

No. XI.

An Act to amend and consolidate 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. [12th May, 1830.]

PUBLICANS
LICENSING ACTS
CONSOLIDATION.

WHIEREAS it is expedient to amend an Act of the Governor and Council passed in the seventh year of His present Majesty intituled “ *An Act for repealing the Laws now in force relative to the licensing and regulating of Public-houses and for the better regulating and granting of Licenses for the sale of Ale Beer Wine Spirits and other Liquors in New South Wales in future* ” and also another Act of the said Governor and Council passed in the eighth year of His said Majesty intituled “ *An Act to amend an Act of the Governor and Council intituled ‘ An Act for repealing the Laws now in force relative to the licensing and regulating of Public-houses and for the better regulating and granting of Licenses for the sale of Ale Beer Wine Spirits and other Liquors in New South Wales in future ’* ”

Preamble.

7 Geo. IV. No. 2.

8 Geo. IV. No. 1.

And whereas it is expedient to reduce into one Act all the laws and regulations relative to the granting of Licenses and to make further regulations and provisions for licensing and promoting good order in Public-houses and for preventing the illicit sale of ale beer wine spirits and other liquors Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council That the several laws and regulations hereinafter contained and none other relative to the granting of licenses to public-houses to the promoting of good order in such houses and to the preventing of the illicit sale of ale beer wine spirits and other strong and fermented liquors shall be in force in the Colony of New South Wales and its Dependencies from and after the first day of July next after the passing of this Act.

Superseding former laws relative to the granting of Public-house Licenses and the preventing the illicit sale of liquors.

2. And be it further enacted That from and after the said first day of July next after the passing of this Act no person or persons whatsoever (except as hereinafter excepted) shall by himself herself or themselves or by any person employed by him her or them or acting on his her or their behalf sell retail barter or exchange or shall in or on any part of his her or their house or premises permit or suffer to be sold retailed bartered or exchanged any ale beer or other malt liquors or wine cider ginger beer spruce beer brandy rum or any other fermented or spirituous liquors in any part of the Colony of New South Wales or its Dependencies in less quantity than two gallons of any one of the aforesaid liquors without having first obtained a license in the manner and form hereinafter directed And if any person by himself or herself or by any person employed by him or

No person shall retail fermented or spirituous liquors without a license.

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her or acting on his or her behalf shall sell retail barter or exchange or shall in or on any part of his or her house or premises permit or suffer to be sold retailed bartered or exchanged any such liquors as aforesaid contrary to the true intent and meaning of this Act he or she shall forfeit for every such first offence the sum of Thirty Pounds sterling and for every such subsequent offence the sum of Fifty Pounds together with the costs of prosecution to be recovered in a summary way before any two or more Justices of the Peace within the said Colony and every person so convicted of retailing any such liquors as aforesaid without a license shall be incapable of receiving or holding any license to keep a public-house for the space of three years to be computed from the date of every such conviction respectively.

Not to extend to apothecaries or persons supplying their servants not in towns with certain quantities.

3. Provided always and be it further enacted That nothing contained in this Act shall be deemed or taken to extend or apply to any person practising as an apothecary or druggist who may administer or sell any of the liquors before-mentioned as medicines or for medical purposes nor to any person or persons supplying his her or their free or assigned servant or servants laborer or laborers out of the Towns of Sydney Parramatta Liverpool Windsor and Newcastle with any quantity of such liquors as aforesaid not exceeding in any one week the amount of one third of the wages and earnings of such servant or servants laborer or laborers during the same period.

Licenses to be valid for one year.

4. And be it further enacted That every license granted for selling and retailing liquors as aforesaid under the provisions of the said recited Acts shall cease and determine on the thirtieth day of June next after the passing of this Act and that every license to be granted under the provisions of this Act shall be valid for one year or until the next general licensing day after the date of such license and no longer.

Form to be observed by persons applying for licenses.

5. And for the better preventing the granting of licenses to unfit or improper persons Be it further enacted That every person desirous of obtaining a license for keeping a public-house under the provisions of this Act or of obtaining the renewal of a license before granted shall on or before the first Tuesday of the month of June in this present and every following year deliver to the Clerk of the Bench of Magistrates acting in and for the place or district in which such house may be situated a notice in writing of his or her intention to apply for such license and that in every such notice there shall be contained a full description of the dwelling-house or premises proposed to be licensed with a statement of the applicant's trade or calling and situation in life and whether married or unmarried together with the names residences and additions of his or her proposed sureties and that every person giving such notice shall in like manner deliver or cause to be delivered with such notice a certificate signed by three or more known and respectable housekeepers residing within such town or district as aforesaid in the form prescribed in the Schedule hereunto annexed marked A.

The General Annual Licensing Meeting for granting certificates—

6. And be it further enacted That a General Meeting of the Justices acting in and for each district in the said Colony which is to be advertised at least one month previously and to be called "The General Annual Licensing Meeting" shall be holden in their Court-house or usual place of meeting on the third Tuesday in the month of June in this present and in every following year for the special purpose of taking into consideration all applications which shall be made to them for licenses for public-houses as aforesaid and it shall be lawful for the Justices assembled at such General Annual Licensing Meeting three at least being present to grant to such persons as shall

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be approved by the majority of such Justices after taking the required recognizances certificates in the form contained in the Schedule hereunto annexed marked B for authorizing the granting of such licenses and it shall be lawful for such Justices so assembled to adjourn the consideration of all or any of the applications before them from the day of such General Annual Licensing Meeting to such other day or days as the said Justices shall from time to time agree upon Provided always that such adjournments do not in the whole exceed one week after the day appointed for the said General Annual Licensing Meeting.

