

No. VIII.

An Act to alter and amend an Act of the Governor with the advice of the Legislative Council passed in the Third Year of the Reign of His present Majesty intituled "An Act for licensing Public-houses and for regulating the Retail of Fermented and Spirituous Liquors in New South Wales." [9th October, 1835.]

WHEREAS an Act was passed by the Governor of New South Wales with the advice of the Legislative Council in the third year of the reign of His present Majesty intituled "An Act for licensing Public-houses and for regulating the Retail of Fermented and Spirituous Liquors in New South Wales" And whereas it is expedient to repeal certain parts of the said recited Act and to alter and amend the said Act in the several particulars hereinafter mentioned Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That from and after the passing of this Act so much of the said recited Act as relates to

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14th c.

to persons supplying his her or their own assigned servants or laborers with fermented or spirituous liquors and so much of the said recited Act as relates to the granting of licenses in cases where three qualified Justices of any town or district shall not be present at twelve of the clock of the day at the Court-house or other place appointed for the meeting of such Justices and so much of the said recited Act as relates to the disqualification of persons to hold licenses or to be sureties under the said Act and so much of the said Act as relates to the regulation as to the entertainment of convicts and so much of the said recited Act as relates to the recognizances to be executed by parties applying for licenses for the sale of fermented or spirituous liquors (except in so far as any act matter or thing already done or commenced to be done under and by virtue of the same) shall be and the said recited parts of the said Act are hereby repealed.

19th c.

29th c.

6th c. of the Act in
Council 3 Wm. IV.
No. 8 repealed.

In districts where
three qualified
Justices cannot be
got one qualified
Justice may grant
licenses.

Recognizance as in
annexed Schedule to
be executed in lieu
of recognizance in
former Act.

Persons disqualified
to hold licenses or
to be sureties.

2. And be it hereby further enacted That whenever at any of the meetings to be holden for any town or district as in the said recited Act is directed three Justices who are qualified to proceed under the said recited Act or this present Act shall not be present by twelve of the clock of that day at the Court-house or other place appointed for that meeting it shall be lawful for any one or two Justice or Justices of such town or district being present to adjourn the said meeting for one week and to give notice of such adjournment not only to all the other Justices of the said town or district but also to two qualified Justices in any adjoining town or district and every such Justice to whom such notice shall be given is hereby required under a penalty of twenty pounds to attend such adjourned meeting for the purpose of granting licenses under the said Act and if at such adjourned meeting there shall not be present three qualified Justices it shall be lawful for any one or two qualified Justice or Justices being present to grant license or licenses under this or the before-recited Act Provided always That nothing herein contained shall be construed as imposing the above penalty excepting in default of a sufficient number of Magistrates being present to perform the acts in and by the said recited Act required nor shall any such penalty be imposed if such default of attendance be occasioned by the illness of a Justice summoned to attend as aforesaid such prevention by illness being certified to the Justices of the district by the affidavit of a medical attendant of the party or by the affidavit of the party himself.

3. And be it further enacted That every person applying for a license under the said recited Act or under this present Act shall before the Justices deliver to him or her a certificate to authorize the issue of such license enter into a recognizance in the form and with the conditions contained in the Schedule hereunto annexed marked with the letter C with two sureties in the sum of fifty pounds each in lieu and place of the recognizances mentioned in said recited Act and that 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 filed in his office Provided however that nothing herein mentioned shall in any manner affect or render void any recognizances heretofore entered into by any person or persons under and pursuant to the provisions of the said recited Act or affect or render void any proceedings already had or which may hereafter be had thereon for the recovery of the amount thereof in consequence of the breach of any of the conditions therein mentioned.

4. And be it further enacted That after the passing of this Act no license shall be granted or transferred under the provisions of this Act or of the said recited Act to any person holding office or employment

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ment under the Government or any constable or his deputy or bailiff or any licensed auctioneer or any person or the wife of any person serving under a sentence for any criminal offence whether such sentence be partially remitted or not or any person who shall have obtained a conditional pardon from the Governor of the said Colony unless the approval of such pardon by His Majesty shall be published in the "*New South Wales Government Gazette*" nor shall any license be granted for any premises of which a constable is the owner landlord or proprietor or wherein such constable has any partnership or share.

5. And be it further enacted That it shall not be lawful within the Town of Sydney to sell or dispose of any spirituous liquors in that part of a licensed house or adjoining to such licensed house called a Tap and that any person who shall sell or dispose of spirituous liquors in that part of a licensed house or adjoining thereto called a tap shall be subject and liable to the fines and penalties imposed and directed by the said recited Act upon persons selling fermented and spirituous liquors without a license to be recovered and levied as therein is directed.

6. And be it further enacted That from and after the first day of July next no licensed public-house within the Town of Sydney shall have any ingress or egress except in the street or streets named in the license for such house and every such license shall become null and void in case any other passage or entrance than the entrance named in such license shall be used permitted or allowed to such house.

7. And be it further enacted That every house to which a license shall be granted shall be provided with a place of accommodation on or near the premises for the use of the customers thereof in order to prevent nuisances or offences to decency.

