

Anno Septimo GEORGII IV. REGIS. No. 2.

By his Excellency Colonel *George Arthur*, Lieutenant Governor of the Island of Van Diemen's Land and its Dependencies, with the Advice of the Legislative Council.

AN ACT for regulating the future Sale of Ale, Beer, Wine, Spirits and other Liquors, by Retail, in the Island of Van Diemen's Land and its Dependencies, and promoting Good Order in Public-houses; and also for indemnifying the Justices of the Peace in respect of the Licenses granted on and since the last licensing Day.

WHEREAS, by an Act of his Excellency Sir Thomas Brisbane, the late Governor of New South Wales, with the advice of the Council of that Colony, passed on the Eighth day of February One thousand eight hundred and twenty-five, intituled, "An Act to regulate the granting of Licenses for the Sale of Spirits, Ale, Beer and other Liquors, in New South Wales and Van Diemen's Land respectively;" it was enacted (amongst other things) that all public-house licenses should be issued in the manner therein mentioned; and that before any license should be granted, a certificate, referred to in and by the said Act, should be obtained from the Justices of the Peace in quarter sessions or by special appointment assembled, on the Nineteenth day of February then next, and on the first Thursday in every month of March, in every following year, within the district or township nearest to the house intended to be made a public-house; and that before any licenses should be valid for any purposes, the same should be produced to the Commissary of Civil Accounts for New South Wales, or Van Diemen's Land respectively, and be countersigned by such respective Commissary: And whereas the public-house licenses which were in force in Van Diemen's Land on the arrival of the aforesaid Act from New South Wales were granted for One year, from the Twenty-ninth day of September One thousand eight hundred and twenty-four; and at the time such Act was received in Van Diemen's Land there was not, neither is there now, within the said Island, any such officer as a Commissary of Civil Accounts: And whereas, previous to the Twenty-ninth day of September next after the publication of the said Act in Van Diemen's Land, the Justices of the Peace for the said Island took into consideration their power to grant licenses under the provisions of such Act, and how far any licenses, if so granted, or the Acts of Justices of the Peace granting the same, would be valid; and it appearing to such Justices, and the law officers of His Majesty's Government, that the new licensing Act before mentioned could not be safely proceeded upon, it was deemed expedient to continue to act upon the former mode of licensing, as far as circumstances would permit, in order that the public-houses of the Island might not be shut up and the proprietors thereof injured; and such mode was accordingly adopted: And whereas it is expedient that new laws should be made for regulating the granting of public-house licenses, and for securing the good government of such public-houses by the landlords or occupiers thereof, and that the Justices of the Peace should, under the circumstances before mentioned, be indemnified for granting the licenses issued on the Twenty-ninth day of September last, or at any time since, and for acting in any proceeding had under the same respectively: And that the before-recited Act should be repealed, as far as the same relates, or was intended to relate, to Van Diemen's Land:

I. Now therefore be it Enacted, by his Excellency the Lieutenant Governor of the Island of Van Diemen's Land and its Dependencies, with the advice of the Legislative Council, That from and after the day of the date hereof, the before-recited Act of the Eighth day of February One thousand eight hundred and twenty-five, so far as the same relates, or was intended to relate, to Van Diemen's Land, shall be and the same is accordingly hereby repealed.

II. And be it further Enacted, That if any person shall, from and after the Twenty-ninth day of this present month of September, sell, barter, exchange or retail ale, beer or other malt liquors, or wine, cider, ginger-beer, brandy, rum, gin, whiskey, cordials, or any other strong fermented or spirituous liquors, in the Island of Van Diemen's Land, or any dependency thereof, in a less quantity than Five gallons, without having first obtained from the Colonial Treasurer, or other person acting as Colonial Treasurer for the time being, a license, in the manner and form hereinafter mentioned, he or she shall forfeit and pay for every such offence the sum of Fifty

pounds sterling, together with the costs of prosecution and conviction, and of the execution of such conviction; one moiety or half part of which sum of Fifty pounds shall be to and for the use of His Majesty, His heirs and successors, and the other moiety or half part thereof to and for the use of him her or them who shall inform or sue for the same: Provided always, That nothing herein contained shall be deemed to extend to any person well known in the said Island, or any dependency thereof, as a physician, apothecary, surgeon, chemist or druggist, and to be practising as such, who may prescribe, administer, use or sell any of the liquors before mentioned or referred to as medicines, or for medicinal purposes.

III. And be it further Enacted, That if any master or other person shall, directly or indirectly, agree with any journeyman workman, servant or labourer, or other person hired or employed in any manner whatsoever, by or for him or her, to pay to him or her so much money for or on account of wages or as a reward for work or service, and so much ale, beer or spirituous or other liquor as aforesaid, as, together with the money so agreed to be paid, shall amount to the wages or hire or reward agreed to be given or paid, or to the value of such wages or hire or reward, or shall set off or deduct any part of the wages or hire or reward for any ale, beer or spirituous or other liquors as aforesaid; such master or other person shall be deemed a retailer, and forfeit and pay for every such offence the sum of Twenty-five pounds sterling, together with the costs of prosecution and conviction, and of the execution of such conviction, over and above the penalty hereby imposed for retailing without a license; one moiety or half part of which sum of Twenty-five pounds shall be to and for the use of His Majesty, His heirs and successors, and the other moiety or half part thereof to and for the use of him her or them who shall inform or sue for the same: And every such journeyman workman, servant, labourer or other person so hired or employed as hereinbefore mentioned, shall, notwithstanding any agreement to the contrary, be entitled to his or her whole wages or hire or reward.

