NEW ZEALAND

ANALYSIS

1948, No. 74

AN ACT to Amend the Licensing Act, 1908. Title.

[*3rd December, 1948*

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

1. This Act may be cited as the Licensing Amendment Act, 1948, and shall be read together with and deemed part of the Licensing Act, 1908 (hereinafter referred to as the principal Act). Short Title. See Reprint of Statutes, Vol. IV, p. 234

2. For the purposes of this Act, and of the principal Act,— Interpretation.

"Licensing Control Commission", or "Commission", means the Licensing Control Commission established under this Act:

"Licensing Fund" means the Licensing Fund established under this Act.

PART I

LICENSING CONTROL COMMISSION

3. (1) There is hereby established a Commission to be known as the Licensing Control Commission. Licensing Control Commission.

(2) The Commission shall consist of three members to be appointed by the Governor-General on the recommendation of the Minister, of whom one shall be appointed as the Chairman of the Commission.

(3) No person shall be deemed to be employed in the service of His Majesty for the purposes of the Public Service Act, 1912, or the Superannuation Act, 1947, by reason of his being a member of the Commission. Ibid., Vol. VII, p. 522 1947, No. 57

(4) The powers of the Commission shall not be affected by any vacancy in the membership thereof.

4. (1) Except as otherwise provided in this Act, every member of the Commission shall hold office for a term of five years, but may from time to time be reappointed. Term of office of members of Commission.

(2) With respect to the first members of the Commission, other than the Chairman, the following provisions shall apply:—

(*a*) One of those members shall retire at the expiration of three years from the date of their appointment, and the other member shall retire at the expiration of four years from that date:

(*b*) The member so to retire at the expiration of three years shall be determined by agreement of the members mentioned in paragraph (*a*) of this subsection, or, failing such agreement, shall be determined by lot.

(3) Notwithstanding anything to the contrary in this Act, every member of the Commission, unless he sooner vacates his office under section five of this Act, shall continue to hold office until his successor comes into office.

Extraordinary vacancies.

5. (1) Any member of the Commission may at any time be removed from office by the Governor-General for disability, insolvency, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by written notice given to the Minister.

(2) If any member of the Commission dies, or resigns, or is removed from office, his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

(3) In the case of any extraordinary vacancy the Governor-General may appoint some fit person to fill the vacancy. Every such appointment shall be made in the same manner as the appointment of the vacating member.

(4) Any member appointed to fill an extraordinary vacancy shall hold office only for the unexpired portion of the term of office of his predecessor.

Deputies of members.

6. (1) In any case in which the Governor-General is satisfied that the Chairman or any other member of the Commission is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Governor-General may, on the recommendation of the Minister, appoint a qualified person as deputy to act for the Chairman or for that other member during his incapacity. Any deputy so appointed shall, while he acts as such, be deemed to be a member of the Commission, and the deputy of the Chairman shall have all the powers of the Chairman.

(2) No appointment of a deputy and no acts done by him as such, and no acts done by the Commission while 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.

Meetings and proceedings of Commission.

7. (1) Meetings of the Commission shall be held at such times and places as the Commission or the Chairman from time to time appoints.

(2) At all meetings of the Commission the Chairman and one other member shall form a quorum.

(3) At any meeting of the Commission the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote. The decision of the Commission on any matter shall be determined by a majority of the valid votes recorded thereon.

(4) Where the Commission meets for the purpose of hearing any objection, appeal, claim for compensation, or other matter under this Act, the meeting shall be held in public unless the Commission in any particular case, due regard being had to the interests of the parties and of all other persons concerned, considers that the meeting or any part thereof should take place in private :

Provided that the Commission may deliberate in private as to its decision on any matter or as to any question arising in the course of the proceedings.

(5) The Commission may make an order prohibiting the publication of any report or description of any part of the proceedings in any matter before the Commission :

Provided that no such order shall be made prohibiting the publication of the names and descriptions of the parties to the matter, particulars of any premises affected, or any amount claimed or awarded as compensation.

