

FALKLAND ISLANDS.

Governor's Office.

DEP/WHA/1 # 6

No. *LH 115*

Date of Receipt. ^{1#6}



From	SUBJECT.
Secretary of State for the Colonies.	WHALE OIL ON S.S. "GUVERNOREN" Export duty on
No.	Date
72	15 th June, 1915.

Colonial Secretary's Record No.

722/15

Registered Number of last Despatch.

MINUTES.

Hon Col Sec
Please refer to the Treasurer for report as to whether the Guvernoren had actually cleared, or if formal clearance is not provided for at South Shetlands, had started on her voyage home, when the fire broke out, furnishing dates if possible.

16. 8. 15

*D.
EW*

Hon. Treasurer / Referred to you in C.S. 722/15

C.F. Condell

*C.S.
18. 8. 15.*

No. next Despatch.

Report enclosed

B. Adhompson

Treasurer 21/8/15.

H. S. / Treasurer's Report submitted.

CS. 722/15 attached.

C. A. Condeley

CS.
23. 2. 15.

Dep. L S/S N. 103 of 27. Aug. 1915.

PA

247/15



FALKLAND ISLANDS

Downing Street.

No. 72.

15 June, 1915.

Sir,

I have the honour to acknowledge the receipt of Mr. Allardyce's despatch No.26 of 16th January regarding the liability of the "Odd" Whaling Company for payment of export duty in respect of the whale oil which was on board the Steamship "Gubernoren" at the time when she was burnt in Belgica Strait, South Shetlands.

2. In the first instance I caused Mr. Haldor Virik, on behalf of the "Odd" Whaling Company, to be communicated with, in order to ascertain the allocation of the liability for payment of the insurance on the cargo of the "Gubernoren" and the amount payable. Since, however, it appears that that amount is unaffected by the question of the payment of export duty, I consider that the question of payment should be decided on its merits apart from consideration of the circumstances and nature of the insurance.

3. I have therefore decided to refer the matter to you for decision in the light of your knowledge of local circumstances, and have caused Mr. Virik to be informed accordingly. For your guidance in considering the case I may state that I am

GOVERNOR

advised

W.D. YOUNG, ESQ., C.M.G.,
etc., etc., etc.

advised that the expression "at the time of shipment" in Section 6 of the Tariff Ordinance, 1900 ordinarily means when the goods are put on board ship ready for exportation and clearance is about to be asked for; but that in this case, where the oil is first tried-out, then stored and finally exported, all on the same ship, section 6 must be construed so as to make the export duties payable just before clearance. If therefore the ship had either actually cleared or, if formal clearance is not provided for at the South Shetlands, had started on her voyage home, the duty had clearly become payable. So also, if Captain Bryde had taken any action which amounted to asking for clearance. Unless such conditions were fulfilled, I am advised that there is no liability for payment in this case.

I have the honour to be,

Sir,

Your most obedient,

humble servant.

A. Bonar Law

Honourable Colonial Secretary.

Thanks. Report enclosed in R.J.247/15 and a copy of my report with Transire herewith for this paper. Mr Barlas may be able to furnish you with a copy of his report for filing herein.

2. As will be seen from my report I do not agree with the interpretation of the expression "at the time of shipment" viz:- that the goods have to be put on board in such a state as to be ready for exportation". Many things are put on board a ship at a time when they are not exactly ready for exporting, and therefore if this is the correct definition of "shipment" it could be argued that such goods were never actually shipped.

3. As I understand the word "shipment" it means "the act of shipping or putting on board a ship; that which is shipped; goods or merchandise transported by water".

4. Take for instance "that which is shipped", which means "that which is received into a ship", therefore anything received into a ship must constitute "shipment", and in consequence the whale oil when drawn off from the Boilers on these Floating Factories and put into the tanks or barrels on board the vessel, is the time when the oil is shipped or received into the ship. In the first place it comes on board, of course, in the shape of blubber or whale flesh, and in consequence no shipment is then made as regard whale oil.

