

No. IX.

COLONIAL SPIRITS
DISTILLATION.

An Act to consolidate and amend the Laws for the Distillation of Spirits in the Colony of New South Wales and for the issue of Licenses for distilling rectifying and compounding Spirits therein and for repealing certain Laws relating thereto. [18th September, 1839.]

Preamble.
2 Victoria No. 24

WHEREAS an Act passed in the second year of the reign of Her present Majesty Queen Victoria intituled "*An Act to regulate the Distillation of Spirits in the Colony of New South Wales and for the issue of Licenses for the distilling rectifying or compounding Spirits therein*" And whereas it is expedient to repeal the same and to make further provision to regulate the distillation of spirits in the said Colony and for the issue of licenses for distilling rectifying or compounding spirits therein and to provide for the recovery of fines and penalties incurred respecting the same Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That from and after the passing of this Act the said recited Act of the Governor and Council shall be and the same is hereby repealed save and except always as to offences committed and matters done before the passing of this Act which said offences matters and things shall be dealt with respectively as if this present Act had not been passed.

Repealed.

No person shall carry on the business of a distiller rectifier or compounder of spirits except in the town of Sydney or in such other towns or places as shall be appointed by the Governor under penalty of from £100 to £500.

2. And be it enacted That from and after the passing of this Act it shall not be lawful for any person except as hereinafter excepted to carry on the business of a distiller or a rectifier or compounder of spirits or to have keep or make use of any still or other utensil for distilling of spirits or for rectifying or compounding of spirits save as hereinafter excepted in any place or part of the said Colony of New South Wales or its Dependencies save and except in the town of Sydney or in such other towns or places as His Excellency the Governor of the Colony shall appoint or direct under a penalty of not less than one hundred pounds nor more than five hundred pounds to be recovered as hereinafter directed.

Distillers to be licensed.

3. And be it further enacted That it shall not be lawful for any person except as hereinafter excepted to have keep or make use of any still or other utensil for distilling or rectifying or compounding spirits in the said Colony of New South Wales or its Dependencies without

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without first having obtained a license for keeping or using the same from the Governor for the time being under a penalty of not less than one hundred pounds nor more than five hundred pounds together with a forfeiture of such still and utensils to be recovered as hereinafter is directed.

4. And be it enacted That any person wishing to obtain a license for the purpose of distilling rectifying or compounding spirits shall by memorial apply to the Governor to direct such license to be granted and that such memorial shall state the premises upon which such distilling rectifying or compounding is to be carried on respectively. How license to be obtained.

5. And be it enacted That before any license shall be granted for the distilling rectifying or compounding of spirits respectively a drawing or representation of the still setting forth its shape dimensions and proportions as well as the place in which it is intended to erect the same shall be transmitted to the Colonial Secretary of the Colony for the approval of the Governor Provided however that in case the Governor shall disapprove of the said still or the situation in which it is proposed to fix the same the license so applied for shall not be granted. Description of still and situation to be given.

6. And be it enacted That before any such license for the distillation of spirits shall be granted the person or persons applying for the same together with two sufficient sureties shall enter into a recognizance before the Colonial Treasurer or other person appointed by the Governor for that purpose payable to Her Majesty in the sum of five hundred pounds conditioned for the due and faithful payment of the full duties payable upon all spirits made and sold by him or them. Security to be given.

7. And be it enacted That such licenses shall be granted for the term of one year and no longer and that the sum of fifty pounds sterling money of Great Britain for every license granted for the distillation of spirits and for every license granted for the rectifying or compounding of spirits the sum of twenty-five pounds shall be paid by the party obtaining such license to the Colonial Treasurer of the said Colony or other person as aforesaid who upon receiving the direction of the Governor and upon the execution of the recognizance hereinbefore mentioned and upon payment of the said sums respectively by the said party or parties applying for such licenses respectively is hereby authorized and directed to issue the same for the said term of one year and no longer Provided however that no license shall be granted to any person or party for the purpose of distilling who has not one still capable of containing at least five hundred imperial gallons nor to any rectifier or compounder of spirits who has not one still capable of containing at least one hundred imperial gallons. Sum to be paid for license.

