

No. XIV.

An Act to remodel the law relating to Publicans and other Persons engaged in the sale of Liquor. [19th December, 1881.] LICENSING (No. 2).

WHEREAS it is expedient to make better provision in respect to Preamble.
the licensing and regulation of Publicans and Public-houses
and to amend and embody in one Statute the laws regulating the sale of
liquor 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 :—

PART I.

*Introductory Provisions—Establishment and constitution of Licensing
Districts and Courts—Procedure thereat—Licenses and Licensees
—Inspectors.*

1. This Act may be cited as the “Licensing Act of 1882” It Short title.
shall come into force on the first day of January in the year one thousand Commencement and
eight hundred and eighty-two and is divided into Four Parts comprising Division.
the subjects following viz.—

PART I.—*Introductory Provisions—Establishment and constitu-
tion of Licensing Districts and Courts—Procedure thereat—
Licenses and Licensees—Inspectors—ss. 1 to 21.*

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PART II.—*Licenses for the Sale of Liquor and Provisions in respect thereto—ss. 22 to 67.*

PART III.—*Brewers and Spirit Merchants Licenses—ss. 68 to 71.*

PART IV.—*Cancellation of Licenses—Miscellaneous Provisions—Legal Procedure—ss. 72 to 100.*

SCHEDULES.

Repeal clause.
First Schedule.

2. The Acts specified in the First Schedule hereto are to the extent therein expressed hereby repealed. But such repeal shall not prejudice or affect the validity or duration of any certificate license permit or authority lawfully granted, act done, right acquired, liability or obligation accrued or penalty, forfeiture or punishment incurred under any such Act. All proceedings commenced and offences committed before the commencement of this Act may be respectively continued and punished as if this Act had not been passed. All licenses granted under any such repealed Act shall continue and remain in force for the respective periods for which they were granted but shall be held in all respects and all renewals thereof shall be applied for under and subject to the provisions of this Act unless hereinafter otherwise specially provided for.

Interpretation of terms.

3. In the construction and for the purposes of this Act the following expressions shall bear the meanings and include the matters and things hereinafter respectively assigned to them unless the context otherwise indicate viz. :—

“Australasian Colony” includes in addition to New South Wales the Colonies of Victoria, South Australia, Queensland, Tasmania, Western Australia and New Zealand.

“Brewer” means any maker for purposes of sale of beer, ale, porter or stout or of any other fermented malt liquor or any fermented liquor made from sugar or other saccharine matter.

“Court or Licensing Court” means the Licensing Court of the Licensing District in or with reference to which the term is used.

“Governor” means the Governor with the advice of the Executive Council.

“Inspector” means a District Inspector or District Sub-Inspector appointed under this Act. And for any portion of the Colony not included within a Licensing District the expression “Inspector” means the person appointed under this Act to act as Inspector within such portion.

“Justice” means a Justice of the Peace.

“Licensed Premises” means the premises in respect of which a license granted under this Act or any Act hereby repealed shall be in force.

“Licensed Publican” means a person holding a Publican’s license under this Act or any Act hereby repealed.

“Licensee” means a person holding any license authorized to be granted under this Act or under any Act hereby wholly or in part repealed.

“Licensing Magistrate” means a Police or Licensing Magistrate authorized to exercise the powers conferred by this Act.

“Liquor” means and includes wine, spirits, beer, porter, stout, ale, cider, perry or any spirituous or fermented fluid whatever capable of producing intoxication.

“Minister” means the Minister charged with the administration of this Act.

“Prescribed” means prescribed by this Act or by any regulation or rule made under the authority thereof.

“Spirit

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“Spirit Merchant” means any vendor or exhibitor for sale in any shop or premises of liquor in quantities of not less than two gallons not being a licensed auctioneer or broker selling or offering for sale any such liquor on account of another person.

4. All applications for licenses and all other matters which under this Act may be heard determined and dealt with by a Licensing Court or by a Licensing Magistrate shall be heard determined and dealt with by a Police Magistrate sitting at the Court of Petty Sessions nearest to the place where the applicant resides or where the matter arises whenever and so long as such place shall not be comprised within the boundaries of a Licensing District proclaimed under this Act And such Magistrate while so sitting shall have and may exercise all the powers and authorities of a Licensing Court.

Powers of Police Magistrate pending proclamation of Licensing Districts.

5. As soon as conveniently practicable after the passing of this Act the Governor shall by proclamation in the *Gazette* define such Licensing Districts for the purposes of this Act as he may think proper and may from time to time and in like manner alter the boundaries of any District so proclaimed or may subdivide the same into one or more Districts or may amalgamate any such District with one or more Districts or areas Provided always that the Metropolitan Licensing District so to be proclaimed shall comprise the whole area of the County of Cumberland.

Proclamation of Licensing Districts.

6. Licensing Courts for the purposes of this Act but subject nevertheless to any special provisions hereinafter contained shall be composed of Appointed and Official members and shall be constituted in the following manner that is to say—

Constitution and composition of Licensing Courts.— Officers &c.

- (I.) In and for every Licensing District proclaimed under this Act the Governor shall from time to time by notification to be published in the *Gazette* appoint a Licensing Court And the Court for the Metropolitan Licensing District shall consist of seven members and the Court for every other Licensing District shall consist of three members Whenever practicable such appointment shall be made and notified in the proclamation of the Licensing District.
- (II.) Every person so appointed shall be by virtue of his office a Justice of the Peace for the Colony (if not already on the Commission of the Peace) and shall hold office for a period of three years from the date of his appointment unless he shall die resign become disqualified or be removed from office in any of which events a successor shall be appointed in like manner and by the like authority who shall hold office for the unexpired period of his predecessor's term of office.
- (III.) In and for the Metropolitan Licensing District such of the Metropolitan Police or Stipendiary Magistrates for the time being and such other person or persons as the Governor may appoint not to exceed seven members in the whole shall constitute the Metropolitan Licensing Court For every other Licensing District the Court shall be composed of the appointed members thereof together with the Police Magistrate resident within or nearest to such district who shall be the official member of such Court or if there be no Police Magistrate resident within ten miles of the Court-house or building appointed for the holding of such Court then of such members as aforesaid together with such person as the Governor may in manner aforesaid appoint as a Licensing Magistrate The senior Police Magistrate shall preside at the Metropolitan Licensing Court and the Police or Licensing Magistrate shall preside in every other Court as Chairman thereof

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thereof but in the absence of either the members of the Court present at any meeting shall elect one of their number to act as Chairman at and for such meeting.

- (iv.) Every person shall be disqualified from holding office as the member of a Licensing Court who is interested beneficially in the manufacture or sale of fermented or spirituous liquors or in any premises licensed or proposed to be licensed under this Act or who holds any license whatsoever within the meaning of this Act or is beneficially interested in any trade or calling exercised under any such license. And any person so disqualified who shall knowingly and wilfully act as a member of such Court shall be guilty of a misdemeanor.
- (v.) Every Licensing Court for a Licensing District shall be held in some Court-house of a Petty Sessions District comprised within such Licensing District or in some other building to be appointed for that purpose in the Proclamation defining such District or to be subsequently notified in the *Gazette* by the Minister.
- (vi.) The Governor may appoint such and so many persons as he shall think fit to be Registrars Clerks or other Officers of Licensing Courts. Provided always that until the appointment of any such Clerk shall be notified in the *Gazette* the Clerk of Petty Sessions for the time being of the Court of Petty Sessions at or nearest to which the Licensing Court is held shall be the Clerk thereof.
- (vii.) The quorum for the proper constitution of a Licensing Court for the Metropolitan Licensing District shall be three members. For all other Courts the Police or Licensing Magistrate and one member shall constitute a quorum.
- (viii.) Any appointed member of a Licensing Court may resign his office by writing under his hand addressed to the Governor.
- (ix.) Any appointed member of a Licensing Court who shall absent himself from any two consecutive Quarterly Licensing Courts (except in case of sickness or for other lawful excuse) shall be deemed to have vacated his office and to have created an extraordinary vacancy which shall as soon as conveniently practicable be filled up by the appointment (to be notified in the *Gazette*) of some other person under the powers hereinbefore conferred.

7. Every Licensing Court shall be a Court of Record with full power to make all general and other rules necessary for the conduct of its business and for the enforcement of its orders adjudications and convictions but such rules shall be subject to any regulations made by the Governor as hereinafter provided. And each such Court shall have and use a seal bearing an impression of the Royal Arms and having inscribed thereon the words "Licensing Court" with the name of the Licensing District within which such Court is held. And the Chairman thereof may take administer and cause to be taken and administered oaths declarations affirmations and depositions in any licensing or other matter complaint or proceeding to be heard and determined or dealt with by such Court.

8. If any person duly summoned to attend as a witness at any such Court shall without sufficient excuse neglect to appear and give evidence or refuse to be sworn or to answer any lawful question or if any person shall wilfully interrupt the proceedings of such Court or shall hinder obstruct or assault any person in attendance before such Court or any officer thereof in the lawful execution of his duty such person shall be guilty of contempt of Court. And the chairman either on his own view or on the oath of some credible witness may

by

Licensing Courts to be Courts of Record and to have a seal.

Punishment of contempt of Court for non-attendance &c.

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by warrant under his hand and the seal of the Court commit any person guilty of such contempt to any gaol or lock-up there to be imprisoned for any term not exceeding fourteen days or may order such person to forfeit any sum by way of fine not exceeding ten pounds and if such fine be not forthwith paid he may order such person to be imprisoned in any gaol or lock-up for any term not exceeding fourteen days but subject to the discharge of such person if the fine be paid within the term of the imprisonment.

9. In the Metropolitan Licensing District each of the Metropolitan Police or Stipendiary Magistrates and in every other Licensing District the Police Magistrate being a member of the Licensing Court of such District or the Licensing Magistrate as the case may be shall be a Licensing Magistrate within such District And every such Licensing Magistrate shall sit as in open Court and shall have and may exercise all the powers and authorities conferred by this Act upon a Licensing Magistrate and while sitting for the hearing and determination of any matter within his jurisdiction shall be deemed to be a Court under this Act. Licensing Magistrates.

10. Until and unless rescinded or altered by Regulations to be made under this Act the following procedure shall subject to any special provisions hereinafter contained be observed so far as the same can be applied in the conduct of all business before Licensing Courts— Procedure before Licensing Courts.

- (I.) The District Inspector in every Licensing District shall furnish to the Clerk of the Court at least ten days before each quarterly sitting a report of every licensed public-house in such District and shall also report upon all applications whether for Licenses or transfers removals or renewals thereof as soon after the application as possible Such report where the premises have been licensed for more than twelve months shall describe the condition of the premises fittings and furniture the manner in which such premises have been conducted during the preceding twelve months the character of the persons frequenting it and a statement of the number and position of similar premises in the neighbourhood Every such report shall be open to public inspection during office hours without payment of a fee.
- (II.) In all applications it shall be the duty of the Clerk of the Court to report whether the applicants or in case of transfers whether the intended transferees have previously been applicants or intended transferees of a license for the sale of liquor together with the result in each case.
- (III.) Where applications for renewals have been objected to the clerk of the Licensing Court shall give the prescribed notice to the applicants to attend at the hearing and such applicants shall be heard immediately after applications for new licenses (if any) The notice shall state shortly the nature of the objections.
- (IV.) On an application for a publican's license for new premises the applicant shall produce to and deposit with the clerk for the information of the Court plans or sketches of such premises sufficiently explanatory to show the number and size of the rooms therein and the Court may require the applicant to give any explanation thereof and if such plans sketches or explanation shall show or if otherwise it shall appear to the Court that any portion of such premises or of the building of which the same forms part is fitted up or intended to be used as a retail store it shall not be lawful for the Court to grant such application And if any such premises be used for the business of a retail store after a license has been granted the license shall be liable to forfeiture.