IV. And be it further Enacted, That if any spirituous liquors shall be sold or delivered in a less quantity than Five gallons, in a secret and clandestine manner, to any person, in any house, outhouse, stable, barn, shed or other place, being part of or belonging to any house or farm, and the occupier or occupiers of such house or farm shall be privy or consenting to the said secret and clandestine sale or delivery, then and in such case such occupier or occupiers shall be deemed a retailer or retailers of the spirituous liquors so sold or delivered, and shall forfeit and pay for every such offence the sum of Twenty-five pounds sterling, together with the costs of prosecution and conviction, and of the execution of such conviction; one moiety or half part of which sum of Twenty-five pounds shall be paid to and for the use of His Majesty, His heirs and successors, and the other moiety or half part thereof to and for the use of him her or them who shall inform or sue for the same.

V. And be it further Enacted, That if any person who shall sell wares, provisions, or any other things, by retail, shall give away spirituous liquors to any apprentice, journeyman workman, servant or labourer, coming to his or her house or shop to buy any thing, under the pretence of his or her being a customer, or under any other pretence, then and in such case such person shall be deemed a retailer of the spirituous liquors so given away, and shall forfeit and pay for every such offence the sum of Fifty pounds sterling, together with the costs of prosecution and conviction and of the execution of such conviction; one moiety or half part of which sum of Fifty pounds shall be to and for the use of His Majesty, His heirs and successors, and the other moiety or half part thereof to and for the use of him her or them who shall inform or sue for the same.

VI. And be it further Enacted, That no license shall be granted for retailing any spirituous liquors within any gaol or female factory or penitentiary or other place for the lodging of convicts; and that if any gaoler, keeper or officer of any gaol, female factory, penitentiary or place for the lodging of convicts shall sell, use, lend or give away, or knowingly suffer any spirituous liquors or strong waters to be sold, used, lent or given away in any such gaol, female factory or penitentiary or place for the lodging of convicts, or brought into the same, except such as shall be prescribed by the order or direction of a regular physician, surgeon or apothecary, from an hospital or the shop of some regular apothecary, then and in such case such gaol-keeper or officer shall forfeit and pay the sum of One hundred pounds sterling, together with the costs of prosecution and conviction, and of the execution

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of such conviction; one moiety or half part of which sum of One hundred pounds shall be to and for the use of His Majesty, His heirs and successors, and the other moiety or half part thereof to and for the use of him her or them who shall inform or sue for the same; and if any such gaoler, keeper or officer shall offend again in like manner and be a second time convicted, he or she shall immediately upon such second conviction forfeit and be deprived of his or her place situation or office.

VII. And be it further Enacted, That any Justice of the Peace, on information upon oath that spirituous liquors or strong waters are kept and disposed of in any gaol, female factory or penitentiary or place for the lodging of convicts, shall and may enter the said gaol, female factory or penitentiary or place of lodging, and search for, or empower by warrant any constable or other peace officer to search for and seize all such liquors as shall be found (except such as are directed to be used medicinally) and to cause the same to be forthwith destroyed.

VIII. And be it further Enacted, That if any person shall bring or endeavour to bring any distilled or spirituous liquors (except in the way of medicine as before-mentioned) into any such gaol, female factory or penitentiary, or place for the lodging of convicts, the gaoler, keeper or officer thereof, or any of his or her servants, shall and may apprehend and carry the offender before any Justice of the Peace, who shall hear and determine such offence in a summary way; and if by the oath of one witness, or otherwise, such person shall be convicted, he or she shall be committed to prison, there to be kept for any time not exceeding Six months, unless he or she shall immediately pay down such sum, not exceeding Twenty pounds sterling nor less than Two pounds sterling, as such Justice of the Peace shall impose; one moiety or half part of which sum so imposed shall be paid to him her or them who shall inform or sue for the same, and the other moiety or half part thereof shall be applied for the benefit of the poor of His Majesty's gaols at Hobart Town and Launceston.

IX. And be it further Enacted, That the gaoler or keeper, master or chief officer of every gaol, female factory or penitentiary, or place for the lodging of convicts, shall procure a copy of the Three preceding clauses to be printed or fairly written and hung up in one of the most public places of his or her gaol, female factory or penitentiary, or place for the lodging of convicts, and renew the same from time to time, so that it be always kept fair and legible, on pain of Forty shillings, to be recovered and enforced by distress and sale of the goods and chattels of the offender, under the warrant of any one Justice of the Peace, on the information upon oath of one witness; and any Justice of the Peace may at any time enter and demand a sight of such printed or written copy, and if it be not immediately shown to him hung up in some public place fair and legible, he shall forthwith convict such person, and so from time to time as often as he shall think fit; one moiety or half part of which sum of Forty shillings shall be paid to him her or them who shall inform or sue for the same, and the other moiety or half part thereof (and the whole of such sum, if there shall be no informer) shall be applied for the benefit of the poor of His Majesty's gaols at Hobart Town and Launceston.

X. And be it further Enacted, That it shall be lawful for any Justice of the Peace, upon receiving information on oath of any offence against this Act, by retailing spirituous liquors without a license, to grant a warrant to any chief or other constable to enter and search the houses and other places where the offence shall be sworn to be committed, or in the occupation of any person sworn to be guilty thereof; which constable shall and may break open the doors, if not forthwith opened on demand, and seize all such distilled spirituous liquors as he shall there find, and detain the same till the offence shall be heard and determined; and if the party complained against be convicted, the liquors shall be forthwith staved or destroyed, but if not convicted, such liquor shall be immediately restored.

