



WESTERN AUSTRALIA.

—
ANNO VICESIMO VICTORIÆ REGINÆ
—

No. I.

An Ordinance for consolidating and amending the Laws relating to the licensing of Public Houses, and for further regulating the sale and consumption of fermented and spirituous liquors in the Colony of Western Australia; and also for extending the powers of Justices with respect to drunkenness.

WHEREAS it is expedient to reduce into one Ordinance the Preamble laws relating to the licensing and regulation of public houses,

and also to restrict the retail of fermented and spirituous liquors to persons duly licensed thereto; and further to alter and amend the laws relating to the sale and consumption of such liquors in Western Australia, as hereinafter is provided:—Be it therefore enacted, by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof,—

Section V. and other portions of No. 3 of 1841; No. 8 of 1841; No. 3 of 1843; No. 7 of 1847; No. 1 of 1854; No. 2 of 1855; No. 11 of 1855, repealed.

I. THAT the several Ordinances next hereinafter mentioned, that is to say, No. 8 of 1841, No. 3 of 1843, No. 7 of 1847, No. 1 of 1854, No. 2 of 1855, and No. 11 of 1855; and section V. of the Ordinance No. 3 of 1841, and so much of the Ordinance No. 3 of 1841 as enjoins the payment of any fee or fees to the Collector of Internal Revenue for every license to be granted to a publican to retail under the said Ordinance; and also so much of the said last-specified Ordinance as renders it necessary to obtain any license under the provisions thereof from the said Collector of Internal Revenue, shall, from and after the time at which this Ordinance shall come into operation, be respectively repealed.

Penalty on persons selling spirituous liquors, &c., without license prescribed by this Ordinance.

II. THAT if any person shall, after the commencement of this Ordinance, sell, barter, or dispose of in any house or other place within the Colony of Western Australia, any fermented or spirituous liquors, or any mixed liquors, part of which is fermented or spirituous, or shall permit or suffer any such liquors to be sold or disposed of by or to any other person in his or her house, or other place within the said colony or its dependencies, without having first obtained, in manner and form hereinafter directed, a license sufficiently authorising such sale and disposal as aforesaid, every such person shall forfeit for every such first offence the sum of thirty pounds, and for every subsequent offence the sum of fifty pounds, together with the costs of prosecution, in every case to be recovered before any two or more Justices of the Peace; and every such person shall further, upon conviction of any such offence, be rendered incapable of holding any license whatever under this Ordinance for the period of three years from the time of such conviction.

Exceptions.

III. PROVIDED always, that nothing in this Ordinance contained shall be construed to apply to any person selling any distilled or spirituous perfume, *bonâ fide* as perfumery, and not for the purpose of drinking; nor to any person practising as an apothecary, chemist or druggist, who may administer or sell any spirituous or fermented liquors as medicines, or for medicinal purposes; nor to any

1856.

20th Vict. No. 1.

person who shall dispose of any quantity of not less than one gallon of any fermented or spirituous liquors, the same not to be consumed on the premises.

IV. THAT the licenses to be granted under this Ordinance shall be issued by the Collector of Internal Revenue for the time being of the said Colony, or by such other person or persons, and in such place or places, as the Governor may from time to time appoint, and shall be of four kinds, namely, one to be granted to innkeepers and publicans for the sale of all the liquors as aforesaid, and which shall, for the purposes of this Ordinance, be denominated a "Publican's General License," and shall be in the form marked A in the schedule hereunto annexed; one other to be granted to publicans and others for the sale of wine, beer, and fermented liquors only, to be called a "Wine and Beer License," and which shall be in the form marked B in the said schedule hereunto annexed; one other to be granted to masters or commanders of steam or other vessels, conveying passengers, as hereinafter mentioned, which, for the purposes of this Ordinance, shall be termed a "Packet License," and shall be in the form marked C in the said schedule hereunto annexed; and one other to be granted to confectioners or pastry cooks for the sale of ginger beer and spruce beer, and which, for the purposes of this Ordinance, shall be termed a "Confectioner's License," and shall be in the form marked D in the said schedule hereunto annexed; all which licenses shall continue in force until the thirty-first day of December inclusive next following their respective dates, (unless sooner forfeited) and no longer.

Licenses, how issued,
and what kinds.

To be in force till
31st December after
date.

V. THAT every such publican's general license, as aforesaid, shall authorize the person, thereby licensed, to sell and dispose of any fermented or spirituous liquors, or any mixed liquors, part of which is fermented, or part spirituous, in any quantity, in the house or in the premises therein specified: Provided, however, that no such license shall be held to authorize any such sale in the same apartment in which a retail shop is kept, upon pretext of refreshment to customers or otherwise howsoever.

As to a Publican's
general license.

VI. THAT every such wine and beer-license as aforesaid shall convey to the person thereby licensed the like authority, with the like proviso, as hereinbefore enacted with regard to a publican's general license, except only that the same shall not extend to au-

As to a wine and
beer license.

thorise the sale of any spirituous liquors, or mixed liquors, part whereof is spirituous.

As to a packet license. VII. THAT every such packet license as aforesaid shall be held to authorise the master or commander for the time being of the steam packet or other vessel therein mentioned, being a vessel by which passengers shall be conveyed from any place within the said Colony or its dependencies to any other such place, and being at the time of exercising such license actually on her passage between any such places, to sell and dispose of the liquors aforesaid to any passenger on board such vessel: Provided, however, that nothing in this Ordinance contained shall be construed as prohibiting, or rendering penal, allowances of liquor to the crew of such packet or vessel as aforesaid, which shall not otherwise be contrary to the law in force for the time being.

As to a confectioner's license. VIII. THAT every such confectioner's license as aforesaid shall be held to authorize the person, thereby licensed, to sell and dispose of ginger beer, and spruce beer, but of no other fermented liquors, nor of any spirituous liquors, nor mixed liquors, part whereof is spirituous, in any shop or place for the sale of pastry or confectionery, which he or she may keep within the town, district, or place specified in his or her license.

Licenses may be extended pro tempore to fairs, &c., by authority of Petty Sessions. IX. THAT in case any person holding a publican's general license, a wine and beer license, or a confectioner's license, shall obtain from the Petty Sessions of his or her district, and also from the Petty Sessions of the district (if a different one) in which any lawful or accustomed fair or other public general amusement, lawfully authorized, shall take place, an authority, in the form marked F in the schedule hereunto annexed, then, and in every such case, the privileges of the license of any such person as aforesaid shall respectively be extended to the fair or other place of amusement to which such authority shall apply, and for the time to be therein stated: Provided, however, that no such fair or place of amusement (if out of the district of any such licensed person) shall be more than ten miles distant from the house in respect whereof he or she shall be licensed.

Disqualifications. X. THAT no license shall be granted or transferred, as hereinafter mentioned, under this Ordinance, to any person holding office or employment under the Government, nor to any constable nor

his deputy or bailiff, nor to any licensed auctioneer, nor to any person serving under a sentence for any criminal offence whether such sentence be partially remitted or not, nor to any person holding a conditional pardon for any criminal offence nor shall any license, in pursuance of this Ordinance, be granted for any premises or packet of which, respectively, a constable is the owner, landlord, or proprietor, or wherein such constable has any partnership or share: nor shall any publican's general license or wine and beer license be granted or transferred to any person of the female sex, not being the widow of a publican dying during the currency of his license, or a female already so licensed at the passing of this Ordinance: Provided also, that none of the persons hereinbefore mentioned, nor any person holding a license under this Ordinance, shall be received or taken as surety in any recognizance to be entered into as hereinafter provided.

XI. THAT no Justice of the Peace, being a brewer, maltster, or importer of, or dealer in, wine, or any malt or spirituous liquors, or concerned in any partnership with any brewer, maltster, or dealer in wines, or being the landlord, owner, or part owner of any house licensed, or about to be licensed, or being directly or indirectly interested in such house, shall sit at, or act in, any meeting of Justices during the consideration of any application for a certificate for a license, or for the transfer thereof, under any provisions hereinafter contained, or during the consideration of anything relating thereto, or shall convict or join in any conviction or in the consideration or determination of any appeal under this Ordinance; and every Justice who shall knowingly offend in the premises, shall, for every such offence, forfeit and pay a penalty or sum of one hundred pounds, to be recovered by action of debt at the suit of the Advocate General for the time being of the said Colony, in the Civil Court of the said Colony.

What Justices disqualified to act.

XII. THAT it shall be lawful for the Governor, after having called for and received from the Bench of Magistrates acting in each town or district a report of their opinion of the number of public houses which the requirements of such town or district demand, to decide, by and with the advice of the Executive Council (before the day on which the Justices shall hold their annual licensing meeting in their respective districts, to consider applications) what number of licenses ought to be issued for each and every town and district respectively, and to make such decision known to the Police

Governor may limit number of licenses.

As to applicants absent through illness.

ificate for a license shall be hindered by sickness or infirmity, or any other reasonable cause, from attending in person at any such general or adjourned meeting of Justices, it shall be lawful for such Justices to certify in favour of such person, upon three sufficient sureties, to be approved as aforesaid, entering into the required recognizances in the sum of thirty-five pounds each.

Mode of taking recognizances.

