

Hon. Mr. Mason

## LICENSING TRUSTS

### ANALYSIS

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|---|--|
| Title.<br>1. Short Title.<br>2. Interpretation.   | 17. Ouster of office.  |
| <i>Ouster of Office</i>   |  |
| <i>Chairman and Deputy Chairman</i>   |  |
| PART I<br>LICENSING TRUSTS<br><i>Licensing Trust Districts</i>  |  |
| 3. Constitution of licensing Trust districts.   | 18. Chairman to be appointed by Trust.<br>19. Deputy Chairman of Trust.  |
| <i>Proceedings of Trust</i>   |  |
| <i>Licensing Trusts</i>   |  |
| 4. Licensing Trusts.<br>5. Terms of office of elective members of Trust.<br>6. Deputies of members.<br>7. Government member may be appointed.<br>8. Remuneration and expenses of members.               | 20. Meetings of Trust.<br>21. Regulating the conduct of business.<br>22. Proceedings not invalid by reason of vacancy or irregularities in election of members, &c.  |
| <i>Electors and Elections</i>   |  |
| 9. Electors of Trust district.<br>10. First election of members of Trust.<br>11. Subsequent elections.<br>12. Conduct of elections.<br>13. In default of election Governor-General may appoint members. | 23. Trust may appoint officers and servants.<br>24. Trust may contract as to tenure of office of employees.  |
| <i>Officers</i>   |  |
| <i>Contracts</i>  |  |
| <i>Functions and Powers of Trust</i>  |  |
| 14. Disqualification of members of Trust.<br>15. Vacation of office by members.<br>16. Filling of extraordinary vacancies.  | 25. Contracts of Trust.<br>26. Functions of Trust.<br>27. General powers of Trust.<br>28. Establishment and maintenance of hotels, &c.<br>29. Establishment and maintenance of brewery.<br>30. Acquisition of shares in brewery company.<br>31. Acquisition of premises, &c. |

<p>32. Premises in which liquor may be sold.</p> <p>33. Temporary provision pending acquisition of hotel premises.</p> <p>34. Number and situation of hotels.</p> <p style="text-align: center;"><i>Miscellaneous</i></p> <p>35. Application of Licensing Act, 1908, within the Trust district.</p> <p>36. Licence fees payable to local authority.</p> <p>37. Borrowing-powers of Trust.</p> <p>38. Bank accounts of Trust.</p> <p>39. Unauthorized expenditure.</p> <p>40. Proper books of account to be kept.</p> <p>41. Depreciation and other reserves.</p> <p>42. Investment of moneys belonging to Trust.</p> <p>43. Yearly balance-sheet and statements.</p> <p>44. Distribution of profits arising from operations of Trust.</p>	<p>45. Regulations.</p> <p>46. This Part of this Act may be applied by regulations under Licensing Amendment Act, 1948.</p> <p>47. Extending powers of Invercargill Licensing Trust.</p> <p style="text-align: center;"><b>PART II</b></p> <p style="text-align: center;">ASHBURTON AND GERALDINE LICENSING TRUSTS</p> <p>48. Constitution of Ashburton and Geraldine Licensing Trust districts.</p> <p>49. Establishment of Ashburton and Geraldine Licensing Trusts.</p> <p>50. Application of Part I of this Act to Ashburton and Geraldine Licensing Trusts.</p> <p style="text-align: right;">Schedules.</p>
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A BILL INTITULED

Title.                   AN ACT to Provide for the Constitution, Pursuant to the Determination of the Electors of No-licence Districts, of Licensing Trusts to Conduct Hotels and Sell Liquor; and to Constitute the Ashburton and Geraldine Licensing Trusts. 5

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

Short Title.           **1.** This Act may be cited as the Licensing Trusts Act, 1949. 10

Interpretation.      **2.** In this Act, unless the context otherwise requires,—  
     “Elector” means any person qualified to vote at any election of members of a Trust under this Act: 15

    “Intoxicating liquor” and “liquor” have the same meaning as in the Licensing Act, 1908:

    “Licensing Trust district” or “Trust district”, means a district declared under this Act to be a licensing Trust district: 20

    “Minister” means the Minister of Justice:

    “Trust” means a Licensing Trust constituted under this Act.

See Reprint of Statutes, Vol. IV, p. 234

PART I

LICENSING TRUSTS

*Licensing Trust Districts*

3. Whenever at any local restoration poll taken in  
5 any no-licence district pursuant to Part I of the  
Licensing Amendment Act, 1910, the determination of  
the electors is in favour of the proposal that a local Trust  
be established to conduct hotels and sell intoxicating  
liquor in the district, the Governor-General may, by  
10 Order in Council, declare the district to be a licensing  
Trust district for the purposes of this Part of this Act.

Constitution of  
licensing  
Trust  
districts.  
See Reprint  
of Statutes,  
Vol. IV, p. 350

*Licensing Trusts*

4. (1) For every licensing Trust district there shall  
be a Licensing Trust, of which the members shall,  
15 subject to the provisions of section *seven* of this Act,  
be elected by the electors of the Trust district in the  
manner hereinafter provided.

Licensing  
Trusts.

(2) By any Order in Council under section *three* of  
this Act, or by any subsequent Order in Council, the  
20 Governor-General may prescribe—

- (a) The name of the Licensing Trust for the district :
- (b) The number of elective members of the Trust:
- 25 (c) The number of elective members of the Trust,  
being members elected at the first election,  
whose terms of office shall expire, under sec-  
tion *five* of this Act, before the second election  
of members:
- 30 (d) The number of members of the Trust to form  
a quorum at any meeting of the Trust.

(3) By any such Order in Council the Governor-  
General may make such other provision as may be  
necessary for the constitution of the Trust in accord-  
ance with this Part of this Act.

35 (4) Every Trust shall be a body corporate, having  
perpetual succession and a common seal, with power to  
make, alter, and renew the seal, and with power to  
purchase, take, hold, transfer, and lease property, real

and personal, to sue and be sued in any Court, and to do and suffer all other acts and things that a body corporate may lawfully do and suffer.

Terms of office  
of elective  
members of  
Trust.

