

Licensed Publicans.

No. XIV.

An Act to consolidate and amend the Laws relating to Licensed Publicans. [20th January, 1862.]

WHEREAS it is expedient to amend and consolidate the Laws relating to the sale of Fermented and Spirituous Liquors and the granting of Licenses Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

1. The Acts of Council thirteenth Victoria number twenty-nine and seventeenth Victoria number six are hereby repealed.

2. Every term used in this Act importing the commission of any offence shall include and apply to the wilfully permitting or suffering the commission of a like offence by any other person and shall render the person so wilfully permitting or suffering liable to the like penalties and consequences under this Act as would by any of the provisions hereof attend the actual commission of the like offence. And the following terms in inverted commas whenever used in this Act shall unless the context otherwise indicate bear the meanings set against them respectively—

- | Terms. | Meanings. |
|---------------------------|--|
| “Liquor” | —Any fermented or spirituous liquor or any mixed liquor partly fermented or partly spirituous. |
| “District” | —Any city town or district within the limits of which any Court or Justice have jurisdiction or over which the powers privileges or authorities of any license extends according to the context. |
| “Justices” | —Justices of the Peace. |
| “Clerk of Petty Sessions” | —Such Clerk or any other person duly appointed and authorized to perform his duties during absence or otherwise. |

3. Every person who shall sell in any house or place in the Colony any liquor without a license granted under this Act shall be liable to a penalty for the first such offence of thirty pounds and for every subsequent such offence of fifty pounds together with full costs in every such case and also shall be liable if the convicting Justices think fit to imprisonment for the first such offence for any term not exceeding three months and for every subsequent such offence for any term not exceeding six months with or without hard labor Provided that this shall not apply to any person selling any distilled or spirituous perfume really as perfumery and not for drinking nor to any person who practises as an apothecary chemist or druggist administering or selling any spirits as medicine or for medicinal or chemical purposes nor to any person who being duly registered as a wholesale spirit dealer shall dispose of any quantity of liquor if such quantity do not include less than two gallons of any one and the same description of liquor and is not delivered in quantities less than two gallons at one time nor to any duly registered brewer nor to any wholesale dealer in wine or beer selling and delivering the same in quantities of not less than two gallons, of one and the same kind and at one and the same time nor to any grower or maker of wine cider perry beer or other fermented liquor made from grain or fruit the produce of the Colony selling the same in any quantity not less than two gallons at one time

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Preamble.

Repeal of existing Acts.

Interpretation.

No sale of liquors without License.

Penalties.

Exceptions.

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time or in any less quantity if sold on the premises on which such wines or liquors last aforesaid are made nor to any confectioner or other person selling ginger beer spruce beer or other refreshing drink not being spirituous or fermented nor to any Military Canteen duly established under the regulations of Her Majesty's Service.

Kinds of License.

4. Licenses of the following kinds and designated as follows and no others may be granted under this Act namely Publican's Licenses and Packet Licenses.

Publican's License.

5. Every Publican's License shall be in the form of the Schedule hereto marked A and may be granted to any innkeeper or publican who shall thereby be authorized to sell all or any liquor in any quantity but only in the house or on the premises specified in such license.

Packet License.

6. Every Packet License shall be in the form of the Schedule hereto marked B and may be granted to the master or commander of any steam or other vessel making passages and conveying passengers from any place within the Colony or its dependencies to any other such place And such master or commander shall thereby be authorized during any such actual passage of such vessel to sell any liquor to any passenger then on board Provided that nothing in this Act shall prevent or render penal any allowance of liquor to the crew of any vessel such allowance not being forbidden by any other law in force for the time being.

Authority to use license at races &c.

7. Any two Justices in Petty Sessions may grant an authority in the form of the Schedule hereto marked D to any holder of a Publican's License to exercise for the term therein specified all the privileges granted by his said license at or in any lawful or accustomed race meeting or other lawfully authorized place of public general amusement held within the district for which such license is granted Provided that such race meeting or other place of amusement be not distant more than ten miles from the house shop or place in respect of which such license is granted.

Who disqualified to hold licenses.

8. No license shall be granted or transferred under this Act to any person holding office or employment under the Government nor to any constable or bailiff nor to any licensed auctioneer nor to any person actually serving under a sentence for any criminal offence nor in respect of any premises of or in which any constable or bailiff is the owner landlord or proprietor or has any interest.

Applications for licenses.

9. Every person desiring to obtain any license under this Act shall on or before the last Tuesday in March if the application is to be made at the Annual Licensing Meeting and if at any Monthly Special Sessions for licensing on or before the third Tuesday of the next preceding month deliver to the Clerk of Petty Sessions for the district within which such license is to be exercised a notice in writing of his intention to apply for the same in the form of the respective Schedules hereto marked A 1 or B 1 according to the description of license required such notice including all the particulars purported to be therein respectively contained Provided that as to Packet Licenses every such application if in respect of a vessel plying to or from Port Jackson shall be made to the Justices of Sydney and otherwise to the Justices of or usually resident in any town or place of usual departure or arrival Provided also that if any license be refused by any number of Justices no such license shall be granted by any less number of Justices nor until one month shall have elapsed from the first refusal.