XIX. THAT all such recognizances as aforesaid shall be entered into in the presence of the majority of Justices assembled as aforesaid, of which majority the Resident Magistrate or Police Magistrate of the town or district shall always be one, as aforesaid, and be signed by at least two Justices; and if any Justice shall sign any such certificate to authorise the issuing of a license before such recognizances are entered into, such Justice shall forfeit the sum of one hundred pounds, recoverable by action of debt, at the suit of the Advocate General for the time being of the said colony, in the Civil Court of the said colony.

Penalty on Justices certifying without previous recognizances.

Recognizances to be kept by local bench.

XX. THAT the recognizances, with their conditions, shall be regularly kept among the records of the local bench before whom the same were entered into.

Lists of certificates to be sent to the Collector of Internal Revenue.

XXI. THAT the Resident Magistrate or Police Magistrate, in whose district any such certificates as aforesaid shall be granted by virtue of this Ordinance, shall transmit to the Collector of Internal Revenue for the time being, or to such other person or persons as may be appointed by the said Governor for the purpose of issuing licenses under this Ordinance, within one month after the granting thereof, a list, signed by himself, specifying the names and residences of all the persons to whom any such certificates shall have been so granted, and of their respective sureties, and the nature of the license authorised by each certificate; and specifying further, with regard to all publican's general licenses, and wine and beer licenses, the situation, and sign or name of each house, and, if not in a town, its distance from the nearest licensed house in each line of road, the name of the owner or proprietor, whether before licensed or not, and also the names and residences of the sureties.

Certificates to be void unless lodged, and money paid thereon, as herein provided.

XXII. THAT every certificate, which shall be granted by the Justices to authorise the issue of any such license as aforesaid, shall be null and void, unless the same, and the sum required to be paid for such license, be lodged in the Office of the Collector of Internal

1856.

20th Vict. No. 1.

Revenue, or of such other person or persons as aforesaid, as may be appointed by the said Governor in that behalf, on or before the first day of January next ensuing each Annual Licensing Meeting ; and the said Collector of Internal Revenue, or other person as aforesaid, shall, and he is hereby authorised and required, forthwith after the receipt of every such certificate, to issue and register, in his office, a license in one or other of the forms hereinbefore prescribed, according to the tenor of each such certificate respectively, upon payment being made to the said Collector of Internal Revenue, or other person as aforesaid, of a sum not exceeding fifty pounds sterling for every publican's general license, of a sum not exceeding thirty pounds sterling for every wine and beer license, of a sum not exceeding ten pounds sterling for every packet license, and of a sum not exceeding ten shillings for every confectioner's license : Provided that it shall be lawful for the Governor, with the advice of the Executive Council, from time to time to fix and declare, by a notice published once in the Government Gazette, what sum or sums less than those before named shall and may be paid by any and every applicant for a license under this Ordinance, and to vary or annul such notice ; and, by a like notice, from time to time published as aforesaid, to fix and declare other sums not exceeding those aforesaid, and, at his discretion, upon urgent or proper grounds, wholly or partly to remit the payment of any such license-fee or duty to any particular applicant for a license under this Ordinance.

XXIII. PROVIDED that notwithstanding default made in lodging any such certificate, or in payment of the sum required as aforesaid, whereby such certificate shall become void, it shall nevertheless be lawful for the Governor of the colony, if he shall see fit, upon representation to him made of the circumstances occasioning such default, to direct the issue of the license for which such certificate shall have been granted, on payment of not less than one pound, nor more than ten pounds, in addition to the sum payable as hereinbefore mentioned.

The Governor may authorize a license for a defaulter upon an additional payment.

XXIV. THAT whenever, at any Annual Licensing Meeting to be holden for any town or district as aforesaid, or any adjourned meeting thereof, two Justices, qualified to form a petty sessions for proceeding under this Ordinance, shall not be present by one o'clock of that day, at the Court House or other place appointed for the meeting, it shall be lawful for the Resident Magistrate or Police Magistrate of such town or district to adjourn or further

Resident Magistrate or Police Magistrate may act if no others attend after adjournment.

adjourn the said meeting for one week (any limitation hereinbefore prescribed to the contrary notwithstanding,) and to give notice of such adjournment to all other Justices of the said town or district; and if at such adjourned meeting there shall not be present two qualified Justices (of whom the Resident Magistrate or Police Magistrate of the town or district shall be one), it shall be lawful for the said Resident Magistrate or Police Magistrate, being present, to grant any certificate or certificates for a license or licenses under this Ordinance.

Collector of Internal Revenue may issue packet licenses in special emergencies. XXV. THAT it shall be lawful for the Collector of Internal Revenue for the time being, or for such other person or persons as aforesaid as may be appointed by the Governor in that behalf, upon a certificate in the proper form, signed by two or more Justices (of whom the Resident Magistrate or Police Magistrate of the town or district shall be one), together with the sum required to be paid for such license, being lodged in the office of such Collector of Internal Revenue, or of such other person or persons as aforesaid, and the master or commander having entered into the required recognizance, to issue any such packet license at any period of the year, to take effect and remain in force until the then next thirty-first day of December inclusive: Provided that the applicant for such license shall not have been refused a certificate for a license by any meeting of Justices to which he may have applied for the same.

Governor may direct renewal of license without certificate in certain cases. XXVI. THAT it shall be lawful for the Governor, whenever he shall be satisfied that any person applying to have his or her license renewed has been unable to obtain the necessary certificate by reason of the non-attendance of any Justice at such Annual Licensing Meeting, or, from any other cause, without any default or neglect on his or her part, been unable to obtain the certificate aforesaid, at the time and in the manner hereinbefore appointed, to order and direct that a new license be issued to any person so applying, upon his or her entering into the recognizances and paying the duty required by this Ordinance.

Majority of residing Justices may specially recommend licenses at any time. XXVII. THAT whenever a majority of the entire number of qualified Justices, residing within any district for which an Annual Licensing Meeting is usually held, shall recommend the granting of such license at any period of the year, then upon such recommendation, together with the certificate required under this Ordinance,

1856.

20th Vict. No. 1.

nance, being laid before the Governor, signed by all the Justices forming such majority as aforesaid, and upon the recognizances required by this Ordinance being duly entered into, it shall be lawful for the Governor, if he shall in his discretion think fit, to authorise the issue of the license applied for, to continue in force until the then next thirty-first day of December inclusive, upon payment of such sum as shall be determined from time to time by the said Governor.

XXVIII. THAT Special Petty Sessions of Justices of the Peace shall be holden as often as may be by them considered requisite in each town or district, in which such Annual Licensing Meeting shall be holden as hereinbefore directed, for the purpose of receiving and considering applications for transferring licenses, which meetings shall respectively have the like powers of adjournment, and the like power shall devolve upon the Resident Magistrate or Police Magistrate of the town or district, after adjournment by him for one week, in the default of attendance of any other Justice or Justices to whom notice shall be given as aforesaid.

XXIX. THAT it shall be lawful for the Justices assembled at such Special Petty Sessions to transfer the license of any person licensed as aforesaid to the appointee of the original holder of such license, or to the executor or administrator of a deceased holder, or to the assignee or trustees of an insolvent holder, by an indorsement on the original license in the form marked G in the schedule to this Ordinance annexed, or to the effect thereof; such appointee entering into the same recognizances, and producing also the same certificates, as the original party obtaining the same is by this Ordinance bound to enter into or produce.

XXX. THAT in case of the decease or insolvency of any person holding a license under this Ordinance, his or her executors or administrators, or assignee or trustees, as the case may be, shall be entitled to carry on the business of the person so licensed as aforesaid, and to act under the authority of the said license, without any renewal or formal transfer thereof until the expiration of such license: Provided that such license shall be subject to the same regulations as if it had continued to be holden by the person to whom the same was granted, and that new recognizances be entered into by such executors or administrators, or assignee or trustees,

respectively, before the Justices assembled at the next Special Petty Sessions for the town or district ensuing the date of such decease or legal vesting as aforesaid, or before any justice or justices of the town or district who shall previously require the same to be entered into.

Licensed persons desirous of removing to another house to memorialise Justices.

XXXI. THAT if any person, having duly obtained a publican's general license, or a wine and beer license, shall be desirous to remove his business from the house expressed in such license to any other house within the same town or district, at any time after the issuing of his license, and before the next general licensing meeting, it shall be lawful for any two justices, of whom the Resident Magistrate or Police Magistrate of the town or district shall be one, after such person shall have entered into a new recognizance, with such sureties as aforesaid, to grant a certificate authorising the Collector of Internal Revenue, or other person or persons appointed as aforesaid, to affix his or their signature to a memorandum to be indorsed on or affixed to the original license in the form marked H in the schedule hereunto annexed, or to the effect thereof, by virtue whereof the said license shall be transferred, during the remainder of the time the same has to run, to the house or premises mentioned in such certificate, and shall cease to apply, except so far as regards acts or liabilities already performed or incurred, to the house or premises for which such license was originally granted.

Resident Magistrate or Police Magistrate to report transfers to the Collector of Internal Revenue.

XXXII. THAT every transfer of a license authorised by any justices under this Ordinance, whether as regards the person or the house to which such license shall apply, shall, within fourteen days after such transfer, be reported to the Collector of Internal Revenue, or other person or persons appointed as aforesaid, by the Resident Magistrate or Police Magistrate of the town or district in which such transfer shall be made.

Penalties and disabilities for licensed persons offending.