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- (v.) The Court shall hear and determine all applications and also all objections which may be made to them on such evidence as shall seem to them sufficient. But all evidence shall be given in the same manner as nearly as practicable as in Courts of law.
- (vi.) No applications which have been already decided shall be reheard or reopened at an adjourned sitting unless in pursuance of leave granted at the original sitting. But an applicant may renew his application at any subsequent quarterly sitting of the Court if the application has been refused at any former sitting.
- (vii.) On the hearing of any application (except for a renewal) the applicant by himself his counsel or attorney shall open his case then the objectors (if any) who have given the prescribed notice shall be heard by themselves their counsel or attorney and the applicant may reply.
- (viii.) On applications for renewals the objector shall commence and the applicant shall reply only.
- (ix.) The Court if unanimous shall give their decision by the Chairman but if not unanimous shall decide by vote (retiring to a private room if they shall think fit) whether the application shall be granted or refused. The decision shall be given by the Chairman and no member of the Court shall comment upon or question such decision.
- (x.) The Chairman shall on behalf of the Court sign all certificates and documents given or issued by the Court unless such as are hereinafter permitted or required to be signed by a Licensing Magistrate.
- (xi.) No objection in respect of the character of an applicant shall be entertained unless at least three days notice of the objection intended to be taken shall have been given to such applicant by or on behalf of the objector.
- (xii.) Subject to any special provisions contained in this Act or in any regulation or rule made under its authority any notice may be partly or wholly in writing or in print and unless required by any such special provision as aforesaid to be personally served shall be deemed to be sufficiently served or given in terms of this Act if transmitted through the post to the address or last known residence or place of business of the person concerned in receiving such notice or if left at such address residence or place of business with any person apparently above the age of sixteen years. Notices of objections to an application under this Act must be signed by the objector (with his address added) and must be sent to or left with the person concerned in receiving the same so as to give him an interval of three clear days at least between the time when the notice ought in due course of post to have been received by him and the time appointed for the hearing or disposal of the matter referred to in the notice.

Licensing Courts
when held.

11. A Quarterly Licensing Court for each Licensing District shall be held in the months of January April July and October in every year and at least twenty-one clear days notice in the *Gazette* and in some newspaper circulating in such district shall be given by the Clerk of the time and place of holding such Court. And such Clerk shall for the like period cause a notice to the like effect to be exhibited on the outer door of the Court-house or building where such Court is to be held. Provided that special meetings for the renewals of licenses and other meetings of Licensing Courts may be holden from time to time for all purposes authorized by this Act. And ten days notice as aforesaid

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aforesaid shall be given of every such special or other meeting unless where the matters to be heard and determined are offences against this Act Where a licensing Magistrate has jurisdiction or authority under this Act to hear and determine or deal with any matter no notice of the time and place appointed for his sitting shall be necessary.

12. A Licensing Court may adjourn from time to time to the same or any other Court-house or building within the Licensing District If at any hearing there shall be a difference of opinion among the members of the Court the majority shall decide and if there shall be an equality of votes in any case the Chairman shall have (in addition to his original) a casting vote If any applicant for a license or for the renewal removal or transfer of a license under Part II hereof shall require an adjournment the Court may upon such terms as to costs or otherwise as they shall think just adjourn from time to time but within the period of one calendar month to the same or any other Court-house or building within the District.

Power to adjourn—
majority to decide.

13. Every application for a license or the renewal removal or transfer of a license under Part II hereof and all objections to every such application permitted under this Act shall (except as hereinafter provided) be heard and determined at a Licensing Court for the District wherein the premises are situated in respect of which the license removal or transfer is sought or to which the application relates and every such applicant shall subject to the provisions relating to applications for renewals contained in section forty-two attend personally at such Court unless prevented by sickness or infirmity The Court may summon and examine on oath such witnesses as they may think necessary and as nearly as may be in the manner directed by any Act now or hereafter to be in force relating to the duties of Justices on summary convictions and orders.

Hearing of
applications &c.

Powers conferred.

14. Every certificate granted under this Act shall be void unless the sum (if any) required to be paid to the Colonial Treasurer or officer authorized to receive license fees under this Act for the license or other privilege thereby authorized be so paid within twenty-eight days after the granting of such certificate And such Treasurer or officer shall forthwith after the receipt of any such certificate and payment of the sum prescribed by this Act issue the license or other privilege authorized by such certificate.

Certificates to be void
for non-payment of
license fee.

15. If any licensee shall die or become insolvent before the expiration of his license his executors or administrators or his official assignee as the case may be may by an agent specially authorized in writing by the Licensing Magistrate carry on the business of such licensee until the expiration of his license and the widow of such licensee or if he shall not have left a widow any member of his family of the age of twenty-one years or any person on behalf of such family may carry on the business for a period not exceeding three months from his death if probate of his will or administration of his estate shall not be previously granted or his license previously expire and such agent widow or person shall be subject to the same obligations as if he or she were the licensee named in the license In case of the decease of a licensee within the period of two calendar months before the expiration of his licence a renewal of such license for one year may subject to payment of the proper annual fee be granted to and in the name of his executor or administrator or if probate of his will or administration in his estate shall not have been granted before the time appointed for the holding of the next Quarterly Licensing Court then to such person as the Licensing Magistrate shall consider entitled to obtain such probate or administration and if there be more than one such executor or person then to such one of such executors or persons as such Magistrate

Licensed business
may be carried on by
executor &c. in
certain cases.

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Magistrate may think fit The provisions of this section shall so far as practicable be read subject to any testamentary directions of a licensee.

Provision on marriage of licensed female.

16. If any female licensee shall marry the license held by her shall confer upon her husband the same privileges and shall impose on him the same duties obligations and liabilities as if such license had been granted to him originally unless he shall within fourteen days after the celebration of the marriage disclaim the transmission herein provided for by writing under his hand addressed to the Licensing Court of the District within which the license was granted or intended to be exercised in which case the license shall be void.

Provision in case of licensed person becoming a lunatic.

17. If any licensee shall become an insane patient within the meaning of the "Lunacy Act of 1878" a Licensing Magistrate may upon the application of the wife or any member of the family of such patient or any person on behalf of such family authorize an agent to carry on the business of the licensed premises of such patient until the end of the year for which his license was granted unless he shall be sooner discharged and thereupon such agent shall be subject and liable to the same duties obligations and penalties as if he were licensed in respect of such premises In case any licensed person shall continue or be an insane patient when the time for the renewal of his license arrives a renewal of such license may be granted to and in the name of his wife or any member of his family or to any person nominated for that purpose by the Master in Lunacy The provisions in this Act contained relating to the renewal of licenses objections thereto notices of objections and otherwise shall extend and apply to applications for renewals of licenses under this section.

Appointment of inspectors.

18. It shall be lawful for the Governor to appoint in and for any Licensing District a District Inspector and such other District Sub-Inspectors and for any portions of the Colony not included in a Licensing District to appoint any such Inspectors or such other persons as he may think fit to be Inspectors of premises licensed or in which the sale of liquor is permitted to be carried on under this Act And any member of the Police Force of or above the rank of sergeant shall be qualified to be so appointed And subject to the provisions of this Act it shall be lawful for the Minister by regulations to be made under this Act and to be approved by the Governor to define the duties of such District and Sub-Inspectors and to prescribe the modes times and conditions of the exercise thereof Such inspectors may be remunerated by fees or salary in accordance with regulations to be made in that behalf and to be paid out of the Consolidated Revenue Fund but subject to the sanction of Parliament.

Duties of inspectors.

19. It shall be the duty of such inspectors to use all due vigilance and to take all lawful means to enforce compliance with the provisions of this Act And every such inspector may at all times during business hours enter on any premises licensed under this Act and may examine every room and part of such premises and take an account of all liquor therein and may demand select and obtain any samples of liquor which may be in or upon such premises such samples to be sealed by the inspector in the presence of the licensee or person in charge of such premises and if such licensee or person shall so desire (with the seal of such licensee or person) and on paying or tendering payment for such samples may remove the same for the purpose of analysis or otherwise And if any such licensee or person refuses or fails to admit any inspector demanding to enter any premises in pursuance of this section or refuses to permit any inspector to select or obtain such samples or obstructs or causes or permits such inspector to be obstructed or delayed in the discharge of his duty such licensee or person shall be liable to a penalty not exceeding fifty pounds If such licensee or person as aforesaid be convicted

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convicted of selling or delivering or permitting to be sold or delivered or of offering for sale or having in his possession adulterated liquor or liquor containing any deleterious drug or noxious ingredient in contravention of this or any other Act any expenses incurred in analyzing any liquor in pursuance of this section shall be deemed to be a portion of the costs of the proceedings against him and shall be paid by him accordingly otherwise such expenses shall be paid out of the Consolidated Revenue Fund.

20. If any such inspector shall take or receive any fee gratuity or reward whatsoever whether pecuniary or of any other kind and whether directly or indirectly from any person on account of anything done or to be done by such inspector in or in any way relating to his duties or office not being part of his official emoluments such inspector shall on proof thereof to the Minister be dismissed from his office and from every office which he may hold in the Public Service and on conviction of such offence before any Licensing Court or Court of Petty Sessions shall be liable to be imprisoned for any term not exceeding six months and to pay a fine not exceeding one hundred pounds And if any person shall give offer or promise to give whether directly or indirectly to any inspector any such fee gratuity or reward such person shall for every such offence be liable to a penalty recoverable in any such Court as aforesaid of not less than fifty nor more than two hundred pounds.

Penalties on inspectors and persons offering them bribes &c.

21. Any of the persons hereinafter described having reasonable cause for suspecting unlawful or disorderly proceedings to be carried on or any breach of this Act to have been committed or to be in process of commission in any licensed premises or the appurtenances thereto at any time during the day or night may demand entrance into such premises or appurtenances viz. :—

Licensed premises may be entered by day or night.

- (I.) Any Superintendent Inspector Sub-Inspector or Sergeant of Police
- (II.) Any Senior Constable duly authorized by any general authority under the seal of a Licensing Court
- (III.) Any Inspector appointed under this Act
- (IV.) Any Constable authorized in writing by a Licensing Magistrate Justice or Superintendent of Police

And if admittance be refused or unreasonably delayed to any such officer or constable as aforesaid himself so demanding entrance or to any constable who shall accompany any other person as aforesaid who shall so demand any entrance any such constable may break into such premises with such assistance as may be deemed requisite And the licensee of the premises and every other person who refuses or delays admittance to any person authorized under this section shall be liable to a penalty not exceeding ten pounds.

PART II.

Licenses for the Sale of Liquor and provisions in respect thereto.

22. Nothing in this Part shall apply to any person selling or offering for sale—

Exemptions from Act

- (I.) Wine cider or perry in quantities of not less than two gallons of any one kind of such liquor at any one time Provided that such wine cider or perry is the produce of fruit grown within the Colony and is made by the person selling or offering the same for sale and is not consumed or intended to be consumed on the premises where the same is sold or offered for sale.

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- (II.) Any spirituous or distilled perfume sold as perfumery only and not for drinking.
- (III.) Liquor in the Parliamentary Refreshment-room by the permission and under the control of the proper authority.
- (IV.) Liquors in any Military Canteen established under a permit issued under the hand of the Minister (which permit the Minister is hereby authorized to grant).
- (V.) Liquors in any Club-house provided that such liquors be so sold only to members of such Club or offered only to such members or their guests and in premises of which the members are the *boná fide* owners or lessees.
- (VI.) Colonial wine at such refreshment rooms or stalls at the Railway Stations throughout the country as may be sanctioned for that purpose by the Commissioner for Railways and under regulations made by him for that purpose.

