

# THE LICENSING AMENDMENT ACT, No. 6.

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## ARRANGEMENT OF SECTIONS.

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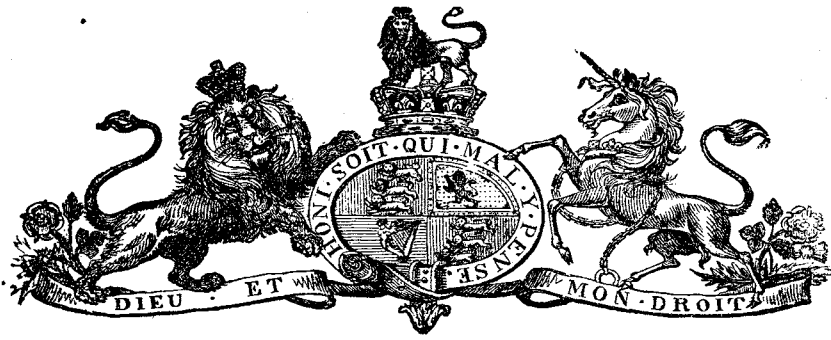
1. Interpretation.
2. Meaning and form of Wholesale Licence. Schedule (1.)
3. Construction of terms in other Acts.
4. Districts under this Act.
5. Meetings of Licensing Benches substituted for Licensing Meetings of Justices.
6. Licensing Bench for the District of *Hobart*.
7. Licensing Bench for the District of *Launceston*.
8. Licensing Bench for each Rural Municipality.
9. Licensing Bench for each Municipal District.
10. Licensing Bench for District proclaimed under this Act.
11. Quorum.
12. Chairman.
13. Deputy Chairman.
14. Election of Members.
15. Duration of term of office.
16. Provision in case no election of Members is held.
17. Acts and proceedings of Licensing Benches to be valid in certain cases.
18. Licensing Benches to act notwithstanding vacancies therein.
19. Interested persons not to be elected.
20. Justices to act in Districts where they reside.
21. Licensing Bench to have powers of Court of General Sessions as to process and examination of witnesses.
22. Notice to be given of applications for Licences.
23. Notice of opposition to be given.
24. Objections to Licences, &c.
25. Licensing Bench to entertain petitions.
26. Costs of application. 19 Vict. No. 8.
27. Provides for holder of Licence becoming of unsound mind or leaving *Tasmania*.
28. Certain married women not to keep public-houses.
29. Provides for cases in which Licence is forfeited, &c.
30. Removal of Licence to another house. Schedule (2.) Schedule (3.)
31. Light over door not required in Hobart and Launceston.
32. Supply of liquor to drunkards prohibited. Schedule (4.)
33. Prohibition renewable.
34. Procuring liquor for prohibited persons.
35. Persons incapable of holding Licences.
36. Governor in Council may make Regulations.
37. Fee for Billiard Table.
38. Forms in the Schedule to *The Licensing Act* to be used.
39. Acts to be read together.
40. Short title.

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## SCHEDULE.



T A S M A N I A



1884.

ANNO QUADRAGESIMO-OCTAVO

VICTORIÆ REGINÆ,

No. 24.

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AN ACT to further amend *The Licensing Act*. A.D. 1884.  
[24 November, 1884.]

WHEREAS it is expedient to further amend *The Licensing Act* in certain particulars : PREAMBLE.  
21 Vict. No. 39.

Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 In this Act— Interpretation.

“The said Act” means *The Licensing Act* and every Act amending the same :

“Justice” and “Justices” mean a Justice and Justices of the Peace respectively.

“Attorney” means a person duly admitted to act in the Supreme Court of *Tasmania* as a Barrister, Attorney, Solicitor, and Proctor, or as a Barrister only.

2—(1.) The term “Wholesale Licence” used in the said Act shall mean a licence to sell liquor in any Bonding Warehouse, and in any store or on any premises mentioned in such licence, in any quantity not less than Seven quarts of liquor delivered at any one time. Meaning and form of Wholesale Licence.

(2.) The form of Wholesale Licence in the Schedule (1.) is hereby substituted for the form of Wholesale Licence contained in the Schedule to *The Licensing Act*. Schedule (1.)

*Licensing Amendment.*

A.D. 1884.