8. And be it enacted That such license as aforesaid granted under this Act may be renewed annually from year to year upon the person or persons so applying for such renewal paying or causing to be paid the said sums of fifty pounds or twenty-five pounds respectively Provided however that in case the party or parties applying for such renewed license shall have been convicted of any offence against the provisions of this Act or Ordinance or shall have forfeited the said recognizance hereinbefore mentioned and that the same shall have been estreated for any breach of the covenants therein contained it shall not be lawful for the said Colonial Treasurer or other person appointed as aforesaid to grant such renewal of said former license but is hereby authorized and directed to refuse the same unless specially directed to issue such license by the Governor. Licenses to be renewed annually.

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Apothecaries
chemists and druggists
may have stills
of eight gallons
content on taking
out license.

9. And be it enacted That it shall and may be lawful for the Colonial Treasurer or other person appointed as aforesaid to issue a license free of all charge to any apothecary chemist or druggist applying for the same to keep and use on his premises a still of not more than eight gallons content for the purposes of his trade only Provided that every person wishing to keep such still shall notify his intention so to do to the Colonial Treasurer or other person appointed as aforesaid who shall thereupon require such person to give bond with two sufficient sureties in the sum of two hundred pounds that he will not make use of such still or suffer it to be made use of except for the preparation of medicines or other articles required *bonâ fide* for medical purposes and every such person found to have in his possession any still without having entered into such bond and obtained such license shall forfeit and pay not less than one hundred pounds nor more than five hundred pounds.

Not to carry on the
business of a brewer
and distiller in the
same premises.

10. And be it enacted That it shall not be lawful for any person or persons who shall have obtained any such licenses as aforesaid for the distilling rectifying or compounding of spirits or for any other person whatsoever to practise follow or use the trade or business of a brewer of ale porter or beer within the premises so used for the distilling rectifying or compounding of spirits or on any part thereof nor on any place or premises within one hundred yards of the premises so used for the distilling rectifying or compounding of spirits under a penalty of one hundred pounds.

Description of pre-
mises to be regis-
tered.

11. And be it enacted That a declaration in writing of the name or names of the party or parties so applying for any such license as aforesaid and of all other persons interested in the said trade or business as partners in the same or otherwise shall be made out by the party or parties applying for any such license and delivered to the said Colonial Treasurer or other person appointed as aforesaid to be registered by him.

Distiller not to retail
spirits.

12. And be it enacted That it shall not be lawful for any person who shall be the owner or part owner or who has any interest or share in a licensed distillery or in any premises or concerns used for rectifying or compounding spirits to have or to hold a license to retail spirituous or fermented liquors and in case any person who shall have obtained a license for the sale of fermented or spirituous liquors by retail shall after the obtaining of such license become the owner or part owner or have any share or interest in a licensed distillery or in any premises or concerns used for rectifying or compounding spirits such license so granted for the sale of fermented and spirituous liquors by retail shall thereupon become and be absolutely void and the party or parties continuing to sell fermented or spirituous liquors by retail after having become the owner or part owner of or after obtaining an interest or share in a licensed distillery or in any premises or concerns used for the rectifying or compounding of spirits may be prosecuted and convicted as a person selling fermented or spirituous liquors by retail without a license.

Not to sell less than
fifty gallons.

13. And be it enacted That it shall not be lawful for any licensed distiller to sell or dispose of at any one time a less quantity of spirits than fifty gallons under a penalty of one hundred pounds nor for any rectifier or compounder of spirits to sell or dispose of at any one time a less quantity than two gallons under a like penalty of one hundred pounds.

Distance at which
stills licensed after
the passing of this
Act shall be from
other houses and
from surrounding
walls inclosing them

14. And be it enacted That all stills licensed for the distillation of spirits shall be erected and placed in houses distant not less than thirty-two yards from any other house and that the premises in which the said business shall be carried on shall be surrounded by a wall not less than ten feet high and not less than forty-eight feet from the still-house

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still-house inclosed thereby and there shall not be more than one entrance into the said premises Provided nevertheless that such stills as are licensed previously to the passing of this Act shall not be affected by the provisions of this clause as regards the distance from any other house or from the surrounding wall. not to affect stills previously licensed.

