems fit, to proceed by Information in the Court of Exchequer, or by any other Crown Process, legal or equitable, in any Case in which it would have been competent for Her Majesty, Her Heirs or Successors, so to proceed if no Provisions respecting Procedure had been inserted in this Act.

SCHEDULE.

Enactments repealed with respect to War Department Stores, except as to Scotland and Ireland.

9 & 10 Will. 3. c. 41. in part.	An Act for the better preventing the Imbezlement of His Majesty's Stores of War, and preventing Cheats, Frauds, and Abuses in paying Seamen's Wages } in part; namely,— Sections One, Two, Four, Five, and Eight.
9 Geo. 1. c. 8. in part.	*An Act, the Title whereof begins with the Words* An Act for continuing some Laws, *and ends with the Words* Stuffs to be exported - - - } in part; namely,— Sections Three, Four, and Five.
17 Geo. 2. c. 40. in part.	*An Act, the Title whereof begins with the Words* An Act to continue the several Laws, *and ends with the Words* England without Licence - - } in part; namely,— Section Ten.
39 & 40 Geo. 3. c. 89.	An Act for the better preventing the Embezzlement of His Majesty's Naval, Ordnance, and Victualling Stores.
54 Geo. 3. c. 60.	An Act for the better preventing the Embezzlement of His Majesty's Cordage.
55 Geo. 3. c. 127.	An Act to repeal an Act of the Fifty-third Year of His present Majesty, for preventing the Embezzlement of Stores; and to extend the Provisions of the several Acts relating to His Majesty's Naval, Ordnance, and Victualling Stores to all other public Stores.
4 Geo. 4. c. 53.	An Act for extending the Benefit of Clergy to several Larcenies therein mentioned.

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