XI. And be it further Enacted, That in case any summons shall be issued by any Justice or Justices of the Peace, for any person or persons to appear and answer to any information or complaint for selling by retail any malt or spirituous liquors without license, the directing such summons to such person or persons in the name or names by which he she or they is, or are, or has or have been usually known, whether the same be the real and proper or the assumed or feigned name or names of such person or persons, and the leaving such summons at his her or

their then or then last usual place or places of abode, and affixing a copy thereof on the door or other conspicuous part on the outside thereof, (such service being proved on the oath of the person or persons who shall have so served such summons and so affixed such copy,) shall be deemed and is hereby declared to be as legal and effectual a notice or summons, to all intents and purposes, as if the same had been given or delivered to or into the hands of the party or parties to whom the same shall be directed, and as if the same had been directed to the party or parties by his her or their proper and real name or names.

XII. And be it further Enacted, That it shall be lawful for the Justices of the Peace to determine the fact of what is selling or retailing without license, according to the circumstances of or attending each and every particular case, without direct evidence of money or other value having been given for the ale, beer, spirits or other liquors.

XIII. And be it further Enacted, That a general meeting of the Justices of the Peace acting within that division of the Island which is commonly called the county of Buckinghamshire, shall be holden at Hobart Town on the Eighteenth day of this present month of September, and on the Eighteenth day of September in every following year, unless such day shall happen to be Sunday, then in that case on the Seventeenth day of the same month, for the purpose of taking into consideration the applications which may then be made for certificates for the license of any inns, ale-houses or victualling houses in such division, or in any dependency of the said Island; and on the said Eighteenth day of September, and on the same day in every following year, a general meeting of the Justices of the Peace residing within the division of the Island which is commonly called the county of Cornwall, shall be holden at Launceston, for the purpose of taking into consideration the applications which may then be made for certificates for the license of any inns, ale-houses or victualling houses in such last-mentioned division; which Justices of the Peace, so meeting at Hobart Town and Launceston as aforesaid, are hereby empowered to adjourn from the day of such meeting to such other day as the said Justices shall then agree upon; provided that only one adjournment shall take place.

XIV. And be it further Enacted, That except in such cases as are hereby specially provided for, no certificate for a license shall be granted on any other day than the Eighteenth day of September, or the day to which the Justices may have adjourned.

XV. And be it further Enacted, That for every license for selling ale, beer or other malt liquors, and wine, cider, ginger-beer, brandy, rum, gin, whiskey, cordials, or any other strong fermented or spirituous liquors, in any quantities under Five gallons, there shall be paid to the Colonial Treasurer of the Island of Van Diemen's Land, the sum of Twenty-five pounds sterling: Provided always, That no license shall be granted to any person for the retailing of spirituous liquors only.

XVI. And be it further Enacted, That every license shall be valid for One year, and no longer; and upon the application of the holder thereof, shall be renewed before any new license shall be granted, unless the holder of the license so required to be renewed shall have been convicted of a breach of his or her recognizance.

XVII. And be it further Enacted, That from and after the present month of September, every person desirous of obtaining from the Justices of the Peace a certificate for a license under this Act, shall deliver or cause to be delivered to the clerk of the peace at Hobart Town, or to his deputy at Launceston, on or before the Sixteenth day of this present month of September, and on or before the Sixteenth day of the month of September in every following year, a notice in writing of his or her intention to apply for such license.

XVIII. And be it further Enacted, That it shall be lawful for the Lieutenant Governor, previous to the Eighteenth day of September, in this and every following year, to fix the number of public-houses to be licensed in the several towns or districts of the Island on the then next licensing day, and to signify the same to the clerk of the peace or other proper officer, and the Justices shall limit the licenses accordingly; and if in the present or any other year there shall by such means be a reduction in the number of licenses granted for the preceding year, the Justices shall select such houses as may appear to them to have been kept in the most orderly manner in the present or other current year.

XIX. And

XIX. And be it further Enacted, That no Justice of the Peace who is a brewer, maltster, distiller, or dealer in ale, beer or spirituous liquors, or is concerned in partnership with any person as a brewer, maltster, distiller, or dealer in ale, beer or spirituous liquors, or shall be the owner or part owner, or trustee, manager or agent of any owner or part owner of or for any house licensed, or about to be licensed, for any of the purposes aforesaid, or be directly or indirectly interested in such house at any time or times when any of the powers of this Act are to be exercised, shall sit or act in any meeting during the consideration of any application for a certificate for a license, or of any thing relating thereto, or convict or join in any conviction, or in the determination of any application for a certificate for a license to keep a house not before licensed, or in the determination of any appeal directed or given by this Act; and every Justice of the Peace who shall knowingly or wilfully offend in any of the premises shall, for every such offence, forfeit and pay the sum of One hundred pounds, to be recovered by any person who will sue for the same, within Six calendar months after such offence committed, by action of debt, or on the case, or by bill, suit or information in the Supreme Court of Van Diemen's Land, wherein no essoign, protection or wager at law, nor more than one imparlance at law shall be allowed; one moiety or half part of which said penalty of One hundred pounds shall be to and for the use of His Majesty, His heirs and successors, and the other moiety or half part thereof to and for the use of him her or them who shall inform or sue for the same.

XX. And be it further Enacted, That no person holding any office or employment under the Colonial Government, no under-sheriff, sheriff's bailiff, or other sheriff's officer, nor any constable, shall hold any license under the authority of this Act; nor shall any such person as aforesaid, nor any Justice of the Peace, nor any publican or dealer in malt or spirituous liquors, be received or taken as surety in any recognizance to be entered into as aforesaid.