15. And be it enacted That there shall be erected within the walls of every licensed distillery a house or store in which the spirits when distilled shall be deposited the door or doors of which is or are to be secured by three locks to each door the key of one of which locks is to be kept by the owner of such distillery and the key of one other of the said locks is to be kept by the Inspector of Distilleries and the key of the third lock by such other officer as may be appointed by the Governor for the purpose of keeping the same and that it shall not be lawful for any person to open the said locks or enter into the said store or warehouse unless in the presence or by the permission of such Inspector of Distilleries and other person so appointed as aforesaid. Store for spirits.

16. And be it enacted That a particular description as aforesaid of the said stores or warehouses so built for the purpose of keeping and depositing of the spirits when distilled shall be made and registered by the Inspector of Distilleries and that all spirits found in any store or place on the said premises except in the said store or warehouse so registered as aforesaid shall be forfeited and the owner of such distillery on proof of spirits being found in any other place or part of the said premises save the store so registered as aforesaid shall be liable to a penalty of forty shillings for every gallon of spirits so found. Store to be registered.

17. And be it enacted That all stills so licensed are to be set in stone or brick and mortar and locks and keys to the heads and cocks of the said stills and to the furnace door of such stills shall be provided at the expense of the owner. Stills &c. to be set in stone or brick and mortar.

18. And be it enacted That the coolers belonging to each distillery shall be screwed down and firmly fastened at both ends in the walls of the building and that the same shall not be altered without giving four days notice thereof to the Inspector of Distilleries under a penalty of ten pounds to be recovered against the owner or owners or proprietor or proprietors of such distillery. Coolers how to be fixed.

19. And be it enacted That the cooler or back used for the worts in each distillery shall not be of less content than the full charge of the still used in such distillery under a penalty of ten pounds and that every such cooler and back so found of less content than aforesaid shall be seized and forfeited. Contents of coolers.

20. And be it enacted That it shall not be lawful for any licensed distiller to have or keep upon the said premises any worm or worms except one worm for each still so licensed as aforesaid under a penalty of twenty pounds for each and every worm exceeding the said number so found on the same premises Provided however that nothing herein contained shall prevent any number of worms being kept in the store in which spirits when distilled are to be deposited under security of three locks as aforesaid. Number of worms to be used.

21. And be it enacted That every licensed distiller rectifier or compounder shall immediately on obtaining his said license furnish to the Inspector of Distilleries a return in writing signed by him of the still or stills to be used by him on the said premises so licensed and of the content or contents thereof respectively and of the worm or worms coppers vats keeves backs and other utensils to be used therein which said account so delivered in shall be kept and registered by the Inspector of Distilleries and that all stills worms coppers vats keeves backs and other utensils found on the said premises which shall not be stated and mentioned in the said return shall

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shall be liable to be seized by any Inspector of Distilleries Officer of Customs or other person appointed as aforesaid and forfeited in manner hereinafter mentioned.

Vessels &c. to be marked.

22. And be it enacted That all vats keeves backs and other utensils used in the premises of each distillery shall be respectively marked and numbered in distinct legible and durable characters so as to distinguish them the one from the other.

Officers to have power to enter premises at all times.

23. And be it enacted That it shall and may be lawful for any Inspector of Distilleries in the said Colony the Officers of the Customs and every other person or persons duly authorized by the Governor to enter every house distillery still-house out-house or place belonging to or made use of by any licensed distiller or rectifier or compounder of spirits and to gauge and measure all stills and utensils and to gauge and take an account of all spirits malt sugar molasses or other ingredients used in the making of spirits and of all wash worts pot ale singlings low wines and materials whatsoever and that any person or persons obstructing refusing or preventing the admission of such Inspector or other Officer or Officers shall be liable to a penalty of not less than fifty nor more than two hundred pounds.

License to be produced to Officers.

24. And be it enacted That all and every still and still-heads worms and all utensils or spirits cordials or compounds found in any premises or place shall be liable to be seized by any Inspector of Distilleries Officer of Customs or other person appointed as aforesaid and forfeited unless the owner of the same shall on the requisition of such Inspector of Distilleries Officer of Customs or other person as aforesaid produce his license for using and making the same.

Distiller to give notice of intention to distil.

25. And be it enacted That it shall not be lawful for any licensed distiller to commence to distil without having previously given twenty-four hours notice of his intention so to commence to an Inspector of Distilleries under a penalty of one hundred pounds but that every licensed distiller shall serve a notice in writing upon such Inspector of Distilleries of his intention to commence distillation at least twenty-four hours previous to such commencement and also a like notice of his intention to recommence such distillation after any discontinuance thereof under a penalty of one hundred pounds.

