



# WESTERN AUSTRALIA.

ANNO SECUNDO

GULIELMI IV. REGIS,

No. 8.

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## An Act to regulate the Sale of Spirituous and Fermented Liquors by Retail.

**W**HEREAS it is expedient to restrict and regulate the Sale of Spirituous and Fermented Liquors within this Colony: Be it enacted by His Excellency the Governor of Western Australia and its dependencies, with the advice of the Legislative Council, that if from and after the first day of July next any Person shall upon any part of his or her House, Land, or Premises, sell barter, exchange or retail, or permit or suffer to be sold, bartered, exchanged, or retailed, any Rum, Brandy, Arrack, Gin, Whiskey, Cordials, or other Spirituous Liquors, or any Ale, Beer Wine, Cider, Perry or other fermented Liquors in a less quantity than forty Gallons, without having first obtained a License in manner hereinafter mentioned, he, or she, shall forfeit and pay for every such offence any sum not exceeding Fifty Pounds, nor less than Ten Pounds.

Persons selling any spirituous or fermented liquors after the 1st July next, in a quantity less than forty gallons without a license, subjected to a penalty of not less than £10 nor more than £50.

No license under this Act to authorise the consumption of any of the aforesaid liquors on the place of sale, unless it be a licensed Public House, nor to empower any one being a Licensed publican to sell in less quantities than one gallon; under penalty not less than £5, nor more than £20.

II. Provided always, and be it further enacted, that no License to be obtained under this Act, shall authorise the consumption of any of the aforesaid Liquors on the Premises where the same shall be sold, unless such premises be duly licensed as a Public House; nor shall empower any retail dealer, not being also duly licensed to keep a Public House; to retail any of the aforesaid Liquors in a less quantity than one gallon: And that any retail dealer who not being also a licensed Publican, shall be convicted of having sold, exchanged or retailed any of the aforesaid Liquors in a less quantity than One Gallon, or of having repeatedly suffered any such Liquors to be consumed on his premises by the purchasers thereof, shall forfeit and pay for every such offence any sum not exceeding Twenty Pounds, nor less than Five Pounds.

Exception of Liquors sold for medicinal purposes, and of sales of malt liquors Ginger Beer, spruce beer, over the counter.

III. Provided always and be it further enacted that any Physician, Apothecary, Surgeon, Chemist, or Druggist, may administer or sell any of the aforesaid liquors in any quantities for Medicinal Purposes without license: and that any person may sell or dispose of any Ale, Beer, or other Malt Liquors, and of any Ginger Beer, or Spruce Beer, to persons standing at his or her Counter for the purpose of being consumed on the spot.

Any Justice of the peace upon reasonable ground of suspicion by information upon oath may search unlicensed places for liquors &c., and may condemn and sell such liquors if so found concealed for the apparent purpose of illicit sale.

IV. AND be it further enacted that upon information on Oath, being made before any Justice of the Peace by any Constable, or credible person, that he or she doth surely suspect and believe that any such Liquor as aforesaid is habitually sold or retailed in any particular unlicensed House or Place; and such Constable or other person shall in such information set forth or show reasonable grounds for such belief and suspicion; then and in such case it shall be lawful for such Justice to grant his Warrant to any Constable to enter and search such House or other place either by day or night, which said Constable may break open any doors if not opened within a reasonable time after demand and seize all such Spirituous or Fermented Liquors as he shall there find, and the Vessel or Vessels containing such Liquors, and shall take the same and the person in whose apparent keeping or disposal the same were found before the said Justice; and if it shall appear to such Justice, after due examination, that such liquors were in the said House or other place for the purpose of being illegally sold or disposed of, then such Justice shall adjudge the said Liquor and vessel or vessels to be forfeited and sold, and the proceeds thereof (after payment of incidental expences to be allowed by such Justice) shall be paid over in equal moieties to the Collector of Colonial Revenue to His Majesty's use, and to the party informing: but if it shall appear otherwise to such Justice, such Liquor and Vessel or Vessels shall be forthwith restored to the proper owner.