XXI. And be it further Enacted, That every person desirous of obtaining a license under this Act shall produce to the Justices of the Peace, at their general meeting at Hobart Town or Launceston, (as the case may require,) a certificate signed by three established and respectable housekeepers, in the form prescribed by the Schedule to this Act marked (A.), and shall enter into a recognizance to the King's Majesty, His heirs and successors, with two sufficient sureties to be approved of by such Justices of the Peace, in the sums and form and with the condition prescribed by the Schedule to this Act marked (B.), which recognizance shall be entered into in the presence of the majority of the Justices then assembled, and be signed by at least Two of such Justices; which said Justices of the Peace, or Two of such Justices at least, shall, before any license be granted, certify their approbation thereof, in the form prescribed by the Schedule to this Act marked (C.); and the clerk of the peace or other proper officer shall, upon receiving from the person in whose favour such certificate of the Justices may be made the sum of Two shillings and sixpence sterling, for the said certificate, and the sum of Ten shillings and sixpence sterling, for the recognizance therein referred to, deliver such certificate, with a copy of the said recognizance, to the applicant for a license, who shall thereupon lodge the said certificate with the Colonial Treasurer of the said Island, or other person acting as Colonial Treasurer for the time being, at his office; and upon payment of the sum of Twenty-five pounds sterling for the same as aforesaid, shall receive from the said Colonial Treasurer or Acting Colonial Treasurer, a license, which shall be in the form prescribed by the Schedule to this Act marked (D.); but such license shall not be valid for any purpose whatever until the same shall have been produced to and countersigned by the Commissary of Accounts or Acting Commissary of Accounts for the time being of the said Island.

XXII. And be it further Enacted, That in case any person applying for a certificate for a license shall be hindered, through sickness or infirmity, or any other reasonable cause, to attend in person at the general meeting of the Justices of the Peace, it shall be lawful for such Justices of the Peace to certify in favour of such person, upon Three sufficient and approved sureties as aforesaid entering into such recognizance, with such condition as before referred to, each surety in the penalty of Fifty pounds for performance of the condition of the said recognizance; and which said recognizance shall be entered into in the presence of the majority of the Justices then assembled, and be signed by at least Two of such Justices.

XXIII. And be it further Enacted, That all recognizances, with their conditions, shall be by the clerk of the peace or his deputy entered or filed amongst the records of the sessions of the peace; and in the event of any recognizances being entered into or taken at a time when the clerk of the peace or his deputy is not present, the Justice of the Peace who may be the chairman of the meeting at which the same may have been taken, shall forthwith send or return them to the clerk of the peace for the purposes aforesaid.

XXIV. And be it further Enacted, That every licensed person who shall be lawfully convicted of any offence against the tenor of any license granted under this Act, or against the condition of the recognizance hereby required to be entered into by such licensed person, shall for every such offence forfeit and undergo the several penalties and punishments and disabilities hereinafter mentioned and provided in that behalf; (that is to say,) for the first offence, a sum not exceeding Ten pounds sterling, with the costs and expenses of convicting such offender; and in case the said penalty costs and expenses shall not be paid within Fourteen days next after such conviction, that then the offender shall suffer imprisonment for Two months in one of His Majesty's gaols, unless he or she shall sooner pay such penalty costs and expenses; and for the second offence, a sum not exceeding Twenty pounds sterling, with the costs and expenses of convicting such offender; and in case such penalty costs and expenses shall not be paid within Seven days next after such second conviction, that then the offender shall suffer imprisonment for Four months in one of such gaols as aforesaid, unless he or she shall sooner pay such second penalty costs and expenses; and for the third offence against the tenor of such license or recognizance, it shall be lawful for any one Justice of the Peace, and it is hereby required of him, upon complaint or information on oath that such licensed person hath committed such third offence, to issue a summons under his hand and seal, requiring such person so complained of or informed against for such last-mentioned offence, to appear at the next general or quarter sessions of the peace which may be held in that division of the Island within which the offender resides, then and there to answer to the matter of such complaint or information, and also to bind the person or persons who shall make such complaint or information, or any other person or persons, in a recognizance to appear at such general or quarter session, and give evidence against such person so complained of or informed against; and the Justices of the Peace, in their said general or quarter sessions of the peace, shall inquire of the misdemeanor charged in the said last-mentioned complaint or information, and if they shall find that the person so complained of or informed against hath committed any Act against the tenor of the said recognizance, such Act being specified in the said complaint or information, and such person so complained of or informed against having been twice previously convicted for offences against the tenor of the said license and recognizance, it shall and may be lawful for the court, at such general or quarter sessions, to adjudge such person guilty of a third offence against the tenor of and a breach of the said recognizance, which adjudication shall be final to all intents and purposes; and thereupon the said Justices shall have power and authority to punish the party so to be convicted by fine, not exceeding the sum of One hundred pounds sterling, or at the discretion of the said court to declare the said recognizance so entered into by the said offender to be forfeited, or immediately to adjudge the license or authority granted to such offender to be forfeited and void, and thereupon such license shall from thenceforth be void accordingly; and the said person, the condition of whose recognizance shall be so adjudged to be broken and forfeited, shall, from and after such last-mentioned adjudication, be utterly disabled to sell ale, beer or other malt liquors, or any spirituous liquor whatever, for Three years, to be computed from the time of the offence committed, for which such adjudication shall be pronounced.