7. And be it further enacted That every person applying for a license shall before the Justices deliver to him or her a certificate as aforesaid to authorize the issue of such license enter into a recognizance in the form contained in the Schedule hereunto annexed marked C with two sureties in the sum of fifty pounds each conditioned that the person licensed shall keep the law and shall not permit any person to become drunk or to play at cards dice or any other game of chance in his or her house or premises or to commit any disorder therein or to remain in or upon the same 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 refuse to admit any Magistrate or Constable to any part of the said house or premises nor suffer any convict other than his or her assigned servant or servants 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 and all such recognizances with their conditions shall be regularly recorded in the records of the respective Benches and shall within one month after the same are entered into be transmitted to the Clerk of the Peace and be by him or by the person acting as the Clerk of the Peace or his deputy filed in his office.

8. And be it further enacted That in case any person desirous of obtaining such certificate for a license shall be very unable through sickness or infirmity to attend in person at any such General or Adjourned Meeting of Justices it shall be lawful for such Justices to certify in favour of such person upon three sufficient sureties to be approved as aforesaid entering into such recognizance each in the sum of fifty pounds for performance of the conditions of the said recognizance which said recognizance shall in like manner be entered into in the presence of the majority of the Justices then assembled and be signed by at least two of such Justices And if any Justice shall sign a certificate to authorize the issuing of a license before the recognizance required under this Act shall have been fully entered into and signed such Justice shall forfeit and pay a penalty or sum of One Hundred Pounds to be recovered by action of debt in the Supreme Court and one moiety of such penalty shall be to the use of His Majesty and the other to the use of the person or persons who shall first inform and sue for the same.

9. And be it further enacted That every certificate which shall be granted by the Justices to authorize the issuing of a license as aforesaid shall after the passing of this Act be null and void unless the same and the sum required to be paid for such license be lodged in the office of the Collector of Internal Revenue or in such other office as may hereafter be appointed by the said Governor for that purpose within fourteen days after the date of such certificate and the said Collector of Internal Revenue or other officer who may hereafter be appointed for that purpose shall and he is hereby authorized and required forthwith after the receipt of every such certificate to issue a license in the form contained in the

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Schedule hereunto annexed marked D and shall register the same in his office upon payment being made to the said Collector of Internal Revenue or other such officer of the sum of twenty-five pounds sterling for every such license.

Special General Sessions to be held quarterly for transferring licenses.

10. And be it further enacted That Special General Sessions of Justices of the Peace shall be holden on the first Tuesday in the month of January the first Tuesday in the month of April and on the first Tuesday in the month of October in every year in each town or district in which such General Annual Licensing Meeting shall be holden as hereinbefore directed for the purpose of receiving applications for transferring licenses and it shall be lawful for the Justices assembled at such Special General Sessions three or more being present to transfer the license of any house licensed as aforesaid to the appointee or appointees of the original holder of such license such appointee or appointees producing the like certificates and entering into the same recognizances as the original party or parties obtaining the same is or are by this Act bound to produce and enter into.

Executors or trustees may hold licenses for a certain time.

11. 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 and that new recognizances be entered into according to the provisions of this Act.

Justices disqualified to act under this law.

12. And be it further enacted That no Justice of the Peace being a brewer malster or distiller or an importer of or dealer in wine or any malt or spirituous liquors or concerned in partnership with any brewer malster or distiller or dealer in wine or malt or spirituous liquors or being the owner or part owner of or trustee manager or agent for any owner or part owner of any house licensed or about to be licensed or being directly or indirectly interested in any such house shall sit at or act in any meeting of Justices during the consideration of any application for a certificate for a license or of any thing relating thereto or shall convict or join in any conviction or in the consideration or determination of any appeal under this Act And every Justice who shall knowingly offend in the premises shall for every such offence forfeit and pay a penalty or sum of One Hundred Pounds to be recovered by action of debt in the Supreme Court the one moiety thereof to be to the use of His Majesty and the other to the use of any person who shall first inform and sue for the same.

Qualified Justices of the adjoining town or district may act if so required.

13. And be it further enacted That whenever at any of the meetings to be holden for any town or district as aforesaid there shall not be present at least three Justices who are not disqualified it shall be lawful upon the request in writing of any Justice or Justices of such town or district for the Justices acting in any adjoining town or district and not disqualified to act within such town or district and with the Justice or Justices thereof not as hereinbefore disqualified who shall be present at any such meeting as aforesaid for the purpose of granting or transferring licenses under or of hearing complaints as to offences against this Act.

Justices to transmit lists of the certificates granted by them to the Colonial Secretary.

14. And be it further enacted That the Justices of each district by whom any certificate or certificates for licenses shall be granted under the provisions of this Act shall transmit to the Colonial Secretary for the time-being within ten days after the granting of such certificates as aforesaid a list signed by the said Justices of all the persons

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persons to whom they shall have so granted certificates specifying the situation and sign or name of each house its distance from the nearest licensed house in each line of road if not in a town the name of the owner or proprietor whether before licensed or not and also the names and residences of the sureties.

15. And be it further enacted That if it shall at any time appear to the Governor that it is expedient to grant a license to any canteen or market-house or to any house not before licensed on any line of road it shall be lawful for the said Governor to order a license to be granted to any such person or for any such house at any period of the year Provided always That no such license shall be granted until the recognizances required by this Act shall have been entered into and until the yearly price of the license be paid unless the said Governor shall think fit to remit the whole or any part of such price in consideration of the shortened duration of such license or other special circumstances.

The Governor may order licenses for canteens or houses on the road.

16. And be it further enacted That no person holding office or employment under the Government no under sheriff bailiff or other sheriff's officer nor any constable nor any licensed auctioneer nor any person serving under a sentence for any criminal offence nor any woman whose husband shall be so serving under a sentence for any criminal offence whether any such sentence be partially remitted or not excepting by a conditional pardon shall hold any license under the provisions of this Act nor shall any such person nor any publican be received or taken as surety in any recognizance to be entered into as aforesaid.

