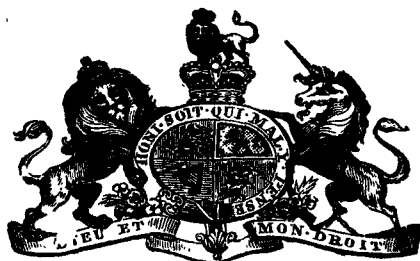


New Zealand.

ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation. Division into Parts. Commencement of section 3. Repeal.</p> <p style="text-align: center;">PART I.</p> <p style="text-align: center;">LICENSING POLL.</p> <p>(1.) <i>How Poll to be taken.</i></p> <p>3. Grant of licenses subject to vote of electors.</p> <p>4. Poll to be taken on day of general election.</p> <p>5. Questions to be submitted to poll.</p> <p>6. Number of proposals to be voted on.</p> <p>7. Provisions subject to which poll to be taken.</p> <p>8. When proposal deemed to be carried.</p> <p>9. Declaration of result of poll. Effect thereof.</p> <p>10. Day of election to be a public half-holiday.</p> <p>(2.) <i>Result of Poll, and Procedure thereon.</i></p> <p>11. Statement to be sent to Minister.</p> <p>(3.) <i>Restoration of Licenses.</i></p> <p>12. How poll to be taken. Effect if restoration carried.</p> <p style="text-align: center;">PART II.</p> <p style="text-align: center;">MISCELLANEOUS AMENDMENTS OF THE LICENSING LAW.</p> <p>(1.) <i>Bellamy's.</i></p> <p>13. Poll of members to be taken as to whether liquor to be sold.</p> <p>(2.) <i>Clubs.</i></p> <p>14. No charter for premises where license forfeited.</p> | <p>(3.) <i>Railway Refreshment-rooms.</i></p> <p>15. No railway refreshment-room licenses where licenses prohibited.</p> <p>(4.) <i>Costs of Elections and Meetings.</i></p> <p>16. Cost of elections and administration to be paid by local authorities.</p> <p>17. Increase of rates in case of loss of revenue.</p> <p>(5.) <i>General.</i></p> <p>18. No new bottle licenses to be granted.</p> <p>19. Election of members of Licensing Committee.</p> <p>20. Powers of Chairman and two members.</p> <p>21. Procedure on failure to elect Committee.</p> <p>22. Amendments of principal Act.</p> <p>23. Provisions where license not renewed before expiry of old license.</p> <p>24. Penalties for sale of liquor to Natives.</p> <p>25. Prohibition orders against aboriginal natives.</p> <p>26. Penalty for prohibited person entering hotel.</p> <p>27. Penalty for accompanying him.</p> <p>28. Committee may waive certain omissions.</p> <p>29. Neglect of tenant to apply for license.</p> <p>30. Determination of lease by lessee.</p> <p>31. Certificates, &c., to be signed by Chairman. Fees, how paid.</p> <p>32. Construction of section 21 of Act of 1893.</p> <p>33. Provisions in force in districts where "no license" vote has been carried.</p> <p>34. Hearing of prosecutions for breach of Licensing Acts.</p> <p>35. Tied houses.</p> <p>36. Inspectors, other than officers of police, to be appointed.</p> <p>Schedules.</p> |
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1895, No. 45.

AN ACT to amend "The Alcoholic Liquors Sale Control Act, 1893." Title.
[31st October, 1895.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Alcoholic Liquors Sale Control Act Amendment Act, 1895." Short Title.

2. (1.) In this Act, if not inconsistent with the context,— Interpretation.
"The principal Act" means "The Licensing Act, 1881":

- “The Licensing Acts” means “The Licensing Act, 1881,” and its amendments, including “The Alcoholic Liquors Sale Control Act, 1893,” and this Act.
- Division into Parts. (2.) This Act is divided into the following Parts:—
Part I.—Relating to the licensing poll.
Part II.—Relating to miscellaneous amendments of the licensing law.
- Commencement of section 3. (3.) Section three of this Act shall not come into operation until the day next before the day appointed for the hereinafter-mentioned licensing poll first taken after the commencement of this Act.
- Repeal. (4.) Sections fifteen to twenty, inclusive, of “The Alcoholic Liquors Sale Control Act, 1893,” and also the Second, Third, and Fourth Schedules thereto, are hereby repealed.

PART I.

LICENSING POLL.

(1.) *How Poll to be taken.*

Grant of licenses subject to vote of electors.

3. No license of any description shall be granted or renewed until the electors of the district have previously determined, in manner hereinafter provided,—

- (1.) Whether the number of licenses existing in the district is to continue;
- (2.) Whether the number of licenses existing in the district is to be reduced;
- (3.) Whether no licenses are to be granted in the district.

