

*Licensed Publicans.***No. II.**

An Act for repealing the Laws now in force relative to the licensing and regulating of Public-houses and for the better regulating the granting of Licenses for the Sale of Ale Beer Wine Spirits and other Liquors in New South Wales in future. [20th February, 1826.]

WHEREAS the Laws for licensing and regulating Public-houses require Amendment And whereas with this view it is expedient to repeal the Act of the Governor and Council number four of the sixth year of His present Majesty intituled "*An Act to regulate the granting of Licenses for the Sale of Spirits Ale Beer and other Liquors in New South Wales and Van Diemen's Land respectively*" in as far as the same relates to the Colony of New South Wales and to enact other regulations and provisions in lieu thereof Now therefore be it enacted by His Excellency the Governor of New South Wales by and with the advice of the Legislative Council That from and after Thursday the second day of March next the said recited Act shall be and the same is hereby repealed except so far as may concern the Colony of Van Diemen's Land.

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Act of Council No. 4 of 6th of Geo. IV. repealed.

2. And be it further enacted That from and after the said Thursday the second day of March next no person or persons whatsoever shall sell or retail any Ale Beer or other Malt Liquors or Wine Cider Ginger Beer Brandy Rum or any other strong fermented or Spirituous Liquors in New South Wales in less quantity than five gallons without first obtaining a License in manner and form hereinafter mentioned And if any person or persons shall sell or retail any such liquors contrary to the true intent and meaning of this Act he she or they shall forfeit for every such offence the sum of Twenty-five Pounds Sterling together with the costs of prosecution to be recovered in a summary way before any Court of General or Quarter Sessions within the said Colony of New South Wales or shall in the discretion of such Court be imprisoned for a term not exceeding four months nor less than three Provided always that nothing herein contained shall be deemed or taken to apply to any person or persons supplying his her or their free or assigned servant or servants labourer or labourers with a reasonable quantity of any such liquor as aforesaid nor to any person or persons who deals or deal in Ginger Beer and in no other liquor and who retails or retail such Ginger Beer to persons standing at their counters between the times of sun-rise and sun-set.

No person to sell fermented or Spirituous Liquors in less quantity than five gallons without License.

Penalty and how recoverable.

Persons may supply their servants with a reasonable quantity of liquor.

3. And be it further enacted That for every License for selling Ale Beer or other Malt Liquors or Wine Cider Ginger Beer Brandy Rum or any other strong fermented or Spirituous Liquors in any quantities under five gallons there shall be paid to the Colonial Treasurer of New South Wales the sum of Twenty-five Pounds Sterling.

£25 sterling to be paid for such License to the Colonial Treasurer.

4. And be it further enacted That all Public-house Licences as aforesaid shall be issued from and registered in the office of the Colonial Treasurer and shall be to the effect of the form following that is to say—

“Whereas A. B. of (or A. B. and C. D.) hath (or Form of License.
 “have) deposited in this office a certificate from the Justices of the
 “Peace assembled at on the day of in favour
 “ of

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“ of his (or her or their) being a fit person (or fit persons) to keep a
 “ Public-house for the sale of Ale Beer or other Malt Liquors or Wine
 “ Cider Ginger Beer Brandy Rum or any other strong fermented or
 “ Spirituous Liquors And whereas the said A. B. (or &c.) hath (or
 “ have) also paid into this office the sum of Twenty-five Pounds
 “ Sterling a duty imposed by an Act of His Excellency Lieutenant
 “ General Ralph Darling with the advice of the Legislative Council of
 “ this Colony upon all Licenses for the sale of Ale Beer or other Malt
 “ Liquors or Wine Cider Ginger Beer Brandy Rum or any other
 “ strong fermented or Spirituous Liquors the said A. B. (&c.) is (or
 “ are) hereby licensed to keep a common Inn Alehouse or Victualling-
 “ house and to sell in the house in which he (or she or they) now
 “ dwelleth (or dwell) being the sign of and in the premises
 “ thereunto belonging and not elsewhere Ale Beer or other Malt
 “ Liquors or Wine Cider Ginger Beer Brandy Rum or any other strong
 “ fermented or Spirituous Liquors and the authority hereby granted
 “ is to continue in force from the date hereof until the day of
 “ one thousand eight hundred and twenty- and no longer.
 “ (Signed) Colonial Treasurer.”