Persons disqualified to hold licenses or to be sureties under this Act.

17. And be it further enacted That every person who shall be licensed to keep a public-house shall and he is hereby required to have his or her name at length painted in legible letters at least three inches long with the words "Licensed to retail wines and spirituous liquors" on some conspicuous part of his or her premises and to have a lamp with at least two burners affixed over the door of his or her house lighted and to be kept burning the whole of each and every night during the time of his or her holding such license And any such licensed person who shall fail or neglect to have his or her name so painted and to have a lamp so affixed lighted and kept burning shall for every such offence forfeit and pay a sum not less than One Pound nor more than Five Pounds.

Publicans to have their names &c. painted on their premises—

and to keep a lamp burning over their door during the night.

18. And be it further enacted That if any person not actually holding a license shall keep up any sign writing painting or other mark on or near to his house or premises which may imply or give reasonable cause to believe that such house or premises is or are licensed for the retail or barter of such liquors as aforesaid or that such liquors are sold served or retailed therein such person shall for every such offence forfeit and pay a sum not less than Ten Pounds nor more than Forty Pounds.

Unlicensed persons keeping up signs &c. to be fined.

19. And be it further enacted That if any licensed person shall offend against the tenor of his or her license or shall in any respect commit a breach of or otherwise be guilty of any offence against any condition of the recognizance by him or her entered into he or she shall upon being lawfully convicted before two or more Justices of the Peace forfeit and pay or become liable to the several penalties or disabilities hereinafter mentioned that is to say for the first offence a sum of not less than Twenty Shillings nor more than Ten Pounds with costs and for the second offence a sum of not less than Two Pounds nor more than Twenty Pounds with costs and for the third or any subsequent offence it shall be lawful for any one Justice upon complaint or information of such third or subsequent offence to issue a summons requiring the person so complained of or informed against

Penalties and disabilities for licensed persons offending.

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to appear at the next Court of Quarter Sessions to be holden for the district nearest to the place where such licensed person resides then and there to answer to the matter of such complaint or information and also to bind the complainant or informant and any other person or persons to appear at such Sessions and give evidence against such licensed person. And the Justices of the Peace at such Sessions shall enquire of the offence charged in the said complaint or information and if they find that such licensed person hath committed the offence against the tenor of his or her license or recognizance in the said complaint or information specified and that such licensed person hath been twice or oftener previously convicted of offences against the tenor of his or her license or recognizance it shall be lawful for the said Justices at such Sessions to adjudge such licensed person guilty of such third or subsequent offence which adjudication shall be final and thereupon the said Justices shall have authority to punish the party so convicted by a fine or penalty of not less than Ten Pounds nor more than One Hundred Pounds or (at the discretion of the said Justices) by declaring his or her recognizance to be forfeited and also (at their discretion) his or her license to be void and such recognizance shall be forfeited and such license from thenceforth be void accordingly and the said person whose license shall be declared void shall from thenceforth be declared to be incapable of receiving or holding any license under this Act for the space of three years to be computed from the date of such adjudication.

Recognizances not to be forfeited until the third conviction and to be evidence of being licensed.

Publicans informed against not appearing.

Debts for spirits not recoverable unless contracted for 20s. at one time.

Not to prevent innkeepers having accounts with lodgers &c.

Publicans shall sell liquors for money only.

Liquors in quantities above half a pint to be sold according to the standard measures.

20. Provided always and be it further enacted That no recognizances shall be declared forfeited unless upon such adjudication by the said Court of Quarter Sessions upon such third or subsequent conviction and in every proceeding under this Act against a person as a licensed publican the production of his or her recognizance shall be evidence of his or her being such licensed publican and if such licensed person so complained of or informed against for such third or subsequent offence shall not appear at such next Quarter Sessions pursuant to the summons it shall be lawful for the Justices in such Sessions assembled on proof of the service of such summons to enquire into and determine the matter of the said complaint or information and in all respects to proceed against any person so summoned and not appearing in the same manner as if he or she had appeared.

21. And be it further enacted That no licensed person shall maintain any action for or recover any debt or demand on account of spirituous liquors unless such debt shall *bonâ fide* have been contracted at one time to the amount of twenty shillings or upwards nor shall any *item* in any account for spirituous liquors be allowed where the liquors *bonâ fide* delivered at one time shall not amount to the full sum of twenty shillings. Provided always that nothing herein contained shall extend to prevent innkeepers from keeping an account with lodgers and travellers in which any charge for spirits may be included and recovering the amount thereof in a Court of Justice.

22. And be it further enacted That if the keeper or occupier of any public-house licensed as aforesaid 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 metallic or paper money such occupier or possessor of a public-house so offending shall upon conviction before two Magistrates for such offence forfeit the sum of Twenty Pounds sterling.

23. And be it further enacted That every keeper of a licensed house shall sell or otherwise dispose of all liquors by retail (except in quantities less than a half-pint) by the gallon quart pint or half-pint of full legal measure according to the standard which is or shall at any time

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time hereafter be authorized in this Colony and shall also if required by any guest or customer purchasing such liquor retail the same in a vessel sized according to such standard and in default thereof he shall for every such offence forfeit the illegal measure and pay a sum not exceeding Forty Shillings together with the costs of the conviction to be recovered within thirty days next after that on which such offence was committed in a summary way before any one or more Justice or Justices of the Peace.