Duty on spirits distilled in the Colony.

26. And be it enacted That from and after the first day of April in the year one thousand eight hundred and forty upon all spirits made or distilled in the said Colony of New South Wales or its Dependencies from grain whether grown within or imported into the said Colony or its Dependencies or from any article the produce of the said Colony or its Dependencies there shall be levied and collected a rate or duty of five shillings for every gallon imperial measure of such spirits not exceeding the strength of hydrometer proof and in the same proportion for spirits of greater strength Provided however that until the said first day of April there shall be levied and collected a rate or duty of three shillings only for every gallon imperial measure of such spirits as aforesaid not exceeding the strength of hydrometer proof and in the same proportion for spirits of greater strength.

Distillation from any article except grain prohibited from 1st April 1840.

27. And whereas it is deemed expedient that distillation from sugar and all other articles of foreign growth (grain excepted) should be prohibited as soon as the same can be effected without loss to individuals who may have a stock of such articles on hand Be it therefore enacted That from and after the first day of April in the year one thousand eight hundred and forty it shall not be lawful for any distiller to make or distil any spirits from sugar molasses or any other materials whatsoever of foreign growth or any mixture thereof (grain alone excepted) and if any distiller shall from and after the said first day of April aforesaid make or distil spirits from sugar molasses or any other materials whatsoever of foreign growth or any mixture thereof (grain excepted) or if any distiller

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distiller shall brew any wort or wash with intent to make or distil spirits from any such foreign materials such distiller shall forfeit the sum of five hundred pounds and all such wort wash and spirits shall be forfeited and may be seized by any Inspector of Distilleries or officer of Customs duly authorized in that behalf Provided however that until the said first day of April upon all spirits made and distilled in said Colony from any article not being the growth or produce of said Colony or its Dependencies (excepting grain) there shall be levied a rate or duty of four shillings and sixpence for every gallon imperial measure of such spirits not exceeding the strength of hydrometer proof and so in proportion for spirits of greater strength.

28. And whereas it is not expedient that any fresh licenses for the distilling rectifying or compounding of spirits should be granted under this Act before the said first day of April one thousand eight hundred and forty Be it therefore enacted That until the said first day of April no license for the purpose of distilling rectifying or compounding spirits shall be granted to any person whatever except to such persons as now hold licenses and who shall be entitled to the annual renewal thereof.

No licenses shall be granted under this Act until the 1st April 1840 except to those who now hold licenses renewable annually.

29. And whereas it is expedient and necessary for the prevention of fraud to ascertain the quantity of spirits made and distilled from sugar or other foreign article up to the said first day of April and which shall not have paid duty on or before that day Be it therefore enacted That every licensed distiller shall on demand made by any Inspector of Distilleries or Officer of Customs give and return an exact account of the quantity of spirits distilled from sugar or other foreign material which he shall on the said first day of April one thousand eight hundred and forty have in his possession or in any bonded store without having paid the duty thereon and if any distiller shall on demand made as aforesaid refuse or neglect to give such return or shall give a false return of the same such distiller shall forfeit the sum of five hundred pounds.

Licensed distillers on demand to give an exact account of the quantity of spirits distilled by them from sugar or other foreign material which may be in their possession on the 1st April 1840.

30. And be it enacted That all spirits made or distilled from sugar or other foreign article (grain excepted) and upon which the duty aforesaid shall not be actually paid before the said first day of April one thousand eight hundred and forty the same shall be liable to the same duty as is now payable and levied on spirits the produce and manufacture of the United Kingdom or of Her Majesty's Plantations in the West Indies imported directly from the United Kingdom into the said Colony of New South Wales or its Dependencies.

Spirits distilled from sugar or other foreign article (grain excepted) on which the duty has not been paid before the 1st April 1840 shall be liable to the same duty as now payable on imported spirits.

31. And be it enacted That every licensed distiller within the said Colony and its Dependencies shall be charged for so many gallons as each and every still which he may have kept or made use of for the distilling of spirits shall be found capable of producing from the greatest number of charges that can be worked off in twenty-eight days which number of charges shall be ascertained in such manner as the Governor shall direct Provided however that it shall be lawful for the Governor at any time and in any case if he shall see fit to order and direct that the respective rates of duties as aforesaid shall be charged at and after the rate of the actual quantity produced and such duties shall thereupon be levied and collected accordingly.