5. If the blubber and whale flesh were stowed on board and afterward export as such without having been boiled down, there would be no shipment of whale oil, but before being stowed on board in such a way as to be ready for transport, this blubber and whale flesh, as soon as received on board, is placed in boilers, and the oil extracted and the oil is stowed on board ready for exporting.

(SGD) W. A. Thompson

21st August, 1915.

Treasurer and Collector.

TREASURY.

Stanley, Falkland Islands.

21st August 1915.

Sir,

I have the honour to forward the following report with regard to the liability of the "Odd" Whaling Company for payment of export duty amounting to £206:- 5:- 0, in respect of the 16,500 barrels of whale oil stored on board the S.S. "GUVERMOREN" at the time when that vessel was burnt in Belgica Strait.

2. In the latter part of Despatch No. 72 of the 15th June 1915, I am told that the expression "at the time of shipment" in Section 6 of the Tariff Ordinance, 1900 ordinarily means, "when the goods are put on board ship ready for exportation and clearance is about to be asked for;" but that in this case where the oil is first tried-out, then stored and finally exported, all on the same ship, Section 6 must be construed so as to make the export duties payable "just before clearance".

3. I gather from the above interpretation of Section 6 of the Tariff Ordinance 1900 that the "Clearance" referred to, is that defined by Section 34 of the Customs Ordinance 1903 which is granted to a vessel about to sail for some port or place out of the Colony, and not to the clearance (Transire) issued to coasting vessel, under Section 35.

4. If the clearance referred to is that defined by Section 34, it

The Honourable
The Colonial Secretary
Stanley.



34, it would appear that the "Odd" Whaling Company is not liable, in as much as Captain Leif Bryde, the master of the S.S. "Guvernoren" had taken no action which amounted to asking for an Outward Clearance for his ship; neither had this vessel been cleared at the South Shetlands for any port or place out of the Colony, nor had she started on her voyage home.

5. If however the "Clearance" referred to in the latter part of the Secretary of State's despatch, is that defined by Section 35 it would seem necessary to consider certain local circumstances in connection with the manner in which the Customs in this Colony deal with vessels, not only operating in Belgica Strait, but also operating or trading in the waters round about the Falkland Islands.

6. It has been shown, in regard to the vessels operating in Belgica Strait, that it is not always feasible for these to proceed to Port Foster, -the only Port in the South Shetlands- to obtain a clearance at the end of the Season, owing to the great dangers to navigation in these waters, at that time of the year. In consequence these vessels are only required by the Customs to report at Port Foster on their arrival, and later to notify their intended departure for some other port within the Colony, - usually Stanley - when the Deputy Collector stationed at that port issues a clearance, (Transire) and at the same time grants permission for these vessels to continue whaling operations until the end of the Season. This permission to continue whaling operations is granted solely for the convenience of the vessels concerned.

7. I append hereto a report from the late acting Deputy Collector stationed at Port Foster, dated 20th August 1915, as well as a copy of the clearance (Transire) issued to the S.S.

"Guvernoren"

"Guvernoren" at that port on the 29th December 1914.

8. In his report the Deputy Collector states that at the time he issued the clearance, he was verbally notified by the master of the "Guvernoren" that there were about 10,000 barrels of whale oil stored on board of that vessel. This quantity of oil was not inserted on the clearance because the Deputy Collector understood it was the practice not to do so, in as much as the vessel would still continue whaling operations, and in consequence the quantity of oil, if entered on the Transire, would not agree with that which, under ordinary conditions, that master would declare to as being on board of his vessel on her arrival at Stanley. It was not then the end of the whaling season, and in all probability the vessel would continue operations in Belgica Strait as long as climatic conditions permitted. Therefore the Deputy Collector at Port Foster contented himself by inserting on the Transire the words "Cargo" and "Whaling gear".

9. With regard to the vessels receiving cargo round about the Falkland Islands, the Customs Office placed on board of such vessels collects the duties at the respective places at which the goods are received, at the time when such goods are stored on board in such a way as to be ready for transporting from one place to another.