24. And be it further enacted That every house which shall be licensed under this Act shall contain at least two sitting rooms and two sleeping rooms for public accommodation independent of the apartments occupied by the family of the publican and that if any innkeeper or keeper of a licensed public-house upon any line of road in the Colony shall without reasonable cause refuse to receive a traveller as a guest into his or her house or to find any such traveller victuals or lodging or to receive the horse of a traveller and to provide such horse with food although the owner do not lodge in his or her house every such innkeeper or keeper of such licensed house as aforesaid shall for every such offence forfeit and pay a sum of not less than Five Pounds nor more than Twenty Pounds upon conviction in a summary way before any one or more Justice or Justices of the Peace.

What accommodation public-houses shall have.

Publicans on any line of road shall receive travellers or their horses.

25. And be it further *declared* and enacted That every house licensed as herein provided shall be considered as a common inn and no goods or chattels whatsoever *bonâ fide* the property of any stranger or strangers and being in such licensed house or the appurtenances thereof or any place used and occupied therewith in the ordinary course of resort at such licensed house shall be subject to be distrained or seized for or in respect of any claim of rent for such licensed house or appurtenances and if any such goods or chattels shall be distrained or seized for rent contrary to the provisions of this Act it shall be lawful for any two or more Justices of the Peace to enquire into any complaint made in respect of such distress or seizure in a summary manner and to order such goods and chattels to be restored to the owner or proprietor thereof and further to award such reasonable costs as shall be incurred by such summary proceeding and such costs to levy by distress and sale of the goods or effects of the person or persons distraining or seizing such goods or chattels as aforesaid.

Strangers goods in licensed houses not liable for rent.

26. And whereas by an Act of the Governor and Council 5 Geo. IV. No. 3. passed in the fifth year of His present Majesty intituled "*An Act to prevent the harbouring of Runaway Convicts and the encouraging of Convicts tipping and 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 the authority and with the advice aforesaid That from and after the passing of this Act any such fine so imposed shall not exceed Five Pounds nor be less than One Pound and that no fine shall be levied upon any licensed publican for entertaining a convict or convicts unless it shall be proved that he 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 case.

Regulation as to the entertainment of convicts.

Convicts in the streets after 8 o'clock at night to carry a light or pass.

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Justices or Constables authorized may enter public-houses at all times.

27. And be it further enacted That it shall be lawful for any Justice of the Peace or any Constable generally authorized by a Justice of the Peace in that behalf to demand entrance into any licensed public-house at any time by day or night and if admittance be not granted within such a reasonable time as shall make it appear that no wilful delay was intended the license shall be forfeited upon conviction before any two Justices of the Peace any thing hereinbefore contained to the contrary notwithstanding and no license shall again be granted to any person who shall be so convicted of refusing or wilfully delaying admittance for the space of three years from the date of such conviction Provided always that if such admittance be refused or wilfully delayed 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.

Penalty for publicans abandoning the occupation or management of their houses.

28. And be it further enacted That if any licensed person shall abandon the occupation of his or her licensed house as his or her usual place of residence and permit any person whatsoever to manage superintend or conduct the business of such house or shall whether residing in such house or not permit any unlicensed person or persons to become virtually or in effect the keeper or keepers thereof then or in either of the said cases upon proof of the fact to the satisfaction of any two or more Justices of the Peace the license of such house for the current year shall become and be absolutely void any thing hereinbefore contained to the contrary notwithstanding or at the discretion of the said convicting Justices such licensed person shall forfeit and pay for such offence a penalty or sum of not less than Thirty Pounds nor more than Fifty Pounds.

Or employing unlicensed persons to retail liquors out of their houses or disposing of them for that purpose.

29. And be it further enacted That if any licensed person shall employ any unlicensed person to sell retail or barter any such liquors as aforesaid in any house cart dray or other carriage or in any vessel or boat or in any place whatever out of the licensed house and premises of such licensed person or if any licensed person shall sell barter or lend to any unlicensed person any such liquors as aforesaid with the knowledge or upon the understanding that such liquors are to be sold retailed or bartered by such unlicensed person contrary to the true intent and meaning of this Act every such licensed person shall upon conviction of any such offence before any two or more Justices of the Peace immediately forfeit his or her license for the current year and be incapable of holding a license in future or shall at the discretion of the said convicting Justices forfeit and pay a penalty or sum of not less than Thirty Pounds nor more than One Hundred Pounds Provided always that nothing herein contained shall extend or be construed to extend to prohibit any licensed person from selling and retailing any ale beer or other liquors as aforesaid in booths or otherwise at the time and place of holding any lawful or accustomed fair.

Proviso as to fairs.

No liquors shall be sold where a retail shop is kept.

30. And be it further enacted That no ale beer wine cider ginger beer spruce beer brandy rum or any other fermented or spirituous liquors shall be sold bartered or exchanged in any quantity whatever in any house or on any premises in or on which a retail shop is kept and if the keeper of any such retail shop or any dealer in wares provisions or any other thing by retail (not being licensed under this Act) shall sell barter or exchange any such liquors as aforesaid in any quantity whatever in his or her shop or premises or shall supply or deliver any such liquors to any person coming to his or her house warehouse shop or premises to buy any such wares or other things under the pretence of such last-mentioned person being a customer or under any other pretence or if any unlicensed person shall sell or deliver any such liquors in a quantity exceeding two gallons with an understanding that part thereof shall be returned so that after such

Persons selling two gallons of liquors with an understanding that part shall be returned.

part

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part shall have been returned the quantity actually sold or delivered shall be under two gallons then and in each of such cases such retail shopkeeper dealer or person shall upon being convicted of any such offence before two or more Justices be liable to the same penalty as if he or she had been convicted of selling any such liquors as aforesaid by retail without a license contrary to the provisions of this Act.

