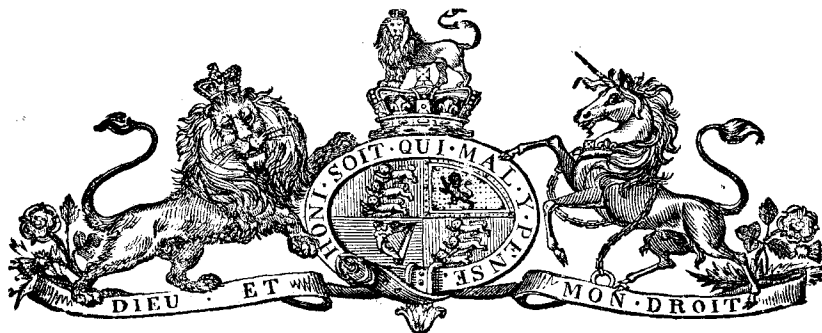


TASMANIA.



1865.

ANNO VICESIMO-NONO

VICTORIÆ REGINÆ,

No. 12.

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AN ACT to amend the Law relating to  
Distillation. [29 September, 1865.]

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

**1** In referring to this Act it shall be sufficient to use the expression Short Title.  
*The Distillation Prohibition Act.*

**2** The Acts set forth in the Schedule (1) shall be hereby repealed, Repeal of Acts.  
but such repeal shall not affect :—

- (1.) Anything duly done before this Act commences and takes effect :
- (2.) Any liability accruing before this Act commences and takes effect :
- (3.) Any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before this Act commences and takes effect :
- (4.) The institution of any legal proceeding or any other remedy for enforcing or recovering any such liability, penalty, forfeiture, or punishment as aforesaid.

**3** It shall not be lawful for any person to make, distil, rectify, or Distillation  
compound, or cause or procure to be made, distilled, rectified, or prohibited.  
compounded, any low wines, feints, or spirits whatever.

**4** Whosoever makes, distils, rectifies, or compounds, or causes or Procures to be made, distilled, rectified, or compounded, any low wines, Penalty on persons  
distilling Spirits,  
&c.

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feints, or spirits whatever, shall, on conviction thereof, forfeit and pay a penalty of Five hundred Pounds; and whosoever having been convicted of any such offence afterwards commits any of the said offences in this Section mentioned shall be guilty of a Misdemeanor, and being convicted thereof shall be imprisoned in some Gaol or House of Correction, and there kept to hard labour for any period not exceeding Two years.

Possession of stills, &c., prohibited.

**5** It shall not be lawful for any person to have or keep or use, under any pretence or for any use whatever (save as hereinafter provided), any still, still-head, or worm of a still, or any retort, or to use any other instrument or article as a condenser in the process of distillation; and it shall not be lawful for any person to have or keep or use, under any pretence or for any use whatever, any cask or barrel or other vessel of the like description, or any vat, keeve, back, or other vessel of the like description, for the making, preparing, or keeping of any low wines, feints, or spirits manufactured or distilled in this Colony, or any wort, wash, pot-ale, dunder, or singlings for the purpose of being or which have been used in the manufacture or distillation of low wines, feints, or spirits: Provided that nothing in this Act contained shall be construed to prevent any Apothecary, Chemist, or Druggist from having, keeping, using, or selling any glass retorts for medicinal or scientific purposes only, nor to prevent any other person from having, keeping, or using any glass retort for the like purposes.

Penalty on persons having stills, &c. in possession.

**6** Whosoever is found (save as hereinafter provided) in possession of any still, still-head, or worm of a still, or any retort, or of any other instrument or article used as a condenser in the process of distillation; and whosoever is found in possession of any cask or barrel or other vessel of the like description, or any vat, keeve, back, or other vessel of the like description containing, or which has contained at any time within Forty-eight hours previous to the seizure thereof as hereinafter provided, any low wines, feints, or spirits of any kind whatsoever manufactured or distilled in this Colony, or any wort, wash, pot-ale, dunder, or singlings for the purpose of being or which have been used in the manufacture or distillation of low wines, feints, or spirits, shall, on conviction thereof, forfeit and pay a penalty of not more than Five hundred Pounds.

Penalty for having or selling Colonial spirits.

**7** Whosoever knowingly receives or has in his possession, or keeps, or sells or sends out any Colonial spirits either unmixed or mixed with any other liquid or thing whatsoever, and whosoever mixes together Colonial spirits and any other liquid or thing whatsoever for sale or sells, and whosoever purchases any such Colonial spirits so unmixed or mixed as aforesaid shall, on conviction thereof, forfeit and pay a penalty of not more than One hundred Pounds; and all Colonial spirits so unmixed or mixed as aforesaid, shall be forfeited and destroyed, and the casks or other vessels containing the same respectively shall be forfeited; and the term "Colonial spirits" shall be deemed and taken to include all spirits distilled within this Colony however manufactured or by whatsoever name called, and whether rectified or compounded or not.