XXXIII. THAT if any person holding a license under this Ordinance, except a packet license, shall have or keep in or about his or her house, premises, or appurtenances, or at any place connected with the same whatever, any skittle-ground or ball-court, or any dice, cards, bowls, billiards, quoits, or other implements used in gaming, or shall suffer any person resorting thither to use or exercise any kind of such games or any other unlawful game or sport, within his or her said house, premises, or appurtenances, or if any such licensed person shall offend against the tenor of his or

her license, or shall in any respect commit a breach of any condition of the recognizance by him or her entered into, he or she shall, upon being lawfully convicted before two or more Justices of the Peace, forfeit and pay for any and every such offence a sum not exceeding twenty pounds, with costs: Provided, however, that the Police Magistrates of the towns of Perth and Fremantle, or any Bench of Magistrates, of whom the Resident Magistrate of the town or district shall be one, may, at their discretion, grant a written permission to any licensed person within their respective districts to allow the game of billiards to be played in his or her licensed house on any day, (Sunday, Good Friday, and Christmas Day excepted,) on payment of a fee of ten pounds, in addition to the sum to be paid in like manner for his or her license, and also of the sum of one pound hereinafter required to be paid for dispensing with the restrictions, or part thereof, in respect to the hour of closing houses licensed under this Ordinance: and provided further, that, for any second or subsequent offence, it shall be lawful for the said justices, in their discretion, either to proceed to such conviction as hereby authorised, or, before the hearing of the complaint, or at any time before conviction, to issue a summons requiring the person so complained of, or so informed against, to appear at the next Court of General Quarter Sessions of the Peace, at Perth, then and there to answer to the matter of such complaint or information, or any other person or persons to appear at such Sessions and give evidence against such licensed person; and the Justices of the Peace at such Sessions shall inquire into the offence charged in such complaint or information, and if they find that such licensed person hath committed the offence against the tenor of his or her license or recognizance in the said complaint or information specified, and that such licensed person hath been once or oftener previously convicted of offences against the tenor of his or her license or recognizance, it shall be lawful for the said justices at such Sessions to adjudge such licensed person guilty of such second or subsequent offence, which adjudication shall be final, and thereupon the said justices shall have authority to punish the party so convicted by a fine or penalty not exceeding one hundred pounds, or, at the discretion of the said justices, by declaring his or her recognizance to be forfeited and also, at their discretion, his or her license to be void; and such recognizance shall be forfeited, and such license from thenceforth be void accordingly; and the person, whose license shall be declared void, shall from thenceforth be incapable of receiving or holding any license under this Ordinance for the space of three years, to be computed from the day of such adjudication.

Justices may grant permission to keep a billiard table.

Majority of Justices to exercise all the powers by this Ordinance vested in the Court of Quarter Sessions as far as regards declaring forfeiture of recognizances, &c.

XXXIV. THAT it shall be lawful for the majority of justices at any time assembled at Petty Sessions in any district (such majority consisting of not less than two, of whom the Resident or Police Magistrate of the town or district shall be one) to exercise all the powers of the Court of General Quarter Sessions of the Peace lastly hereinbefore given thereto, so far as regards the declaring the recognizance of any person holding any license under this Ordinance in their district to be forfeited, and, at their discretion, the license to be void.

Publicans to have their names, etc., painted on their premises;

And to keep a lamp burning over their doors during the night.

XXXV. THAT every person who shall hold a publican's general license shall and is hereby required to have his name at length painted in legible letters at least three inches long, with the words "licensed to retail fermented and spirituous liquors;" and every person holding a wine and beer license shall have his name painted as aforesaid, with the words "licensed to retail wine, beer, and fermented liquors" constantly and permanently remaining and plainly to be seen and read on a conspicuous part of the outside of his house; and every holder of a publican's general license, or wine and beer license, shall also keep a lamp, with at least two burners, affixed outside over the door of his house, lighted, and to be kept burning the whole of each and every night, from sunset to sunrise, during the time of his holding such license; and any such licensed person who shall fail or neglect to comply with the regulations hereby imposed, or either of them, shall forfeit and pay, for every such offence, any sum not exceeding five pounds, upon conviction thereof before any one or more Justice or Justices of the Peace.

Unlicensed persons keeping up signs, etc., to be fined.

XXXVI. THAT if any person not actually holding a license shall keep up any sign, writing, painting, or mark on or near to his or her house or premises, which may imply or give reasonable cause to believe that such house or premises is or are licensed for the sale or barter of any such liquors as aforesaid, or that such liquors are sold or served therein, he or she shall, for every such offence, forfeit and pay any sum not exceeding twenty pounds, to be recovered before any one or more Justice or Justices of the Peace.

Every licensed house to possess certain accommodation for travellers and guests.

XXXVII. THAT every house for which a publican's general license shall be granted, and every house for which a wine and beer license shall be granted as to which the justices shall declare in the certificate authorising the license that the same is to be liable to the conditions applicable to an inn or place of resort for travellers, shall,

at the time of granting such license, contain at least two sitting-rooms and two sleeping-rooms, actually ready and fit for public accommodation, independent of the apartments occupied by the family of the publican, and shall also be provided with a place of accommodation in or near the premises for the use of the customers thereof, in order to prevent nuisances or offences against public decency; and shall also be provided with stabling sufficient for the accommodation of six horses at the least, and with a stockyard for the accommodation of twelve bullocks at the least, and with a sufficient supply of hay, corn, or other wholesome and usual provender and water for the horses and bullocks of travellers and others; and in case any such licensed house as aforesaid shall cease to be so provided as hereinbefore required, or as required by the conditions of any such recognizance as aforesaid, where the same shall be inserted therein, it shall be lawful for any two or more Justices of the Peace, upon proof thereof to their satisfaction, to declare the license of such house to be suspended until such house shall be duly so provided to the satisfaction of the suspending justices; but in case, on the granting of a certificate for a license by such justices as aforesaid, it shall appear to them expedient to grant such certificate upon any other conditions with reference to the extent of accommodation to be afforded to the public in the aforesaid or any other respects, it shall be lawful for the said justices to insert such conditions in the recognizance of the person to whom such certificate for such license shall be so granted; and in every case such conditions shall, as regards such person, be taken to be the conditions imposed and binding upon him, under the present section of this Ordinance.

XXXVIII. THAT if any holder of a publican's general license, upon any line of road in this colony, shall, without reasonable cause, refuse to receive a traveller as a guest into his house, or to find any such traveller victuals and lodging, or to receive the horse or horses or other beast or beasts of burden of a traveller, and to provide such horse or horses or other beast or beasts as aforesaid with sufficient provender and water, whether the owner or person in charge thereof lodge in his house or not, every such licensed person shall, for every such offence, forfeit and pay any sum not exceeding twenty pounds, upon conviction before any one or more Justice or Justices of the Peace.

Penalty for refusing entertainment.

XXXIX. THAT every house for which a publican's general license shall be granted shall be considered a common inn, and no

Immunity from distress for rent, etc., of stranger's property.

goods or chattels whatsoever, *bonâ fide* the property of any stranger or strangers, and being in such licensed house or the appurtenances thereof, shall be subject to be distrained or seized for or in respect of any claim of rent for such licensed house or appurtenances, or in respect of any claim soever against any such house or appurtenances, or the owner or occupier thereof; and if any such goods shall be so seized or distrained for rent, or in any other manner contrary to the provisions of this Ordinance, it shall be lawful for any two or more Justices of the Peace to inquire into any complaint made in respect of such distress or seizure, and to order such goods or chattels to be restored to the owner or proprietor thereof; and further to award such costs as they may deem reasonable, and such costs to levy by distress and sale of the goods or effects of the person or persons so distraining or seizing such goods or chattels as aforesaid.

XL. THAT no house, for which either a publican's general license, or a wine and beer license, shall be granted within the towns of Perth and Fremantle, shall have any ingress or egress except in the street or streets named in the license for such house: and any person holding a publican's general license, or a wine and beer license, who shall fail or neglect to comply with the regulation hereby imposed, shall, for every such offence, be liable to lose his license, upon conviction thereof before any one or more justice or justices of the peace, who shall have power to declare such license forfeited and void, and such license shall be forfeited and void accordingly: and if the Governor shall cause a proclamation to be published in the Government Gazette declaring the present section of this Ordinance to be applicable to any other town or towns in Western Australia, then the town or towns to be from time to time particularised in any such notice, shall, after the expiration of one month from the date of such proclamation, be subject to the prohibition and penalty herein made applicable to houses licensed as aforesaid within the said towns of Perth and Fremantle, as fully as if the same had been also expressly included in this section.

XLI. THAT no person shall maintain any action for, or recover in any court in this colony, any debt or demand on account of any liquors sold or disposed of in contravention of this Ordinance, whether the same be sold without a license, or by exceeding the authority, or violating the conditions annexed to any license in the express terms thereof, or in the provisions of this Ordinance: and no person, however licensed, shall maintain any action for or

No licensed house in Perth and Fremantle, or elsewhere after notice as herein provided, to have any ingress or egress except in the streets named in the license.

No action to be maintained on account of liquors illegally supplied;

Nor in any case for liquors sold by retail;

recover as aforesaid any debt on account of any liquors which shall be sold or delivered in any quantity less than one gallon, and delivered or taken away all at one time: Provided that nothing herein contained shall extend to prevent innkeepers from keeping an account with *bonâ fide* lodgers and travellers, in which any charge for liquors may be included and lawfully recovered as part of the amount thereof.