10. On the other hand, had there been a sufficient number of Officers, there is every probability that an officer of Customs would have proceeded with every one of the vessels operating in Belgica Strait. It would be part of the duties of such officers to verify the number of whales caught, as well as the quantity of whale oil stored in barrels or tanks on board, each day, in the same way

same way that the landing or receiving of cargo on board of vessels arriving in the Colony and trading or operating in the waters of the Falkland Islands, is verified by the Customs Officers placed on board for the protection of the Customs Revenue.

11. In regard to the exporting of such goods as Wool, Live sheep, Sheepskins, and Hides, -goods liable to export duties- it would appear that " the time of shipment " would mean the time when these goods are stored on board in such a way as to be ready to be ~~ready~~ transported by water from one place to another. The Exporter is required under Section 31 of the Customs Ordinance 1903 to make due entry before clearance outward, -any time previous to clearance, - when the goods shall be shipped for places beyond the limits of the Colony. (Sec: 3 of the Tariff Ordinance, 1900).

12. Without doubt whale oil cannot be said to have been shipped, while undergoing the process of being tried-out, -while being boiled-, but after it has passed through this process, and has been drawn off, and stored in barrels or tanks on board of these vessels in such a way as to be ready to be transported from one place to another, and occupies the same position on board as other goods or merchandise shipped for places beyond the limits of the Colony, it might then be regarded as having been "Shipped" in the same way as the other goods or merchandise stored alongside of it, are so regarded.

13. As an illustration, I will take it that one of these vessels which are known as "Floating Factories" has been licensed to operate in the waters of the Falkland Islands; that this vessel intends to collect other cargo while operating in these waters, and that an officer of Customs has been placed on board to verify the quantity of whale oil and other cargo liable to export duties that
are stored

are stored on board, each day, at the various places at which this vessel may call. Subsequently this vessel catches fire or is wrecked, and the ship and cargo becomes a total loss. Under these circumstances I question whether the cargo, as verified by the Customs Officer, or declared to by the master as forming part of his ship's cargo at the time of the casualty, would be deemed to be goods not liable to the payment of export duties, if such goods were stored on board for the purpose of being exported, and were mentioned in the Third Schedule to the Tariff Ordinance 1900.

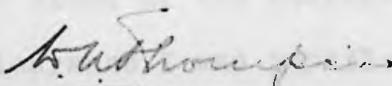
14. In the case of the S.S. "Guvernoren" the master, Captain Leif Bryde, has declared to 16,500 barrels of whale oil, as forming part of that vessel's cargo intended to be exported to places beyond the limits of the Colony, which was destroyed when this vessel was burnt in Belgica Strait. This declaration is contained in M.P. 96/15 and is attached to these papers.

15. If therefore the expression " at the time of shipment " is taken ordinarily to mean " when the goods are put on board a ship and stored in such a way as to be ready to be transported from one place to another " there can hardly be any doubt as to the liability of the "Odd" Whaling Company for the payment of export duties in respect of the whale oil stored on board of the S.S. "Guvernoren" at the time when that vessel was burnt in Belgica Strait, South Shetlands.

I have the honour to be

Sir,

Your obedient Servant.



Treasurer & Collector.

Stanley,

20th August, 1915.

The Collector of Customs,

During the Whaling Season, 1914-15, I acted as Deputy Collector at Port Foster, Deception Island. It was part of my duties as such to obtain as near as possible the daily catch of whales by the Companies employed at Deception Island for the purpose of ascertaining, approximately, the amount of whale oil (goods liable to Export Duty) stored on the various vessels for the purpose of exportation.

2. It has been the practice for those vessels not operating at Deception Island to obtain a Clearance (Transire) from Port Foster for Port Stanley, sometimes months before they actually intend to sail, in order that they may proceed direct to Port Stanley without calling at Deception Island at the close of the Whaling Season. The Companies are at the same time permitted to continue their whaling operations as long as the local conditions permit, the actual quantity of Oil to be exported being declared to at Port Stanley when they take their final Clearance out of the Colony.

3. In the case of the s.s. "Guvernoren", this vessel was cleared by me for Port Stanley on the 29th December, 1914, and for the benefit of the Company the usual permission was granted to continue whaling operations until the close of the season. At the time of granting this Clearance I was notified, verbally, by the Manager that there were about 10,000 barrels of Whale Oil on board the s.s. "Guvernoren". This quantity

was

was not put on the Clearance as the Company had been p
permitted to continue their whaling operations after the
Clearance had been granted and because the actual quantity
of Whale Oil to be exported was to be declared to at Port
Stanley. Within a month of obtaining this clearance
fire broke out on the s.s. "Guvernoren" and the vessel
became a total loss.