Clerk to post up lists of applicants.

10. The Clerk of every Petty Sessions shall cause a list of the names of all such applicants for a Publican's License together with their places of abode and the descriptions of licenses applied for to be posted on or before the first Tuesday in April in every year if the application is to be made at the Annual Licensing Meeting and if at any Monthly Special

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Special Sessions for licensing on or before the third Tuesday of the next preceding month in some conspicuous place inside and also outside every Court in which such Petty Sessions shall be held and to be kept so posted until after such applications shall be disposed of as hereinafter mentioned.

11. A general meeting to be called the Annual Licensing Meeting of the Justices acting for or usually residing in each district or reputed district in which there shall be a Court of Petty Sessions shall be holden in the Court House or usual place of meeting at noon on the third Tuesday in April in every year for the express purpose of considering all applications for licenses under this Act Provided that whenever there shall be fewer than three such Justices acting for or resident in any district where such meeting shall be held then the number of Justices not fewer than two so acting or resident may constitute such meeting and proceed with the business thereof.

Annual Licensing Meeting.

12. The Justices forming such meeting or any two of them may adjourn the consideration of all or any such applications from the day of such Annual Licensing Meeting to such other day as they shall agree upon and so from time to time but not longer in the whole than one month from the day appointed for such Annual Licensing Meeting.

Power to adjourn.

13. Whenever on the day and at the hour of any such Annual Licensing Meeting or of any adjournment thereof there shall not be two Justices usually acting for or residing in the district present at the Court House or other appointed place any one Justice acting for or resident in such district being present may adjourn or further adjourn such meeting for one week notwithstanding the limitation last aforesaid and may cause notice of such adjournment to be given to all the other Justices acting for or resident in such district.

In certain cases one Justice may act alone.

14. Every such original or adjourned Annual Licensing Meeting shall be held in open Court and the consideration of every application and of every objection thereto shall be deemed to be a judicial proceeding and any person may oppose any such application upon giving four days notice in writing to the applicant And the Justices may and shall hear inquire into and determine all such objections and may examine on oath any witnesses and may grant to every such person as shall be approved of by such Justices or the majority of them a certificate in the form of the Schedule hereto marked C authorizing a license to issue Provided that no such certificate shall be granted until the person so approved of shall have satisfied the Justices that the requisite notice has been given.

Annual Licensing Meeting to be holden in open Court and proceedings judicial.

Certificate Schedule C.

15. The Clerk of Petty Sessions shall cause a notice of such Annual Licensing Meeting to be inserted in the *Gazette* and to be affixed outside the door of the Court in which the same is appointed to be holden at least one month before the holding thereof But no omission or irregularity in any such notice shall affect the authority of any such meeting if in other respects conformable to this Act and every such Clerk shall give notice of the time of holding such original or adjourned meeting to every Justice acting for or usually resident in such district And every such Justice is hereby required to attend such meeting unless prevented by sickness or other unavoidable cause And any such Clerk failing or neglecting to give any such notice shall be liable for each such omission to a penalty not exceeding five pounds.

Notice of Annual Meeting to be gazetted.

16. No Justice who shall himself be a registered brewer or wholesale spirit dealer or be concerned in partnership with a common brewer malster or distiller or retailer of liquors shall act in or be present at any original or adjourned Annual Licensing Meeting or at any Special Session for granting or transferring certificates for licenses

Certain Justices disqualified.