Or shall apply to any

- (vii.) Duly registered apothecary chemist druggist or other person authorised by law in that behalf and administering dispensing or selling any spirituous or fermented liquors for medicinal purposes only.
- (viii.) Importer or proprietor selling liquor before the same is taken or landed from the vessel or conveyance in which the same has been imported into the Colony from parts beyond the Colony or before entry or after entry for warehousing or after the warehousing thereof.
- (ix.) Licensed auctioneer in the *boná fide* exercise of his business selling or offering for sale by auction liquor on account of another person.

Description and
currency of liquor
licenses.
What licenses for
sale of liquor may be
granted.

23. The following descriptions of licenses for the sale of liquor may be granted under this Part viz.—

Publicans licenses—Packet licenses—Colonial wine licenses—Booth or Stand licenses—six month licenses granted under section thirty-nine And every such license (except booth or stand and six months licenses) shall subject to the provisions of this Act be in force for one year from the date on which the same shall have been granted and no longer.

Publicans licenses.
Second Schedule.

24. All publicans licenses issued after the passing of this Act may be in the form of the Second Schedule hereto and every such license shall authorize the licensee therein named to sell and dispose of liquor but (subject to the provisions contained in section sixty-three hereof) only on the premises therein specified and between six o'clock in the morning and eleven at night.

Packet license.
Third Schedule.

25. Packet licenses may be in the form of the Third Schedule hereto and in accordance with the classification hereinafter prescribed and shall authorize the master of the vessel therein named to sell and dispose of liquor to any passenger on board such vessel during any voyage or passage but not until such vessel has left her berth or moorings and has proceeded on her voyage or passage nor shall any such license be available on board of any vessel while plying between places within the harbour of Port Jackson Provided that nothing in this Act contained shall extend to prevent any allowance of liquor from being served out to the crew of any vessel by order of the master thereof whenever such allowance is not forbidden by any Customs or other law in force for the time being.

Colonial wine license.
Fourth Schedule.

26. Colonial wine licenses may be in the form of the Fourth Schedule hereto and shall authorize the licensee if the occupant of premises within the City of Sydney assessed at an annual value of fifty pounds per annum or of premises within any borough or municipal district

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district assessed at thirty pounds per annum or elsewhere of the value or rental of ten pounds per annum to sell and dispose of on the premises in such license specified wine cider or perry the produce of fruit grown within any Australasian colony in quantities not exceeding two gallons and not containing a greater proportion than twenty-six per cent. of proof spirits but only between the hours of seven in the morning and eleven at night.

27. A Colonial wine license shall not be granted to any person holding a license for a still under section nineteen of thirteenth Victoria number twenty-seven nor in respect of or exercised in any premises situated at a greater distance than one hundred yards from any road And for the purposes of this section the word "road" includes any proclaimed street road or highway of which the control and management are vested in the Council of a Borough or Municipal District or in Trustees and any public road made or maintained wholly or partly at the public expense.

Qualification on grant and exercise of Colonial wine license.

28. Booth or stand licenses may be in the form of the Fifth Schedule hereto and shall authorize the licensee being also the holder of a publican's license to sell and dispose of liquor at any race regatta cricket or rifle match athletic or other sports encampment fair or other lawful place of public amusement for a period not exceeding seven days but not to exceed with any renewal or renewals thereof a period of twenty-eight days Provided that every such license shall be subject to any conditions and provisions imposed by the Licensing Court or Licensing Magistrate granting the application.

Booth or stand license. Fifth Schedule.

29. Every person wishing to obtain a publican's or Colonial wine license under this Act shall at least fourteen days before he shall apply to the Quarterly Licensing Court of such District deliver to the clerk of the Licensing Court for the District within which the premises are situated to which such license is intended to apply and to the District Inspector a notice in writing signed by such applicant setting forth the applicant's name calling and abode and shall also affix a like notice on the outer side or front of the principal entrance door of the said premises there to be kept until the day upon which the said Court shall be holden Such applicant shall also publish a copy of such notice in a newspaper circulating in such District at least seven days before he shall so apply In all cases the notice of application may be in such one of the forms in the Sixth Schedule hereto as shall be applicable or to the like effect and shall be delivered in triplicate to the Clerk who shall immediately after the receipt thereof post or cause to be posted one of such notices inside and another outside on some conspicuous part of the Court-house or building in which the Court is to be held Provided always that no such application shall be entertained where such applicant is an unmarried woman not being a widow.

As to publicans and other licenses.

Sixth Schedule.

30. Before a publican's license is granted for any house and during the continuance of such license such house shall contain in addition to and exclusive of such reasonable accommodation for the family of the licensed publican as the Court shall think requisite at least two moderate-sized sitting-rooms and four sleeping-rooms constantly ready and fit for public accommodation and each such room in every house not licensed at the passing of this Act shall contain not less than twelve hundred cubic feet air space and not be less than nine feet in height And during the continuance of such license every such house shall be provided with at least two decent places of convenience on or near the premises for the use of the customers thereof so as to prevent nuisances and offences against decency and with stabling sufficient for four horses at least and with a sufficient supply of wholesome and usual provender for the same Provided that the Court may if they think proper by indorsement in writing upon any certificate

Minimum standard of accommodation for licensed house.

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certificate granted under this Act dispense with the said stabling accommodation or such part thereof as they may think fit where the house is situated within the boundaries of the City of Sydney or of any Borough or Municipal District.

Old premises to conform to new standard of accommodation.

31. The holder of a publican's license granted under the Act hereby repealed shall before or on applying for a renewal or transfer thereof under the provisions of this Act lodge a statutory declaration with the Court which declaration shall be made by the applicant and shall state that in addition to the family accommodation to be therein described the requirements of the next preceding section in respect of public accommodation except the required height of rooms and stabling are complied with by the premises for which the renewal or transfer is desired. Provided always that the Court in their discretion may by endorsement on the license extend the time within which such declaration shall be lodged.

Applications for packet and booth or stand licenses.

32. Every application for a packet license if in respect of a vessel plying to or from Port Jackson shall be made to the Metropolitan Licensing Court and if in respect of a vessel not so plying shall be made to a Court holden within the Licensing District within which her usual port or place of departure or arrival is situated. Applications for packet licenses or for booth or stand licenses may be heard and determined by a Licensing Magistrate as well as by a Licensing Court and need not be preceded by any notices.

Conditional licenses may be granted.

33. Any person desirous of obtaining a new publican's license for premises proposed to be erected or for premises already erected but requiring additions or alterations to make them suitable to be licensed under this Act may before building such new premises or making such additions or alterations to premises already erected make a conditional application to the Court and in such case shall furnish the Court with a properly drawn plan showing the precise locality the number and size of the rooms and all other information necessary to enable the Court to form a correct estimate of the utility of such proposed premises when completed. And subject to the other provisions of this Act in respect to applications for new licenses and objections thereto the Court may grant such conditional application and after recording the same in the book of proceedings of the Court may furnish a copy of such record to the applicant and the granting of such conditional application shall remain in force until the completion of such premises provided such completion shall be effected within twelve months from the date of such record and the plans so furnished shall be initialled by the chairman and deposited with the Clerk of the Court and on the completion of such premises the District Inspector shall after examination thereof certify whether (or not) they are completed in accordance with the plans so furnished and if the Inspector shall certify in the affirmative a certificate for a publican's license shall be issued by the court at its next sitting unless the Court shall be then satisfied that the character of the applicant is objectionable provided that nothing herein shall affect the provisions of the thirty-fourth section.

Grant of new publicans licenses or removal certificates when contingent on ratepayer's option.

34. After the commencement of this Act the granting of a new publican's license or of a certificate of removal of a publican's license shall within the area of every ward of the City of Sydney or of any Municipality subdivided into wards as well as within the area of every Municipality not so subdivided be contingent upon the vote of the ratepayers of such areas respectively to be ascertained in manner hereinafter provided. If such vote shall be in the affirmative the grant of such new licenses or certificates of removal shall within any such area be unaffected by the provisions of this section for the term of three years from the date of the notification in the *Gazette* announcing

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announcing such vote but shall during such term be subject to all other provisions of this Act. If such vote shall be in the negative no new publican's license and no certificate authorising the removal of a publican's license shall for a period of three years from the date of the notification in the *Gazette* announcing such vote in the negative be granted for premises within the area in which the vote of the ratepayers has been so given in the negative. In and for every such area as aforesaid the ratepayers vote may be exercised from time to time at intervals of three years after the taking of the last effective vote but not oftener and shall in every case cease to be operative after the expiration of three years from the date of the notification thereof in the *Gazette*. Provided always that nothing in this section contained shall be applicable within any such area as aforesaid if no vote of ratepayers has been taken or if the voting is a nullity or shall prejudice or affect any person holding a publican's license for premises which have been destroyed or rendered uninhabitable by fire within twelve months before the commencement of this Act if such premises be rebuilt or restored in accordance with the provisions of this Act within one year after such commencement and if a publican's license be applied for in respect thereof within that period. The voting of ratepayers within every such area as aforesaid as well as the announcement and effect thereof shall be governed by the conditions and provisions hereinafter declared viz. :—

- (I.) At the first annual election of Aldermen to be held after the commencement of this Act in any Municipality (other than the City of Sydney) a vote of the ratepayers of such Municipality (if not subdivided) and of the ratepayers of each ward of such Municipality (if subdivided) shall be taken for the purposes of this section on the day appointed for such annual election. The first vote of such ratepayers shall be taken on the same day as that on which the annual election of Aldermen shall be held in the year one thousand eight hundred and eighty-two and every subsequent vote shall take place on the corresponding day at intervals of three years from the taking of the preceding vote. Ratepayers option within Municipalities.
- (II.) The first voting of ratepayers within the City of Sydney shall be held within sixty days after the commencement of this Act. The time and place for holding such first voting shall be appointed by the Mayor of the said City within twenty-eight days after such commencement and within the said last-named period shall by such Mayor be notified in the *Gazette* and six times in each of two daily papers published in the said City. The next voting of ratepayers within the said City shall take place at the annual election of Aldermen of the said City to be held in the year one thousand eight hundred and eighty-five and all subsequent votings shall be held at the like elections but only after intervals of three years from the last preceding voting so taken as aforesaid. Ratepayers option in City of Sydney.
- (III.) The voting of ratepayers in the said City and in every Municipality subdivided into Wards shall be taken for the several Wards but where a Municipality is unsubdivided at the time of taking the voting such voting shall be for the whole area of the Municipality existing at such time. Limit of voting.
- (IV.) For the purpose of taking the votes of ratepayers under this section voting-papers to be termed "Local Option Papers" shall be provided by the Mayor of the City of Sydney for the first voting of ratepayers under this section within the said City and by the Returning Officer for all votings. Local option papers.

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votings of ratepayers in Municipalities and at all subsequent votings within the said City Such voting-papers shall be in accordance with the form following—

<p>“ LICENSING ACT OF 1882.”</p> <p>LOCAL OPTION VOTING-PAPER.</p>	
<p>Ward of _____ or Municipality of _____</p>	<p>City of Sydney or Municipality of _____ (if unsubdivided).</p>
<p>“ Shall any new Publicans’ Licenses or Removals of Publicans’ Licenses be granted in respect of premises situate within the above [Ward or Municipality] for the period of three years from this date ?”</p>	
<p>[Voter’s Answer.]</p>	
<p>YES. NO.</p>	
<p><i>Directions.</i></p> <p>The Voter must strike out the word “ Yes” if he desire to record his vote against increasing the number of public-houses within the area referred to If he do not desire so to record his vote he should strike out the word “ No.”</p>	

And all such voting-papers shall at elections where a polling takes place be on blue forms otherwise they shall be on ordinary paper.

