

Marriage Validation.

No. XI.

AN ORDINANCE to render certain Marriages valid.

[21st February, 1842.]

MARRIAGE
VALIDATION.

WHEREAS Marriages have in divers cases been solemnized within the Colony by ministers of the Christian religion not episcopally ordained: And whereas doubts exist whether according to the common law of England (whereby marriages in the Colony are governed) any marriage be good and valid unless the same have been solemnized by a minister episcopally ordained: For the quieting such doubts,—

Preamble.

BE IT DECLARED AND ENACTED by the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

1. All marriages heretofore solemnized and all marriages hereafter to be solemnized by any minister of any Christian denomination, who had not or shall not have received episcopal ordination, are and shall be as good and valid to all intents and purposes as if the said minister solemnizing the same had received such ordination.

Certain marriages
heretofore solemnized
declared valid.

No. XII.

AN ORDINANCE for regulating the Sale of Fermented and Spirituous Liquors. [10th February, 1842.]

LICENSING.

BE IT ENACTED by His Excellency the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

Preamble.

I.—LICENS E.

1. No person shall unless he be duly licensed sell any quantity less than two gallons of any spirituous liquor wine ale or beer, or permit the same to be sold by any other person in or upon his house or premises: Provided that no license shall be needed for the sale of any spirituous or fermented liquor as perfumery or medicine, or at any military canteen duly established under the regulations of Her Majesty's service: Provided also that nothing herein contained shall extend to any sale by auction by any licensed auctioneer.

License for sale of
spirits &c.

2. Every license shall be in the form set forth in Schedule A hereunto annexed, and shall commence on the first day of July next following the date thereof, and shall be in force for one year from such first day of July.

Form of license.

3. No license shall be granted or transferred as hereinafter mentioned to any constable or bailiff, nor shall any license be granted or transferred in respect of any house or premises of which any constable shall be owner or wherein any constable shall be directly or indirectly interested.

Not to be granted to
constables &c.

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II.—GRANTING AND TRANSFERRING OF LICENSES.

Application for license.

4. Every person desirous of obtaining a license under this Ordinance shall, on or before the first Tuesday in the month of April in every year, cause to be delivered to the Clerk of the Police Magistrate for the district in which it is proposed to exercise such license a notice in writing signed by him and in the form in Schedule B hereunto annexed, together with a certificate signed by at least five substantial householders residing within such district, in the form in Schedule C hereunto annexed.

Names of applicants to be affixed on the door of Police Office.

5. The Clerk shall cause a list of the names and descriptions of all such applicants to be affixed, on or before the second Tuesday in the said month of April, on the door of the Police Office, there to remain for the space of one week.

Annual licensing meeting.

6. On the third Tuesday of the said month there shall be holden at the office of the Police Magistrate a general meeting of the Justices of the district, to be called the "Annual Licensing Meeting," for the purpose of taking into consideration applications for such licenses as aforesaid. Two Justices, of whom one shall be the Police Magistrate of the district, or, in case of his unavoidable absence, three Justices, shall form a quorum.

Certificates may be granted.

7. It shall be lawful for the Justices assembled at such meeting to grant to such persons as shall be approved of by the majority of such Justices certificates authorizing such licenses in the form in Schedule D hereunto annexed: Provided that no Justice of the Peace being a brewer, maltster, or distiller, or an importer of or dealer in any spirituous liquor wine ale or beer, or being interested directly or indirectly in any house or premises already licensed or in respect whereof an application for a license is about to be made, shall act at any such meeting.

Notice of meeting.

8. The Clerk shall cause a notice of each annual licensing meeting to be inserted at least one calendar month before the holding thereof in one of the newspapers of the district.

Recognizances to be entered into by applicant.

9. Before the Justices shall grant any such certificate the person applying for the same shall enter into a recognizance, with two sureties in the sum of fifty pounds each, in the form and with the conditions in Schedule E hereunto annexed: Provided always that no constable, bailiff, or any person holding a license under this Ordinance, shall be taken as a surety in any such recognizance.

Sickness of applicants

10. If any person desirous of obtaining such certificates shall be hindered by sickness infirmity or any other reasonable cause from attending in person at any such meeting, it shall be lawful for the Justices to certify in favour of such person upon three sufficient sureties, to be approved of as aforesaid, entering into the required recognizances.

Names &c. of parties receiving certificates to be transmitted to Colonial Treasurer.

11. The said Clerk shall also within fourteen days after such meeting transmit to the Colonial Treasurer or the Treasurer of the county or district a list signed by two at least of the Justices, specifying the names and residences of all the persons to whom such certificates as aforesaid shall have been granted, and of their respective sureties.

Recognizances to be transmitted to Clerk of County or District Court.

12. The said Clerk shall also transmit, within one calendar month after the same shall be entered into, the said recognizances to the Clerk of the County or District Court as the case may be, to be filed in his office.

Recognizances not to bind real property.

13. No such recognizances shall bind or affect any real property of the person entering into the same.

Amount payable for license.

