



ANNO TRICESIMO QUINTO ET TRICESIMO SEXTO

VICTORIÆ REGINÆ.

A.D. 1872.

No. 22.

An Act to amend an Act intituled the "Licensed Victuallers Act, 1869."

[Assented to, 27th November, 1872.]

WHEREAS it is expedient to amend the "Licensed Victuallers Act, 1869,"—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province in this present Parliament assembled, as follows: Preamble.

1. This Act may be cited for all purposes as the "Licensed Victuallers Amendment Act, 1872," and shall commence and take effect from and after the passing hereof. Short title.

2. Except so far as the same is inconsistent with or altered by this Act, the "Licensed Victuallers Act, 1869," shall be incorporated and read herewith as forming one Act. Incorporation of Act with "Licensed Victuallers Act, 1869."

3. Sections 8, 10, 27, 30, 46, 65, 73, 74, 75, 99, 102, and 103 of the "Licensed Victuallers Act, 1869," are hereby repealed except so far as may be necessary for supporting any conviction or other proceedings under the same made or taken before the passing of this Act. Repeal of Sections 8, 10, 27, 30, 46, 65, 73, 74, 75, 99, 102, and 103.

4. That in addition to the licences mentioned in the fifth clause of the "Licensed Victuallers Act, 1869," a licence to be denominated a "Packet Licence" may be granted. Nature of additional licences.

5. Every storekeeper's licence shall authorize the person thereby licensed to sell and dispose of liquor in the house or on the premises therein Storekeeper's licence.

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therein specified in quantities of not less, at one time, than one gallon of one kind of spirits, or one dozen reputed quarts, or two dozen of pint bottles of wine or other fermented liquors to be taken away at one time by any one person, and not to be drunk on the premises in which such liquor is sold.

Storekeeper's colonial wine licence.

6. Every storekeeper's colonial wine licence shall authorize the person thereby licensed to sell and dispose of wine, cider, mead, and perry, grown and manufactured in the said Province, in the house or on the premises therein specified in quantities of not less than one reputed quart bottle at one time to be taken away at one time by any one person, and not to be drunk on the premises in which such liquor is sold.

Penalty on drinking liquor on premises of the holder of a storekeeper's licence or a storekeeper's colonial wine licence.

7. If any purchaser of any liquor from any person holding a storekeeper's licence or a storekeeper's colonial wine licence, shall drink such liquor in the house or premises described in such licence, he shall forfeit and pay a penalty of not more than Forty Shillings.

Packet licence.

8. Every packet licence shall be in the form of the Schedule hereto marked B, and may be granted to the master or commander of any steamer or other vessel making passages and conveying passengers from any place within the Colony or its dependencies to any other place, and such master or commander shall thereby be authorized to sell and dispose of liquor to any passenger then on board: Provided that nothing in this Act shall prevent or render penal any allowance of liquor to the crew of such steamer or vessel.

Annual fee for a packet licence.

9. The annual fee for a packet licence shall be Ten Pounds.

Penalty for retailing without licence.

10. If any master or commander, not having a packet licence, shall directly or indirectly sell, barter, or exchange by retail, or permit to be sold, bartered, or exchanged by retail within the said Province any liquor in any quantity, or if he shall do so contrary to the terms of the licence, he shall forfeit and pay for every such offence a sum not less than Two Pounds nor more than Twenty Pounds.

Packet licence to be granted by Treasurer.

11. The Treasurer, upon payment of the licence fee hereinbefore mentioned, and upon receiving the certificate of two Justices of the Peace or a Special Magistrate, in the form in Schedule A, may grant to the person named in such certificate a packet licence in the form in Schedule B.

Nature of objections.

12. The objections, of which notice may be given, shall be one or more of the following:—That the applicant is of bad fame and character, or is beneficially interested in keeping a brothel, or is of drunken habits, or has, within six months previously, been deprived of a licence under the "Licensed Victuallers Act, 1869," or under this Act; or that the house mentioned in the application has not at least two moderate-size sitting rooms and two sleeping rooms, properly ventilated