31. And be it further enacted That it shall and may be lawful for any Justice of the Peace Constable or other Peace Officer to seize and take away or to destroy or cause to be seized taken away or destroyed all such spirituous or other liquors as aforesaid as shall be hawked about or exposed to sale in any street footpath road or any other place whatever or in any booth tent stall or shed or in any boat or vessel by any person not licensed to sell the same in such place and the vessels containing the same and all vessels and utensils used for drinking or measuring the same and any cart dray or other carriage and any horse or horses or other animal or animals employed in drawing or carrying the same as well as any boat or vessel used in the conveyance of such liquors as aforesaid and it shall be lawful for any one or more Justice or Justices of the Peace on his or their own view or on confession of the party or by proof of such offence by the oath of one or more credible witness or witnesses to convict any person so offending of selling spirits without a license and to adjudge him her or them liable to all the penalties imposed by this Act for such offence and to cause such liquors vessels and utensils containing the same and any cart dray or other carriage horse or horses or other animal or animals and any boat or vessel used in conveying the same to be sold and the proceeds thereof after deducting the expenses of sale shall be paid one moiety to the use of the King and the other moiety to the person or persons who may in any such case first seize inform or prosecute.

Liquors hawked about to be seized and condemned.

32. And be it further enacted That upon information on oath being made before any Justice of the Peace by any Constable or credible person that he or she doth verily suspect and believe that any such liquor or liquors as aforesaid is or are habitually sold or retailed in any particular unlicensed house or other unlicensed place and such Constable or other person shall in such information set forth and shew reasonable grounds for such belief and suspicion then and in such case it shall be lawful for such Justice in his discretion to grant his warrant to any Constable to enter and search any such house or other place either by day or by night and such Constable may break open the doors if not opened within a reasonable time after demand and seize all such fermented or spirituous liquors as aforesaid as he shall then and there find and the vessel or vessels in which such liquors shall be contained and shall and may detain the same until the owner thereof shall appear before two or more Justices to claim such liquors and shall satisfy the said Justices how and for what purpose he became possessed of the same and if it shall appear to the said Justices after due enquiry and examination that such liquors were in the said house or other place for the purpose of being illegally sold or disposed of by retail then such Justices shall adjudge the said liquors and vessel or vessels to be condemned and forfeited and the same shall and may be sold and the proceeds thereof after payment of such costs as may be assessed and awarded by such Justices shall be applied and distributed in equal moieties to the use of His Majesty and to or amongst the party or parties so informing but if otherwise then such liquors and vessel or vessels shall be forthwith restored to the proper owner.

If it be suspected that liquors are retailed in any unlicensed house they may be seized and if after examination it shall so appear they shall be forfeited.

33. And be it further enacted That if any felon whether his or her sentence be partially remitted or not shall be convicted of selling or retailing any such liquors as aforesaid it shall be lawful for the

Penalties for felons selling liquors.

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Justice or Justices before whom such felon shall be so convicted to sentence such felon to be transported to a penal settlement there to be kept to hard labor for any term not less than three years nor more than seven years or if such felon should be a female then at the discretion of the said Justice or Justices to be confined in the third or penitentiary class of the Female Factory for any term not less than six months nor more than one year.

What shall be deemed evidence of selling without a license.

34. And be it further enacted That it shall be lawful for any two or more Justices to determine the fact of what is selling or retailing without a license in any house or premises according to the circumstances of the case without direct evidence of money or other value having been given for the spirits or other liquors sold or delivered and without any direct evidence as to the person or persons by whom any such spirits or other liquors may have been actually sold or delivered the occupier or ostensible occupier of the house or premises being and he or she is hereby declared to be entirely responsible for all offences committed in or on his or her house or premises contrary to the provisions of this Act.

In proceedings the proof of being licensed to lie with the party charged.

35. And be it further enacted That in all proceedings whatsoever against any person for retailing or permitting or suffering to be retailed any such liquors without a license such person shall for all purposes connected with those proceedings be deemed and taken to be unlicensed unless he or she shall at the hearing of the case produce his or her license before and exhibit the same to the sitting Justices or shall then and there produce other satisfactory proof of his or her being a licensed person.

Disorderly houses may be searched for six months after conviction.

36. And be it further enacted That if any person be convicted of keeping a disorderly house or of unlawfully retailing any such liquors as aforesaid the house and premises of such person and the house lodging shop or warehouse where such offence shall have been committed and any court or yard connected therewith if occupied by the party or parties so convicted shall be liable to be searched at any time of the day or night by any Constable or Constables or other Peace Officer or Officers with or without a warrant for six months next after such conviction and all such liquors as aforesaid as shall at any time within the said six months be found in any such house lodging shop court yard or premises shall and may be seized and forthwith removed and disposed of in the manner hereinbefore directed for the disposal of such liquors seized in an unlicensed house.

Persons to whom liquors are retailed by unlicensed persons to be fined.

37. And for the more effectual discouragement of tippling and drinking in unlicensed houses be it further enacted That every person to whom after the passing of this Act any such liquor shall be sold or retailed in a less quantity than two gallons by any unlicensed person shall forfeit and pay a penalty of not less than Five Pounds nor more than Twenty-five Pounds to be recovered in a summary way before any two or more Justices of the Peace unless such person shall inform against such unlicensed person or voluntarily become a witness against him or her in respect of such act of selling and retailing.

Penalty for witnesses not attending when summoned or refusing to give evidence.

38. And be it further enacted That if any person or persons shall be summoned as a witness or witnesses to give evidence before any such Justice or Justices of the Peace touching any of the matters aforesaid either on the part of the prosecution or of the person or persons accused and shall neglect or refuse to appear at the time and place to be for that purpose appointed without a reasonable excuse for such his her or their neglect or refusal to be allowed of by such Justice or Justices of the Peace or appearing shall refuse to be examined on oath and give evidence before the Justice or Justices before whom such prosecution shall be depending that then every such person shall forfeit for every such offence a sum not less than Five Pounds nor more than

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Thirty Pounds to be recovered in a summary way before any two Justices of the Peace.

