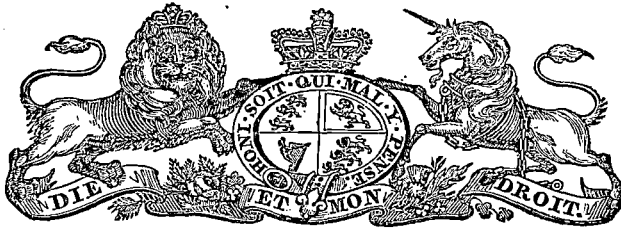


(No. 27.)



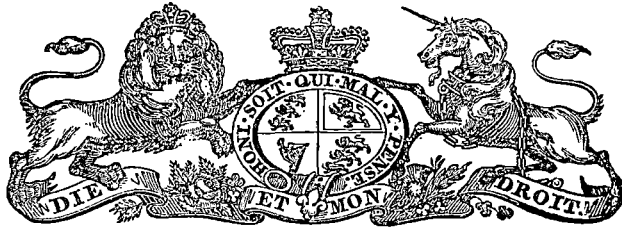
1856.

T A S M A N I A.

P U B L I C A N S ' L I C E N C E S.

P E T I T I O N.

Presented by Mr. Attorney-General, and ordered by the House to be printed,
20 December, 1856.



*To the Honourable the Members of the House of Assembly of
Tasmania, in Parliament assembled.*

The Memorial of the undersigned Holders of Public-house Licences in Tasmania.

HUMBLY SHOWETH:

THAT your Memorialists are authorised to sell liquors, in any quantity, in the houses occupied by them and mentioned in the respective Licences issued to them under the authority, conditions, terms, and restrictions given, mentioned, explained, declared, and imposed in and by the Acts of the late Legislative Council of Van Diemen's Land, 18th Victoria, No. 14, intituled *An Act to regulate the Sale of Liquors*, and as altered and amended by the Act of the same Legislative Council, 19th Victoria, No. 27.

That the first-mentioned Act of the said Legislative Council was passed and took effect in Van Diemen's Land from 30th October, 1854, and it thereby repealed on, from, and after the 1st day of January, 1855, all Acts of Council previously in force in Van Diemen's Land relating to the sale of liquors therein by wholesale, retail, or otherwise, and also entirely altered the mode of applying for, obtaining, granting, and issuing Licences for such purposes respectively; and the same Act of Council not only brought your Memorialists under more stringent, severe, and penal enactments than those to which they had been subjected under the laws previously existing, but it at once raised the Annual Licence Fee of £25 to £50, and imposed a fee of £20 for permission to transfer an existing Public-house Licence, which permission had always theretofore been free of payment to the Crown, save to the amount of 13s. 6d. for the Justices' Certificate of Approval of the Transfer to the applicant.

That, although the 6th Section of the said amended Act, 19 Victoria, No. 27, reduced the said Transfer Fee, yet that the said Section imposed the payment to the Crown of a fee of £5 for permission to transfer as above mentioned, and this amount of fee is still fixed and payable upon transfers.

That, in addition to the imposition of increased Annual and Original Transfer Fees upon your Memorialists as above mentioned, your Memorialists were specifically deprived of the privilege long previously conceded to and held by them of opening their Licensed Houses on Sundays between the hours of one and three o'clock in the afternoon, and between the hours of eight and nine o'clock at night, for the purpose of serving their customers and others with beer, to be taken away and not drunk on the premises.

That, previous to the passing of the said Acts of the Legislative Council, it was solemnly intimated to be the intention of the Government to greatly reduce the then number of Licensed Public-houses, on the assumed ground that such reduction would not only effect a vast decrease in intemperance, but would tend to raise the moral status of Keepers of Licensed Public-houses as a trading body.

