

Hon. Mr. Seddon.

ALCOHOLIC LIQUORS SALE CONTROL.

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A BILL INTITULED

AN ACT to give the People greater Control over the Granting and Refusing of Licenses under "The Licensing Act, 1881." Title.

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, 1893." It shall be read together with "The Licensing Act, 1881." Short Title.

2. In this Act, if not inconsistent with the context,— Interpretation.
"District" means a licensing district constituted under "The Licensing Act, 1881":

"Elector" or "electors" means an elector or electors on the roll of electors for the time being in force for the election of members of the House of Representatives :

"The principal Act" means "The Licensing Act, 1881":

"The Licensing Acts" or "the said Acts" means the principal Act together with "The Licensing Act Amendment Act, 1882," and "The Triennial Licensing Committees Act, 1889," "The Licensing Act 1881 Amendment Act, 1889," and this Act.

Licensing Districts.

Electoral districts of colony constituted ordinary licensing districts.

3. The electoral districts for the time being in existence, constituted for the representation of the people in the House of Representatives, are hereby constituted ordinary licensing districts under the principal Act; and the rolls of electors of members of the House of Representatives, also for the time being in existence for the said electoral districts, shall be the rolls from which shall be compiled the roll of electors for the purposes of the Licensing Acts. 5

All parts of the colony now being outside of any electoral district are special licensing districts wherein the provisions of sections fourteen to sixteen of the principal Act shall apply. 10

All special districts, and all Native licensing districts, constituted under the Licensing Acts and existing at the time of the commencement of this Act, shall continue in force as if this Act had not been passed, subject that the Governor may at any time or from time to time alter or abolish any such district. 15

Special licenses may be granted when population suddenly increased.

4. When the population of any riding of a county, or road district in a county where "The Counties Act, 1886," is suspended, has suddenly increased in a large degree, and a petition, signed by not less than one hundred residents thereof respectively, has been presented to the Governor, praying that power be granted to the Licensing Committee to issue a special license or licenses therein, the Governor may, by Order in Council, grant such authority, and thereupon special licenses may be granted in the said riding or road district by the Committee, at the ratio of one licensed house to every seven hundred persons residing within a radius of two miles from such licensed house. 20 25

Every special license shall continue in force until the annual meeting of the Licensing Committee next after a poll has been taken of the electors of the district as hereinafter provided in section twelve. 30

Licensing Committees.

Who may be member of a Licensing Committee.

5. Any duly-registered elector residing in any district shall be qualified to be elected for such district, except as follows:—

No person shall be qualified to be elected or to act as a member of a Licensing Committee— 35

Who is a brewer, wine or spirit merchant, malster, distiller, importer for sale of or a dealer in liquors, or in partnership with any such person;

Who is the owner in fee or for any less estate of any licensed house. 40

No person shall be qualified to be elected or to act as a member of a Licensing Committee during the time he holds a paid office under the Government of the colony, or under the Council or Board of any borough, county, road district, or town district. 45

Constitution of Licensing Committees.

6. The Licensing Committee for an ordinary licensing district shall be constituted as follows, that is to say,—

(1.) The Committee shall consist of—

Nine persons, being residents within the district, to be elected by the electors of the district in manner provided by "The Regulation of Elections Act, 1881," or any Act passed in substitution thereof, in the year one thousand eight hundred and ninety-four, and thereafter 50

once in every third year only, on the days appointed for taking the poll of electors under section *thirteen* of this Act, and simultaneously therewith.

5 (2.) The Returning Officer for such district under the Act last aforesaid shall be the Returning Officer for the purposes of this Act, and all provisions of the Act last named shall apply in respect to such Returning Officer for the aforesaid purposes.

10 (3.) As soon as conveniently may be after the constitution of a district under this Act, the Returning Officer shall, by public advertisement, appoint some convenient day, but not earlier than fourteen days after the first publication of such advertisement, for the election of the required number of members of the Licensing Committee within
15 such district; and such election shall be conducted in the same manner as elections of members of the House of Representatives are conducted.