Poll to be taken on day of general election.

4. On the day appointed for the taking of the poll (hereinafter called “the electoral poll”) of the electors in each electoral district for the return of a member of the House of Representatives for such district, at every general election after the commencement of this Act, and simultaneously therewith, a poll (hereinafter called “the licensing poll”) of the electors of such district shall also be taken upon the proposals to be submitted to them under this Act: Provided that—

- (1.) The licensing poll shall be taken in every district, notwithstanding that in any district no electoral poll may be required to be taken for such election as aforesaid; and also that
- (2.) If at any time Parliament is dissolved before it has been two years in existence, then at the taking of the electoral poll for the new Parliament no licensing poll shall be taken, but the result of the licensing poll taken at the then last previous general election shall continue in force until such poll is again taken simultaneously with the electoral poll next after the dissolution of such new Parliament.
- (3.) No poll shall be valid in any district in which no electoral poll is taken unless at least one-half of the total number of electors on the roll of the district shall have recorded their votes.

5. At every licensing poll the questions set forth in section three hereof shall be submitted in the form of the proposals set forth in the First Schedule hereto.

Questions to be submitted to poll.

6. Each voter shall be entitled to vote on any one or two of the proposals, and the voting shall not be cumulative.

Number of proposals to be voted on.

7. (1.) The poll shall be taken as follows:—

Provisions subject to which poll to be taken.

(a.) The Returning Officer of the electoral district shall, upon the day appointed, proceed to take the licensing poll in the manner provided by "The Electoral Act, 1893," for taking the electoral poll, and shall provide voting-papers and all things necessary for taking the licensing poll.

(b.) He shall also provide separate ballot-boxes for the licensing poll and the electoral poll, and each class of ballot-box shall be painted of a different colour, or otherwise have sufficiently distinguishing marks to prevent mistakes.

(c.) All mistakes made by depositing ballot-papers and voting-papers in the wrong boxes shall be corrected by the Returning Officer when counting the papers, and all the papers shall be duly included in the counting.

(d.) He shall also appoint a Deputy Returning Officer and a sufficient number of poll-clerks for the sole purpose of attending to the business of taking the licensing poll.

(e.) The voting-papers for the licensing poll shall be different in colour to the ballot-papers for the electoral poll.

(f.) The Returning Officer shall cause the voting-paper for the licensing poll to be marked in the same manner as the ballot-paper for the electoral poll, and shall give the voting-paper and the ballot-paper simultaneously to the voter.

(g.) The Returning Officer and his deputy shall take care that every voter is provided with one voting-paper for the licensing poll.

(h.) The voter shall strike out all the proposals on his voting-paper except one, or all except two, as he thinks fit; and his vote shall be deemed to be given in favour of the proposals which he does not strike out.

(i.) If the voter strikes out all, or fails to strike out at least one, of the proposals the voting-paper shall be void, and he shall not be deemed to be a voter who has recorded his vote.

(j.) The polling-booths in each district shall be the same as those used at the taking of the electoral poll.

(k.) Every elector shall fold up the voting-paper at a licensing poll in the same manner as the ballot-paper at an electoral poll, but separate therefrom, and place it in the ballot-box specially set apart for receiving the said voting-papers.

(l.) No voting-paper shall be taken out of the polling-booth.

(m.) The scrutineers in respect of the electoral poll may act as scrutineers in respect of the licensing poll.

(n.) Every such scrutineer shall make the declaration required under "The Electoral Act, 1893," to be made by scrutineers at elections under that Act.

(o.) If the result of any licensing poll is disputed, any fifty electors may require an inquiry to be held in manner provided by section forty-eight and the subsequent sections of "The Regulation of Local Elections Act, 1876," and the matter in dispute shall be determined in the same manner, *mutatis mutandis*, as if the said poll were an electoral poll.

(p.) All expenses incident to the taking of a licensing poll shall be defrayed out of moneys to be appropriated by Parliament for the purpose.

(2.) Every person who refuses or neglects to comply with, or commits any breach of, any of the provisions of this Part of this Act, or misleads or gives any misdirection to a voter in any matter relating to his vote, is liable for every such offence to a penalty not exceeding twenty pounds.

8. The Returning Officer shall count the votes, and reject all the informal votes, and shall ascertain and determine the result of the licensing poll in manner following:—

(1.) If the Returning Officer finds—

That the number of votes recorded in favour of the proposal that the number of licenses existing in the district shall continue is an absolute majority of all the voters whose votes were recorded,—

Then such proposal, unless superseded as hereinafter provided, shall be deemed to be carried, and he shall notify the Licensing Committee thereof, and the number of licenses shall continue as they are until the taking of the next licensing poll, subject nevertheless to the power of refusing to renew licenses objected to under subsections one to four, inclusive, of section eighty-one of the principal Act; and subject also to the provisions of the Licensing Acts relating to forfeiture or increase of licenses.