5. (1) Every elective member of the Trust shall come into office on his election. 5

(2) Subject to the provisions of this Part of this Act, every elective member of the Trust, other than the members referred to in paragraph (a) of subsection *three* of this section, shall hold office for a term of six years. Any elective member may from time to time be re-elected. 10

(3) With respect to the members of the Trust elected at the first election the following provisions shall apply:—

(a) The terms of office of such number of those members as may, under paragraph (c) of subsection *two* of section *four* of this Act, be specified in the Order in Council under that section shall expire on the day appointed for the second election of members of the Trust pursuant to section *eleven* of this Act: 15 20

(b) The terms of office of the remaining members shall expire on the day appointed for the third election of members of the Trust pursuant to the said section *eleven*: 25

(c) The members of the Trust whose terms of office are to expire on the day appointed for the second election shall be determined by agreement between the elective members of the Trust within three months after the date of the first election, or, failing any such agreement, shall be determined by lot within the said three months. If there is no such determination as aforesaid within the said three months, the members whose terms of office are to expire as aforesaid shall be determined by the Minister. 30 35

(4) Every elective member of the Trust, unless he sooner vacates his office, shall continue in office until his successor is elected, notwithstanding that his term of office may have expired. 40

6. (1) In any case in which the Minister is satisfied that any elective member of the Trust is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may  
5 on the nomination of the Trust, or, failing such nomination, if he thinks fit, appoint a deputy to act for that member during his incapacity, and any such deputy shall, while he so acts as such, be deemed for all purposes to be a member of the Trust.
- 10 (2) Notwithstanding anything contained in subsection *one* of this section, not more than one deputy shall hold office under this section at any one time.
- (3) No appointment of a deputy and no acts done by him as such, and no acts done by the Trust while  
15 any deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.
7. (1) If at any time moneys are advanced to the Trust out of the Consolidated Fund pursuant to this  
20 Act, or any guarantee of any overdraft of the Trust is given by the Minister of Finance, the Minister of Justice may, at any time while any moneys so advanced remain owing by the Trust or, as the case may be, while the guarantee continues, appoint one person (herein  
25 after referred to as the Government member) to be a member of the Trust.
- (2) The Government member shall come into office on his appointment.
- (3) When in the case of moneys so advanced all  
30 such moneys are wholly repaid, or when in the case of any such guarantee as aforesaid the guarantee ceases to exist, the Minister of Justice shall revoke the appointment of the Government member.
- (4) Subject to the provisions of the *last preceding*  
35 subsection, the Government member shall hold office at the pleasure of the Minister of Justice.
- (5) While the Government member is in office he shall be deemed for all purposes to be a member of the Trust, and neither his appointment nor the continu-  
40 ance of his membership shall in any proceedings be questioned on the ground that the occasion for the appointment or continuance had not arisen or had ceased.

Deputies of members.

Government member may be appointed.

Remuneration  
and expenses  
of members.

8. (1) There shall be paid to the Chairman and to the other members of the Trust such remuneration by way of fees or allowances as the Governor-General from time to time approves:

Provided that any moneys received pursuant to this subsection by any member who is an officer of the Public Service shall be subject to the provisions of the Public Service Act, 1912.

See Reprint  
of Statutes,  
Vol. VII, p. 522

(2) The members of the Trust shall be paid such travelling expenses and allowances as may from time to time be prescribed by regulations under this Act.

(3) All payments made pursuant to this section shall be paid out of the funds of the Trust.

*Electors and Elections*

Electors of  
Trust district.

9. (1) Every person shall be an elector of the Trust district who is entitled by virtue of a residential qualification, being a qualification in respect of an address within the Trust district, to vote at any election of members of the local authority of any district within which the Trust district is situated or, as the case may be, of any district of which the whole or part is situated within the Trust district. For the purposes of this subsection the expression "residential qualification" includes a qualification under section seven of the Local Elections and Polls Amendment Act, 1941.

1941, No. 2

(2) Notwithstanding anything to the contrary in any other Act, where any person is enrolled or entitled to be enrolled on the roll of electors of any such local authority as aforesaid by virtue of another qualification, and that person would, but for that other qualification, be entitled by virtue of a residential qualification to be enrolled on that roll in respect of an address within the Trust district, it shall be the duty of the Clerk of the local authority to indicate on the roll the residential qualification of that person as well as that other qualification—

(a) If that person, being then enrolled by virtue of that other qualification, duly makes a claim for enrolment on the ground of possessing the residential qualification, unless to the knowledge of the Clerk any statement made by the applicant in his claim is untrue; or

- (b) If that person, not being then enrolled by virtue of that other qualification, duly makes a claim for enrolment on the grounds of possessing the residential qualification and the other qualification, unless to the knowledge of the Clerk any statement made by the applicant in his claim is untrue; or
- (c) If to the knowledge of the Clerk that person possesses the residential qualification.
- (3) Every elector shall have one vote only at each election at which he is entitled to vote under this Act.
- 10.** (1) The first election of members of the Trust shall be held on a day to be appointed by the Minister by notice published in the *Gazette*.
- (2) The Minister may also appoint such person as he thinks fit to be the Returning Officer for the Trust district for the purposes of the first election, and may do all things necessary to enable that election to be held.
- 11.** (1) Subject to the provisions of this section, on every day on which the triennial election of Councillors is held under the Municipal Corporations Act, 1933, an election shall be held of such number of members of the Trust as may be required to fill the vacancies created by the expiry of the terms of office of any members in accordance with this Act.
- (2) If pursuant to this section the second election of members of the Trust would be held within the period of twelve months immediately following the first election, an election shall not be held on that day, and the second election shall instead be held on the day on which the next succeeding triennial election of such Councillors is held as aforesaid.
- 12.** (1) Subject to the provisions of this Act and of any regulations under this Act, the provisions of the Local Elections and Polls Act, 1925, shall apply to every election under this Act.
- (2) If the Trust district is situated wholly within the district of any local authority, the roll of electors for the last-mentioned district shall be the roll of electors for elections under this Act. In any other case the rolls of electors for the districts which are situated wholly or partly within the Trust district shall be the rolls of electors for elections under this Act.

First election  
of members  
of Trust.

Subsequent  
elections.  
1933, No. 30

Conduct of  
elections.

