



ANNO DECIMO QUINTO

VICTORIÆ REGINÆ.

No. 6.

An Act to regulate Internal Distillation in the Province of South Australia.

[November 22nd, 1851.]

WHEREAS it is expedient to facilitate distillation within the Province of South Australia, and for that purpose to repeal an Ordinance of the Governor and Council, passed in the Fifth Year of Her Majesty's Reign, intituled "An Act to regulate Internal Distillation in the Province of South Australia:"

Preamble.

Be it therefore Enacted by His Excellency the Lieutenant-Governor of South Australia, with the advice and consent of the Legislative Council thereof, That from and after the commencement hereof the before recited Act or Ordinance shall be, and the same is hereby repealed.

Repeal of 5th Vict.,
No. 19.

2. And be it Enacted, That from and after the commencement of this Act it shall not be lawful for any person 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, in any place or part of the said Province, or its dependencies, save and except in the City of Adelaide, or in such other Towns or places as the Lieutenant-Governor for the time being shall appoint or direct, under a penalty of not less than One Hundred nor more than Five Hundred Pounds to be recovered as hereinafter directed.

No person shall carry on the business of a distiller, rectifier, or compounder of spirits, except in the City of Adelaide, or in such other Towns or places as shall be appointed by the Lieutenant-Governor, under a penalty of from £100 to £500.

Distillers to obtain a licence.

3. And be it Enacted, That it shall not be lawful for any person to have, or keep, or make use of any still, or other utensil, for distilling, or rectifying, or compounding spirits, in the Province aforesaid, or its dependencies, without first having obtained a licence for keeping or using the same from the Bench of Magistrates, in the 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 directed.

Bench of Magistrates to revoke licences, &c.

4. And be it Enacted, That it shall be lawful for the Bench of Magistrates, at their quarterly meeting, with the concurrence of the Lieutenant-Governor for the time being, by any order under the hand of the Chairman of such Bench of Magistrates, to revoke any licence so granted; and that, after a copy of such order shall have been delivered to any such licensed person, or to his clerk, or left at his usual place of abode or business, such licence shall be void.

Licence how granted.

5. And be it Enacted, That any person wishing to obtain a licence for the purpose of distilling, rectifying, or compounding of spirits, shall, by memorial, apply to the Bench of Magistrates at the quarterly meeting for granting licences held in Adelaide, indicating the place where such distillery, or premises for the rectifying or compounding of spirits, is or shall be erected, and furnishing plans and specifications of the said premises and still for which such licence is desired, having first given sixty days' notice of his intention to make such applications to the Inspector of Distilleries.

Names of partners to be registered.

6. And be it Enacted, That a declaration, in writing, of the name or names of the party or parties so applying for any such licence 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 licence, and delivered to the Inspector of Distilleries, or other proper officer as aforesaid, to be registered.

Recognizance to Her Majesty before licence issued to account, &c.

7. And be it Enacted, That before any licence for the distillation, rectifying, or compounding of spirits shall be granted, the person or persons applying for the same, together with two sufficient sureties, shall enter into a recognizance payable to Her Majesty in the sum of Two Thousand Five Hundred Pounds, conditioned that all spirits, grain, sugar, grapes, or other material for rectifying, compounding, or distilling, deposited on the said premises, shall be used for that purpose under inspection of the proper officers, or otherwise duly accounted for to the satisfaction of the Inspector of Distilleries or other proper officer, and that all spirits so distilled, rectified, or compounded, and also all other spirits that may be therein deposited without payment of duty, shall be stored in the said premises in such manner as the said Inspector or other proper officer shall direct, and shall

shall not be thence delivered until due entry thereof be made and warrants granted by the Inspector of Distilleries or other proper officer for the removal of the same either for exportation, home consumption, or for warehousing in any bonded warehouse, as the case may be: And further conditioned for the due observance of the provisions of this Act, and of any Act relating to the Customs in force at the time being.

8. And be it Enacted, That there shall be within the walls of every licensed distillery, or premises for the rectifying or compounding spirits as aforesaid, a house or store built of stone or brick, in which the spirits, when distilled, rectified, or compounded, shall be deposited without payment of duty, 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 such 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 other proper officer appointed by the Lieutenant 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, store, or premises, unless in the presence or by the permission of such Inspector of Distilleries or other proper officer so appointed as aforesaid; and any person who shall open the said locks, or enter into the said house, store, or premises, otherwise than in the presence, or with the permission of such Inspector of Distilleries or other proper officer so appointed as aforesaid, shall be liable, on conviction thereof, to forfeit and pay a penalty of One Hundred Pounds: And there shall be provided within the walls of every such premises as aforesaid, convenient offices for the accommodation of the Inspector of Distilleries and his subordinates.