(2.) If the Returning Officer finds—

That the number of votes recorded in favour of the proposal that the number of licenses existing in the district shall be reduced is an absolute majority of all the voters whose votes were recorded,—

Then such proposal, unless superseded as hereinafter provided, shall be deemed to be carried, and shall supersede the proposal for continuance of licenses, and he shall notify the Licensing Committee thereof, and the number of licenses shall be reduced in manner following:—

(a.) At its first annual meeting after the licensing poll the Committee shall reduce the number of publicans' licenses by not less than five per centum nor more than twenty-five per centum of the total number existing in the district at the time when the poll was taken, exclusive of licenses forfeited for breaches of the law:

When proposal
deemed to be
carried.

Provided that in case when a reduction vote has been carried the number of licenses shall be reduced by one at least where the number of licenses does not exceed ten, two at least where the number of licenses does not exceed thirty, and three at least where the number of licenses exceeds thirty.

(b.) Those licenses which have been indorsed for breaches of the law in respect of selling liquor to children, or to female aboriginal Natives, or to drunken persons, or of selling liquor on Sundays, or of selling adulterated liquor, or in respect of which objections have been made and sustained under subsections one to four, inclusive, of section eighty-one of the principal Act, shall be the first to be reduced, and next those held in respect of premises which comprise little or no accommodation for lodgers and travellers except the bar.

(c.) In making any reductions the Committee shall make such reductions to extend over the whole district in such manner as it thinks equitable, having regard to the convenience of the public and the particular requirements of the several localities within the district.

(3.) If the Returning Officer finds—

That the number of votes recorded in favour of the proposal that no licenses shall be granted in the district is not less than three-fifths of all the voters whose votes were recorded,—

Then such proposal shall be deemed to be carried, and shall supersede the proposals for reduction and for continuance of licenses, and he shall notify the Licensing Committee thereof; and thereafter no licenses of any description shall be granted therein until after another licensing poll has been taken.

(4.) If the Returning Officer finds—

That none of the proposals respecting licenses in the district is carried by the prescribed majority,—

Then he shall notify the Licensing Committee thereof, and the number of licenses shall continue as they are until the taking of the next licensing poll, subject nevertheless to the power of refusing to renew licenses objected to under subsections one to four inclusive of section eighty-one of the principal Act, and subject also to the provisions of the Licensing Acts relating to forfeiture or increase of licenses.

9. (1.) As soon as conveniently may be after the result of the licensing poll has been ascertained, the Returning Officer shall give public notice, in the form in the Third Schedule hereto or to the like effect, of the total number of voters whose votes are recorded at the poll and of the number of votes recorded in favour of each of the aforesaid proposals, and shall declare the result of the poll respecting licenses in the district accordingly.

Declaration of
result of poll.

(2.) Such notice shall be binding on the Licensing Committee.

Effect thereof.

(3.) As soon as the licensing poll has been taken, all the voting-papers used and unused thereat shall be packed in separate parcels, apart from the ballot-papers used at the electoral poll, and transmitted by the Returning Officer to the Clerk of the Magistrate's Court nearest to the principal polling-place, and the said Clerk shall hold the said parcels in manner as provided by section thirty-seven of "The Regulation of Local Elections Act, 1876."

Day of election to be a public half-holiday.

10. Every day on which the election of the Licensing Committee takes place, or upon which the poll for local option under this Act is taken, shall be and be deemed to be a public holiday after mid-day, and such half-holiday shall be deemed to be a holiday within the meaning of the several statutes for the time being in force referring to public holidays; and, further, between the hours of twelve o'clock noon and seven o'clock in the evening it shall be unlawful to sell intoxicating liquors in any licensed premises.

(2.) *Result of Poll, and Procedure thereon.*

Statement to be sent to Minister.

11. As soon as conveniently may be after the result of the licensing poll has been notified as aforesaid, the Returning Officer shall forward to the Minister a statement of the total number of voters whose votes are recorded at the poll, and of the number of votes recorded in favour of each of the proposals submitted thereat, together with a statement of the result of the poll.

(3.) *Restoration of Licenses.*

How poll to be taken.