See Reprint  
of Statutes,  
Vol. V, p. 447

(3) It shall be the duty of the Clerk of the local authority of the district within which the Trust district is situated, or, as the case may require, the Clerk of the local authority of every district situated wholly or partly within the Trust district, to indicate on the roll of electors for the district of that local authority, by appropriate words, abbreviations, or marks, the names of the persons entitled to vote at elections of members of the Trust. 5

(4) The poll at every election under this Act shall be conducted within the district of the local authority, or, as the case may require, the district of each such local authority as aforesaid, by the Returning Officer for the local authority on behalf of the Returning Officer for the Trust district. After ascertaining the total number of votes recorded in his district for each candidate, the Returning Officer for the local authority shall forthwith send particulars of the numbers to the Returning Officer for the Trust district, who shall make up the total number of votes received by each candidate and declare the result of the poll. 10 15 20

(5) The reasonable cost of every election that is not held simultaneously with the election of members of any such local authority, and the reasonable additional cost incurred by any such local authority in respect of any election under this Act that is held simultaneously with the election of members of the local authority (except in every case the expenses of scrutineers and other expenses incurred by or on behalf of candidates), shall be paid by the Trust. Any dispute arising as to the amount to be paid to any local authority under this subsection shall be determined by the Audit Office after such inquiry as it thinks fit, and the decision of the Audit Office in any such dispute shall be final. 25 30 35

(6) Every candidate at any election under this Act shall at the time of nomination deposit the sum of three pounds with the Returning Officer for the Trust district. If at the election that candidate does not receive one-eighth of the votes received by the successful candidate, or, as the case may be, by the successful candidate receiving the fewest votes, the deposit shall 40



be forfeited to the Trust; but otherwise, or if the candidate duly withdraws his nomination before the election or is elected without a poll, the deposit shall be returned to him.

- 5     **13.** If on the day appointed for the first or any subsequent election of members of the Trust no persons are duly elected, or the number of persons elected is less than the required number, the Governor-General may appoint as many qualified persons to be members  
 10 as are required, and every person so appointed shall hold office in all respects as if he had been duly elected in conformity with this Act.

In default of election Governor-General may appoint members.

#### *Disqualification and Vacancies*

- 15     **14.** (1) The following persons shall be incapable of being elected or appointed to be or of being members of the Trust:—

Disqualification of members of Trust.

(a) A person who is not an elector of the Trust district:

- 20     Provided that this paragraph shall not apply with respect to the Government member:

(b) A person who carries on the business of a brewer, wine or spirit merchant, maltster, or distiller, or of an importer for sale of or a dealer in fermented or spirituous liquors, or who is in partnership with any person carrying on any such business, or who is a member or employee or the husband or wife of a member or employee of an incorporated company which carries on any such business as a substantial part of its undertaking:

30     (c) A person who is the owner of an estate in fee-simple or any less estate in any licensed house within the meaning of the Licensing Act, 1908, or who is a member or employee or the husband or wife of a member or employee of an incorporated company which owns any such estate:

35     (d) A person of unsound mind:  
 40     (e) A bankrupt who has not obtained his order of discharge, or whose order of discharge is suspended for a term not yet expired or is subject to conditions not yet fulfilled:

See Reprint of Statutes, Vol. IV, p. 234

- (f) A person convicted of any offence punishable by imprisonment, unless he has received a free pardon or has served his sentence or otherwise suffered the penalty imposed on him.
- 1934, No. 17 (2) The Trust shall be deemed to be a local authority for the purposes of the Local Authorities (Members' Contracts) Act, 1934. 5
- (3) If any person does any act as a member, being incapacitated under subsection *one* of this section, except paragraph (*d*) thereof, he shall be liable to a fine not exceeding fifty pounds. 10
- (4) It shall be the duty of the Audit Office to institute proceedings for the recovery of any fine under this section, but nothing herein shall be so construed as to prevent those proceedings being taken by any other person. 15
- Vacation of office by members. 15. The office of a member of the Trust shall become vacant, and the vacancy shall be deemed to be an extraordinary vacancy, if the member—
- (a) Dies; or 20
- (b) Resigns his office by writing under his hand delivered to the Secretary or Chairman of the Trust, or is ousted from office; or
- (c) Is absent without the leave of the Trust from four consecutive meetings of the Trust; or 25
- (d) Becomes incapable of continuing to hold office under the *last preceding* section.
- Filling of extraordinary vacancies. 16. (1) In the event of an extraordinary vacancy in the office of an elective member of the Trust occurring within twelve months before the expiry of the term of office of that member, the Trust may by resolution determine— 30
- (a) That the vacancy shall be filled by election in the manner prescribed by the provisions in that behalf of the Local Elections and Polls Act, 1925; or 35
- (b) That the vacancy shall be filled by appointment by the Trust of a person qualified to be elected as a member: 40
- Provided that where any such vacancy occurs within six months before the expiry of the term of office of the member whose office has become vacant the Trust may by resolution determine that the vacancy shall not be filled until the next triennial election of members is held.
- See Reprint of Statutes, Vol. V, p. 447

(2) Notwithstanding anything to the contrary in the Local Elections and Polls Act, 1925, every resolution of the Trust under this section shall have effect according to its tenor.

5 (3) Every person appointed by the Trust pursuant to this section shall for all purposes be deemed to have been elected to fill the vacancy.

(4) In any case to which subsection *one* of this section does not apply, the vacancy shall be filled by election 10 in the manner prescribed by the provisions in that behalf of the Local Elections and Polls Act, 1925.

(5) Any member elected or appointed to fill any extraordinary vacancy shall hold office only for the unexpired portion of the term of office of his predecessor.

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#### *Ouster of Office*

17. (1) Upon proof in the first instance by affidavit or otherwise that any member of the Trust is or has become incapable under this Act or any other Act of holding his office, any Magistrate's Court in the Trust 20 district may grant a summons calling upon the person holding such office to show cause why he should not be adjudged to be ousted of his office.

Ouster of office.

(2) If on the return of the summons it appears to the Court, on affidavit or oral evidence on oath, that 25 the person is incapable under this Act or any other Act of holding the said office, the Court may adjudge him to be ousted of that office, and he shall be ousted of that office accordingly.

(3) In any proceedings under this section the Magistrate's Court may exercise all the powers and authorities that it may exercise in its ordinary jurisdiction in civil cases; and the procedure of the Court shall, so far as applicable, apply generally to proceedings under this section. 30

(4) No matter in relation to a disputed election shall be heard by the Magistrate's Court under this section. 35

(5) No question that may be tried under this section shall be tried in the Supreme Court; and no proceedings in the Magistrate's Court hereunder shall be removable 40 into the Supreme Court by certiorari or otherwise.