20 (4.) The result of every election of a Licensing Committee shall be notified in manner provided by section seventeen of "The Electoral Acts Amendment Act, 1890," by the Returning Officer; who by the same notification shall appoint the time and place at which each Licensing Committee shall meet for the first time for the purpose of electing their Chairman, and such time shall be as soon as
25 conveniently may be and within fourteen days from the time of such notification.

30 (5.) In case any district shall fail or neglect to elect a Licensing Committee at the time appointed, the Governor shall in such case appoint the same; and every Committee so appointed, and every member thereof respectively, shall be deemed to have been elected under this Act.

35 (6.) The Returning Officer appointing the time for the holding of licensing meetings shall also appoint the place, not being licensed premises, at which such meetings shall be respectively held; but if there be in the district any place used as a Courthouse by the Resident Magistrate having jurisdiction in the district, then such meetings shall be held at such Courthouse.

40 When, by failure of election or otherwise, the Governor nominates a Committee, he shall also appoint the time and place for the first meeting of such Committee, and such time shall be not later than twenty-one days after such nomination.

45 (7.) The places at which licensing meetings are held shall be within the limits of the licensing district to which such meetings relate.

50 (8.) The actual cost of the travelling-expenses incurred by any member residing more than three miles from the place of meeting in attending a meeting of the Committee shall be paid him by the local authority liable to pay the same under section one hundred and nine of the principal Act, on the voucher for the same certified by the Chairman and the Clerk of the Licensing Committee.

- (9.) Every member of a Licensing Committee shall come into office on his election, and shall hold office for three years, or until the election of his successor.
- (10.) Any member of a Licensing Committee may, by writing under his hand addressed to the Governor, resign his office. 5
- (11.) If any member of a Licensing Committee shall die, resign, become disqualified, or shall absent himself from two consecutive quarterly licensing meetings of such Committee (unless in case of sickness or other lawful excuse), 10 his office shall be vacant.
- (12.) Every vacancy created as above mentioned is an extraordinary vacancy, and the Governor shall appoint some other person to supply the vacancy, who shall hold office only until the next election. 15
- (13.) The members of a Licensing Committee retiring at the end of their term of office may be re-elected or reappointed.
- (14.) The Governor shall, from time to time, appoint such person as he may think fit to be Clerk to the Licensing Committee of any one or more districts; and any such Clerk 20 may be removed from office by the Governor.
- (15.) The quorum of a Licensing Committee shall be five members.
- (16.) Any Licensing Committee may act if a quorum exists, notwithstanding vacancies therein. 25
- (17.) Every Licensing Committee shall, notwithstanding its term of office has expired, continue to act until their successors are elected or appointed and take office.
- (18.) The members of the Licensing Committee shall, at their first meeting, elect one of their number to be Chairman 30 thereof (herein referred to as "the Chairman"), who shall have an original and casting vote, and shall hold such office during the continuance of the period for which such Committee was elected or appointed.
- (19.) The Chairman shall sign on behalf of the Committee all 35 certificates and other documents (if any) issued or recorded by it.
- (20.) In case of the absence of the Chairman from any meeting of the Licensing Committee, the members present at such meeting shall elect one of their number to be Chair- 40 man, and such Chairman shall act only for the occasion for which he is so elected.

7. The Licensing Acts shall henceforth be read, for all purposes of conducting elections or of taking a poll thereunder, as if the words "elector" and "electors" had been substituted for "ratepayer" or "ratepayers" wherever these latter occur therein. 45

8. All costs and expenses incident to the election of any Licensing Committee, or of taking a poll of electors under this Act, and of the general administration of this Act, shall be paid by the local authority having jurisdiction throughout the district where the 50 election or the poll takes place, subject to the following provision:

"Elector" substituted for "ratepayer" in Licensing Acts.