39. And be it further enacted That every conviction shall by the Justices before whom the same shall have been had be returnable to the next Court of Quarter Sessions to be holden nearest to the place in which such conviction shall take place and the record of such conviction shall unless the same be afterwards quashed on appeal be received as evidence of such conviction against the party thereby convicted in any prosecution to be instituted against him or her for any offence under this Act and the Clerk or Acting Clerk of the Peace or his deputy to whom such conviction shall be returned shall on such return (if the same relate to a licensed publican) cause to be made a memorandum of such conviction in a register which he is hereby directed to keep of the names and places of abode of the several persons licensed and shall in every such memorandum state whether such conviction be the first second third or other subsequent conviction of the offence.

Convictions returnable to the Quarter Sessions and to be registered by the Clerk of the Peace.

40. And be it further enacted That if any Constable or other Peace Officer shall refuse or neglect to execute any part of the duty imposed upon Constables or Peace Officers by this Act or to make an immediate report to the Superintendent of Police or other Justice of the Peace after he shall have received information or shall have otherwise obtained a knowledge of any proceedings in violation of any of the provisions herein contained such Constable or other Peace Officer upon conviction before one or more Justice or Justices of the Peace of any such refusal or neglect shall be subject and liable to a fine not exceeding Fifty Pounds or to be imprisoned for any term not exceeding two years for every such offence.

Penalties for Constables neglecting duty.

41. And be it further enacted That all proceedings in respect to offences committed against the provisions of this Act which are hereby directed to be had before any one or more Justice or Justices of the Peace or any Court of Quarter Sessions shall be heard and determined in a summary way and upon information exhibited or complaint made to them such Justice or Justices or Court respectively shall summon the party accused and also the witnesses on either side and upon appearance or in default of not appearing shall proceed to hear the matter and examine the witnesses on oath and give judgment therein and upon proof of the offence either by confession or by the oath or oaths of one or more credible witness or witnesses may convict the party accused and if he or she being then present shall not at the time or if absent within three days after notice either personally served upon him or her or left for him or her at the place where the offence was committed pay the fines and penalties which shall have been imposed under the authority of this Act together with the costs and expenses which are to be ascertained and assessed by such Justice or Justices or Court respectively the same shall be levied by distress and sale of the goods and chattels of such offender wherever they may be found and for this purpose if necessary any two Justices may grant a warrant to authorize the breaking open of the door or doors of the party so convicted Provided always that one moiety of all fines and penalties so levied shall go to the use of His Majesty and the other moiety thereof shall go to the party or parties informing and suing for the same.

Offences to be determined summarily.

Offenders and witnesses to be summoned.

How penalties shall be levied and applied.

42. And be it further enacted That if it should appear to the Justices who shall have so convicted any offender or offenders as aforesaid that the goods and chattels of such offender or offenders are not sufficient whereon to levy the distress awarded together with the costs of such distress and sale it shall be lawful for such Justices or any two or more of them to issue their warrant for the apprehension of

If offender's goods be insufficient for the distress he may be imprisoned.

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of such offender or offenders and to commit him her or them to gaol for any term not exceeding six months nor less than four months Provided nevertheless that if any such offender shall pay or cause to be paid into the hands of the Sheriff or Justices the amount of the forfeiture or penalty imposed and the costs together with all the costs of the apprehension of him or her and of his or her conveyance to gaol at any time previous to the expiration of the time for which such offender shall have been so committed such offender shall be forthwith discharged.

Proviso.
Charges for selling liquors to servants may be dismissed with costs.

43. And be it further enacted That it shall be lawful for the Justices to dismiss with costs any charge brought against a master or employer for retailing any such liquors as aforesaid to his or her own assigned or free servants or laborers out of the towns aforesaid provided the liquor retailed be proved not to have exceeded in amount one-third of his or her wages or earnings as hereinbefore limited.

Limitation of convictions.

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

Appeal may be made to the next Court of Quarter Sessions.

45. And be it further enacted That any person who shall think himself or herself aggrieved by any act of any Justice or Justices done under or concerning the execution of this Law or Ordinance may appeal against such act to the next Court of Quarter Sessions to be holden in and for the district nearest to the place where the cause of such complaint shall have arisen unless such Sessions shall be holden within twelve days next after such act shall have been done and in that case to the next subsequent Court of Quarter Sessions to be holden as aforesaid but not afterwards provided that such person shall give to such Justice or Justices notice in writing of his or her intention to appeal and of the matter or act to be appealed against within five days next after such act shall have been done and seven days at the least before such Court of Quarter Sessions shall be holden and shall within such five days enter into a recognizance with two sufficient sureties before a Justice of the said district conditioned to appear at the said Court and to try such appeal and to abide the judgment of the Court thereupon and to pay such costs as shall be by the Court awarded and upon such notice being given and such recognizance be entered into the Justice before whom the same shall be entered into shall liberate such person if in custody for any offence in reference to which the act intended to be appealed against shall have been done and the Court of Quarter Sessions shall hear and determine in a summary way the matter of such appeal and shall make such order thereon with or without costs as to the said Court shall seem meet and in case the act appealed against shall be the refusal to grant or to transfer any license and the judgment under which such act was done shall be reversed it shall be lawful for the said Court to grant or to transfer such license in the same manner as if such license had been granted at the General Annual Licensing Meeting or had been transferred at a Special Sessions and the judgment of the said Court of Quarter Sessions shall be final and conclusive to all intents and purposes and in case of the dismissal of such appeal or the affirmance of the judgment on which such act appealed against was done the said Court shall adjudge and order the said judgment to be carried into execution and the costs awarded to be paid and shall if necessary issue process for enforcing such order Provided always That the costs to be awarded on any one appeal shall not exceed in the whole the sum of Five Pounds and provided also that no Justice shall act in the hearing or determination of any appeal from any act done by him in or concerning the execution of this Act.