To be countersigned
by the Auditor.

And before any such License shall be valid for any purpose the same shall be produced to and countersigned by the Auditor of Colonial Accounts of New South Wales.

Certificate by Jus-
tices of the Peace to
be lodged with the
Colonial Treasurer.

5. And be it further enacted That before any such License shall be granted there shall be lodged in the office of the Colonial Treasurer a certificate in the form and to the effect hereinafter mentioned to be obtained from the Justices of the Peace in Quarter Sessions or by special appointment assembled on Thursday the second day of March in this present year one thousand eight hundred and twenty-six and on the first Thursday in the month of March in every following year within the district or township nearest to the house intended to be made a Public-house as aforesaid and such certificate shall be to the effect of the form following that is to say—

Effect and form of
certificate by Jus-
tices.

“ These are to certify that we have received a certificate signed
 “ by the Chief Constable and three householders of the township of
 “ setting forth that A. B. (&c.) is a person of good fame and
 “ reputation and fit and proper to keep a Public-house and we have
 “ taken from the said A. B. and C. D. his surety a recognizance in the
 “ form prescribed by an Act of His Excellency Lieutenant General
 “ Darling with the advice of the Legislative Council of the twentieth
 “ day of February one thousand eight hundred and twenty-six and do
 “ approve of his holding a License for the sale of Ale Beer or other
 “ Malt Liquors or Wine Cider Ginger Beer Brandy Rum or any other
 “ strong fermented or Spirituous Liquors.

“ (L. S.)
 “ (L. S.)”

Must be signed by
the Justice living
nearest to applicant.

And no such certificate shall be valid unless the Justice of the Peace living nearest to the house intended to be made a Public-house as aforesaid shall either sign the same or have signified in writing his approval thereof.

Applicants for Li-
cences shall produce
certificates of cha-
racter.

6. And be it further enacted That no such certificate as aforesaid shall be granted before the applicant or applicants for the same shall produce to such Justices assembled as aforesaid a certificate signed by the Chief Constable and three respectable housekeepers residing within such district according to the tenor and form following that is to say—

“ To the Worshipful the Justices of the Peace acting in and
 “ for the Colony of New South Wales.

Form of certificate
of character.

“ We the undersigned Chief Constable and three householders
 “ of the township or district of do hereby certify that A. B.
 “ of

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“ of is a person of good fame and reputation and fit and
 “ proper to keep a Public-house.

“ Witness our hands

“ Chief Constable.

“ 1.
 “ 2.
 “ 3.”

Nor shall any such certificate be granted before the applicant or applicants shall have paid to the Clerk of the Justices aforesaid the sum of half-a-crown and no more for the same and shall have executed a recognizance to the effect of the form following that is to say—

“ New South Wales to wit

“ Be it remembered that on the day of one
 “ thousand eight hundred and twenty- A. B. of and Effect and form of
 “ C. D. of came personally before J. C. &c. Esquires Justices recognizance.
 “ of the Peace in and for the said Colony and acknowledged themselves
 “ to owe to our Lord the King to wit the said A. B. the sum of (£50)
 “ fifty pounds and the said C. D. the sum of fifty pounds of lawful
 “ money of Great Britain to be respectively levied of their several goods
 “ and chattels lands and tenements to the use of our said Lord the King
 “ His Heirs and Executors in case default shall be made in the per-
 “ formance of any of the conditions here under-written.

“ The condition of this recognizance is such that whereas the
 “ said A. B. is to be licensed to keep a common Inn Alehouse or
 “ Victualling-house and to sell Ale Beer and other Malt Liquors and
 “ Wine Cider Ginger Beer Brandy Rum and any other strong fer-
 “ mented or Spirituous Liquors in the house wherein he (she or they)
 “ now dwells (or dwell) being the sign of in the district or
 “ township of from the date hereof until the day of
 “ one thousand eight hundred and twenty- if the said A. B. do keep
 “ the law in selling Ale Beer &c. in his or her said house and premises
 “ and shall not permit any playing at cards dice or any other game in
 “ his or her house or premises nor suffer any person to become drunk
 “ at any time or to remain there tippling or drinking after the hour of
 “ nine at night or on Sunday at any hour always excepting moderate
 “ refreshment to persons who may be *bonâ fide* travelling or who may
 “ be inmates of the house nor suffer any disorder to be committed in his
 “ her or their house or premises nor refuse to admit any Magistrate or
 “ Constable into any part of the said house or premises when he the said
 “ A. B. and his family shall not have retired to rest nor suffer any convict
 “ to be in his or her house on Sunday or after eight o’clock at night
 “ on any other day for the purpose of drinking or gaming then the
 “ said recognizance to be void otherwise to remain in full force.