Costs and expenses of elections and of taking polls, how to be paid.

The Council or Board respectively of every borough, county, town district, and road district which forms a part only of a licensing district, but receives a portion of the license fees accruing therein, shall be liable to contribute, in proportion to the amount so received, to the cost of administering the Licensing Acts and this Act within the licensing district of which it forms a part; and the local authority charged with such administration shall be entitled to recover such contribution from the Councils or Boards liable respectively to pay the same.

10 9. The fact that a member of a Licensing Committee has, prior to his election or at any time, expressed his views, or given any pledge, or expressed any opinion as to the licensing law or liquor traffic, shall not disqualify such member from sitting and acting as a member of the Licensing Committee; nor shall the fact of any member of a
15 Licensing Committee or any number of members having so pledged or expressed themselves render any decision or act of such Committee liable to be questioned or set aside.

Opinion of member not to disqualify.

Alterations of Licensing Law.

10 10. From and after the commencement of this Act,—
20 (1.) Any widow, and any wife who has obtained a protection order as mentioned in sections four and five of "The Licensing Act 1881 Amendment Act, 1889," may hold a license under the Licensing Acts; but, save as aforesaid, no woman, whether married or unmarried, shall hold a
25 license under the authority of the said Acts.

Amendment of law as to licenses.

25 (2.) Every application for a publican's, or New Zealand wine, or accommodation, or bottle license, or for a transfer thereof (but not for any renewal thereof), shall be accompanied by a certificate signed by a Resident Magistrate, in the form in the *First* Schedule hereto, in respect of the fitness of the applicant to have such license.

30 Provided that every unmarried woman, other than a widow, who is at present the holder of a publican's license shall, until the thirtieth day of June, one thousand eight hundred and ninety-four, be deemed to be lawfully holding such license, and a valid and effectual transfer of the license held by any such woman may be made at any time before the said thirtieth day of June, one thousand eight hundred and ninety-four, under the provisions of the said Acts, and such transfer shall confer and impose upon the transferee all the privileges and all the duties, obligations, and liabilities of a licensed
35 person.

40 (3.) The Licensing Committee may, at any annual or quarterly licensing meeting, grant to any holder of a publican's license, on payment of an additional fee of *five* pounds, an extension of the time prescribed in the principal Act for the sale of liquors until eleven of the clock at night, on being satisfied of its being for the benefit and convenience of the public.

50 Such extension of license shall be granted by an indorsement on the certificate and license respectively:

No extension of license shall be granted until midnight, but every person holding such an extension of license at the time of the commencement of this Act shall hold the same until the thirtieth day of June, in the year one thousand eight hundred and ninety-four, but it shall not be renewed. 5

- (4.) Subject as provided in section one hundred and fifty-four of the principal Act, all licensed premises in respect of which an extension of time for the sale of liquors until eleven of the clock at night has been granted shall be closed as follows, that is to say,— 10

(a.) On Saturday night from eleven of the clock until six of the clock on the following Monday morning.

(b.) On the nights of all other days, from eleven of the clock until six of the clock on the following morning. 15

- (5.) Every licensed publican shall, during all hours of the day or night when the licensed premises are required by law to be closed, leave all windows of the public bar unscreened by any furniture or screen within the bar-room, and uncovered by any blind, shutter, or other covering whatever, either inside or outside, so as to expose the whole of the interior of such room and bar to public view at all times during the said hours. 20

Every licensed publican who acts in contravention of this subsection shall be liable for every such offence to a penalty not exceeding *five* pounds. 25

- (6.) Whenever a license is lawfully granted at any time other than at the annual licensing meeting, such license shall continue in force only until the thirtieth day of June ensuing next after the granting thereof; and the fee to be paid for such license shall be a proportionate part of the fee payable in respect of an annual license of the same kind. 30

- (7.) Whenever a license is granted after the taking of a poll in any district, the licensee shall have the right of an annual renewal of such license for the two years succeeding the original grant thereof until the taking of the next poll, unless in the meantime his license becomes indorsed for any breach of law in respect of the offences mentioned in section *sixteen* of this Act. 35 40

In any such case, or if any objection under subsections one to four of section eighty-one of the principal Act be made to the renewal of the license, the Committee, in their discretion, may refuse to renew such license.

