

New Zealand.

ANNO TRICESIMO PRIMO

V I C T O R I Æ R E G I N Æ .

No. 80.

AN ACT to continue certain Sections and to extend the provisions of "The Distillation Prohibition Ordinance Amendment Act 1866." Title.
[10th October 1867.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows—

1. The Short Title of this Act shall be "The Distillation Act 1866 Amendment Act 1867." Short Title.

2. Until the end of the year one thousand eight hundred and seventy it shall be lawful for the Governor in Council from time to time to make such regulations as he shall think fit for licensing any person or persons to carry on the business of distillers within the Colony of New Zealand and for regulating the manner in which and conditions under which such business may be carried on and for establishing penalties variable between certain limits on the breach or non-observance of any of such regulations. Governor in Council may issue regulations.

3. All such regulations shall be published in the *New Zealand Gazette* and shall express the time from which they shall come into force. Commencement of such regulations.

4. All the provisions powers penalties and proceedings contained created and authorized in and by "The Distillation Prohibition Ordinance Amendment Act 1866" hereinafter referred to as the said Act or which the said Act purports to provide create and authorize shall be applicable to the regulations to be made and published pursuant to this Act in the same manner as if they had been made and published pursuant to the said Act.

5. It shall be lawful for any inspector of distilleries officer of customs officer of police police constable or any other person appointed by the Governor to seize any still still-head worm or other apparatus or utensil whatsoever intended or suited for distilling or for any process of or towards distillation found in any house building premises or place whatsoever unless the owner or occupier thereof shall hold and produce a valid license to distil or to rectify spirits or shall have otherwise complied with the regulations and provisions of any law in force for the time being relating to distillation and also to seize all materials capable of fermentation and all worts wash wines spirits and other chattel property of every kind whatsoever found in any such house building place or premises and all such articles so seized as aforesaid shall be forfeited and disposed of in manner hereinafter provided. Seizure of materials for distillation.

6. It shall be lawful for any inspector of distilleries officer of customs or other person appointed as aforesaid to seize all or any spirits on which the full amount of duty chargeable shall not have Seizure of spirits.

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been paid except as may be provided in any Act now or hereafter in force relating to the distillation of spirits in New Zealand or in any Act relating to Her Majesty's Customs and all such spirits so seized shall be forfeited and for the purposes of this Act all spirits found in New Zealand not in any bonded warehouse and not in any place licensed pursuant to any Act relating to distillation to contain spirits and on which no duty shall have been paid shall be deemed to be spirits upon which the full amount of duty chargeable shall not have been paid.

Proceedings under
warrant.

7. In case any inspector of distilleries officer of customs or other person duly authorized as aforesaid shall have cause to suspect that any unlicensed still or any still-head or worm or other utensil for distilling whatsoever or any back or other vessel for making worts or wash or any worts or wash or other material preparing for distillation or any spirits upon which the full duty shall not have been paid is or are set up kept or concealed in any house building premises or place then in such case upon information exhibited by such inspector of distilleries officer of customs or other person as aforesaid before any justice of the peace setting forth the ground of his suspicion it shall and may be lawful for such justice of the peace before whom such information shall have been exhibited if he shall judge it to be reasonable by warrant under his hand and seal to authorize and empower such inspector of distilleries officer of customs or other person appointed as aforesaid by day or by night (but if in the night-time then in the presence of a constable) to break open the doors or any part of such house building premises or place where he shall so know or suspect such unlicensed still or other things as before enumerated to be set up kept or concealed and to enter into such house or place and to seize all and every such still or other such things as aforesaid and also all goods and chattels of every kind whatsoever found within such house building premises or place and either to detain and keep the same in the house building premises or place where found or to remove the same to the Queen's warehouse or to the police office next to or most accessible from the place where the same shall be discovered and found or to any other place of security.

Under writ of
assistance.

8. In all cases in which it may not be deemed expedient to make seizures under the provisions of the clause last hereinbefore enacted it shall be lawful for any inspector of distilleries officer of customs or other person authorized as aforesaid having reasonable grounds to believe that any unlicensed still or any still-head worm or other utensil for distilling whatsoever or any back or other vessel for making worts or wash or any worts or wash or other material preparing for distillation or any spirits upon which the full duty shall not have been paid is or are set up kept or concealed in any house or place then and in such case to enter into such house or place with writ of assistance issued from the Supreme Court and search for and seize any such unlicensed still or other things as before enumerated and also all goods and chattels of every kind whatsoever found within such house or place and either to detain or keep the same in the house or place where found or to remove the same to the Queen's warehouse or to the police office nearest to or most accessible from the place where the same shall be discovered and found or to any other place of security and all writs of assistance granted and issued under this Act shall continue and be in force until recalled by any judge of the Supreme Court.

Holding to bail before
a Judge.