Stores for spirits.

9. And be it Enacted, That a particular description 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 or other proper officer; and all spirits distilled, rectified, or compounded on the said premises, shall immediately be secured in proper casks or packages, and deposited in the said store in charge of the said Inspector of Distilleries or other proper officer, who shall ascertain the contents, and cause the same to be marked upon the casks or other packages, and shall take an account thereof in a book to be kept for that purpose; 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.

Store to be registered.

10. And be it Enacted, That every distillery or premises for the rectifying or compounding of spirits so licensed, shall be a bonded warehouse for the warehousing of spirits and of materials for the making and compounding of spirits without payment of duty, and shall

Licensed distilleries to be bonded warehouses.

shall be proclaimed as such in the manner directed in the fifty-fourth Section of Ordinance No. 16 of 1846.

Warehousing spirits
and materials, &c.

11. And be it Enacted, That all spirits and materials for the making and compounding of spirits so warehoused shall be stored in such parts or divisions of the warehouse and in such manner as the Inspector of Distilleries or other proper officer shall direct, and if the occupier of the warehouse shall omit so to stow the same, he shall, for every such omission, forfeit the sum of Five Pounds, and the warehouse shall be locked and secured in such manner, and shall be opened and visited only at such times and in the presence of such officers, and under such rules and regulations as the Inspector of Distilleries or other proper officer shall direct, and that all such spirits or materials for the making and compounding of spirits as aforesaid shall so soon as distilled, rectified, or compounded, be removed to the warehouse, or shall, after taken out of the warehouse, be carried to be shipped or rewarehoused under such rules and regulations as the Inspector of Distilleries or other proper officer shall appoint.

Duty on spirits made
from articles the pro-
duce of South Aus-
tralia twenty-five per
cent. less than on
spirits imported.

12. And be it Enacted, That the duty on spirits distilled from corn or other articles, the produce of South Australia, shall be twenty-five per cent. less than the duty levied on imported spirits; but that the duty on spirits distilled from foreign products such as sugar, and on foreign spirits received into store without payment of duty shall be the same as that levied on spirits imported.

Foreign materials not
to be mixed with grain
the produce of South
Australia.

13. And be it Enacted, That no foreign or other materials, the product of which when distilled is liable under this or any other Act to a higher rate of duty, shall be stored within such premises in the same warehouse with grain, the produce of South Australia, or other materials the product of which, when distilled, is liable to a lower rate of duty; and no spirits subject to such lower rate of duty shall be stored within such premises in the same warehouse with spirits subject to the higher rate of duty; and if any foreign materials, the product of which when distilled is liable to a higher rate of duty, shall be found within such premises mingled with any grain the produce of this Colony, or with any wort, mash, wash, pot-ale, or low wine which shall have been declared by such licensed distiller by notice given in manner hereinafter described to be mash, wash, pot-ale, for distillation, composed solely of materials the product of which is subject to the lower rate of duty, such foreign material, together with the grain, mash, wash, pot-ale, &c., with which it has been mingled shall be forfeited, and such licensed distiller shall, for such offence, forfeit and pay a sum of not less than One Hundred Pounds or more than Two Hundred Pounds.

No spirits or materials
to be received into
licensed premises until
duly entered, or re-
moved without per-
mission.

14. And be it Enacted, That no spirits or materials for the making or compounding of spirits shall be received into or delivered from such licensed premises as aforesaid until due entry shall have been made of such spirits or other materials as aforesaid, and warrants granted for the reception or delivery of the same; And that

that no spirits or material for the making or compounding of spirits as aforesaid shall be so received or delivered except in the presence or with the permission in writing of the proper officer, and within the legal hours (that is to say), between ten of the forenoon, and four in the afternoon, unless special authority be given by the Inspector of Distilleries: And that all spirits or materials for making spirits as aforesaid, received or delivered contrary to this or any other Law relating to the Customs, shall be forfeited, and the proprietor or licensed occupier of such premises as aforesaid shall be subject to the penalty of One Hundred Pounds, or treble the value of such spirits or materials so received or delivered.

