



ANNO QUINTO

VICTORIÆ REGINÆ.

By His Excellency GEORGE GREY Esquire
Governor and Commander-in-Chief of Her
Majesty's Province of South Australia and
its Dependencies and Vice Admiral of the
same by and with the advice and consent of
the Legislative Council.

No. 19.

*AN ACT to regulate Internal Distillation in the Province of
South Australia.*

WHEREAS an Act was passed in the First year of the Reign of Her Majesty Queen Victoria No. 4 intituled "An Act to impose certain duties upon Wines Spirits and Tobacco to provide for the warehousing and to prevent the clandestine removal and importation of the same" by which it was provided that there should be paid on spirits made and distilled from grain in the Province a duty of four shillings for each and every gallon of such spirits and whereas by another Act passed in the Second year of Her Majesty Queen Victoria No. 1 intituled "An Act to rectify a clerical error in the Act lately passed for imposing certain duties upon Wines Spirits and Tobacco" it was Enacted That the words "from grain" in the second section of

of the Act No. 4 1st Victoria should be deemed and taken not to have been inserted therein And whereas no duty on such spirits has ever been paid to the great detriment of the revenue and the discouragement of lawful trade and whereas it is expedient to repeal so much of the above recited Acts as relates to the imposition of a duty upon spirits distilled in the Province and to make provision to regulate the distillation of spirits in the Province and for the issue of licences 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 GEORGE GREY Esquire Governor and Commander-in-Chief of Her Majesty's Province of South Australia and Vice Admiral of the same by and with the advice and consent of the Legislative Council thereof—

I. That from and after the commencement of this Act so much of the before recited Acts as provides for the payment of duties on spirits distilled in the Province shall be and is hereby repealed.

II. And be it Enacted That from and after the commencement 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 Province or its Dependencies save and except in the town of Adelaide or in such other towns or places as his Excellency the Governor 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.

III. And be it Enacted That it shall not be lawful for any person (other than as hereinafter excepted) to have keep or make use of any still or other utensil for distilling or rectifying or compounding spirits in the Province or its Dependencies without first having obtained a licence for keeping or using the same from the Governor for the time being in form as near as may be of the schedule hereto annexed 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.

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

V. And be it Enacted That before any such licence 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 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 licence so applied for shall not be granted.

VI. And be it Enacted That before any licence 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

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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.

VII. And be it Enacted That such licences 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 licence granted for the distillation of spirits and for every licence granted for the rectifying or compounding of spirits the sum of twenty-five pounds shall be paid by the party obtaining such licence to the Colonial Treasurer of the Province 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 licence respectively is hereby authorised and directed to issue the same for the said term of one year and no longer. Provided however that no licence 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 licences.

VIII. And be it Enacted That such licence as aforesaid granted under this Act may be renewed annually from year to year upon the person or persons 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 licence 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 Colonial Treasurer or other person appointed as aforesaid to grant such renewal of said former licence but he is hereby authorised and directed to refuse the same unless specially directed to issue such licence by the Governor.

Licences to be renewed annually.

IX. And be it Enacted That it shall and may be lawful for the Colonial Treasurer or other person appointed as aforesaid to issue a licence upon payment of the sum of three pounds sterling 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 *bona 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 licence shall forfeit and pay not less than one hundred pounds nor more than five hundred pounds.

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

X. And be it Enacted That it shall not be lawful for any person or persons who shall have obtained any such licence as aforesaid for the distilling rectifying or compounding of spirits or for any other person whatsoever to practice 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 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.

The business of a brewer and distiller not to be carried on in the same premises.

XI. And

Names of partners
to be registered.

XI. And be it Enacted That a declaration in writing of the name or names of the party or parties so applying for any such licences 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 licence and delivered to the said Colonial Treasurer or other person appointed as aforesaid to be registered by him.

Distiller not to re-
tail spirits.

XII. 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 licence to retail spirituous or fermented liquors and in case any person who shall have obtained a licence for the sale of fermented or spirituous liquors by retail shall after the obtaining of such licence 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 licence so granted for the sale of fermented or 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 licence.

Not to sell less
than 50 gallons.

XIII. 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.

Distances at which
stills shall be from
other houses and
from surrounding
walls enclosing
them.

XIV. And be it Enacted That all stills licenced for the distillation of spirits shall be erected and placed in houses distant not less than thirty-two yards from any other houses 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 enclosed thereby and there shall not be more than one entrance into the said premises.

Store for spirits.

XV. And be it Enacted That within at least three months after the obtaining any licence under the terms of this Act there shall be within the walls of every licensed distillery a house or store built of stone or brick in which the spirits when distilled shall be deposited the door or every door of which if more than one shall be secured by two locks to each door the key of one of which locks on each door shall be kept by the owner of such distillery and the key of the other of the said locks shall be kept by the inspector of distilleries or by such officer as may be appointed by the Governor for the time being for the purpose of keeping the same and it shall not be lawful for any person to open the said locks or enter into the said house or store unless in the presence or by the permission of such inspector of distilleries or other officer so appointed as aforesaid and any person who shall open the said locks or enter into the said house or store otherwise than in the presence or with the permission of such inspector or officer so appointed as aforesaid shall be liable on conviction thereof to forfeit and pay a penalty of one hundred pounds.

Store to be regis-
tered.

XVI. And be it Enacted That a particular description as aforesaid of the said stores or warehouse so built for the purpose of keeping and depositing of the spirits when distilled shall be made and registered by the inspector of distilleries

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 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.

XVII. And be it Enacted That all stills licensed as aforesaid are to be set in stone or brick and mortar and locks and keys to the heads or cocks of the said stills and to the furnace and door of such stills shall be provided at the expense of the owner. Stills to be set in stone or brick and mortar.