4. The reason for granting Clearances to vessels oper-
ating in Belgica Strait before they intended sailing was
that it helped them to avoid much danger from ice likely
to be encountered in passing through Belgica Strait in
the dark to Deception Island.

William Barlas,

*late Actg. Deputy Collector,
South Shetlands.*

TRANSIRE.

(Section 35).

Port of
XX Foster.

Coasting Vessels.

Ship's Name.	No. of Crew.	Tonnage.	Port of Registry.	Master's Name.	Whither bound.
CUVERNOREN	98	3433	Sandefjord No rway.	L. BRYDE	Port Stanley,
Foreign Goods.		Colonial Goods.	Goods liable to Customs Duty.	Here state "Sundry other Goods" or "No other Goods" as the case may be.	

. . . C A R G O

Whaling Gear....

Certified a true copy of Transire granted to
L. Bryde, Master of the s. s. Cuverno ren.

W. Barlas

19th August, 1915.

(Sgd) LEIF BRYDE *Master.*

Cleared before me this 29th day of December, 19 14.

Customs

(Signed) W. Barlas, *Collector.*

Form 57.

Deputy.

FALKLAND ISLANDS.

No. 103

Government House, Stanley.

27th August, 1915.

Sir,

I have the honour to acknowledge the receipt of your despatch No. 72 of the 15th June, with regard to the liability of the Odd Whaling Company for payment of export duty on the whale oil on board the s.s. "Guvernoren" at the time she was burnt in Belgica Strait, South Shetland.

2. The "Guvernoren" was at Port Foster, Deception Island, on the 29th December 1914, and obtained from the Deputy Collector of Customs a "Transire" form of clearance, under Section 35 of The Customs Ordinance 1903, for Port Stanley.

3. A "Transire" is a clearance for "vessels sailing from any port in the Colony to any other port or place, and not bound for any port out of the Colony".

4. The word "cargo" was written across the transire form of clearance granted to the "Guvernoren", *but* No cargo was specified. The late deputy collector states that at the time of granting this clearance he was notified verbally by the Manager of the Whaling Company that there were about 10,000 barrels of whale oil on board, and that this was not entered on the clearance as the Company had been permitted to continue their whaling operations after the clearance had been granted, and because the actual quantity of whale
oil

THE RIGHT HONOURABLE

THE SECRETARY OF STATE FOR THE COLONIES.

oil to be exported was to be declared to at Port Stanley, for the final clearance of the vessel under Section 54 of The Customs Ordinance.

5. The "Gubernurren" with her "transire" clearance left Port Foster and proceeded with her whale catching. Within a month however, on the 27th January 1915, the vessel caught fire and with her cargo of it is alleged 16,500 barrels of whale oil was completely destroyed.

6. It appears to me that had the "Gubernurren" declared her 10,000 barrels of whale oil for exportation to the United Kingdom at the time she cleared from Port Foster for Port Stanley, and the same had been duly entered on her clearance, she would at the time of her burning have been liable to the export duty on the 10,000 barrels, but not on the additional 6,500 barrels of oil, alleged to have been obtained after leaving Port Foster on her way to Port Stanley, to make her final clearance from the Colony.

7. As however no declaration of export of the 10,000 barrels of oil from Port Foster to the United Kingdom was made or required by the Customs Officer, but instead permission was granted the vessel to proceed to Port Stanley to make her declaration of export in respect of the whole of the cargo she might then have on board, I am of ~~the~~ opinion that the "Gubernurren" cannot be held liable for the payment of export duty in respect of any of her cargo, as there has been no completed export declaration or clearance in respect of any of her cargo.

8. I have, with your permission, decided accordingly.

9. I enclose for your information copies of Minutes on the subject by the Treasurer to whom I referred your despatch for report for the circumstances of the case.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

Douglas Young

Governor.