15. And be it Enacted, That the person entering such spirits or materials for the making or compounding of spirits as aforesaid, so to be received into or delivered from such licensed premises, shall deliver to the Inspector of Distilleries or other proper officer a bill of the entry thereof fairly written in words at length containing the particulars of the quality and quantity of the spirits or materials for the making or compounding of spirits as aforesaid, and of the packages containing the same and the marks and numbers on the packages, and if required setting forth whether such spirits or materials for the making or compounding of spirits as aforesaid be the produce of the Province or not, and two or more duplicates as the case may require of such bill in which all sums and numbers may be expressed in figures, and the particulars contained in such bills shall be written and arranged in such form and manner, and the number of the duplicates shall be such as the Inspector of Distilleries or other proper officer shall require; and such person shall at the same time pay down all duties due upon the spirits or materials for the making or compounding of spirits as aforesaid, and the Inspector of Distilleries or other proper officer shall thereupon grant the warrant for the reception or delivery of such spirits or materials as aforesaid.

No spirits or materials shall be received into licensed premises, or delivered without warrant of the Inspector of Distilleries, &c.

16. And be it Enacted, That upon the entry and at the reception into the said premises of any spirits or materials for the making or compounding of spirits, the proper officer shall take a particular account of the same, and shall mark the contents on each package, and shall enter the same in a book to be kept for that purpose, and such materials shall thereupon be deposited within the said premises in the store for that purpose provided, and no goods which have been so warehoused shall be taken or delivered from the warehouse except upon due entry and in presence of the proper officer.

No spirits or materials to be received into licensed warehouses, or delivered, unless entered, &c.

17. And be it Enacted, That it shall be lawful for the Inspector of Distilleries or other proper officer under such regulations as shall be approved by the Lieutenant-Governor, to permit the proprietor or other person having control over any spirits or materials for the making or compounding of spirits so warehoused, to sort, separate, pack, or repack, any such spirits or materials as aforesaid, and to make such lawful alterations therein, or arrangements and

The Inspector of Distilleries may make alterations, &c.

assortments thereof as may be necessary for the preservation of such spirits or materials as aforesaid, or in order to the sale, shipment, or legal disposal of the same, and also in the warehouse to fill up any casks of spirits from any other casks of the same respectively secured in the same warehouse, and also in the warehouse to take such moderate samples of spirits or other materials as aforesaid, as may be allowed by the Inspector of Distilleries or other proper officer, without entry and without payment of duty, except as the same may eventually become payable as on a deficiency of the original quantity.

Spirits delivered free of duty to fortify wine.

18. And be it Enacted, That, under such regulations as shall be approved by the Lieutenant-Governor, it shall be lawful for the Inspector of Distilleries and for the Collector of Customs to deliver from any bonded warehouse under his or their charge, for the purpose of fortifying wines the produce of this Colony, free of duty, any spirits secured in such warehouse not exceeding the proportion of one gallon of proof spirits to ten gallons of such wine.

Inspector of Distilleries may allow the removal of spirits and materials to other bonded warehouses, or for exportation without duty.

19. And be it Enacted, That spirits or materials for the making or compounding of spirits stored as aforesaid, being first duly entered, may be delivered under the authority of the Inspector of Distilleries or other proper officer without payment of duty except for any deficiency thereof for the purpose of removal to any bonded warehouse in the same Province, or for the purpose of being shipped for exportation under bond to the satisfaction of such officer for the due arrival and warehousing of such spirits or materials as aforesaid, or for the exportation of the same as the case may be.

Governor may remit duty when spirits or materials are lost or destroyed.

20. And be it Enacted, That if any spirits, or materials for the making or compounding of spirits as aforesaid, so entered for delivery shall be lost or destroyed by any unavoidable accident either in the warehouse or in the delivery therefrom, it shall be lawful for the Lieutenant-Governor to remit or return the duties payable or paid on the quantities of such spirits or other materials as aforesaid so lost or destroyed.

Spirits or materials removed to be re-warehoused or shipped, &c., without permission, to be forfeited.

21. And be it Enacted, That if any spirits or materials for making or compounding of spirits as aforesaid, which have been entered to be re-warehoused or shipped for exportation shall not be duly carried and deposited in the warehouse or shipped, or having been shipped shall afterwards be relanded, except with the permission of the proper officer of the Customs, such spirits or materials, as aforesaid, shall be forfeited.