Justices may issue Warrants for searching houses, &c., for Stills, Spirits, &c.

**8** Any Justice of the Peace may, upon reasonable cause assigned upon Oath by any person, issue a Warrant under his hand and seal for searching for any still, still-head or worm of a still, or any retort, or any other instrument or article used as a condenser in the process of distillation, or any cask or barrel or other vessel of the like description, or any vat, keeve, back, or other vessel of the like description containing, or which is reasonably suspected to contain, any low

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wines, feints, or spirits of any kind whatsoever manufactured or distilled in this Colony, or any wort, wash, pot-ale, dunder, or singlings for the purpose of being, or which have been used in the manufacture or distillation of low wines, feints, or spirits, in the day-time or night-time, in or upon any house, store, outhouse, warehouse, shop, cellar, vault, yard, wharf, or other building or place whatsoever, or any carriage, waggon, cart, dray, ship, boat or vessel in which the same is suspected to be made, distilled, rectified, or compounded, or kept or carried for the purpose of being used in committing any offence in this Act mentioned; and every person acting in the execution of any such Warrant shall seize every such still, still-head, or worm of a still, and any retort, or other instrument or article which is apparently or may be reasonably suspected to have been used upon any such building or place as aforesaid as a condenser in the process of distillation, and any cask or barrel or other vessel of the like description, and any vat, keeve, back, or other vessel of the like description containing, or which is reasonably suspected to have contained at any time within Forty-eight hours previous to such search, any low wines, feints, or spirits of any kind whatsoever as aforesaid, and any wort, wash, pot-ale, dunder, or singlings for the purpose of being or which have within the period aforesaid been used in the manufacture or distillation of low wines, feints, or spirits, and shall also seize any low wines, feints, or spirits of any kind whatsoever manufactured or distilled in this Colony, and any wort, wash, pot-ale, dunder, or singlings as aforesaid which he may find upon such search, and which he has good cause to suspect to be intended to be used or to have been used in committing any offence in this Act mentioned, and also the barrels, packages, or other receptacles in which the same is found to be made, contained, kept, or carried contrary to this Act, and shall convey everything so seized with all convenient speed after the seizure thereof to some proper place, and there detain the same; and all instruments and articles seized as aforesaid shall be forfeited, and all low wines, feints, and spirits, and all wort, wash, pot-ale, dunder, and singlings seized as aforesaid shall be forfeited and destroyed; and such Searcher or Seizer shall not be liable to any suit for such detainer, or for any loss of or damage which may happen to anything seized other than by his wiful act or neglect.

Searcher to seize articles found.

Articles found to be detained and forfeited.

No Action against Searcher.

**9** Whosoever assaults or wilfully obstructs any constable, or any person acting in his aid, in executing any such Warrant as aforesaid shall, on conviction thereof, forfeit and pay a penalty of notmore than One hundred Pounds.

Penalty on persons assaulting Constable executing Warrant.

**10** The Colonial Treasurer, upon application in writing made to him in that behalf by any apothecary, chemist, or druggist setting forth the place of residence of the applicant, the purposes for which and the particular part of the premises of such person upon which the Still in respect of which application is made is intended to be kept and used, the capacity and measure thereof, accompanied by a drawing or representation of the Still, setting forth its shape, dimensions, and proportions, shall issue a licence in the form in the Schedule (2) to such applicant to have, keep, and use for medicinal purposes only upon such part of his premises as is named in such licence one Still, the body of which shall not contain more than Five gallons; and if any such apothecary, chemist, or druggist is found to have upon any part of his premises any Still of a greater capacity than Five gallons, or to have any Still without being licensed in respect thereof in manner hereinbefore mentioned, or keeps or uses any Still in any other part of his premises than is set forth in such licence as aforesaid, or uses the same for any other purpose than is set forth in such licence, he shall

Apothecaries and Chemists may be licensed to use Stills.

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forfeit and pay for every such offence a penalty of not more than One hundred Pounds; and any such Still of a greater capacity than Five gallons as aforesaid, and any Still not so licensed as aforesaid, and any Still kept or used contrary to this Section shall be forfeited to Her Majesty or returned to the proprietor, at the discretion of the convicting Justices.

Persons, &c. may be licensed to have Stills for obtaining liquid products from indigenous vegetable productions of Colony.

