

No. XIII.

LICENSED PUBLICANS. An Act to amend an Act intituled “ *An Act for consolidating and amending the Laws relating to the licensing of Public-houses and for further regulating the sale and consumption of fermented and spirituous Liquors in New South Wales.* ” [25th September, 1839.]

Preamble. **W**HEREAS by an Act or Ordinance of the Governor and Council of New South Wales passed in the second year of the reign of Her present Majesty intituled “ *An Act for consolidating and amending the Laws relating to the licensing of Public-houses and for further regulating the sale and consumption of fermented and spirituous Liquors in New South Wales* ” it is enacted that if any person shall sell or dispose of in any house or place within the said Colony any fermented or spirituous liquors or any mixed liquors part of which is fermented or spirituous without having first obtained a license such person shall be liable to certain penalties therein mentioned And whereas there are certain exceptions in the said recited Act among others that the aforesaid enactment shall not apply to any person who within certain towns therein specified and such other towns in the said Colony or its Dependencies as shall by the Governor or Acting Governor for the time being by a notice to be published in the *New South Wales Government Gazette* be from time to time declared to come under the operation of said exceptions shall dispose of any quantity not less than two gallons of any fermented liquors no part of which is spirituous nor to any person or persons who may give wine or beer made from grapes or grain of his her or their own growth in part payment of wages to laborers on lands owned or rented by him her or them And whereas it is deemed expedient to authorize the Governor to extend the operation of said first recited case of exception to such other places (not being towns) as the Governor shall from time to time declare by notice in the *Government Gazette* And whereas it is deemed expedient to extend the last recited case of exception to beer made from sugar

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sugar by any proprietor or occupier of any lands for the use of his her or their own establishment Be it therefore enacted That from and after the passing of this Act nothing in the said recited Act contained shall be construed to apply to any person or persons who within such other places (not being towns) in the said Colony as the Governor or Acting Governor for the time being by a notice to be published in the *New South Wales Government Gazette* shall from time to time declare to come under the operation of the second section of the said recited Act shall dispose of any quantity not less than two gallons of any fermented liquors no part of which is spirituous nor to any person or persons who shall make or brew beer from sugar for the use of his her or their own establishment and who may give the same in part payment of wages to laborers on lands owned or rented by him her or them any law to the contrary in anywise notwithstanding.

Such places as may be duly notified to come within the exceptions of 2 Victoria No. 18 sect. 2.

2. And whereas it is required by the said recited Act That every person desirous of obtaining any license under the said Act shall on or before the first Tuesday in the month of April in every year deliver to the Clerk or person officiating as Clerk of the Petty Sessions for the district a notice in writing of his or her intention to apply for the same And whereas it is deemed expedient that the names of the said applicants should be publicly known in sufficient time before the Annual Licensing Meeting in order to allow the character of each applicant to be better ascertained Be it enacted That the Clerk of every such Petty Sessions as aforesaid shall be and is hereby required to cause a list of the names of all such applicants together with their places of abode respectively and the description of license for which each such person has applied to be posted up on or before the second Tuesday in the said month of April in some conspicuous place inside and also outside every Police Office at which such Petty Sessions shall be held and the same to be kept so posted up until after the day of the said Annual Licensing Meeting And if such list shall be neglected to be so posted and kept up until after the day for the holding the said Annual Licensing Meeting as aforesaid every such Clerk of Petty Sessions shall for such neglect or default be liable at the discretion of any one or more Justice or Justices of the Peace to a penalty not exceeding ten pounds.

Clerks of Petty Sessions to cause lists of the names &c. of applicants for licenses to be posted up on or before the second Tuesday in the month of April in every year under penalty of not more than ten pounds.

3. And whereas it is also required under a certain penalty that every holder of a Publican's General License or Wine and Beer License shall keep a lamp over his or her door to be kept burning the whole of every night And whereas it may frequently happen that such lamp may be extinguished by boisterous weather or some unforeseen accident and it is expedient in any such case to give the Justice or Justices before whom any such complaint shall be heard a discretionary power of conviction Be it therefore enacted That in any such case as aforesaid it shall and may be lawful for the Justice or Justices before whom any such complaint shall be heard to exercise his or their discretion in the case and that it shall not from and after the passing of this Act be obligatory on such Justice or Justices to convict on bare proof of any such lamp being extinguished Provided however the onus of proof to relieve himself or herself from such penalty shall be thrown upon the person so complained against.

Lamps being extinguished through accident it shall not be obligatory on Magistrates to convict on bare proof of lamp being extinguished.

4. And be it enacted That no conviction shall be had under the said recited Act on any case happening more than three months before the time of laying the complaint.

No conviction to be had on any case happening more than three months before complaint made.