



ANNO DECIMO-NONO

VICTORIÆ REGINÆ,

No. 27.

By His Excellency SIR HENRY EDWARD FOX YOUNG, Knight,
 Captain-General and Governor-in-Chief of the Island of
 Tasmania and its Dependencies, with the Advice and Consent
 of the Legislative Council.

AN ACT to alter and amend the "Licensing Act."
 [7th February 1856.]

WHEREAS it is expedient to alter and amend several of the provisions of the *Licensing Act*: Be it therefore enacted by His Excellency the Governor of *Tasmania* and its Dependencies, by and with the advice and consent of the Legislative Council, as follows: PREAMBLE.

1 In referring to this Act it shall be sufficient to use the expression Short Title.
 "*The Licensing Amendment Act.*"

2 The Certificates of Householders mentioned in Sections 6 and 23 of the *Licensing Act* shall no longer be required. Householders' Certificates dispensed with.

3 It shall not be necessary for any person desirous of procuring a Wholesale Licence, in respect of any store or premises situate in *Hobart Town* or *Launceston*, to apply for the same in the mode prescribed by Section 6 of the *Licensing Act*; but the Collector of Internal Revenue may, upon application made to him in that behalf by any person being a known householder in this Island, and setting forth Wholesale Licences in Hobart Town and Launceston.

in his Application the place of his residence, and description of such store or premises situate in *Hobart Town* or *Launceston*, in respect of which he is desirous to obtain a Wholesale Licence, and upon payment of the fee provided by the said Act for a Wholesale Licence, issued to such person a Wholesale Licence in respect of such store or premises, the same being situate in *Hobart Town* or *Launceston*, in the Form to this Act annexed.

Wholesale Dealers may change places of business.

4 It shall be lawful for the holder of a Wholesale Licence, with the permission of the Collector of Internal Revenue, to substitute any other store or premises as his place of business instead of the store or premises mentioned in his Licence: Provided that no such substitution shall be valid unless such permission, and a particular description of such new store or premises, be endorsed upon the Licence under the hand of the Collector of Internal Revenue; and such Wholesale Licence shall thenceforth be deemed only to apply to the store or premises referred to in such endorsement.

Holder of Wholesale Licence may sell in Bonding Warehouse.

5 It shall be lawful for every holder of a Wholesale Licence to sell liquor in the quantity and mode prescribed by his Licence, as well in any Bonding Warehouse in this Island as in the Store or Premises mentioned in his Licence.

Transfer fee £5.

6 The transfer fee for every Public-house Licence shall hereafter be Five Pounds instead of Twenty Pounds.

Permission to sell liquor in theatres may be granted.

7 It shall be lawful for the Police Magistrate of any District in which any theatre duly licensed is situate to grant an annual permission to the holder of a Public-house Licence in respect of a house situate within such District to sell liquor within such theatre during the hours of public performance; and every such permission shall be revocable at the pleasure of the Police Magistrate of the District in which such theatre is situate, who shall also have power to renew the same, or to grant a like permission to some other holder of a Public-house Licence within such District as to him shall seem proper; and for every such permission or renewal thereof there shall be paid the sum of Five Pounds.

Penalty for Brewer, &c. acting as Justice.

8 The penalty imposed by Section 8 of the *Licensing Act* shall be Fifty Pounds instead of One hundred Pounds, and shall be recoverable in a summary way before any two or more Justices of the Peace.

Constables not to be interested in Public-houses.

9 No Constable shall, after the Thirty-first day of *December*, One thousand eight hundred and fifty-six, be directly or indirectly interested as licensee, owner, part owner, lessor, lessee, trustee, manager, or agent in any house now or hereafter licensed as a Public-house, under a penalty not exceeding Fifty Pounds.

Publicans in *Hobart Town* and *Launceston* not compellable to receive horses, &c., on *Sunday*, &c.

10 Nothing contained in the *Licensing Act* shall be deemed or taken to compel the holder of a Public-house Licence, in respect of a house situate within the limits of *Hobart Town* or *Launceston*, to receive and provide for a traveller and his horse, or a traveller without a horse, or the horse of a traveller not becoming a guest at the house, on a *Sunday*, or *Good Friday*, or *Christmas-day*.