How duties shall be charged.

32. And be it enacted That the said duties so chargeable as aforesaid on spirits distilled within the Colony of New South Wales and its Dependencies shall be paid to the Colonial Treasurer of the said Colony or to such other person or persons as the Governor shall appoint to receive the same who shall grant a certificate of such payment to the party paying the same.

Duties to whom paid.

33. And be it enacted That it shall not be lawful to send or take or remove any spirits out of the premises of any licensed distiller

Permits for removal of spirits required.

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distiller without having a permit to remove the same signed by an Inspector of Distilleries or other officer to be appointed by the Governor for such purpose such permit to contain the distiller's name and place from whence the spirits are to be removed the vessel or vessels in which the said spirit is contained and the quantity of spirits contained in each and every such vessel or vessels and the name and residence of the person or persons to whom such spirits are to be sent and forwarded and such permit shall also specify the time or duration such permit is to be in force Provided that such permit shall not be granted by the Inspector of Distilleries or other officer appointed as aforesaid for the removal of any spirits which shall not have been previously lodged and deposited in the registered stores hereinbefore mentioned and provided that at the time such permit is required the distiller or other person requiring such permit shall produce to such Inspector of Distilleries or other officer aforesaid the certificate of the said Colonial Treasurer or other person appointed as aforesaid that the duty upon such spirits intended to be removed has been duly paid.

Spirits removed
without permit to be
forfeited.

34. And be it enacted That all spirits removed without such permit as aforesaid or after the time limited in such permit shall have expired shall be seized and forfeited together with the cask or casks in which the same shall be contained and the cars carts drays or other conveyances and the horses or other animals employed in removing the same.

Officers taking bribes
or persons offering
same to forfeit £200.

35. And be it enacted That every person who shall give offer or promise to give any bribe recompense or reward or make any collusive agreement with any such officer as aforesaid to induce him in any way to neglect his duty or to conceal or connive at any act whereby any of the provisions of this Act may be evaded every such person shall whether the offer be accepted or performed or not forfeit the sum of two hundred pounds.

Illicit spirits may be
seized.

36. And be it enacted That it shall be lawful for any Officer of Her Majesty's Customs within the said Colony and for any Inspector of Distilleries and any other person or persons appointed by the Governor for that purpose to seize all or any spirits within the said Colony and its Dependencies on which the full amount of duty chargeable thereon has not been paid and that such spirits so seized shall be deemed to be condemned and may be sold unless the owner thereof shall claim the same within one month after such spirits shall be so seized and give satisfactory evidence to the Court or the Justices of the Peace before whom such claim shall be enquired into that the duty to which the said spirits so seized was chargeable had been fully paid and satisfied before the same had been so seized as aforesaid.

Officers may enter
premises of distiller

37. And be it enacted That it shall be lawful for any Officer of Her Majesty's Customs within the said Colony or for the Inspector of Distilleries or person or persons appointed for that purpose by the Governor to enter into and upon the premises of any licensed distiller rectifier or compounder of spirits to search for and seize any spirits thereon found the duty on which has not been paid.

And may seize goods.

38. And be it enacted That it shall and may be lawful for any such Officer of the Customs Inspector of Distilleries or any other person or persons authorized by the Governor as aforesaid having reasonable grounds to believe that spirits upon which the duty has not been paid are kept or concealed in any house or place in the said Colony or its Dependencies to enter into such house or place in the day-time with writ of assistance and accompanied by a peace officer and search for and seize any such spirits found therein and to deposit the same until claimed or sold in the Queen's Warehouse at the Custom House or other place appointed by the Governor for that purpose.

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39. And be it enacted That nothing in this Act contained shall prevent the maker of wine from grapes the produce of his own vineyard in the Colony aforesaid or its Dependencies from keeping and using one still of not more than fifty nor less than twenty-five gallons content for the purpose of distilling brandy from such wine or the lees of such wine for his own consumption Provided he obtain for such still a license from the Colonial Treasurer or other person appointed as aforesaid which license shall be granted only on a certificate signed by two Magistrates that the person requiring the still has in cultivation and bearing a vineyard of at least two acres in content And provided also that every person wishing to keep such still shall notify his intention so to do to the Colonial Treasurer or other person appointed as aforesaid who shall thereupon require such person to give bond with two sufficient sureties in the sum of two hundred pounds that he will not sell or dispose of any spirits so distilled and every such person found to have in his possession any still without having entered into such bond and obtained such license shall forfeit and pay not less than one hundred pounds nor more than five hundred pounds.