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- under this Act or take part in the discussion or adjudication upon any application for any license or certificate And no Justice shall act upon any of the aforesaid occasions in the case of any house licensed or about to be licensed under this Act of which he shall be the owner or landlord or for the owner or landlord of which he shall be manager or agent or partner in any other trade or calling or in which he shall be in any way directly or indirectly interested And every Justice who being so disqualified shall knowingly or wilfully so act shall for every such offence be liable to a penalty not exceeding one hundred pounds to be recovered by action of debt in the District Court of the district Provided that nothing herein shall disqualify any Justice by reason of the legal estate only in such house being vested in him as trustee for any other person or for any charitable or public use or purpose Provided also that nothing herein shall disqualify any Justice by reason only of his selling any wine made from grapes of his own growing.
- Penalty.**
- Exceptions.**
- List of certificates to be sent to Colonial Treasurer.
- Certificate void unless lodged and fee paid as provided.
- Governor may issue license to defaulters on payment of extra sum.
- Colonial Treasurer may issue Packet License in certain cases.
- Justices may grant certificates subject to payments proportioned to unexpired period of licensing year.
- Monthly Petty Sessions for licensing business.
17. Any Justices by whom any such certificates shall be granted under this Act shall within fourteen days after the granting thereof transmit to the Colonial Treasurer or other officer appointed to issue licenses under this Act a list signed by two Justices at least specifying the names and residences of all the persons to whom such certificates shall have been granted and the nature of the license authorized by each such certificate and specifying further with regard to all Publicans' Licenses the situation and sign or name of each house and the street road or place in which it is situated.
18. Every such certificate shall be void unless the same and the sum required to be paid for the license thereby authorized be lodged in the office of the Colonial Treasurer or other appointed officer on or before the thirtieth day of June next after such Annual Licensing Meeting when the said license was granted or within thirty days after the same was granted if granted at a Special Petty Sessions And the Colonial Treasurer or other appointed officer may and shall forthwith after receipt of every such certificate issue and register in his office a license in the form hereby prescribed according to the tenor of each such certificate upon payment of the sum of thirty pounds for every Publican's License and of five pounds for every Packet License.
19. Notwithstanding default in lodging any such certificate or in payment of the sum so required within due time the Governor may if he shall see fit upon a statement of the circumstances direct the issue of the license for which such certificate shall have been granted on payment of any sum not exceeding ten pounds in addition to the sum payable as hereinbefore mentioned.
20. The Colonial Treasurer or other appointed officer upon a certificate in the proper form signed by any two Justices together with the sum required to be paid for such license being lodged in his office by any master or commander as aforesaid may authorize the issue of a Packet License to him at any period of the year and such license shall continue in force until the first day of July next ensuing the date thereof and thence from year to year upon payment of the yearly fee of five pounds.
21. The majority of the Justices assembled at any Special Petty Sessions on any day hereinafter mentioned for licensing business may grant to any person approved by them a certificate authorizing the issue to him of a license and the Colonial Treasurer or other appointed officer may and shall upon receipt of such certificate and of a proportionate fee issue and register in his office a license accordingly to continue in force until the first of July then next.
22. In each district in which such Annual Licensing Meetings are usually held Special Petty Sessions of Justices shall be held on the second Tuesday in each of the months of January February March May

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May June July August September October November and December in each and every year for licensing business.

23. The majority of Justices at any Petty Sessions may transfer any license from its holder to his appointee if deemed eligible and approved by such Justices by an indorsement upon the license in the form of the Schedule hereto marked E upon such appointee producing the like certificate as is required by this Act from the original applicant Provided nevertheless that written notice of such intended transfer be first given by the party transferring to the Clerk of Petty Sessions who shall notify the same to the principal police officer of the district and if within fourteen days after such notice is given no objection is filed with the Clerk of Petty Sessions by the police the transfer may on the fifteenth day be completed by indorsement by two or more Justices upon a certificate by the Clerk of Petty Sessions that no police objections are filed but if within that time any objection or notice of objection by the police or any other party be filed then the application shall be heard and disposed of at a Court of Special Petty Sessions to be called for that purpose not later than twenty days from the application to transfer being filed with the Clerk of Petty Sessions.

Power to transfer licenses.

24. Every Petty Sessions or Meeting for transfer of licenses shall be held in open Court and every proceeding thereat for granting or transferring licenses shall be deemed to be judicial and all objections may be made inquired into and determined in like manner as hereby enacted respecting applications for licenses at Annual Licensing Meetings.

Special Petty Sessions for transfer in open Court and proceedings judicial.

25. If any applicant for a Publican's License shall die after having taken the required preliminary steps for obtaining the same but on or before the licensing day the Justices may if they think fit grant a certificate for such license to his widow in like manner as if she had herself been the applicant.

If applicant die widow may be licensed.

26. Upon the death or insolvency of any holder of a license under this Act his legal personal representative or his official assignee may carry on the business as under the license by himself or an agent expressly authorized in writing by any one Justice for that purpose without any renewal or formal transfer of the license until the licensing day next following the decease or vesting of the property of such holder in such representative or assignee And such license shall be subject to the same regulations as if still held by such original holder.

Devolution of license upon death &c. to personal representative.

27. The Justices in Petty Sessions or in Special Petty Sessions or any two or more of them may upon application by the holder of any Publican's License within their district at any time between the days for granting licenses but not until three days after notice of the application shall have been given by the Clerk of Petty Sessions to the principal officer of police of the district grant him a certificate authorizing the Colonial Treasurer or other appointed officer to sign a memorandum indorsed upon or affixed to such license in the form of the Schedule hereto marked F by virtue whereof such license shall be made to apply and shall apply to the house and premises (unless reported unfit by such officer of police) mentioned in such certificate and shall cease to apply to the house and premises for which the same was originally granted Provided always that fourteen days notice of such intended removal be first duly given as under the ninth section of this Act and that any person opposing such application for removal shall give seven days notice in writing to the applicant.

Removal of license.

28. Every transfer of a license whether from one person to another or authorizing any such change of house shall within fourteen days after the date thereof be reported to the Colonial Treasurer or other appointed officer by the Clerk of Petty Sessions who shall be liable

Transfers and removals to be reported to Colonial Treasurer.

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liable to a penalty not exceeding five pounds for every default in making such report.

Gaming prohibited.

29. Every person holding a license under this Act who shall knowingly allow any person to use cards or dice or any other instrument or contrivance for the purpose of gaming in or about his house premises or appurtenances used for public accommodation shall for every such offence be liable to a penalty not exceeding twenty pounds including costs. Provided that on application to any Court of Petty Sessions a written permission may be given by such Court to any licensed person under this Act within the district to allow the game of billiards or bagatelle to be played in his licensed house on any day excepting Sunday Good Friday and Christmas Day on payment to the Colonial Treasurer of ten pounds for billiards and five pounds for bagatelle in addition to the license fee.