Public-houses

11 Notwithstanding anything contained in Section 38 of the *Licensing*

Act, it shall be lawful for the holder of a Public-house Licence to open his house, and his separate tap, if any, for the sale of liquor therein, as on any other day after one o'clock in the afternoon on *Good Friday* and *Christmas-day*. may be open after one o'clock on *Good Friday* and *Christmas-day*.

12 Section 40 of the *Licensing Act* is hereby repealed; and the term "Traveller," for the purpose of Sections 38 and 39 of the *Licensing Act*, shall be construed to mean a person actually and *bonâ fide* on a journey. Redefines the term: "Traveller."

13 Any person falsely representing himself to be a traveller, with intent to contravene any of the provisions of the *Licensing Act*, shall forfeit a penalty not exceeding Fifty Pounds. Penalty on a person falsely representing himself to be a traveller.

14 If the holder of a Public-house Licence shall supply any liquor, or knowingly permit any liquor to be supplied, to any Aboriginal Native of this Colony, he shall forfeit a penalty not exceeding Fifty Pounds. Penalty for supplying Aborigines with liquor.

15 Any two Justices of the Peace, of whom the Police Magistrate of the District shall be one, may, if they see fit, on payment of a fee of Two Pounds, grant to the holder of a Public-house Licence a written permission to keep a quoit ground or skittle ground. Quoit and skittle grounds may be kept by permission.

16 In every case in which any application under the *Licensing Act* shall be refused, whether at an Annual or Quarterly Meeting, or any adjournment thereof, the Justices present at such Meeting, and deciding upon such application, shall then and there publicly declare the grounds of such refusal. Grounds of refusal of applications under the *Licensing Act* to be publicly stated.

17 If any application at any Annual Meeting for a Certificate of approval of any person receiving a Public-house Licence shall be refused solely on the ground of objections to the character or conduct of the applicant, it shall be lawful for the Quarterly Meeting which shall be holden next ensuing such Annual Meeting to entertain the application of any *bonâ fide* new and different applicant for a Certificate of approval of his receiving a Public-house Licence in respect of the same house: Provided that no such application shall be entertained unless like notice shall have been given as in the case of the original application at the Annual Meeting of Justices. If application refused at Annual Meeting solely on ground of character, fresh application may be entertained at next Quarterly Meeting.

18 Any person who shall hereafter apply at any Annual Meeting of Justices for a Certificate of approval of his receiving a Public-house or Packet Licence, or any person who shall hereafter apply at any Quarterly Meeting of Justices for a Certificate of approval of his receiving a Packet Licence, or any person who shall at any Quarterly Meeting apply for permission to transfer his existing Public-house or Packet Licence, and whose application shall in any of such cases be refused, may appeal to the next Court of General Sessions of the Peace for the District in which such Annual or Quarterly Meeting, as the case may be, was held, which shall be holden, whether by adjournment or otherwise, not less than seven clear days after such Annual or Quarterly Meeting, as the case may be: Provided that no such Appeal shall be entertained unless the appellant shall give to the Clerk or Deputy Clerk of the Peace for such District notice in writing of his intention so to appeal, and of the grounds of such Appeal, seven clear days at least before the time of Appeal from Licensing Meeting.

holding such Court of General Sessions: Provided also, that if the Court of General Sessions of the Peace shall be appointed to be holden for the District in which such Annual or Quarterly Meeting, as the case may be, was held, then such Appeal may be made to the next Court of General Sessions of the Peace to be holden, whether by adjournment or otherwise, not less than seven clear days after such Annual or Quarterly Meeting, as the case may be, for the nearest District, which a Court of General Sessions of the Peace is appointed to be holden.

Notice of appeal to be given to Justices present at original hearing.

19 Such Clerk or Deputy Clerk of the Peace shall forthwith, upon receipt by him of any such notice of Appeal, transmit the same to the Chairman of the Court by which such Appeal is to be determined; and thereupon such Chairman shall summon all the Justices who were present at such Annual or Quarterly Meeting, as the case may be, to attend at such Court of General Sessions for the purpose of determining the matter of such Appeal.

Penalty on Justices neglecting to attend upon Appeal.

20 If any such Justice as last aforesaid, who shall have been so summoned, shall, without reasonable excuse, neglect to appear and act as a Sitting Justice at the hearing and determining of such Appeal, he shall forfeit a penalty not exceeding Twenty Pounds.

Who to form Court.