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ventilated and furnished, constantly ready and fit for public accommodation, independent of the rooms occupied by the applicant and his family, and a decent place of convenience on or near to the premises for the use of the customers thereof; so as to prevent nuisances and offences against decency; or if the house be situated more than ten miles from Adelaide, that the same does not contain a sitting room and two sleeping rooms, properly ventilated and furnished, for the accommodation of travellers, separated from the tap by a space of at least twelve feet with a separate entrance; or that there is not a stable on the premises capable of containing at least four horses, with a sufficient quantity of hay and corn; or that there is enclosed within the same fence as the house mentioned in the application any store, shop, or dwelling-house having means of communication open within the yard belonging to such premises, and not separated therefrom by any division wall or fence; or that the management of such house in such particulars as are specified in the notice has not been satisfactory; or, if the application is for a licence for new premises, that the applicant has not filed plans as hereinbefore mentioned; or that such house is not required for the accommodation of the public; or that the house mentioned in the application is in the immediate vicinity of a church or other place of public worship, hospital, or school, and would, if licensed, be the cause of inconvenience or annoyance to the persons using or frequenting such church, place of worship, hospital, or school; or that the quiet of the locality in which such house is situated will be disturbed if a licence be granted for the sale of liquor in such house; but such last-mentioned objection shall not be entertained unless a petition against the granting of a certificate authorizing the granting of such licence for such house shall be presented to the Licensing Bench, to which the application shall be made, signed by at least two-fifths of the occupiers of houses in the immediate neighborhood of such house; or if a licence has been already granted for the sale of liquor in any other house in such locality: Provided, however, that the restriction as to the necessary accommodation of the houses within ten miles of Adelaide shall not apply to those houses which have been duly licensed under the "Licensed Victuallers Act, 1869," and no objection shall be heard or entertained unless notice thereof has been given by the person so objecting whether the person so objecting be the Inspector of Public Houses or not.

Exceptions.

13. The Clerk to each Licensing Bench shall attend the annual and quarterly meetings thereof, and minute the result of the proceedings, and whenever any Licensing Bench shall grant any licence under the authority of this Act, or of the "Licensed Victuallers Act," 1869," the chairman of such Licensing Bench shall, at the time such licence is granted, notify the fact by writing under his hand, opposite to or against the name of the applicant, in a list of applications to be laid before him for that purpose by the Clerk to the Bench, which notification shall be a valid authority to the Clerk to such Bench for the signing of a licence to such applicant; and such Clerk shall, immediately sign a licence in the form contained in the Schedules E,

Clerk of Licensing
Bench to sign licences.

F,

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F, or G, in the said "Licensed Victuallers Act, 1869," as the case may be, and shall, after registering the same in the said list of applications, with the date of signing the licence, forthwith hand the same to the Treasurer, or to some officer appointed by him, who shall attend every annual and quarterly meeting of the Licensing Bench, and such Treasurer or officer aforesaid shall, on receipt of the annual fee payable in respect of the licence granted, and of Two Shillings and Sixpence for each licence, issue and deliver such licence to, or to the order of the person in whose favor the same shall have been granted, the Treasurer or officer aforesaid having first minuted at the foot of the licence the day on which the same was so issued by him.

Treasurer or officer to issue licences on the same day.

Premises may be kept open by special permission.

14. Any two or more Justices, or a Special Magistrate, may give permission in writing to any person holding a publican's or wine licence to keep his licensed premises open on the occasion of any ball, or dinner party, or on the occasion of any public amusement or entertainment, or public meeting, or on any other special occasion to be specified in such permission, beyond the time otherwise fixed in the said "Licensed Victuallers Act, 1869:" Provided that nothing herein contained shall allow the keeping open of any licensed premises after a quarter to twelve o'clock, p.m., on any Saturday, and that no such permission shall extend over any longer period than six hours: Provided also that the production of any such permission shall be a sufficient answer to any proceedings which may be instituted against any such person for keeping open his house later than the time allowed by the said Act on the occasion for which any such permission shall have been given.

Permission to be answer to proceedings

Certificate may be granted to widow &c., of applicant, who died after application, and before licence granted.

15. If any applicant for a publican's licence shall die after having taken the required preliminary steps for obtaining the same, but on or before the licensing day, the Licensing Bench may, if they think fit, grant a certificate for such licence to his widow or personal representative in like manner as if he or she had been the applicant.

Prosecution and punishment of aiders and abettors in the commission of offences.

16. Every person who shall aid, abet, counsel or procure the commission of any offence under the "Licensed Victuallers Act, 1869," or under this Act, which is punishable on summary conviction, shall be liable to be proceeded against and convicted for the same either together with the principal offender or before or after his conviction, and shall be liable on conviction to the same forfeiture and punishment as such principal offender is or shall be by law liable.