Disorderly conduct in houses of public resort prohibited.

30. Every person who shall have or keep any house room shop or place of public resort wherein provisions liquors or refreshments of any kind shall be sold or consumed whether kept or retailed therein or procured elsewhere and who shall knowingly permit or suffer in such house room shop or place any drunkenness or other disorderly conduct or any unlawful game or gaming whatsoever or prostitutes or persons of notoriously bad character to assemble at or continue therein shall for every such offence be liable to a penalty not exceeding ten pounds.

Penalty.

Publican's name &c. to be legibly painted.

31. Every holder of a Publican's License shall have his name in legible letters at least two inches long with the words "*Licensed to retail fermented and spirituous liquors*" painted and constantly remaining and plainly to be seen and read on a conspicuous front outside part of his house or premises. And every such holder failing or neglecting to comply with this regulation shall for every such offence be liable to a penalty not exceeding two pounds.

Penalty.

Lamp to be kept alight.

32. Every holder of a Publican's License shall keep a lamp affixed over the door of his house or within twenty feet thereof lighted and to be kept burning the whole of each and every night from sunset to sunrise. And every such lamp shall have if lit by oil at least two burners or if lit by gas one burner. And in default hereof such holder shall for every offence be liable to a penalty not exceeding two pounds.

Licensed houses to contain certain accommodation.

33. Every house for which a Publican's License shall be granted shall from the time of granting the same contain at least two moderate-sized sitting-rooms and two sleeping-rooms constantly ready and fit for public accommodation and shall be provided with a decent place of convenience on or near the premises for the use of the customers thereof so as to prevent nuisances and offences against decency. And shall also during the continuance of such license be provided with stabling sufficient for four horses at least and with a sufficient supply of wholesome and usual provender for the same. Provided that the Justices granting a certificate for any such license within Sydney and its suburbs may by an indorsement thereon in writing dispense with the said accommodation for horses or such part thereof as they may think fit.

Penalty on refusal to receive travellers.

34. No holder of a Publican's License upon any line of road or public way in the Colony shall if there be accommodation refuse to receive any traveller as a guest into his house or to supply him with food or lodging or to receive his horse or horses or to provide any such horse with sufficient provender whether the owner lodge in his house or not unless the traveller be intoxicated or a known disreputable person. And every such holder offending against this enactment shall for each such offence be liable to a penalty not exceeding five pounds.

Music or dancing not to be permitted without special permission.

35. It shall not be lawful for any licensed publican to permit music or dancing in any part of his licensed house which is open to public

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public resort unless by the permission in writing of one or more Police Magistrates or of any two Justices of the Peace of the district in which the house shall be situate in Petty Sessions assembled which permission may be revoked at any time by such Police Magistrate or Magistrates or by the same or any other two Justices in Petty Sessions assembled And every person offending against this enactment shall be liable to a penalty not exceeding ten pounds.

36. Every house in respect of which a Publican's License shall have been granted shall be held in law to be a common inn And no goods or chattels whatsoever really the property of any stranger and being in such house or its appurtenances or any place ordinarily used or occupied therewith shall be liable to be distrained or seized for rent due for such house or appurtenances or in respect of any other claims whatsoever against the same or the owner thereof And if any such goods or chattels shall be distrained or seized contrary to this enactment any two Justices may summarily inquire into such matter upon the complaint of any person suffering thereby and may order any thing so distrained or seized to be restored to its owner or proprietor And may award and enforce payment of reasonable costs of the proceedings against the person so distraining or seizing.

Indemnity from distress for rent &c. of strangers' property.

37. No person shall maintain any action for or recover in any Court any debt or demand for any liquors sold or disposed of in any less quantity at one and the same time than two gallons of one and the same liquor except to *bonâ fide* lodgers and travellers.

No action for price of liquors less than two gallons.

38. Every holder of any license under this Act who shall take or receive from any person in payment or in pledge for any liquors or entertainment supplied in or out of his house or premises any article or thing whatsoever except metallic or paper money or a cheque promissory note or order for money shall for every such offence be liable to a penalty not exceeding ten pounds without prejudice to any other penalty or punishment under any other law.

Penalty on taking goods in pledge or as payment for liquor.

39. Every holder of a license under this Act shall measure all liquors to be sold in any quantity not less than half a pint in vessels sized to full Imperial measure according to the standard by law established in this Colony And shall if required by any purchaser deliver the same in a vessel sized according to such standard And every such holder offending against this enactment shall for every such offence be liable to a penalty not exceeding five pounds.

Liquors to be sold by Imperial measure.