Returning Officers to provide a sufficient number of local option papers.

(v.) Such Mayor or Returning Officer shall cause to be delivered to the presiding officer at each polling place appointed for the holding of such annual election or the taking of such voting as aforesaid so many of such “ Local Option Papers” signed by himself on the back thereof as shall be equal to the number of the electors on the roll for the time being of the said City Ward or Municipality.

Local option papers to be furnished to voters.

(VI.) Whether at any such annual election as aforesaid a poll shall be required to be taken or not the persons who in case of a contested election would be required to be in attendance at the several polling places shall be in attendance for the purpose of taking the votes of ratepayers under this section And for the first voting hereunder in the City of Sydney the like persons also shall be in attendance at such polling places for such purpose In like manner all persons who are required by law to furnish ballot-papers to electors entitled to vote at annual elections shall furnish to each voter demanding the same one “ Local Option Paper.”

Procedure by voters.

(VII.) Every voter receiving such “ local option paper ” shall for the purpose of voting under this section deal with the same in accordance with the directions contained therein And thereupon he shall pursue the same course in respect to such paper as he would be required by law to pursue in respect to ballot-papers at Municipal Elections And if such voter be blind or unable to read the proper officer shall take the same course for the purpose of permitting such voter to vote under this section as is prescribed by law in respect to blind or illiterate voters at annual elections in Municipalities.

Proceedings voting.

(VIII.) If the voting under this section shall take place on the occasion of a contested municipal election the voter if he desire to vote hereunder shall be furnished with the local option paper to which he is entitled at the same time as he receives his ballot-paper or papers but in that case he shall deposit

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deposit the local option paper in a separate ballot-box which shall be provided for that purpose. If the election be not a contested one or in case of the first voting in the City of Sydney under this Act the local option papers shall be dealt with in all respects (subject to the provisions of this Act) as if they were ballot-papers. And no questions shall be asked of a voter in respect of his voting hereunder except the following "Are you the person named as _____ number _____ on the roll for _____ Ward or this Municipality?" And such questions shall not be asked of any voter who shall have been asked and have duly answered the question or questions by law permitted in the case of voters at Municipal elections.

- (IX.) All the provisions of the Acts relating to Municipalities and to the Corporation of the City of Sydney so far as they regulate or prescribe the qualifications and disqualifications of electors the mode and place of holding elections of appointing polling places the mode of voting and the punishment for giving a false answer to questions shall subject to the provisions herein contained apply respectively to voting and voters at and to all officers taking part in respect of the voting of ratepayers for the purposes of this Act. Incorporation of certain provisions in Municipalitie and Sydney Corporation Act.
- (X.) If after the first taking of the ratepayers vote hereunder in any Municipality a new or additional Ward shall be appointed therein or if after the taking of such vote a new Municipality shall be constituted either by union or severance embracing the area or part of the area of the Municipality in which such vote shall have been taken then a new vote hereunder shall be taken at the first annual election of Aldermen for such Ward or new Municipality and such vote shall supersede the vote (if any) first taken in respect of such Ward or the area comprised in such new Municipality as the case may be. Provision for voting in new Municipality or Ward.
- (XI.) In case no voting for Aldermen shall take place at any election at which a ratepayers vote under this Act ought to be taken such vote shall be taken at the next annual election of Aldermen for the Ward or Municipality in which no voting took place and in such case the interval of three years shall be reckoned from the date of the taking of an effective vote of ratepayers hereunder. Provision where no election shall be held &c.
- (XII.) The result of every voting hereunder shall be ascertained as follows— Result of voting how ascertained &c.
 If a number of votes in the negative shall be given equal to or exceeding eleven-twentieths of the aggregate number of votes polled the ratepayers option shall be held to have been exercised in the negative otherwise such option shall be held to have been exercised in the affirmative. In the former case the restriction upon new publicans licenses or removals will take effect in the latter case the voting will have no effect upon such licenses or removals. The officers to count and otherwise deal with the votes shall be those who at ordinary municipal elections would be the proper officers to ascertain the poll but no scrutineers shall be required in respect of such votes.
- (XIII.) As soon as practicable after the taking of such ratepayers votes in pursuance of the provisions of this section the Returning Officer or other person before whom the election is held shall declare the result of the voting and shall thereupon certify under his hand to the Minister the number of votes polled in the negative and the number polled in the affirmative. And the Minister shall within seven days after the receipt Declaration and notification of result of voting.

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receipt of such certificate cause the same to be notified in the *Gazette* Upon such notification the result of such voting shall be judicially noticed by all Licensing Courts and Magistrates of the Licensing District within which the said voting was taken and to which the same applies.

Costs in connection with local option voting.

(XIV.) All expenses incurred in the City of Sydney or in any Municipality in carrying out the requirements of this section shall be defrayed from the same fund and paid in the same manner as expenses therein respectively incurred in carrying out the requirements of the civic or municipal law in respect to voting at annual elections.

Qualification of preceding section.

35. Notwithstanding any vote in the negative taken in and for any area as aforesaid declared and notified under the next preceding section the Licensing Court may grant licenses under this Part for hotels within such area containing not less than twenty rooms suitable for public accommodation in addition to the standard accommodation hereinbefore prescribed But no vote in the affirmative so taken declared and notified shall make it compulsory for the Licensing Court to grant any new publicans' licenses for premises within the area to which such vote is applicable.

Objections to liquor licenses.

36. Objections to the granting of any license under this Part may be made either personally or by petition to a Licensing Court or Licensing Magistrate (as the case may be) by—

- (I.) Any three or more residents of the Licensing District within which the premises are situated or by the owner of such premises
- (II.) Any other applicant for a similar license or person holding a similar license in the Ward or Municipality in which the premises are situated
- (III.) Any District Inspector or member of the police force in charge of the District or place in which the premises are situated or any person authorized by any such Inspector

And any one or more of the following objections may be taken to the granting of any such license—

- (I.) That the applicant is a person of drunken or dissolute habits or otherwise of bad repute
- (II.) That his license has within the twenty-four months preceding the date of application been cancelled
- (III.) That the applicant has been convicted of selling liquor without a license or of selling adulterated liquor within a like period as aforesaid from date of application
- (IV.) That the premises have not the minimum standard of accommodation prescribed by this Act for such premises
- (V.) That the reasonable requirements of the neighbourhood do not justify the granting of such license
- (VI.) That the premises are in the immediate vicinity of a place of public worship hospital or public school
- (VII.) That the quiet and good order of the neighbourhood in which such premises are situate will be disturbed if a license be granted

And the objections which may be taken to the renewal transfer or removal of any such license may be any of the grounds of objection hereinbefore specified which the said Court or Magistrate may consider applicable Provided always that upon any application whether for the grant renewal removal or transfer of a license any objection whatsoever not being a frivolous or vexatious objection may be taken which appears to the Licensing Court or Magistrate to be sufficient Any such applicant upon objections being raised at the hearing of which previous notice has not been given to him at least three days before

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before such hearing shall be entitled to an adjournment thereof In this section the word "premises" means the building or premises for or with reference to which the particular application is made.

37. If the Court shall decide to grant an application they shall issue to the applicant a certificate in such one of the forms in the said Seventh Schedule hereto as shall be applicable or to the like effect and shall cause to be transmitted to the Colonial Treasurer or to the Officer appointed by him to be a receiver of license fees a duplicate of such certificate.

Certificate to issue to licensee and duplicate certificate to be transmitted to Colonial Treasurer. Seventh Schedule.

38. If the Court shall refuse to grant any application they may order payment of a sum to meet the reasonable costs and expenses of the opposing party to be made to such party by the unsuccessful applicant And if the opposition to any application shall appear frivolous or malicious the Court may order payment of a sum to meet the reasonable costs and expenses of the successful applicant to be made to him by the opposing party.

Costs of application.

39. Notwithstanding the provisions hereinbefore contained it shall be lawful for the Governor from time to time by notification in the *Gazette* to declare any gold field or other district or area not situate within a Licensing District to be a Special District wherein by reason of exceptional conditions publicans licenses may be granted under this section All applications for or in respect of such licenses may be heard and determined at any time by any Police or Licensing Magistrate and without compliance with the requirements of section twenty-nine of this Act Licenses under this section may be either for a year or for six months from the date of issue and the fee for a license shall be the same as for an ordinary publican's license or a moiety thereof for a six months license all such licenses shall be subject to such conditions and provisions as shall be prescribed by regulations.

Provision for granting publicans licenses in Special Districts.

40. The following fees shall be paid annually in respect of licenses under this Part viz.—

Fees payable for licenses under this Part.

- (I.) For Publicans' licenses the sum of thirty pounds.
- (II.) For packet licenses—
 - (a.) Class I Passenger Vessels of or above one thousand tons registered tonnage—fifteen pounds.
 - (b.) Class II Passenger Vessels of less than one thousand and more than two hundred and fifty tons registered tonnage—ten pounds.
 - (c.) Class III Passenger Vessels of less than two hundred and fifty tons registered tonnage three pounds.
- (III.) For a Colonial wine license three pounds.
- (IV.) For a Booth or stand license two pounds.

41. The refusal of an application for a license under this Part or for the renewal transfer or removal of any such license shall not prevent a like application being subsequently made in respect of the same premises or subject matter But if an application for such license or for a renewal thereof is refused after a previous refusal of a like application and in respect of the same premises within the period of three years from the date of such first application then no such license or renewal in respect of such premises shall be granted until after the expiration of three years from the last refusal Upon the refusal of an application the Court shall at the time of such refusal state the reasons therefor.

Renewal of applications.

42. Every licensee under this Part other than for a booth or stand shall subject to objection as hereinbefore provided be entitled to obtain a certificate authorizing the renewal of his license on producing such license subject always to the payment to the proper officer of the annual fee payable in respect of such license Provided

Renewal of license on production thereof and payment of annual fee.

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always that such license has not been allowed to expire or has not been forfeited or cancelled or become void. But the Court may refuse to grant a certificate of renewal of any license if it shall be proved that such license is liable to be forfeited or cancelled under any of the provisions of this Act. No licensee applying for a renewal need attend in person before the Court unless a written notice of an intention to oppose such renewal shall have been served upon him at least three days before the holding thereof. But the Court may nevertheless on an objection being made adjourn the granting of any renewal to a future day and require the attendance of the licensee on such day when the case shall be heard and the objection considered as if the notice hereinbefore prescribed had been given. The provisions hereinbefore contained as to hearing of applications objections costs giving of notices and re-hearing shall apply to applications for renewals as if such provisions were here re-enacted but with such alterations (if any) as the circumstances of the case may require in the opinion of the Court.

Transfer of licenses.

43. A Licensing Magistrate may on application in writing by the intending transferor and transferee transfer at any time the license of any licensee (other than a booth or stand license) to such transferee if approved of by him by an endorsement upon the license in the form in the Eighth Schedule hereto or to the like effect. And where a licensee has been legally evicted from any licensed premises such Magistrate may notwithstanding the non-production of the license therefor grant on the application in writing of the owner of the premises and the proposed transferee a special certificate of transfer of such license to such transferee. For every such endorsement or special certificate a fee of two pounds shall be paid. Every transferee shall until the end of the year for which the license shall have been granted possess all the rights of the original licensee and shall be liable to the same duties obligations and penalties as if such license had been originally granted to him. The license shall immediately after the said endorsement be deposited with the clerk of the Licensing Court of the District or with the licensing Magistrate (who shall give the transferee a receipt therefor) and be retained by him until the granting or refusal of the license to be applied for by the transferee as aforesaid and in the event of a refusal of the license the right to and interest in the said license (if any) shall revert to the transferor.

