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T H E C A S E

OF THE

SPIRIT GROCERS OF IRELAND

BRIEFLY STATED

AND MOST RESPECTFULLY ADDRESSED TO

THE RIGHT HON. LORD NAAS,

M.P.,

HER MAJESTY'S CHIEF SECRETARY OF STATE

FOR IRELAND, &C., &C., &C.,

BY

STEPHEN FOX DICKSON,

29 UPPER CAMDEN STREET, DUBLIN.

DECEMBER, 1858.

I. & E. MAC DONNELL, PRINTERS, ANGLESEA-ST

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Houses of the Oireachtas

IRISH SPIRIT GROCERS'

C A S E .

In establishing the right of the Irish Spirit Grocer who pays the Liense Duty of £9 9s., £10 10s., £11 11s., £12 12s., or £13 13s., under 6 Geo iv. c. 81, in lieu and instead of the £40, £33, £22, or £11 per year, under 45 Geo. iii. c. 20, 55 Geo. iii. c. 19, and 58 Geo. iii. c. 57, previously paid by him, to exercise and carry on the same trade and business of selling by Retail spirits in quantity not greater than two quarts, to be consumed elsewhere than on his premises, as well as selling Wine, Beer, Ale, and Porter, Cider or Perry, Methiglin or Mead, 58 Geo. iii. c. 57 sec. 2, not to be consumed on his premises without taking out any other separate License, or paying any other than that fixed to be paid on the new license provided for him by 6 Geo. iv. c. 81, it is deemed correct, in establishing this right to refer to the rise and progress of the Spirit Grocers' License.

Referring to "Third Report of the Commissioners, "for inquiring into the condition of the poorer classes in "Ireland," pages 29, 30, and 31, they report "among "the many causes of Irish misery, which have been brought "under our notice, one of most prolific, assuredly the most "pernicious, and we fear the most difficult to be reached "by any direct legislation, is the inordinate use of ardent "spirits." Their report reviews, and commends the efforts made by the Irish Parliament from 1791, to remedy the evil complained of. There were at all times, and still are

in Ireland, a class of Grocers that would not keep victualing houses. 31 Geo. iii. c. 13 sec. 1 enacted, "the use of spirituous liquors prevails to an immoderate extent, to the great injury of the health, industry, and morals of the people, and from 24th June, 1791, a License to Retail Spirituous Liquors, shall be £20, £15, £10, and £6, according to the district mentioned." Sec. 3, no person shall sell spirits by retail but such as keep a victualing house, inn, tavern, or coffee house, and exercises no other trade or business. Sec. 5, to execute a bond to sell victuals by retail.

Sec. 31, no person shall keep a shop for the sale of spirituous liquors by wholesale, without taking out a license from the Collector of Excise of the district, and paying for it 2s. 8½d.; sec. 32, to execute bond for £50, not to sell less than one gallon.

32 Geo. iii. c. 19 sec. 1, continues and amends 31 Geo. iii. c. 13. Sec. 36 & 37, wholesale dealer in Spirits to pay 2s 8½d. fee for his license, and to execute bond for £50 not to sell less than one Gallon.

33 Geo. iii. c. 31 sec. 1, continues so much of 32 Geo. iii. c. 19, as relates to retail.

Sec. 2, no person shall sell spirituous liquors by wholesale, without taking out from the Collector of Excise of the district a license, and paying for it the like duty as payable by a retailer, and a fee of 2s. 8½d.

Sec. 3, not to extend to merchants and factors, selling Spirits by wholesale, in not less than 32 gallons.

34 Geo. iii. c. 11 sec. 1, continues the 31 and 33 Geo. iii. sec. 2, any person who shall take out such wholesale license and give the bond, shall not be subject to any duty—so wholly free of duty and fees.

