

Distillation Act 1841

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No. V.

An Ordinance for prohibiting the Distillation of Spirits within the Colony of New Zealand.

Preamble.

WHEREAS it is expedient to prohibit the distillation of spirits within the Colony of New Zealand:

1 Distillation of spirits prohibited.

Be it therefore enacted and ordained by His Excellency the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, that from and after the passing of this Ordinance all distillation of spirits from grain sugar molasses fruit or any other materials whatsoever and all rectifying and compounding thereof within the Colony of New Zealand and its dependencies shall be and the same is hereby prohibited.

2 No person to keep or use a still under a penalty of from £100 to £500.

And be it further enacted and ordained, That from and after the passing of this Ordinance it shall not be lawful for any person, except as hereinafter is excepted, to have keep or make use of any still hack or other utensil or vessel for distilling spirits or for rectifying or compounding spirits in any place or part of the said Colony of New Zealand and its dependencies, under a penalty of not less than one hundred pounds nor more than five hundred pounds, to be recovered as hereinafter directed.

3 Apothecaries chemists and druggists may have stills of eight gallons content.

And be it further enacted and ordained, That it shall and may be lawful for the Colonial Treasurer for the time being, or other person to be appointed by the Governor for the time being for that purpose, 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 *bona fide* for medical purposes; and every such person found to have such still without having entered into such bond and obtained license shall forfeit and pay not less than one hundred pounds nor more than five hundred pounds.

4 Justice of the Peace, officer of Customs, or other person duly appointed, suspecting private distillation, may enter house or place, and seize still &c.

Such still &c. absolutely forfeited. Proprietor or owner of house &c. or person in whose custody still &c. is found, liable to penalty before-mentioned. Obstructing Justice or other officer. Penalty.

And be it further enacted and ordained, That it shall and may be lawful for any Justice of the Peace, officer of Customs, or other person duly and lawfully authorized, having reasonable grounds to believe and suspect that any private and concealed still back or other utensil or vessel for the distillation of spirits is set up or kept in any house or place within the said Colony or its dependencies,

to enter into such house or place in the day time, and accompanied by a peace officer, to search for and seize any such still back utensil or vessel and also all spirits and other materials preparing for distillation, and either to detain and keep the same in the house or place where found, or to remove the same to the Customs or Police Office or other place in charge of the officer of Customs or Police Magistrate, or as they or one of them or any Justice of the Peace shall direct, and the said still back utensil or vessel and all spirits and other materials preparing for distillation shall be absolutely forfeited, and the proprietor or owner or occupier of any house or place where any such private and concealed still hack utensil or vessel shall be so found and seized, or the person or persons in whose custody the same shall be found, shall be liable to and pay the penalty or sum of not less than twenty pounds nor more than one hundred pounds, exclusive of and in addition to any other penalty he she or they may be liable to; and if any person or persons shall obstruct oppose molest or hinder such Justice of the Peace, officer of Customs, or other person aforesaid, in the due searching for and seizing any such private and concealed still hack or other utensil or other vessel spirits and other materials for distillation, or in detaining keeping or removing the same or any of them after seizure, then and in every such case every person so offending shall forfeit the sum of not less than ten nor more than one hundred pounds.

5 Justice or officer empowered to enter such house or place.

And if after demand and not admitted, to break therein. Penalty for refusal.

And be it further enacted and ordained, That in case any such Justice of the Peace, officer of Customs, or other person as aforesaid, after having demanded admittance into the house or place where such private and concealed still hack utensil or vessel for the distillation of spirits is reasonably suspected to be kept and used, shall not be immediately and without the least delay admitted into such house or place, it shall and may be lawful for such Justice of the Peace, officer of Customs, or other person as aforesaid, being accompanied by a peace officer, by force to break into and enter such house or place and make search therein, and every person found in such house or place after admittance demanded and refused shall for every such offence forfeit and pay a penalty of not less than ten nor exceeding one hundred pounds.

6 Recovery of penalties.

And be it further enacted and ordained, That all fines penalties and forfeitures imposed and accruing under this Ordinance shall be sued for recovered and levied by information laid before and summons issued by one Justice, but to be heard and determined before two or more Justices of the Peace for the said Colony in Petty Sessions assembled, at the instance and in the name of any superior officer of Customs or of the Attorney-General for the time being, and in case of non-payment after order and adjudication of such Justices of the Peace, the amount thereof may be levied as well as the costs of proceedings

by distress and sale of the goods and chattels of the offender or offenders or person or persons liable to pay the same by warrant under the hands and seals of such Justices, and the overplus, if any, of the money so to be recovered and levied after discharging the fine penalty or forfeiture for which such warrants shall be issued and the costs and expenses of recovering and levying the same shall be returned on demand to the owner of the goods and chattels so seized or distrained; but if upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy the said fines penalties and forfeitures and such costs as aforesaid and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Justices, either by the confession of the offender or offenders or otherwise, that he or she or they hath or have not sufficient goods and chattels whereon such fines penalties and forfeitures costs and expenses can be levied if a warrant of distress were issued, such Justices shall not be required to issue such warrant of distress; and thereupon it shall and may be lawful for such Justices, and they are hereby authorized and required by warrant under their hands and seals, to cause such offender and offenders to be committed to any common gaol or house of correction in the said Colony, there to remain without bail or mainprize for any time of not less than one nor exceeding six calendar months, unless such fines penalties and forfeitures and all reasonable charges shall be sooner paid and satisfied.

7 Fines &c. to be paid one-half to the Queen and one-half to witnesses &c.

And be it further enacted and ordained, That all fines penalties and forfeitures which shall be levied and enforced under this Ordinance shall, after deducting the charges of prosecution from the proceeds thereof, be divided paid and applied as follows, that is to say,—The moiety or one-half of the net proceeds thereof shall be paid to the Colonial Treasurer for the use of Her Majesty, her heirs and successors, to be applied to the public uses of the said Colony, and the other moiety or half part thereof shall be paid and distributed to and among such person or persons who shall have assisted in the seizure or have given information or evidence leading to the conviction of the offender or offenders in such portions as the said Justices shall in their discretion think proper, and any overplus of such last-mentioned moiety or half part shall be paid to the Colonial Treasurer for the purposes aforesaid.