Section twenty-nine of the principal Act shall, after the commencement of this Act, be read and take effect subject to the provisions of this section. 45

As to Increase of Licenses.

11. From and at any time after the commencement of this Act, except as provided in section *four*, there shall not be granted any increase in the number of licenses in any district until after the taking of the then next census. 50 55

No increase of licenses to be allowed until after census taken, and then only on certain conditions.

If the results of any such census prove that the population of any district has increased by twenty-five per centum of the whole population thereof as existing at the previous census, then a proposal as to whether there shall be an increase of licenses granted or not shall be submitted to the electors for their determination; and section *fourteen* shall, *mutatis mutandis*, apply generally to the mode of taking the said poll, excepting that the voting-papers for such poll shall be in the form in the *Second* Schedule to this Act.

And if such proposal is carried by a majority of three-fifths in number of the total votes recorded at the poll, and such number of total votes recorded be not less than one-fourth of the total number of electors on the roll of the district, then, and in such case only, the Committee may grant additional licenses in such district at a rate not exceeding one license for every seven hundred people of such increase in the district.

As to Renewals of Licenses.

12. From and after the annual meeting of the Licensing Committee to be held in the year one thousand eight hundred and ninety-four, no publican's, New Zealand wine, accommodation, or bottle license now in force shall be renewed until the electors of the district shall have previously determined, in manner hereinafter provided,—

New licenses to be granted subject to vote of electors.

- (1.) Whether the present number of licenses is to continue;
- (2.) Whether the number of any such licenses is to be reduced;
- (3.) Whether any licenses are to be granted.

13. The Returning Officer of every licensing district shall appoint some one day in the month of March, one thousand eight hundred and ninety-four, and thereafter in the month of March in every third year, for the taking in all licensing districts throughout the colony of the poll to be taken under the provisions of this Act; and the Returning Officer in each licensing district shall give not less than fourteen days' notice of the day so appointed.

Returning Officer to appoint day for taking poll.

At such poll the questions set forth in section *twelve* of this Act shall be submitted in the form set forth in the Schedule to this Act.

14. The poll shall be taken as follows:—
- (1.) The Returning Officer shall appoint such persons as he thinks fit to be his deputies to assist him at the taking of any poll as hereinafter provided.
 - (2.) The Returning Officer shall, upon the day so appointed, proceed to take the poll in the manner provided by "The Regulation of Elections Act, 1881," for taking a poll at any election, and shall provide voting-papers and all things necessary for taking the poll.
 - (3.) The voting-papers shall be printed in the form in the *Third* Schedule, setting forth the proposals mentioned in section *twelve*, with respect to each particular kind of license which is to be put to the vote.
 - (4.) The voter shall erase two of the said lines in each case, and his vote shall be deemed to be given in respect of each proposal according to the one of the said lines which he leaves unerased.

Taking of poll.

If the voter fails to erase two of the said lines as aforesaid, the ballot-paper shall be void.

- (5.) Each elector shall have only one vote, but there shall be as many polling-booths in each district as there would be

if it were an election under "The Regulation of Elections Act, 1881."

All the provisions of that Act as regards taking a poll, and the penalties incurred in any respect in connection therewith, shall, *mutatis mutandis*, so far as they are applicable, and except as by this Act is otherwise provided, apply to the taking of any poll under this Act. 5

Declaration of result of poll.

15. As soon as conveniently may be after the result of the poll has been ascertained, the Returning Officer shall give public notice of the number of votes recorded for and against the several proposals as above provided, and shall declare the resolutions to be carried or rejected, as the case may be, and the determination or determinations shall be binding on the Licensing Committee. 10

When proposal deemed to be carried.