1832.

2 Wm. IV., No. 8.

V. AND be it further enacted, that if any master or other employer shall directly or indirectly pay or agree to pay any Journeyman, Workman, Servant, Labourer, or other Person hired or employed by or for him or her in any manner whatsoever for or on account of wages, hire, or reward for work or service, either in whole or in part, in or by any such Liquors as aforesaid, or shall make any sett-off against or deduction from such wages, hire or reward for or in respect of any such Liquor; such Master or Employer shall forfeit and pay for every such offence any sum not less than Five Pounds, nor more than Twenty Pounds; and every such Journeyman, Workman, Servant, Labourer, or other person so hired or employed shall be entitled to his or her whole Wages, Hire, or Reward, any agreement to the contrary notwithstanding.

No master or employer to pay his servant's wages (in whole or in part) in any of the aforesaid liquors or to make any sett-off or reduction in respect of such liquors, under penalty of not less than £5, nor more than £20.

VI. AND for the more effectual discouragement of tippling in unlicensed houses, be it further enacted, that any person who shall after the said first day of July now next ensuing, purchase any such Liquor as aforesaid from any unlicensed person, shall forfeit a sum not less than Five Pounds nor more than Twenty Pounds, unless he or she shall inform against such unlicensed person or voluntarily become a witness against him or her in respect of such act of selling or retailing.

Persons purchasing any of the aforesaid liquors in an unlicensed house, subject to a penalty of not less than £5 nor more than £20.

VII. AND be it further enacted, that no License shall be granted for retailing any Spirituous or Fermented Liquors within any Gaol or place of confinement: and that if any Gaoler, Keeper, or Officer, of any such Gaol or place of confinement shall sell, barter, lend or give away or knowingly suffer any Spirituous or Fermented Liquors to be sold, bartered, lent, or given away in, or brought into the same, except such as shall be prescribed by the order of a practising Physician, Surgeon, or Apothecary; such Gaoler, Keeper, or Officer, shall forfeit a sum not less than Ten Pounds nor more than Fifty Pounds.

No Retail licence to be granted for any gaol or house of confinement.

VIII. AND be it further enacted, that if any person shall bring or endeavour to bring any Spirituous or Fermented Liquors (except for Medicinal purposes as aforesaid) into any such Gaol, or place of confinement, the Gaoler, Keeper, or other Officer thereof may immediately apprehend and carry such offender before any Justice of the Peace, who shall or may without any information for that purpose first exhibited, hear and determine such offence in a summary way; and if by the oath of one witness or otherwise, such person shall be convicted of such offence, he or she shall forfeit any sum not less than Ten Pounds nor more than Fifty Pounds.

Persons introducing or endeavouring to introduce liquors into any gaol or house of confinement, subject to a penalty of not less than £10 nor more than £50.

IX. PROVIDED always, and be it further enacted, that nothing

Exception of Liquors meant for the use of

Gaoler or Keeper and his family. hereinbefore contained shall extend to the case of any Spirituous or Fermented Liquors brought into such Gaol or place of confinement for the sole use of the said Gaoler, Keeper, or Officer or their respective families.

A copy of the three preceding clauses to be hung up in some conspicuous part of every Gaol, or house of confinement. X. AND be it further enacted, that the Gaoler or Keeper of every Gaol, or place of confinement within the said Colony shall procure a copy of the three preceding clauses to be fairly written out and hung up in one of the most public parts of such gaol or place of confinement, and shall keep the same always legible, under penalty of Forty Shillings, and any Justice of the peace may demand an immediate sight of such copy, and if it be not immediately shown to him hung up in some conspicuous place in a fair and legible state; he may forthwith convict such gaoler, or keeper, in the aforesaid penalty and so from time to time as often as he shall think fit.