That, in order to evince the apparent sincerity of such intention, Her Majesty's then Justices of the Peace were divided into detachments, to whom distinct sections of Hobart Town and Launceston were assigned, and who, at uncertain times, and without previous notice, entered upon and minutely inspected every Licensed House within their respective sections, and enquired into the character of the Keepers of such Houses respectively; and Reports were secretly made to the Government upon every house so inspected, as to its fitness for a renewal of a Licence with reference to the character of the Keeper, and the cleanliness, accommodation, and locality of the House requiring that the Licence should be renewed.

That a similar course was pursued throughout the various townships and settled districts of the interior of this Island.

That such a course induced the belief on the part of the Keepers of Licensed Houses, who should receive a renewal of their Licences at the then ensuing Annual Licensing Day, that, although they would have to pay £50 instead of £25 as theretofore for their Licence, yet that the great reduction pledged by the Government would at least have the effect of exposing them in their trade to much less competition than that to which they had previously been subjected, and thus the probable increase of their business would be some consideration for the imposition upon them of the increased fee of £50.

That such belief was entirely erroneous, inasmuch as no reduction was made in the number of Licensed Public-houses at the said Annual Licensing Day in the City of Hobart Town, in the Town of Launceston, or, as your Memorialists believe, in any other part of this Island, nor has any reduction been since made, but on the contrary an additional number granted; and thus all the benefit that your Memorialists received from the inspection of their Houses, and the strict scrutiny into their individual personal character as above mentioned, was an increased burden upon them respectively of £25 to an Annual Licence Fee of equal amount (which was and had been considered amply sufficient for many years of greater prosperity to the Colony than the years 1854 and 1855),—the additional imposition of £20 for transfer fees,—the deprivation of privileges which their trade had previously enjoyed,—and exposure to the infliction of indignities and oppressive clauses in the said Act of Council, 18th Victoria, No. 14, and as hereinafter mentioned.

Your Memorialists are certainly bound to admit that the Act of Council in question authorised your Memorialists (who had previously been restricted from trading as wholesale dealers, unless upon payment of £10 additional,) to sell liquor in any quantity; but your Memorialists respectfully submit to your Honourable House that they received no benefit whatever from any such authorisation, because few, very few indeed, amongst them had then or have now the means to sell liquor in any quantity, and that if all of them were so circumstanced, and enjoyed a position so truly desirable, still that as retail dealers they were and have been injured and not benefitted by such a permission, inasmuch as the wholesale dealers (previously restricted to the sale of five gallons of spirits in any one quantity, except gin, usually imported in cases of four gallons), are by the said Act in question permitted to sell liquor in any quantity not less than seven quarts, and are thereby enabled, as wholesale dealers, to compete with your Memorialists as retail dealers, to a greater extent than they formerly could before the passing of the said Act.

That, in addition to the unfair competition above mentioned, they respectfully beg to bring before your Honourable House the fact that the manufacturers and vendors of ginger beer and lemonade, who are not the holders of Public-house Licences, extensively compete with your Memorialists, yet pay no Licence Fee whatever; which fact your Memorialists consider a great hardship and injustice, inasmuch as the consumers of these beverages comprise a considerable portion of the middle classes of the community, and because the vendors of the said beverages (who pay no Licence Fee as before mentioned) can supply persons therewith on the Sabbath-day, without liability to question or penalty, whilst your Memorialists (who, by means of Licence Fees contribute much more towards the Public Revenue than any other class of traders in the community), dare not vend either of the said beverages on a Sunday, without being exposed to the liability of being heavily fined.

That the hardship of such competition is greatly increased by the fact that the said beverages are consumed amongst this community in vast quantities, and the profits upon the vending thereof are 150 per cent. more than are realised upon the vending of any description of spirits, wines, or malt liquors.

Your Memorialists respectfully beg leave to submit to your Honourable House that they have a right as free members of the community to be considered as entitled to the same fair treatment, and protection in their trade and calling, as other free members and traders thereof; notwithstanding which they are, by means of the operation of the letter of many of the Sections of the Act in Council of which they complain, liable to punishment which could not legally be inflicted in the mode thereby prescribed upon any of their fellow free men, and are brought under police surveillance in a way unknown to the trade in England.