12. In the event of there being no publicans' licenses existing in any district at the time when the licensing poll is to be taken therein, the following provisions shall apply:—

- (1.) If such event is the result of a poll under the Licensing Acts, then, in lieu of the proposals set forth in the First Schedule hereto, the proposals set forth in the Second Schedule hereto shall be submitted; and the voting-paper shall be framed accordingly.
- (2.) All the foregoing provisions of this Act relating to the licensing poll shall, *mutatis mutandis*, apply to the poll under this section, save that each voter shall be entitled to vote for any one of the proposals submitted.
- (3.) If the Returning Officer finds—

Effect if restoration carried.

That the number of votes recorded in the district in favour of the proposal that licenses shall be restored therein is not less than three-fifths of all the voters whose votes were recorded,—

Then, but not otherwise, the Committee, at its first annual licensing meeting thereafter, shall grant licenses (if applied for) in the district to the extent of not more than the number nor less than fifty per centum of the number of each description of license that existed in the district at the time when the grant of existing licenses in such district was last prohibited pursuant to a poll taken under the Licensing Acts.

PART II.

MISCELLANEOUS AMENDMENTS OF THE LICENSING LAW.

(1.) *Bellamy's.*

13. Subsection five of section three of the principal Act shall be read subject to the following provisions, that is to say:—

Poll of members to be taken as to whether liquor to be sold.

- (1.) In the session of the General Assembly to be held after the next general election of members of the House of Representatives, and thereafter in the first session of each new Parliament, on the fourth Tuesday after the Address in Reply has been determined by such House, the Clerk of each House shall conduct a poll, at which members of such House shall vote on the question, "Shall liquor be sold within the precincts of the Parliament Buildings during the remainder of the present Parliament?"—"Aye" or "No."
- (2.) The result of the poll shall in each case be forthwith reported by the Clerk of each House to the Speaker thereof.
- (3.) If when the votes taken in both Houses are added together a majority of those voting record their votes "No," then no liquor shall be sold within the precincts of the Parliament Buildings during the remainder of the term of the then existing Parliament and until the poll shall be taken hereunder during the next ensuing Parliament.
- (4.) The Speakers of the Houses shall thereupon meet, and, having ascertained the result of the poll, shall, in case of the majority of the votes being in the negative, give directions that no liquor shall be sold within the precincts of the Parliament Buildings during the term of the then existing Parliament, and until the poll shall be taken hereunder during the next ensuing Parliament.
- (5.) If in like manner a majority of those voting record their votes "Aye," then the Speakers of both Houses shall give authority for the sale of liquor till the close of the last session of the then existing Parliament, and until the poll shall be taken hereunder during the next ensuing Parliament. The voting on this question shall be by open voting and not otherwise.
- (6.) In case of equality of votes, the Clerk of the Legislative Council shall have a casting-vote.
- (7.) The provisions of section thirty-three shall not apply to Bellamy's.

(2.) *Clubs.*

14. (1.) No charter shall be granted for a club in premises in respect of which a club charter has been revoked, or a publican's license has been taken away or forfeited, under the Licensing Acts.

No charter for premises where license forfeited.

(2.) The provisions of section thirty-three shall not apply to clubs.

(3.) *Railway Refreshment-rooms.*

No railway refreshment-room licenses where licenses prohibited.

15. No license to sell liquor at a railway refreshment-room shall be granted in any district wherein the grant of licenses is prohibited as the result of a licensing poll.

(4.) *Costs of Elections and Meetings.*

Cost of elections and administration to be paid by local authorities.

16. (1.) All costs and expenses incident to the election and the meetings of the Committee, including charges for printing and advertising the necessary notices relating thereto, as also the actual cost of the travelling-expenses incurred by the Chairman or any member of a Committee or the Clerk thereof in attending any meeting, and the salary of such Clerk, and also such reasonable remuneration to the Clerk of the controlling authority of the district as, having regard to the additional duties imposed on him by the Licensing Acts, such local authority thinks proper, shall be paid by the controlling local authority of the district, subject to the following provisions:—

(a.) The local authority of each district that forms a part of a licensing district and receives a portion of the license fees accruing therein is liable to contribute, in proportion to the amount so received, to the aforesaid costs and expenses:

(b.) In case no license fees are received by a local authority in any licensing district, such authority is nevertheless liable to contribute to the aforesaid costs and expenses in like manner as if it received the same portion of such fees as the local authority that receives the smallest portion thereof:

(c.) In case no license fees whatever are received in any district, the local authorities in such district are liable to contribute to the aforesaid costs and expenses in proportion to the population of the districts under the jurisdiction of the said local authorities respectively:

(d.) The controlling local authority of the district is entitled to recover such contribution from the local authorities liable to pay the same.

(2.) Section ten of "The Alcoholic Liquors Sale Control Act, 1893," is hereby repealed.