35 Geo. iii c. 20 sec. 1, continues the 34 Geo. iii, c. 11, till 29th September, 1796, again wholly free of duty and fee. 36 Geo. iii. c. 40 sec. 1 repeals former Acts,

sec. 25, no person shall sell Spirituous Liquors by retail, unless licensed under this act. Sec. 20, every person who shall sell less than one pint of spirits shall be deemed a retailer. Sec. 46, the collector of Excise of the district upon payment to him of the like duty, payable upon a retail, and the like fees, shall grant to any person who shall be licensed as a Grocer, a license to sell not less than one pint of spirits.

37 Geo. iii. c. 45 continues the 36 Geo. iii. c. 40.

Sec. 7, none but a victualler to be licensed to retail spirits. No grocer to be licensed to retail.

Sec, 51, Collector of Excise of the District to grant to any person a license to sell spirituous liquors in any quantity not less than one pint. Provided such person with two sureties enter into bond, not to sell less than one pint, nor any liquors to be consumed in his house, so on his spirit license, the grocer sold all other liquors, not to be consumed on his premises, whilst the retailer was necessitated to pay for his wine in Dublin, not less than 40s., or more than £40, elsewhere, not exceeding £20, under 17 and 18 Chas. ii. c. 19, and for Beer, £1 and a fee of 1s. under 14 and 15 Chas. ii. c. 18.

38 Geo. iii. c. 73 sec. 1 continues the 37 Geo. iii. c. 45, with it to be in force till 29th September, 1799. Sec. 2, to remove all doubts respecting what is meant by retail, every person who by himself, &c., shall retail spirituous liquors to be consumed on his premises, or shall lend the same out in less than two gallons, shall be deemed a retailer. No separate license shall be granted for wine only, or for beer only. All persons licensed to sell spirituous liquors after 29th September, 1798, shall be authorized thereby to sell beer, ale and wine. And so far from beer retailing being made subject to license duty, it was expressly enacted in 1791 by 31 Geo. iii. c. 13 sec. 30, that every retailer who shall have sold 75 barrels of beer in the preceding,

year, shall have one-sixth of his license duty remitted to him in the ensuing year, 100 barrels, one-fifth, 200, one-third. (This bounty continued to 1815, 45 Geo. iii. c. 50 sec. 67.)

License duty to be £30, £20, £15, £6.

39 Geo. iii. c. 43 sec. 2, persons licensed to retail spirits, may sell wine, beer, and ale. Sec. 5, no license shall be granted to any person not residing in a city or market town, to sell spirits in any other manner than by retail.

On referring to 45 Geo. iii. c. 50 sec. 9, it will be seen that every retailer of spirituous liquors with two sureties should enter into bond for £25 each, that the person licensed shall keep a victualling house, inn, or tavern, during the time such license shall be in force, and shall be constantly provided with strong beer, ale, and porter, and victuals of good and sound quality for sale, by retail, and shall supply all travellers who shall require it with such victuals, (no doubt of groceries being victuals could be entertained by any rational man.) Sec. 19 "nor any person exercising the trade or business of a grocer, or who shall not be a victualler, inn keeper, or tavern keeper, shall be capable of receiving a license to sell" spirituous liquors, wine, beer, ale, or cider, by retail. 45 Geo. iii. c. 20 fixed rates of license duties. 47 Geo. iii. sess. 2 c. 12 sec. 14, any grocer in any place where the stamp duty to be paid for a license to sell spirituous or other liquors by retail, shall not be less than £22—shall be capable of being licensed in such place to retail spirituous liquors &c., and shall not be liable to any penalty or disability, on account of such person not being an inn keeper, victualler, or tavern keeper, any thing in said Act of 45 Geo. iii. c. 50 to the contrary notwithstanding; and the words so requiring that the person so licensed shall keep a victualling house &c., shall be omitted or struck out of the bond to be given by the grocer; provided such person shall not sell

less than two quarts of spirits, nor any liquors to be consumed in his house, under penalty of £10.

49 Geo. iii. c. 99 sec. 15, grocers licensed to retail spirits, may sell in quantities from two quarts to fifty gallons without having obtained any other license.