Provided always, That no recognizance under this Act shall be declared to be forfeited unless upon being directed so to be by the said court of general or quarter sessions, upon such third conviction as aforesaid; and provided also, That if such licensed person or persons so complained of or informed against for such last-mentioned offence, shall not appear at the next general or quarter sessions of the peace, pursuant to the summons, it shall and may be lawful for the Justices, in their general or quarter sessions assembled, on proof of the service of such summons, to inquire into the matter alleged, and on proof thereof to proceed against the person or persons so summoned, and not appearing in the same manner as if such person or persons had appeared, pursuant to his her or their recognizance.

XXV. Provided

XXV. Provided always, and it is hereby Declared and Enacted, That on every such inquiry so directed to be made as last aforesaid, the production of the recognizance entered into by the party complained against, or by his or her sureties, and filed with the clerk of the peace or person acting as such, shall be sufficient evidence of the fact of such party so complained against being a licensed victualler: Provided always, That if the court, on inquiring into the matter of such complaint or information, shall adjudge the party so complained of not guilty of the offence so laid to his or her charge, or if on adjudging the offender guilty, the court shall also adjudge him or her to be punished by fine, or by declaring the recognizance to be forfeited, instead of vacating the license of such offender as aforesaid, the party so holding or possessing such license shall nevertheless, after such adjudication of not guilty or punishment by fine, on an adjudication of guilty be liable to the same punishment and disability as any other licensed victualler who shall have been twice convicted of offences against the condition of his or her recognizance on any subsequent complaint or information, and inquiry thereon, at such court of sessions for any offence in breach of such recognizance and license.

XXVI. And be it further Enacted, That it shall and may be lawful to and for Two Justices of the Peace acting in and for that division of the Island within which any offence against the tenor of any license granted under this Act, or against the condition of the recognizance hereby required to be entered into by any licensed person, shall be committed, to hear and determine the same offence in a summary way; which same Justices of the Peace are hereby authorized and required, upon any information exhibited or complaint made in that behalf to or before them, to summon the party or parties accused, and also the witnesses on either side, (if they shall be required to summon any such witnesses,) and upon the appearance or contempt of the party or parties accused by not appearing, to proceed to examine and hear the matter in a summary way, and also to examine such witnesses upon oath as shall be produced therein (which oath the said Justices are hereby empowered to give and administer,) and to give their judgment thereon; and in case they shall convict the party or parties so accused or complained against of the offence laid to his her or their charge, and such party or parties so convicted shall refuse or neglect to pay the penalty or penalties for which he she or they shall stand convicted within the time hereinbefore mentioned for that purpose, together with the costs of such conviction or convictions, to be assessed settled and ascertained by the said Justices, that then and in every such case it shall and may be lawful for such Justices, and they are hereby authorized and required to issue their warrant or warrants, under their hands and seals, for the apprehending and committing to the common gaol as aforesaid every such offender, for such time and in such manner as the nature of the offence shall require, according to the provisions and the true intent and meaning of this Act.

XXVII. And be it further Enacted, That if any licensed publican shall die before the expiration of his or her license, or if he or she, or his or her executors or administrators, shall quit the premises mentioned in the license, and go and reside elsewhere for the space of one month, or such premises shall become empty or unoccupied, it shall be lawful for the Justices of the Peace assembled at any special meeting to be convened by public notice, under the hand of the clerk of the peace, and published in some or one of the public papers at least Fourteen days previous to such special meeting, to certify in favour of the executors or administrators of the deceased, or of any new tenant or occupier receiving a license, so as the person or persons applying for the same shall produce such certificate, and enter into such recognizance, with such sureties as hereinbefore mentioned, and upon the same terms.

XXVIII. And be it further Enacted, That the Justices of the Peace specially assembled for the purpose, shall have power to certify in favour of the transfer of such license to the appointee of the owner thereof; such appointee producing the like certificate, and entering into all the engagements which the original party obtaining the same is by this Act bound to produce or enter into, and upon the same terms.

XXIX. And be it further Enacted, That it shall be lawful for any Justice of the Peace, either alone or attended by constables or other officers, to demand entrance into any licensed public-house at any hour, by day or by night; and if admittance be refused or wilfully delayed, the license of such house shall be forfeited upon

conviction before any Two magistrates, and no license shall again be granted to any person who shall be so convicted.

XXX. And be it further Enacted, That no licensed publican shall take or receive from any person whatever in payment, or as a pledge, or in barter or exchange, for liquor or for any entertainment whatever supplied by him or her, for any matter or thing whatsoever, except the current coin or paper money of the Island, on pain of forfeiting for the first offence the sum of Twenty pounds sterling, together with the costs of prosecution and conviction, and of the execution of such conviction; one moiety or half part of which sum of Twenty pounds shall be to and for the use of His Majesty, His heirs and successors, and the other moiety or half part thereof to and for the use of him her or them who shall inform or sue for the same; and in case of a conviction for a second offence, such publican shall immediately thereupon forfeit and be deprived of his or her license: Provided nevertheless, nothing hereinbefore contained shall prevent any licensed victualler from receiving in payments or by way of barter or exchange, from known housekeepers, any live stock, wheat or other grain.

XXXI. And be it further Enacted, That no licensed publican shall recover any money debt or demand on account of spirituous liquors, unless it shall *bonâ fide* have been contracted at one time to the amount of Twenty shillings sterling or upwards; nor shall any particular article in any account for spirituous liquors be allowed, where the liquors delivered at one time shall not amount to the full sum of Twenty shillings sterling.

