

PETER HUNTER ESQUIRE, LIEUTENANT GOVERNOR.

mitted, and not afterwards, and the defendant or defendants in any such action or suit, shall and may plead the general issue, and give this Act and the special matter in evidence, at any trial to be had thereupon, and that the same was done in pursuance and by the authority of the present Act; and if the same shall appear to have been so done, or if any such action or suit shall be brought after the time limited for bringing the same, then the jury shall find for the defendant or defendants, or if the plaintiff or plaintiffs shall become non-suit, or discontinue his, her or their action after the defendant or defendants shall have appeared, or if judgement on demurrer shall be pronounced for the defendant or defendants, the defendant or defendants in all and every the several cases aforesaid, shall and may recover treble cost, and have the like remedy for the recovery thereof as defendants are in any other cases by law entitled to.

If judgement for defendant in any suit, treble costs.

VII. *And be it further Enacted by the Authority aforesaid,* That the monies hereby granted to his Majesty, shall be paid by the Receiver General, in discharge of such warrant or warrants as shall for the purposes herein before set forth, be from time to time issued by the Governor, Lieutenant Governor, or person administering the Government of this Province and not otherwise; and the said Receiver General shall account to his Majesty, his heirs and successors for the same through the Lords Commissioners of his Majesty's Treasury, for the time being, in such manner and form as his Majesty, his heirs and successors shall be graciously pleased to direct.

Governor, &c. to issue warrants.

Receiver General to account, &c.

CHAP. VII.

*An ACT to explain and amend an Act passed in the forty-third year of his Majesty's reign, intituled, "An Act for the better securing to his Majesty, his heirs and successors, the due collection and receipt of certain duties therein mentioned."*

[Passed 9th of March, 1804.]

Preamble.

WHEREAS it is expedient to remove certain doubts which have been entertained respecting the property of executors, administrators and devisees, in the unexpired term of licences for using and working stills, granted to persons dying within the period of such licence, and respecting the right of removing and transferring any stills, or assigning any licences for the using or working of any still or stills for the unexpired term thereof; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of *Upper Canada*, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of *Great Britain*, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of his Majesty's reign, intituled, "An Act for making more effectual provision for the government of the Province of *Quebec*, in *North America*, and to make further provision for the government of the said Province," and by the authority of the same, That in case of the death of any person having taken out a licence to work a still or stills, and the executor, administrator or devisee of such still or stills, or any purchaser or purchasers from such executor, administrator or devisee, shall be minded or desirous of working the same for the remainder of the term for which such licence or licences shall have been granted, such executor, administrator or devisee, or such purchaser or purchasers as aforesaid, shall, and he and they is and are hereby required within twenty days after such death, to give notice thereof in writing to the Inspector of the district in which such still or stills is or are intended to be worked, and also to make a requisition upon the said inspector for a licence to be granted to such executor, administrator, devisee, purchaser or purchasers, to work such still

The Executor, &c. of a person who had taken out a licence to work a still, or a purchaser from such Executor, &c. to give notice, and make requisition, &c.

or stills for the remainder of the term for which the licence was originally granted to the testator or intestate, under whom the said executor, administrator or devisee claims title to such still or stills; and in case of such requisition being made by any purchaser or purchasers, from such executor, administrator or devisee, such purchaser or purchasers is and are hereby required to produce to the said Inspector the receipt or acquittance for the purchase money for such still or stills, under the hand of the said executor or administrator, before he, she or they shall be entitled to demand the indorsement of the said licence to be made in manner hereinafter directed.

And to produce receipts for the purchase money.

II. And be it further Enacted by the Authority aforesaid, That when any person or persons having taken out a licence to work a still or stills, shall see cause to remove or transfer the same, it shall not be necessary that any still or stills so removed or transferred, be again licenced previous to the expiration of the licence under which it or they were wrought before such removal or transfer, otherwise than as herein after mentioned. Provided nevertheless, That the persons intending to remove or transfer such still or stills as aforesaid, shall, and he, she or they are hereby required to give notice in writing to the Inspector of the district in which such still or stills is or are intended to be worked as aforesaid, of his, her or their intention of so removing or transferring such still or stills, at least ten days before such removal or transfer.

When any person sees cause to remove or transfer a still, not necessary it should be again licenced;

But notice is required to be given.

III. And be it further Enacted by the Authority aforesaid, That after such notice shall have been given, and such receipt produced, in the cases by this Act required, to the said Inspector of the district as aforesaid, it shall and may be lawful to and for the said Inspector, and he is hereby required to indorse the original licence granted for the working such still or stills, in manner following, (that is to say),

After notice, &c. Inspector, to indorse licences

“ A. B. is hereby Licenced to work the within mentioned Still or Stills, for the remainder of the term by this Licence first granted.