(6) In any proceedings before the Commission, any solicitor or counsel engaged by the Commission pursuant to this Act may appear and be heard as counsel assisting the Commission.

(7) Where under this Act any person is entitled to appear and be heard in relation to any matter in any proceedings before the Commission, that person shall have the right to produce evidence and to cross-examine witnesses.

(8) Any decision, order, direction, certificate, or other document issued by the Commission may be signed on behalf of the Commission by the Chairman or the Secretary of the Commission.

(9) Subject to the provisions of this Act and of any regulations made under this Act, the Commission may regulate its procedure in such manner as it thinks fit.

Remuneration and travelling expenses.

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

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

Officers of Commission and professional assistance.

9. (1) The Commission may appoint a Secretary and such other officers as it deems necessary for the efficient carrying out of its functions under this Act. The salaries of the Secretary and other officers to be appointed under this subsection, and the terms and conditions of their appointments, shall be such as are approved by the Minister of Finance.

(2) There may from time to time be paid, out of moneys appropriated by Parliament for the purpose, sums by way of contributions or subsidies to the National Provident Fund or any Fund or scheme established with the approval of the Governor-General in Council for the purpose of providing superannuation or retiring-allowances for the officers of the Commission.

(3) The Commission may from time to time, with the authority of the Minister of Justice, engage such professional and technical and other assistance as it may consider necessary to enable it to carry out its functions.

Commission deemed to be a Commission of Inquiry.

See Reprint of Statutes, Vol. I, p. 1036

10. (1) The Commission shall, within the scope of its jurisdiction, be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act, 1908, and, subject to the provisions of this Act and of any regulations made under this Act, the provisions of that Act shall apply accordingly.

(2) The Chairman of the Commission, or the Secretary of the Commission purporting to act by direction or with the authority of the Chairman, may issue summonses requiring the attendance of witnesses before

the Commission, or the production of documents, or may do any other act preliminary or incidental to the hearing of any matter by the Commission.

(3) In addition to its powers under the Commissions of Inquiry Act, 1908, the Commission may at any time if it thinks fit rehear any matter which has been heard and determined by it.

Commission may refer matters for investigation.

11. (1) The Commission may from time to time appoint any qualified person (whether or not he is a member or officer of the Commission) to investigate and report to the Commission on such matters as are referred to him by the Commission for the purpose of the proper exercise of its powers or functions under this Act.

(2) Every person commits an offence and is liable to a fine not exceeding twenty pounds and, in the case of a continuing offence, to a further fine not exceeding two pounds for every day during which the offence continues who, having the custody or possession of any books, papers, accounts, or documents relevant to any matter to be investigated under this section, refuses or fails to allow to have access thereto any person investigating the matter under this section, or who obstructs any such person in the making of the investigation.

Evidence in proceedings before Commission.

12. (1) The Commission may receive as evidence any statement, document, information, or matter that in the opinion of the Commission may assist it to deal effectually with any matter before the Commission, whether or not it would be admissible in a Court of law.

(2) Subject to the foregoing provisions of this section, the Evidence Act, 1908, shall apply to the Commission and to the members thereof, and to all proceedings therein, in the same manner as if the Commission were a Court within the meaning of that Act.

See Reprint of Statutes, Vol. III, p. 106

Functions of Commission

Functions of Commission.

13. (1) The general functions of the Commission shall be—

(*a*) Generally to supervise the activities of Licensing Committees in the performance of their functions:

(*b*) To prescribe standards to be complied with in the provision of accommodation, services, and other facilities for the public and for lodgers, guests, or employees in licensed premises:

(*c*) To control the Licensing Fund:

(*d*) To review from time to time the distribution of publicans', accommodation, tourist-house, and wholesale licences throughout New Zealand:

(*e*) To determine what publicans', accommodation, tourist-house, and wholesale licences are unnecessary, and the amount of compensation to be paid in respect of the cancellation thereof:

(*f*) To determine the number of new publicans', tourist-house, and wholesale licences to be issued in each licensing district and, subject to the provisions of this Act, the situation of the premises in respect of which such licences are to be granted:

(*g*) To determine the fair price to be paid in respect of new publicans', tourist-house, and wholesale licences:

(*h*) To grant club charters:

(*i*) To make recommendations to the Minister as to the expediency of amending the Licensing Acts.