Eighth Schedule.

Removal of license of licensed publican

44. No removal of a publican's license from one Licensing District to another shall be lawful but if any holder of a publican's license shall desire to remove his license from his licensed premises to any other premises in the same Licensing District he shall give notice in the form in the Ninth Schedule hereto or as nearly in accordance therewith as possible of his intended application in the same manner as notice is required to be given of an application for a license. A copy of the notice shall be personally served by the applicant upon or sent by registered letter to the owner of the premises from which the license is to be removed. And the same objections may so far as applicable be made to the removal of a license as to the grant of a license. The Licensing Court shall not make an order of removal unless satisfied that no valid objection to such removal is made by the owner of the premises to which the license is attached. If the application be granted an endorsement may be made upon the license in the form in the Tenth Schedule hereto and the license so endorsed shall have the same effect as if it had been originally granted in respect of the premises specified in such endorsement but as to the original premises the said license shall be deemed to be cancelled.

Ninth Schedule.

Tenth Schedule.

Temporary license may be granted in case of destruction of licensed premises by fire &c.

45. If the premises of any licensed publican shall by fire tempest or other calamity be rendered unfit for the carrying on of his business

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business any Licensing Magistrate upon the application by or on behalf of such licensed publican may if he shall see fit so to do by order under his hand authorize such licensed publican temporarily to carry on his business in some neighbouring premises (although not having the accommodation required by this Act) for any period not exceeding six calendar months.

46. If any person shall at any one time hold a beneficial interest whether in the name of himself or anyone else in more than one license for the sale of liquor under this part he shall be liable for every day during which he shall hold such interest to a penalty not exceeding five pounds. But this section shall not apply to holders of booth or stand licenses.

No person to hold more than one license.

47. Every holder of a publican's license shall keep a lamp (to be lit with gas where practicable and to have an illuminating power equal to two ordinary candles at least when lit with gas or oil) Such lamp must be fixed over the door of and outside the wall or building-line of his licensed premises or within twenty feet thereof and shall be kept burning during the whole of every night from sunset to sunrise. And every such holder neglecting to comply with the requirements of this section shall for any such offence be liable to a penalty not exceeding two pounds.

Lamp to be kept lit.

48. Every person who shall sell any liquor without holding a license authorizing the sale thereof shall (unless he be the agent or servant of the holder of such license) for the first offence be liable to a penalty of not less than thirty nor more than fifty pounds and for any subsequent offence such person shall forfeit the sum of one hundred pounds and if the Licensing Court or convicting Justices think fit shall be imprisoned with or without hard labour for any term not exceeding six nor less than three months. Upon any conviction under this section the offender shall forfeit all liquor in his possession with the vessels containing the same to the use of Her Majesty. In the case of a second or subsequent offence the offender shall be declared after conviction by such Court or Justices to be and shall thereupon be disqualified from holding a license of any description for the sale of liquor for a period of twelve calendar months from the date of such conviction.

Penalty on sale of liquor by unlicensed persons.

49. If any holder of a license under this Part suffers any gaming for stakes or any unlawful game whatsoever to be carried on on his licensed premises or if such holder or any servant or person in charge of such premises connives at the playing of any such game therein or in the appurtenances thereof or if any such holder opens keeps or uses or suffers his premises to be opened kept or used in contravention of the Act thirty-ninth Victoria number twenty-eight intituled "*An Act for the Suppression of Betting-houses*" as amended by the Act forty-third Victoria number thirty every such person so offending shall be liable to a penalty not exceeding for the first offence ten pounds and not exceeding for the second and any subsequent offence twenty pounds.

Gaming prohibited in licensed premises.
35 and 36 Vic. c. 94 s. 17.

50. Every holder of any such license as aforesaid who allows in or on his licensed premises any aboriginal native of Australia of any age to be supplied with liquor and whether the liquor be for consumption on the premises or not or any person apparently under the age of sixteen years to be supplied with liquor by purchase or otherwise for consumption on such premises shall as well as the person who actually gives or supplies the liquor be each liable to a penalty not exceeding ten pounds nor less than forty shillings.

Penalty for supplying liquor to aboriginals or children.

51. It shall not be lawful for any licensed publican or holder of a Colonial wine license to permit music or dancing in any room or part of his licensed house or in or upon any part of the premises or grounds belonging thereto open to public resort. And every person offending against

Music or dancing not to be permitted.

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Proviso as to race
agricultural and other
balls.

against this enactment shall be liable to a penalty not exceeding twenty pounds and on a second conviction shall be liable to a like penalty and to the forfeiture of his license Provided that nothing in this section shall apply to any rooms in or appurtenant to any licensed premises while used for the purpose of holding therein any race or agricultural or cattle show ball or entertainment or while used for the purpose of holding any assembly ball or other ball or concert for the holding of which a permit shall have been granted by a Licensing Magistrate or Court.

Penalty for supplying
drink to intoxicated
persons.

52. If the holder of any license for the sale of liquor supplies liquor to any person who is at the time in a state of intoxication he shall for the first offence be liable to a penalty not less than two nor more than five pounds and for any subsequent offence to a penalty not less than ten nor more than twenty pounds and in the latter case to the forfeiture of his license.

Supply of liquors to
inebriates prohibited.

53. Upon proof being given to the satisfaction of any Licensing Court or Justices in Petty Sessions that any person by the excessive drinking of liquor has so wasted his means or is likely to impoverish himself to such a degree as to expose himself or his family to want or seriously impair his health such Court or Justices shall by writing under the hand of the chairman or of any two of such Justices forbid all licensed publicans and also all other persons licensed or authorized to sell liquor to sell to or supply such inebriate with any liquor for the space of one year Such Court or Justices or any two of them may in like manner from year to year renew any such prohibition in respect to any such persons as have not in their opinion reformed within the preceding year And if any holder of a license under this Part during any such prohibition after service of a copy thereof upon him or with a knowledge thereof in any other manner acquired shall sell to any such inebriate any liquor such holder shall be liable upon conviction for every such offence to a penalty not exceeding ten pounds.

Further penalty.

54. Whenever such Court or Justices shall in execution of the foregoing powers have prohibited the sale of liquor to any inebriate if any other person shall with a knowledge of such prohibition give sell purchase or procure for or on behalf of such inebriate or for his use any such liquor such person shall upon conviction for every such offence be liable to a penalty not exceeding five pounds.

Liquors to be sold by
Imperial measure.

55. Every holder of a license under this Part shall measure all liquors to be sold in quantities of 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 offence be liable to a penalty not exceeding five pounds.

Indemnity from
distress for rent &c.
of strangers property

56. 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 being the *bona fide* property of any lodger or traveller putting up thereat which shall be 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 in respect of such house or appurtenances or in respect of any other claims whatsoever against the same or the owner or occupier thereof And if any such goods or chattels shall be distrained or seized any Police or Licensing Magistrate or any two Justices in Petty Sessions may summarily enquire into such matter upon the complaint of any person aggrieved by such distress or seizure and may order any such goods or chattels so distrained or seized to be restored to their owner and may award and enforce payment of reasonable costs of the proceedings against the person distraining or seizing such goods or chattels.

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57. No licensee under this Part shall maintain any action for or recover in any Court any debt or demand for any liquor sold or disposed of in any less quantity at one and the same time than two gallons of one and the same liquor unless such liquor has been lawfully sold or supplied by such licensee to *bonâ fide* lodgers or travellers. Provided always that any person who at the time of being supplied with liquor shall on demand of payment made by such licensee or by his servant or agent refuse to pay a reasonable sum therefor shall be deemed a rogue and vagabond and shall be liable to be dealt with as such under the Acts relating to vagrancy.

No action for price of less than two gallons of liquor.

Penalty on persons refusing to pay for liquor.

58. If any licensed publican shall permit any person to manage or superintend or conduct the sale of liquor at his licensed premises during his absence therefrom for a longer continuous period than six weeks in any one year without the previous consent in writing of a Licensing Magistrate or shall whether present in such premises or not permit any unlicensed person to act as or be in effect the keeper thereof or shall fail to maintain such premises and the accommodation thereof at the standard required by this Act or shall allow such premises to become ruinous or dilapidated otherwise than by fire flood or other uncontrollable cause or shall abandon such premises as his usual place of residence his license shall be liable to cancellation.

Forfeiture of license in certain cases.

59. Every holder of any license under this Part who shall employ any unlicensed person to sell by retail any liquor in any premises vehicle vessel or boat or in any place whatsoever not being within premises or in the place in which such holder is authorized to sell liquor by his license or in such last-mentioned premises or place otherwise than as the servant or agent of and for the use and benefit of such holder shall for every such offence be liable to a penalty not exceeding twenty pounds.

Allowing unlicensed person to sell &c.

60. Nothing in this Act contained shall affect the provisions of the Act thirty-ninth Victoria number nine in respect of the liability of innkeepers and the prevention of frauds upon them but the provisions of the said cited Act shall apply to the holder of every publican's license under this Act.

Innkeepers liability saving of 39 Vic. No. 9.

61. Every person not holding a license under this Part on whose premises any sign writing painting or other mark shall be exhibited which may imply or give reasonable cause for believing that such premises are licensed for the sale of liquor or that liquors are sold or supplied therein shall for every such offence be liable to a penalty not exceeding ten nor less than two pounds.

Sign on unlicensed house.

62. Any Police or stipendiary Magistrate or two Justices may if any riot or tumult shall arise or be apprehended in the neighbourhood of any licensed premises order that all holders of publicans licenses shall close their premises during any time ordered by such Magistrate or Justices. And any such holder who shall keep his house open during any such time shall be liable to a penalty not exceeding ten pounds.

In case of riot licensed house may be closed.

63. No holder of a license under this Part shall keep his premises open for the sale of liquor or shall sell any liquor or permit the same to be drunk or consumed in or on his premises unless between the hours of six in the morning and eleven at night on the six business days of the week and unless between the hours of seven 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 on the two last-mentioned days only for the sale of liquor 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 twenty pounds. Every separate sale of liquor in violation of this enactment shall be deemed a separate offence.

Hours of selling.

Penalty.

But

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But nothing in this section shall prohibit the sale or supply of liquor to any *bona fide* lodger or inmate if such liquor is not drunk at the public bar of such holder's licensed premises nor shall prohibit the sale or supply of liquor at such bar or elsewhere upon such premises to any *bona fide* traveller. Any person not being a *bona fide* lodger inmate or traveller drinking liquor in any licensed premises or found in the act of leaving the same with liquor in his possession at any time not within the hours and days hereinbefore respectively specified shall for every such offence be liable to a penalty not exceeding forty shillings.

Penalty on refusal to receive travellers.

64. No holder of a publican's license shall if there be accommodation in his house refuse to receive any *bona fide* 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 such 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. And for the purposes of this and the next preceding and the fifty-seventh section hereof no person shall be deemed a *bona fide* traveller unless he reside at least five miles from the licensed premises where he shall be supplied with liquor or require to be received as a guest or to be supplied with food or other accommodation and shall have travelled at least five miles on the day when he shall be so supplied or require to be supplied or received as aforesaid. And any person who by falsely representing himself to be a traveller or lodger within the meaning of this or the next preceding section buys or obtains or attempts to buy or obtain at any such premises any liquor on any prohibited day or hour of the day shall be liable to a penalty not exceeding five pounds.