52 Geo. iii. c. 87 sec. 4, every retailer of spirituous liquors, on payment of £22 stamp duty instead of the £11, and such persons as pay £22 or upwards shall be enabled to sell any quantity, great or small; but grocers not to sell less than two quarts, nor any liquors to be consumed on their premises.

53 Geo. iii. c. 137 sec. 4 grants grocers to pay but £30 instead of £40, £25 instead of £33, £17 instead of £22 per year, license duty.

55 Geo. iii. c. 19 s. 3 repeals 45 Geo. iii. c. 50, 47 Geo. iii. sess. 1 c. 35. 47 Geo. iii. sess. 2 c. 12. 53 Geo. iii. c. 137. 48 Geo. iii. c. 62. 49 Geo. iii. c. 99. 52 Geo. iii. c. 87. 52 Geo. iii. c. 126. 52 Geo. iii. c. 97. Save and except as to grocers obtaining licenses to sell spirituous and other liquors by retail; all which it re-enacts.

55 Geo. iii. c. 19 sec. 39, 'nor any person who shall not be a victualler, inn keeper, or tavern keeper, (other than a grocer capable by law of receiving such license) shall be capable of receiving or holding a license to sell spirituous liquors, wine, beer, porter, or ale, cider, or perry, methiglin, or mead, by retail.

58 Geo. iii. c. 57 sec. 1, repeals the provisions in 45 Geo. iii. c. 50. 47 Geo. iii. sess. 2 c. 12, and 53 Geo. iii. c. 137 relating to grocers.

Sec. 2, any Grocer shall be capable of being licensed in any place in Ireland on payment of the full rate of duty, payable by any person on such license for selling spirituous or other liquors under 55 Geo. iii. c. 19, to sell spirituous liquors in less than two quarts, provided not to sell spirituous liquors &c., to be consumed in his house, under penalty of £10.

Sec. 3 After this act no grocer shall be licensed to sell

spirituous or other liquors by retail upon payment of less duty than is payable under the schedule of 55 Geo. iii. c. 19. The grocer that pays on his then subsisting license such additional sum as will be equal to the amount in the schedule of 55 Geo. iii. c. 19, is to acquire the right of selling less than two quarts during the continuance of the license, otherwise not; violation, £10 penalty. This removal of the two quart minimum was, by mistake, supposed by the Officers of Excise to have fixed a two quart maximum; hence, by this mistake, the two quarts maximum in 6 Geo. iv. c. 81, sessional paper 717 for 1832.

59 Geo. iii. c. 106 sec 6. The licenses granted to persons exercising certain trades (55 Geo. iii. c. 19 sec. 39) declared incapable of receiving or holding such, shall be void, and not the disabled trade, &c.

Sec. 7 demands for spirituous liquors sold, not to be consumed on the premises, recoverable.

Sec. 8 demands for beer sold, not to be consumed on the premises, recoverable.

6 Geo. iv c. 81 sec. 2. From 5th July, 1825, in lieu, and in stead of the duties by this act repealed, there shall be raised, levied, and collected, and paid unto His Majesty, in and throughout Great Britain and Ireland, the several duties of excise after following.

Every retailer of spirits in Ireland being duly licensed to trade in, vend, and sell coffee, tea, cocoa nuts, cholocate, or pepper, and not selling spirits in any greater quantity at any time than two quarts, or any spirits to be consumed in the house or premises of such retailer, £9 9s., £10 10s., £11 11s., £12 12s., £13 13s.