(2) The Commission shall have such other functions as are conferred or imposed on it by this Act or by any other Act.

Commission may issue general directions to Licensing Committees.

14. (1) The Commission may, of its own motion, issue general directions to be observed by Licensing Committees in the exercise of their powers and functions under the principal Act or this Act. No such direction shall be given in relation to any matter that may be or become a ground of any decision or order of any Licensing Committee if that ground is one in respect of which any person may appeal to the Supreme Court under section sixty-four of this Act. It shall be the duty of every Licensing Committee to comply with any directions issued under this subsection.

(2) The Commission may at any time exercise any power or function of a Licensing Committee under the

principal Act or this Act. If under this subsection the Commission gives any decision or makes any order to which section sixty-four of this Act (which relates to the right of appeal to the Supreme Court) would apply if it were a decision or order of the Licensing Committee, the provisions of that section shall apply, with the necessary modifications, in all respects as if the decision or order of the Commission had been given or made by the Licensing Committee.

Minimum standards of accommodation and other services.

15. (1) The Commission may from time to time prescribe, in such manner as it thinks fit, minimum standards to be complied with in the provision of accommodation, services, and other facilities for the public and for lodgers, guests, and employees in licensed houses.

(2) Standards may be prescribed under this section in respect of licensed houses generally or in respect of specified licensed houses, or different standards may be prescribed in respect of different classes of licensed houses or in respect of licensed houses at different places or classes of places or within different localities or classes of localities or in different circumstances.

(3) Subject to the provisions of this Act and of any general or special directions of the Commission, no publican's licence or tourist-house licence shall be granted under this Act, and no such licence so granted shall be renewed, except on the condition that the standards for the time being prescribed under this section, and applicable to the premises to which the application for the licence or renewal relates, are complied with in respect of the premises:

Provided that this subsection shall not apply to a publican's licence granted in substitution for an accommodation licence, or to any licence granted in substitution for a licence of the same kind that has been transferred or forfeited or has been cancelled or determined by the Licensing Committee under the principal Act or this Act, if in any such case the licence is granted in respect of the same premises.

(4) Subject as aforesaid, where any Licensing Committee grants any publican's or accommodation licence to which subsection three of this section does not apply, or renews any publican's or accommodation licence that is in force on the passing of this Act, the

Committee shall, so far as may be practicable in the circumstances, require the licensee to comply with the standards for the time being prescribed under this section and applicable to the premises in respect of which the licence is granted or renewed. Every requirement so imposed shall be deemed for the purposes of the principal Act to be a condition subject to which the licence or renewal is granted.

(5) Notwithstanding anything contained in this section, the Commission may from time to time, in its discretion, exempt any licensee, or licensees in respect of any class or classes of licensed houses, either unconditionally or upon or subject to such terms and conditions as it thinks fit, from compliance with any standard prescribed under this section.

(6) The provisions of this section are in addition to and not in derogation of any provision of the principal Act or this Act conferring any discretionary power on Licensing Committees.

Licensing Fund

Licensing Fund.

16. There is hereby established a Fund to be called the Licensing Fund.

Moneys payable into Fund.

17. There shall from time to time be paid into the Fund all moneys payable by any licensee by way of the fair price fixed under Part II of this Act on the issue to him of any new publican's licence, tourist-house licence, or wholesale licence, and any other moneys that may be lawfully payable into the Fund.

Licensing Fund Account.

18. (1) All moneys payable to the Fund shall be paid to the credit of an account called the Licensing Fund Account, to be kept at the Reserve Bank of New Zealand.