That your Memorialists beg to state specifically to your Honourable House the following additional objections to the said Acts of Council, and of which your Memorialists respectfully request your consideration; viz.—

1st. That the necessity of waiting for a Transfer of Licence until any of the Quarterly days mentioned in the said Act is a very great hardship; and your Memorialists

respectfully submit that, as Tasmania is now a Free Colony, Transfers should be therein allowed and completed as in England.

2nd. That the particular kind of lamp defined, as required in the 28th Section of the said Act, is also a hardship; and your Memorialists respectfully submit that it would be quite sufficient to direct a conspicuous light to be exhibited.

3rd. That the authorisation of Taps attached to Hotels is most injurious to your Memorialists, inasmuch as Tap-keepers pay no Licence Fee, and because Taps are not now what they were originally intended to be, mere Beer-shops attached to Hotels, but are to all intents and purposes Public-houses in the day-time in which wines and spirituous and malt liquors are sold; and thus Hotel-keepers who are holders of Public-house Licences, and who are allowed to keep Taps, have in fact the benefit of two Public-houses for one Public-house Licence Fee.

4th. That the 10th Section of the 19th Victoria, No. 27, affecting to repeal the 31st Section of the 18th Victoria, No. 14, does not relieve your Memorialists living in Hobart Town and Launceston from liability and compulsion to receive and provide for a traveller and his horse, or a traveller without his horse, or the horse of a traveller not becoming a guest at any of their houses on week days, but only on a Sunday, or Good Friday, or Christmas-day.

5th. That it is unfair and unjust towards your Memorialists as traders that they should be unprotected in the recovery of debts contracted for liquor supplied; because your Memorialists submit that reason, justice, and equity demand that, in this respect, they should be placed on an equality with respect to debts contracted in all cases, in like manner as other traders in the community.

6th. That the penalty imposed by the 34th Section of the said Act of Council, 18th Victoria No. 14, is much too high, and ought to be restricted to a sum not exceeding £5.

7th. That the 36th Section of the said Act of Council is highly penal, and unfit for a free Colony, because it goes to deprive a person who may have been so unfortunate as to have forfeited or been deprived of his Licence from acting in the capacity of either manager or barman in a Licensed Public-house, and that too upon mere *prima facie* evidence.

8th. That the 37th Section is much too wide and indefinite, inasmuch as it does not declare what constitutes an abandonment of a Licensed Public-house, and because it does not declare the length of imprisonment sufficient to create a forfeiture of a Licence; and thus any of your Memorialists who might be sentenced to a short imprisonment for assault would be liable to the forfeiture of his Licence, and the consequent loss and deterioration of his property in addition to his imprisonment for such a description of misdemeanor, whereby he would suffer two kinds of punishment for one offence, which your Memorialists respectfully submit to your Honourable House is contrary to law.

9th. That the 38th Section of the said Act of Council is in the highest degree objectionable and un-English, because, according to its strict letter, none of your Memorialists are allowed to open their Houses for the purpose of receiving or entertaining any of their relatives who might visit them on a Sunday; and your Memorialists respectfully submit to your Honourable House that it is no answer to their objection to reply that such a restriction would not be, and has not hitherto been, enforced. It is sufficient for them to state to your Honourable House that no such restriction ought to have been made or implied.

10th. That the 39th Section of the said Act of Council is oppressive, unjust, and unsuited to a free Colony, and requires to be repealed altogether, save and except that the outer doors of a Licensed Public-house should be closed at a given hour; but your Memorialists respectfully submit that the hour of closing at night should be fixed at eleven and not ten o'clock at night.

11th. That the 41st Section of the said Act of Council is altogether too vague, sweeping, arbitrary, and unjust, inasmuch as any of your Memorialists is liable to be fined in the event of a drunken person being found on his premises, although such drunken person might have got drunk elsewhere, and might have only just entered the premises on which he might be found drunk, and although the keeper of such premises might, at the time of the entry therein of a constable, be in the act of removing such drunken person. That, in addition to this objection, your Memorialists respectfully submit to your Honourable House that the penalty is too high, and that it ought not to be in the power of the Police Magistrate or any other Magistrate arbitrarily to refuse, at their discretion, a Licence for a Ball-court, Bowling-green, Quoit or Skittle-ground, and that no such Licence should be necessary.