Except in part of innkeeper's general bill.

XLII. THAT if the holder of any license under this Ordinance shall take or receive from any person whomsoever, in payment or in pledge for liquors, or for any entertainment whatsoever, supplied in or out of his or her house or premises, any article of clothing, or slops, or any tool or other article or thing, except metallic or paper money, such occupier or possessor of a public house so offending shall, upon conviction before any one or more Justice or Justices of the Peace, forfeit and pay any sum not exceeding twenty pounds, independently of any other punishment arising out of any other law or Ordinance now, or hereafter to be, in force in this colony.

Licensed persons to receive payment in money only.

XLIII. THAT it shall not be lawful for any person holding any license under this Ordinance to have, retain, or employ, or to permit or suffer to be retained or employed, any person suffering under any sentence, whether colonial or otherwise, for a criminal offence, whether such sentence be partially remitted or not, or any person holding a conditional pardon for any criminal offence, in the care, charge, conducting, or management of the public house or place in which such license shall be exercised, or the sale of any of the said liquors therein or thereout during the absence of such licensed person, either on the ground of illness, or from any other cause soever, under a fine or penalty not exceeding fifty pounds, to be recovered before any one or more Justice or Justices of the Peace; and the convicting Justice or Justices may, at his or their discretion, cancel such license forthwith, in addition to the fine aforesaid: and if any person serving under a sentence for any criminal offence, whether such sentence be partially remitted or not, or any person holding a conditional pardon for any criminal offence, shall be convicted before any one or more Justice or Justices of the Peace of selling or retailing, either for himself or herself, or for any licensed or unlicensed person, any ale, beer, wine, or other spirituous or fermented liquors, contrary to the provisions in this Ordinance contained, it shall be lawful for the said Justice or Justices before whom such offender shall be so convicted to sentence him, if a ticket-of-leave

No licensed person to employ convicts in management of the house.

Punishment for convicts selling liquors.

man, to be worked in irons on the roads or public works of the said colony for any term not exceeding two years nor less than three months, or to sentence such offender, if a conditional-pardon man, to imprisonment, with or without hard labour, for any term not exceeding six months, over and above any fine to which he may be liable under clause II. of this Ordinance, or to sentence her, if such offender be a female, to be confined, with or without hard labour, for the like period as last mentioned in any gaol or convict establishment or other place appointed by the Governor for the custody of female offenders.

XLIV. THAT any holder of a publican's general license, or of a wine and beer license, who shall knowingly and wilfully admit or receive any convict under sentence into his house, or any other place held or occupied therewith, except in the presence or by the written direction of some superintendent, overseer, warder, or constable, shall forfeit and pay any sum not exceeding fifty pounds, to be recovered before any one or more Justice or Justices of the Peace: Provided that nothing herein contained shall apply to any convict holding a ticket-of-leave or other partial or temporary remission of sentence.

Restriction on receiving convicts into licensed houses.

XLV. THAT any person holding a publican's general license, or a wine and beer license, who shall knowingly sell or dispose of any liquors as aforesaid to any convict under sentence, or who shall deliver any liquors to any convict under sentence, except in the presence and with the permission of an overseer, warder, or superintendent, shall forfeit and pay any sum not exceeding fifty pounds, to be recovered before any one or more Justice or Justices of the Peace: Provided always, that nothing herein contained shall be construed to extend or apply to any convict holding a ticket-of-leave or other partial or temporary remission of sentence.

Penalty on licensed persons selling liquors to convicts without permission of overseer, &c.

XLVI. THAT no license to be obtained under this Ordinance shall authorise the furnishing of any of the aforesaid spirituous or fermented liquors to any soldier after the hours of roll-call or tattoo in the evening, that is to say, after the hour of nine o'clock from the eleventh day of October to the fourteenth day of May inclusive, and after the hour of half-past eight o'clock from the fourteenth day of May to the eleventh day of October inclusive; and any person convicted before any one or more Justice or Justices of the Peace of having furnished any of the aforesaid spirituous or

Liquors not to be supplied to soldiers after roll-call.

1856.

20th Vict. No. 1.

fermented liquors to any soldier after the hours aforesaid, or of harbouring any soldier after the hours aforesaid, shall forfeit and pay any sum not exceeding ten pounds.

XLVII. THAT if any person whosoever, licensed or unlicensed, shall sell, supply, or give any spirituous liquor, or mixed liquor ^{As to supplying liquors to aboriginal natives.} part whereof is spirituous, in any quantity whatsoever, or fermented liquor, or mixed liquor part whereof is fermented, in any quantity which shall produce intoxication, to any aboriginal native of Western Australia for himself or for any other person, he or she shall, for every such offence, forfeit and pay (over and above any penalty which may be incurred for the sale of such liquors without a license) a penalty of five pounds, to be recovered before any one or more Justice or Justices of the Peace.

XLVIII. THAT it shall be lawful for any Justice of the Peace, ^{Justices and authorised constables to have free ingress into licensed houses at all times.} or any constable, with a general authority in writing, signed by two Justices of the Peace, together with his assistants, to demand entrance from time to time into the house of any person holding a license under this Ordinance, or the appurtenances thereof, or for any constable specially authorised in any particular instance, whether verbally or in writing, by any such justice, to demand entrance into the house of any person holding a license under this Ordinance, or the appurtenances thereof, or other place where any license shall be exercised for the sale of any liquors under this Ordinance, at any time by day or night; and if admittance be delayed for such time as shall make it appear to any such justice or justices that wilful delay was intended, it shall be lawful for such justice or justices to summon the person so offending before any two or more justices of the district, and upon conviction before such two or more justices, the license of the party so offending shall be forfeited, anything hereinafter contained to the contrary notwithstanding; and no license shall again be granted for the space of three years from the date of such conviction to any person who shall be so convicted of refusing or wilfully delaying admittance: Provided always, that if such admittance be refused or wilfully delayed, it shall be lawful for such justice or constable to break into or employ force to enter such public house or other place as aforesaid, with his assistants, to serve process, or for any other lawful purpose.

XLIX. THAT no person holding a publican's general license, ^{Public houses not to be open before or after certain hours.} or a wine and beer license, under this Ordinance, shall have or keep his house open for the sale of any liquor, nor shall sell or

retail any liquor, or suffer the same to be drunk or consumed in or at such house at any time before the hour of four o'clock in the morning nor after the hour of ten o'clock in the evening from the first day of October to the thirty-first day of March, nor before the hour of six o'clock in the morning nor after the hour of ten o'clock in the evening from the first day of April to the thirtieth day of September, both inclusive, upon any day in the week, nor before the hour of one o'clock nor after the hour of three o'clock in the afternoon on a Sunday, Good Friday, or Christmas Day, except as hereinafter provided: And if any licensed person shall offend against the terms of this provision, he shall, for every such offence, forfeit any sum not exceeding fifty pounds, to be recovered before any one or more Justice or Justices of the Peace: Provided that nothing herein contained shall be construed to prohibit the sale or delivery of such liquor at any time to persons being *bonâ fide* lodgers: Provided also, that it shall be lawful for the Police Magistrates of the towns of Perth and Fremantle, and the Resident Magistrate of any other town or district, at his or their discretion respectively, by special authority in writing, signed by such Police or Resident Magistrate, upon payment of a sum of one pound for each and every night (in addition to the sum hereinbefore required to be paid for his license, and the sum of ten pounds hereinbefore required to be paid for permission to keep a billiard table) to dispense with the whole or any part of the restrictions and prohibitions of this present provision on any day, excepting Sunday, Good Friday, or Christmas Day, so far as may regard any licensed house within such district respectively, and for a time to be specified in such written authority, but which said authority it shall be lawful for the said Justices to revoke whenever they shall see fit, by causing a notice to that effect, signed by such Justices, to be served on the person to whom the said authority shall have been given.

Magistrates may grant permission to keep house open after hours.

L. THAT it shall be lawful for any person holding a publican's general license, or a wine and beer license, under this Ordinance, within the limits of any townsite, to close his licensed house all day on Sunday, Good Friday, or Christmas Day, if he shall so please; and no person, not being a Justice of the Peace, or constable by him authorized, shall have any right to require admission into any public house so closed on Sunday, Good Friday, or Christmas Day.

Person licensed may close his house, if in a town, all day on Sunday, Good Friday, or Christmas Day.

1856.

20th Vict. No. 1.

LII. THAT if any licensed person shall abandon the occupation of his or her licensed house, as his or her usual place of residence, and permit any person whomsoever to manage, superintend, or conduct the business of such house, or shall, whether residing in such house or not, permit any unlicensed person to become virtually or in effect the keeper thereof, then, or in either of the said cases, upon proof of the fact to the satisfaction of two or more Justices of the Peace, such Justices shall and may declare the license of such house for the current year to be, and the same shall be accordingly, absolutely void, anything hereinbefore contained to the contrary notwithstanding.

Penalty for publicans abandoning the management of their houses.