(2) The Licensing Fund Account shall be operated upon by cheque signed by a member of the Commission and by the Secretary of the Commission, and countersigned by or on behalf of the Audit Office.

Moneys payable out of Fund.

19. There shall from time to time be paid out of the Licensing Fund Account, without further appropriation than this Act, all moneys payable by way of compensation in respect of the cancellation or surrender of unnecessary licences under Part II of this Act, and any other moneys that may be lawfully payable out of the Fund.

Advances to Fund.

20. (1) If the moneys for the time being in the Fund are not sufficient to meet the lawful claims thereon, the Minister of Finance may from time to time, without further appropriation than this section, advance to the Fund from the Consolidated Fund such sums as may be necessary to meet the deficiency.

(2) All moneys advanced to the Fund under subsection one of this section and not repaid shall, from the date of the advance, constitute a capital liability of the Fund to the Consolidated Fund.

(3) Interest on the amount of the capital liability of the Fund shall, without further authority than this section, be paid out of the Fund to the Consolidated Fund at such rate or rates and at such times as the Minister of Finance from time to time prescribes. Different rates may be prescribed in respect of different moneys advanced to the Fund.

Investment of Fund.

21. Any moneys belonging to the Fund and available for investment may be invested in such manner as may be prescribed by regulations made under this Act.

Advances to licensees for improvement of licensed premises.

22. (1) Subject to the provisions of any regulations made under this Act, any moneys belonging to the Fund and available for investment may be transferred by the Commission to the State Advances Corporation of New Zealand to be held by that Corporation, in a separate account in the books of the Corporation to be called the Hotel Investment Account, for the purposes set out in subsection two of this section.

(2) Subject as aforesaid, the State Advances Corporation may from time to time, with the concurrence in each case of the Commission, make advances from the Hotel Investment Account to owners or occupiers of premises in respect of which publicans' licences or tourist-house licences are in force, for the improvement, alteration, or rebuilding of licensed premises (including any work required to be carried out pursuant to section fifty-eight of this Act), or for the erection of premises in respect of which notification of the granting of an application for any such licence has been given by the Licensing Committee pursuant to this Act, and, where necessary for such purposes, for the repayment of existing mortgages. In determining whether any such

advance as aforesaid should be made, the Commission and the Corporation shall have regard to the desirability of encouraging licensees to provide accommodation for the public at reasonable rates.

(3) For the purposes of subsection two of this section, the State Advances Corporation shall have all the powers and authorities vested in it under the State Advances Corporation Act, 1934–35, and, subject to the provisions of the next succeeding subsection and of any regulations under this Act, the provisions of that Act, except section thirty-two thereof, shall, as far as they are applicable and with the necessary modifications, apply accordingly.

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(4) Subject as aforesaid, the State Advances Corporation may, with the concurrence of the Commission in each case, purchase out of moneys in the Hotel Investment Account any furniture or other chattels and dispose of them to such owners or occupiers as aforesaid under hire-purchase agreement. For the purposes of any such hire-purchase agreement the Corporation shall be deemed to be a finance corporation within the meaning of section two of the Chattels Transfer Amendment Act, 1931.

See Reprint of Statutes, Vol. I, p. 670

(5) In return for its services under this section the Corporation shall be entitled to receive out of the Licensing Fund such fees or other remuneration as may be fixed by arrangement made between the Corporation and the Commission and approved by the Minister of Finance.

(6) The net profits of the Hotel Investment Account may from time to time, as the Commission determines, be paid into the Licensing Fund or be retained in the Hotel Investment Account and added to the moneys in that account for the time being available for investment under this section.

Audit of accounts.

23. For the purpose of the audit of accounts, all moneys belonging to the Fund shall be deemed to be public moneys within the meaning of the Public Revenues Act, 1926; and the Audit Office shall have the same duties and powers in respect thereof, and of every person dealing therewith, as it has in respect of public moneys and accounts and of persons dealing therewith.