(1.) If, on counting the votes, the Returning Officer finds that an absolute majority of the votes recorded are given in favour of the proposal that the number of licenses in the district shall continue as they exist, then such proposal shall be deemed to be carried, and the Returning Officer shall notify the Licensing Committee thereof, and the number of licenses shall continue as they are. 15

(2.) If, on counting the votes, the Returning Officer finds that an absolute majority of the votes recorded are given in favour of the proposal that the number of licenses in the district shall be reduced, then such proposal shall be deemed to be carried, and the Returning Officer shall notify the Licensing Committee thereof, and the number of licenses shall be reduced accordingly. 20

(3.) If, on counting the votes, the Returning Office finds that a majority of three-fifths of the votes recorded are given in favour of the proposal that no licenses shall be granted in the district, then such proposal shall be deemed to be carried, and the Returning Officer shall notify the Licensing Committee thereof; and thereafter, except as provided in section *four*, no licenses shall be granted in the district until after another poll of electors has been taken therein. 25

(4.) If, on counting the votes, the Returning Officer finds that the number of votes recorded in favour of the proposal that no licenses be granted in the district does not amount to three-fifths of the total number of votes recorded at the poll, but yet that the votes given in favour of such proposal added to the number of votes given at the same poll in favour of the proposal that the number of licenses in the district shall be reduced, amount together to an absolute majority of the total number of votes recorded at the poll, then and in such case the proposal that the number of licenses in the district be reduced shall be deemed to be carried, and the Returning Officer shall notify the Licensing Committee thereof, and the number of licenses shall be reduced accordingly; but subject, in either of the above cases, as follows:— 35

If the Returning Officer on counting the votes finds that the total number of votes recorded at the poll does not amount to one-half of the total number of electors on the roll, he shall declare the poll to be void, and that the number of licenses in the district shall continue as they were before such poll was taken until the taking of the next triennial poll. 40 45 50

As to Reductions in Number of Licenses.

16. In the case of any determination at a poll taken under section *twelve* being that the number of licenses is to be reduced, then the number of publicans' licenses, and of wine, accommodation, or bottle licenses, shall be reduced by such a number, not exceeding one-fourth of the total number of the licenses of the same kind in the district, as the Licensing Committee shall think desirable, subject as follows, that is to say,—

Determination of electors to be carried out.

In the case of publicans' licenses, those licenses which have been indorsed for breaches of the law in respect of selling liquors to children or to drunken persons, or of selling liquors on Sundays or other days at prohibited hours, or after the hours of closing on any days, shall be the first to be reduced, and next those held in respect of premises which comprise little or no accommodation for travellers and lodgers beyond the bar, and thirdly such of several licensed premises in close proximity to each other as the Committee think fit.

Provided that in making any reduction of licenses the Committee shall make such reductions to extend over the whole district in such manner as they shall think equitable, having regard to the convenience of the public and the particular requirements of the several localities within such district.

17. It is hereby declared and enacted that, notwithstanding anything contained in any Act other than this Act, every local authority which loses any revenue from the diminution of licenses granted in the district under their jurisdiction by the result of any poll of electors taken under this Act shall be authorised to make up such deficiency in the revenue by a proportionate augmentation in the general rates to be levied by the said local authority in the said district.

Local authorities may supplement loss of revenue from license fees by increase of general rates.

Provided always that the maximum amount of such general rates authorised by law shall not be exceeded.

18. The lessee of any licensed premises who is deprived of his license, through no fault of his own, but as a result of the poll of the electors, shall, from and after the day when his premises are closed in consequence of such poll, be discharged from all future rent and covenants of the lease under which he held the said licensed premises; and the said lease shall on the day aforesaid become absolutely void, and the said lessee shall surrender the said premises to the person entitled thereto.

If licensed premises closed by electors, licensee acquitted of his lease.

