



ANNO SEXTO

## VICTORIÆ REGINÆ,

No. 11.

*By His Excellency SIR JOHN FRANKLIN, Knight Commander of the Royal Hanoverian Guelphic Order, Knight of the Greek Order of the Redeemer, and a Captain in Her Majesty's Royal Navy, Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies, with the advice of the Legislative Council.*

*AN ACT to amend an Act passed in this Island in the Fourth Year of the Reign of His late Majesty King William the Fourth for regulating the Sale by Retail of Wine and Malt and Spirituous Liquors by making provision for Re-hearing of rejected Applications for Certificates for Renewals or Transfers of Licences.*

## PREAMBLE.

Persons refused a renewal of a Licence at the General Meeting or a transfer at a Quarterly Meeting entitled to a re-hearing upon giving a certain notice.

**W**HEREAS it is expedient to amend the law in force in this Island relating to the transfer and renewal of Licences to sell Wine and Malt and Spirituous Liquors and to make provision for re-hearing of rejected applications for Certificates for renewals or transfers of Licences in the manner hereinafter set forth—**BE IT THEREFORE ENACTED** by His Excellency SIR JOHN FRANKLIN Knight Commander of the Royal Hanoverian Guelphic Order Knight of the Greek Order of the Redeemer and a Captain in Her Majesty's Royal Navy Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies by and with the advice of the Legislative Council that from and after the passing of this Act if any person who may hereafter apply at a General Meeting of Justices holden in any District whatever within this Island for a Certificate approving of his or her receiving a Licence for the sale of Wine and Malt and Spirituous Liquors in respect of his or her then licensed premises shall have such Certificate refused or if any person who may hereafter apply at a Quarterly Meeting of Justices holden as last mentioned for permission to transfer his or her existing Licence shall have such permission refused and shall think himself or herself aggrieved thereby then and in such case he or she may apply for and

obtain in the manner hereinafter mentioned a re-hearing of his or her application before the Court of General or Quarter Sessions of the Peace holden for the District within which such General or Quarterly Meeting may have been held at the then next sitting thereof whether by adjournment or otherwise—PROVIDED that such person shall give to the Clerk or Deputy or acting Clerk of the Peace for the said District notice in writing of his or her intention so to apply for a re-hearing and of the cause and matter thereof seven clear days at least before the said sitting and in case such notice shall be given to the Clerk or Deputy or acting Clerk of the Peace for the Districts of Hobart Town or Launceston respectively they are hereby required immediately upon receipt of such notice to transmit the same to the Chairman of the Court before which the re-hearing is to take place and thereupon such Chairman shall summon all the Justices who were present at the original hearing of such application to attend at the next Sitting of the said Court—PROVIDED ALWAYS that if less than eight Justices were present on such original hearing then the Chairman of the said Court shall summon all the Justices who were present at such hearing and as many more as will make up that number.

Chairman at Hobart Town or Launceston to summon a certain number of Magistrates to attend.

II. AND BE IT ENACTED that the Clerk of the Peace or Deputy or acting Clerk of the Peace for any other Districts than those of Hobart Town and Launceston shall also upon receipt by him of any such notice transmit the same to the Chairman of the Court before which such re-hearing is to take place and thereupon such Chairman shall summon all the Justices who were present at the original hearing of such application to attend at the next Sitting of the said Court—PROVIDED ALWAYS that if less than four Justices were present on such original hearing then the Chairman of the said Court shall summon all the Justices who were present at such hearing and as many more as will make up that number.

Number to be summoned in other Districts.

III. AND BE IT ENACTED that such eight Justices or four Justices respectively either alone or together with any other qualified Justice or Justices wherever usually resident or acting who may happen to be present shall hear and determine every such application and on such hearing the presiding Chairman shall have a deliberating and a casting vote.

Such Justices to decide on the application.

IV. AND BE IT ENACTED that the judgment of the said Court shall be final and conclusive to all intents and purposes—AND in case upon the re-hearing of the said application the refusal appealed against be reversed the said Court shall certify in writing through the Clerk or Deputy or acting Clerk of the Peace aforesaid in favour of the Appellant in the same manner as if such Certificate had been granted by the Justices on the day of their General or Quarterly Meeting adapting only the date of the Certificate to the day of their reversal of the refusal and the form and contents thereof and of the recognizances to be taken from such Appellant and his Sureties in all other respects to the particular circumstances of the case.