Grower of wine may distil for his own use on giving bond not to sell.

40. And be it enacted That all claims for spirits or other property seized as forfeited under this Act shall be lodged within one month after the seizure shall be made with the Colonial Treasurer or such other officer as shall be appointed by the Governor for that purpose and whose appointment shall be notified in the *Government Gazette*.

Claims for spirits &c. seized under Act to be lodged within one month after seizure.

41. And be it enacted That all spirits and other property seized under the provisions of this Act shall be considered as condemned unless claimed within one month after the same shall be seized and shall be sold by public auction.

Spirits seized to be sold in one month.

42. And be it enacted That all persons dealing in the sale or purchase of Colonial and Foreign spirits shall and do keep the same respectively in separate and distinct cellars or stores and shall mark in white paint on each cask or vessel containing each respectively the kind or quality of spirits therein contained and that they shall not mix the said spirits one with the other under a penalty of one hundred pounds and all such spirits mixed or sold contrary to the intent and meaning of this Act together with the casks and packages containing the same shall also be forfeited and lost and shall and may be seized by the Inspector of Distilleries or other officer as aforesaid.

Foreign and Colonial spirits to be kept in separate cellars.

43. And be it enacted That every person who shall sell or dispose of or who shall offer to sell or dispose of any quantity of illicit spirits or spirits part of which is illicit shall be liable to a penalty of one hundred pounds and that every person who shall knowingly purchase any such spirits shall be liable to a similar penalty of one hundred pounds together with the forfeiture of the said spirits so purchased.

Seller and purchaser of illicit spirits subject to penalty.

44. And be it enacted That all fines forfeitures and penalties imposed by this Act may be recovered before any two or more Justices of the Peace or the Judges of the Supreme Court or in the Court of Vice Admiralty of the said Colony at the instance of any Inspector of Distilleries or any superior Officer of Customs and that actions for recovery of the same shall and may be instituted in the name of some superior Officer of the Customs of the said Colony or of Her Majesty's Attorney General for the said Colony or Inspector of Distilleries and that if a question should arise whether any person is an Officer of the Customs or Inspector of Distilleries as aforesaid *virá voce* evidence may be given of such fact and shall be deemed legal and sufficient evidence.

Fines forfeitures and penalties how to be recovered.

45. And be it enacted That if any spirits or other property shall be seized for non-payment of the duties of such spirits or any other cause of forfeiture and any dispute shall arise whether the duties have been

Onus probandi to lie on the parties.

been

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been paid for the same the proof thereof shall be on the owner or claimer and not on the officer who shall seize and stop the same.

How claim to seized spirits &c. shall be made.

46. And be it enacted That no claim to any spirits or other property seized under this Act and returned into any of Her Majesty's Courts for adjudication shall be admitted and that no appearance shall be permitted to be entered to any information filed for the forfeiture of any spirits or other property seized for any cause of forfeiture under this Act unless such claim or appearance is entered in the name of the owner or owners proprietor or proprietors of such spirits or other property so seized describing the place of residence and the business or profession of such person or persons and if such person or persons shall reside in Sydney or within twenty miles thereof oath shall be made before one of the Judges of the Court in which such information is filed or before one of the Justices of the Bench of Magistrates before whom any cause of forfeiture shall be tried for spirits or other property seized as forfeited under this Act that the spirits or other property so seized was or were really and truly the property of him her or them at the time of such seizure but if such person or persons shall not be resident in the said town of Sydney or within twenty miles thereof then and in such case such oath shall be made in like manner by the agent attorney or solicitor by whom such appearance shall be entered that he has full power and legal authority and directions from such owner or proprietor to enter such appearance and to the best of his knowledge and belief such spirits or other property were at the time of the seizure thereof *bonâ fide* the real property of the party in whose name such appearance is entered and on failure thereof the spirits and other property shall be absolutely condemned and judgment be entered thereon by default according to the usual method of proceedings of the Court in the same manner as if no appearance had been entered thereto and every person who shall be convicted of making or taking a false oath to any of the facts hereinbefore directed or required to be sworn to shall be deemed to be guilty of perjury and shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury.