Clubs to be subject to Licensing Acts.

19. (1.) Every club to which a charter has been or may hereafter be granted by the Colonial Secretary under section two hundred and twenty-nine of the principal Act shall, from and after the commencement of this Act, be subject to inspection by the police and by any Inspector of licensed premises, and also to the provisions of sections eighty-one, one hundred and forty-eight, one hundred and forty-nine, one hundred and eighty-four, and one hundred and eighty-five of the principal Act, and to all provisions thereof relating to the indorsement of licenses, in the same manner as if such club were a licensed house, and as if the aforesaid charter were a publican's license under the licensing Acts.

Clubs to be subject to all provisions of Licensing Acts.

(2.) No new charter shall be issued to any club by the Colonial Secretary except upon the recommendation of the Licensing Committee of the district wherein such club is situate.

(3.) Every charter of a club shall be subject to any determination of the electors at a poll of such district as to no licenses being granted in the district.

(4.) Subsection (f) of the aforesaid section two hundred and twenty-nine shall henceforth be read as if the word "June" had been enacted therein instead of the word "January." 5

Repeals.

Repeals.

20. The following sections and subsections of sections of the Licensing Acts are hereby repealed, that is to say:—

- (1.) Sections six, seven, eight, eleven, thirteen, subsection five of section twenty-eight, sections thirty-seven, forty-five to fifty-one, section fifty-four, subsection five of section eighty-one, and the Second and Fourth Schedules of "The Licensing Act, 1881"; also all the words of section fifty-six of that Act in the last paragraph thereof, beginning with the words "Every application for a publican's"; and all the words of section one hundred and fifty-four thereof after the first subsection (b) and before the words "All such premises"; and all the words of section two hundred and twenty-nine before the first subsection (a) thereof. 15 20
- (2.) Sections two, three, five, nine, twelve, and thirteen of "The Licensing Act Amendment Act, 1882";
- (3.) Sections two, three, four, and six of "The Triennial Licensing Committees Act, 1889"; and
- (4.) Sections two, three, and six of "The Licensing Act 1881 Amendment Act, 1889." 25

Schedules.

SCHEDULES.

FIRST SCHEDULE.

MAGISTRATE'S CERTIFICATE.

I, the undersigned, Resident Magistrate do hereby certify that A.B. is a person of good fame and reputation, and fit and proper to have granted to him a publican's (or New Zealand wine, or an accommodation, or bottle] license.

Witness my hand this day of , one thousand eight hundred and

C.D.

Resident Magistrate.

SECOND SCHEDULE:

FORM OF VOTING-PAPER.

As to Increase of Licenses on Increase of Population.

I vote that the number of licenses in the district be increased.

I vote that the number of licenses in the district be not increased.

THIRD SCHEDULE.

FORM OF GENERAL VOTING-PAPER.

In respect of Publicans' Licenses.

I vote that the number of publicans' licenses continue as at present.

I vote that the number of publicans' licenses be reduced.

I vote that no publicans' licenses be granted.

In respect of New Zealand Wine Licenses.

I vote that the number of New Zealand wine licenses continue as at present.

I vote that the number of New Zealand wine licenses be reduced.

I vote that no New Zealand wine licenses be granted.

In respect of Accommodation Licenses.

I vote that the number of accommodation licenses continue as at present.

I vote that the number of accommodation licenses be reduced.

I vote that no accommodation licenses be granted.

In respect of Bottle Licenses.

I vote that the number of bottle licenses continue as at present.

I vote that the number of bottle licenses be reduced.

I vote that no bottle licenses be granted.

Directions.

In each of the foregoing cases the voter is to strike out the proposal for which he does not vote by drawing a line through the same with a pencil.

He must be careful not to leave uncanceled more than one proposal in each case; otherwise the vote in such case will be void in respect of that particular proposal.

The ballot-paper so marked by or for the voter is to be dropped by him into the ballot-box.

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