

ANNO SECUNDO

VICTORIÆ REGINÆ

No. 20.

By His Excellency, SIR JOHN FRANKLIN, Knight, Commander of the Royal Hanoverian Guelphic Order, Knight of the Greek Order of the Redeemer, and a Captain in Her Majesty's Royal Navy, Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies, with the advice of the Legislative Council.

AN ACT to prohibit Distillation within the Island of Van Diemen's Land.

PREAMBLE.

^t **W**HEREAS an Act was passed in this Island in the sixth year of the reign of His late Majesty intituled "*An Act for the regulation of Distilleries and for imposing duties on Spirits distilled therein*"—And whereas it hath been made apparent that the Colonial Revenue has suffered from the effects of Colonial Distillation to so great an extent as to render it necessary for the interests of the Colony that Distillation should be altogether prohibited and that the present Distillers should be compensated—**BE IT THEREFORE ENACTED** by His Excellency SIR JOHN FRANKLIN Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies with the advice of the Legislative Council that the said Act so passed in the sixth year of the reign of His said late Majesty shall from and after the first day of January now next ensuing be repealed excepting only such parts thereof whereby the laws and regulations then

Act of Council G W. 4 No.
14 repealed.

in force respecting the Distillation of Spirits within this Island and its Dependencies—And whereby a certain other Act passed in the fourth year of the reign of His said late Majesty to confirm and continue certain duties of Customs and duties on Spirits so far as the same related to duties on Spirits distilled in this Colony or distilled in New South Wales and imported directly therefrom are repealed.

II.—AND BE IT FURTHER ENACTED that from and after the said first day of January it shall not be lawful for any person within this Island or its Dependencies to make distil rectify or compound any low wines or spirits whatever and any person who shall offend in that respect and be convicted thereof shall for the first offence forfeit and pay a penalty of Five Hundred Pounds and every person who after the said first day of January shall be a second time or oftener convicted of such offence shall be deemed guilty of a misdemeanor and upon conviction thereof shall be committed to the common gaol or house of correction there to be kept to hard labour for any period not exceeding two years.—*Provided always and be it further enacted* that in case of the infliction of any penalty for a first offence under this section of the present Act it shall and may be lawful for the Justices convicting to require good and sufficient security for the payment of the penalty and in the event of such security not being forthwith given then and there and in every such case to commit the party convicted to the common gaol until such sufficient surety for the payment of such fine be found.

Penalty for distilling rectifying or compounding wines or spirits.

III.—AND BE IT ENACTED that from and after the first day of February now next ensuing it shall not be lawful for any person in this Island or its Dependencies to have or keep under any pretence or use any Still whatever and any person in whose possession any Still shall after the said first day of February be found shall forfeit and pay a penalty of not less than One Hundred Pounds nor more than Five Hundred Pounds.—*Provided always* that nothing herein contained shall prevent any apothecary or chemist from having and using (for medicinal purposes only) one Still of the size hereinafter mentioned and under and subject to the regulations hereinafter set forth.

Penalty for having Stills in possession.

IV.—AND BE IT FURTHER ENACTED that the penalty to be inflicted by the third section of this Act upon the holder keeper or possessor of any Still shall not be deemed to extend to any person or persons who within twelve calendar months next after the passing of this Act may be or become the importer or importers of any such Still or Stills—*Provided* that every such importer do cause any such Still or Stills to be entered to be warehoused for exportation only.

Penalty contained in section 3 not to extend to parties importing Stills, within 12 months after the passing of this Act.

V.—AND BE IT ENACTED that it shall and may be lawful for any apothecary or chemist to have and keep upon his premises (for medicinal purposes only) one Still the body of which shall not contain more than five gallons—*Provided also* that before he shall keep the same he shall cause a memorandum or entry thereof in writing to be delivered to the police magistrate of the district in which he may reside in which

Apothecaries and Chemists to be allowed to keep one Still for medicinal purposes only.

said memorandum or entry shall be declared the purpose for which such Still is required and to be used the capacity and measure thereof and the particular part of the premises upon which the same is to be kept—*And* if any such apothecary or chemist shall have upon any part of his premises more than one such Still as last aforesaid or shall have any such Still without having first entered the same in manner hereinbefore mentioned or shall keep or use the same in any other part of his said premises than is set forth in such memorandum or entry as aforesaid or use the same for any other purpose than is declared in such memorandum he shall forfeit and pay for every such offence a penalty of not less than Ten Pounds nor more than One Hundred Pounds and any such Still not so registered or entered as aforesaid shall be forfeited to the Crown or returned to the proprietor at the discretion of the convicting Justices.

Justices may grant warrants (upon information in that behalf) to search houses for Stills.

