# BRITISH COLUMBIA.

V. R.

# PROCLAMATION.

**No. 10, A. D., 1861.**

**By His Excellency JAMES DOUGLAS, Companion of the Most Honorable Order of the Bath, Governor and Commander-in-Chief of British Columbia and its Dependencies, Vice-Admiral of the same, &c., &c.**

WHEREAS, under and by virtue of an Act of Parliament made and passed in the Session of Parliament held in the 21st and 22nd years of the Reign of Her Majesty Queen Victoria, entitled "An Act to provide for the Government of British Columbia," and by a Commission under the Great Seal of the United Kingdom of Great Britain and Ireland, I, JAMES DOUGLAS, have been appointed Governor of the said Colony, and have been authorized by Proclamation under the Public Seal of the said Colony to make laws, institutions, and ordinances for the peace, order, and good government of the same.

Now, therefore, I do hereby declare, proclaim, and enact as follows:

Distillers to take out a License.

1. No person, other than a person licensed in the manner hereinafter provided, shall act as a Distiller in British Columbia, or shall distil, manufacture, rectify, or make therein any Spirits from vegetable or saccharine matter, under a penalty of £10 for each day on which any such offence is committed, and on pain also of forfeiting, over and above the penalty aforesaid, all spirits distilled, brewed, manufactured, or made in contravention to this Act, and every still, mash tub, fermenting tun, or other vessel, machinery, or utensil of any kind used by him, or in his possession, or on his premises.

Definition of a Distillery.

2. Any establishment or place used for the rectifying of spirits, by any process, shall be deemed a Distillery, within the meaning of this Act.

Licenses to be for one year at a place certain.

3. The Magistrates in British Columbia shall issue a License to act as a Distiller in some certain premises situate at some certain place to be approved by such Magistrate within such Magistrate's district, and to be described in the license, to any person or partnership of persons requiring the same, and being residents or having his or their place of business in such district, and having previously complied with the requirements of this Act in that behalf; and each such license shall remain in force for one year from the date thereof, and no longer.

License Fee.

4. The party in whose favor a license to act as a Distiller is granted shall, on requiring such license, pay to the Magistrate issuing the same, the sum of £5 as a duty to Her Majesty upon such license.

Application for License to be signed by applicant.

5. No license to act as a Distiller shall be granted to any party except on a written requisition addressed to the Magistrate and signed by the party requiring such license, or, if it be required by a partnership, then by one of the partners.

Security to the extent of £200 to be taken by bond with sureties.

6. No such license shall be granted to any party until such party has jointly and severally with two good and sufficient sureties, to the satisfaction of the Magistrate issuing the license, entered into a bond to Her Majesty, Her Heirs and Successors, in the sum of £200, and such bond shall be taken before the said Magistrate, and shall be conditioned for the rendering of all accounts, and the payment of all duties and penalties which the party to whom the license is to be granted will become liable to render or pay under the provisions of this Act, and that such party will faithfully comply with the requirements thereof, according to their true intent and meaning, as well with regard to such accounts, duties and penalties, as to all other matters and things provided by this Act whatsoever.

Duration of the bond to be until full satisfaction of all accounts, duties, and penalties.

7. The bond aforesaid shall remain in force as long as any duties upon any spirits distilled, manufactured, or made, while the licence to which the bond relates is in force, or any penalty incurred during the said time by any breach of the conditions of the bond remain due and unpaid by the party to whom such license was granted.

New bond with fresh license.

8. Whenever any new license is granted to any party, a new bond shall likewise be entered into with reference to such new license.

New bond on death, insolvency, or bankruptcy of any surety.

9. A new bond shall also be given whenever, during the period for which the license to which it relates is in force, either of the sureties dies, becomes insolvent, or removes permanently out of the Colony; in any of which cases the license shall be void from the time the party is required by the Magistrate to enter into a new bond until the time when such new bond is given, during which time the party neglecting to enter into such new bond shall be held to be without a license.

Name and calling of Distiller to be publicly exhibited.