Construction of  
terms in other  
Acts.

**3** Where in any Act to be read herewith the expressions "the Annual" or "Quarterly Licensing Meeting," or "Licensing Meeting," or either of them, are used, the same shall be read and construed to mean the Annual or any Quarterly Meeting, as the case may be, of a Licensing Bench held under this Act.

Districts under  
this Act.

**4** The following shall be Districts under this Act—

- i. The City of *Hobart* with the Municipal Districts of *New Town* and *Queenborough* shall form one District, and shall be called the District of *Hobart* :
- ii. The Town of *Launceston* with the Municipal District of *Selby* shall form one District, and shall be called the District of *Launceston* :
- iii. Every Rural Municipality :
- iv. Every Municipal District (except the Municipal Districts of *New Town*, *Queenborough*, and *Selby*) not being a Rural Municipality :
- v. Any portion of the Colony which the Governor, by Proclamation in the *Hobart Gazette*, shall declare to be a District under and for the purposes of this Act ; and such portion shall thereupon cease to be a part of any of the before mentioned Districts.

Meetings of  
Licensing  
Benches substituted  
for Licensing  
Meetings of  
Justices.

**5** After the First day of *January*, 1885, no Annual Licensing Meeting or Quarterly Licensing Meeting of Justices shall be held under *The Licensing Act* ; but in lieu thereof Annual and Quarterly Meetings of Licensing Benches shall be held under and for the purposes of the said Act instead of Annual and Quarterly Licensing Meetings of Justices ; and such Licensing Benches shall be held at the same times and places as Licensing Meetings of Justices under the said Act are now or may be hereafter appointed to be held, and shall, subject to the provisions of this Act, have and exercise the like powers, duties, and authority.

Licensing Bench  
for the District of  
*Hobart*.

**6** The Licensing Bench for the District of *Hobart* shall consist of Seven Justices resident therein, of whom the Mayor for the time being of the City of *Hobart* and the Police Magistrate thereat shall be Two, and the remaining Five Members shall be elected by the Court of Quarter Sessions of the Peace appointed to be held at *Hobart*.

Licensing Bench  
for the District of  
*Launceston*.

**7** The Licensing Bench for the District of *Launceston* shall consist of Seven Justices resident therein, of whom the Mayor for the time being of the Town of *Launceston* and the Police Magistrate thereat shall be Two, and the remaining Five Members shall be elected by the Court of Quarter Sessions of the Peace appointed to be held at *Launceston*.

Licensing Bench  
for each Rural  
Municipality.

**8** The Licensing Bench for each District, being a Rural Municipality, shall consist of Five Justices resident therein, of whom the Warden for the time being of such Municipality shall be one, and the remaining Four Members shall be elected by the Court of General or Quarter Sessions of the Peace, as the case may be, appointed to be held in such Municipality.

Licensing Bench  
for each Municipal  
District.

**9** The Licensing Bench for each District, being a Municipal District, shall consist of Five Justices resident therein, of whom the Police or Stipendiary Magistrate of such District, or if there is no Police or

*Licensing Amendment.*

Stipendiary Magistrate of such District, some Justice appointed by the Governor, shall be one, and the remaining Four Members shall be elected by the Court of General or Quarter Sessions of the Peace, as the case may be, appointed to be held in such District, and if no such Court is appointed to be held in such District such remaining Members shall be appointed by the Governor. A.D. 1884.

Nothing in this Section contained shall apply to the Municipal Districts of *New Town, Queenborough, and Selby.*

**10** The Licensing Bench for each District, being a District proclaimed by the Governor under and for the purposes of this Act, shall consist of such a number of Justices resident therein as the Governor shall from time to time appoint, but so that such Bench shall not at any time consist of less than Two Members. Licensing Bench for District proclaimed under this Act.

The Members of each such Bench, and the times and places of holding the Meetings thereof, shall be appointed by the Governor from time to time.

**11** At any meeting of a Licensing Bench a quorum shall consist— Quorum.

In the Districts of *Hobart and Launceston*, of Four Members :

In each District being a Rural Municipality, or Municipal District, of Three Members :

In each District proclaimed under and for the purposes of this Act, of such number of Members as the Governor shall from time to time appoint.