Sec. 20. And be it further enacted that where any license taken out by any person or persons whatsoever in the United Kingdom, other than a brewer of beer, or than a distiller or maker, distillers or makers of low wines or spirits, or than a person or persons authorized by Justices of the Peace to keep a common inn, ale house, or victualling house, who shall have taken out a license for selling beer, cider, or perry to be drunk or consumed in the house or premises where sold

or for selling spirits, or foreign wine, or sweets, or made wines, or mead, or methiglin by retail, under any act or acts in force in Great Britain or Ireland, respectively on or immediately before the 5th day of July, 1825 shall expire between the 5th July, 1825 and the 5th July, 1826, it shall be lawful for the person or persons authorized to grant licenses within the district or place in which such person or persons other than as aforesaid shall carry on trade or business, to grant to such person or persons a license to exercise or carry on the *same trade* or business for which such license was before granted, under any act or acts in force as aforesaid, on or immediately before the 5th July, 1825, for the remainder of the year ending 5th July, 1826. And all such licenses so granted as aforesaid between 5th July, 1825 and 5th July, 1826, shall respectively expire on 5th July, 1826, to be then renewed, or a new license for the same purpose granted for the whole year ensuing, to expire on the 5th July following, and such licenses shall in such manner be renewed from year to year, so long as such licenses shall be continued to be taken out by such person or persons other than aforesaid to whom the same were before granted respectively.

Here we have it expressly enacted, that it shall and may be lawful for the person or persons authorised to grant licenses within the districts in which persons licensed under 58 Geo. iii. c. 57, 55 Geo. iii. c. 19, to sell by retail spirituous or other liquors—not to be consumed on their premises, to grant them licenses to carry on the same trade and business, and we have the 4th section of 6 Geo. iv. c. 81, enacting that the grocers so licensed to retail spirits in any quantity not exceeding two quarts at any one time, to be consumed elsewhere than in the house, or on the premises of such retailer, shall be subject nevertheless to all and every the regulations contained in the said previous laws, or any of them in respect of grocers retailing spirits in Ireland, except so far as the same are repealed or altered by this act.

Now under the acts of 55 Geo. iii. c. 19 and 58 Geo. iii. c. 57, the grocer obtained the very same single

license as the publican did, which included with the spirits from 1798, wine, beer, &c., but was restrained by 58 Geo. iii. c. 57, from selling spirituous and other liquors, to be consumed on his premises under penalty of £10. The prices paid by the publican and by the grocer for that sole and single license were either £40, £33, £22, or £11, upon payment of which he carried on all his trade and business, and in lieu and instead of the license duties so repealed, we find the spirit license so made and altered by this act for the grocer subjected to the £9 9s., £10 10s., £11 11s., £12 12s., £13 13s, instead of the former high rates, but we have no retail wine, beer, &c., license made or charged with any duty, for the grocer, under which he could carry on his trade or business, as authorized by the 20th section of 6 Geo. iv. c. 81, yet the Excise Officers are bound by this 20th section to furnish such person as the grocer with such license to carry on the same trade and business. It is not too much to say that if any license is to be furnished, it is to be free of any duty, when we find in 1791 31 Geo. iii. c. 13, sec. 31 the grocer getting his spirit license for the fee of 2s. 8½d. only. Again 1792, 32 Geo. iii. c. 19 sess. 36 and 37, for 2s. 8½d. only. Again in 1794, 34 Geo. iii. c. 11 sec. 2, without being subject to any duty or fee; also in 1795. And when we find in 1798, 38 Geo. iii. c. 73 sec. 2, it enacted, that no separate license shall be granted for wine only, or for beer only. That all persons licensed to sell spirituous liquors after 29th September, 1798, shall be authorized thereby to sell beer, ale, and wine. And when we find that in and by all Acts of Parliament passed, subsequent to this of 1798 spirits, beer, wine, ale, &c., have been all included in the one license, and the one license charge, till 6 Geo. iv. c. 81 made separate and distinct licenses for beer, spirits, and foreign wine, to be sold to be drunk on the premises where sold; but no such separate or distinct licenses are made for the grocer retailing spirits, by 6 Geo. iv. c. 81, or any other act; on the contrary the 20th and the 4th sections of 6 Geo. iv. c. 81,

continue to him all and every the regulations contained in the previous laws, or any of them in respect of grocers retailing spirits, except so far as the same are repealed or altered by this act; and by referring to the 37 Geo. iii. c. 45 sec. 51, it will be seen that the grocer under his spirit license sold all other liquors, whilst the retailer had to take out separate licenses.