10. Every party licensed as a Distiller shall have his name and calling as such inscribed in legible characters and exposed on some conspicious part of the front of the building or premises in which such calling is exercised, under a penalty not exceeding £10 for each day on which he exercises such calling without complying with the requirements of this section.

Duty of 2s. per gallon on spirits.

11. All such spirits as aforesaid lawfully distilled, manufactured, or made within the Colony shall be respectively subject to the duty to Her Majesty hereinafter mentioned, that is to say: on every gallon, imperial measure, of spirits of any kind, not exceeding the strength of proof by Syke's Hydrometer, and so in proportion for any greater strength than the strength of proof, and for any greater or less quantity than a gallon, two shillings; and such duty shall be computed and charged upon the quantity of spirits to be ascertained after the first process of rectification, and shall be paid by the party distilling, manufacturing, or making such spirits, to the Magistrate, in the manner hereinafter mentioned.

Book detailing the products used and the spirits obtained by distillation.

12. Every person or party licensed as a Distiller shall keep a book or books (in a form to be approved by the Collector of Customs) and to be open at all reasonable hours to the inspection of any Magistrate, or Customs, or Excise Officer, or of any person authorized by Magistrate to inspect such book, in British Columbia, wherein such Distiller shall enter from day to day the quantities of grain or other vegetable production or other substance put by him into the mash tub, or otherwise used by him for the purpose of producing spirits, or otherwise disposed of; and also the quantity of spirits by him distilled, manufactured, or made, showing the quantity produced at each separate time if there have been any distinct set or sets of operations by reason of which duties have become payable. And for any wilful false entry, or any wilful neglect to make any entry hereby required, the Distiller shall incur a penalty not exceeding £50, and the Magis-

trate, Customs, or Excise Officer, or other authorized person may at all times demand to be shown all the stock of such grain, vegetable production, or other substance aforesaid, then on the premises mentioned in the license.

Accounts to be rendered to the Magistrate.

13. Every party licensed to act as a Distiller and acting as such shall, within ten days after the first day of each of the months in each year render to the nearest Magistrate a just and true account in writing, extracted from the books to be kept by such person as aforesaid, and signed by such party, or his Agent, or Chief Clerk, showing;

1. The total quantity in gallons of each kind of spirits (with the strength thereof) on which a duty is payable, by him distilled, manufactured, or made.

2. The quantity produced at each separate time, if there have been any distinct set or sets of operations, by reason of which duty became payable.

3. The quantities of each kind or grain or other vegetable production or substance used by such party in his business as a Distiller.

4. And such account shall be attested by the person signing the same by an affidavit in the following form:

"I do solemnly swear that the account above written, to which I have also "subscribed my name, contains a true account of the total quantity of every kind of spirits or "strong waters, or spirituous liquors distilled, manufactured, or made by me (or by "as the case may be) within the time mentioned in the same account, and on which "duty is payable, and of the quantities of each kind respectively, and the strength thereof; "and also of the quantities produced at each separate time therein mentioned by a distinct "set of operations, and also of the quantities of all grain or other vegetable production or sub-"stance consumed by me (or by the said ) during the same time, so help me God."

Affidavit to be made before the Magistrate who may interrogate affidavit.

14. Such affidavit shall be made before the said Magistrate, and shall be delivered with such account to the said Magistrate, who may put to the person making it such question as he may deem necessary to the elucidation and full understanding of the account, and for ascertaining whether such person has had the means of knowing the same to be correct, and may require his answers to be sworn to before him, and may reject the account if such account or the answers so given are insufficient according to the true intent and meaning of this Act.

Wilfully false statement to be perjury.

15. And any wilfully false statement in any affidavit or answer to a question required by this Act, shall be deemed wilful and corrupt perjury, and punishable accordingly.

Sums due to be paid in to the Magistrate.

16. Every licensed Distiller shall, at the time of rendering such account as aforesaid to the Magistrate, pay over to that officer the amount of duties which by such account appear to be payable, other than such duties which may be payable in respect of spirits deposited in a bonded or certified warehouse as hereinafter mentioned.