Increase of rates in case of loss of revenue.

17. Every local authority which suffers loss of revenue from license fees under the Licensing Acts in consequence of the reduction or prohibition of licenses in the district may make good such loss by an equivalent sum to be levied and collected by an increase of the general rates in the district, anything in any Act contained to the contrary notwithstanding.

(5.) *General.*

No new bottle licenses to be granted.

18. (1.) No new bottle license shall be granted within any licensing district after the commencement of this Act.

(2.) All such licenses in force at the commencement of this Act shall continue in force until their expiry on the thirtieth day of June then next ensuing.

19. (1.) The election of members of the Licensing Committee for each ordinary licensing district shall be held on such day in the month of March as the Returning Officer of the district appoints in that behalf; and he shall give not less than fourteen days' notice of the day so appointed.

Election of members of Licensing Committee.

(2.) At the first such election held after the commencement of this Act the number of members constituting such Committee shall be reduced to six, including therein, as Chairman *ex officio*, such Stipendiary Magistrate exercising jurisdiction in the district as the Governor from time to time appoints in that behalf.

(3.) Subsection one of section seven of "The Alcoholic Liquors Sale Control Act, 1893," is hereby modified in so far as it is in any way inconsistent with the provisions of this section.

20. All the powers by the Licensing Acts conferred upon the Chairman or any two members of a Licensing Committee to deal with licenses shall be exercised by such Chairman and two members jointly, and not separately.

Powers of Chairman and two members.

21. (1.) In case any district fails or neglects to elect a Licensing Committee at the time appointed, the Stipendiary Magistrate who, if such Committee had been duly elected, would be the Chairman thereof shall himself be deemed to constitute the Committee, and shall exercise all the powers and functions by the Licensing Acts conferred upon the Committee or on any members thereof until the time appointed for the next periodical election of the Committee.

Procedure on failure to elect Committee.

(2.) A Committee is deemed not to be elected in any case where the whole number of such Committee is not elected.

(3.) Subsection five of section seven of "The Alcoholic Liquors Sale Control Act, 1893," is hereby repealed: Provided that where prohibition prevails in any district it shall be unnecessary to elect a Committee.

22. The principal Act is hereby amended as follows:—

Amendments of principal Act.

(1.) As to section thirty-five, by adding at the end of that section the following proviso:—

"Provided that no such license shall henceforth be granted, or, if already granted, shall be renewed, in any district so long as the electors therein have duly determined in manner prescribed by the Licensing Acts that no licenses be granted therein."

(2.) As to section thirty-six, by inserting next after the word "amusement," the words "or at any cattle sale-yards."

(3.) As to section fifty-six, by inserting the words "of issue" after the word "days," in line eight.

(4.) As to section ninety-seven, by repealing the words "licensing district," in the third line of the section, and inserting in lieu thereof the following words: "undivided borough, or ward of a divided borough, or town district, or riding of a county, or road district, being in no case further than one-quarter of a mile by the nearest road from such licensed premises": Provided, however, that this subsection shall not take effect until the first day of May, one thousand eight hundred and ninety-six.

(5.) As to section one hundred and fifty-six, by repealing that section, and enacting in lieu thereof the following:—

“(a.) It shall be lawful for, but not obligatory upon, a licensee to sell liquor at any time to any person being really a lodger living or staying in the licensed premises, or a *bona fide* traveller seeking refreshment on arriving from a journey: Provided that the liquor so sold is personally consumed on the premises by such traveller and by no other person.

“(b.) The burden of proving any person to be a lodger or traveller shall be upon the person alleging the fact, and any person falsely alleging himself to be a lodger or traveller shall be liable on conviction to a penalty not exceeding ten pounds.”

(6.) As to subsection three of section two hundred and one, by adding at the end of that subsection the following: “and shall forthwith send notice of such conviction to the owner or lessor of the premises occupied by the licensed person so convicted.”

(7.) As to section two hundred and six, by inserting after the words “one hundred and sixty-sixth sections of this Act” the words “or any offence referred to in the one hundred and ninety-second section thereof,” and after the words “supplying children with liquor” the words “and selling adulterated liquor.”

(8.) As to section two hundred and eight, by adding thereto the following paragraph:—

“In any such case, provided no appeal from such conviction is duly prosecuted and allowed, and notwithstanding any covenant in any lease or other instrument, the tenant shall be deemed to have forfeited his lease by being convicted as aforesaid; and the owner of the premises, or the immediate landlord, by himself, or his agent or bailiff duly authorised in writing in that behalf, may forthwith under the authority of this Act enter upon and take possession of the premises and evict the said tenant from the premises.”