XXXII. And be it further Enacted, That it shall be lawful for any Two Justices of the Peace to certify their approbation of the grant or transfer of any license for selling ale, beer and other malt liquors, wine, cider, ginger-beer, brandy, rum, gin, whiskey, cordials, or any other strong fermented or spirituous liquors, by retail, to be drunk in any canteen, to any person applying for the same, who shall hold such canteen under any lease thereof, or any agreement or other authority from the Colonial Government, without regard to the time of year, or any certificates or other matters or things specified or required in relation to the applying for or granting any such license, any thing in this Act to the contrary notwithstanding; and the Colonial Treasurer of the said Island may and shall grant and deliver to such person a license for selling ale, beer and other malt liquors, wine, cider, ginger-beer, brandy, rum, gin, whiskey, cordials, or any other strong fermented or spirituous liquors by retail, to be drunk or consumed in such canteen; and every person holding such canteen under any such lease agreement or authority as aforesaid, and having such license as aforesaid, may keep such canteen and utter and sell therein, and in the premises thereunto belonging, and not elsewhere, victuals and all such ale, beer, and other malt liquors, wine, cider, ginger-beer, brandy, rum, gin, whiskey, cordials, or any other strong fermented or spirituous liquors as he or she shall be licensed and empowered to sell under the authority and permission of any such license as aforesaid, without being subject to any penalty or forfeiture.

XXXIII. And be it further Enacted, That as well for the purpose of recovering and enforcing the payment of any pecuniary fines, penalties, forfeitures or rewards, imposed created or given by this Act, and not herein or hereby specially and fully or sufficiently provided for, as for facilitating the conviction of offenders against this Act or any of the provisions thereof not already provided for, it shall and may be lawful to and for Two Justices of the Peace to hear and determine, in a summary way, every offence by whomsoever and wheresoever committed against this Act, or any of the provisions thereof, for the hearing and determination of which no provision hath yet been made by this Act; which same Justices of the Peace are hereby authorized and required, upon any information exhibited or complaint made in that behalf to or before them, to summon the party or parties accused, and also the witnesses on either side, (if they shall be required to summon any witnesses;) and upon the appearance or contempt of the party or parties accused by not appearing, to proceed to examine and hear the matter in a summary way, and also to examine such witnesses upon oath as shall be produced therein, (which oath the said Justices are hereby empowered to give and administer,) and to give their judgment thereon; and in case they shall convict the party or parties so accused or complained against of the offence laid to his her or their charge, and such party or parties so convicted shall refuse or neglect to pay the penalty or penalties for which he she or they shall stand convicted, together with the costs of such conviction, to be assessed settled and

and ascertained by the said Justices, upon demand made thereof at any time after the said conviction shall be had, that then and in every such case it shall and may be lawful for such Justices or any One of them, and they and he are and is hereby authorized and required to cause the penalty or penalties and costs to be levied by distress and sale of the goods and chattels of such offender or offenders by warrant under the hands and seals or hand and seal of such Justices or Justice, and the overplus, after deducting the charges of such distress and sale, to be rendered to the said offender or offenders; and if no sufficient distress shall be found whereon to levy as aforesaid, then the said Justices or Justice of the Peace shall and may commit every offender so convicted as aforesaid to one of His Majesty's gaols for any time not exceeding Six calendar months; and such Justices are hereby respectively authorized and required to take cognizance of, and hear and determine all other informations or complaints laid or made against all and every persons and person whomsoever for any offence against this Act, or any of the provisions thereof, and proceed therein to conviction, and, if necessary, to distress, sale and imprisonment, in the same way and manner in all respects as herein lastly expressed, for which provision may not have been hereinbefore fully or sufficiently made.

XXXIV. And be it further Enacted, That if any person shall be summoned as a witness to give evidence before any Justice or Justices of the Peace or court of sessions, touching any of the matters mentioned or referred to in or by this Act, or incidental to the same, either on the part of the prosecutor, or informer, or complainant, or of the person or persons accused, informed or complained against, and shall neglect or refuse to appear at the time and place to be for that purpose appointed, without a reasonable excuse for such his or her neglect or refusal, to be allowed of by such Justices of the Peace or court of session, or appearing shall refuse to be examined on oath and give evidence before such Justices of the Peace, or the court before whom the prosecution, information or complaint shall be depending, then every such person shall for every such offence forfeit and pay the sum of Ten pounds sterling to and for the use of His Majesty, His heirs and successors.

XXXV. And be it further Enacted, That if any person or persons shall think himself herself or themselves aggrieved by the judgment or conviction of any Justice or Justices of the Peace for any offence against this Act, for the commission of which a pecuniary penalty is annexed, and shall give security to the satisfaction of such Justice or Justices of the Peace for the payment of the penalty, costs and expenses to be expressed in the said conviction, within Twenty-four hours after the same shall be made, that then and in every such case after such security given, and not otherwise, it shall and may be lawful to and for such offender or offenders to appeal from and against such conviction or convictions to the Justices of the Peace assembled at the next general or quarter sessions, unless such sessions shall be held within Six days or less next after such conviction or convictions shall be so had or made, and in that case to the Justices of the Peace to be assembled at the next sessions after such first-mentioned sessions, and not afterwards; and that the Justices of the Peace assembled at such sessions shall thereupon proceed to hear and determine the matter of every such appeal, and their judgment thereon shall be final and conclusive to all intents and purposes whatsoever; and the Justices of the Peace so assembled at such sessions are hereby authorized and required to award such costs as to them shall appear just and reasonable to be paid by either party, not exceeding in the whole the sum of Ten pounds sterling on any one appeal.