Ibid., Vol. VII, p. 10

24. Whenever the moneys for the time being in the Licensing Fund exceed the sum of five hundred thousand pounds the amount by which those moneys exceed that sum, or such part of the said amount as the Minister of Finance may determine, shall be paid into the Public Account and shall form part of the Consolidated Fund. Application of surplus moneys in Licensing Fund.

Annual Report and Accounts

25. (1) Within three months after the end of every financial year there shall be prepared by the Commission a report— Annual report and accounts.

(*a*) Of its proceedings and operations during that year:

(*b*) On the working of the Licensing Acts and the expediency or otherwise of amending the Licensing Acts.

(2) Within the said period of three months there shall be prepared by the Commission a proper statement of the accounts of the Licensing Fund for the said year and of its balance-sheet at the end of that year.

(3) Within ten days after the completion of the audit of the accounts by the Audit Office, the report, accompanied by the statements of the accounts and balance-sheet of the Licensing Fund, shall be forwarded by the Commission to the Minister. A copy of the report and statements 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.

PART II

LICENCES

Number of Licences

26. No new accommodation licence or New Zealand wine licence shall be granted after the passing of this Act, except in substitution, pursuant to the principal Act, for a licence of the same kind which is in force in respect of the same premises on the passing of this Act. No new accommodation or New Zealand wine licences to be granted.

Maximum number of publicans' licences.

27. (1) Except as provided in subsection two of this section, the total number of publicans' licences for the time being in force in New Zealand shall not exceed the sum of—

(*a*) The number of publicans' licences in force on the passing of this Act; and

(*b*) Twenty additional publicans' licences; and

(*c*) The number of publicans' licences (if any) granted, pursuant to the principal Act, at any time after the passing of this Act in place of accommodation licences in force on the passing of this Act; and

(*d*) The number of publicans' licences (if any) granted, pursuant to section eleven of the Licensing Amendment Act, 1910, at any time after the passing of this Act and after the coming into force of a determination of the electors of any no-licence district at a poll under section eight of that Act; and

See Reprint of Statutes, Vol. IV, p. 351

(*e*) The number of publicans' licences (if any) granted, pursuant to Part VI of this Act, at any time after the passing of this Act.

(2) Whenever the results of any periodical census, or any statistics published under the Census and Statistics Act, 1926, show that the population of New Zealand has so increased as to exceed by at least fifty thousand persons the population on the passing of this Act, or, as the case may be, on the date on which the Commission last authorized an increase in the number of publicans' licences under this subsection, the Commission may authorize an increase in the number of publicans' licences available under this section. The number of new licences made available by any such authorization shall be such number as the Commission thinks fit, but shall not exceed in the aggregate one licence for every complete ten thousand of the increase in population.

Ibid., Vol. I, p. 766

Maximum number of wholesale and tourist-house licences.

28. (1) The number of wholesale licences for the time being in force in New Zealand shall not exceed one for every complete ten thousand of the population of New Zealand.

(2) The number of tourist-house licences for the time being in force in New Zealand shall not exceed twenty-five.

Repeals. See Reprint of Statutes, Vol. IV, pp. 287, 356, 378

29. (1) Section one hundred and forty-four of the principal Act, sections thirty and thirty-five of the Licensing Amendment Act, 1910, and section three of the Licensing Amendment Act, 1920, are hereby repealed.

(2) Section one of the principal Act is hereby amended by repealing paragraph (*b*) of subsection two.

(3) Section seven of the principal Act is hereby amended by omitting from paragraph (*e*) all words after the words " boundaries of such district ".

Distribution of Licences

Commission to review distribution of licences *from time to* time.

30. (1) As soon as practicable after the passing of this Act the Commission shall review the distribution throughout New Zealand of publicans', accommodation, and wholesale licences.

(2) The Commission may from time to time, after the completion of the review to be made under subsection one of this section, review the distribution throughout New Zealand of publicans', accommodation, wholesale, and tourist-house licences:

Provided that a review under this subsection shall be made at least once in each succeeding period of ten years after the passing of this Act.