Provisions where
license not renewed
before expiry of old
license.

23. In every case where an application for the renewal of a license has been duly made, but is not disposed of by the Committee on or before the day of the expiry of the license by effluxion of time, the following provisions shall apply:—

(1.) The license shall be deemed to be extended until the application for renewal is finally disposed of:

(2.) The licensee shall pay a due proportion of the annual license fee for the period of such extension, whether the application for renewal is ultimately granted or not:

(3.) If the application is ultimately granted, the renewal shall date from the aforesaid expiry by effluxion of time, and the sum paid as aforesaid shall be treated as part payment of the annual license fee.

24. If any person,—

Sells any liquor to any male aboriginal native who is in a state of intoxication, or sells or in any way gives or supplies, or allows to be sold, given, or supplied, any liquor to any female aboriginal native whomsoever,—

Penalties for sale of liquor to Natives.

he commits an offence, and is liable to a penalty of not less than two nor more than ten pounds: Provided that this section shall not apply to any female aboriginal native being the wife of a European.

25. On application to the police officer of the district by any relative or friend of any male aboriginal native of New Zealand who may be found by such relative or friend drinking liquor to excess in any licensed house, the police shall forthwith render such applicant every assistance in applying to the Magistrate for the district for an order under section one hundred and sixty-seven of "The Licensing Act, 1881," to be issued against such male aboriginal native; and such order shall remain in operation until otherwise ordered by the said Magistrate:

Prohibition orders against aboriginal natives.

Provided that after the issuing of any such order any person knowingly selling, giving, or supplying liquor to such person shall be liable to a penalty not exceeding ten pounds:

Provided also that the foregoing application may be made by any two persons being Justices of the Peace or members of a local body or of any School Committee.

26. If any person against whom a prohibition order has been made under section one hundred and sixty-seven of the principal Act enters or is found on any licensed premises at any time during the currency of such order, he is liable to a penalty not exceeding five pounds, and any licensed person who knowingly permits any person against whom a prohibition order is in existence to be or to remain on his licensed premises shall be liable to a penalty of not less than five pounds and not exceeding ten pounds.

Penalty for prohibited person entering hotel.

27. (1.) Every person who, knowing that any one is the subject of a prohibition order, accompanies him into any licensed premises, or in any way, directly or indirectly, procures liquor for him, or incites or assists him to procure or drink liquor, is liable to a penalty not exceeding ten pounds.

Penalty for accompanying him.

(2.) In any proceedings under this section the burden of proof shall be on the defendant to show that he did not know of the existence of such prohibition order.

28. In any case where any person has neglected or omitted to do any act or thing in the precise manner or within the precise time specified therefor by the Licensing Acts, the Committee, or the Chairman and any two members thereof, if satisfied that such neglect or omission was not wilful, may, by certificate under the hand of the Chairman, waive the same upon such terms as they deem equitable.

Committee may waive certain omissions.

29. In any case where a tenant of any premises wrongfully neglects or refuses to make due application for the grant or renewal of a license, or to do whatever is necessary for the purpose of procuring such grant or renewal, and by reason of such neglect or refusal serious loss may be caused, the owner or immediate landlord of the premises may himself make such application or do whatever is neces-

Neglect of tenant to apply for license.

sary as aforesaid, either in his own name or the name of his nominee, or in the name of the defaulting tenant, as such owner or landlord thinks fit, and may recover from the defaulting tenant all the costs and expenses thereby incurred.

Determination of
lease by lessee.

30. In the event of the licensed premises which a lessee is bound under his lease to keep as licensed premises being closed as the result of a poll of the electors of the district, or being closed by a Licensing Committee for a cause not arising from an act or default of the lessee, then the lessee may, if he desire to terminate the lease, give written notice to the lessor, and on the expiration of fourteen days from the giving of such notice such lease shall be deemed to be determined as by effluxion of time.

Certificates, &c.,
to be signed by
Chairman.

31. (1.) All certificates, orders, and other documents to be issued under the Licensing Acts by the Licensing Committee, or by a majority thereof, or by the Chairman and any two members thereof, shall be signed by the Chairman and countersigned by the Clerk; and the forms set forth in the Sixth, Seventh, Eighth, and Ninth Schedules of the principal Act are hereby modified in manner set forth in the Fourth Schedule hereto, or to that effect.

(2.) In every case where the certificate authorises the issue or renewal of a license, the certificate shall specify the fee to be paid, as also the officer to whom, the place where, and the time within which the same is payable, as provided by sections sixty-nine and seventy of the principal Act.

Fees, how paid.

(3.) Such fee may be paid either in manner specified in the certificate or by depositing the amount at any time before the expiration of the aforesaid period in any money-order post-office to the credit of the officer named in the certificate.