40. No holder of a license under this Act shall keep his house open for the sale of any liquors or sell any liquors or permit the same to be drunk or consumed in his house or premises except between the hours of four in the morning and twelve at night on the six business days of the week and except between the hours of six and nine in the morning and of one and three in the afternoon and eight and ten at night on Good Friday and Christmas Day and except between the hours of one and three in the afternoon on Sundays and on the three latter days only for the sale of liquors not to be drunk or consumed on the premises And every such holder offending against any part of this enactment shall for every such offence be liable to a penalty not exceeding two pounds And every separate such sale shall be deemed a separate offence Provided that nothing herein shall prohibit the sale of any liquors at any time to any person being really a lodger or inmate or a traveller on a journey seeking refreshment Provided also that any person drinking liquors in any such licensed house or found in the Act of leaving the same with liquors in his possession at any time not within the hours and days hereinbefore respectively specified such person shall for every such offence be liable to a penalty not exceeding twenty shillings.

Hours of selling.

Penalty.

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Forfeiture of license on conviction of felony or abandonment of house.

41. If any holder of a license under this Act shall be convicted of felony or shall be convicted by any two Justices of abandoning his licensed house as his usual place of residence his license shall thereupon become and be absolutely void and the house or place in respect of which such license was granted shall be held to be unlicensed accordingly.

In case of riot licensed house may be closed.

42. Any Justice acting for any district in which any riot or tumult shall arise or be apprehended to arise may order that any holder of a license under this Act keeping any house situate within such district shall close his house at and during any time according to the discretion of such Justice And every such holder keeping open his house within any time during which such Justice shall have so ordered the same to be closed shall be liable to a penalty not exceeding ten pounds.

Circumstances under which licensed house may be entered by police.

43. Any Superintendent Inspector Chief Constable or Sergeant of Police himself observing or any District Constable or any Constable specially authorized in writing signed by any one Justice of the Peace in any particular instance or any such Officer or any Constable of Police having his attention drawn by the publican to any dispute or disturbance actually occurring in any licensed public-house by reason of any disorderly person being therein may enter the same at any time by day or night and remove every such person and detain him until taken before a Justice and such person shall on conviction before such Justice of being drunk and disorderly be liable to a penalty not exceeding forty shillings And if admittance be refused or wilfully delayed to any such Superintendent Inspector Chief Constable or Sergeant or District Constable or Constable specially authorized as aforesaid or he be prevented from entering such house he may with such assistance as he deems necessary enter the same by force for any lawful purpose under this Act And the person guilty of such wilful delay or prevention shall be liable to a penalty not exceeding ten pounds.

Penalties.

Allowing unlicensed person to sell &c.

44. Every holder of any license under this Act who shall employ any unlicensed person to sell by retail any liquor in any house or premises cart carriage vessel boat or other place whatsoever out of the house or place in which such licensed person is authorized to sell the same by his license or in such last-mentioned house or place otherwise than as the servant or agent of and for the use and benefit of and answerable and accountable to such holder shall for every such offence be liable to a penalty not exceeding twenty pounds.

Penalty.

Sale of adulterated liquors &c.

45. Any person who shall sell or offer for sale any liquor which shall have been adulterated or mixed with any deleterious ingredient shall for every such offence be liable to a penalty not exceeding fifty pounds to be recovered before any two or more Justices upon the oath of any competent person and all liquors so adulterated or mixed shall be seized forfeited and forthwith destroyed.

Penalty.

Sign on unlicensed house.

46. Every person not holding a license under this Act who shall keep up any sign writing painting or other mark on his house or premises which may imply or give reasonable cause for believing that such house or premises is or are licensed for the sale or barter of any liquors or that liquors are sold or served therein shall for every such offence after notice be liable to a penalty not exceeding two pounds.

Penalty.

Penalty for cases not specially provided for.

47. Every holder of a license under this Act who shall offend against any of its provisions in matters for which no penalty is herein expressly provided shall for every such offence be liable to a penalty not exceeding two pounds.

Penalty on Clerk of Petty Sessions for neglect of duty or refusal.

48. Every Clerk of Petty Sessions who shall wilfully neglect or refuse to execute any duty imposed on him by this Act shall for every

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every such neglect or refusal be liable to a penalty not exceeding ten pounds and no application shall be prejudiced or delayed by any such neglect or refusal.

49. Upon proof being given to the satisfaction of any Justices in Petty Sessions assembled that any person shall by the excessive use of spirituous or fermented liquors so mis-spends waste or lessen his estate as thereby to expose himself or his family to want or indigent circumstances or greatly to injure his health or endanger the loss thereof such Justices shall in writing under the hands of any two of them forbid all persons licensed under this or any former Act for licensing publicans and also all storekeepers and other dealers in such liquors to sell to him any spirituous or fermented liquors for the space of one year and may at the same or any other time in like manner forbid the selling of any such liquors to such drunkard by any such licensed person storekeeper or other dealer of any other place to which he may be likely to resort for the same.

Supply of liquors to drunkards prohibited.

50. If any master or other person employing journeymen workmen servants or laborers shall pay or cause any payment to be made to any such journeymen workmen servants or laborers in or at any house in which any of the liquors aforesaid shall be sold by retail he shall for every such offence forfeit and pay any sum not exceeding five pounds Provided always that nothing herein contained shall extend to any licensed person paying his own journeymen workmen servants or laborers in his licensed house.