If judgment be reversed the Court may grant or transfer licenses.

Limitation of costs Justices appealed against not to act.

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46. And be it further enacted That where any person shall have given notice of his or her intention to appeal as aforesaid and shall have entered into recognizance as hereinbefore directed it shall be lawful for the Justice before whom such recognizance shall be entered into to summon any person whose evidence shall appear to him to be material and to require such person to be bound in recognizance to appear at the said Court of Quarter Sessions and to give evidence in such appeal and in case any such person as aforesaid shall neglect or refuse to obey such summons or shall refuse to enter into such recognizance it shall be lawful for such Justice as aforesaid to issue his warrant to apprehend such person so neglecting or refusing and to bring him before such Justice and if such person shall continue to refuse to enter into such recognizance to commit him to gaol there to remain until he shall enter into such recognizance or shall be otherwise discharged by due course of law.

Witnesses to be summoned to give evidence in appeal.

47. And be it further enacted That in every case where notice of appeal against the judgment of any Justice or Justices in or concerning the execution of this Act shall have been given and such appeal shall have been dismissed or the judgment so appealed against shall have been affirmed or such appeal shall have been abandoned it shall be lawful for the Court to whom such appeal shall have been made or intended to be made and such Court is hereby required to adjudge and order that the party so having appealed or giving notice of his intention to appeal shall pay to the Justice or Justices to whom such notice shall have been given such sum by way of costs as shall in the opinion of such Court be reasonable and if such party shall refuse or neglect forthwith to pay such sum it shall be lawful for the said Court to adjudge and order that the party so refusing or neglecting shall be committed to gaol there to remain until such sum be paid and that in every case in which the judgment so appealed against shall be reversed it shall be lawful for such Court if they should see fit to order that the Justice or Justices whose judgment shall have been so reversed shall be indemnified from all costs and charges to which he or they shall have been put by such appeal and to recommend to the said Governor or Acting Governor who is hereby authorized upon such recommendation to cause a sufficient sum for this purpose to be paid out of the funds which shall arise from the licenses required to be taken out under this Act.

Appellant to give security for costs.

If judgment be reversed the Court may order the Justices to be indemnified.

48. And be it further enacted That all informations and convictions under this Act shall be according to the forms contained in the Schedule hereunto annexed marked E and F and that no conviction under this Act nor any adjudication made on appeal therefrom shall be quashed for want of form or be removed by writ of *certiorari* or otherwise into the Supreme Court and no warrant of commitment shall be held void by reason of any defect therein provided it be therein alleged that the party has been convicted and that there be a good and valid conviction to sustain the same.

Forms of information and conviction.

Judgments not void from informality nor removable by *certiorari* into the Supreme Court.

49. And be it further enacted That no action at law shall lie against any Justice of the Peace Constable or other Peace Officer for or on account of any matter or thing whatsoever done or to be done or commanded by him in the execution of his duty or office under this Act or any of the said recited Acts against any party or parties offending or suspected to be offending against the provisions of this Act or of any of the said recited Acts unless there be direct proof of corruption or malice and unless such action be commenced within three calendar months after the cause of action or complaint shall have arisen and if any person shall be sued for any matter or thing which he has so done or shall have done in the execution of this Act or of

No action to lie against any Justice or Constable without proof of malice and unless it be commenced in 3 months.

any

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any of the said recited Acts he may plead the general issue and give the special matter in evidence.

Application of sums received under this Act.

50. And be it further enacted That all sums of money collected levied or received under and by virtue of this Act after deducting such part of the forfeitures fines and penalties as are ordered to be paid to the persons informing and suing for the same shall be paid into the hands of the Colonial Treasurer and be appropriated to the use of His Majesty towards the defraying the expenses of the Police of the Colony.

Continuance of Act.

51. And be it further enacted That this Act shall continue and be in force until the thirtieth day of June in the year of our Lord one thousand eight hundred and thirty-three and no longer.

SCHEDULES TO WHICH THIS ACT REFERS.

A.

Form of application for a License to keep an Inn or Public-house with certificate of character.

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

I *A. B.* (*state the trade or occupation*) now residing at _____ in the
(*parish town or district*) of _____ do hereby give notice that it is my intention to apply at the next General Annual Licensing Meeting to be holden for this district for a license to sell and retail ale beer and other malt liquors or wine cider ginger beer spruce beer brandy rum and any other fermented or spirituous liquors in the house and premises thereunto belonging situated at _____ (*here describe the house proposed to be licensed specifying the situation of it the number of sitting rooms and bed rooms contained in it exclusive of those required for the family the person of whom rented the present occupier whether now licensed and if so under what sign*) and which I intend to keep as an Inn or Public-house.

I am a free man and am (*married having a wife who is free or a prisoner or holding a ticket of leave and children or unmarried as the case may be*) and I have held a license (*if before licensed state how many years*).

I further give notice that I propose

C. D. of

and

E. F. of

as my sureties to enter with me into the required recognizance.

Given under my hand this _____ day of
one thousand eight hundred and _____

We the undersigned householders residing within the town (*or district*) of _____ do hereby certify that the above *A. B.* of _____ is a person of good fame and reputation and fit and proper to be licensed to keep an Inn or Public-house.

Witness our hands this _____ day of _____ 183 .

- 1.
- 2.
- 3.

B.

Form of Certificate by Justices to authorize the granting of a License.

New South Wales.