(4.) The deposit-slip shall be in the form or to the effect set forth in the Fifth Schedule hereto, and there shall be payable in respect of such deposit a poundage of sixpence in the pound.

(5.) It shall be the duty of the Post Office authorities to remit the deposit to the said officer, and specify the purpose for which it is remitted.

Construction of
section 21 of Act of
1893.

32. Nothing in section twenty-one of "The Alcoholic Liquors Sale Control Act, 1893," shall be construed to affect or to have affected the position of the licenses, or any proceedings taken regarding them, in the Licensing Districts of Addington, Newtown, and Sydenham East, which were constituted under the principal Act.

Provisions in force
in districts where
"no license" vote
has been carried.

33. With respect to every district the electors whereof have duly determined in manner prescribed by the Licensing Acts that no licenses be granted therein, and so long as, pursuant to such determination, no licenses are in force therein, the following provisions shall apply:—

(1.) It shall not be lawful for any person whomsoever—

(a.) To solicit or receive any order for any liquor within such district; nor

(b.) To sell, or expose or keep for sale, any liquor within such district; nor

(c.) To send (either from without or within such district) or deliver to any person residing therein, or at any

place situate therein, any liquor which the person sending or delivering the same has reasonable ground to suspect is intended to be sold, or exposed or kept for sale, therein; nor

(d.) To send or deliver to any person residing therein or to any place situate therein any package containing liquor, unless such package bears distinctly written or printed on the outside thereof a statement that it contains liquor. Any Inspector appointed under the Licensing Acts may detain and in the presence of at least two witnesses examine the contents of any package in respect whereof a violation of this provision is reasonably suspected by him.

- (2.) Every person who commits any breach of any of the provisions of this section is liable for a first offence to a penalty not exceeding fifty pounds, and for a second or any subsequent offence to imprisonment for any term not exceeding three months.
- (3.) In any prosecution for the sale of liquor in breach of this section it shall not be necessary, in proving the sale, to show that any money or money's worth passed, or that any other consideration for the sale existed, if the Court is satisfied that a transaction in the nature of a sale actually took place.
- (4.) In any prosecution for exposing or keeping liquor for sale in breach of this section it shall lie on the accused to show that the liquor proved to be exposed or kept was not so exposed or kept for sale.
- (5.) In any prosecution for sending or delivering liquor in breach of this section it shall lie on the accused to show that he had no reasonable ground to suspect that such liquor was intended to be sold, or exposed or kept for sale, within such district.
- (6.) This section shall not apply to sales by brewers of liquor, being their own manufacture, to persons not residing or carrying on business within such district, and to be delivered beyond the limits of such district.

34. (1.) All prosecutions for breach of any of the provisions of the Licensing Acts shall be heard and determined by a Stipendiary Magistrate alone, anything in the Licensing Acts to the contrary notwithstanding.

Hearing of
prosecutions for
breach of Licensing
Acts.

(2.) Any Justice or Justices of the Peace may sit in a Court with a Magistrate, but cannot in any such case act with the Magistrate, or exercise any jurisdiction whatever at such sitting.

(3.) Every person who commits any breach of any of the provisions of the Licensing Acts for which no specific penalty is thereby provided is liable to a penalty not exceeding five pounds.

(4.) Nothing in this section shall apply to offences under section one hundred and seventy-three of the principal Act.

35. (1.) No covenant or agreement, condition, proviso, or stipulation, whereby any person or body corporate is purported to be bound to purchase beer, wines, spirits, or other fermented or spirituous

Tied houses.

liquors from any other person or body corporate to the exclusion of any other persons or bodies corporate, shall, if entered into after the passing of this Act, have any force or validity whatever. And every bond, bill of exchange, or promissory note, given after the passing of this Act for the purpose of securing the performance of any such covenant or agreement, condition, provision, or stipulation shall be void.

(2.) Every deed, memorandum, or other document which shall contain any such covenant, agreement, condition, or stipulation as aforesaid shall be read and construed as if such covenant, agreement, condition, proviso, or stipulation were omitted therefrom.

(3.) Every estate, right, title, and interest, or other benefit which shall be declared or purport to be divested or forfeited for or on account of the non-performance or non-observance of any such covenant, agreement, condition, or stipulation shall continue as if the same were not liable to be divested or to forfeiture for such reasons as aforesaid, notwithstanding the non-performance or non-observance of any such covenant, agreement, condition, or stipulation.

(4.) Every limitation, right of entry, or other estate or interest in real or personal property, or any other benefit whatever which shall be declared or purport to take place, or effect, or to accrue, or vest on the breach or non-performance of any such covenant, agreement, condition, or stipulation, shall be void.