The Acts of Parliament passed subsequent to 6 Geo. iv. c. 81, are considered as not affecting this question, yet it is deemed right to point them out to Counsel's attention, 6 and 7 Wm. iv. c. 38 sec. 3—6 and 7 Wm. iv. c. 72 sec. 15—8 and 9 Vic. c. 64.

Counsel will please to give opinion upon the following queries:—

- Q. 1st. Are the Officers of Excise required upon payment to them of the amount of duty made payable, under 6 Geo. iv. c. 81, on the new license to retail spirits provided for the grocer instead of his former one, a single spirit license, under which he sold by retail, (not to be consumed on his premises) his spirits, wine, beer, &c., a license to carry on his business as formerly, except as altered by the two quart maximum, so made by 6 Geo. iv. c. 81, and so without his being subjected to any additional charges above the price or rate fixed upon his spirit license, which had from 1798 in Ireland, included his wine, beer, &c. The wine dealer's license is by 6 Geo. iv. c. 81, imported into Ireland for the first time.
- 2nd. Under any circumstance can any other license be furnished by the Officer to the grocer to sell by retail his wine, beer, &c., not to be consumed on his premises, a system that diverts not his customers from their homes, their business or their altars, or can he further charge, for there is no other retail license than the retail spirit license, so provided for him, under this act, 6 Geo. iv. c. 81.

3rd. Does the grocer's spirit retail license authorize him to sell by retail his wine and beer, not to be consumed on his premises, as he, did, previous to 1825, to 6 Geo. iv. c. 81, without taking out any other license.

N.B.—The system of trade in spirituous and other liquors not to be consumed on the premises where sold, being so strongly commended by the “Commissioners for inquiring into the condition of the poorer classes in Ireland,” to the fostering care of the King and Parliament, as conducing to reform the moral habits of the country; it is deemed more suitable to quote to the Senator the very words of the Commissioners than to urge the opinion of Counsel upon existing Law. “Third Report of Commissioners for enquiring into the condition of the poorer classes in Ireland,” pages 30 and 31. “We trust we have said enough to justify our recommendation that the subject may be fully enquired into by competent legal authorities, as well as the expression of our hope that whatever decision may be come to, as to the best mode of remedying the evil incident to the present system, (*) no question of merely fiscal policy will be suffered to interfere with the great and paramount object of reforming the moral habits of the country, and thus affording the best guarantee for its future prosperity.”

RD., DUBLIN.	(L. S.)	J. W. L. NAPPER.	(L. S.)
D. MURRAY.	(L. S.)	W. B. WRIGHTSON.	(L. S.)
JAMES CARLISLE	(L. S.)	KILLEEN.	(L. S.)
F. HORT.	(L. S.)	A. R. BLAKE.	(L. S.)
CORRIE. J.	(L. S.)	J. E. BICHENO.	(L. S.)

(*) One of the evils of the present system, is the exacting from the spirit Grocer retailing spirituous and other liquors, not to be consumed on his premises, £38 12s. 9½d. per year, license duty, whilst the retailer for consumption on his premises, pays but £16 10s. 9d. per year; and whilst the legal amount chargeable is but £14 6s. 6½d., thus directly opposing the commended policy and practice of the Irish Parliament from 1791, for reforming the morals of the people.

Indeed, the Legislature anxious to discourage the immoderate use of Spirits and to encourage the use of Beer in its stead, and also to promote domestic conviviality and comfort instead of dissipation abroad, enacted by the 45 Geo. iii. c. 50 sec. 27, that “Sellers of bottled Beer, Ale, Porter, or Cider, who send the same abroad, and who shall not sell any to be consumed in their houses,” are not to be deemed Retailers or to be subject to license duties. 47 Geo. iii. Sess. 2 c. 12 sec. 3 to the like effect. 55 Geo. iii. c. 19 sec. 41 to the like effect; nor does it appear that the 6 Geo. iii. c. 81 or any other statute has deprived the community of this bounty class of Traders.

STEPHEN FOX DICKSON.