Paying wages in public-houses prohibited.

Penalty.

51. Whenever any Justice or any officer or constable of police shall find any person drinking liquor in any reputed disorderly house or in any unlicensed house shop store or other building or in any booth shed hut tent stall or place where liquor shall be sold by retail and the license for such sale shall not on demand be produced to such Justice or constable he may apprehend not only the person appearing to have the management and control of but also every person so found drinking in such house or other place as aforesaid And every such person so selling shall upon conviction before any two Justices be liable for every such offence to a penalty not exceeding thirty pounds and the persons so drinking each to a penalty not exceeding forty shillings Provided that any person so found drinking by informing against the seller for his offence against this enactment or voluntarily becoming a witness against him in respect of such offence if required by the prosecution may by any such Justice be relieved from paying such penalty or any part thereof.

Keeper of and persons drinking in unlicensed house may be apprehended.

52. In all proceedings under this Act against any person charged with unlawfully selling any liquors in a reputed disorderly house proof of the reputation of such house and of such person being the owner thereof to the satisfaction of the Justices shall be sufficient evidence upon which such Justices may convict as well the persons so found drinking in such house as the proprietor thereof.

Proof of disorderly house.

53. The delivery of any liquors shall be sufficient *prima facie* evidence of sale within the meaning of this Act so as to support a conviction unless satisfactory proof to the contrary shall be adduced to any Justice hearing the case.

Delivery of liquor *prima facie* evidence of sale.

54. All penalties under this Act not herein or by law otherwise appropriated shall be paid to Her Majesty for the public use of the Colony Provided that any convicting Justice or the presiding Judge may direct that the complainant or informer shall receive a portion of the penalty in which case the remainder of the penalty shall be appropriated to Her Majesty as aforesaid Provided also that the Governor with the advice of the Executive Council may remit the whole or any part of such penalty.

Appropriation of penalties.

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No proceeding quashed for want of form and complainant and defendant witnesses.

55. No information summons order conviction warrant or other proceeding under this Act shall be quashed or avoided for want of form only or be removed by *certiorari* into the Supreme Court And every informer complainant and defendant shall be a competent witness in his own case.

Limited time for informing.

56. No conviction shall take place under this Act upon any information or complaint which shall not have been exhibited or made within one month next after the commission of the offence charged.

Appropriation of drunkards' fines.

57. All penalties recovered by virtue of this Act from persons convicted of drunkenness shall be paid to the Treasurer or other proper officer of some benevolent asylum or other charitable institution of the district where the case shall be heard for the relief of such poor persons as through age accident sickness or other infirmity are unable to support themselves Provided that as to any district in which there shall be no such asylum or institution all such penalties shall be paid towards the support of the Benevolent Asylum in Sydney.

Licenses date expiration and annual renewal on payment of yearly license fee.

58. All licenses which shall be granted under the authority of this Act between the thirtieth day of June and first of August in any year shall be dated on the first day of July and all licenses which shall be granted at any other time shall be dated on the day on which the same shall be granted and all such licenses whensoever granted shall have effect on and after the day of the date thereof until the first day of July then next following and if no complaint or objection be made shall be renewed annually on payment of the duty or license fee by this Act charged thereon respectively Provided always that no licensed publican shall be required to attend at any Annual Licensing Meeting or any other meeting unless required by summons to do so for the purpose of answering any complaint or objection made against him Provided nevertheless that the said license be not forfeited or cancelled at the end of or during the currency of any one year subsequent to the original granting thereof and provided also that on or before the thirtieth day of June in each and every succeeding year the holder of such license pay or cause to be paid to the Colonial Treasurer or other appointed officer the like sum of thirty pounds as the fee for his license for the succeeding year and yearly thereafter from year to year.

Saving of subsisting licenses.

59. Every license lawfully issued previously to but subsisting at the commencement of this Act shall for the purposes of this Act be deemed to be a license under this Act And every proceeding lawfully commenced before such commencement may be continued and concluded under and according to this Act and not otherwise.

Appeals to Quarter Sessions.

60. Any person who shall think himself aggrieved by any penalty under this Act imposed upon him above five pounds or by any decision of any Justice under or concerning the provisions of this Act except concerning the refusal of a certificate for the granting renewal or transfer of a license may appeal against such penalty or decision to the Court of Quarter Sessions according to the law in force for the time being for the general regulation of appeals of such or the like nature.

If appeal dismissed or conviction dismissed appellant to pay costs.

61. Wherever notice of any such appeal shall have been given and such appeal shall have been dismissed or the judgment appealed from affirmed or such appeal abandoned the Court to which such appeal shall have been made or intended to be made may and shall adjudge and order the actual or intended appellant to pay to the Justice whose decision is appealed from such costs as shall in the opinion of such Court be reasonable And after refusal or neglect for fourteen days to pay such sum the said Court may adjudge and order the refusing or neglecting party to be committed to gaol there to remain until such sum be paid.

Licensed Publicans.