14. Every such certificate shall be null and void unless the same and the sum of thirty pounds, or in case the house to be licensed shall be

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be within the limits of any borough then the sum of forty pounds, shall be lodged in the office of such Treasurer as aforesaid on or before the thirtieth day of June next following the annual licensing meeting at which such certificate was granted.

15. On receipt of such certificate and payment of the said sum of thirty pounds, or in case the house to be licensed shall be within the limits of any borough then the sum of forty pounds, such Treasurer or such other person as the Governor may for that purpose appoint shall issue and shall register in his office a license in the form hereinbefore prescribed.

Treasurer to issue license.

16. On the first Tuesday in each of the months of September December and March there shall be holden at such place as aforesaid a special meeting of the aforesaid Justices for the purpose of receiving applications for the transfer of licenses, subject to the provisions hereinbefore contained with respect to the general annual licensing meeting.

Transfer of licenses.

17. The Justices so assembled may transfer any such license as aforesaid to the appointee of the original holder of such license by an indorsement on the license in the form in Schedule F hereunto annexed, subject to such conditions as are hereinbefore required in respect of the person originally licensed.

Transfer to be indorsed.

18. In case of the death of any person holding a license, his executors or administrators may carry on the business of such person and act under the authority of his license during six months (if the license have so long to run) from the day of his decease. The person so carrying on the business shall, when required so to do, enter into recognizance before the Police Magistrate of the district to the same amount and subject to the same regulations as the person to whom the license was originally granted.

Executors &c. may carry on business.

19. In case any person holding a license shall be desirous of removing his business from the house named in such license to any other house, it shall be lawful for any two Justices of the district within which such other house shall be situated, upon a memorial presented to them for that purpose, to authorize such removal by an indorsement upon the original license in the form in Schedule G hereunto annexed: Provided always that no such indorsement shall be made until the person so applying for the same shall have entered into a new recognizance to the same amount and subject to the same regulations as the original recognizance.

License may be extended to a new house.

III.—REGULATIONS FOR LICENSED HOUSES.

20. No person holding a license under this Ordinance shall sell or supply any liquor or suffer the same to be drunk in or upon his house or premises except between the hours of six in the morning and ten at night on any working day, or except between the hours of one in the afternoon and seven in the evening of any Sunday, Christmas Day or Good Friday.

Hours to be opened.

21. At all other hours such house and premises shall be closed: Provided always that it shall be lawful for the Justices at such annual licensing meeting, on payment of the further sum of ten pounds, to grant to any number of innkeepers an extension of the time hereinbefore prescribed for the sale or supply of such liquors as aforesaid until twelve of the clock at night on any working day.

When to be closed.

22. Every person holding such license as aforesaid shall keep his name painted in legible characters not less than three inches in length, with the words "Licensed to Retail Liquors" on some conspicuous part of the house.

Names &c. to be affixed.

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Lamp to be kept
burning.

23. Every such person shall also have a lamp with at least two burners affixed over the front or principal door of his house, and shall keep the same burning from sunset to sunrise.

Money only to be
taken in payment.

24. No licensed person shall take anything whatever in pledge for any liquor sold or supplied, nor shall any such person take in payment for the same anything whatever except metallic or paper money.

Wages not to be paid
in licensed house.

25. No such person shall permit any wages to be paid in or upon his house or premises save only the wages of persons employed as servants therein.

License to be shown
on demand.

26. Every person holding such license as aforesaid shall on demand at his licensed house produce his license to any Justice of the Peace, or any constable duly authorized by writing under the hand of any Justice of the Peace.

Constable may
demand entrance.

27. Any constable may demand entrance into any licensed house at any hour upon information that this Ordinance is contravened, and any unnecessary delay in giving admission to said constables may, upon the hearing of the case by the Police Magistrate, subject the party to the penalties herein contained.

IV.—PENALTIES.

On Justices
improperly acting.

28. If any Justice of the Peace hereinbefore forbidden to act at any general annual licensing meeting shall act at any such meeting or at any meeting for the transfer of licenses, he shall forfeit and pay a sum of one hundred pounds, to be recovered by action in the Supreme Court by any person who shall sue for the same.

On persons selling
less than two gallons.

29. If any person not being duly licensed shall sell any quantity less than two gallons of any spirituous liquor wine ale or beer, or permit the same to be sold in or upon his house or premises, he shall forfeit and pay for every such offence the sum of fifty pounds, to be recovered in a summary way.

Hawking liquors.

30. All such liquors as aforesaid which shall be hawked about or exposed for sale in any unlicensed house or premises shall be forfeited for the use of Her Majesty, and may be seized by any constable.

For other offences
against this Ordinance

31. If any person being duly licensed shall offend against any other of the provisions of this Ordinance, he shall forfeit and pay for every such offence a sum of not less than two pounds nor more than twenty pounds, to be recovered in a summary way.

For drunkenness.

32. If any person shall be convicted of drunkenness before any Justice of the Peace he shall forfeit and pay a sum of not less than five shillings nor more than twenty shillings, and in default thereof shall be imprisoned for any period not exceeding forty-eight hours. If any person shall have been so convicted three times within the space of six calendar months, he shall upon such third conviction forfeit and pay such sum as aforesaid and be imprisoned for the term of seven days.