And any one Member of a Licensing Bench may, in case a quorum is not present at any meeting of such Bench, adjourn such meeting for such period as may be necessary, not exceeding Seven days, and such meeting shall stand adjourned accordingly.

**12**—(1.) The Members of every Licensing Bench, at their first meeting in every year, shall, by the majority of votes of the Members present, elect one of their number as and to be Chairman for the ensuing year ; and if at any such meeting there is an equality of votes in such election, it shall be decided by lot which of such Members having an equal number of votes shall be the Chairman ; and whenever the office of Chairman shall become vacant the Members shall, at the next meeting of the Bench after such vacancy occurs, elect, in manner aforesaid, another Chairman, who shall continue in office for the unexpired portion of the year. Chairman.

(2.) Every such Chairman shall preside over every meeting of the Licensing Bench of which he is elected Chairman, and shall at every such meeting have a deliberative and a casting vote.

**13** The Members of every Licensing Bench shall, in the event of the Chairman of any such Bench being absent from any meeting thereof, elect one of their number as and to be Deputy Chairman : Provided that no such Deputy Chairman shall be competent to act in that capacity except only in the actual absence of the Chairman, but that in cases of such absence every such Deputy shall whilst so acting be deemed and taken to be the Chairman of such Bench for the time being within the intent and meaning of this Act and of every or any other Act, and to and for all other intents and purposes whatsoever. Deputy Chairman.

*Licensing Amendment.*

A.D. 1884.

Election of  
Members.

**14** The first election of Members of every Licensing Bench shall take place at the first sitting, whether by adjournment or otherwise, of the said Courts of General or Quarter Sessions, as the case may be, held in the year 1885.

Duration of term  
of office.

**15** Every elected Member of every Licensing Bench shall continue in office until the first sitting of the Court of General or Quarter Sessions, as the case may be, for the District for which he was elected, whether held by adjournment or otherwise, in the year following his election, and no longer; and at such Court Members shall be elected to supply the places of those retiring; and in case any such Member dies, becomes of unsound mind, resigns, absents himself from Two consecutive meetings of the Bench, removes from the District, becomes disqualified, or from any other cause becomes incapable to act as a Member of any such Bench, his seat shall be void, and it shall be lawful for the said Court at its next sitting, whether held by adjournment or otherwise, after the vacancy occurs, to elect another Justice to supply the place of the Member who dies or whose seat becomes void.

Provision in case  
no election of  
Members is held.

**16** If at the first sitting of any Court of General or Quarter Sessions, as the case may be, for any District held in the year 1885, or in any subsequent year, no election of Members for such District shall take place as provided in the two last preceding Sections, the Governor shall, by Proclamation in the *Hobart Gazette*, appoint a sitting of such Court of General or Quarter Sessions, as the case may be, to be held for the purpose of electing the first Members of such Bench, or of electing Members to supply the places of those retiring, and every such election shall take place accordingly.

Acts and pro-  
ceedings of  
Licensing Benches  
to be valid in  
certain cases.

**17** All acts and proceedings of every Licensing Bench or of any person in possession of the office of Chairman or Deputy Chairman of every such Bench, and acting as such, shall, notwithstanding it is afterwards discovered that there was some defect in the election of the Bench or of any such person, or that any such person or any Member of the Bench was disqualified, be as valid and effectual as if the Bench or such person had been duly elected or qualified.

Licensing Benches  
to act notwith-  
standing vacancies  
therein.

**18** It shall be lawful for any Licensing Bench to hold the Annual and Quarterly meetings of such Bench under and for the purposes of the said Act and this Act although for any cause the full number of Members of such Bench may not have been appointed or elected.

Interested persons  
not to be elected.

**19** No person being a Maltster, Brewer, or Distiller, or Importer of Liquor for Sale, or Dealer in Liquor, or being in partnership with any such person, or beneficially interested as owner or part owner, or manager, in any house licensed or sought to be licensed as a public-house in the District in which he resides, shall be elected a Member of a Licensing Bench, or if elected shall sit, vote, or act in any matter at any meeting of such Bench: and if any Mayor or Warden shall be disqualified from acting as a Member of a Licensing Bench from any cause, then the Municipal Council of which the Mayor or Warden so disqualified is a Member shall elect one of their number to be a Member of the Bench in the place and stead of such Mayor or Warden so long as such disqualification continues; and if any Police or Stipendiary Magistrate shall be disqualified from acting as a Member of a Bench from any

*Licensing Amendment.*

cause hereinbefore set forth, then the Governor shall appoint some Justice to be a Member of such Bench in the place and stead of the Magistrate so disqualified; and the Justice so appointed shall hold office during the Governor's pleasure only.