Any Justice of the Peace may at any time demand sight of such copy, and if not shown in a legible state the Gaoler or Keeper subject to a penalty of 40s

Mode of issuing Retail licenses, and price thereof. XI. AND be it further enacted, that every license to be issued under or by virtue of this Act, shall be issued by the Collector of Colonial Revenue for the time being, in the form set forth in the Schedule hereunto annexed; and that for every such license there shall be paid to the said Collector the respective Fees next hereinafter mentioned (that is to say) for every license to be granted to a publican to retail at Perth or Fremantle the sum of Twenty Five Pounds, at Guildford, Augusta, or King George's Sound, the sum of Twenty Pounds; at any other place in the said colony the sum of Ten Pounds; And for every such license to be granted to a person not being a publican to retail at Perth or Fremantle the sum of Twenty Pounds; at Guildford, Augusta, or King George's Sound, the sum of Ten Pounds; at any other place in the said colony the sum of Five Pounds.

Retail Licenses to be countersigned by the Auditor of Civil Accounts. XII. PROVIDED always that no license to be granted under this Act, shall be valid for any purpose, until the same shall have been produced to, and countersigned by the Auditor of Civil Accounts for the time being.

Licenses for the present year to bear date on the first day of July next: in future years on the 1st of January and to be in force for one year. XIII. AND be it further enacted, that every such license issued under this Act, shall for the present year bear date on the first day of July now next ensuing and shall be and continue in force until the thirty-first day of December next inclusive; and that for every future year, every such license shall bear date, on the first day of January, and shall be and continue in force until the first day of January thence next ensuing.

Publicans Licensed for the current year before the XIV. PROVIDED always and be it further enacted, that it shall

not be necessary for publicans who have received a Magistrate's license to keep an Inn or Public House for the current year, before the passing of this Act, to take out any such retail license as is hereby required until the first day of January next.

XV. PROVIDED always and be it further enacted, that if any person Licensed under this Act, shall die before the expiration of the term of his license, or shall be desirous of transferring his license to any other person or persons, it shall be competent to the said Collector to transfer such license by indorsement, to the Executor or Administrator of the party so dying, or to the appointee of the person so desirous of transferring as aforesaid; by which transfer the said Collector shall be entitled to a fee of Ten Shillings.

XVI. AND be it further enacted, that it shall be lawful for His Excellency the said Governor to direct the said Collector to remit any portion of the price or sum payable, according to the scale hereinafter contained for any license granted or transferred under this Act, for any fraction or broken period of a year.

XVII. AND be it further enacted, that all informations and proceedings on account of any offence under this Act, shall be heard and determined, and all forfeitures and penalties in respect of the same shall be awarded and imposed in a summary way by any two Justices of the Peace; and that it shall be competent for any one Justice of the Peace to receive the original information or complaint, and thereupon to summon the party accused, and all necessary witnesses, before any two Justices of the Peace, of whom such summoning Justice need not be one; and upon appearance of the party accused (or in his absence upon proof by oath of his having been served with the said summons either personally, or by the same being left at his usual place of abode) such two Justices shall hear the matter of such information, and examine all necessary witnesses upon oath; and make such order thereon as to them shall seem meet, and in case the party accused shall be by them convicted, and shall fail to pay any Fine or Penalty, Costs, or Expenses awarded by such order within three days next after such order shall have been personally served on him or left at his usual place of abode, it shall be lawful for the said convicting Justices to levy and raise such Fine or penalty, costs, or expenses, by distress and sale of the goods and chattels of the party so convicted; and in case such goods and chattels shall be insufficient for that purpose, it shall be lawful for the convicting Justices to commit the party so convicted to any Gaol or House of Correction for any term not exceeding six calendar months,

date of this Act, not obliged to take out a Retail license until the 1st of January next.

Power to Collector of Colonial Revenue to transfer Licenses.

Power to the Governor to omit any portion of the price of a License granted for a broken period of a year.

All convictions under this Act, to be made in a summary way by any two Justices of the Peace.