VI.—AND BE IT FURTHER ENACTED that it shall and may be lawful for any one justice of the peace upon information in that behalf before him upon the oath of any credible witness that he knows or suspects or has good reason to suspect and believe that any Still is used or kept or secreted by any person or persons upon any place or premises whatever (not being a Still allowed to be kept by any apothecary or chemist as aforesaid) or that there are or are believed to be upon any such or any other premises any spirits which shall have been illegally made or distilled as aforesaid to grant a warrant to search for the same and any district constable having such warrant may at any time (demand being made in the first instance) enter into and upon any dwelling-house house store out-house building cellar vault or place whatever at any hour of the day or night to search for and seize any such Still or any such spirits or any low wines feints wort or wash or other matter or thing whatsoever prepared or used or intended to be used for the purpose of distilling and any such Still or Stills spirits low wines feints wort wash or other matters as aforesaid then and there found and all casks and vessels containing the same and all other matters and things in any manner used in such distillation then and there to seize and the same and every of them and every part thereof shall be and the same are hereby declared to be forfeited—*And* if any such district constable having such warrant as aforesaid or any other constable or person at that time in his company and acting in his aid shall be obstructed in such duty by any person or persons whomsoever such person or persons so obstructing such officer or any other constable or person so as aforesaid acting in his aid shall for every such offence forfeit and pay a penalty of not less than Twenty Pounds nor more than One Hundred Pounds.

Persons possessing Colonial spirits to give an account of the same within fourteen days after 1st January 1839 to the Police Magistrate of the district.

VII.—AND BE IT FURTHER ENACTED that all and every person or persons within this Island or its Dependencies who may on or after the first day of January now next ensuing have in his her or their possession any Colonial spirits exceeding in quantity ten gallons (and whether such person be a licensed dealer or not) shall within fourteen days then next deliver or cause to be delivered to the police or assistant police magistrate as the case may be of the district in which he or she may reside an account in writing signed by the person making the same

setting forth the quantity and quality or kind of any such Colonial spirits and where the same is or are then placed and in whose custody and whether the same are or are not intended for sale—*And* any person who after the expiration of fourteen days next after the said first day of January shall be possessed of any such Colonial spirits and shall have failed in making any such return as aforesaid or who having made such return shall not have truly set forth the several particulars hereinbefore required shall forfeit and pay for every such offence a penalty not exceeding Twenty Pounds.

Penalty for selling Colonial spirits.

VIII.—AND BE IT FURTHER ENACTED that any person or persons whosoever who shall at any time hereafter knowingly sell or keep or have or send out or receive for sale any Colonial spirits mixed with rum or any other imported spirits or shall mix together Colonial spirits and rum or other imported spirits for sale or who shall knowingly purchase any such Colonial spirits so mixed as aforesaid shall for every such offence forfeit and pay a penalty of not less than Ten Pounds nor more than One Hundred Pounds together with the spirits so mixed and the casks or vessels containing the same respectively—*And* for the purposes of this Act the term “Colonial spirits” shall be taken to include all spirits distilled within this Colony however manufactured or by whatsoever name called and whether rectified or compounded or not.

Offences to be heard and determined in a summary way.

IX.—AND BE IT FURTHER ENACTED that all offences against this Act shall upon information in that behalf exhibited be heard and determined in a summary way and all penalties and forfeitures in respect of such offences be awarded and imposed by and before any two justices in the manner provided by the Act of this Island to regulate summary proceedings before justices of the peace excepting in any case otherwise specially provided for in this Act—*Provided* that every prosecution under this Act shall be commenced within three months after the commission of the offence—*And* every person feeling aggrieved by any summary judgment or conviction under this Act shall be entitled to appeal therefrom in the manner provided by the said Act passed to regulate summary proceedings before justices of the peace—*Provided* that one third part of every penalty and forfeiture arising under this Act shall be to Her Majesty Her Heirs and Successors for the support and maintenance of the Judicial Establishments of this Colony and the two other third parts thereof to the informer who shall sue for the same.

Licenses heretofore issued to distillers and rectifiers to determine on the 1st January 1839.

X.—AND BE IT ENACTED that from and after the said first day of January all and every license heretofore issued to any person or persons (under the authority of the aforesaid Act of this Island for the regulation of distilleries and for imposing duties on spirits distilled therein) to distil or make low wines or spirits within the said Island or the Dependencies thereof and all and every license issued (under the like authority) to any person or persons to rectify and compound spirits or to have or keep any Still or Stills within this Island or its Dependencies shall become and the same are hereby declared to be null and void anything in the said Act contained to the contrary notwithstanding.

Definition of the term
"Still."

XI.—AND BE IT FURTHER ENACTED that the term "Still" wherever used in this Act shall be taken to mean any utensil whatever which may or can be used in the distillation of wash low wines feints or spirits.

JOHN FRANKLIN.

Passed the Legislative Council
this fourteenth day of November
one thousand eight hundred
and thirty-eight.

ADAM TURNBULL,
Clerk of the Councils.