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

65. Every holder of a license under this Part 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 current coin bank notes or a cheque promissory-note or order for money shall for every such offence be liable to a penalty not exceeding ten pounds.

Paying wages in public-houses prohibited.

66. If any master or other person employing workmen servants or labourers shall pay or cause any payment to be made to any such workman servant or labourer in or at any house in which liquor shall be sold by retail he shall for every such offence be liable to a penalty not exceeding five pounds. Provided always that nothing herein contained shall extend to any holder of a publican's license paying his own workmen servants or labourers in his own licensed premises.

Penalty.

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

67. Whenever any Inspector Justice or any officer of police or constable shall find any person drinking liquor in any reputed disorderly house or in any unlicensed premises 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 authorising such sale shall not on demand be produced to such Inspector Justice officer 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 Licensing Court or any two Justices be liable for every such offence to a penalty not exceeding thirty pounds and every person purchasing liquor in any unlicensed house or place to a penalty not exceeding forty shillings.

PART III.

Brewers and Spirit Merchants Licenses.

68. After the commencement of this Act the registration of brewers and spirit merchants prescribed by the Act thirteenth Victoria number twenty-six intituled "*An Act to prevent unlawful Distillation and to provide for the protection of the revenue arising from the Duties on Spirits*" shall be discontinued and in lieu of such registration all brewers and spirit merchants shall take out annual licenses as hereinafter provided—

- (I.) Every brewer or spirit merchant now registered under the said last-mentioned Act shall apply at some Quarterly Licensing Court of the Licensing District within which his registered premises are situated or to the Licensing Magistrate for such district for a brewer's or spirit merchant's license and with his application shall lodge a particular description of the premises in which the business of brewing or of selling and keeping and storing spirits (as the case may be) is to be carried on. And such application and description may be in the form in the Eleventh Schedule hereto. Eleventh Schedule.
- (II.) Every person not registered under the said Act at the commencement of this Act who shall desire to carry on the business of a brewer or of a spirit merchant shall apply for a brewer's or spirit merchant's license (as the case may be) to the Licensing Court or Licensing Magistrate as aforesaid.
- (III.) On any such application the Court or Magistrate shall issue to the applicant a certificate in the form in the Twelfth Schedule hereto applicable to brewers or spirit merchants respectively which certificate shall entitle the holder upon payment of the respective fees prescribed by this Act to obtain from the Colonial Treasurer or officer authorized by him a brewer's or spirit merchant's license in the prescribed form and according to the tenor of such certificate. Twelfth Schedule.
- (IV.) All such licenses shall be in force for one year from the day of the date thereof and no longer upon payment of the respective fees hereinafter mentioned to the Colonial Treasurer or officer authorized by him but may be renewed annually upon payment of the prescribed fees.
- (V.) The annual license fee for a brewer's or spirit merchant's license shall where the premises in which the business of such brewer or spirit merchant is carried on are situated within the boundaries of the City of Sydney be thirty pounds and where such premises are situated elsewhere twenty pounds. And such annual license fee both for brewers and for spirit merchants licenses shall be chargeable in respect of each place of manufacture or of sale in every case where the business of brewer or spirit merchant or of both brewer and spirit merchant is carried on by any one or more persons in several distinct premises. Provided always that if any brewer shall desire to carry on in addition to his business of a brewer that of a spirit merchant he shall take out a spirit merchant's license annually and conversely if a spirit merchant desires to carry on the business of a brewer.

69. Subject to the provisions in this Part contained all enactments contained in any other Act which relate to or affect registered brewers and spirit merchants shall be read as applying respectively to brewers and spirit merchants licensed under this Act. And all returns to the Chief Inspector of Distilleries required by law shall after the commencement Application of existing Acts.

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commencement of this Act be made by the Clerks of Licensing Courts and shall contain such particulars of the licensee and his premises as shall be prescribed by regulations under this Act.

Penalty in default of taking out license.

70. If any person shall after the first day of March one thousand eight hundred and eighty-two carry on the trade or business of a brewer or spirit merchant without holding the proper license under this Act applicable to such trade or business such person shall in every such case be liable to a penalty not exceeding fifty pounds or (at the option of the party suing for the penalty) to a penalty not exceeding five pounds for every day that he shall fail to hold such license as aforesaid.

Application of Acts relating to adulteration.

71. All the provisions of the Act fourteenth Victoria number four intituled "*An Act to prevent the adulteration of Malt Liquors*" and so much of the Act forty-second Victoria number fourteen intituled "*An Act to prevent adulteration of Articles of Food or Drink and the Sale of certain Liquors injurious to Health*" as relate or are applicable to liquor as defined by this Act shall apply to brewers and spirit merchants licensed under this Act.

PART IV.

Cancellation of Licenses—Miscellaneous Provisions—Legal Procedure.

Cancellation of licenses.

72. Upon the complaint of any inspector it shall be lawful for a Licensing Court to summon any holder of a license under this Act to appear before such Court and show cause why his license should not be cancelled. And upon the appearance of such holder or in his absence after being duly summoned as hereinafter provided such Court shall proceed to hear and determine the matter of such complaint and may adjudge any such license to be cancelled absolutely or for such period [not being less in any case than twelve calendar months] as the said Court shall determine. And the following regulations and provisions shall be respectively observed and take effect for the purposes of this section—

- (I.) Every such summons shall be served upon the holder of the license not less than fourteen days before the day appointed for the hearing of the complaint or if such holder evade service thereof or is absent at the time of attempted service it shall be sufficient if the summons be posted up in a conspicuous place on his licensed premises or be left with any inmate thereof apparently above the age of sixteen years not less than seven days before such appointed day.
- (II.) Every such complaint shall be heard and determined at a special sitting of the licensing Court provided that a Quarterly Licensing Court shall if the provisions of the preceding subsection shall have been complied with be competent to hear and determine the same.
- (III.) The Court at the instance of the complainant or licensee may in their discretion adjourn the hearing for any time not exceeding fourteen days.
- (IV.) The Court shall not cancel any license unless the holder of such license shall be proved to have been convicted (in New South Wales and while being such holder) of some felony or misdemeanour for which a sentence of imprisonment with hard labour on the roads or other public works of the Colony or of penal servitude might (whether with or without any other punishment) be passed upon the offender or unless he be proved to have been twice convicted within the three years next preceding of any offence under this Act punishable thereunder

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thereunder by a pecuniary penalty or forfeiture and with or without the forfeiture of the offender's license or other punishment or unless he be proved to have committed an offence which under the provisions of this Act is expressed to be punishable by the cancellation of the offender's license and whether with or without any other punishment.

(v.) A conviction for the purposes of this section may be proved by the certificate of the officer having the custody of the records of the Court in which such conviction was had.

(vi.) The names of all licensees together with the particulars of their licenses and licensed premises whose licenses shall be cancelled under this section or who or whose premises shall be declared disqualified under the next following section shall be published in the *Gazette* within fourteen days after any such order or declaration of the Court has been made.

73. If three previous convictions for offences (whether of the same or different kinds) under any one or more sections of this Act shall be proved to have been made against a licensee within the three years next preceding the Licensing Court may declare and order such licensee to be and he shall thereupon be disqualified for a term of three years from holding any license whatever under this Act and if such three convictions shall have been made against him while he was licensed in respect of the same premises the premises in respect of which his license is held shall unless the Court think fit otherwise to order be disqualified from receiving any license for a term of three years from the date of such declaration and order. Nothing in this or the last preceding section shall prevent the infliction of any pecuniary penalty or forfeiture or cancellation of license or any term of imprisonment to which such licensed person would otherwise be liable or shall preclude the exercise of any power given by any other section of this Act. Provided always that a first conviction under the forty-seventh fiftieth fifty-first fifty-fifth sixty-fourth sixty-fifth sixty-sixth seventy-seventh eighty-second or eighty-sixth section of this Act shall not be reckoned among such three previous convictions for the purposes of this section.

Disqualification of licensees.

74. Any person whose license shall be cancelled or who shall be declared disqualified under the provisions hereinbefore contained shall during the continuance of such cancellation or disqualification be deemed for all purposes as aforesaid to be disqualified. And every such cancellation and disqualification shall during the full term thereof enure and be operative for the respective purposes thereof throughout the Colony.

Effect of cancellation or disqualification.

Miscellaneous Provisions.

75. It shall be lawful for the Governor from time to time to frame Regulations not being inconsistent with the provisions of this Act for any of the purposes following viz.—

Regulations.

- For determining the amount scale mode of payment of and all other matters connected with the payment of fees to persons authorized to receive fees under this Act
- For appointing buildings in which Licensing Courts or any licensing business under this Act shall be held or conducted
- For determining the respective duties to be performed by Clerks of such Courts and by all other officers appointed under this Act
- For regulating the practice and procedure by and before Licensing Courts and Licensing Magistrates and the duties of District and other Inspectors appointed under this Act
- For regulating the mode of summoning witnesses and the scale of expenses to be allowed to such witnesses

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- For prescribing the forms of all applications certificates licenses and other documents not provided by the Schedules to this Act and for correcting or varying any such form when necessary
- For regulating the procedure to be observed upon analyses of liquors and for fixing the fees to be paid thereon to analytical chemists and others
- For carrying out the provisions of this Act with respect to the classification of passenger vessels
- For prescribing the duties and procedure to be observed by Inspectors and other persons in respect to objections to the granting renewal or removal of licenses under Part II
- For prescribing scales of Court fees to be paid by applicants objectors and other persons in Licensing Courts
- For prescribing the terms and conditions upon which licenses may be issued in special districts
- For the payment of all license fees and other moneys received by any clerk or other officer appointed under this Act into the Treasury and for the due accounting therefor

And generally for the purpose of giving effect to the provisions of this Act And it shall be lawful for such regulations or any of them to provide for the due enforcement thereof under penalties not to exceed in any case the sum of ten pounds All such regulations shall after approval by the Governor be published in the *Gazette* and shall within fourteen days after such publication be laid before Parliament if then in session and if not then within fourteen days after the next ensuing session Upon such publication after approval every such regulation shall have the full force of law And in any proceedings in any Court the production of the *Gazette* containing any such regulations shall be *prima facie* evidence of the same as therein printed having been duly made under this Act.

Duplicate license may be granted on proof of loss of original license.

76. Whenever his license shall be lost or destroyed a licensee under this Act may apply to a Licensing Magistrate for a certificate under his hand that such license had been issued to such licensee and such Magistrate on being satisfied that such license is lost or destroyed and has not been forfeited or transferred may grant a certificate to that effect and upon production of such certificate and on payment of a fee of one pound such licensee shall be entitled to a duplicate of such license which shall be in the same form as nearly as possible and of the same force as the original license.

Licensee's name to be affixed to premises.

77. Every licensee under this Act shall cause to be painted and shall maintain so painted in letters at least two inches long on the front of his premises his name in full followed by the words if he be the holder of a publican's license "licensed to retail fermented and spirituous liquors" and if of a brewer's or spirit merchant's license then with the words "licensed brewer" or "licensed spirit merchant" and in other cases with words sufficient to describe the business for which the license has been granted And every licensee failing to comply with the requirements of this section shall for the first offence be liable to a penalty not exceeding two pounds and for any subsequent offence to a penalty not exceeding ten nor less than two pounds.

Exclusion of inebriates and others from licensed premises.