9. It shall be lawful for any inspector of distilleries officer of customs or other person appointed as aforesaid to arrest or cause to be arrested and to take or cause to be taken before any justice of the peace as hereinafter provided or before one of the judges of the Supreme Court any person whatsoever who shall have in his custody

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or possession or who shall keep or make use of any unlicensed still or utensil for distilling or who shall unlawfully make or shall be aiding assisting or otherwise concerned in unlawfully making any spirits or who shall knowingly supply the means or materials for establishing maintaining or working any unlicensed still or who shall carry convey or conceal or be aiding assisting or otherwise concerned in the carrying conveying or concealing of any spirits upon which the full duty shall not have been paid or who shall be found in any house or premises where such illicit distillation is carried on or upon whose premises shall be found any spirits upon which full duty shall not have been paid and such officer shall with as little delay as possible take or cause to be taken such person so arrested at his discretion before one of the judges of the Supreme Court and upon proof being given upon oath to the satisfaction of such judge of the existence of a reasonable suspicion of the guilt of the person so arrested it shall and may be lawful for such judge by order under his hand to direct the person so arrested to be held to bail in such sum as such judge shall name to abide the event of an action information or other proceeding for the offence for which the said person shall have been arrested to be commenced within such time as the judge shall direct and in default of bail to commit such person to gaol to abide the event of the said action information or other proceeding as aforesaid and such bail shall be justified in like manner and subject to the same rules as bail in actions at law is justified and subject to.

10. It shall be lawful for any inspector of distilleries officer of customs or other person as aforesaid to arrest or cause to be arrested and to take or cause to be taken before any justice of the peace to be dealt with according to law any person whatsoever who shall have in his custody or possession or who shall keep or make use of any unlicensed still or utensil for distilling or who shall unlawfully make or shall be aiding assisting or otherwise concerned in making unlawfully any spirits or who shall knowingly supply the means or materials for establishing maintaining or working any unlicensed still or who shall knowingly carry convey or conceal or be aiding assisting or otherwise concerned in the carrying conveying or concealing of any spirits upon which the full duty shall not have been paid or who shall be found in any house or premises where such illicit distillation is carried on or upon whose premises shall be found any spirits upon which the full duty shall not have been paid.

Before a Justice of the Peace.

11. When any person shall have been arrested by any inspector of distilleries officer of customs constable or other person appointed as aforesaid and taken before any justice of the peace if it shall appear to such justice that there is reasonable cause to detain such person such justice may and he is hereby authorized and required to order such person to be detained without warrant a reasonable time and at the expiration of such time to be dealt with according to law.

Detainer of parties.

12. If any person so liable to be arrested as aforesaid shall not be arrested at the time of committing the offence for which he is liable to be arrested or after arrest shall make his escape it shall and may be lawful for any inspector of distilleries officer of customs or other person authorized as aforesaid or for any constable to arrest such person so liable to arrest as aforesaid at any time afterwards and to take him before any judge of the Supreme Court or justice of the peace to be dealt with as aforesaid.

Subsequent arrest of parties escaping.

13. Every person who shall have in his possession or custody or upon whose premises shall be found any unlicensed still or any still-head or worm or back or other utensil for distilling whatsoever or who shall unlawfully make or who shall be aiding assisting or otherwise

Keeping unlicensed still &c.

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concerned in unlawfully making any spirits or who shall knowingly supply the means or materials for establishing maintaining or working any unlicensed still or who shall knowingly carry convey or conceal or be aiding assisting or otherwise concerned in the carrying conveying or concealing or upon whose premises shall be found any spirits upon which the full duty shall not have been paid or who shall be found in any house or premises where such illicit distillation shall be carried on shall be liable on conviction before any two justices to a penalty of not more than five hundred pounds nor less than fifty pounds or at the discretion of such justices to imprisonment with or without hard labour for a period of not less than six months nor more than two years. Provided that nothing contained in this Act shall apply to any chemist druggist or other person having in his custody or possession for sale or in use for his trade business or profession or for scientific purposes any metal glass or earthenware retort or other apparatus of a less capacity than three gallons in respect of such apparatus.

Penalty for selling
illicit spirits.

14. If any person shall knowingly sell or otherwise dispose of or shall knowingly permit the sale or disposal of or shall knowingly purchase any spirits upon which the full duty shall not have been paid such person shall upon conviction for any such offence before any two justices be liable for a first offence to a penalty of fifty pounds or in default of payment to be imprisoned in any gaol for four months with hard labour and for a second and any subsequent offence to be imprisoned in any gaol for not less than six months nor more than twelve months with hard labour such penalties and terms of imprisonment to be irrespective of and in addition to the penalties imposed by any Acts which may at any time be in force respecting the sale of spirits by licensed publicans and if the offender above described shall hold a publican's or other license for the sale of fermented or spirituous liquors such license shall on conviction be cancelled and annulled and such person shall be incapable of obtaining any license as aforesaid for the term of five years after such conviction.

Inspector may stop
carts.