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

22. And be it Enacted, That it shall and may be lawful for the Inspector of Distilleries or other person to be appointed, as aforesaid, to issue a license on the payment of the sum of Five Pounds sterling to any apothecary, chemist, or druggist, applying for the same to keep and use upon his premises, a still of not more than eight

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 Inspector of Distilleries 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 Fifty Pounds nor more than One Hundred Pounds.

23. 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 practise, follow, or use the trade or business of a brewer of ale, porter, or beer, within the premises so used for distilling, rectifying, or compounding of spirits, or any part thereof, nor 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 Two Hundred Pounds.

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

24. 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 any 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 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.

Distillers not to retail spirits.

25. 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 than ten gallons, under a penalty of Twenty-Five Pounds; nor for any rectifier or compounder of spirits to sell or dispose of at any one time, a less quantity than five gallons under a like penalty of Twenty-Five Pounds.

Distiller not to sell less than ten, nor rectifier less than five gallons.

26. 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

Stills to be set in stone or brick and mortar.

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.

How coolers are to be fixed.

27. 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, or other proper officer, under a penalty of Twenty-Five Pounds, to be recovered against the owner or owners, or proprietor or proprietors of such distillery.

Contents of coolers.

28. 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 Twenty-Five Pounds; and that every such cooler and back so found of less content than aforesaid shall be seized and forfeited.

Number of worms to be used.

29. 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 locks, as aforesaid.

Returns to be made to Inspector of Distilleries when licence is obtained.

30. 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 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.

Vessels to be marked.

31. 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.

Officers to have power to enter premises at all times.

32. 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 Lieutenant-Governor, to enter at all times every house, distillery, stillhouse, outhouse, or place belonging to or made use of by any licensed distiller, rectifier, or compounder
of

of spirits, and in the day-time with writ of assistance, and accompanied by a peace officer, to enter any other place on reasonable cause of suspicion, and to guage and measure all stills and utensils, and to guage 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 secured to be paid, 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 One Hundred Pounds or more than Two Hundred Pounds.

32. And be it Enacted, That all and every still and stills, worms, and all utensils, or spirit cordials or compounds found in any premises, 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.

Licence to be produced to officers.

34. And be it Enacted, That before commencing to distil, such licensed distiller shall give notice in writing to the Inspector of Distilleries, setting forth whether such distillation is intended to be from wort, mash, wash, pot-ale, low wines, or singlings made wholly from grain, malt, or other materials the product of which is subject to a lower rate of duty, or otherwise, which notice shall be served by such distiller at least twenty-four hours before commencing to distil under penalty of not more than Fifty Pounds, or less than Twenty-Five Pounds.

Distillers to give notice of intention to distil.

35. 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 the forfeiture of the spirit or spirits so offered for sale; 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.

Sellers and purchasers of illicit spirits subject to penalties.

36. And be it Enacted, That it shall be lawful for the Lieutenant-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.

Lieutenant-Governor may make rules for carrying Act into effect.

37. 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 Lieutenant-Governor, shall be deemed and taken to be officers of the customs for the purposes hereof; and that all the rights,

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

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 and penalties, and the distribution of the same, and to all proceedings under this Act as if the same were expressly herein inserted.

Application of duties. 38. 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 use of the Province, and support of the Government thereof.

Governor may remit penalties. 39. And be it Enacted, That it shall and may be lawful for the Lieutenant-Governor, for the time being of the said Province, to remit or reduce the said penalties as to the said Lieutenant-Governor shall seem meet.

Construction clause. 40. 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, singlings, and feints; 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 out-houses belonging to the same proprietor on the place appropriated to the distillation and storing of spirits.

Commencement of Act. 41. And be it Enacted, That this Act shall commence and take effect from and after the First day of January, One Thousand Eight Hundred and Fifty-Two.

JOHN MORPHETT, Speaker.

*Passed the Legislative Council this Thirtieth
day of October, One Thousand Eight
Hundred and Fifty-one.*

F. C. SINGLETON,
Clerk of Council.

In the name and on the behalf of Her Majesty I assent to this Act.

H. E. F. YOUNG,
Lieutenant-Governor.

Government House, Adelaide,
22nd November, 1851.

SCHEDULE REFERRED TO.

FORM OF LICENCE.

WHEREAS, in pursuance of the Act in that behalf, application hath been made by memorial by [*name and address of memorialist*] to direct a licence to be granted 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 [*here set forth description of still as near as possible*].

Now, therefore, the Bench of Magistrates 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.

Chairman.