*Chairman and Deputy Chairman*

Chairman to  
be appointed  
by Trust.

18. (1) At the first meeting of the Trust after the first election of members, and at its first meeting after every triennial election of members thereafter, the Trust shall elect one of its members to be the Chairman of the Trust. 5

(2) During the election of a Chairman at the first meeting of the Trust the Returning Officer who conducted the first election of members of the Trust shall preside. During the election of a Chairman at any subsequent meeting of the Trust the Secretary of the Trust shall preside. In any case of an equality of votes at any election of a Chairman the person so presiding shall determine the election by lot in such manner as the Trust directs. 10 15

(3) The Chairman shall come into office on his election and shall, unless he sooner vacates his office, hold office until the election of his successor, but may from time to time be re-elected.

(4) The Chairman may resign his office by writing under his hand delivered to the Secretary of the Trust; and in such case, or in the case of his ceasing from any cause to be a member of the Trust, his office shall become vacant, and the Secretary shall forthwith convene a meeting of the Trust for the election of another Chairman. 20 25

Deputy  
Chairman  
of Trust.

19. (1) The Trust may from time to time appoint from among its members a Deputy Chairman, who shall act as Chairman of the Trust during the temporary absence or incapacity of the Chairman. 30

(2) While so acting the Deputy Chairman may do all acts that the Chairman as such might do.

(3) The fact that the Deputy Chairman exercises any power, duty, or function of the Chairman shall be sufficient evidence of his authority so to do; and no person shall be concerned to inquire whether any occasion has arisen requiring or authorizing him so to do, or be affected by notice that no such occasion has arisen. 35

*Proceedings of Trust*

20. (1) The first meeting of the Trust shall be held at a time and place to be fixed in that behalf by the Minister.
- 5 (2) Thereafter meetings of the Trust shall be held at such times and places as the Trust determines.
- (3) The Chairman shall preside at all meetings of the Trust at which he is present.
- 10 (4) At any meeting of the Trust the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.
- (5) All questions before the Trust shall be decided by a majority of the valid votes recorded thereon.
- 15 21. Subject to the provisions of this Act and of any Order in Council or regulations under this Act, the Trust may from time to time regulate the meetings, proceedings, and general conduct of the business of the Trust in such manner as it thinks fit.
- 20 22. No act or proceeding of the Trust, or of any person acting as a member of the Trust, shall be invalidated in consequence of there being a vacancy in the membership of the Trust at the time of the act or proceeding, or of the subsequent discovery that there was some defect with regard to the election or appointment of any member of the Trust or of any person so acting or that he was or had become disqualified.

Meetings of Trust.

Regulating the conduct of business.

Proceedings not invalid by reason of vacancy or irregularities in election of members, &c.

*Officers*

23. (1) The Trust may from time to time appoint a Secretary, a Treasurer, and all such other officers and servants as it thinks necessary; and may from time to time remove any of the officers or servants; and may pay such salaries and allowances to the officers and servants respectively as it thinks reasonable.
- 30 (2) One person may hold two or more offices under the Trust.
- 35 (3) No member of the Trust shall be capable of holding any such office, unless without remuneration.
- (4) During the absence from duty of any officer of the Trust by reason of illness, leave of absence, or other cause, his duties and powers may be performed and exercised by an acting officer appointed by resolution of the Trust, and any such appointment may be either general or for some occasion only.
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Trust may appoint officers and servants.

(5) The Trust shall forthwith after any manager or acting manager is appointed notify the chief officer of police in the Trust district of the appointment and of the premises in respect of which the appointment has been made, and the notification shall in any proceedings for an offence against any of the provisions of the Licensing Act, 1908, be sufficient evidence until the contrary is proved that the person named therein as manager or acting manager is for the time being charged with the management of the premises therein referred to. 5

See Reprint  
of Statutes,  
Vol. IV, p. 234

Trust may  
contract as  
to tenure of  
office of  
employees.

24. (1) Notwithstanding anything to the contrary in this Act or in any rule of law, the Trust may enter into an agreement in writing with any person whom it proposes to appoint, or who has been appointed, an officer or servant of the Trust to the effect that such person shall not be removed from office save as provided in the agreement or except for conduct justifying summary dismissal— 10

(a) During such period (not exceeding three years from the date of his appointment or the date of the agreement, as the case may be) as is specified in the agreement; or 20

(b) Except after such notice, not exceeding three months, as may be specified in the agreement in that behalf. 25

(2) Any agreement to which paragraph (a) of the *last preceding* subsection relates may from time to time be renewed for any period not exceeding three years at any one time from the date of the renewal.

#### Contracts

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Contracts  
of Trust.

25. (1) Any contract which if made between private persons must be by deed shall, if made by the Trust, be in writing under the seal of the Trust.

(2) Any contract which if made between private persons must be in writing signed by the parties to be charged therewith shall, if made by the Trust, be either in writing under the seal of the Trust or in writing signed by two members of the Trust on behalf of and by direction of the Trust. 35

(3) Any contract which if made between private persons may be made orally may be similarly made by or on behalf of the Trust by any member or duly authorized agent of the Trust acting by direction of the Trust, but no oral contract shall be made involving the payment by the Trust of a sum exceeding twenty pounds.

(4) Notwithstanding anything in the foregoing provisions of this section, no contract made by or on behalf of the Trust shall be invalid by reason only that it is not made in the manner prescribed by this section if it is made pursuant to a resolution of the Trust or to give effect to a resolution of the Trust.

*Functions and Powers of Trust*

26. (1) The functions of the Trust shall be to provide accommodation and other facilities for the travelling public within the Trust district, to establish and maintain hotels and suitable places within the district for the sale or supply of refreshments, to sell and supply intoxicating liquor within the district and establish and maintain premises for that purpose, and to do all such other acts and things as may in the opinion of the Trust be necessary or desirable having regard to the general purposes of this Act.

(2) Except as otherwise expressly provided in this Act the Licensing Act, 1908, shall apply in the Trust district.

27. (1) The Trust shall have all such powers, rights, and privileges as may reasonably be necessary or expedient to enable it to carry out its functions.

(2) Except as expressly provided in this Act or in regulations under this Act, nothing hereinafter contained shall be held to derogate from or prejudice the generality of the provisions of this section and the powers, rights, and privileges conferred by this section.