Cancellation or Surrender of Unnecessary Licences

Cancellation of unnecessary licences.

31. Subject to the provisions of this Part of this Act, if at any time the Commission is satisfied, having regard to the matters specified in section thirty-five of this Act, that any publican's licence, accommodation licence, tourist-house licence, or wholesale licence for the time being in force is not needed, it may cancel the licence.

Notice to licensee to show cause why licence should not be cancelled.

32. (1) Before cancelling any licence under section thirty-one of this Act, the Commission shall cause notice to be served on the licensee and, if the licensee is not the owner of the premises, on the owner, requiring him to attend on a day (being a day not less than fourteen days after the date of the notice) and at a place specified in the notice to show cause why the licence should not be cancelled.

(2) A copy of the notice shall be served on every lessee, sublessee, and tenant of the licensed premises and on every mortgagee within the meaning of section forty-six of this Act, and also on all other persons having any estate or interest in the licensed premises, so far as they are known to the Commission.

(3) The notice shall be in the prescribed form or to the like effect. No objection shall be taken to the form, validity, or sufficiency of the notice so long as it is in that form or to the like effect.

Hearing of objections.

33. (1) Any person on whom any notice is served under section thirty-two of this Act, and any other person having any estate or interest in the licensed premises, may appear in person or by his solicitor, counsel, or agent at the time and place so appointed, and object to the cancellation of the licence.

(2) Any Inspector under the principal Act may appear at the hearing and be heard in relation to the proposed cancellation of the licence.

(3) The decision of the Commission on any hearing under this section shall be final and binding on all parties.

Voluntary surrender of licence.

34. Subject to the provisions of this Part of this Act, the Commission may at any time, in its discretion, accept the surrender of any publican's licence, accommodation licence, tourist-house licence, or wholesale licence on application made in the prescribed manner by—

(*a*) The licensee and every mortgagee of the premises; or

(*b*) If the licensee is not the owner of the premises, the owner and the licensee and every lessee, sublessee, tenant, or mortgagee of the premises.

Matters to be considered by Commission before cancellation or surrender of licence.

35. (1) In determining whether any such licence as aforesaid shall be cancelled or surrendered, the Commission shall have regard to—

(*a*) The convenience of the public, and the requirements of the locality in which the licensed premises are situated:

(*b*) The distance between the licensed premises in question and the licensed premises nearest thereto:

(*c*) The manner in which the business of the licensed premises has been conducted.

(2) Subject to the considerations set out in subsection one of this section, the Commission may also have regard to the nature and standard of the accommodation and essential services provided in the licensed premises, and to such other circumstances as it considers relevant.

Effect of cancellation or surrender.

36. (1) Where the Commission determines that any licence shall be cancelled or surrendered, the determination of the Commission shall take effect, and the licence shall be deemed to be cancelled, on a date fixed by the Commission.

(2) As from the taking effect of the determination the holder of the licence shall be deemed not to be a licensee and the premises shall be deemed not to be licensed premises.

(3) As from the taking effect of the determination every lessee or sublessee of the premises shall have the same rights as are conferred on lessees and sublessees by sections two hundred and ninety-four and two hundred and ninety-six of the principal Act (which relate to the determination or continuance of a lease or sublease of closed licensed premises), and the provisions of those sections shall, as far as they are applicable and with the necessary modifications, apply in all respects as if the premises were closed for a cause not arising from the act or default of the lessee or sublessee.

(4) Notice of the Commission's determination shall, as soon as practicable after it is made, be sent to the owner and the licensee of the premises, and to every lessee, sublessee, and tenant thereof, and to every mortgagee within the meaning of section forty-six of this Act, and also to all other persons having any estate or interest in the premises, so far as they are known to the Commission.

Compensation payable on cancellation of licence.

37. Where any licence is so cancelled by the Commission, or where the surrender of any licence is so accepted, compensation in respect thereof shall be payable out of the Licensing Fund in accordance with the provisions of this Part of this Act.