21 The Justices so summoned or such of them as shall attend, and the other Justices, if any, present at such Court of General Sessions of the Peace, shall hear and determine the matters of such Appeal; and the Chairman presiding at such Court shall have a deliberative and a casting vote.

Judgment.

22 The judgment of the said Court shall be final and conclusive, and in case any such Appeal shall be allowed, the like proceeding shall be had as if the application of the Appellant had been granted at such Annual or Quarterly Meeting, as the case may be, adapting the date of the Certificate, and the form and contents thereof, to the particular circumstances of the case.

Appeal from Licensing Meeting on 1st December, 1855.

23 Whereas it is expedient to provide redress for any person who was, at any Annual Meeting of Justices holden on the first day of December last, refused a Public-house Licence, and who may have been thereby aggrieved: be it therefore enacted, that where any person, who was at any Annual Meeting of Justices holden on the first day of December, one thousand eight hundred and fifty-five, refused a Public-house Licence in respect of any premises, shall feel himself aggrieved thereby, and provided that no Licence has been granted for the same premises to another person, it shall be lawful for any such person so refused a Public-house Licence, upon giving seven days' previous notice to the Clerk or Deputy Clerk of the Peace for the District in which such Annual Meeting was held, to apply to the Court of General Sessions of the Peace to be holden for such District, whether by adjournment or otherwise, not less than seven days after the day on which this Act shall take effect, for a re-hearing of his 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 same had been in force previously to and on the first day of December last; and in case, upon the re-hearing of any such application, a Certificate for a Public-house Licence shall be granted, such adaptations in the date, form, and contents of such Licence may be made as the particular circumstances of the case may require.

24 Nothing contained in the *Licensing Act* shall be construed to have rendered or to render it unlawful for a person holding a Licence to act as an Auctioneer under the Act of Council 6th William 4, No. 6, to sell liquor in any quantity by *bonâ fide* public and open sale by auction without being the holder of a Licence under the *Licensing Act*; and no Constable or other person, who shall have sold or shall sell any liquor forthwith after the condemnation of the same under Section 53 of the *Licensing Act*, shall be held to have thereby incurred any of the penalties imposed by the *Licensing Act*, or the said Act of Council of the 6th William 4, No. 6.

Licensing Act not to affect Auctioneers.

Sale of condemned liquors.

25 Section 62 of the *Licensing Act* is hereby repealed; and all offences against the provisions of the *Licensing Act*, or of this Act, shall, where no other mode or remedy is by the said Act or by this Act specifically provided, be heard and determined, and all penalties recovered in a summary way by and before two or more Justices of the Peace; and all such penalties shall be applied, as to one moiety thereof to the use of Her Majesty, and as to the other moiety thereof to the use of the informer or person prosecuting; and any person aggrieved by any summary conviction under the provisions of the *Licensing Act*, or of this Act, shall be entitled to appeal therefrom.

Repeal of Sec. 62 of *Licensing Act*, and mode of proceeding for recovery, and application of penalties.

Appeal from convictions.

26 If any action or suit shall be brought against any person for anything done in pursuance of the *Licensing Act*, or of this Act, the Defendant may plead the general issue, and give such Acts or either of them, and the special matter in evidence.

General issue.

27 This Act and the ~~*Licensing Act*~~, except in so far as the same is repealed or altered by this Act, shall be read and construed as, and be held to be, one and the same Act.

This Act and the *Licensing Act* to be read together.

FORM.

WHEREAS *A. B.* of [insert residence] hath applied to me under *The Licensing Amendment Act* for a Wholesale Licence in respect of the Store [or Premises] situate in street in *Hobart Town* [or *Launceston*, as the case may be, describing the premises fully]: And whereas I have this day also received the fee payable for such Licence; I do therefore hereby grant to the said *A. B.* a Licence to sell Liquor in any quantity not less than seven quarts of any one kind of such Liquor in the Store situate [describing same fully].

[If the Licence be in respect of more than one Store or Premises, each Store or Premises must be fully described.]

Given under my hand this

day of 1856.

G. H.

Collector of Internal Revenue.

MICHAEL FENTON, *Speaker*

Passed the Legislative Council this fourth day of February, one thousand eight hundred and fifty-six.

FR. HARTWELL HENSLOWE,

Clerk of the Council.

In the name and on the behalf of Her Majesty I assent to this Act.

H. E. F. YOUNG,

Governor.

Government House, Hobart Town,
7th February, 1856.