62. Upon complaint on oath before any Justice by any credible person that he suspects and believes any liquor to have been sold by any person not holding a license under this Act in some unlicensed house or place to be specified in such complaint and upon reasonable grounds being therein shewn for such suspicion and belief such Justice may grant a warrant to any constable to enter and search such specified house or place by day And such constable may break open the doors if not opened within a reasonable time after demand and may seize all liquors which he shall then and there find and every vessel in which the same shall be And such Justice shall grant a summons to the owner thereof calling upon him to appear before any two Justices to shew how and for what purposes he became possessed of the same And upon his so appearing or if after being so summoned he shall fail to appear the said Justices shall inquire into the matter and if they shall be satisfied by reasonable proof that any liquor was in such house or place for the purpose of being illegally sold they shall adjudge the same and also every such vessel to be forfeited And the same shall be sold and the proceeds of the sale after payment thereof of the costs to be awarded by such Justices shall be paid over in equal moieties to the use of Her Majesty and to the informer And in default of such reasonable proof such liquors and vessel shall be forthwith restored to the owner on his applying for the same.

Liquors in any unlicensed house suspected to be for sale may be seized and forfeited.

63. Any Justice constable or other peace officer may seize and take away and may convey to the nearest Police Office all liquor which they may reasonably suspect to be carried about for or exposed to sale in any street road footpath booth tent store shed boat or vessel or in any other place whatsoever by any person not holding a license to sell the same therein respectively and also every vessel containing or used for drinking or measuring the same and every cart dray or other carriage and every horse or other animal carrying or drawing the same and seize every boat or vessel conveying the same And any Justice may either on view or on confession of the offender or on complaint made by any person without formal information and upon proof on oath convict any such offender of carrying about for or exposing to sale such liquors without a license And every person so convicted shall be liable to a penalty not exceeding fifty pounds And the convicting Justice may adjudge any such liquors vessel cart dray or other carriage horse or other animal boat or vessel to be forfeited and may order the same to be sold and the proceeds thereof shall be applied in the same manner as under the next preceding section Provided that whenever any such liquors shall be carried from one place to another the burden of proving that the same were not so carried for sale shall rest upon the person so carrying them.

Liquors carried about to be seized and condemned.

64. Whenever any complaint before any Justice under this Act shall not be further prosecuted or being further prosecuted shall appear to the Justice hearing the case to be without sufficient ground such Justice may award amends not less than two pounds nor more than twenty pounds to be paid by the person complaining to the person complained against for his loss of time and expenses And such amends may be recovered in like manner as any penalty of like amount under this Act.

Amends may be awarded against informer preferring groundless charges.

65. In all proceedings under this Act for the sale of liquors without a license the person charged shall for all the purposes of such proceedings be deemed not to hold a license unless he shall at the hearing of the case produce his license or shall adduce other satisfactory proof of his holding a license and of the description thereof.

Accused person not producing license to be deemed unlicensed.

66. In any proceeding under this Act against any person alleged to be the holder of a license and liable as such the production of the Licensing Clerk's Book of Proceedings at Licensing Sessions wherein

Proof of license.

Licensed Publicans.

his name shall appear as a person to whom a license was ordered to be granted shall be evidence of his being so licensed as therein recited Provided that any Justice may admit any other proof satisfactory to himself of any such person holding a license as alleged in such proceeding But if any question shall arise touching any such license then upon any appeal or otherwise before any Court of Appeal such question shall be decided only by the production of the license itself.

Recovery of penalties.

67. All proceedings for any infringement of any of the provisions of this Act the hearing and determining of which is not herein otherwise specially provided for shall be had and taken by or before any two Justices of the Peace in a summary way.

Short title.

68. This Act shall be styled and may be cited as the "Sale of Liquors Licensing Act of 1862."

SCHEDULES.

A.

Form of a Publican's License.

New South Wales }
to wit. }

WHEREAS A. B. of _____ hath deposited in this office a certificate from the Justices of the Peace assembled at the Annual Licensing Meeting (or at a Special Petty Sessions) held at _____ on the _____ day of _____ in the year of our Lord one thousand eight hundred and _____ authorizing the issue to the said A. B. under and by virtue of the "Sale of Liquors Licensing Act of 1862" of the license in the said Act called a Publican's License for the house known (or to be known) by the sign of _____ situated at _____ in the said Colony of New South Wales.

And whereas the said A. B. hath paid into my office the sum of thirty pounds sterling as the duty on such license Now I the Colonial Treasurer of the said Colony (or other person appointed by the said Governor for the purpose of issuing licenses under the said Act as the case may be) in virtue of the powers vested in me by the said Act do hereby license the said A. B. to keep a common Inn Ale-house or Victualling-house and to sell fermented and spirituous liquors in any quantity in the house in which he (or she) now dwelleth (or is about to dwell) being the sign of _____ situated at _____ aforesaid and in the appurtenances thereto belonging but not elsewhere and this license shall commence upon the first day of _____ next and continue in force until the _____ day of _____ then next ensuing both days inclusive provided it be not forfeited in the mean time according to the provisions of the said Act.

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

Colonial Treasurer.

A 1.

Form of Notice of Application for a Publican's License for an Inn or Public-house.