12th. That the 42nd Section of the said Act of Council is in the highest degree oppressive, and totally destructive of the liberty of the subject, and the security of his possession, inasmuch as it authorises a petty constable to enter a Licensed House, take the landlord out of it, and confine him in the watch-house, whereby his property may be left exposed to speculation; in addition to which he is liable to a fine not exceeding £20: thus he is liable to a much heavier penalty than is imposed upon ordinary drunkards under the 43rd Section of the said Act of Council, and he is also liable to the indignity and injustice of being dragged out of his house by a petty constable, for alleged drunkenness, which is not allowed in the case of any other trader in the community.

Your Memorialists respectfully beg leave to state to your Honourable House their belief that in no other part of the British Dominions are to be found such enactments as are comprised within the 43rd and 63rd Sections, both inclusively, of the said Act of Council; that such enactments are utterly unfitted for a free country claiming to be a Dependency of the United Kingdom; and that their insertion in the said Act of Council is the more to be deplored, because they were passed since this Colony emerged from its formal penal position, and are therefore the more repulsive to the feelings of a free community.

Your Memorialists also respectfully beg leave to submit to your Honourable House that Wines, Spirits, and Malt Liquors are legitimate articles of merchandise imported into this Colony, and form the chief sources from which the Customs Revenue is derived; that your Memorialists as vendors thereof are entitled to as much protection as the dealers in or vendors of any other merchandise; and that it does not follow that, because the use of Wines, Spirits, and Malt Liquors may be repudiated, or be affected to be repudiated, by one section of the community, your Memorialists, who are free persons, many of them freeholders of large property, and all of them considerable contributors to the support of the Government, should be subjected to the operation of penal enactments such as the Acts of Council above mentioned.

Your Memorialists respectfully beg leave to bring under the notice of your Honourable House that, since the said Acts of Council were passed, this Colony has greatly altered in its circumstances; it has been denuded of its population, who have emigrated to the more prosperous neighbouring colonies; its trade has become much diminished and depressed; and your Memorialists are less able now to pay an annual licence fee of £25 than they were formerly to pay the higher one of £50, inasmuch as their property and trade have depreciated within the last 12 months fully 80 per cent.

Your Memorialists therefore pray,—

1. That your Honourable House will take the premises into consideration, and be pleased to repeal the said Acts of Council, 18th Victoria, No. 14, and 19th Victoria, No. 27.
2. That in lieu thereof a Bill be brought into your Honourable House suited to the free condition of this Colony, and assimilated as nearly as possible to the "English Ale-house Act."
3. That, in the Bill so to be brought in, your Honourable House will fix the Annual Licence Fee at a sum not exceeding £25, or such lesser sum as to your Honourable House in your wisdom may deem within the altered circumstances of this Colony and of your Memorialists.
4. That Transfers may be allowed to be effected promptly, and without Fees thereon payable to the Crown; and that removals of Licences may also be allowed as formerly in this Colony, and as they are allowed in England.
5. That all vendors of Ginger Beer, Lemonade, and other like beverages, not being holders of Public-house Licences, whether Confectioners, Pastry-cooks, Shopkeepers, Stallkeepers or others, be compelled to pay Licence Fees equal to your Memorialists, or such other Annual Rate as may be fixed by your Honourable House: and—
6. That your Honourable House will grant unto your Memorialists such further and other relief in the premises as to your Honourable House in your wisdom may seem meet.

And your Memorialists will ever pray.

November, 1856.

[Signed by 228 Holders of Public-house Licences.]

P E T I T I O N .

Ordered to be printed, 20 December, 1856.

JAMES BARNARD,
GOVERNMENT PRINTER, TASMANIA.