XVIII. 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. How coolers are to be fixed.

XIX. 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.

XX. And be it Enacted That if any licensed distiller shall have or keep upon his premises any worm or worms except one worm for each still licensed in manner provided by this Act such distiller shall forfeit and pay a penalty or sum of twenty pounds for each and every worm found on his said premises exceeding the number of stills licensed to be used thereon 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 the security of two locks as aforesaid. Number of worms to be used.

XXI. And be it Enacted That every licensed distiller rectifier or compounder shall immediately on obtaining his said licence 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 kieves backs and other utensils to be used therein which said accounts so delivered in shall be kept and registered by the inspector of distilleries and that all stills worms coppers vats kieves backs and other utensils found on the said premises which shall not be stated and mentioned in the said return 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. Returns to be made to inspector of distilleries when licence is obtained.

XXII. And be it Enacted That all vats kieves 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. Vessels to be marked.

XXIII. And be it Enacted That it shall and may be lawful for any officers of the customs and every other person or persons duly authorised by the Governor to enter at all times 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 in the day-time with writ of assistance and accompanied Officers to have power to enter premises at all times.

passed by a peace officer to enter any other place on reasonable cause of suspicion 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 to search for and seize any illicit still or any spirits found the duty on which has not been paid or for which a permit has not been granted 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 pounds nor more than two hundred pounds.

ance to be pro-
vided to officers.

XXIV. And be it Enacted That all and every still and still-heads worms and all utensils or spirit 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 licence for using and making the same.

distillers to give
notice of intention
to distil.

XXV. 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.

duties on spirits
distilled in the
Province.

XXVI. And be it Enacted That upon all spirits hereafter made or distilled within the Province or its Dependencies from and after the commencement of this Act whether from grain sugar molasses or any other article whatsoever there shall be levied and collected a rate or duty of eight shillings for each and every gallon imperial measure of such spirits not exceeding the strength of hydrometer proof and so in proportion for spirits of greater strength.

duties shall
be charged.

XXVII. And be it Enacted That every licensed distiller within the said Province 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.

to whom

XXVIII. And be it Enacted That the said duties so chargeable as aforesaid on spirits distilled within the Province and its Dependencies shall be paid to the Colonial Treasurer 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.

owner of wines
to distil for his
use on giving
notice not to sell.

XXIX. 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 Province 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

ling brandy from such wine or the lees of such wine for his own consumption Provided he obtain for such still a licence from the Colonial Treasurer or other person appointed as aforesaid which licence 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 licence shall forfeit and pay not less than one hundred pounds nor more than five hundred pounds.

XXX. 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 spirit 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 penalties.

XXXI. 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 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 and duration that 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 and all spirits found in any place without such permit shall be seized and forfeited.

Permits for the removal of spirits required.

XXXII. 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.

Governor may make rules for carrying Act into effect.

XXXIII. And be it Enacted That this Act shall be deemed and taken to be an Act relating to the customs and trade and that all persons employed in the execution hereof by the direction of the Governor shall be deemed and taken to be officers of the customs for the purposes hereof and that all the rights remedies enactments and provisions of the laws for the time being in force within the Province relating to the customs and trade shall so far as applicable apply in like manner to all persons and things and to all forfeitures penalties seizures and other proceedings under this Act as if the same were expressly herein inserted.

Act to be deemed a law relating to the customs &c.

XXXIV. And

Application of duties. XXXIV. 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 Province and in support of the Government thereof and shall be applied in such manner and to such purposes as the Governor with the advice and consent of the Legislative Council shall by any Act appoint.

Governor may remit penalties. XXXV. And be it Enacted That it shall and may be lawful for the Governor for the time being of the said Province to remit or reduce the said penalties as to the said Governor shall seem meet.

Construction clause. XXXVI. And be it Enacted That in order to prevent any misconstruction of the terms and expressions used in this Act wherever the terms or expressions following occur therein the same shall be construed respectively in manner hereinafter directed (that is to say) that the term wort shall be construed to mean wort wash pot-ale dunder and singlings that the term spirits shall be construed to mean brandy rum gin low wines and feints and all descriptions and kinds of spirituous liquors whatsoever and that the term premises shall include and extend to all outhouses and other buildings belonging to the same proprietor on the place appropriated to the distillation and storing of spirits.

Commencement of this Act. XXXVI. And be it Enacted That this Act shall commence and take effect from and after the first day of August next ensuing.

GEORGE GREY,
Governor of South Australia.

*Passed in Council this Fifteenth day
of June One Thousand Eight Hundred
and Forrty-two.*

A. M. MUNDY,
Clerk of Council.

SCHEDULE REFERRED TO IN THIS ACT.

FORM OF LICENCE.

WHEREAS in pursuance of the Act of the Governor, in Council in that behalf made and provided application hath been made by memorial to his Excellency the Governor of South Australia by [name and address of memorialist] to direct a Licence to be granted to him for the distilling [rectifying or compounding as the case may be] of spirits within [here state the premises] and the said memorialist hath transmitted a drawing or representation of the still [or other utensil as the case may be] to be used therein setting forth its shape dimensions and proportions as follows viz. [here set forth description of still as nearly as possible] and the said memorialist hath paid into the Colonial Treasury the sum of £ and hath otherwise conformed to the provisions of the said Act

NOW THEREFORE HIS EXCELLENCY the said GOVERNOR doth hereby grant Licence to the said memorialists to keep and use the said still [or utensil] for distillation [or for the rectifying or compounding as the case may be] of spirits within the said premises for the term of one year from the day of and no longer subject always to the provisions of the said Act.

Given under my hand at Adelaide the day of

By his Excellency's command

Colonial Treasurer.