LIII. THAT if any licensed person shall employ any unlicensed person to sell or dispose of by retail as aforesaid any such liquors as aforesaid, in any house, or in any cart, dray, or carriage, or in any vessel or boat, or in any place whatsoever, out of the house or place in which such licensed person is authorised to sell or dispose of the same by virtue of his or her license, and notwithstanding in such house or place, if otherwise than as the servant or agent under the immediate superintendence and control of such licensed person; or if any licensed person shall sell, barter, or lend to any unlicensed person any such liquors, with the knowledge or upon the understanding that such liquors are to be sold or bartered by such unlicensed person, contrary to the true intent and meaning of this Ordinance, every such licensed person shall, upon conviction before any two or more Justices of the Peace, forfeit and pay, for every such offence, any sum not exceeding fifty pounds.

Penalty for employing unlicensed persons to retail liquors out of their houses, or disposing of them for that purpose.

LIIII. THAT upon information on oath being made before any one or more Justice or Justices of the Peace by any constable or credible person, that he or she doth verily suspect and believe that any such liquor or liquors as aforesaid is or are, or have been, sold or retailed by any person not holding a license authorising such sale, in any particular unlicensed house or other unlicensed place, and such constable or other person shall in such information set forth and show reasonable grounds for such belief and suspicion, then, and in such case, it shall be lawful for such Justice or Justices, in his or their discretion, to grant his or their warrant or warrants to any constable to enter and search any such house or other place by day or night; and such constable may break open the doors, if not opened within a reasonable time after demand, and seize all such fermented or

If it be suspected that liquors are in any unlicensed house, they may be seized; and if after examination it shall so appear, they shall be forfeited.

spirituous or mixed liquors as aforesaid as he shall then and there find, and the vessel or vessels in which such liquors shall be contained, and shall and may detain the same until the owner thereof shall appear before two or more Justices to claim such liquors, and shall satisfy the said Justices how and for what purpose he became possessed of the same, or, after being summoned, shall fail to appear; and if it shall appear to the said Justices, after due inquiry and examination, that such liquors were in the said house or other place for the purpose of being illegally sold or disposed of by retail, then such Justices shall adjudge the said liquors and vessel or vessels to be condemned and forfeited, and the same shall and may be sold, and the proceeds thereof, after payment of such costs as may be assessed and awarded by such Justices, shall be applied and distributed in equal moieties to the use of Her Majesty, and to or amongst the party or parties so informing; but if otherwise, then such liquors and vessel or vessels shall be forthwith restored to the proper owner.

Liquors hawked
about to be seized
and condemned.

LIV. THAT it shall be lawful for any Justice of the Peace, constable or other peace officer, to seize and take away, or to destroy, or cause to be seized, taken away or destroyed, all such fermented or spirituous or mixed liquors as aforesaid, as shall be hawked about or exposed to sale in any street, road, or foot-path, or in any booth, tent, stall or shed, or in any boat or vessel, or in any other place whatever by any person not licensed to sell the same in such place, and the vessels containing the same, and all the vessels and utensils used for drinking or measuring the same, and any cart, dray, or other carriage, and any horse or horses or other animal or animals employed in drawing or carrying the same, as well as any boat or vessel used in the conveyance of such liquors as aforesaid; and it shall be lawful for any one or more Justice or Justices of the Peace, on his or their own view, or on confession of the party, or by proof of such offence by the oath of one or more credible witness or witnesses, to convict any person so offending of selling such liquors without a license, and to adjudge him, her, or them liable to all the penalties imposed by this Ordinance for such offence, and to cause such liquors, vessels, and utensils containing the same, and any cart, dray, or other carriage, horse or horses, or other animal or animals, and any boat or vessel used in conveying the same, to be sold; and the proceeds thereof, after deducting the expenses of sale, shall be paid, one moiety to the use of Her Majesty the Queen, and the other moiety to the person or persons who may, in any such case, first seize, inform, or prosecute.

1856.

20th Vict. No. 1.

LV. THAT in case the holder of any wine and beer license under this Ordinance shall possess or have any spirituous liquor whatsoever, or mixed liquor part of which is spirituous, in or about his house or premises, or in any other house or premises in which the same shall be proved, to the satisfaction of any one or more Justice or Justices of the Peace, to have been placed for the purpose of being sold or disposed of by or on behalf of the holder of such license aforesaid, or for the purpose of evading the provisions of this Ordinance in any manner, then, and in every such case, all such spirituous liquors or mixed liquors as aforesaid shall be absolutely forfeited, and the same, with the vessels and utensils used for the same, shall be dealt with and disposed of as herein provided in cases of liquors hawked about or exposed to sale, for which purpose, the same, if in or about the house or premises for which a wine and beer license shall be granted, shall be seized by any constable authorised as required by this Ordinance, without any warrant, wheresoever the same shall be found ; and if the same shall be in or about any other house or premises, a search warrant shall be issued as hereinbefore directed in other cases of suspected unlicensed houses.

Spirituous liquors found in possession of holder of a " wine and beer license," to be seized and forfeited.

LVI. THAT in case any person whosoever shall be convicted of keeping a disorderly house, or of illegally selling or retailing any spirituous liquors, contrary to this Ordinance, such person shall, for the term of two years then next ensuing, be liable to the forfeiture of all spirituous liquors whatsoever found in his or her possession, or being his or her property (if exceeding the quantity of half a gallon,) and upon information upon oath being made before any Justice of the Peace by any constable or credible person, that he or she doth verily suspect and believe that such liquors, either the property or in the possession of any such person as aforesaid, are concealed in any house or place whatsoever, and shall show reasonable cause for such belief and suspicion, it shall be lawful for such justice to grant such search warrant, as in the case of a suspicion of the unlicensed retailing of spirits is hereinbefore directed, and the same seizure, condemnation, and forfeiture, sale and distribution of proceeds shall thereupon be authorised as in the case last mentioned, save only that the justice shall not be bound to inquire as to the purpose for which the said liquors wereintended, but solely as to the property or possession aforesaid.

All liquors belonging to persons convicted of illegally selling spirits, to be liable to forfeiture.

Persons selling or offering for sale adulterated liquors, to be fined.

LVII. THAT if any person shall sell or dispose of, or offer for sale, any fermented or spirituous liquor, or any mixed liquor part of which is fermented or spirituous, which shall be adulterated or mixed with any deleterious ingredient whatever, he or she shall, on conviction before any two or more Justices of the Peace, forfeit and pay any sum not exceeding fifty pounds.

Persons not producing license to be deemed unlicensed.

LVIII. THAT in all proceedings whatever against any person for selling, or permitting to be sold, any fermented or spirituous liquors, or any mixed liquors part of which is fermented or spirituous, without a license or sufficient license, such person shall, for all purposes connected with those proceedings, be deemed and taken to be unlicensed, unless he or she shall, at the hearing of the case, produce his or her license before, and exhibit the same to, the sitting justice or justices, or shall then and there produce other proof of the same which shall be satisfactory to such justice or justices, and which he or they shall in his or their discretion choose to receive, of his or her being a licensed person, and of the description of the license held by him or her.

Mode of proving license.

LIX. THAT in any proceeding before any Justice or Justices of the Peace against any person alleged to be a licensed person, and liable as such to any such proceeding, the production of his or her recognizance as entered into and recorded in manner hereinbefore directed shall be conclusive evidence, not only of such recognizance, but also of his or her being licensed in manner therein recited: Provided nevertheless, that it shall be lawful for any such justice or justices (not being assembled as a Court of Quarter Sessions) if he or they shall in his or their discretion see fit, to admit any other proof which shall be satisfactory to him or them of any such recognizance or the contents thereof, or as to the fact of any person being licensed in manner and form alleged in any such proceeding as aforesaid: but in case any question arise relating to any such license or recognizance upon appeal or otherwise before any Court of Quarter Sessions, under this Ordinance, then such question shall be decided only by production of such recognizance as aforesaid.

Licenses to be produced on demand of Justice or authorised constable.

LX. THAT every person holding any license under this Ordinance shall, on demand, at his or her licensed house or place wherein or whereat such license shall be exercised, produce his or her license to any Justice of the Peace, or any constable authorised by any justice by any writing under his hand in that behalf: and if any such

licensed person shall refuse or neglect to produce his or her license, he or she shall forfeit and pay for every such refusal or neglect the sum of five pounds, to be recovered before any one or more Justice or Justices of the Peace.

LXI. THAT whenever any Justice of the Peace, or any chief or other constable, acting under the order of any such justice, shall find any person drinking in any reputed disorderly house, or if any such justice or constable without a warrant shall find any person drinking in any house, shop, storehouse, or other building, or any booth, shed, or hut, tent, stall, or place in which or where any ale, beer, wine, cider, ginger beer, spruce beer, brandy, rum, or other fermented or spirituous liquors shall be sold or disposed of by retail, and the license for such sale shall not, on demand, be produced to such justice or constable, it shall and may be lawful for such Justice of the Peace or constable to apprehend all such persons so found drinking there; and every such person so found drinking shall, upon the view of such justice, or upon conviction before any one or more Justice or Justices of the Peace, forfeit and pay for every such offence a sum not exceeding five pounds, to be recovered in manner hereinafter directed, unless such person shall inform against such unlicensed person, or voluntarily become a witness against him or her, in respect of such act of selling and retailing.

Persons drinking in unlicensed houses, to be apprehended.

LXII. THAT in any proceedings before any one or more Justice or Justices of the Peace, under this Ordinance, against any person or persons charged with unlawfully selling any such liquors as aforesaid in a reputed disorderly house, the proof of the reputation of such house, and of any person or persons (not being the owner or owners, or occupier or occupiers thereof) being found drinking therein, shall be deemed full and sufficient evidence to warrant such justice or justices in convicting the person or persons so found drinking in such house, and the proprietor or proprietors thereof.