And if any licensed Distiller refuses or neglects to render such account or to pay over such duties as aforesaid, according to the true intent and meaning of this Act, he shall by such refusal or neglect in either case incur a penalty not exceeding £50, and the Magistrate may also at his discretion cause a notice to be inserted in one or more of the local papers, or the Government Gazette, declaring the party so refusing or neglecting to have forfeited his license as a Distiller, and such license shall be forfeited accordingly and shall be null and void from and after the date of such notice, nor shall any new license be granted to the defaulter until after the debt and penalty aforesaid have been paid and satisfied.

Bonded and certified warehouses.

17. Any spirits subject to duty under this Act may be deposited in a bonded or certified warehouse as hereinafter mentioned.

Certified warehouse.

18. A certified warehouse shall be some place approved by the Magistrate within his district for the storage of spirits on which the duty is unpaid.

Magistrate to have the key and may enter at all hours.

19. The key to the certified warehouse shall be kept by the said Magistrate, and he or his agents may at any time, either in the day or night, enter therein and inspect the spirits therein contained, and may test and examine the same, and take such other steps for the protection of the Revenue as in his absolute discretion he may think proper.

Magistrate or person by him nominated to be present at the removal of spirits from a certified warehouse.

20. No spirits shall be removed from a certified warehouse after having been placed therein without the presence either of the Magistrate or of some person nominated by him in that behalf, and the amount of duty after the rate aforesaid shall be payable on the spirits so removed on the next monthly settlement of account.

Penalty on persons entering a certified warehouse without the consent of the Magistrate.

21. Any person entering into a certified warehouse without the consent of the Magistrate shall be liable to a penalty not exeeeding £50, and any person removing any spirits from a certified warehouse except in the presence of the Magistrate or person nominated by him shall be liable to a penalty not exceeding £100.

Collector of Customs may make regulations with regard to warehousing.

22. The Collector of Customs may, with the approval of the Governor, make such regulations as to him may seem necessary relative to the warehousing of spirits under this Proclamation.

Magistrate may inspect books.

23. Every licensed Distiller shall on being thereunto required by a Magistrate or by any person authorized by Magistrate, produce to him, at any seasonable time and hour, and shall allow him to take copies and extracts from such books and accounts as are requisite to enable him to verify any account rendered as aforesaid, and shall at all times and hours allow the Magistrate, or any person employed by him, free access to the buildings and premises in which such Distiller exercises his calling as such, under a penalty of £5 for each neglect or refusal to comply with the requirements of this section.

Place of Production to be on the business premises.

24. Except that no Magistrate or other person shall require any such book or account to be produced to him elsewhere than at the place where such Distiller carries on his business as such.

Notice to Magistrate previously to working the distillery.

25. No Distiller shall work his Distillery at any time unless he has given at least twenty-four hours previous notice in writing to the nearest Magistrate of his intention to work the same at such time, and such notice, shall not extend to a longer period than thirty days from the delivery thereof to the said Magistrate.

Meaning of working a distillery.

26. Any use made of any still, mash tub, or fermenting tun, for the purpose of distillation, mashing, or fermentation, shall be deemed to be a working of the Distillery, and an acting as a Distiller within the meaning of this Proclamation.

Penalty for working without a notice.

27. And if any Distiller works his Distillery at any time for which he has not given notice of his intention to work the same, he shall for each day on which he so works such Distillery incur the same penalty and forfeiture as if he had worked the same without a License.

Distiller to furnish lights, ladders, measures, &c., for the purpose of inspection.

28. Every licensed Distiller shall at all times furnish the Magistrate or his Assistant, or other authorized person with lights, ladders, measures, and other things requisite to enable him properly to examine, inspect, measure, or guage any still, auxiliary vessel, mash tub, fermenting tun, or other vessel, or any grain vegetable or other substance,or matter as aforesaid on on the premises of such Distiller or any part of such premises under a penalty of £5 for any refusal or neglect to comply with the requirements of this section.

Magistrate may enter.

29. The Magistrate and any person or persons acting under him or by his directions may, at any hour of the day or night enter any premises referred to in any license granted under this Proclamation and may make all necessary inquiries and searches therein for the purpose of ensuring the execution of this Act according to its true intent and meaning, subject to the restrictions hereinbefore mentioned.