“ Taken and acknowledged the day and year first above-
 “ written before us J. C. &c.”

7. And be it further enacted That the Bench of Justices shall on the licensing day or days in each year receive all applications for Licenses with the certificates in support thereof which shall be presented to them as aforesaid but that it shall nevertheless be lawful for the said Justices to grant Licenses to such persons only as in their judgment upon the said certificates and upon other information before them shall be entirely unexceptionable and likely to keep orderly houses.

8. And be it further enacted That it shall be lawful for the Governor or Acting Governor some time previous to the day appointed for granting Licenses to fix the number of Public-houses in the several towns of the Colony to be licensed for the year then next ensuing and to signify the same to the Benches of Magistrates of the several districts respectively And the said Magistrates shall limit the granting of Licenses accordingly And if there shall be a reduction of the number of

Applicants to pay half-a-crown to the Justices' Clerk and to execute a recognizance.

Effect and form of recognizance.

The Justices not to grant Licenses to exceptionable persons.

The Governor to fix the number of Public-houses in each town.

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of Licenses granted for the preceding year the said Magistrates are to select such houses as shall appear to them to have been kept in the most orderly manner.

License valid for one year only.

9. And be it further enacted That every such License as aforesaid shall under the provisions hereinafter mentioned be valid for one year or until the next licensing day and no longer And that at the next licensing day every such License upon the application of the holder or holders shall be renewed before any new License shall be granted unless the holder or holders of the License so required to be renewed shall have been convicted of a breach of the said recognizance or shall have so conducted himself herself or themselves as to be in the opinion of the said Magistrates unfit to be again licensed.

And renewable before any new License be granted.

May be held by the executors or trustees for six months or till next licensing day.

10. And be it further enacted That the executor or administrator or trustees in insolvency of any person holding a License under this Act shall be entitled to carry on the business of the house so licensed as aforesaid without renewing the same License during six months or until the next licensing day following the decease or legally declared insolvency or the execution and registry of the trust deed of the person or persons holding such License as aforesaid Provided always that the License of such house shall be subject to the same regulations as if it had continued to be holden by the person or persons to whom the same was originally granted.

May be transferred by two Justices.

11. And be it further enacted That any two Justices of the Peace one of them being the nearest resident Justice to the house licensed as aforesaid shall have power to transfer such License to the appointee or appointees of the owners thereof he she or they producing the like certificates and entering into all the engagements into which the original party or parties obtaining the same is or are by this Act bound to produce and enter into.

No seller of liquor can be surety.

12. And be it further enacted That no person who shall sell or retail any malt or spirituous liquors shall be received or taken as surety in any recognizance to be entered into as aforesaid.

Justices of the Peace or Constables may demand entrance into Public-houses.

13. And be it further enacted That it shall be lawful for any Justice of the Peace or any Constable generally authorised by a Justice of the Peace in that behalf to demand entrance into any Licensed Public-house at any hour by day or by night provided the Publican and his family be not retired to rest and if admittance be not immediately granted the License shall be forfeited upon conviction before any two Magistrates and no License shall again be granted to any person who shall be so convicted of refusing admittance Provided always that if such admittance be refused before the hour of nine at night it shall be lawful for such Justice or Constable to break into such Public-house with his assistants to serve process or for any other lawful purpose.

A death by intoxication shall void a License.

14. And be it further enacted That whenever a Coroner's Jury shall find that a death has been caused by intoxication in a Public-house the keeper of such house shall be deemed from the date of such finding to be unlicensed and no new License shall be granted to him.

Publicans not to be fined for entertaining convicts except after eight o'clock at night or on a Sunday.