28. (1) Subject to the provisions of this Act, the Trust may within the Trust district establish and maintain hotels and suitable places for the sale or supply of refreshments.

(2) The Trust may establish and maintain in such hotels facilities for the accommodation of the travelling public, and dining and refreshment rooms for the sale

Functions  
of Trust.

See Reprint  
of Statutes,  
Vol. IV, p. 234

General powers  
of Trust.

Establishment  
and  
maintenance  
of hotels, &c.

or supply of meals and refreshments to the general public, including, if the Trust thinks fit, the sale or supply of intoxicating liquor.

(3) The Trust may purchase such stocks of liquor, foodstuffs, and goods of any other kind whatsoever as are required for the purpose of any business being carried on by the Trust. 5

(4) The Trust may establish and maintain, either within or outside the Trust district, premises for the storage of liquor, foodstuffs, and other goods as aforesaid. 10

(5) The Trust may establish and maintain bonded warehouses and stores from which it may deliver liquor sold by or on behalf of the Trust.

(6) The Trust may carry on any business which in the opinion of the Trust may suitably and conveniently be carried on in conjunction with any business which the Trust is specifically authorized to carry on. 15

Establishment and maintenance of brewery. See Reprint of Statutes, Vol. VII, p. 246

**29.** The Trust may, in accordance with Part III of the Finance Act, 1915, apply for a brewer's licence within the meaning of that Act, and may, if the licence is granted, establish and maintain a brewery either within or outside the Trust district. 20

Acquisition of shares in brewery company. 1933, No. 29

**30.** (1) The Trust may acquire and hold shares or stock in the capital of any company registered under the Companies Act, 1933, that is carrying on the business of a brewer either within or outside the Trust district. 25

(2) Nothing in paragraph (b) or paragraph (c) of subsection *one* of section *fourteen* of this Act shall be construed to apply with respect to any person by reason only of the fact that he is for the time being acting as the authorized representative of the Trust in relation to any company in the capital of which the Trust holds any shares or stock under this section. 30

Acquisition of premises, &c.

**31.** (1) The Trust may purchase or otherwise acquire, or take on lease or bailment, any land, plant, and equipment, and may construct, alter, and maintain any buildings or works necessary or convenient for the purpose of carrying out its functions. 35

(2) The Trust may from time to time let or sublet any premises or any part of any premises owned or leased by the Trust. 40



(3) For the purpose of facilitating the acquisition of land for the purposes of this Act the Governor-General may, on the application of the Trust and at its expense in all things, take under the Public Works Act, 1928, any  
 5 land, or any particular estate or interest in land (whether for the time being subsisting separately or not), or any easement over any land (whether for the time being subsisting or not).

See Reprint  
of Statutes,  
Vol. VII,  
p. 622

(4) Notwithstanding anything to the contrary in the  
 10 Public Works Act, 1928, the effect of a Proclamation issued for the purposes of this section shall be to vest the land, estate, interest, or easement, as the case may be, in the Trust instead of His Majesty; and all proceedings subsequent to the issue of the Proclamation  
 15 in respect of compensation, or otherwise for the purpose of complying with the said Act, shall be taken against the Trust, which shall be deemed to be the respondent and shall be liable in respect of the taking to the same extent as His Majesty or the Minister of Works would  
 20 have been liable if the taking had been for the purposes of a Government work.

**32.** (1) Intoxicating liquor may be sold in the district by or on behalf of the Trust in such premises as the Trust may determine, and it shall not be necessary for  
 25 any licence under the Licensing Act, 1908, to be issued to the Trust or to any person selling liquor on behalf of the Trust:

Premises in  
which liquor  
may be sold.  
Ibid.,  
Vol. IV, p. 234

Provided that, except in the case of any premises established temporarily pursuant to the *next succeeding*  
 30 section, liquor shall not be sold for consumption on the premises where it is sold unless the premises are of a standard at least equal to the standard required of premises in respect of which a licence under the Licensing Act, 1908, is in force.

**35** (2) Intoxicating liquor may be sold at any fair, show, races, or other place of public amusement, or at any saleyard or other place used for the sale of live-stock,—

**40** (a) By the Trust for any period not exceeding seven days; or

(b) By any person holding a written permit granted by the Trust in that behalf for any period not exceeding, with any renewal or renewals thereof, seven days, upon and subject to any terms and conditions imposed pursuant to the *next succeeding* subsection. 5

(3) On any application being made for a permit under the *last preceding* subsection the Trust may in its discretion refuse to grant a permit, or may grant a permit upon and subject to such terms and conditions as it thinks fit. 10

(4) Where any permit is granted under subsection *three* of this section, the person to whom it is granted shall, for the purposes of the Licensing Act, 1908, as applied by this Act, be deemed to be the holder of a conditional licence under that Act. 15

Temporary provision pending acquisition of hotel premises.

**33.** (1) The Trust shall as soon as practicable after the first meeting thereof establish premises for the sale or supply of liquor in the Trust district.

(2) If the Trust is not able to arrange for suitable permanent premises, premises may be established temporarily until sufficient suitable permanent premises are available. 20

(3) The Minister may at any time, if he thinks fit, and if any premises established temporarily under the *last preceding* subsection are not in his opinion equal to the standard required of a publichouse under the Licensing Act, 1908, require that the premises be closed, and thereupon the Trust shall close the premises. 25

Number and situation of hotels.

**34.** (1) Subject to the provisions of this section and of any regulations that may be made under this Act, the Trust may establish and maintain such number of hotels as it thinks fit, and may establish them in such localities as it determines: 30

Provided that the number of hotels established by the Trust shall not exceed one for every complete five hundred electors of the Trust district at the date of the poll at which the proposal for the establishment of the Trust was carried. 35

(2) In determining from time to time the number of hotels to be established and maintained and the type and location of each hotel, regard shall be had to the requirements of the travelling public and of the residents within the Trust district. 40

(3) The Trust shall give not less than fourteen days' notice by advertisement in a newspaper circulating in the Trust district of its intention to establish any hotel. The position of the land on which it is  
5 proposed to establish the hotel shall be sufficiently described or referred to in the notice to enable it to be readily identified without the necessity of reference to the plans or records of any office.