**11** The Colonial Treasurer, upon application in writing made to him in that behalf by any person or Body Corporate, setting forth the place of residence of any such person, or the place of business of any such Body Corporate, and a particular description of the place where it is intended the Still in respect of which application is made is intended to be kept and used, the capacity and measure thereof, accompanied by a drawing or representation of the Still, setting forth its shape, dimensions, and proportions, and the product which it is intended to obtain by means thereof, and upon receipt of a fee of Ten Shillings for such licence, may issue a licence in the form in the Schedule (3) to such person or Body Corporate to have and keep and use, at the place named in such licence, for the purpose of obtaining by means thereof from any of the indigenous vegetable productions of this Colony any liquid products, not being low wines, feints, or spirits, one or more Stills of not less capacity than One hundred and fifty gallons each; and if at any time any holder of any such licence makes use of any Still in his possession to obtain by distillation low wines, feints, or spirits, he shall, for every such offence, be liable to pay a penalty not exceeding Five hundred Pounds, and such licence shall, on conviction of such offence, become void and of no effect.

Holder of Licence using Still to obtain low wines, &c., liable to penalty.

Inspector of Police, &c., may enter and view places whereon Stills erected under Licence.

**12** It shall be lawful for the Inspector of Police, or any Superintendent of Police, or any Chief District Constable, either alone or accompanied by such other Constables as he sees fit, at any time by day or night, to enter into and upon any place whereon a Still has been erected, pursuant to any Licence issued under the last two preceding Sections, for the purpose of viewing and inspecting the same, and the Still or Stills thereon erected.

Provision in case of Apothecaries using Stills under 2 Vict. No. 20, and other persons under 27 Vict. No. 28.

**13** Every Apothecary, Chemist, or Druggist having, keeping, or using any Still by virtue of the Act of Council of the 2nd *Victoria*, No. 20, at the time when this Act comes into force, shall within One month thereafter obtain a Licence from the Colonial Treasurer under the provisions of this Act; and all persons or Bodies Corporate duly licensed under the Act of the Parliament of *Tasmania* of the 27th *Victoria*, No. 28, shall be deemed to be duly licensed by virtue of this Act.

Appropriation of Licence Fees.

**14** All Fees for Licences granted under this Act shall be paid into the Colonial Treasury and form part of the General Revenue.

Offences to be dealt with summarily.

**15** All offences against this Act shall be heard and determined, and all penalties imposed by this Act shall be recovered in a summary way by and before any Two or more Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act*; and any person who thinks himself aggrieved by any summary conviction under this Act may appeal against the same in the mode prescribed by *The Appeals Regulation Act*.

19 Vict No. 8. Appeal.

19 Vict. No. 10.

Proof upon hearing information.

**16** Upon the hearing of any information or complaint in respect of any offence against this Act, it shall be sufficient for the Informant or

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Complainant to prove the finding in or upon any house, store, outhouse, warehouse, shop, cellar, vault, yard, wharf, or other building or place whatsoever in the possession or occupation of the Defendant, or in or upon any carriage, waggon, cart, dray, ship, boat, or vessel used by or the property of the Defendant, any article, liquid, or thing whatsoever hereinbefore enumerated, the possession or use whereof is by this Act in any way prohibited or restrained, and thereupon the burden of proving that such possession or use was lawful, or duly authorised or licensed, shall rest upon the Defendant.

**17** One-third part of every Penalty imposed under this Act shall be paid to the Colonial Treasurer in aid of the General Revenue, and the other two-third parts thereof shall be paid to the informer or person suing for the same. Appropriation of penalties.

**18** No person shall be liable to be proceeded against for any offence against this Act unless an information is laid, or a complaint is made in respect thereof, within Three months after the offence committed. Offences to be prosecuted within Three months.

**19** No person shall be liable to be punished under this Act and under any other Act for the same offence. One conviction only for same offence.

**20** Unless otherwise expressly provided, no action shall lie against any person for anything done in pursuance of this Act, unless notice in writing of such action, and of the cause thereof, is given to the Defendant One month at least before the commencement of the action, and such action is commenced within Three months after the cause of action has accrued; and in any such action the Defendant may plead the general issue, and give this Act and the special matter in evidence; and no Plaintiff shall recover in any such action if tender of sufficient amends has been made before such action brought, or if a sufficient sum of money has been paid into Court by or on behalf of the Defendant after such action brought, together with the costs incurred up to that time; and if a verdict passes for the Defendant, or the Plaintiff become nonsuit or discontinues such action, or if upon demurrer or otherwise judgment is given against the Plaintiff, the Defendant shall recover his full costs as between attorney and client, and have the like remedy for recovering the same as any Defendant has by Law in other cases. Persons acting under this Act entitled to notice of action, &c.

Tender of amends.

Recovery of Costs by Defendant.

**SCHEDULE.**

(1.)

Sect. 2.

ACTS TO BE REPEALED.

| <i>Number of Act.</i> | <i>Title.</i>  | <i>Extent of Repeal.</i> |
|-----------------------|--|--------------------------|
| 2 Vict. No. 20.       | An Act to prohibit Distillation within the Island of <i>Van Diemen's Land.</i>                                   | The whole Act.           |
| 27 Vict. No. 28.      | An Act to amend an Act, intituled <i>An Act to prohibit Distillation within the Island of Van Diemen's Land.</i> | The whole Act.           |