At the General Annual Licensing Meeting (*or an adjournment of the General Annual Licensing Meeting or a Special General Sessions*) of His Majesty's Justices of the Peace acting in and for the district of _____ holden at _____ on the _____ day of _____ in the year one thousand eight hundred and _____ for the purpose of considering applications made to us for licenses to keep Public-houses in pursuance of an Act of the Governor and Council intituled "*An Act to amend and consolidate 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*" We being _____ of His Majesty's said Justices and being the majority of those assembled at the said Sessions do in virtue of the power

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power vested in us hereby authorize the Collector of Internal Revenue to issue a license to A. B. of _____ to keep an Inn or Public-house at the sign of _____ situated in _____ for the year commencing on the first day of July next and we do hereby certify that we are satisfied that the said A. B. is a person of good fame and reputation and is fit and proper to keep an Inn or Public-house and also that we have taken from the said A. B. and his sureties C. D. of _____ and E. F. of _____ a recognizance in the sum of fifty pounds each according to the form prescribed by the said Act of the Governor and Council.

Given under our hands and seals on the _____ day of _____ and at the place first above written.

C.

Form of Recognizance to be entered into by a person licensed to keep a Public-house with two sureties.

New South Wales to wit.

BE it remembered that on the _____ day of _____ 183 A. B. of _____ C. D. of _____ and E. F. of _____ came personally before us G. H. I. K. and L. M. Esquires Justices of the Peace acting in and for the district of _____ in the said Colony and acknowledged themselves to owe to our Lord the King to wit the said A. B. the sum of fifty pounds the said C. D. the sum of fifty pounds and the said E. F. 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 performance of any of the conditions hereunder written.

The conditions of this recognizance are such that whereas the said A. B. is to be licensed to keep a common inn ale house or victualling house and to sell ale beer and other malt liquors and wine cider ginger beer spruce beer brandy rum and other fermented or spirituous liquors in the house wherein he (*or she*) now dwells (*or is about to dwell*) being the sign of _____ situated at _____ in the district (*or township*) of _____ for twelve months commencing on the first day of July one thousand eight hundred and _____ if the said A. B. do keep the law in selling ale beer and other such liquors as aforesaid in his or her said house or premises and do not permit any person to become drunk or to play at cards dice or any other game of chance in his or her said house or premises or to commit any disorder therein or to remain in or upon the same tipping 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 (*or her*) house or premises nor refuse to admit any Magistrate or Constable into any part of the said house or premises at any hour nor suffer any convict other than his (*or her*) assigned servant or servants 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 but do maintain good order and rule therein 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

G. H. (L.S.)
I. K. (L.S.)
L. M. (L.S.)

D.

Form of License.

New South Wales to wit.

WHEREAS A. B. of _____ hath deposited in this office a certificate from the major part of the Justices of the Peace assembled at the General Annual Licensing Meeting holden at _____ on the _____ day of _____ in the year one thousand eight hundred and _____ authorizing a license to be issued to the said A. B. to keep an Inn or Public-house at the sign of _____ situated at _____ and stating that the said Justices have taken from the said A. B. and two sureties a recognizance in the sum of fifty pounds each as required by law And whereas the said A. B. hath paid into my office the sum of twenty-five pounds sterling as the duty on such license Now I the Collector of Internal Revenue of the Colony of New South Wales in virtue of the powers vested in me by an Act of the Governor and Council passed in the eleventh year of His Majesty's reign intituled "*An Act to amend and consolidate 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*" do hereby license authorize and empower the said A. B. to keep a common inn alehouse or victualling house and to sell and retail in the house in which he (*or she*) now dwelleth (*or is about to dwell*)

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dwell) being the sign of situated at and in the premises thereunto belonging but not elsewhere ale beer or other malt liquors or wine cider ginger beer spruce beer brandy rum or other fermented or spirituous liquors and this license shall continue in force from the first day of July next until the thirtieth day of June then next ensuing both days inclusive and no longer and also provided it be not forfeited in the mean time according to the provisions of the aforesaid Act of the Governor and Council.

Given under my hand and seal at Sydney this day
of one thousand eight hundred and
N. O. (L.S.)
Collector of Internal Revenue.

Registered
P. Q.

E.

Form of Information.

New South Wales to wit.

BE it remembered that on the day of in the year of our Lord 183 at in the County of in the Colony of New South Wales of aforesaid Constable personally came before us and Esquires two of His Majesty's Justices of the Peace for the said Colony duly authorized in that behalf and gave us the said Justices to understand and be informed that after the day of in the year of our Lord one thousand eight hundred and and within three months next before the day of exhibiting this information to wit on the day of 183 one did sell and retail in less quantity than two gallons to wit to and in the house of the said situate standing and being in a certain street called in aforesaid without being licensed thereto according to law whereby and by force of the Act of Council in such case made and provided the said has forfeited for said offence the sum of sterling and also the costs and expenses attending the convicting the said of the said offence the said penalty or sum of to be appropriated and applied in the manner directed in the Act of the Governor and Council in such case made and provided And the said prayeth that the said may be convicted of the said offence and that the said penalty or sum of may be appropriated in the manner directed by the said Act of the Governor and Council and that the said may be summoned to answer the said information and make defence thereto and that and material witnesses to be examined concerning the premises be also summoned to testify therein.

Before us this day of 183 .

F.

Form of Judgment or Conviction.

New South Wales to wit.

BE it remembered that on the day of in the year one thousand eight hundred and A. B. of was duly convicted before us and (two of His Majesty's Justices of the Peace for the said Colony) upon an information in that behalf exhibited before us on the day of now last past for that on the day of one thousand eight hundred and (state the fact or offence in respect of which the Judgment or Conviction is had) and we do in pursuance of the Act of the Governor and Council passed in the eleventh year of His Majesty's reign intituled "An Act to amend and consolidate 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" award order and adjudge that the said do for such offence forfeit and pay the sum of pounds to go and be distributed as in and by the said Act is provided besides the costs and charges of and attending this conviction which said costs and charges we the said Justices do hereby ascertain and assess at the sum of

Given under our hands and seals the day and year first above written.