Liquors not to be supplied to aborigines.

17. No person shall sell, barter, exchange, retail, or give, or permit to be sold, bartered, exchanged, retailed, or given, any liquor to any aboriginal native of Australia, or half-caste of that race, under a penalty of not less than One Pound nor more than Ten Pounds for each and every such offence: Provided that nothing herein contained shall extend to any liquor administered as medicine by or under the directions of any duly qualified medical practitioner.

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18. If any licensed victualler shall *bonâ fide* admit into his licensed house between the hours of eleven o'clock, p.m., and five o'clock, a.m., on week days, or on Sundays between the hours of ten o'clock in the morning, and one o'clock, in the afternoon, or between the hours of three o'clock and eight o'clock in the afternoon, any person who has wilfully misrepresented himself a traveller, the person making such misrepresentation, and not the licensed victualler, shall be liable to a fine of not less than Five Pounds, nor more than Fifty Pounds.

Licensed victuallers *bonâ fide* admitting travellers not amenable.

See L5 CP 250

19. If any person holding a publican's or wine licence shall not keep the outer doors which face a public thoroughfare, and which are immediately connected with one of the taprooms of his licensed house, closed on Sunday, he shall, for every such offence, forfeit and pay a fine of not less than Five Pounds nor more than Fifty Pounds, and if any such person shall on that day sell or supply to any person not being a traveller, or lodger living or staying in his licensed house, in the tap or taproom, or upon or from out of any part of his licensed premises, any liquor or refreshment whatsoever (except from one to three o'clock, and from eight till ten o'clock in the afternoon), he shall, for any such offence, forfeit and pay a fine of not less than Two Pounds nor more than Ten Pounds.

Outer doors connected with taproom and facing a public thoroughfare to be closed on Sunday.

Liquor not to be sold on that day, subject to exceptions.

20. No person holding a publican's licence shall be compelled to open his house during any hour on Sunday, except to *bonâ fide* travellers: Provided that a notice in front of his house is given that the house is not open on any hour on Sunday; and, provided also, that the publican giving such notice is licensed for a house situate in a town or village wherein there is at least one other licensed house.

Houses may close on Sunday.

21. If any person holding a publican's or wine licence shall not clear his taproom and close the outer doors which face a public thoroughfare, and which are immediately connected with one of the taprooms of his licensed house, at eleven o'clock in the evening of all working days, and keep the same closed until five o'clock in the morning; or shall sell or supply to any person not being a traveller or lodger living or staying in his licensed house, in the tap or taproom, or upon or from out of any part of his licensed premises, any liquor or refreshment whatsoever during the hours aforesaid when every outer door of his house is required to be closed, he shall for such offence forfeit and pay a penalty of not less than Two Pounds nor more than Ten Pounds: Provided, nevertheless, that it shall be lawful for any such licensed person to admit *bonâ fide* travellers, or lodgers living or staying in his licensed house, after such hours: And provided also, that it shall be lawful for every licensed person to clear his taproom and close the door thereof, and every other outer door of his said premises at ten o'clock in the evening.

Taps to be cleared, and outer doors facing a public thoroughfare are to be closed, at eleven o'clock.

Lodgers may be admitted.

22. All informations under this Act, or the "Licensed Victuallers Act, 1869", for any offence, shall be laid, and the summons thereupon served, on the offender, or left at his licensed premises, within fourteen

When information to be laid and summons served.

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teen days after the commission of the act in respect to which such information is laid, when the offence is committed without the limits of any corporate city or town, and within seven days when the offence is committed within such limits: Provided that informations may be laid and the summons thereon served upon any holder of a packet licence at any time within two calendar months after the commission of any offence by the holder of such licence, against the provisions of the "Licensed Victuallers Act, 1869," or of this Act.

Application of licence moneys, penalties, fines, forfeitures, and fees.

23. All moneys that may be received for licences or for penalties, or as fees under or by virtue of this Act, or of the "Licensed Victuallers Act, 1869," shall be and are hereby reserved to Her Majesty, Her heirs and successors, for the public uses of the said Province, and the support of the Government thereof: Provided that any fines or penalties may be remitted by the Governor, with the advice of the Executive Council, upon such terms as may seem just.

Licences for part of the year.

24. In the case of any licence being issued for a portion of the year only, a proportionate amount of the licence fee shall be payable by the licensee.

In the name and on behalf of the Queen, I hereby assent to this Bill.

JAMES FERGUSSON, Governor.