Proceedings in case the Licence is granted on the re-hearing.

Courts in future  
to fix an adjourn-  
ment day.

V. AND BE IT ENACTED that to prevent future difficulties with reference to applications that may be made at any General or Quarterly Meeting of Justices for Certificates approving of applicants receiving or transferring Licences every such General and Quarterly Meeting shall hereafter not only be invariably held for dispatch of business on the original day already fixed by the before-mentioned Act for that purpose but in case any of the applications then received shall after the hearing thereof be refused or shall not have been fully heard or considered such meeting shall be openly adjourned to some other convenient time not less than fourteen days from such original day and notice in writing of such adjournment shall be immediately fixed on the outer door of the then place of meeting and remain thereon until the adjournment day.

Copy of notice  
of application for  
re-hearing to be  
sent to Police  
Magistrate of the  
District.

VI. AND BE IT ENACTED that every Clerk or Deputy or acting Clerk of the Peace shall immediately upon receipt of any such notice of application for a re-hearing as aforesaid if the same is to be heard at Hobart Town transmit a copy of such notice to the Chief Police Magistrate or in his absence to the Police Magistrate of the Hobart Town District and if the same is to be heard in any other District to the Police Magistrate or Assistant Police Magistrate of such District.

Penalty upon  
Justices not at-  
tending Court.

VII. AND BE IT ENACTED that if any Justice having received any such summons as aforesaid shall not appear and act as a sitting Justice at such Court (having no reasonable excuse in that behalf transmitted by him for that purpose to the Chairman) then upon proof of delivery of such notice being made to the satisfaction of the Chairman at such Court (which proof such Chairman shall then and there require to be made) such Justice shall pay for any such neglect the sum of Two Pounds.

Compelling pay-  
ment of penalty.

VIII. AND BE IT ENACTED that the amount of every such sum shall at any time after notice to the Justice so neglecting to appear or act that such sum hath been imposed and the same nevertheless remaining unpaid for the space of thirty days next following upon a Certificate in that behalf signed by the Clerk or Deputy or acting Clerk of the Peace directed to the Sheriff be by the said Sheriff or his Deputy levied in a summary manner by distress and sale of the goods and chattels of the Justice liable to pay such sum and the surplus money (if any) remaining after payment of such sum and the attendant expenses shall be thereafter rendered to such Justice.

Provision for ab-  
sence of Justices.

IX. AND BE IT ENACTED that in case any of the Justices who were present at the original hearing of any application for a renewal or transfer of a Licence or any other Justice summoned to attend the Court on the re-hearing shall on such last-mentioned occasion be absent it shall nevertheless be lawful for the Justices assembled on such last-mentioned occasion (provided that if in Hobart Town or Launceston no less a number than eight and if in any other District no less a number than four including the Chairman shall be present) to hear and determine every such application for a re-hearing.

X. AND BE IT ENACTED that in order to provide redress for any person or persons who having previously held a Licence were at the General Meeting of Justices holden at Hobart Town on the First day of September last refused a renewal thereof in respect of the same premises and may be thereby aggrieved it is expedient to make the provisions of this Act to a certain extent retrospective—BE IT THEREFORE ENACTED that it shall be lawful for any such person upon giving twenty-four hours' previous notice to the Clerk of the Peace to apply to the Court of General or Quarter Sessions of the Peace holden for the said District whether by adjournment or otherwise next following the day on which this Act shall take effect for a re-hearing of his or her application and such Court shall decide in the matter of every such application and this Act shall with respect thereto apply in the same manner as if the said Act had been in force previously to and on the said First day of September last and in case upon the re-hearing of any such application a Certificate for a Licence shall be granted such adaptations in the date form and contents of such Certificate and of the Recognizances to be taken and of the Licence may be made as the particular circumstances of the case may require.

This Act to be retrospective to a certain extent.

JOHN FRANKLIN.

Passed the Legislative Council this fifth day of November, one thousand eight hundred and forty-two,

FR. HARTWELL HENSLOWE, *Clerk of the Council.*