15. And whereas by an Act of the Governor and Council of the fifth year of his present Majesty number three intituled "*An Act to prevent the harbouring of Runaway Convicts and the encouraging of Convicts tippling or gambling*" it is enacted That the occupier or possessor of every Licensed Public-house who shall admit or receive into his her or their house a convict for the purpose of drinking or gambling without the leave of his or her overseer master or mistress shall pay to the King a fine not exceeding Twenty Dollars nor less than Four Dollars for every convict whom he she or they shall so admit or receive as aforesaid Now be it enacted by and with the authority and advice aforesaid That no fine shall be levied upon any Licensed Publican for entertaining a convict or convicts unless it shall be proved that he has

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has so done on a Sunday or after eight o'clock at night on any other day of the week and in order to enforce further the object of this provision be it enacted that every convict assigned to private individuals or in the employment of the Crown being in the street or road after eight o'clock at night and not having a written pass from his or her employer or overseer or carrying a conspicuous light shall be taken into custody and shall be deemed guilty of disorderly conduct and dealt with as by law directed in such cases.

Convicts out after eight o'clock at night to carry a pass or light.

16. And be it further enacted That if the occupier or possessor of any Licensed Public-house shall take or receive from any person whatever in payment or in pledge for liquor or for any entertainment whatsoever supplied in his or her house any article of clothing or slops or any tool or other article or thing excepting the current coin or paper money of the Colony such occupier or possessor of a Public-house so offending shall upon conviction before two Justices for the first offence forfeit the sum of Twenty Pounds Sterling and for the second offence he or she shall be deprived of his or her License.

Publicans not to sell liquor except for current coin.

Penalty Twenty Pounds for first offence.

17. And be it further enacted That it shall be lawful for any two or more of the Justices of the Peace in a summary way to take cognizance of any complaint made against any person or persons licensed to keep a Public-house as aforesaid for disorderly conduct in the keeping such Public-house or for permitting any playing at cards dice or any other game in his or her house or premises or for suffering any person to become drunk at any time or to remain there tippling or drinking after the hour of nine at night or on Sunday at any hour always excepting moderate refreshment to persons who may be *bonâ fide* travelling or who may be inmates of the house or for refusing as aforesaid to admit any Magistrate or Constable into any part of the said house or premises and upon the conviction of any such person or persons it shall and may be lawful for such Justices and they are hereby required to cause the said person or persons so convicted to be prosecuted on his her or their recognizances independently of the forfeiture of the License or Licenses in the cases hereinbefore provided for And the said Court of General or Quarter Sessions shall have power and authority to hold plea of all actions or informations upon or concerning all recognizances entered into under or by virtue of this Law or Ordinance and all acts matters and things touching the breach and forfeiture thereof and in case of conviction to levy the penalty or penalties therein expressed.

Justices may exercise a summary jurisdiction in all complaints.

And may prosecute on recognizances.

18. And be it further enacted That no Justice or Justices of the Peace who shall hold or have any interest in any house licensed as a Public-house shall be capable of granting any License as aforesaid or sitting in Sessions in any case touching or concerning the breach or forfeiture of any recognizance as aforesaid.

No Justice interested in a Public-house can grant a License.

19. And be it further enacted That it shall be lawful for the Justices to determine the fact of what is selling or retailing without a License according to the circumstances of the case without direct evidence of money or other value having been given for the spirits or other liquors.

Selling without License how to be determined.

20. And be it further enacted That it shall be lawful for the Magistrates to dismiss with costs any charge brought against a master for retailing spirituous liquors to his own assigned or free servants or laborers provided the liquor retailed be proved to have been in a quantity calculated for reasonable refreshment only.

Charges brought against a master for selling liquor to his servants may be dismissed with costs.

21. And be it further enacted That if any person convicted under this Act or any other Colonial Act or Acts in this behalf do not pay the fine within ten days he or she shall be imprisoned for so long time not exceeding four months nor less than three as the Justices shall direct.

Fines must be paid in ten days.

Charges to be made
within three months.

22. And be it further enacted That no conviction shall be had under this Act on any case happening three months before the time of laying the charge.

Application of fines.

23. And be it further enacted That all fines which shall be paid or levied under this Act shall be paid appropriated and accounted for in the same manner as in and by the before-recited Act of the Governor and Council intituled "*An Act to prevent the harbouring of Runaway Convicts and the encouraging of Convicts tippling or gambling*" is directed and prescribed.