A.D. 1884.

**20** No Justice shall be elected a Member of a Licensing Bench for any District other than the District in which such Justice shall permanently reside, or, if elected, shall sit, vote, or act in any matter at any meeting of such Bench: and no Justice shall vote in the election of the Members of any Licensing Bench at any sitting of the Court of General or Quarter Sessions, as the case may be, whether held by adjournment or otherwise, elsewhere than within the District in which such Justice shall permanently reside.

Justices to act in Districts where they reside.

**21** Every Licensing Bench shall have all the powers of a Court of General Sessions of the Peace in relation to the summoning and compelling the attendance and examination of witnesses and the punishment of contempts; and the Clerks of the Peace attending any meeting of a Licensing Bench shall, in respect to the powers aforesaid, exercise all the powers by law exercisable by them as Clerks of the Peace attending any Court of General or Quarter Sessions of the Peace.

Licensing Bench to have powers of Court of General Sessions as to process and examination of witnesses.

**22** Public notice shall be given of all applications for Certificates relating to Public-house Licences, by advertisement in Two consecutive numbers of some newspaper published in or nearest to the District in which the house is situate, Seven days before the Annual or Quarterly Meeting, as the case may be, of the Licensing Bench for such District, and also in the number of the *Hobart Gazette* published next before such Annual or Quarterly Meeting. Every such advertisement shall be signed and published by the Clerk of Petty Sessions of the District in which the house is situate.

Notice to be given of applications for Licences.

**23** Any person being a resident in and ratepayer of the District in which the house in respect of which an application for a certificate is intended to be made is situate, may (in manner hereinafter mentioned) oppose the granting of such certificate before a Licensing Bench, either in person or by Attorney, and may examine and cross-examine witnesses against or for the granting of such certificate, whether it shall be—

Notice of opposition to be given.

- i. A certificate of approval of any person receiving a public-house licence; or
- ii. A certificate approving of the transfer of an existing public-house licence; or
- iii. A certificate of permission to continue to sell liquor under a public-house licence until the expiration thereof by effluxion of time;

and every such person shall, Five clear days before the meeting of the Licensing Bench to which application for any such certificate is intended to be made, give notice in writing to the Clerk of the Peace and also to the applicant, specifying in such notice the grounds of such opposition; and upon the consideration of such application the person giving such notice shall not be allowed to offer any other ground of opposition than that specified in such notice: but nevertheless such Bench in considering any such application shall be guided by the provisions of *The Licensing Act*, whether or not any notice of opposition to the granting of a certificate has been given as hereinbefore provided.

*Licensing Amendment.*

A.D. 1884.  
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 Objections to  
 Licences, &c.

**24**—(1.) The objections that may be taken to the granting of certificates of approval of persons receiving public-house licences may be one or more of the following :—

- i. That the applicant for such certificate is of bad fame and character, or of drunken habits, or has within Six months previously been convicted of any offence for which a public-house licence held by him has become forfeited, or that such applicant has been convicted of selling liquor without a licence within a period of Three years :
- ii. That the house in respect of which the application for a certificate is intended to be made has not the accommodation required by the Thirteenth Section of the said Act :
- iii. That a public-house is not required in the neighbourhood, or that the quiet of the place in which such house is situate will be disturbed if a certificate is granted.

(2.) The objections that may be taken to the granting of a certificate approving of the transfer of an existing public-house licence, or of a certificate of permission to continue to sell liquor under a public-house licence until the expiration thereof by effluxion of time, may be one or more of the following :—That the applicant is of bad fame and character, or of drunken habits, or that the public-house does not afford the accommodation required by the Thirteenth Section of the said Act.

Licensing Bench  
 to entertain  
 petitions.