(4) When any such notice of an intention to establish any hotel is published any twenty or more electors  
10 residing within the area described in the *next succeeding* subsection may, within the said fourteen days, apply to a Magistrate for an order—

(a) That the hotel shall not be established on that  
15 land, on the ground that the hotel will be in the vicinity of a place of public worship, hospital, or school; or

(b) That a poll of electors under this section be  
20 taken on the proposal that the hotel be so established, on the ground aforesaid; or

(c) That a poll be taken as aforesaid on the ground  
25 that the said area is predominantly a residential area and that there is reason to believe that a substantial number of the residents in the said area object to the establishment of the hotel on that land.

(5) The area referred to in the *last preceding* subsection shall be—

(a) In the case of a proposal to establish a hotel  
30 on any land in a city, borough, or town district, the area contained within a radius of one-quarter of a mile from a point at the middle of the frontage of that land:

(b) In the case of a proposal to establish a hotel  
35 on any land elsewhere in the Trust district, the area contained within a radius of one mile from a point at the middle of the frontage of that land.

(6) On any application under this section the Magistrate  
40 may hold such inquiry and take evidence from such interested parties as he thinks fit; and if he is of opinion that the application has been made in good faith and that an order under this section should be made he may make an order accordingly.

(7) If the Magistrate orders that a poll be taken under this section, he may, by the same or any further order—

(a) Determine an area within which the poll is to be taken and define the boundaries of that area: 5

Provided that, so far as may be practicable for the purpose of defining the boundaries, the area so determined shall not be less than the area described in paragraph (a) or, as the case may require, paragraph (b) of subsection *five* of this section: 10

(b) Fix the date for the taking of the poll.

(8) Every order or decision of the Magistrate under this section shall be final and binding on all parties. 15

(9) Every poll under this section shall be a poll of the electors residing, on a date to be determined in accordance with regulations under this section, in the area determined by the Magistrate.

(10) Every such poll shall, subject to the provisions of this section, be held and conducted in such manner as may be prescribed in that behalf by regulations under this section. 20

(11) If in the case of a poll being ordered a majority of the votes given at the poll are in favour of the proposal, but not otherwise, the Trust may establish the hotel accordingly. 25

(12) The Governor-General may from time to time make such regulations, not inconsistent with this section, as may in his opinion be necessary or expedient for giving full effect to the provisions of this section. Without limiting the generality of the foregoing provisions of this subsection, any such regulations may be made for all or any of the following purposes:— 30

(a) Prescribing the manner in which and the authorities by whom any poll shall be held and conducted: 35

(b) Providing for the preparation and closing of the roll for any poll:

(c) Prescribing the form of voting-paper to be used at any poll: 40

(d) Prescribing the manner in which electors shall be entitled to vote at any poll:

(e) Providing for the payment by the Trust of the reasonable costs and expenses incurred by any Government Department or local authority in connection with any poll.

- 5 (13) For the purposes of this section the term "hotel" includes any premises intended to be used for the retail sale or supply of liquor in quantities of less than two gallons at any one time.

### Miscellaneous

- 10 **35.** (1) Such of the provisions of the Licensing Act, 1908, and its amendments, as are referred to in the First Schedule to this Act shall not apply in or in respect of the Trust district.

Application of Licensing Act, 1908, within the Trust district.

- 15 (2) Subsection one of section two hundred and one of the Licensing Act, 1908, shall not apply in respect of any servant of the Trust who, in any place referred to in paragraph (a) of that subsection, is selling or exposing for sale any liquor in the course of his employment and not in contravention of any orders or instructions of the Trust.
- 20

See Reprint of Statutes, Vol. IV, p. 234

- (3) For the purposes of the Licensing Act, 1908, premises maintained by the Trust in which liquor is sold or supplied by or on behalf of the Trust shall be deemed to be licensed premises within the meaning of that Act, and the person for the time being charged with the management of any such premises shall be deemed to be a licensed person and to be the licensee of the premises within the meaning of that Act, and all the provisions of that Act shall, with the necessary modifications, apply accordingly except so far as they are inconsistent with any of the provisions of this Act.
- 25
- 30

- (4) In the application of the provisions of the Licensing Act, 1908, pursuant to the *last preceding* subsection, any premises of the Trust in which lodging is provided shall be deemed to be an inn and the person for the time being charged with the management thereof shall be deemed to be the innkeeper.
- 35

- (5) The provisions of section one hundred and seven of the Licensing Amendment Act, 1948, shall extend and apply to every Trust district in all respects as if references in that section to the Chairman of any Licensing
- 40

1948, No. 74

- Committee were references to a Magistrate. For the purposes of this subsection the expression "Trust district" shall be deemed to include the Invercargill Licensing Trust Act, 1944, and the Masterton Licensing Trust Act, 1947, as well as every Trust district constituted by or under this Act. 5
- 1944, No. 4  
1947, No. 35
- Licence fees payable to local authority. 10
- 36.** (1) The Trust shall pay in respect of premises in which liquor is sold by or on behalf of the Trust the annual fee prescribed in respect of publicans' licences by the Licensing Act, 1908. 10
- (2) The fees shall be paid within fourteen days after the commencement of each financial year of the Trust, or, in the case of premises first used during any financial year for the sale of liquor, within fourteen days after the premises are so first used. 15
- (3) The fees payable under this section shall be paid to the treasurer of the local authority within whose district the premises are situated. 20
- Borrowing-powers of Trust. See Reprint of Statutes, Vol. V, p. 354
- 37.** (1) The Trust may borrow by way of overdraft in manner prescribed by section three of the Local Bodies' Finance Act, 1921-22, and the provisions of that section shall, with the necessary modifications, apply to the Trust in all respects as if it were a local authority within the meaning of that Act. 25
- (2) In addition to the power conferred by the *last preceding* subsection the Trust shall have power, with the consent of the Minister of Finance and upon and subject to such conditions as that Minister thinks fit, to borrow moneys and mortgage or charge any of its real or personal property. 30
- (3) For the purpose of enabling the Trust to commence to exercise its functions without delay, the Minister of Finance may from time to time, upon and subject to such terms and conditions as he thinks fit, advance to the Trust out of the Consolidated Fund without further appropriation than this Act any moneys required for the acquisition of any property or the payment of any preliminary or general expenses (including salaries) payable by the Trust before it has sufficient revenue for the payment thereof. 35 40