Evidence sufficient to convict the owners and persons found drinking in disorderly houses.

LXIII. THAT the delivery of any such spirituous or other liquors as aforesaid shall be deemed and taken to be good and sufficient *prima facie* evidence of money or other consideration being given for the same, so as to support a conviction, unless proof shall be made to the contrary, to the satisfaction of the justice or justices hearing the case.

Delivery of liquors to be *prima facie* evidence of sale.

Payment of wages where liquors are sold. LXIV. THAT any master or other person (not being licensed under this Ordinance) employing journeymen, workmen, servants, or labourers, who shall pay or cause any payment of wages to be made to any such journeyman, workman, servant or labourer, in or at any house in which any of the liquors as aforesaid shall be sold by retail, shall forfeit and pay for every such offence any sum not exceeding five pounds, to be recovered before any one or more Justice or Justices of the Peace.

Justices may prohibit supply of spirits, etc., to drunkards. LXV. THAT when any person shall, by excessive drinking of spirituous or fermented liquors, or mixed liquor part of which is spirituous or fermented, so misspend, lessen, or waste his or her estate, or thereby expose himself or herself, or his or her family, to want or indigent circumstances, or greatly to injure his or her health, or endanger the loss thereof, the Justices of the Peace of the town or district in which such drunkard shall reside, in petty sessions assembled, may, in writing under the hands of any two of such justices, forbid all persons licensed under this Ordinance, whether resident in such town or district or not, to sell to him or her any liquors as aforesaid for the space of one year; and such justices may in like manner renew such prohibition from year to year as to all such persons as have not, in their opinion, reformed within the year; and if any such licensed person shall, after notice of such prohibition, knowingly sell or deliver to any person or persons so prohibited any liquors as aforesaid, he or she shall forfeit for every such offence any sum not exceeding five pounds, to be recovered before any one or more Justice or Justices of the Peace.

Such prohibition renewable.

Penalty for disobedience by licensed persons.

Penalty for procuring liquors for prohibited persons. LXVI. THAT whenever the Justices of Petty Sessions in any town or district shall, in execution of the foregoing provisions, have prohibited the sale of such liquors as aforesaid to any such drunkard, if any person shall, with a knowledge of such prohibition, give, sell, purchase, or procure for, or on behalf of, such prohibited person or for his or her use, any such spirituous liquors, he or she shall forfeit for every such offence any sum not exceeding five pounds, to be recovered before any one or more Justice or Justices of the Peace.

Justices may imprison persons found drunk on a Sunday, Good Friday, or Christmas Day. LXVII. WHEREAS it is expedient to extend the powers of Justices regarding drunkenness; be it enacted, that, on conviction before any one or more Justice or Justices of the Peace of any person for being found drunk in any licensed public house, public street, highway, or other public place whatsoever, on a Sunday, Good

1856.

20th Vict. No. 1.

Friday, or Christmas Day, such justice or justices shall sentence the offender to imprisonment in any common gaol for any time not exceeding seven days, with or without hard labour; and any licensed person who shall supply, or cause to be supplied, any person with any quantity of spirituous or fermented liquors on a Sunday, Good Friday, or Christmas Day, whereby or wherewith such person shall get inebriated, or shall permit drunken persons to remain in his house on Sunday, Good Friday, or Christmas Day, shall, on conviction before any one or more Justice or Justices of the Peace, forfeit and pay any sum not exceeding twenty pounds, at the discretion of such justices.

LXVIII. THAT every conviction shall, by the justice or justices before whom the same shall have been had, be returned by him or them to the next Court of General Quarter Sessions of the Peace for the said colony, and the record of such conviction shall, unless the same be afterwards quashed by appeal, be received as evidence of such conviction against the party thereby convicted in any prosecution to be instituted against him or her for any offence under this Ordinance; and the Clerk or Acting Clerk of the Peace, or his Deputy, to whom such conviction shall be returned, shall, on such return (if the same relate to a licensed person,) cause to be made a memorandum of such conviction in a register, which he is hereby directed to keep, of the names and places of abode of the several persons licensed, and shall in every such memorandum state whether such conviction be the first, second, third, or other subsequent conviction for the offence: Provided, however, that production of the record of such former conviction or convictions shall not be necessary to support a conviction in such augmented penalty as may be consequent thereon before any justice or justices acting singly, or in Petty Sessions, provided such justice or justices shall be fully satisfied by other evidence as to the fact of such former conviction or convictions; but in case such fact shall be questioned upon appeal or otherwise before the Court of General Quarter Sessions of the Peace, then the same shall be lawfully established only by production of such record thereof as aforesaid.

Convictions return-
able to the Quarter
Sessions, and to be
registered by the
Clerk of the Peace.

Record not to be es-
sential as evidence of
former conviction at
Petty Sessions.

LXIX. THAT if any constable or any other Peace Officer shall refuse or knowingly neglect to execute any part of the duty imposed upon constables or peace officers by this Ordinance; or to make an immediate report to the Resident Magistrate or Police Magistrate of the town or district, or other Justice of the Peace, or other superior officer, to whom he may, in the usual course of his

Penalty for constable
neglecting duty.

duty, be required to make such report after he shall have received information, or shall otherwise have obtained a knowledge, of any proceedings in violation of any of the provisions herein contained, such constable or other peace officer, upon conviction before any one or more Justice or Justices of the Peace of any such refusal or neglect, shall be subject and liable to a fine not exceeding ten pounds, or to be imprisoned for any term not exceeding three months for every such offence.

Persons aggrieved may appeal to Court of Quarter Sessions ; LXX. THAT any person who shall think himself or herself aggrieved by any fine or penalty above the sum of five pounds imposed, or by any act done, by any Justice or Justices of the Peace under or concerning the execution of this law or Ordinance, (unless such act shall relate to the refusal of a certificate for the granting, renewal or transfer of any license under this Ordinance, or the suspension of any license under this Ordinance as hereinbefore mentioned,) may appeal against such act to the next General Court of Quarter Sessions of the Peace at Perth : Provided that notice of such appeal be given by the appellant to the justice or justices from whose judgment or conviction such appeal shall be made within three days after such judgment or conviction, and that such appellant deposit with such justice or justices such sum as such justice or justices may, in his or their discretion, deem sufficient, not exceeding fifty pounds, or enter into a recognizance to that amount with two sureties for the purpose of securing the costs of such appeal.

Except in certain cases.

Appellant to give notice of Appeal and security for costs.

Appropriation of fees. LXXI. THAT all fees or sums of money payable for licenses, or transfers of licenses, under this Ordinance, not being herein otherwise appropriated, shall be paid over to the Colonial Treasurer, to the use of Her Majesty, her heirs, and successors, for the public uses of the said colony and in support of the Government thereof.

Sections A., C., F., and G., of Shortening Ordinance. LXXII. THAT the Sections in the Schedule of the "Shortening Ordinance, 1853," lettered therein respectively A., C., F. and G., shall be incorporated with and taken to form part of this Ordinance, to all intents and purposes, and in as full and ample a manner as if the said Sections had been introduced and fully set forth in this Ordinance.

"Public House Ordinance, 1856." LXXIII. THAT this Ordinance may be cited as the "Public House Ordinance, 1856."

1856.

20th Vict. No. 1.

LXXIV. THAT so much of this Ordinance as relates to applications for and the granting of certificates for licenses shall commence and take effect on the first day of October next, and the residue thereof shall commence and take effect on the first day of January in the year of our Lord one thousand eight hundred and fifty-seven.

Commencement of Ordinance.

A. E. KENNEDY,
GOVERNOR AND COMMANDER-IN-CHIEF.

*Passed the Legislative Council this }
21st day of June, 1856. }*

HENRY WAKEFORD,
Clerk of the Council.

Schedule to which the foregoing Ordinance refers.

A.

Form of a Publican's General License.

Western Australia }
to wit. }

WHEREAS A. B., of _____, hath deposited in this Office a certificate from the major part of the Justices of the Peace assembled at the Annual Licensing Meeting, (or, at a Special Sessions) held at _____ on the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, authorizing the issue to the said A. B., (under and by virtue of the "Public House Ordinance, 1856,") of the license in the said Ordinance called a Publican's General License, for the house known (or, to be known) by the sign of _____, situated at _____, in the said colony of Western Australia; and stating that the said Justices have taken from the said A. B., and two sureties, the recognizance required by the said Ordinance; And whereas the said A. B. hath paid into my Office the sum of _____ pounds sterling, as the duty on such license: Now I, the Collector of Internal Revenue of the said colony, (or other person appointed by the said Governor for the purpose of issuing licenses under the said Ordinance, as the case may be) in virtue of the powers vested in me by the said recited Ordinance, do hereby license the said A. B. to keep a common inn, alehouse, or victualling house, and to sell fermented and spirituous liquors, in any quantity, in the house in which he now dwelleth, (or, is about to dwell,) being the sign of _____, situated at _____, afore-said, (here state, if necessary, the egresses, if more than one) and in the appurtenances thereto belonging, but not elsewhere; and this license shall commence upon the first day of _____ next, and continue in force until the _____ day of _____ then next ensuing, both days inclusive, provided it be not forfeited in the mean time, according to the provisions of the said Ordinance.