**25**—(1.) Every Licensing Bench shall, at every meeting of such Bench, entertain any Petition or Memorial from Ratepayers resident in the District, on being satisfied of the genuineness of such Petition or Memorial and of the signatures thereto ; and if it shall appear to such Licensing Bench that a majority of ratepayers in the neighbourhood of any house in respect of which an application for a certificate is intended to be made object to the granting of such certificate, such Licensing Bench may refuse to grant such certificate.

(2.) The Licensing Bench shall in each case at its discretion determine what is to be deemed “ the neighbourhood ” for the purposes of this and the last preceding Section.

Costs of appli-  
 cation.

**26** If the Licensing Bench shall refuse to grant any certificate, they may order payment of a sum to meet the reasonable costs and expenses of the person who shall have objected successfully to the granting of such certificate, to be paid to such person by the unsuccessful applicant. And if the opposition to any application for a certificate shall appear vexatious or malicious, the Licensing Bench may order payment of a sum to meet the reasonable costs and expenses of the successful applicant, to be paid to him by the person unsuccessfully opposing the granting of such certificate, and such costs may be recovered in the same manner as costs upon an appeal against an order or conviction are recoverable under *The Magistrates Summary Procedure Act*.

19 Vict. No. 8.

Provides for  
 holder of licence  
 becoming of  
 unsound mind or  
 leaving  
*Tasmania*.

**27** If the lawful holder of a public-house licence becomes of unsound mind, or departs from *Tasmania* with the intention of permanently remaining out of *Tasmania*, it shall be lawful for his wife or any adult member of his family, or any person on behalf of such family, to sell liquor under such licence in the manner prescribed by and



*Licensing Amendment.*

subject to the requirements of Section Nineteen of the said Act. And all the provisions of the said Section and of Sections Twenty and Twenty-one of the said Act shall, so far as the same are applicable, apply to the cases mentioned in this Section. A.D. 1884.

**28** No Certificate of approval of her receiving a Public-house Licence shall be granted under the said Act or this Act to any married woman who has not obtained a decree of judicial separation or protection order, or whose husband is the holder of a licence. Certain married women not to keep public-houses.

**29** Where the holder of a licence in respect of any premises (a) is convicted of an offence under the said Act in consequence whereof his licence has been forfeited; or (b) where such holder shall abandon the occupation of the said premises as his usual place of residence; or (c) where such holder shall have wilfully omitted or shall have neglected to apply at the Annual Licensing Meeting for a certificate of approval in respect of a licence for such premises, there may be made, by or on behalf of the owner of the premises, an application to any two Justices of the Peace in Petty Sessions assembled for permission to sell liquor on the said premises until the next Quarterly Meeting of the Licensing Bench, provided that if the event upon which such application may be made happens within Twenty days of the next Quarterly Meeting of the Licensing Bench, then such application as aforesaid may be made for permission to sell liquor as aforesaid until the Quarterly Meeting of the Licensing Bench next but one to the period when the said event happened; such permission may be granted accordingly to any person in possession or occupation of such premises, and the person obtaining such permission shall, until such Quarterly Meeting, be deemed to be the lawful holder of a Public-house Licence for such premises; and the Licensing Bench may grant at such Quarterly Meeting a certificate of approval of such person receiving a Public-house Licence for such premises. Provides for cases in which licence is forfeited, &c.

**30**—(1.) If the lawful holder of a public-house licence shall desire to sell liquor under such licence in any other house than that mentioned in such licence, he shall deliver to the Clerk of Petty Sessions of the District in which the house in which he desires to sell liquor under such licence is situate a written notice in the form in the Schedule (2.), in the same manner in all respects as notice is required to be given of an intention to apply for a certificate of approval of any person receiving a public-house licence; and a copy of such notice shall be personally served upon or sent by registered letter to the owner of the house mentioned in such licence. Removal of licence to another house.

(2.) The same objections may, so far as applicable, be taken to an application made under this Section as are hereinbefore mentioned with regard to the granting of certificates of approval of persons receiving public-house licences. Schedule (2.)

(3.) The Licensing Bench to whom the application is made shall not approve thereof unless such Bench is satisfied that no objection to such application is made by the owner of the house mentioned in such licence.

(4.) If the Licensing Bench shall approve of the application, they shall make an endorsement upon the licence in the form in the Schedule (3.), and thereupon the licence shall have the same effect as if the house in respect of which the application is made had been originally mentioned in such licence, and the house therein mentioned shall cease Schedule (3.)