Recovery of duties.

30. Any duties payable under this proclamation shall be recoverable at any time after the same ought to have been accounted for and paid, whether on account of the quantity of spirits as aforesaid onwhich they are payable, has or has not been rendered as aforesaid, but in the case last mentioned, the party by whom such duties are payable shall incur a penalty not exceeding the sum of £50 and the amount of the duties for his neglect to render the accounts relative to the same as hereinbefore required in addition to any other penalty incurred by him by such neglect; and and all such duties shall be recoverable with full costs of suit in favor of Her Majesty.

Payment of penalty not to affect the payment of duties

31. The payment of any penalty imposed by this proclamation, shall not discharge the party paying the same, or his sureties from the obligation to pay all duties due by such parties and the same shall be paid and may be recovered as if such penalty had not been paid or incurred, and all such duties shall be recoverable with full costs of suit, as a debt due to Her Majesty.

Stock in trade and utensils &c. to be liable for duties.

32. And without any prejudice to the liability of any other property of the debtor or his sureties the stock in trade, stills and mash tubs, fermenting tuns, and other machinery and utensils, whether so fixed as to form part of the real or immoveable property or not, which are on the premises mentioned in the license at the time any such duties become due, shall be liable for such duties, and for any penalty incurred by the Distiller on whose premises they are by special privilege and lien in favor of the Crown; and may be seized and sold in satisfaction of the same under any warrant of Distress or Writ of Execution and removed by the purchaser, to whomsoever the same might otherwise belong or into, or in whose lands or possession soever the same have passed or are found, and notwithstanding any claim to the same, or privilege or lien thereon in favor of any other person or party whomsoever; and if the same be forfeited under the provisions of this Proclamation for any contravention thereof, they may be seized by the Magistrate or any person acting by his authority, at any time after the commission of the offence for which they are forfeited, and marked, detained, or secured until condemned or released by competent authority, and shall not, while under seizure, be used by the offenders and if condemned they shall be removed or sold or otherwise dealt with in such manner as the Magistrate shall direct.

Summary procedure.

33. The penalty or forfeiture incurred for any offence against the provisions of this Proclamation and the duties payable hereunder may be sued for and recovered before the Magistrate of the District in which the offence was committed or the premises used as a Distillery is situate; and any such penalty or duty may, if not forthwith paid, be levied by distress and sale of the goods and chattels of the offender, under the warrant of such Magistrate, or the said Magistrate may in his discretion commit the offender to Gaol, until the penalty with the costs of prosecution shall be paid.

General Jurisdiction.

34. Provided always that any pecuniary penalty or any forfeiture imposed by this proclamation, whatever be the amount thereof may be sued for and recovered with costs, on the oath of any competent witness in any Court having Civil Jurisdiction to the amount of such penalty or forfeiture by Her Majesty's Attorney General, or by any other person or officer thereunto authorized by the proper authority; and such penalty or forfeiture shall belong to Her Majesty.

Saving of persons who may seize with probable cause.

35. No person making any seizure under this Proclamation, shall be liable to damages if such seizure be declared not valid, providing the Court or Magistrate declaring it not valid certify that there was probable cause for making it.

Penalty on witnesses refusing to appear and answer.

36. Any person refusing or neglecting to appear before any Magistrate or any Court to give evidence when summoned, concerning any alleged offence against the provisions of this Act shall, for such refusal or neglect incur a penalty of not more than £50 to be recovered in the manner hereinbefore provided for the recovery of other penalties of like amount.

Short Title.

This Proclamation may be cited as "The Distiller's Excise Act, 1861."

{ L. S. } Issued under the Public Seal of the said Colony, at Victoria, Vancouver Island, the 10th day of September in the year of Our Lord One Thousand Eight Hundred and Sixty One, and in the Twenty-fifth Year of Her Majesty's Reign, by me,

JAMES DOUGLAS.

By His Excellency's Command,

WILLIAM A. G. YOUNG.

GOD SAVE THE QUEEN.