XXXVI. And in order to prevent frivolous and vexatious appeal: Be it further Enacted, That a conviction in the form or to the effect of the form, *mutatis mutandis*, (as the case shall happen to be,) prescribed by the Schedule to this Act marked (E.), shall be good and effectual to all intents and purposes whatsoever, without stating the case, or the facts, or evidence in any more particular manner.

XXXVII. And be it further Enacted, That on every such conviction so to be had or made as aforesaid, the Justices of the Peace before whom the same shall be made, shall return the same to the next quarter sessions of the peace to be holden for the Island of Van Diemen's Land, and the record of such conviction shall, unless the same shall be afterwards quashed on appeal as hereinbefore directed, be evidence against the party thereby convicted in any prosecution to be instituted against him her or them for another offence of the like nature, if such evidence should on that occasion be requisite; and the clerk of the peace to whom such convictions shall be returned shall immediately on such return, if the same shall relate to a licensed

publican, make or cause to be made a memorandum or entry of such conviction in a calendar or register, which he is hereby directed to keep, of the names and places of abode of the several persons so licensed as aforesaid, and shall in every such entry state whether such conviction be the first or second or other subsequent conviction of the offending party, if the offence be of such a nature as on a repetition of it renders the offender liable to a heavier penalty or punishment.

XXXVIII. And be it further Enacted, That all Justices of the Peace shall be and are hereby indemnified, freed and discharged from and against all penalties, forfeitures, damages and liabilities in respect or on account of licenses granted to publicans or others for the sale of malt liquor or spirits from the Twenty-ninth day of September now last past to the Twenty-ninth day of this present month of September, or of any act or proceeding done or had in regard thereto, or to the persons receiving the same licenses.

XXXIX. And be it further Enacted, That all monies arising to His Majesty, His heirs and successors, under and by virtue of this Act, or in pursuance of any proceeding had in prosecution of any act or thing herein or hereby directed to be done or performed, shall be and the same are hereby reserved to His Majesty, His heirs and successors, for the public uses of the said Island of Van Diemen's Land and the support of the government thereof, and go to and be applied in aid of the Colonial Fund of said Island accordingly.

XL. And be it further Enacted, That this Act shall continue and be in force for the term of Two years from and after the making hereof, and no longer.

GEORGE ARTHUR.

Passed the Council this 7th day of
September 1826.

John Montagu, Clerk of the Council.

SCHEDULE (A.)

Form of Householders' Certificate.

TO the Worshipful the Justices of the Peace acting in and for the Buckinghamshire [*or Cornwall*] Division of the Island of Van Diemen's Land.

We, the undersigned, *A. B.* of *C. D.*
of *E. F.* of *C. D.* being
severally householders, do hereby certify, That *T. B.* of *C. D.* is well
known to us as a person of good fame and of sober life and habits, and as a fit
and proper person to be entrusted with a license to keep a public-house.—Witness
our hands.

A. B. C. D. E. F.

SCHEDULE (B.)

Form of Recognizance.

Van Diemen's Land. } AT a general meeting of His Majesty's Justices of the Peace acting
in and for the Buckinghamshire [*or Cornwall*] Division of the Island
of Van Diemen's Land, holden at Hobart Town [*or Launceston*], on the
Eighteenth day of September One thousand eight hundred and twenty
pursuant to an Act of his Excellency the Lieutenant Governor, with the advice
of the Legislative Council, made the Seventh day of September One thousand eight
hundred and twenty-six, *T. B.* of *C. D.* acknowledges himself to be indebted
to our Sovereign Lord the King in the sum of One hundred pounds; and *A. B.*
of *C. D.* of *E. F.* respectively acknowledge themselves
to be indebted to our said Sovereign Lord the King in the sum of Fifty pounds
apiece of lawful money of Great Britain, to be respectively levied off their several
goods and chattels, land and tenements, to the use of our said Lord the King, His
heirs and successors, by way of recognizance, upon condition, that if the said *T. B.*
shall receive from the Colonial Treasurer of Van Diemen's Land a license to
keep a common inn, ale-house, or victualling house, and to sell ale, beer, and other
malt liquors, and wine, cider, ginger-beer, brandy, rum, gin, whiskey, cordials, and
any