8. And be it further enacted That licenses as aforesaid for the sale of fermented or spirituous liquors shall not be granted to or renewed for any house whether previously licensed or not which shall not contain the number of rooms ready and fit for the public and such other accommodation as by the said recited Act and this present Act are specified and that any license granted to any house not sufficiently provided with the number of rooms and accommodation aforesaid for the public use shall be null and void and the owner or owners thereof selling or disposing of fermented or spirituous liquors therein shall be subject and liable to the fines and penalties in and by the said recited Act mentioned and to which persons are subject and liable for selling or disposing of fermented or spirituous liquors without a license to be recovered and levied as therein is directed.

9. And be it further enacted That any keeper of a licensed house as aforesaid who shall wilfully and knowingly admit or receive any convict into his or her house or any other place held or occupied therewith except in the presence or by the written direction of the master mistress or overseer of such convict shall forfeit and pay the sum of five pounds Provided that nothing herein contained shall be construed to extend and apply to any convict holding a ticket-of-leave or other partial or temporary remission of sentence.

10. And be it further enacted That any keeper of a licensed house who shall sell or dispose of any liquors as aforesaid to any convict or who shall deliver any such liquors to any convict except with the permission or in the presence of the master mistress or overseer of such convict shall for the first offence forfeit and pay the sum of five pounds for the second offence the sum of ten pounds and for the third and every other offence the sum of twenty pounds to be recovered before any one or more Justice or Justices of the Peace in manner as in and by the said recited Act is directed unless it shall be made to appear to the satisfaction of such Justice or Justices that

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that the publican had good and sufficient reason to believe that the person to whom any such liquors as aforesaid were sold and disposed of or delivered was free Provided always That nothing herein contained shall be construed to extend or apply to any convict holding a ticket-of-leave or other partial or temporary remission of sentence.

Penalty for selling spirituous liquors to convicts in any quantity without permission of master.

11. And whereas the sale of spirituous liquors to convicts has been attended with serious injury to the public and has led to the commission of many crimes Be it therefore enacted That it shall not be lawful for any person whatsoever under any pretext whatever to sell or dispose of or to deliver any spirituous liquors in any quantity whatever to any convict without the written order or in the presence of the master mistress or overseer of such convict and if any person shall sell or dispose of or deliver any spirituous liquors to any convict without such written order as aforesaid every such person shall for the first offence forfeit and pay the sum of five pounds for the second offence the sum of ten pounds and for the third and every other offence the sum of twenty pounds to be recovered before any one or more Justice or Justices of the Peace in manner as in and by the said recited Act is directed unless it shall be made to appear to the satisfaction of such Justice or Justices that the person who so sold or delivered the said liquor to such convict without the written order or in the presence of the master mistress or overseer as aforesaid had good and sufficient reason to believe that such convict was a free person provided always that nothing herein contained shall be construed to extend to apply to any convict holding a ticket-of-leave or other partial or temporary remission of sentence.

Masters permitted under certain restrictions to supply their free servants with liquors.

12. And whereas it will be convenient that the settlers in the country parts of the said Colony should be permitted to sell and dispose of such liquors as aforesaid to the free mechanics tradesmen servants and laborers employed by them respectively Be it therefore 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 in any part of the Colony except in the Towns of Sydney Parramatta Liverpool Windsor Newcastle Bathurst and Maitland to his or her own free servants or laborers or free mechanics or tradesmen employed in his or her service provided the quantity of spirituous liquor so retailed be proved not to have exceeded one-third of a pint of proof spirit to any one person in any one day and provided moreover that nothing herein contained shall be considered in any manner to authorize or warrant a master or mistress to sell or dispose of any liquors as aforesaid to his or her own assigned servants.

Evidence sufficient to convict the owners and persons found drinking in disorderly houses.

13. And whereas difficulties frequently arise as to the conviction of persons charged with unlawfully retailing any such liquors as aforesaid in disorderly houses Be it therefore enacted That in any proceedings before any one or more Justice or Justices of the Peace under the said recited Act against any person or persons charged with unlawfully retailing any such liquors as aforesaid in a reputed disorderly house the proof of the reputation of such house and of any person or persons (not being the owners thereof) being found drinking therein shall be deemed full and sufficient evidence to warrant such Justice or Justices in convicting the person or persons so found drinking in such house and the proprietor or proprietors thereof.

No appeal to Quarter Sessions against decision of Magistrates refusing to grant licenses.

14. And be it further enacted That from and after the passing of this Act no appeal shall at any time lie to or be entertained by the Court of Quarter Sessions from any decision of any Justices of the Peace wherein the said Justices shall refuse to grant or to renew a license to any party or parties applying for the same.

Sydney Streets Alignment.

SCHEDULE REFERRED TO.

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Form of a Recognition.

NEW SOUTH WALES }
To wit.

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 appurtenances thereunto belonging and do not permit any person to become drunk or supply or permit such liquor as aforesaid to be supplied or given to any person in a state of intoxication or permit such person (*not being an inmate thereof*) to remain in his (or her) house or premises and do not permit any person 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 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 (or her) house or premises nor refuse to admit a Magistrate or Constable into any part of the said house or premises at any hour nor admit or receive any convict other than his (or her) assigned servant or servants into his (or her) house or any other place held or occupied therewith or deliver any liquors as aforesaid to any convict except with the written order or in the presence of the master mistress or overseer of such convict and 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 above written before us

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