78. Any licensee under this Act may refuse to admit into and may turn out of his licensed premises any person who is then drunk violent quarrelsome disorderly or who is using disgusting profane or foul language or any person whose presence on his premises would subject him to a penalty under this Act And any such person who upon being requested in pursuance of this section by such licensee his agent or servant or by any constable to quit such premises refuses or fails so to do shall be liable to a penalty not exceeding five pounds And all constables are hereby required and enjoined on the demand of such

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such licensee agent or servant to expel or assist in expelling every such person from such premises and may use any reasonable degree of force required for that purpose.

79. All Clerks of Licensing Courts and all other persons receiving moneys under the authority of this Act shall be deemed to be Public Accountants And the provisions of the Audit Act in force for the time being and of any Act regulating the collection of public money and the audit of the public accounts shall be applied to such clerks and other persons. Accountability &c. of officers.

80. All license and other fees and all sums recovered as penalties or forfeitures under this Act or any regulation or by-law made thereunder shall after payment or recovery thereof be paid (subject to any payments thereout authorized by this Act to be made to informers or other persons) by the clerk or other receiving officer of the Court by or before which the same were ordered to be paid or recovered to the Colonial Treasurer and shall be by him carried to the credit of the Consolidated Revenue Fund And all sums of money payable under this Act as fees or other emoluments to any person shall be paid out of the Consolidated Revenue Fund under such regulations as may be prescribed by the Governor in that behalf. Payments into and out of Consolidated Revenue.

81. Every clerk of a Licensing Court by which and every Licensing Magistrate by whom any license or certificate therefor or any permit shall be granted under this Act shall keep an alphabetical record thereof in manner directed by the Regulations and every such clerk or Magistrate neglecting so to do shall be liable to a penalty not exceeding five pounds. Record of licenses.

82. Every person holding a license under this Act shall on demand at his licensed house or place wherein or whereat such license shall be exercised produce his license to any district or sub-inspector inspector or superintendent of police or to any justice or constable authorized by any justice by any writing under his hand to demand the production thereof And if any such licensed person shall refuse or neglect to produce his license or if a transferee the certificate mentioned in section forty-three hereof he shall forfeit and pay on conviction for every such refusal or neglect any sum not exceeding twenty pounds unless some reasonable excuse can be given by such licensed person to the satisfaction of the Court for the non-production thereof. Production of license.

83. Upon complaint on oath before a Licensing Magistrate or any Justice that the complainant suspects and believes any liquor to have been sold by any person not holding a license under this Act authorizing the sale thereof and at or in some premises or place not authorized by his license and to be specified in such complaint and upon reasonable grounds being therein shown for such suspicion and belief such Magistrate or Justice may grant a warrant to any constable to enter and search such specified premises or place And such constable may break open any doors 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 Magistrate or Justice shall grant a summons calling upon the owner of such liquors to appear before the Licensing Court to be therein named to show how and for what purpose he became possessed of the same And upon his so appearing or if after being so summoned he shall fail to appear the said Court shall inquire into the matter and if they shall be satisfied by reasonable proof that any liquor was in such premises 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 thereout of the costs to be awarded by such Court shall be paid over in equal moieties Liquors in any unlicensed house suspected to be for sale may be seized and forfeited.

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moieties to the use of Her Majesty and to the informer And in default of such reasonable proof such liquors and the vessels containing the same shall be forthwith restored to the owner.

Penalty for
harbouring or
bribing constables.

84. If any licensee knowingly harbours or suffers to remain on his premises any constable during any part of the time appointed for such constable to be on duty unless for the purpose of keeping or restoring order or in execution of his duty or supplies any liquor or refreshment whether by way of gift or sale to any constable on duty unless by the authority of a superior officer of such constable or bribes or attempts to bribe any constable he shall be liable to a penalty not exceeding for the first offence five pounds and not exceeding for the second or any subsequent offence fifty or less than ten pounds.

Liquors carried
about to be seized
and condemned.

85. Any District Inspector or any Justice constable or other peace officer may seize and take away and may convey to the Licensing Court or nearest Court of Petty Sessions all liquor which he 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 or exposing for sale such liquors without a license And every person so convicted shall be liable to a penalty not exceeding fifty pounds And the Licensing Court or convicting Justices 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 paid to the Colonial Treasurer and be applied by him as other moneys received under this Act 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.

Inquests in public
houses.

86. Every holder of a publican's license shall at the request of any officer or constable of police receive into the house mentioned in such license or at his option into some secure place upon the premises occupied therewith or any portion of the appurtenances thereof (not being a house or premises situated within a distance of one mile from any dead-house or police station) any dead body that may be brought to such house for the purpose of an inquest being held thereon and for every dead body so received he shall be paid the sum of thirty shillings out of any money which may be available for such purpose And if he shall refuse to receive such dead body for the purpose aforesaid he shall be liable to a penalty not exceeding five pounds Provided that nothing herein contained shall make it compulsory upon any publican to receive a dead body in an offensive state of decomposition or of a person reputed to have died of an infectious disease.

Disorderly conduct
prohibited.

87. Every holder of a license of any description whatsoever under this Act who shall knowingly suffer or permit any common prostitutes thieves drunken or disorderly persons or persons of notoriously bad character to assemble or continue upon his licensed premises or the appurtenances thereto shall for every such offence be liable to a penalty not exceeding ten pounds.

Forfeiture of license
on conviction of
felony &c.

88. If any holder of a license under this Act shall be convicted of felony or of any offence for which he might be sentenced to imprisonment with hard labour on the roads or other public works of the Colony his license may be by the Licensing Court declared void and the premises or place in respect of which such license was granted shall be held to be unlicensed.

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89. Every person who knowingly sells or keeps or exposes for sale any liquor mixed with any deleterious ingredient that is to say any *Cocculus indicus* copperas opium Indian hemp strychnine tobacco darnel seed extract of logwood salts of zinc or lead alum or any extract or compound of any of such ingredients or any other ingredient injurious to health shall be liable for the first offence to a penalty of not less than ten pounds nor more than fifty pounds and for the second or any subsequent offence to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding three months and shall also in the case of the first as well as any subsequent offence forfeit all adulterated liquor together with all such ingredients as aforesaid in his possession with the vessels containing the same. When the person so convicted is the holder of a license under this Act his license shall in the case of a second or any subsequent offence be cancelled.

Penalty on adulteration of liquor.

90. Every holder of a license under this Act who has in his possession or in or on any part of his premises any adulterated liquor or any of the deleterious ingredients specified in the next preceding section of this Act for the possession of which he is unable to account to the satisfaction of the Court shall be deemed knowingly to have exposed for sale adulterated liquor on such premises within the meaning of the last preceding section. And when any holder of such license has been convicted twice or oftener of the offence mentioned in such last-mentioned section it shall be the duty of the Inspector to cause to be posted and maintained posted for a period of sixty days commencing not later than fourteen days after the date of the conviction a notice containing the substance of such conviction on some conspicuous place on the outside of the front part of the licensed premises of such holder as aforesaid. But such notice shall not be so posted or maintained where such holder's license shall have been cancelled as hereinbefore provided. Any person who shall remove or obliterate any such notice without lawful authority shall be liable to a penalty not exceeding twenty pounds.

Possession of adulterated liquors or deleterious ingredients.

Legal Procedure.

91. Every offence act omission or neglect for which by this Act any punishment by way of penalty forfeiture or cancellation of license may be inflicted shall (if the same is not by this Act declared to be a misdemeanour or directed to be heard and determined by and before some other Court or authority) be prosecuted and every such penalty or forfeiture may be recovered before the Licensing Court of the Licensing District in which the offence was committed or the penalty or forfeiture was incurred or if the same shall be committed or incurred in some place not included within a Licensing District then before a Licensing Magistrate or Court of Petty Sessions nearest to such place. And the procedure of every such Licensing Court or Court of Petty Sessions shall subject to the provisions of this Act so far as may be practicable be regulated by the Acts in force for the time being regulating summary proceedings before Justices. And all sums of money ordered by any such Court or Magistrate to be paid whether by way of penalty forfeiture or otherwise and all costs and expenses awarded by such Court or Magistrate may be recovered and enforced by distress and sale of the goods and chattels of the person ordered to pay the same and in default of sufficient distress such person shall be liable to be imprisoned with or without hard labour for any term not exceeding three months unless such money costs or expenses be sooner paid.

Procedure under this Act.

92. Any person aggrieved by any conviction penalty order or other adjudication made or inflicted by any Licensing Court or by Justices under the authority of this Act may in any case where the penalty or sum of money ordered to be paid by him exceeds five pounds

Appeal to Quarter Sessions.

OR

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or where the decision or adjudication complained of does not concern the refusal of a certificate for the granting renewal transfer or removal of a license under Part II hereof or the cancellation of a license may appeal against the same to the next Court of Quarter Sessions holden in the Licensing district where the conviction or other matter complained of was had or arose unless such Quarter Sessions shall be holden within fourteen days from the date of such conviction penalty order or other adjudication in which case the appeal shall be to the then next following Quarter Sessions Such Court shall have power to hear and determine the matter of the appeal in a summary way and shall have and may exercise all powers conferred by the third section of the Act fifth William the Fourth number twenty-two and the decision of the Court shall be final and conclusive Provided always that the appellant shall have given at least seven days notice before the hearing of such appeal of his intention to appeal and stating the grounds thereof to the chairman of the Licensing Court of the said district or to some one of the convicting or adjudicating Justices and to the officer or other person prosecuting (if any) And provided also that such appellant (in case a penalty or sum of money shall have been awarded to be paid by him) shall pay into the hands of such chairman or Justice the full amount thereof together with the costs awarded within one week next after conviction or adjudication and shall within the same period enter into a bond with two sureties approved by such chairman or Justice conditioned to prosecute such appeal with effect and to abide the extent of such appeal and to pay the full amount of all such costs as may on such appeal be awarded against him.

Limitation of actions.

93. No action shall lie against any chairman or member of a Licensing Court or Licensing or Police Magistrate or against any Justice District or Sub-Inspector or against any Inspector Superintendent officer or member of the Police Force for or on account of any matter or thing whatsoever done or directed to be done by him in the execution of his duty or office under this Act unless such action be commenced within three calendar months next after the cause of action or complaint shall have arisen.

As to evidence.

94. Any person charged with the commission of an offence punishable by a Licensing Court or on summary conviction under this Act shall be competent to give evidence in his own case.

Limited time for informing.

95. 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.

Compensation may be awarded against informer preferring groundless charges.

96. Whenever any complaint before any Court or Justices under this Act shall not be further prosecuted with effect or being so prosecuted shall appear to the Court or Justices hearing the complaint to be without sufficient ground such Justices may award compensation not 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 compensation may be recovered in like manner as any penalty under this Act.

Proof of license.

97. In any proceedings under this Act against any person alleged to be the holder of a license the production of the clerk's book of proceedings at Licensing Courts or other record of licenses authorized to be kept wherein such person's name shall appear as a person to whom a license was ordered to be granted shall be *prima facie* evidence of his being so licensed as alleged Provided that any other proof as to the fact of any person holding any license as alleged in any such proceeding may be admitted And in all proceedings under this Act against any person for carrying on without a license any trade or business for the exercise whereof a license is required by law such person shall for all purposes connected with such proceedings be deemed and taken to be unlicensed unless he shall produce the license authorizing

Burden of proof.

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authorizing him to carry on such trade or business to the Court hearing the case or shall produce other proof which shall be satisfactory to such Court of his being duly licensed to carry on such trade or business.

98. The delivery of any liquor shall be *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 the Court or any Justice hearing the case. Delivery of liquor prima facie evidence of sale.