any other strong fermented or spirituous liquors, in the house wherein he [or she] now dwells being the sign of in the district of from the day of until the day of One thousand eight hundred and twenty , and do sell good and wholesome ale, beer, and other malt liquors, and also good and wholesome wine, cider, ginger-beer, gin, brandy, rum, whiskey, cordials, and other fermented or spirituous liquors, in full measure, and without fraudulently diluting or adulterating the same in his [or her] said house, and not knowingly permit any playing at cards, draughts, dice, bagatelle, or any other sedentary game in or on his [or her] house or premises, by any journeymen, labourers, servants or apprentices, or introduce or permit any bull-baiting, cock-fighting, or other such sport or amusement, on any part of his [or her] premises; nor get drunk, or permit any other person to get drunk in or on his [or her] house or premises; nor suffer any drunken person to enter the same without immediately removing him or her therefrom; nor permit any person to remain there tipping or drinking after the hour of Eight at night, or on Sunday at any hour, (always excepting moderate refreshment to *bonâ fide* travellers or inmates of the house;) nor open his [or her] house on Sunday for any other purpose than to receive *bonâ fide* travellers and regular customers, coming or sending between One and Three o'clock in the day, and between Six and Eight o'clock in the evening, to purchase malt liquor only, and immediately taking the same away; nor suffer any riot, fighting or other disorder, tumult or disturbance, to take place and be carried on, in or on the said house or premises; nor refuse to admit any magistrate, alone or attended by constables or officers, at any time, into any part of the said house or premises; nor in particular suffer any convict to remain in or on his [or her] house or premises on Sunday at any time, (except he or she should be travelling with a regular pass, or be in attendance upon his or her master or employer, or have the written authority or order of such master or employer, and be willing to show the same on demand,) or after Eight o'clock at night on any other day; nor conceal or harbour or assist in the escape of any runaway convict or other offender for whom search is making by the proper authorities, or obstruct, let or hinder any magistrate, constable, or other person making such search; nor have any tap or tap-room or bar or drinking-room in any yard or garden belonging to the house or in any place separate or detached from the house, or having any other entrance thereto than the house itself hath, and such entrance to the house being but one, and that by a door in the front thereof, without any wall or close fence before or about it, so as to prevent the same or the persons entering or leaving the house from being seen by all passengers, and [to be inserted when used for public-houses in Hobart Town and Launceston, or within two miles of either of those towns], shall keep one lamp well trimmed and a-light, opposite the entrance door in the front thereof, and in a line with the street fence, and Ten feet from the ground throughout the whole of the year, from sunset to sunrise, then this obligation to be void, or else to remain in full force.

SCHEDULE (C.)

Form of Certificate of the Justices.

Van Diemen's Land. } AT a general meeting of His Majesty's Justices of the Peace acting in and for the Buckinghamshire [or Cornwall] Division of the Island of Van Diemen's Land, holden at Hobart Town [or Launceston] on the Eighteenth day of September One thousand eight hundred and twenty , pursuant to an Act of his Excellency the Lieutenant Governor, with the advice of the Legislative Council, made the Seventh day of September One thousand eight hundred and twenty-six: These are to certify, That we have received a certificate, signed by *A. B.* of *C. D.* of and *E. F.* of (being severally householders) setting forth that *T. B.* of is well known to them as a person of good fame, and of sober life and habits, and as a fit and proper person to be entrusted with a license to keep a public-house, and we have taken from the said *T. B.* and *A. B.* of and *C. D.* of his sureties or recognizance, in the form prescribed in the said Act, and do approve of his receiving a license for the sale of ale, beer and other malt liquors, and wine, cider, ginger-beer, brandy, rum, gin, whiskey, cordials and any other strong fermented or spirituous liquors.

G. H. J. K.

SCHEDULE (D.)

Form of License.

WHEREAS, *T. B.* of hath deposited in my office a Certificate from the Justices of the Peace assembled at Hobart Town [*or* Launceston] on the day of approving of his [*or* her] holding a license for the sale of ale, beer and other malt liquors, and wine, cider, ginger-beer, gin, rum, brandy, whiskey, cordials and any other strong fermented or spirituous liquors; and the said *T. B.* hath also paid into my office the sum of Twenty-five pounds sterling, being the amount provided in that behalf by an Act of His Excellency the Lieutenant Governor, with the advice of the Legislative Council of this Island: Therefore the said *T. B.* is hereby licensed to keep a common inn, ale-house or victualling-house, and to sell in the house in which he [*or* she] now dwelleth, in street in or at [*name the place or district*] being the sign of and not elsewhere, ale, beer and other malt liquors, and wine, cider, ginger-beer, brandy, rum, gin, whiskey, cordials and any other strong fermented or spirituous liquors; provided good order and rule be maintained and kept in the said house, pursuant to the condition of the recognizance entered into by the said *T. B.* and his sureties in that behalf, and the Act under which this license is granted be in all respects observed. And this license is to continue in force from the date hereof, until the day of One thousand eight hundred and twenty and no longer.

J. T.

Colonial Treasurer of Van Diemen's Land.

SCHEDULE (E.)

Form of Conviction.

Van Diemen's Land. } BE it Remembered, That on this day of in the year } One thousand eight hundred and twenty *T. B.* of was duly convicted before us, *A. B.* and *C. D.* esquires, Two of His Majesty's Justices of the Peace in and for Van Diemen's Land and its Dependencies of [*state the offence, showing it to be one within the Act, and, if necessary, whether the first, second or third offence,*] whereby he hath forfeited the sum of pounds sterling, besides the costs and expenses of this conviction; which costs and expenses we, the said Justices of the Peace, do hereby ascertain and assess at the sum of pursuant to the law or ordinance in such case made and provided.

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

Anno Septimo GEORGII IV. REGIS. No. 3.

By His Excellency Colonel *George Arthur*, Lieutenant Governor of the Island of Van Diemen's Land and its Dependencies, with the Advice of the Legislative Council.

AN ACT to promote the Circulation of Sterling Money of Great Britain, and to reduce to Sterling Denomination all Securities, Contracts and Agreements for the Payment of Money, and also to regulate the making and issuing of Promissory Notes and Bills of Exchange within the Island of Van Diemen's Land and its Dependencies.

WHEREAS, by an Act of his Excellency Sir Thomas Brisbane, the late Governor of the Colony of New South Wales, with the advice of the Council, passed on the Twenty-eighth day of September One thousand eight hundred and twenty-four, intituled, "An Act to make Promissory Notes and Bills of Exchange payable in Spanish Dollars, available as if such Notes and Bills had been drawn payable in Sterling Money of the Realm;" It was Enacted, That all bills of exchange and promissory notes, payable in such dollars as aforesaid, should be holden in