1856.

20th Vict. No. 1.

Given under my hand and seal at this
day of one thousand eight hundred and
N. O. (L.S.)
Collector of Internal Revenue,
(or other person, as the case may be.)
Registered,
P. Q.

A 1.

Form of Application for a Publican's General License.

To the Worshipful the Justices of the
Peace acting in and for the district }
of , in Western }
Australia.

I, A. B., (*state the trade or occupation, and if married or single*)
now residing at , in the town (*or, district*) of
, do hereby give notice that it is my intention to
apply at the next Annual Licensing Meeting to be holden for this
district, for a Publican's General License, for the sale of fermented
and spirituous liquors, in the house and appurtenances thereunto
belonging, situated at , (*here describe the
house proposed to be licensed, specifying the situation of it, the num-
ber of sitting-rooms and bed-rooms contained in it exclusive of those
required by the family, the person of whom rented, the present occu-
pier, whether now licensed, and, if so, under what sign,*) and which I
intend to keep as an inn or public house.

I have held a license (*if before licensed, state how many years, and
what kind of license.*)

I further give notice that I propose C. D., of , and
E. F., of , as my sureties, to enter with me into
the required recognizance.

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

A. B.

A 2.

Form of Householder's Certificate to be appended to the above.

WE, the undersigned, householders, residing within the town (or, district) of _____, do hereby certify that the above A.B., of _____, is a person of good fame and reputation, and fit and proper to be licensed to keep an inn or public house, for the sale of fermented and spirituous liquors therein.

Witness our hands this _____ day of _____ one thousand eight hundred and _____

One
Two
Three
Four
Five

A 3.

Form of Recognizance to be entered into by an Applicant for a Publican's General License.

Western Australia }
to wit. }

BE it remembered, that, on the _____ day of _____, one thousand eight hundred and _____ A. B., of _____, C. D., of _____ and E. F., of _____, came personally before us, G. H., and I. K., Esquires, Justices of the Peace, acting in and for the district (or, town) of _____, in the said colony, and acknowledged themselves to owe to our Lady the Queen, to wit, the said A. B. the sum of _____ pounds, the said C. D. the sum of _____ pounds, and the said E. F. the sum of _____ pounds of lawful money of Great Britain, to be respectively levied of their several goods and chattels, lands, and tenements, to the use of our said Lady the Queen, her heirs and successors, in case default shall be made in the performance of any of the conditions hereunder written.

The conditions of this recognizance are such, that whereas the said A. B. is to be licensed, pursuant to the "Public House Ordinance, 1856," to keep a common inn, alehouse, or victualling house.

1856.

20th Vict. No. 1.

and to sell fermented or spirituous liquors in the house wherein he now dwells (*or, is about to dwell*), being the sign of situated at _____, in the district of _____; if the said A. B. do keep the law in selling such liquors as aforesaid in his said house and its appurtenances, and do not permit any person to become drunk, or supply or permit any such liquor as aforesaid to be supplied or given to any person in a state of intoxication; or permit such person (not being an inmate therein or one of the household thereof) to remain in his house or premises, or to commit any disorder therein; nor refuse to admit a magistrate or constable into any part of the said house or premises at any hour; nor admit or receive any convict, not being a ticket-of-leave holder, into his house or premises or any place held or occupied therewith, or deliver any liquors, as aforesaid, to any convict, except with the written order, or in the presence of the overseer of such convict; and do maintain good order and rule in the said house or premises; (*and the following is to be inserted at the discretion of the Justices granting the license*) and do also maintain and keep on foot such accommodation for travellers and guests, and their horses or other beasts of burden, and servants, as is required in and by the said Ordinance; and also the additional rooms and accommodation following; which the said A. B. hath specially undertaken to provide, on condition of his obtaining the said license, that is to say, (*here insert any special condition which the Justices may see fit to impose upon any innkeeper in these respects,*) then the said recognizance to be void; otherwise to remain in full force.

Taken and acknowledged the day and year above written, before us.

G. H., J.P. (L. S.)
I. K., J.P. (L. S.)

B.

Form of a Wine and Beer License.

Western Australia }
to wit. }

WHEREAS A. B., of _____, hath deposited in this office a certificate from the major part of the Justices of the Peace

assembled at the Annual Licensing Meeting, (*or*, at a Special Sessions) held at _____, on the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, authorising (pursuant to the "Public House Ordinance, 1856") the issue to the said A. B. of a license for the sale of Wine and Beer, and other fermented liquors, in the house of the said A. B., situate at _____, in the said colony of Western Australia; and stating that the said Justices have taken from the said A. B. and two sureties the recognizance required by the said Ordinance; and whereas the said A. B. hath paid into my office the sum of _____ pounds sterling as the duty upon such license; Now, I, the Collector of Internal Revenue of the said colony, (*or other person appointed by the said Governor for the purpose of issuing licenses under the said Ordinance, as the case may be*) do hereby license the said A. B. to sell wine, beer and other fermented liquors, in any quantity, in the house in which he now dwelleth (*or*, is about to dwell) situated at _____ aforesaid, (*here state, if necessary, the egresses, if more than one*) and in the appurtenances thereto belonging, but not elsewhere; and this license shall commence from the _____ day of _____ next, and continue in force until the _____ day of _____ then next ensuing, both days inclusive, provided it be not forfeited in the meantime, according to the provisions of the said Ordinance; and provided that the said A. B. shall not sell or dispose of, or permit to be sold or disposed of, any spirituous liquor, or mixed liquor part whereof is spirituous, in the said house or its appurtenances, in which case this license shall thereby and thenceforth become and remain absolutely void.

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

N. O., (L. S.)
Collector of Internal Revenue
(*or other person, as the case may be.*)

Registered,
P. Q.

B 1.

Form of Notice of Application for Wine and Beer License.

To the Worshipful the Justices of the Peace
acting in and for the district of
in Western Australia. }

I, A. B. (*state the trade or occupation, and if married or single*)

1856.

20th Vict. No. 1.

now residing at _____, in the town (or district) of _____, do hereby give notice that it is my intention to apply at the next Annual Licensing Meeting, to be holden for this district, for a license for the sale of wine, beer, and other fermented liquors, in the house and appurtenances thereunto belonging, situated at _____. [*If the applicant purposes to keep the house as an Inn for the entertainment of travellers and lodgers, describe the particulars as required in form A 1; if not, merely state the person of whom rented, and present occupier.*]

I have held a license, (*if before licensed, state how many years, and what kind of a license.*)

I further give notice that I propose C. D., of _____ and E. F., of _____, as my sureties, to enter with me into the required recognizance.

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

A. B.

B 2.

Form of Householder's Certificate to be appended to the above.

We, the undersigned, householders, residing within the town (or district) of _____, do hereby certify that the above A. B., of _____ is a person of good fame and reputation, and fit and proper to be licensed to sell wine, beer, and other fermented liquors, (*or, to keep an inn or public house for the sale of wine, beer, and other fermented liquors, as the case may be.*)

Witness our hands this _____ day of _____ one thousand eight hundred and _____

*One
Two
Three
Four
Five*

B 3.

Form of Recognizance of an Applicant for a Wine and Beer License.

Western Australia }
to wit.

Be it remembered, that on the _____ day of _____
one thousand eight hundred and _____ A. B., of
C. D., of _____ and E. F., of
came personally before us, G. H. and I. K.,
Esquires, justices of the peace, acting in and for the district of _____
in the said colony, and acknowledged themselves
to owe to our Lady the Queen, to wit, the said A. B. the sum of _____
pounds sterling, the said C. D. the sum of _____
pounds, and the said E. F. the sum of _____ pounds of lawful
money of Great Britain, to be respectively levied of their several
goods and chattels, lands and tenements, to the use of our said Lady
the Queen, her heirs and successors, in case default shall be made in
the performance of any of the conditions hereunder written.

The conditions of this recognizance are such, that whereas the said
A. B. is to be licensed, pursuant to the "Public House Ordinance,
1856," to sell wine, beer and other fermented liquors in the house
wherein he now dwells (*or, is about to dwell,*) situated at _____
in the district of _____; if the said A. B. do not sell or dispose
of, or permit to be sold or disposed of, any spirituous liquor, or mixed
liquor part whereof is spirituous; and do keep the law in selling
wine, beer, and fermented liquors, in his said house or appurte-
nances; and do not permit any person to become drunk or intoxicat-
ed, or supply or permit any such liquors as aforesaid to be supplied
or given to any person in a state of intoxication; or permit such per-
son (not being an inmate therein or one of the household thereof) to
remain in his house or premises, or to commit any disorder therein;
nor refuse to admit a magistrate or constable into any part of the said
house or premises at any hour; nor admit or receive any convict, not
being a ticket-of-leave holder, into his house or any place held or oc-
cupied therewith; or deliver any liquors as aforesaid to any convict
except with the written order or in the presence of the overseer of
such convict; and do maintain good order and rule in the said
house and premises; (*and the following is to be inserted at the discre-
tion of the justices granting the license,*) and do also maintain and
keep on foot such accommodation for travellers and guests, and their
horses or other beasts of burden and servants, as is required in and

1856.

20th Vict. No. 1.

by the said Ordinance ; and also the additional rooms and accommodation following, which the said A. B. hath specially undertaken to provide, on condition of his obtaining the said license, that is to say, (*here insert any special conditions which the justices may see fit to impose upon any innkeeper in these respects*) then the said recognizance to be void ; otherwise to remain in full force.