(5.) When any person shall have entered into any such covenant or agreement, or purport to have made himself directly or collaterally liable for the performance or observance of any such covenant, agreement, condition, proviso, or stipulation as aforesaid, or shall have made, given, or entered into any bond, obligation, deed, bill of exchange, promissory note, or other instrument of what kind soever given for any such purpose as aforesaid, he shall be entitled to commence or prosecute a suit in any Court of competent jurisdiction to cancel or rectify such instrument as aforesaid, in such manner that he shall no longer be, or appear to be, under such obligation or liability as aforesaid.

36. The Governor may from time to time appoint a sufficient number of special Inspectors, not being officers of police, for the purpose of preventing and detecting violations of the Licensing Act and the sale of adulterated liquor; and all powers conferred by the said Acts upon officers of police shall be exercised by such Inspectors: but nothing herein contained, and no appointment made under the provisions hereof, shall annul or diminish the duty or responsibility imposed upon officers of police by the said Acts.

Inspectors other
than officers of
police to be
appointed.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

I vote that the number of licenses existing in the district continue.
I vote that the number of licenses existing in the district be reduced.
I vote that no licenses be granted in the district.

General Directions.

The voter may strike out all the proposals except one, or all except two, but no more.

The voter must strike out all the proposals which he does not wish to be carried.

If the voter strikes out all or fails to strike out at least one of the proposals, the voting-paper will be void.

The voting-paper so marked is to be dropped by the voter into the separate ballot-box prepared for it, and not into the same box as that in which he drops his electoral ballot-paper.

The voter is not allowed to take his voting-paper out of the polling-booth.

SECOND SCHEDULE.

I vote that licenses be restored in the district.
I vote that licenses be not restored in the district.

General Directions.

The voter must strike out the proposal which he does not wish to be carried.

If the voter strikes out both or fails to strike out one of the proposals, the voting-paper will be void.

The voting-paper so marked is to be dropped by the voter into the separate ballot-box prepared for it, and not into the same box as that in which he drops his electoral ballot-paper.

The voter is not allowed to take his voting-paper out of the polling-booth.

THIRD SCHEDULE.

DECLARATION OF LICENSING POLL IN THE DISTRICT.
LICENSING DISTRICT OF

IN pursuance of "The Alcoholic Liquors Sale Control Act Amendment Act, 1895," I hereby give public notice of the result of the local-option poll taken under the provisions of the said Act.

Number of Votes recorded.

That the number of licenses existing in the district continue...

That the number of licenses existing in the district be reduced

That no licenses be granted in the district... ..

[*or, as the case may be,*

That licenses be restored in the district

That licenses be not restored in the district]

The total number of voters whose votes were recorded at the poll was ;
and, as the number of votes recorded in favour of the proposal that the existing number of licenses in the district continue [*or be reduced, as the case may be*] is an absolute majority of the total number of voters as aforesaid, I hereby declare such proposal to be carried.

[*or,*

The total number of voters whose votes were recorded at the poll was ;
and, as the number of votes recorded in favour of the proposal that no licenses be granted in the district [*or that licenses be restored, or be not restored, in the dis-*

trict, *as the case may be*], is not less than three-fifths of the total number of voters as aforesaid, I hereby declare such proposal to be carried.]

Dated this day of , 18 .

[*or,*

The total number of voters whose votes were recorded was ; and, as none of the proposals respecting licenses in the district obtained the prescribed majority, I declare none of them to be carried.]

Dated at , this day of , 18 .

Returning Officer.

NOTE.—All the forms in this schedule are to be altered to suit the circumstances.

FOURTH SCHEDULE.

CERTIFICATE.

I, THE undersigned, A.B., Stipendiary Magistrate, and the Chairman of the Licensing Committee for the District of , do hereby certify that [*&c., or otherwise as the circumstances of the case may require*].

[*Add, where necessary*: The fee payable in respect of the license is £ , and the same is payable to (*name of officer*), at (*place*), on or before the day of , 189 .]

C.D.,

Clerk to the Licensing Committee.

A.B.,

Stipendiary Magistrate.

FIFTH SCHEDULE.

THE Postmaster at : Please receive herewith from [*full name*] the sum of , and remit the same to the Clerk of the [Borough of the City of Dunedin, at Dunedin, *or otherwise as the case may be*], in payment of the fee for the issue [*or renewal, or as the case may be*] of a license to the said [*full name*], in respect of his licensed premises situate at , and known as [*name of hotel*].

Dated this day of , 18 .

Fee ... £ : :

Poundage ... : :

£ : :