Compensation to be determined by Commission.

38. (1) As soon as practicable after the determination to cancel or accept the surrender of any such licence as aforesaid, the Commission shall determine on a fair and equitable basis the amount of compensation payable—

(*a*) In respect of any publican's, accommodation, or tourist-house licence,—

(i) To the owner of the licensed premises by reason of the diminution in value of the premises owing to the cancellation or surrender of the licence; and, if the owner of the licensed premises is not the licensee,—

(ii) To the licensee of the premises, being a lessee, sublessee, or tenant, by reason of the loss of his licence and business:

(*b*) In respect of any wholesale licence, to the holder of the licence by reason of the loss of his licence and business.

(2) For the purposes of this section, the term "tenant" includes any person whose tenancy has expired or been lawfully terminated, and who is for the time being deemed under or by virtue of any enactment or rule of law to continue to be the tenant of the premises.

Basis of compensation payable to owner of licensed house.

39. (1) For the purpose of assessing the compensation payable to the owner of premises in respect of which a publican's, accommodation, or tourist-house licence is so cancelled or surrendered, the Commission shall determine the value of the premises as licensed premises at the date of the Commission's determination to cancel or accept the surrender of the licence, and what would be the value of the premises without a licence at the same date.

(2) The amount of compensation payable to the owner shall be the difference between the two values so determined, increased or reduced by such sum as the Commission may consider fair and equitable in the circumstances:

Provided that where at the date of the Commission's determination the premises are held under any lease or tenancy, and there has been paid to the owner in respect

of the granting of the lease or tenancy any cash premium in addition to the rent, there shall be deducted from the amount of compensation payable to the owner a part of the amount so paid, being a part proportionate to the unexpired portion of the term of the lease or tenancy.

Basis of compensation payable to licensee of licensed house.

40. (1) The compensation payable to the holder of any publican's, accommodation, or tourist-house licence that is cancelled or surrendered as aforesaid shall be, in respect of each year or part of a year of the unexpired portion of the term of his lease or tenancy (but not exceeding in any case three years) remaining at the date of the Commission's determination, such one of the following sums as is applicable, namely:—

(*a*) Where the licensee has been the licensee for a period of three or more years immediately before that date, a sum equal to the average annual net profits made by him during the three years immediately before that date:

(*b*) Where the licensee has been the licensee for a period of less than three years but more than one year immediately before that date, a sum equal to the net profits made by him during the year immediately before that date:

(*c*) Where the licensee has been the licensee for a period of less than one year before that date, a sum assessed by the Commission as being the sum which he would have made as net profits from his business had he been carrying it on for the period of one year immediately before that date,—

increased or reduced in any such case by such sum as the Commission may consider fair and equitable in the circumstances:

Provided that where the licensee has lawfully paid in respect of the granting of his lease or tenancy any cash premium in addition to the rent, there shall be added to the amount of the compensation payable to the licensee a part of the amount so paid, being a part proportionate to the unexpired portion of the term of the lease or tenancy.

(2) Where at the said date the premises are held by any licensee to whom subsection two of section thirty-eight of this Act applies, or where the unexpired portion of the term of the lease or tenancy of any licensee is less than one month, the premises shall be deemed for the purposes of subsection one of this section to be held under a lease or tenancy, as the case may require, of which the unexpired portion of the term is one month.

Basis of compensation payable to wholesale licensee.

41. (1) The amount of compensation payable to the holder of a wholesale licence that is cancelled or surrendered as aforesaid shall be a sum equal to the amount of the loss which in the opinion of the Commission will be suffered by the licensee by reason of the cancellation or surrender during such period, being a period not exceeding three years, as the Commission determines, increased or reduced by such sum as the Commission may consider fair and equitable in the circumstances.