38. The Trust may establish at such branch or branches of the Bank of New Zealand as it thinks fit, in the name of the Trust, such accounts as it deems necessary or convenient for the exercise of its powers under this Act, and may authorize the accounts to be operated on respectively by such person or persons as the Trust from time to time appoints for that purpose. Bank accounts of Trust.
39. The Trust may in every financial year expend for purposes not authorized by this Act or by any other Act or law for the time being in force any sum or sums not amounting in the whole to more than one hundred pounds. Unauthorized expenditure.
40. (1) The Trust shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid, and of the several purposes for which such sums of money have been received and paid. Proper books of account to be kept.
- (2) The Trust shall keep such accounts of moneys and stores, and keep them in such manner, as may be required by the Audit Office.
41. (1) The Trust shall establish a depreciation reserve, to which may be charged any depreciation in the value of the Trust's assets, and any loss involved in the destruction of or injury to any such assets, and any expenditure involved in the replacement of assets. Depreciation and other reserves.
- (2) The Trust may also from time to time, with the consent of the Minister of Finance, establish such other reserves as it deems necessary or expedient.
- (3) The Trust may invest any of the moneys to the credit of any reserve account either in the business of the Trust or as provided in the *next succeeding* section.
42. Any moneys belonging to the Trust and available for investment may be invested in the manner following:— Investment of moneys belonging to Trust.
- (a) In New Zealand Government securities; or
- (b) On deposit in the Bank of New Zealand or in the Post Office Savings-bank; or
- (c) In any other securities that may from time to time be authorized by the Minister of Finance.
43. (1) On or before the thirtieth day of April in each year the Treasurer of the Trust shall prepare and send to the Audit Office a yearly balance-sheet and a Yearly balance-sheet and statements.

profit and loss account together with such other statements of accounts as may be necessary to show fully the financial position of the Trust and the financial results of its operations during the financial year ended on the thirty-first day of March then last past. 5

(2) The yearly balance-sheet, account, and statements shall be audited by the Audit Office which for that purpose shall have and may exercise all such powers as it has under the Public Revenues Act, 1926, in respect of public moneys and public stores and the audit of local authorities' accounts. 10

See Reprint  
of Statutes,  
Vol. VII, p. 10

(3) A copy of the yearly balance-sheet, profit and loss account, and statements shall, when duly audited, be submitted by the Trust to the Minister accompanied by a report as to the operations of the Trust for the year; and a copy of the balance-sheet, account, statements, and report shall be laid before Parliament within twenty-eight days after its receipt by the Minister if Parliament is then in session, and, if not, then within twenty-eight days after the commencement of the next ensuing session. 15 20

Distribution  
of profits  
arising from  
operations  
of Trust.

**44.** (1) The net profits arising from the operations of the Trust, or so much thereof as the Trust shall determine, may be expended or distributed by the Trust within the Trust district in such manner as the Trust thinks fit for the promotion, advancement, or encouragement of education, science, literature, art, physical welfare, and other cultural and recreational purposes; for the erection, laying out, maintenance, or repair of buildings or places intended to further any of those purposes; for any philanthropic purpose; or for any other purpose for the benefit of the Trust district or the residents therein as the Minister may approve: 25 30

Provided that if at the end of any financial year the liabilities of the Trust amount in the aggregate to more than two-thirds of the value of the Trust's assets, excluding goodwill, as shown in the balance-sheet in respect of that year the Trust shall not expend or distribute under this section more than one-half of the net profits arising in that year and remaining after provision has been made for payment of taxes on such profits: 35 40



Provided also that in expending or distributing any moneys under this section resort shall not be had to any profits accrued for more than three financial years before the date of the expenditure or distribution.

5 (2) Notwithstanding anything contained in this section the Trust shall be liable to income-tax and to rates and to all other taxes and duties as if it were a body corporate formed for private pecuniary profit.

10 **45.** The Governor-General may from time to time, by Order in Council, make regulations for any purpose for which regulations are contemplated by this Act, and may make all such other regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration

Regulations.

15 thereof.

20 **46.** By any regulations made under subsection two of section one hundred and twenty-one of the Licensing Amendment Act, 1948, providing for the constitution of any local Trust for the purposes referred to in that subsection, and for the defining of the functions, powers, and obligations of any such Trust, any of the provisions of this Part of this Act may be applied, with such modifications as may be prescribed in the regulations. In any

25 such case the provisions of this Part so applied shall, subject to any modifications so prescribed and to all other necessary modifications, apply to every Trust constituted under the regulations.

This Part of this Act may be applied by regulations under Licensing Amendment Act, 1948, No. 74

30 **47.** Section fifteen of the Invercargill Licensing Trust Act, 1944, is hereby amended by adding the following subsections:—

Extending powers of Invercargill Licensing Trust. 1944, No. 4 See Reprint of Statutes, Vol. VII, p. 246

35 “(7) The Trust may, in accordance with Part III of the Finance Act, 1915, apply for a brewer’s licence within the meaning of that Act, and may, if the licence is granted, establish and maintain a brewery either within or outside the Trust district.

“ (8) The Trust may acquire and hold shares or stock in the capital of any company registered under the Companies Act, 1933, that is carrying on the business of a brewer either within or outside the Trust district.”

1933, No. 29

## PART II

## ASHBURTON AND GERALDINE LICENSING TRUSTS

Constitution  
of Ashburton  
and Geraldine  
Licensing  
Trust districts.

**48.** There is hereby constituted for the purposes of this Act a licensing Trust district, to be called the Ashburton Licensing Trust district, comprising the area described in the Second Schedule to this Act. 5

(2) There is hereby constituted for the purposes of this Act a licensing Trust district, to be called the Geraldine Licensing Trust district, comprising the area described in the Third Schedule to this Act. 10

Establishment  
of Ashburton  
and Geraldine  
Licensing  
Trusts.

**49.** (1) There is hereby established for the Ashburton Licensing Trust district a Licensing Trust, to be called the Ashburton Licensing Trust.

(2) There is hereby established for the Geraldine Licensing Trust district a Licensing Trust, to be called the Geraldine Licensing Trust. 15

Application  
of Part I of  
this Act to  
Ashburton and  
Geraldine  
Licensing  
Trusts.