Form of Indorsement.

“ C. D. Inspector for the District of

IV. And be it further Enacted by the Authority aforesaid, That it shall and may be lawful for the Inspector in each and every district, at all times in the day time, when the said still or stills shall not be charged, or after having given six hours notice to the proprietor or proprietors, or person or persons working or using such still or stills, to enter into any still house, or place where any still or stills is or are wrought, and to measure each and every still so wrought as often as he shall see cause so to do; and if the proprietor or person working such still or stills, shall refuse to admit any such Inspector as aforesaid to enter into the still-house, or other place where any still or stills is or are wrought as aforesaid, and measure the still or stills as aforesaid, and shall be convicted thereof upon the oath of the Inspector or otherwise, before any Justice of the Peace in the district, the said proprietor, or person or persons working such still or stills, shall forfeit the sum of twenty-five pounds, to be paid to his Majesty, his heirs or successors, to and for the public uses of this Province, and to be accounted for to his Majesty through the Lords Commissioners of his Majesty's Treasury for the time being, in such manner and form as it shall please his Majesty to direct, which said forfeiture shall be levied by distress and sale of the offender's goods and chattels, and in case the party or parties so convicted as aforesaid, shall not have any goods or chattels, upon which the said sum of twenty-five pounds can be levied, and any part of the said sum of twenty-five pounds shall remain unpaid for the space of ten days after such conviction as aforesaid, then it shall be lawful for the Magistrate before whom the said conviction shall be so had, to order the party or parties so convicted

Inspector at all times in the day time, when, &c. to enter still-house.

Penalty for refusing to admit Inspector.

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to be committed to the common Gaol of the district, or to the custody of the sheriff thereof, there to remain without bail or mainprize for the space of three Calendar months, by a warrant under the hand and seal of the Magistrate before whom such conviction shall be had. Provided nevertheless, and if any person or persons who shall be so convicted before any such Magistrate as aforesaid, shall consider him, her or themselves aggrieved by such conviction, then and in such case it shall and may be lawful to and for the party or parties so considering him, her or themselves aggrieved, and he, she and they is and are hereby authorized, upon giving good and sufficient security to the satisfaction of the Magistrate so convicting, for the payment of the conviction money and the costs of appeal, to bring his, her or their appeal from the said conviction, in a summary mode, before the then next ensuing General Quarter Sessions of the Peace for the district in which such conviction shall take place, during which interval all further proceedings upon the said conviction shall cease, and the Magistrates in such Quarter Sessions assembled, are hereby authorized and required to hear, adjudge and determine such appeal upon the merits thereof, and the determination of such Quarter Sessions shall be held and considered final and conclusive, not subject or liable to be removed by certiorari or otherwise before any other jurisdiction, and if such conviction shall be affirmed by the said Quarter Sessions, the defendant or defendants shall in addition to the conviction money, pay such costs for and on account of such appeal as to the said Quarter Sessions shall seem meet, and if such appeal shall not be prosecuted and brought to a decision at the Quarter Sessions next following the conviction, the Quarter Sessions shall in such case also award such costs to the informer, or party who had obtained the conviction before the said Magistrate, as to the said Court shall seem meet.

Appeal to the Quarter Sessions.

Costs to be awarded.

Provision for costs of prosecution, &amp;c.

V. *And be it further Enacted by the Authority aforesaid,* That in all cases in which any person or persons shall be prosecuted to conviction for any offence against this Act, or any former Act or Acts of this Province relative to the collecting duties on stills, and a conviction shall actually be pronounced, and no provision shall have been by any former Act made for compensating the said Inspector on account of such prosecution, it shall and may be lawful to and for the said Inspector to state and make out in writing, a true and exact account of all costs and expences by him incurred, and he shall also be admitted to make a reasonable charge for the time by such Inspector employed or bestowed in prosecuting such offenders to conviction, which said costs, expences and charges shall be audited by his Majesty's Executive Council of this Province, and such sum as the said Executive Council shall allow on account thereof, shall be paid by warrant to be issued by the Governor, Lieutenant Governor, or Person Administering the Government of this Province, on the Receiver General thereof for the time being, out of any funds in the Receiver General's hands arising from duties on stills.

## CHAP. VIII.

*An ACT for granting to His Majesty a certain sum of Money for the purposes therein mentioned.*

MOST GRACIOUS SOVEREIGN,

[Passed 9th March, 1804.]

Preamble.

**W**HEREAS it is expedient that the Statute Laws of England should be procured for the use of this Province: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain,