

## No. IV.

An Act to prevent the Adulteration of Malt <sup>BEER ADULTERATION.</sup> Liquors. [19th July, 1850.]

WHEREAS there is reason to believe that certain highly deleterious ingredients are used in the manufacture of Malt Liquors in the Colony of New South Wales or are mixed with such Malt Liquors previous to their sale and it is expedient for the preservation of the public health to prevent such nefarious practices in future and to prevent the sale of all adulterated Malt Liquors whether of Home or Foreign manufacture. Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That if any public brewer or maker of ale beer or porter for sale shall use or cause or permit to be used in the brewing of any such beer ale or porter or put into or mix with any such ale beer or porter or the worts thereof respectively any vitriol coccus indicus nux vomica tobacco opium aloes copperas faba amara or any extract or preparation thereof respectively or any other deleterious or poisonous substance whatsoever all such ale beer porter or worts respectively shall be forfeited and shall and may be seized by any Inspector of Distilleries or Officer of Customs and every such person so offending as aforesaid by adulterating any such ale beer porter or worts as aforesaid shall for every such offence forfeit and pay the sum of two hundred pounds to be sued for and recovered in a summary way as hereinafter mentioned.

2. And be it enacted That if any person shall after having been once convicted under the preceding section of this Act use or cause or permit to be used in the brewing of any beer ale or porter or shall put into or mix with any beer ale or porter or the worts thereof respectively any vitriol coccus indicus nux vomica tobacco juice opium aloes copperas faba amara or any extract or preparation thereof respectively or any other poisonous or deleterious substance whatsoever he shall be guilty of a misdemeanor and shall on conviction thereof be fined in any sum not exceeding five hundred pounds and imprisoned for any period not exceeding two years besides being liable to the other penalties imposed by this Act.

3. And be it enacted That if any brewer or retailer of ale beer or porter shall have in his possession any vitriol coccus indicus nux vomica tobacco juice opium aloes copperas faba amara or any extract or preparation thereof respectively otherwise than for some medicinal purpose the proof of which shall lie on such brewer or retailer every such brewer or retailer so offending shall forfeit and pay the sum of fifty pounds to be sued for and recovered in a summary way as hereinafter mentioned and all such vitriol coccus indicus nux vomica tobacco juice opium aloes copperas faba amara or such extract or preparation thereof respectively as aforesaid shall be forfeited and shall and may be seized by any Inspector of Distilleries or Officer of Customs.

4. And be it enacted That if any person shall knowingly sell dispose of send or deliver to any brewer or retailer of ale beer or porter any vitriol coccus indicus nux vomica tobacco juice opium aloes copperas faba amara or any extract or preparation thereof respectively otherwise than for some medicinal purpose the proof of which shall lie on such person so selling disposing of sending or delivering as aforesaid every such person so offending shall forfeit and pay the sum of fifty pounds to be sued for and recovered in a summary way as hereinafter mentioned.

If any brewer shall adulterate or cause to be adulterated Malt Liquors same shall be forfeited and he shall be fined £200.

Penalty on persons convicted a second time of using poisonous or deleterious substances in brewing.

Penalty on brewers or retailers of ale beer or porter having poisonous or deleterious substances in their possession except for medicinal purposes.

Penalty on persons selling sending or delivering to brewers or retailers of ale beer or porter any poisonous or deleterious substance except for medicinal purposes.

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Penalty on persons  
selling adulterated  
Malt Liquor.

Inspector of Distil-  
leries or Officer of  
Customs to inspect  
breweries.

The manner in which  
penalties are to be  
sued for and re-  
covered.

5. And be it enacted That if any merchant licensed victualler spirit dealer or any other person whomsoever shall knowingly sell or dispose of any ale beer or porter in which there shall be any vitriol coccus indicus nux vomica tobacco juice opium aloes copperas faba amara or any extract or preparation thereof respectively or any other deleterious or poisonous substance whatsoever he shall for every such offence forfeit and pay the sum of fifty pounds to be sued for and recovered in a summary way as hereinafter mentioned.

6. And be it enacted That for the purpose of enforcing the observance of this Act it shall be lawful for any Inspector of Distilleries or Officer of Customs at any hour in the day time to inspect any part of any public brewery and any of the utensils therein and for the purpose of summarily enforcing such inspection to call if necessary for the aid of the Police.

7. And be it enacted That it shall be lawful for any person to exhibit an information in writing before any one Justice of the Peace informing of any offence against the provisions of this Act not being a misdemeanor and on perusal of such information if the same be a valid one such Justice is hereby required to grant a summons in writing under his hand directing the attendance of the party informed against at a time and place to be therein mentioned to appear before any two or more Justices of the Peace to answer the charge contained in the said information and if such summons shall be served personally on the person so informed against or shall be left at his last known or usual place of abode a reasonable time (but in no case less than twenty-four hours) before the time therein mentioned for such person's appearance then upon the appearance of the party so summoned at such time and place as aforesaid or on proof to be then given *viva voce* on the oath of the person by whom the summons was so served as aforesaid and the production of the original summons it shall be lawful for any two or more Justices of the Peace then and there being thereupon or for any two or more Justices of the Peace at any future period to which the matter may be adjourned by any one Justice if two should not be present to proceed to hear and determine in a summary manner the matter informed of in the said information and on conviction of the person informed against it shall be lawful for either of the convicting Justices on non-payment of the penalty and such costs as such Justices may award to issue at any time not more than fourteen days from the day of conviction under his hand a warrant of distress returnable on such day as he may think proper to insert therein such return not being more than fourteen days from the day of the date of such warrant authorizing any constable to proceed to levy on the goods of the person so convicted if any such can be found for the amount of such penalty and costs together with the sum of five shillings for such distress and the said goods forthwith to seize and carry to the nearest Police Office and the said goods so seized shall be sold at twelve of the clock on the third day after the same shall have been carried to the said Police Office unless the full amount of penalty and costs be sooner paid and the surplus if any shall remain after the payment of such penalty and costs shall be paid to the person so convicted if demanded within three calendar months and if not so demanded shall be paid to the Colonial Treasurer of the said Colony for the general purposes of the Government thereof as may be appointed by any Act of the said Governor and Legislative Council and if sufficient goods cannot be found before the return day of the said warrant whereon to levy for the said penalty and costs it shall be lawful on the same being certified by writing on the back of such warrant to the convicting Justices or one of them under the hand of the person appointed to execute the same for either

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of the said convicting Justices forthwith by warrant under his hand to commit the person so convicted to the common gaol nearest to the place where the conviction took place for any period not exceeding six calendar months such term of imprisonment to be computed from the time of arrest only Provided always that no conviction shall take place under this Act unless within three calendar months after the commission of the offence complained of Provided also that all such proceedings by summons may be had and done without a formal information in writing being exhibited and such proceedings shall be as good valid and effectual to all intents and purposes as if a formal information in writing were exhibited provided that in every such summons the general nature of the complaint shall be succinctly stated.

8. And be it enacted That all fines penalties and forfeitures recovered under this Act shall be paid one-half to the informer or person suing for the same and the other half to Her Majesty Her Heirs and Successors for the public uses of the said Colony and in support of the Government thereof and shall be applied in such manner as may be appointed by any Act of the said Governor and Legislative Council.

9. And be it enacted That it shall be lawful for any Justice issuing any summons under this Act or for any one of the Justices before whom the matter of any information may come on to be heard and determined to issue a summons under his hand for the attendance of any person at a time and place to be therein mentioned to appear and give evidence at the hearing of any such matter and to bring with him and produce at such hearing any necessary documents under his control that may be specified in such summons and every such summons shall be served by delivering a copy thereof personally to the person so summoned and shewing the original at the time of such service which service shall be at a reasonable time and in no case less than twenty-four hours before the time specified therein for the attendance of such witness and if any person having been so summoned shall not attend at the time and place mentioned in his summons without reasonable cause or having attended there shall refuse to be sworn or to affirm or shall refuse to answer any legal question that may be put to him without alleging for such refusal a sufficient excuse to be then allowed by the Justices hearing the case such person shall for every such offence forfeit and pay any sum not more than twenty pounds to be recovered in the manner and within the time hereinbefore mentioned for the recovery of penalties under this Act.

10. And be it enacted That it shall be lawful for any person convicted of any offence under this Act to appeal to the next General Court of Quarter Sessions to be holden in the district or nearest to the district in which such conviction shall take place in the manner and form prescribed by any Act now or hereafter to be in force for the regulation of appeals to Courts of Quarter Sessions.

11. And be it enacted That no information conviction or other proceedings before or by any Justice or Justices of the Peace or on appeal therefrom for any offence under this Act shall be quashed or set aside or judged void or insufficient for want of form only or be removed or removable by *certiorari* or any other writ or process whatsoever into the Supreme Court.

12. And for the protection of persons acting in execution of this Act Be it enacted That all actions for anything done under this Act shall be commenced within six calendar months after the fact was committed and not otherwise and notice in writing of such action and the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action and in such action the defendant

Appropriation of penalties.

Power of summoning witnesses and mode of compelling them to attend and answer.

Appeal to Quarter Sessions given.

No conviction or information to be void for want of form.

Limitation of actions.

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*Leasing Tolls.*

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General issue.

defendant may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant together with costs incurred up to that time and if a verdict shall pass for the defendant or the plaintiff become nonsuited or discontinue such action after issue joined or if upon demurrer or otherwise judgment shall be given against the plaintiff the defendant shall recover his full costs as between attorney and client and have the like remedy for the same as any defendant hath by law in other cases.

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