*Licensing Amendment.*

A.D. 1884.

to be subject to the provisions of the said Act under such licence. If the Licensing Bench shall not approve of the application, the effect of the licence shall not be prejudiced.

Light over door  
not required in  
*Hobart* and  
*Launceston*.

**31** So much of Section Thirty-eight of the said Act as renders persons holding Public-house Licences liable to a penalty not exceeding Two Pounds for not having a sufficient light constantly burning every night from sunset to sunrise outside over the door of the public-house, or within Twenty feet of it, without sufficient excuse, shall not apply to persons holding Public-house Licences in the City of *Hobart* or the Town of *Launceston*.

Supply of liquor  
to drunkards  
prohibited.

**32** When it shall be made to appear to any Two Justices, one of whom shall be a Member of a Licensing Bench, in Petty Sessions assembled, that any person is, by excessive drinking of liquor, mispending, wasting, or lessening his estate, or greatly injuring his health, or endangering or interrupting the peace and happiness of his family, such Justices shall, by notice under their hands in the form in the Schedule (4.), forbid any person holding a public-house licence who has been served with a copy of such notice, or who has acquired a knowledge thereof in any other manner, to sell or supply to such first-mentioned person any liquor for the space of One year from the date of such notice.

Schedule (4.)

Prohibition  
renewable.

**33** It shall be lawful for any Two Justices, one of whom shall be a Member of a Licensing Bench, in Petty Sessions assembled, in like manner to renew from time to time any such prohibition as aforesaid as to all such persons as have not in their opinion reformed within the year; and if any person holding a public-house licence shall, during any such prohibition, after service of a copy thereof upon him, or with a knowledge thereof in any other manner acquired, sell or supply to any such prohibited person any liquor, he shall forfeit upon conviction for every such offence a sum not exceeding Ten Pounds.

Procuring liquor  
for prohibited  
persons.

**34** Whenever Justices shall in execution of the foregoing provisions have prohibited the sale of liquor to any such person as aforesaid, if any other person shall, with a knowledge of such prohibition, give, sell, purchase, or procure for or on behalf of such first-mentioned person or for his use, any such liquor, he shall forfeit upon conviction for every such offence a sum not exceeding Five Pounds.

Persons incapable  
of holding licences.

**35** If any person is convicted of any offence against Section Thirty-two of this Act, and shall within a period of Two years from such conviction be afterwards twice convicted of a like offence, the licence held by such person shall thereupon become absolutely void, and he shall for a period of Two years be incapable of holding a licence under this or the said Act.

Governor in  
Council may  
make Regula-  
tions.

**36** The Governor in Council may from time to time make, alter, and repeal Regulations, not being inconsistent with the provisions of the said Act or this Act, prescribing the mode of conducting Elections of Members of Licensing Benches, and regulating the way in which the votes of the Members of such Benches shall be taken, and for any other purpose whatsoever connected with the execution of this Act, whether of the same kind as the purpose hereinbefore mentioned or not; and



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*Licensing Amendment.*

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A.D. 1884.

(3.)

WE, the undersigned, being two Members of the Licensing Bench assembled at the Meeting holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ the requisite Notice having been proved before us to have been duly served and posted, do hereby declare that the within Licence shall henceforth cease to apply to the house and premises within mentioned, and shall apply to the house known as \_\_\_\_\_ situate at \_\_\_\_\_

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 18

(4.)

WHEREAS it has been made to appear to us, two of Her Majesty's Justices of the Peace, that *A.B.* is addicted to excessive drinking of liquor: we do therefore, in accordance with the provisions of Section 32 of "The Licensing Amendment Act, No. 6," forbid any person holding a public-house licence who shall be served with a copy of this notice, or who shall acquire a knowledge thereof in any other manner, to sell or supply to the said *A.B.* any liquor for the space of One year from the date of this notice.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18

NOTE.—If any person acts contrary to this notice he will be liable to a penalty not exceeding Ten Pounds.

(5.)

**FEE PAYABLE TO JUSTICES IN PETTY SESSIONS ASSEMBLED.**

For every permission to keep a Billiard Table, Five Pounds.