15. It shall be lawful for any inspector of distilleries officer or customs or other officer appointed under the provisions of this Act upon reasonable suspicion to stop any cart dray or other vehicle whatsoever and to examine all goods carried thereon for the purpose of ascertaining whether any unlicensed still worm or other utensil or apparatus for distilling or rectifying or whether any spirits upon which the full duty has not been paid are contained or carried thereon and if no such goods shall be found then and in all such cases the inspector or other officer so stopping and examining such cart dray or other vehicle having had reasonable and probable cause to suspect that the goods as aforesaid were contained or carried thereon shall not on account of such stoppage and search be liable to any prosecution or action at law on account thereof and any person who after being informed by any such inspector or other officer of the object of such stoppage and search shall obstruct or offer any hindrance to any such inspector or other officer as aforesaid in the performance of his duties shall be liable to a penalty not exceeding fifty pounds and should any unlicensed still worm or other utensil or apparatus for distilling or any spirits upon which the full duty shall not have been paid be found in or on any such dray cart or other vehicle the same shall be forfeited together with the said vehicle and the horse or horses or other cattle drawing the same and the owner thereof shall be liable to a penalty of not less than twenty pounds nor more than one hundred pounds.

Obstructing officer.
Penalty.

16. Any person who shall in any manner obstruct any inspector of distilleries officer of customs or other officer as aforesaid or any person

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acting on his behalf in the execution of their duties or in the due seizing of any goods liable to forfeiture under this Act or under any Ordinance prohibiting the distillation of spirits or shall rescue or cause to be rescued or aid and abet in rescuing any goods or person who or which shall have been seized or arrested or shall attempt or endeavour so to do or shall before or at or after any seizure steal break or otherwise destroy any goods to prevent the seizure or securing thereof such person shall upon conviction of any of the said offences before any two justices of the peace be adjudged by such justices to be imprisoned in any gaol with or without hard labour for any term not exceeding two years or at the discretion of such justices for every such offence shall be liable to a penalty not exceeding one hundred pounds nor less than twenty.

17. If any person shall assault or by force or violence resist oppose molest hinder or obstruct any inspector of distilleries officer of customs or other officer as aforesaid acting in the execution of the duties created by this Act or any person acting on his behalf every person so offending or aiding or abetting or assisting therein shall be adjudged guilty of felony and shall be liable at the discretion of the court before which he shall be convicted to be imprisoned in any gaol with hard labour for any term not less than three months nor more than five years.

Assaulting or
resisting officer.
Penalty.

18. If any person shall give offer or promise to give any bribe recompense or reward or shall make or offer to make any collusive agreement with any inspector of distilleries officer of customs or other officer as aforesaid to induce him in any way to neglect his duty or to conceal or connive at any act whereby any of the provisions of this or any other Act now or hereafter in force relating to distillation or of any Ordinance prohibiting distillation may be evaded every such person so offending shall on conviction thereof be liable to a penalty not exceeding two hundred pounds whether such gift or offer shall be accepted or such promise performed or not and any inspector of distilleries officer of customs or other officer as aforesaid who shall directly or indirectly take or receive any bribe recompense or reward or shall in any way neglect his duty or conceal or connive at any act whereby any of the provisions of this or any other such Act as aforesaid may be evaded shall be liable to a penalty not exceeding two hundred pounds.

Bribes how punish-
able.

19. All spirits and other property seized under the provisions of this Act shall be considered as forfeited and condemned unless claimed within ten days after the same shall be so seized and shall be disposed of in such manner as the Commissioner of Customs may direct and all such claims for spirits or other property so seized as aforesaid shall be lodged within the time hereinbefore mentioned with the person who seized the same or with the chief or other inspector of distilleries or with the Commissioner of Customs.

Property seized to be
claimed within ten
days.

Claims to be lodged
with seizing officer &c.

20. If any spirits or other property shall be seized or stopped for any cause of forfeiture and any dispute shall arise as to ownership or whether the duty has been paid for the same or if any suit or action shall be brought for any non-payment of license or other fees under any regulations to be made pursuant to this Act the proof thereof shall be on the owner or claimant of such goods or upon the defendant in any suit for payment of license or other fees and not on the officer who shall seize stop or sue for the same.

Onus of proof to be
on claimant.

21. The provisions of "The Distillation Prohibition Ordinance Amendment Act 1866" so far as they may be applicable shall be applicable and applied to all proceedings by and against inspectors of distilleries officers of customs and other officers as aforesaid under this Act.

Provisions how
applicable.

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Informations under these Acts may be in the name of an officer of the customs.

22. Whenever any information shall be laid before any justice of the peace under the tenth clause of the said Act it shall be sufficient if the person laying such information shall be therein described as an officer of the customs and the person so described shall on the trial or hearing of such information be deemed and taken to be an officer of the customs until the contrary be proved and may be so described in the conviction if any upon such information and any such information and conviction shall have the same force and effect as an information and conviction under the forms in the first and second Schedules to the said Acts.

Indemnity clause.

23. All persons who within three months immediately preceeding the passing of this Act have done any act matter or thing which this Act if passed at or before the time of the doing of such act matter or thing would have authorized them to do shall be held harmless and they are hereby indemnified from and after the passing of this Act.

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