Claimant to enter into recognizance to answer costs.

47. And be it enacted That upon the entry of any claim to any spirits or other property seized for any cause of forfeiture or of any appearance to any information filed for such forfeiture the person or persons who shall enter such claim or appearance if such claimant shall reside within the Colony shall be bound by a recognizance (to be entered into before one of the Judges of the Supreme Court or Justices of the Peace before whom the said cause or matter is to be enquired into) with two sufficient sureties in the penalty of one hundred pounds to answer and pay the costs occasioned by such claim or appearance and if the owner or proprietor shall not reside within the said Colony then and in such case the agent attorney or solicitor by whose directions such claim or appearance shall be entered shall in like manner be bound with two sufficient sureties in like penalty to pay the costs occasioned by such claim or appearance.

What shall be proof of the appointment of officer in proceedings under this Act.

48. And be it enacted That in case of any information or proceeding under this Act or any Act relating to the Excise the averment that the person or persons prosecuting such information or proceeding is an Inspector of Distilleries or a superior Officer of the Customs shall be sufficient proof of the appointment of such Inspector of Distilleries or a superior Officer of the Customs without proof of the appointment of such Inspector of Distilleries or Officer of the Customs unless the defendant shall in such case prove to the contrary.

Who shall be deemed to be duly appointed for the prevention of smuggling.

49. And be it enacted That all persons employed for the prevention of smuggling by the direction of the Governor of the Colony or by any Officer of the Customs shall be deemed and taken to be duly

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duly employed for the prevention of smuggling and the averment in any information or proceeding that such person was so duly employed shall be sufficient proof thereof unless the defendant in such case shall prove to the contrary.

50. And be it enacted That any Inspector of Distilleries and every Officer of the Customs and every person acting in his or their aid or assistance shall be deemed a competent witness upon the trial of any suit or information on account of any seizure or penalty as aforesaid notwithstanding such Inspector of Distilleries Officer of Customs or other person may be entitled to the whole or any part of such seizure or penalty or to any reward upon conviction of the party charged in such suit or information.

51. And be it enacted That no Inspector of Distilleries nor any other person duly employed to carry into effect the provisions of this Act shall be liable to serve on any jury or inquest or in any parochial or other office whilst he is so employed any law usage or custom to the contrary notwithstanding.

52. And be it enacted That every information for any penalty or forfeiture under this Act and every conviction or warrant of commitment for any penalty shall be deemed valid and sufficient in which the offence for which such penalty shall be inflicted or the cause of forfeiture is set forth in the words of this Act.

53. And be it enacted That if in any suit or action brought before the Judges of the said Supreme Court or any two or more Justices of the Peace as aforesaid for the recovery of any fines or penalties imposed by this Act the party or parties shall be convicted and sentenced to pay such fine it shall be lawful for the said Court or Justices to award and sentence the said party or parties to be imprisoned for the period of not less than three months nor exceeding twelve months in case the said fine or penalties shall not be paid within a time to be limited by the said Court or Justices.

54. And be it enacted That it shall and may be lawful for the said Governor to make such rules and regulations as he may think necessary to carry the provisions of this Act into effect and to appoint such officers and other persons for that purpose as he may deem fit and proper.

55. And be it enacted That no writ shall be sued out nor a copy of any process served upon any Officer of the Customs or any Inspector of Distilleries or other person or persons so appointed by the Governor as aforesaid for any thing done in the exercise of his office until one calendar month after notice in writing shall have been delivered to him or left at his usual place of abode by the attorney or agent to the party who intends to sue out such writ or process in which notice shall be clearly and explicitly contained the cause of action the name and place of abode of the person who is to bring such action and the name and place of abode of the attorney or agent and no evidence of the cause of such action shall be produced except of such as shall be contained in such notice and no verdict shall be given for the plaintiff unless he shall prove on the trial that such notice was given and in default of such proof the defendant shall receive in such action a verdict and costs.

56. And be it enacted That every such action shall be brought within three calendar months after the cause thereof and the defendant may plead the general issue and give the special matter in evidence and if the plaintiff shall become nonsuited or shall discontinue the action or if upon a verdict or demurrer judgment shall be given against the plaintiff the defendant shall receive treble costs and have remedy of the plaintiff as any defendant can have in other cases where costs are given by law.