V.—PROVISIONAL LICENSES.

Provisional licenses.

33. Whereas by reason of the formation of new settlements and the rapid increase of the population thereof it may be desirable that licenses should be granted otherwise than at the time and in the manner hereinbefore provided, be it enacted that it shall be lawful for any two Justices of the Peace for the district, the Police Magistrate being one, at any time or times to grant any number of licenses; the sum to be paid for every such license being after the rate of forty pounds a year.

Commencement of
Ordinance.

34. This Ordinance shall come into operation on the first day of March, one thousand eight hundred and forty-two.

SCHEDULES.

Licensing.

SCHEDULES.

SCHEDULE A.

FORM OF LICENSE.

New Zealand } WHEREAS A.B., of _____, hath deposited in this office a certificate dated
to wit. } the _____ day of _____, in the year of our Lord one thousand eight
hundred and _____, authorizing the issue to the said A.B. of a license for the house
known [or to be known] by the sign of _____, situated at _____, in the said Colony of
New Zealand: And whereas the said A.B. hath paid into my office the sum of _____
pounds sterling as the duty of such license: Now I, the Colonial Treasurer [or County
or District Treasurer, *as the case may be*], in virtue of the powers vested in me by an
Ordinance of the Governor and Council, passed in the year one thousand eight hundred
and forty-two, No. 12, do hereby license the said A.B. to sell any spirituous liquors,
wine, ale, or beer, in any quantity in the house aforesaid and in the appurtenances there-
unto belonging, but not elsewhere: And this license shall commence on the first day
of July next, and continue in force until the thirtieth day of June then next ensuing,
both days inclusive.

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

N.O., Colonial Treasurer

Registered, P.Q.

[or County or District Treasurer, *as the case may be*].

SCHEDULE B.

FORM OF NOTICE OF APPLICATION FOR A LICENSE.

To the Worshipful the Justices of the Peace acting in and for the district of _____, in
New Zealand.

I, A.B. [*State trade or occupation*], now residing at _____, in the parish [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 spirituous
liquors, wine, ale, and beer, in the house and appurtenances thereunto belonging, situated
at [*Here describe the house proposed to be licensed, specifying the situation of it, the person
from whom rented, the present occupier, whether now licensed, and if so, under what sign*].
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.

SCHEDULE C.

FORM OF HOUSEHOLDERS' 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 for the sale of spirituous liquors, wine, ale, and beer.

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

_____ One
_____ Two
_____ Three
_____ Four
_____ Five

SCHEDULE D.

FORM OF CERTIFICATE BY JUSTICES TO AUTHORIZE THE GRANTING OF A LICENSE.

New Zealand } At the annual licensing meeting [or an adjournment of the annual
to wit. } 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 Ordinance of the
Governor and Council passed in the year one thousand eight hundred and forty-two, No.
12, intituled "*An Ordinance for regulating the Sale of Fermented and Spirituous Liquors*,"
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 do,
in virtue of the power vested in us, hereby authorize the Colonial Treasurer [or County
or District Treasurer, *as the case may be*] to issue to A.B., of _____, a license under the
said Ordinance for [*Here state the house, sign, district, or other particulars*] the year
commencing from the first day of July next: And we do hereby certify that we are
satisfied

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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 fifty pounds each according to the form prescribed in the said Ordinance.

Given under our hands and seals, the _____ day of _____, at the place aforesaid.

G.H. }
I.K. } Justices of the Peace.

SCHEDULE E.

FORM OF RECOGNIZANCE TO BE ENTERED INTO BY AN APPLICANT FOR A LICENSE.

New Zealand } BE IT REMEMBERED, That on the _____ day of _____, one thousand eight
to wit. } 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 fifty pounds, the said C.D. the sum of
fifty pounds, and the said E.F. the sum of fifty 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 Ordinance passed in the year one thousand eight hundred and forty-two, No. 12, to sell spirituous liquors, wine, ale, or beer, in a house being the sign of _____, situated at _____, in the district [*or* township] of _____, for twelve months, commencing on the first day of July, one thousand eight hundred and _____, if the said A.B. do keep the law in selling such liquors as aforesaid in his [*or* her] said house and its appurtenances, 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. }
I.K. } Justices of the Peace.

SCHEDULE F.

FORM OF INDORSEMENT ON LICENSE TO AUTHORIZE A TRANSFER THEREOF.

BE IT REMEMBERED, That we the undersigned, being the majority of the Justices present at a special meeting for the district of _____, held at _____, for the purpose of transferring licenses, do hereby, upon the application of the within-named _____, transfer the rights and privileges of the within license to L.M. for the residue of the term for which the same has now to run, the said L.M. having first exhibited the certificate and entered into the recognizance required by law.

G.H. }
I.K. } Justices of the Peace.

SCHEDULE G.

FORM OF INDORSEMENT ON LICENSE TO AUTHORIZE A CHANGE OF HOUSE AND PREMISES.

MEMORANDUM.—We 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 the house and premises situate [*Describe as in original license*].

G.H. }
I.K. } Justices of the Peace.