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 _____ city town or district of _____ do hereby give notice that it is my intention to apply at the next Annual Licensing Meeting or Special Petty Sessions (or meeting for the transfer of licenses as the case may be) to be holden for this district on the _____ day of _____ next ensuing for a Publican's License for the sale of fermented and spirituous liquors in the house and appurtenances 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 married having a wife and _____ children (or unmarried as the case may be) I have held a license (*if before licensed state how many years and what kind of license*).

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

(Signed)

B.

Licensed Publicans.

B.

Form of a Packet License.

New South Wales }
to wit.

WHEREAS A. B. of _____ being the master (or commander) of the steam packet (or if any other kind of vessel describe it) conveying passengers between (name the place) and (name the place) being places within the Colony of New South Wales (and its dependencies) hath deposited in this office a certificate from the Justices of the Peace assembled at the Annual Licensing Meeting (or at a Special Sessions) held at _____ on the _____ day of _____ in the year of our Lord one thousand eight hundred and _____ authorizing the issue to the said A. B. under and by virtue of the "Sale of Liquors Licensing Act of 1862" of the license in the said Act called a Packet License And whereas the said A. B. hath paid into my office the sum of five pounds sterling as the duty on such license Now I the Colonial Treasurer of the said Colony (or other person appointed by the said Governor for the purpose of issuing licenses under the said Act as the case may be) in virtue of the powers vested in me by the said Act do hereby license the said A. B. to retail fermented and spirituous liquors to any passenger on board of such vessel during the actual passage of such vessel between one such place and another and this license shall commence upon the first day of _____ next and continue in force until the thirtieth day of _____ then next ensuing both days inclusive.

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

N. O. (L.S.)
(Colonial Treasurer or other person
as the case may be.)

Registered—

P. Q.

B 1.

Form of Notice of Application for a Packet License.

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

I A. B. being the master (or commander) of the steam packet (or other vessel as the case may be) conveying passengers between (name the place) and (name the place) being places within the Colony of New South Wales (and its dependencies) do hereby give notice that it is my intention to apply at the next Annual Licensing Meeting or Special Petty Sessions to be holden for the said district for a license for the sale of fermented and spirituous liquors to the passengers on board such vessel pursuant to the "Sale of Liquors Licensing Act of 1862."

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

A. B.

C.

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

New South Wales }
to wit.

AT the Annual Licensing Meeting (or an adjournment of the Annual Licensing Meeting or at a Special Petty Sessions or a meeting for the transfer of licenses as the case may be) of Her Majesty's Justices of the Peace acting in and for the district of _____ holden at _____ on the _____ day of _____ in the year of our Lord one thousand eight hundred and _____ pursuant to the "Sale of Liquors Licensing Act of 1862" for the purpose of considering applications made to us for licenses pursuant to the said Act We being the majority of the Justices assembled at the said Meeting or Sessions (or I being the only Justice present after such adjournment of the said Meeting or Sessions) and the requisite notices of application for a Publican's (or Packet) License having been duly given do in virtue of the power vested in us (or me) hereby authorize the Colonial Treasurer or other proper officer to issue to A. B. the license in the said Act called _____ for (here state the house sign district shop room steam packet vessel or other particulars according to the description of license and nature of the case) until 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 fit and proper to be licensed as aforesaid.

Given under our hands and seals the _____ day of _____ at the place aforesaid

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

D.

Felo-de-se Verdicts.

D.

Form of Temporary License to sell Fermented and Spirituous Liquors at Public Fairs.

New South Wales }
to wit. }

BE it remembered that A. B. of _____ holding a license (*describe the nature thereof and the house place or district for which the same is granted*) having applied to us on the _____ day of _____ for authority to exercise the privileges of the said license at a public fair (*or other place of amusement as the case may be*) to be holden at _____ on the _____ day of _____ Now we do hereby grant to the said A. B. authority to exercise the said license at the said fair (*or other place of amusement*) on the said _____ day of _____ between the hours _____ in the morning and _____ in the evening Provided always (*here add any conditions which the Justices may see fit to attach to the grant of the permission applied for.*)

Given under our hands on the day and year aforesaid.

C. D. J.P. (L.S.)
E. F. J.P. (L.S.)

E.

Form of Indorsement on License of a Transfer thereof.

BE it remembered that we the undersigned being the majority of the Justices present at a Special Petty Sessions for the district of _____ held at _____ for the purpose of transferring licenses do hereby upon the application of the within named _____ transfer the rights and privileges of the within license to _____ for the residue of the term for which the same has now to run the said _____ having first exhibited the certificate required by law and having proved that the requisite notice of application for transfer was duly given.

C. D. &c.

F.

Form of Indorsement on License of change of House and Premises.

Memorandum—

That upon the certificate of the proper Justices that the within named (*G. H.*) has given the notice required by law of an application for a change of the house and premises in which a license is exercised I do hereby declare that the within license shall henceforth cease to apply to the house and premises therein described and shall apply instead thereof to the house and premises occupied (*or about to be occupied*) by the said *G. H.* situate (*describe new premises.*)

(Signed)

Colonial Treasurer

(*or other person authorized.*)