Colonial Spirits Distillation.

Judges may certify probable cause of seizure.

57. And be it enacted That in case any information or suit shall be brought to trial on account of any seizure made under this Act and a verdict shall be found for the claimant thereof and the Judges or Court before whom the cause shall have been tried shall certify upon the record that there was probable cause of seizure the claimant shall not be entitled to any costs of suit nor shall the person who made such seizure be liable to any action indictment or other suit or prosecution on account of such seizure and if any action indictment or other suit or prosecution shall be brought to trial against any person on account of such seizure wherein a verdict shall be given against such defendant the plaintiff besides the things seized or the value thereof shall not be entitled to more than two-pence damages nor to any cost of suit nor shall the defendant in such prosecution be fined more than one shilling.

Officer may tender amends.

58. And be it enacted That it shall be lawful for such officer or other person or persons as aforesaid within one calendar month after such notice to tender amends to the party complaining or his agent and to plead such tender in bar to any action together with other pleas and if the jury shall find the amends sufficient they shall give a verdict for the defendant and in such case or in case the plaintiff shall become nonsuited or discontinue his action or judgment shall be given for the defendant upon demurrer then such defendant shall be entitled to like costs as he would have been entitled to in case he had pleaded the general issue only Provided always that it shall be lawful for such defendant by leave of the Court where such action shall be brought at any time before issue joined to pay money into Court as in other cases.

Limitation of damages when Judge certifies probable cause of seizure.

59. And be it enacted That in any such action if the Judge or Court before whom such action shall be tried shall certify upon the record that the defendant or defendants in such action acted upon probable cause then the plaintiff in such action shall not be entitled to more than two-pence damages nor to any costs of suit.

Distribution of forfeitures and penalties.

60. And be it enacted That all fines and penalties and forfeitures recovered under this Act shall be paid to the said Colonial Treasurer and shall be divided paid and applied as follows (that is to say) after deducting the charges of prosecution from the proceeds thereof one-third part of the nett produce thereof shall be set apart or allotted for the use of Her Majesty Her Heirs and Successors to be applied to the public uses of the said Colony one-third part thereof shall be paid to the informer and one-third part thereof to the person who shall sue for the same where such fines penalties and forfeitures are recovered in consequence of information being given to the seizing officer and when the said fines penalties and forfeitures are otherwise recovered the same are to be paid as follows (that is to say) the one moiety or half of the nett produce thereof as aforesaid to be paid to the said Colonial Treasurer for the use of Her Majesty Her Heirs and Successors to be applied to the public use of the Colony and the other moiety or half to be paid to the seizing officer or person suing for the said penalty.

Actions to be commenced within one year.

61. And be it enacted That actions or suits for the recovery of any of the penalties or forfeitures imposed by this Act may be commenced and prosecuted at any time within one year after the offence committed by reason whereof such penalty or forfeiture shall be incurred.

Touching suspension of decrees.

62. And be it enacted That no decree or sentence of any of the said Courts touching any forfeiture or penalty imposed by this Act shall be suspended or stayed unless an inhibition in due course of law shall be obtained and served upon the party or parties intended to be restrained thereby within eighteen months from the time when such decree or sentence was pronounced.

Quarter Sessions Chairman.

63. And be it enacted That this Act shall commence and take effect from and after the passing thereof. Commencement of Act.

64. And be it enacted That the produce of all rates and duties imposed and made payable in virtue of this Act shall be paid to the use of Her Majesty Her Heirs and Successors for the public uses of the said Colony and in support of the Government thereof and shall be applied in such manner and to such purposes as the said Governor with the advice and consent of the said Legislative Council shall by any Law or Ordinance appoint. Application of duties.

65. And whereas by an Act of the Governor and Council passed in the eleventh year of the reign of his late Majesty King George the Fourth intituled "*An Act for confirming certain Rates and Duties heretofore levied and collected in the Colony and for continuing the like Rates and Duties until further provision shall be made*" certain rates and duties were authorized to be levied and collected Be it hereby enacted That so much of the said last recited Act as relates to the duties on spirits distilled in the said Colony be and the same is hereby repealed. So much of 11 Geo. IV. No. 9 as relates to the duties on spirits repealed.