**50.** (1) Subject to the provisions of this section, the provisions of Part I of this Act (except section *three*, subsections *two* and *three* of section *four*, and paragraph (a) of subsection *three* of section *five*) shall, as far as they are applicable and with the necessary modifications, apply to each of the licensing Trust districts and each of the licensing Trusts established under this Part of this Act. 20

(2) With respect to each of the licensing Trusts established under this Part of this Act, the following provisions shall apply:— 25

(a) The Trust shall consist of six members:

(b) The terms of office of three of the members of the Trust elected at the first election of members shall expire on the day appointed for the second election of members pursuant to section *eleven* of this Act: 30

(c) At any meeting of the Trust three members shall form a quorum. 35

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SCHEDULES

FIRST SCHEDULE

Section 35

PROVISIONS OF THE LICENSING ACT, 1908, NOT APPLICABLE IN  
LICENSING TRUST DISTRICTS

PART III; Part IV (except section 143); sections 148 to 160,  
171, 180, 200, 234 to 236, 246 to 251, 253 to 258, 291 to 296, 299  
to 301.

PROVISIONS OF THE LICENSING AMENDMENT ACT, 1910, NOT  
APPLICABLE IN LICENSING TRUST DISTRICTS

Sections 8 to 12.

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SECOND SCHEDULE

Section 48 (1)

ASHBURTON LICENSING TRUST DISTRICT

ALL that area in the Canterbury Land District bounded by a line commencing at a point on the sea-coast in line with the north-eastern side of the Chertsey Boundary Road; thence proceeding to and along the north-eastern side of that road to a point in line with the north-western boundary of section No. 24981, Block VIII, Ashburton Survey District; thence south-westerly to and along that boundary, across Chertsey Road and along the north-western boundary of Section No. 25872, Block VIII aforesaid, to the south-western side of Java Street, Town of Chertsey; thence north-westerly along that side of Java Street and its production to the north-western side of the Southern Trunk Railway; thence north-easterly along that side of the said railway to Chertsey Road; thence north-westerly along the south-western side of that road to the south-eastern side of the Great South Road; thence south-westerly along that side of the Great South Road to a point in line with the south-western side of a roadway forming the north-eastern boundary of Section No. 27031, Block VI, Ashburton Survey District; thence to and along the south-western side of the said roadway to the north-western side of Mitcham Road; thence north-easterly along the north-western side of that road to the eastern corner of Section 27392, Block II, Ashburton Survey District; thence north-westerly along the north-eastern boundaries of the last-mentioned section and Sections 27969, 27970, 27985, 28020, 31252, 30505, and 30504 in Blocks II and I, Ashburton Survey District, to the south-eastern side of Lauriston Road; thence south-westerly along the south-eastern side of that road to the south-western side of Winchmore Road; thence north-westerly along the south-western side of that road to the northern corner of Section No. 34165, Block III, Westfield Survey District; thence south-westerly along the north-western boundary of the said Section No. 34165 and its production to the middle of the north branch of the Ashburton River;

thence north-westerly generally up the middle of the north branch of the Ashburton River and up the middle of Boundary Creek to its source; thence along a right line to Mount Taylor; thence along the generally north-eastern boundaries of Runs Nos. 115 and 117 to the confluence of Lake Stream and the Rakaia River; thence to and up the middle of the Rakaia River to its source near Whitcombe Pass; thence along a right line to Whitcombe Pass; thence south-westerly generally along the summit of the Southern Alps to McClure Peak; thence southerly generally along the summit of the Two Thumb Range to a point immediately above the source of Forest Creek; thence to and down the middle of Forest Creek and the middle of the Rangitata River to the sea-coast; thence north-easterly along the sea-coast to a point in line with the north-eastern side of the Chertsey Boundary Road, the point of commencement.

Section 43 (2)

### THIRD SCHEDULE

#### GERALDINE LICENSING TRUST DISTRICT

ALL that area in the Canterbury Land District bounded by a line commencing at a point on the Two Thumb Range immediately above the source of Forest Creek; thence proceeding to and down the middle of Forest Creek and the middle of the Rangitata River to the sea-coast; thence south-westerly along the sea-coast to the middle of the mouth of the Orari River; thence north-westerly up the middle of that river to a point in line with the south-eastern boundary of Allotment 6, Reserve No. 2645, Blocks X and XI, Geraldine Survey District; thence south-westerly to and along the south-eastern boundaries of Allotment 6 aforesaid and Allotments 5, 4, 3, 2, and 1 of the said Reserve No. 2645; thence north-westerly along the south-western boundaries of the last-mentioned allotment and Section 8847, Block X aforesaid, to the Southern Trunk Railway line, thence south-westerly along the south-eastern side of that railway line to a point in line with the north-eastern side of a roadway forming the south-western boundaries of Lot 5 of Reserve No. 1055 and Sections 43 and 44, Blocks X and XIV, Geraldine Survey District; thence north-westerly generally to and along the north-eastern side of the said roadway and its continuation along the generally southern boundaries of Sections 54, 55, and 15082 (Blocks X and XIV, Geraldine Survey District) to and across the Geraldine Road; thence southerly along the western side of that road to Boundary Road, thence westerly generally along the northern side of Boundary Road to the middle of the Haehaete-moana River; thence south-easterly generally down the middle of that river to its confluence with the Opihi River; thence north-westerly generally up the middle of that river to a point in line with the south-eastern boundary of Section No. 30438, Block III, Tengawai Survey District; thence north-easterly to and along the south-eastern boundaries of the said Section 30438

and Sections 30437 and 30454 to the north-eastern corner of the last-mentioned section; thence north-westerly along the north-eastern boundary of the said Section 30454 to the south-eastern boundary of Section 19949, Block XV, Opuha Survey District; thence north-easterly along the south-eastern boundaries of the said Section 19949 and Sections 20209 and 25368, Blocks XV and XVI, Opuha Survey District, and along the production of the last-mentioned boundary to the middle of the Opuha River near the confluence of its north and south branches; thence north-westerly generally to and up the middle of the south branch of the Opuha River to a point in line with the northern boundary of original Run No. 357, which boundary is portion of the original boundary between the Geraldine and Mackenzie Counties as described in *New Zealand Gazette* of 1883 of page 1439; thence westerly to and along the said northern boundary of original Run No. 357 and its production to the summit of the Two Thumb Range; thence northerly generally along the summit of that range to a point immediately above the source of Forest Creek, being the point of commencement.