Power to convicting Justices to enforce their orders and convictions by distress and sale, or imprisonment not exceeding six calendar months.

All informations under this Act to be laid within six calendar months after commission of offence. XVIII. AND be further enacted, that all informations and proceedings in respect of offences against this Act shall be commenced within six calendar months next after the offences thereby respectively charged shall have been committed,

Justices sitting at the hearing of any information to decide what is under the circumstances of each case a retailing without a license. XIX. AND be it further enacted, that it shall be lawful for the Justices who shall hear any information under this Act for the offence of retailing without a license, to determine the fact of what is selling or retailing without a license according to the circumstances without any direct evidence of money or other value having been given for the liquor alleged to have been sold.

Burthen of proof of license to lie upon defendant. XX. AND be it further enacted, that upon the hearing of any information under this Act, it shall be incumbent upon the person accused of having retailed or permitted to be retailed, any of the aforesaid liquors without a license to produce a satisfactory proof to the sitting Magistrates, that he is duly licensed to retail.

Power of appeal to Quarter Sessions. XXI. AND be it further enacted, that if any person shall think himself aggrieved by any judgment or conviction made under this Act such person may appeal therefrom to the next Court of Quarter Sessions; which Court shall hear and determine the matter of such appeal, and shall summon all necessary parties and witnesses, and shall make such order in affirmance or reversal of the Judgment or conviction appealed from, and for payment of the costs of the appeal as to such Court shall seem meet, and shall enforce such order (if necessary) by distress and sale of the goods and chattels of any person refusing or neglecting to obey such order; or by imprisonment of any such person for any time not exceeding six calendar months, provided that notice of such appeal be given by the appellant to the Justices from whose Judgment or conviction such appeal shall be made within three days next after such judgment or conviction; and that such appellant deposit the sum of five pounds with the last mentioned Justices, or enter into a recognizance with two sureties for the purpose of securing payment of the costs of such appeal.

Security for costs of appeal to be given by appellant.

Reservation of the sums paid for licenses to the use of the Crown; and of all penalties in equal moieties to the Crown and the informer.

XXII. AND be it further enacted, that fees or sums of money payable for licenses under this Act shall be reserved to the use of His Majesty, his heirs and successors and all Forfeitures and penalties hereby imposed and not hereinbefore otherwise appropriated, shall be payable in equal moieties to the use of His Majesty, his Heirs and Successors, and to the party or parties informing.

Duration of this Act.

XXIII. AND be it further enacted, that this Act shall continue and be in force until (and inclusive of) the 31st day of December, in

1832.

Wm: IV., No. 8.

the year of our Lord One Thousand Eight Hundred and Thirty-Four, and no longer.

JAMES STIRLING,  
GOVERNOR AND COMMANDER-IN-CHIEF.

*Passed the Legislative Council }  
the 8th day of May, 1832. }*

M. J. CURRIE,  
Clerk of the Council.

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**SCHEDULE.**

REFERRED TO BY THE ANNEXED ACT.

FORM OF LICENSE FOR THE RETAIL OF SPIRITUOUS AND FERMENTED LIQUORS.

*These are to certify (in pursuance of an Act of Council passed on the day of and intituled "An Act to regulate the Sale of Spirituous and Fermented Liquors by Retail,) that A. B. of is duly licensed from the date hereof until the first day of January next, to sell, exchange, or otherwise dispose of by Retail (in quantities less than forty Gallons) any Rum, Brandy, Arrack, Whiskey, Gin, or other spirituous Liquors; and any Ale, Beer, Wine, Cider, Perry, or other fermented Liquors in his House (Store-house or Shop) situate at but not elsewhere. And these are further to certify that the said A. B. has paid into my hands the sum of*

*Pounds on account of such License.*

*Given under my hand the*

*Day of*

*Signed C. D.*

*Collector of Colonial Revenue.*

*Countersigned E. F.  
Auditor of Civil Accounts.*

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