99. In all proceedings under this Act against any person charged with unlawfully selling any liquor 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 Court or Justices shall be sufficient evidence upon which such Court or Justices may convict as well the persons so found drinking in such house as the licensee thereof. Proof of disorderly house.

100. The Licensing Court or the convicting Justices may direct that the complainant or informer shall receive a portion not exceeding in any case one moiety of any penalty recovered under this Act Provided that the Governor may remit the whole or any part of such penalty. As to penalties and their remission.

SCHEDULES.

FIRST SCHEDULE.

Repeal of Acts.

Year of Reign and Number.	Subject or Title.	Extent of Repeal.
4 Wm. IV No. 7	An Act for regulating the Police in the Town and Port of Sydney and for removing and preventing Nuisances and Obstructions therein.	Section 9 so far as it relates to Licensed Publicans.
2 Vic. No. 2 ...	An Act for regulating the Police in the Towns of Parramatta Windsor Maitland Bathurst and other Towns respectively and for removing and preventing Nuisances and Obstructions and for the better alignment of Streets therein.	Section 9 so far as it relates to Licensed Publicans.
13 Vic. No. 26 ...	An Act to prevent unlawful Distillation and to provide for the protection of the Revenue arising from the duties on Spirits.	So much as provides for the registration of Brewers and Spirit Merchants and sections 15 16 17.
17 Vic. No. 25 ...	An Act to extend to the Sydney Hamlets certain of the provisions of the Sydney Police Act.	Section 5 so far as it relates to Licensed Publicans.
17 Vic. No. 31 ...	An Act to make further Police Regulations for the City Port and Hamlets of Sydney.	Section 8.
19 Vic. No. 24 ...	An Act to make further Police Regulations for the City Port and Hamlets of Sydney and other Towns and Places in the Colony of New South Wales.	So much of section 20 as relates or might be construed to relate to Licensees under this Act.
20 Vic. No. 37 ...	An Act to impose a fee upon the registration of Spirit Merchants.	The whole Act.
25 Vic. No. 14 ...	Sale of Liquors Licensing Act of 1862	The whole Act except so much of section 29 as relates to Billiards and Bagatelle.
26 Vic. No. 16 ...	Sales of Colonial Wines Regulation Act.....	The whole Act.
31 Vic. No. 16 ...	Supply of Liquors to Aborigines Prevention Act.	So much as relates to licensed persons.
40 Vic. No. 7 ...	Australian Wine Sales Amendment Act of 1876.	The whole Act.
44 Vic. No. 17 ...	Liquor Licenses Suspensory Act 1880	The whole Act.
44 Vic. No. 29 ...	Liquor Licenses Suspensory Act Continuation Act 1881.	The whole Act.

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SECOND SCHEDULE.

LICENSING ACT OF 1882.

Form of a Publican's License.

WHEREAS A.B. of _____ has deposited in this office a certificate of the Chairman of the Quarterly Licensing Court* 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 the "Licensing Act of 1882" of a publican's license for the house known [or to be known] as _____ situated at _____

And whereas the said A.B. has paid the sum of _____ pounds sterling as the fee on such license Now I _____ in virtue of the powers vested in me by the said Act do hereby license the said A.B. to sell fermented and spirituous liquors in any quantity on the aforesaid premises 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 or cancelled in the meantime.

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

N.O. (L.S.)
Colonial Treasurer [or Officer authorized to issue Licenses.]

* If certificate granted by any other authority under the Act state by whom.

Sec. 25.

THIRD SCHEDULE.

LICENSING ACT OF 1882.

*Form of Packet License for**

WHEREAS A.B. of _____ being the master [or commander] of the passenger steamer [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 has deposited in this office a certificate of the _____

on the _____ day of _____ in the year one thousand eight hundred and _____ authorizing the issue to the said A.B. under and by virtue of the "Licensing Act of 1882" of a packet license And whereas the said A.B. has paid into my office the sum of _____ † sterling as the fee on such license Now I _____ 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 in accordance with the provisions of the above-mentioned Act 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 or cancelled in the meantime.

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

N.O. (L.S.)
Colonial Treasurer [or Officer authorized to issue Licenses.]

* Here insert name description and classification of vessel.

† Here insert the fee chargeable according to class of vessel.

Sec. 26.

FOURTH SCHEDULE.

LICENSING ACT OF 1882.

Form of Colonial Wine License.

WHEREAS A.B. of _____ has deposited in this office a certificate of the _____ dated the _____ day of _____ authorizing the issue to the said A.B. of a Colonial wine license for the premises of the said _____ situate at _____

And whereas the said _____ has paid the sum of _____ pounds sterling as the fee on such license Now I do hereby declare that the said _____ is licensed to sell any wine cider or perry the produce of fruit grown in an Australasian Colony in quantities not exceeding two gallons on such premises and not containing a greater proportion than twenty-six per cent. of proof spirit And this license shall commence on the _____ day of _____ and continue in force until the _____ day of _____ now next ensuing both days inclusive.

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

N.O. (L.S.)
Colonial Treasurer [or Officer authorized to issue Licenses].

Licensing (No. 2).

FIFTH SCHEDULE.

Sec. 28.

LICENSING ACT OF 1882.

Form of Booth or Stand License.

WHEREAS A.B. of _____ has deposited in this office a certificate of the _____ dated the _____ day of _____ authorizing the issue to the said A.B. being a licensed publican holding a publican's license for _____ situate at _____ of a booth or stand license for the place and time hereinafter mentioned: And whereas the said A.B. has paid the sum of _____ pounds sterling as the fee on such license Now I do hereby declare that* the said _____ is licensed to sell liquor at the _____ at _____ but not elsewhere And this license shall commence upon the _____ day of _____ and continue in force until the _____ now next ensuing both days inclusive provided it be not forfeited or cancelled in the meantime.

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

Treasurer [*or Officer authorised to issue License.*]

* If any conditions are imposed they should be stated here ["Subject to the conditions following viz. &c. &c."]

SIXTH SCHEDULE.

Sec. 29.

LICENSING ACT OF 1882.

(A.)

Notice of application for a Publican's License.

I _____ of _____ do hereby give notice that I desire to obtain and will at the next Licensing Court* to be holden at _____ on the _____ day of _____ apply for a certificate authorizing the issue of a publican's license under class (*here state classification**) for a house situate at _____ containing _____ rooms exclusive of those required for the use of the family.

Dated the _____ day of _____ 18 _____

(Signed) A.B. (*Applicant.*)
(*Address*)

* If application for unclassified premises alter form accordingly.

(B.)

Notice of application for a Packet License.

Sec. 32.

I _____ being master of the _____ or vessel _____ conveying passengers between _____ and _____ do hereby give notice that I desire to obtain and will at the next Licensing Court* to be holden at _____ on the _____ day of _____ apply for a certificate authorising the issue of a license under class (*here state classification of vessel*) to sell liquor during her passage between such places to any passenger on board such vessel.

Dated the _____ day of _____ 18 _____

(Signed) A.B. (*Applicant.*)
(*Address*)

* If application is to Licensing Magistrate alter form accordingly.

(C.)

Notice of application for a Colonial Wine License.

Sec. 29.

I _____ of _____ do hereby give notice that I desire to obtain and will at the next Annual Licensing Court to be holden at _____ on the _____ day of _____ apply for a certificate authorizing the issue of a Colonial wine license for a house situate at _____ assessed at (*or of the annual value*) of £ _____ a year.

Dated the _____ day of _____ 18 _____

(Signed) A.B. (*Applicant.*)
(*Address*)

Licensing (No. 2).

Sec. 37.

SEVENTH SCHEDULE.

LICENSING ACT OF 1882.

Certificate to authorize the issue of a Publican's License.

I THE undersigned being the Chairman of the Licensing Court holden at _____ on the _____ day of _____ one thousand eight hundred and _____ the requisite notices of application for this certificate having been proved to the Court to have been duly served and posted and it appearing to such Court that the premises hereinafter mentioned contain the requisite accommodation do hereby authorize the issue to _____ of a publican's license for [here state description and licensing district or locality of the house.]

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

(L.S.) A.B. Chairman &c.

Ib.

Certificate to authorize the issue of a Packet License.

I THE undersigned being the Chairman of the Licensing Court holden at _____ on the _____ day of _____ one thousand eight hundred and _____ [or I the undersigned being a Licensing Magistrate for the Licensing District of _____ (or as the case may be) on the _____ day of _____] do hereby authorize the issue to _____ being the master of the [here insert name and classification of vessel] between _____ and _____ of a packet license for such vessel under class _____

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

(L.S.) A.B. Chairman &c.

Ib.

Certificate to authorize the issue of a Colonial Wine License.

I THE undersigned being the Chairman of the Licensing Court holden at _____ on the _____ day of _____ one thousand eight hundred and _____ the requisite notices of application for this certificate having been shown to have been duly served and posted do hereby authorize the issue to _____ of a Colonial wine license for his house (or premises) situate at _____

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

(L.S.) A.B. Chairman &c.

Ib.

Certificate to authorize the issue of a Booth or Stand License.

I THE undersigned being Chairman of the Licensing Court holden at _____ on the _____ day of _____ one thousand eight hundred and _____ [or I the undersigned being a Licensing Magistrate for the Licensing District of _____ [or as the case may be] on the _____ day of _____] do hereby authorize the issue to _____ of _____ being a licensed publican holding a publican's license in respect of _____ situate at _____ of a booth or stand license for the [here state the occasion and place] day of _____ for a period of _____ days from the _____

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

(L.S.) A.B. Chairman &c.

Sec. 43.

EIGHTH SCHEDULE.

LICENSING ACT OF 1882.

I THE undersigned being a Licensing Magistrate do hereby transfer the rights and privileges of the within licensee to _____ of _____ for the residue of the term between this date and the _____

Dated the _____ day of _____ one thousand eight hundred and _____

(L.S.) A.B. Licensing Magistrate for _____

Licensing (No. 2).

NINTH SCHEDULE.

Sec. 44.

LICENSING ACT OF 1882.

Notice of application to remove a License to other premises.

I of do hereby give notice that I desire to obtain and will at the next Licensing Court to be holden at on the day of apply for the removal of the license for the premises known as to premises situate at containing rooms exclusive of those required for the use of the family.

Dated the day of 18 .

TENTH SCHEDULE.

ib.

LICENSING ACT OF 1882.

I THE undersigned being the chairman of the Licensing Court holden at on the day of the requisite notice of application for removal having been proved before us to have been duly served and posted do hereby declare that the within license shall henceforth cease to apply to the house and premises within mentioned and shall apply to the house known as situate at

Dated the day of one thousand eight hundred and
(L.S.) A.B. Chairman &c.

ELEVENTH SCHEDULE.

Sec. 68.

LICENSING ACT OF 1882.

Form of Application for a Brewer's or Spirit Merchant's License.

To the Licensing Court* of the Licensing District of (or the Licensing Magistrate of such District.)

I A.B. now residing at in the Licensing District of in New South Wales do hereby give notice that it is my intention to apply to the Licensing Court to be holden on the day of for (state the character of license applied for and particular description of premises.)

Given under my hand this day of 18
(Name and address of applicant.)

If application is made to a Licensing Magistrate alter the form accordingly.

TWELFTH SCHEDULE.

ib. (iii).

LICENSING ACT OF 1882.

Certificate to authorize the issue of a Brewer's or Spirit Merchant's License.

I THE undersigned being the Chairman of the Licensing Court holden at on the day of one thousand eight hundred and do hereby authorize the issue to of a license for [here state all particulars as to applicant premises and description of license.]

Given under my hand and seal the day of one thousand eight hundred and
(L.S.) A.B. Chairman &c.