Taken and acknowledged the day and year above written, before us,

G. H., *J.P.* (L. s.)
I. K., *J.P.* (L. s.)

C.

Form of a Packet License.

Western Australia }
to wit. }

WHEREAS A. B., of _____ being the master, (*or, owner, or, owners,*) of the steam packet (*or if any other kind of vessel, describe it,*) conveying passengers between _____ (*name the place*) and _____ (*name the place*) being places within the colony of Western Australia and its dependencies, hath deposited in this office a certificate of the major part of the justices of the peace assembled at the annual licensing meeting (*or, at a special sessions*) held at _____ on the _____ day of _____ one thousand eight hundred and _____ authorising the issue to the said A. B., under and by virtue of the "Public House Ordinance, 1856," of the license in the said Ordinance, called a Packet License, and stating that the said justices have taken from the said A. B., and two sureties, the recognizances required by the said Ordinance ; and whereas the said A. B. hath paid into my office the sum of _____ pounds sterling, as the duty on such license : Now I, the Collector of Internal Revenue of the said Colony, (*or other person appointed by the said Governor for the purpose of issuing licenses under the said Ordinance, as the case may be,*) in virtue of the powers vested in me by the said Ordinance, do hereby license the said A. B. to retail fermented and spirituous liquors to any passengers on board of such vessel, during the actual passage of such vessel between one such place and another ; and this license shall commence upon the _____ day of _____ next, and continue in force until the _____ day of _____

1856.

20th Vict. No. 1.

C 2.

Form of Recognizance to be entered into by the Applicant for a Packet License.

Western Australia }
to wit. }

BE it remembered, that on the _____ day of _____ A. B.,
one thousand eight hundred and _____ and E. F., of
of _____ C. D., of _____
came personally before us, G. H. and I. K.,
Esquires, justices of the peace, acting in and for the district (or,
town) of _____ in the said colony (or any of its dependencies,
as the case may be,) and acknowledged themselves to owe to our
Lady the Queen, to wit, the said A. B. the sum of _____
pounds, the said C. D. the sum of _____ pounds, and
the said E. F. the sum of _____ pounds of lawful money of
Great Britain, to be respectively levied of their several goods and
chattels, lands and tenements, to the use of our said Lady the Queen,
her heirs and successors, in case default shall be made in the perform-
ance of any of the conditions hereunder written.

The conditions of this recognizance are such, That whereas the
said A. B. is to be licensed, pursuant to the "Public House Ordinance,
1856," to retail fermented and spirituous liquors on board the steam
packet (or other vessel, as the case may be) carrying passengers between
(name the place) and (name the place) being places within
the Colony of Western Australia and its dependencies, whereof the said
A. B. is master (or, commander, or, owner, or, owners) during the
actual passage of the said vessel between one such place and another;
if the said A. B. do not sell or dispose of any such liquors as afore-
said, or permit the same to be sold or disposed of while the said vessel
is lying in any port or harbour, or otherwise contrary to law or the
conditions of his license; and do not permit any person to become
drunk, or supply or permit any liquor to be supplied to any person in
a state of intoxication, or commit or suffer to be committed, any disor-
der on board the said vessel, then the said recognizance to be void;
otherwise to remain in full force.

Taken and acknowledged the day and year above writ-
ten, before us,

G. H., J. P. [L.S.]
I. K., J. P. [L.S.]



D.

Form of Confectioner's License.

Whereas A. B., of _____ hath deposited in this office a certificate from the major part of the justices of the peace assembled at the annual licensing meeting, (*or*, at a special sessions,) held at _____ on the _____ day of _____ in the year of our Lord one thousand eight hundred and _____ authorising the issue to the said A. B., (under and by virtue of the "Public House Ordinance, 1856,") of the license in the said Ordinance called a confectioner's license, for the shop (*or*, rooms) of the said A. B. in the town (*or*, district) of _____ limited to the liquors hereinafter mentioned; and whereas the said A. B. hath paid into my office the sum of ten shillings sterling as the duty on such license: Now, I, the Collector of Internal Revenue of the said colony, (*or other person appointed by the said Governor for the purpose of issuing licenses under the said Ordinance, as the case may be,*) in virtue of the powers vested in me by the said Ordinance, do hereby license the said A. B. to sell ginger beer and spruce beer, but no other fermented liquors, nor any spirituous liquors, or mixed liquors part whereof is spirituous, in the shop (*or*, rooms) of the said A. B., situated in aforesaid; and this license shall commence upon the day of _____ next, and continue in force until the day of _____ then next ensuing, both days inclusive, provided it be not forfeited in the mean time, according to the provisions of the said Ordinance.

Given under my hand and seal at _____ this
 day of _____ one thousand eight hundred and
 N. O. (L. S.)
 Collector of Internal Revenue,
 (*or other person, as the case may be.*)

Registered,
 P. Q.



1856.

20th Vict. No. 1.

D 1.

Form of Notice of Application for a Confectioner's License.

To the Worshipful the Justices of the Peace, acting in and for the district of _____, in the colony of Western Australia. }

I, A. B., (*state the trade or occupation, and if married or single*) now residing at _____, do hereby give notice, pursuant to the "Public House Ordinance, 1856," that it is my intention to apply at the next Annual Licensing Meeting to be holden for this district, for the license in the said Ordinance called a Confectioner's License, for the sale of ginger beer and spruce beer in the shop, (*or, rooms*) which I now occupy, (*or, intend to occupy*) situate at

(*here describe the house proposed to be licensed, specifying the situation of it, the number and description of rooms which the license is applied for, the person of whom the house is rented, the present occupier, and whether now licensed.*)

I have held a license (*if before licensed, state how many years, for what kind of license, and what district.*)

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

A. B.

E.

Form of Certificate by Justices to authorise the granting of a License.

Western Australia }
to wit. }

At the Annual Licensing Meeting (*or, an adjournment of the annual licensing meeting*) of Her Majesty's justices of the peace acting in and for the district of _____ holden at _____ on the _____ day of _____ in the year of our Lord one thousand eight hundred and _____, pursuant to the "Public House Ordinance, 1856," for the purpose of considering applications made to us for licenses pursuant to the said Ordinance; we, being the majority of the Justices assembled at the

said Sessions, (*or, I, being the only Justice present after such adjournment of the said Sessions, and notice as required by the said Ordinance*), do, in virtue of the power vested in us, (*or, me*) hereby authorise the Collector of Internal Revenue, (*or, other proper officer*) to issue to A. B. of _____, the license in the said Ordinance called _____ for (*here state the house, sign, district, shop, room, steam packet, vessel, or other particulars, according to the description of license and nature of the case; and if a confectioner's license, specify the particular liquors allowed to be sold*) for the year commencing from the

_____ day of _____ next; and we do hereby certify that we are satisfied the said A. B. is a person of good fame and reputation, and fit and proper to be licensed as aforesaid; and also that we have taken from the said A. B. and his sureties, C. D., of _____ and E. F., of _____, a recognizance in the sum of _____ pounds each, according to the form prescribed in the said Ordinance; and with the further special conditions following, that is to say, (*here mention any special conditions which the justices may see fit to impose and insert in the recognizance.*)

Given under our hands and seals the _____ day of _____ one thousand eight hundred and _____ at the place aforesaid.

G. H., J. P. (L. S.)
I. K., J. P. (L. S.)

F.

Form of temporary License to sell fermented and spirituous liquors at Public Fairs.

Western Australia }
to wit. }

Be it remembered, that on the _____ day of _____ one thousand eight hundred and _____ A. B., of _____ holding a license, (*describe the nature thereof, and the house, place, or district for which the same is granted*) and having applied to the justices assembled in Petty Sessions for authority to exercise the privileges of the said license at a public fair, (*or other place of amusement, as the case may be*) to be holden at _____ on the _____ day of _____

Now we, being the majority of the justices

1856.

20th Vict. No. 1.

assembled at such petty sessions as aforesaid, do hereby grant to the said A. B. authority to exercise the said license at the said fair (or other place of amusement) on the said day of between the hours of in the morning, and in the evening: Provided always (here add any conditions which the justices may see fit to attach to the grant of the permission applied for.) Given under our hands on the day and year aforesaid.

C. D., J. P.

E. F., J. P.

G.

Form of Indorsement on License of a transfer thereof.

Be it remembered, that we, the undersigned, being the majority of the Justices present at a Special Petty Sessions held for the purpose of transferring licenses, do hereby, upon the application of the within named A. B., transfer the rights and privileges of the within license to G. H. for the residue of the term for which the same has now to run, the said G. H. having first exhibited the certificate, and entered into the recognizance required by law.

C. D., J. P.

E. F., J. P.

H.

Form of Indorsement on License of Change of House and Premises.

Memorandum—That upon the certificate of the proper justice, that the within named G. H. has entered into a new recognizance as required by law, upon an application for a change of the house and premises in which a license is exercised: I do hereby declare that the within license shall henceforth cease to apply to the house and premises therein described, and shall apply, instead thereof, to

20th Vict. No. 1.

1856.

the house and premises occupied (*or, about to be occupied*) by the
said G. H., situate (*describe as in original license.*)

C. D.,

Collector of Internal Revenue,
(*or other person, as the case may be.*)