(2) In estimating such loss as aforesaid the Commission shall—

(*a*) Where the licensee has been the licensee for a period of three or more years immediately before the date of the Commission's determination to cancel or accept the surrender of the licence, have regard to the average annual net profits made by the licensee from his business as a wholesale licensee during the three years immediately before that date:

(*b*) Where the licensee has been the licensee for a period of less than three years but more than one year immediately before the date of that determination, have regard to the net profits made by him as aforesaid during the year immediately before that date:

(*c*) Where the licensee has been the licensee for a period of less than one year before the date of that determination, have regard to all relevant circumstances, including, so far as may be relevant, the actual net profits made by the licensee as aforesaid in the period during which he has been the licensee.

Basis of estimation of net profits.

42. (1) In determining for the purposes of any of the foregoing provisions of this Part the net profits of any licensee during any period the Commission shall take into consideration the income earned by the licensee from the carrying-on of his business as such licensee during that period, as shown by his income-tax returns.

(2) For the purposes of this section the licensee shall, whenever required by the Commission, furnish to the Commission a copy of any income-tax return made by him under the Land and Income Tax Act, 1923, so far as it relates to his business as such licensee. The copy shall be verified by a statutory declaration made by the licensee as to the accuracy and truth of the copy. It shall not be lawful for any licensee to question or deny the accuracy or truth of any statement in the copy so verified.

See Reprint of Statutes, Vol. VII, p. 271

(3) For the purposes of this section the licensee may, on applying to the Commissioner of Taxes, inspect and make a copy of his income-tax return or any part thereof.

Commission to have regard to mortgages.

43. In determining the amount of compensation to be paid to any owner or licensee in respect of any licence cancelled or surrendered as aforesaid, the Commission shall have regard also to the rights of any mortgagee whose security will be depreciated in value by the cancellation or surrender.

Hearing of claims for compensation.

44. (1) Before determining the compensation payable to any owner or licensee as aforesaid the Commission shall hold a meeting of which notice shall be given in the prescribed manner to the owner and the licensee and to every other person entitled to receive a notice under subsection four of section thirty-six of this Act.

(2) Any person to whom notice has been given as aforesaid, and any other person having any estate or interest in the licensed premises, may appear and be heard either personally or by his solicitor, counsel, or agent, in relation to the compensation to be paid.

(3) If claims are made by the owner and the licensee in respect of the same premises, the claims shall be heard together.

Notice of compensation payable.

45. (1) When any compensation is awarded by the Commission to any owner or licensee, the Commission shall cause six weeks' notice of the amount of the compensation to be given by advertisement published in

the *Gazette* and in some newspaper circulating in the licensing district in which the licensed premises are situated. The notice shall specify the name and address of the owner or licensee, as the case may be, to whom compensation is awarded.

(2) No person other than the person mentioned in the notice shall be entitled to receive the compensation or to make any claim in respect thereof against the Commission or against the Licensing Fund as owner or licensee, unless within six weeks after the publication of the notice he lodges with the Commission a claim in writing to the compensation, stating whether compensation is claimed by him as owner or as licensee.

(3) If no such claim as aforesaid is made within that period, the Commission may pay the compensation to the person named in the notice.

(4) If any such claim is made within the said period, the Commission may pay the compensation awarded, other than the compensation in respect of which the claim is made, to the owner or licensee named in the notice whose right to payment is not disputed in the claim, and may pay the compensation in respect of which the claim is made to the Public Trustee to be held in trust for the person found to be entitled thereto on application made under the next succeeding subsection.

(5) An application for payment of the compensation paid to the Public Trustee under the last preceding subsection may be made in a summary way to a Judge of the Supreme Court by the person making the claim or the person named in the notice, or by any person claiming to be entitled thereto. On any such application the Judge may make such order in relation thereto, and in respect of the costs of the application, as he thinks fit.

Mortgagee to have lien on compensation.

46. (1) Notwithstanding anything contained in the last preceding section, every mortgagee from the owner or licensee shall, upon giving written notice to the Commission within one month after the date of the publication of such advertisement as aforesaid, or within such extended time as the Commission may allow, have a lien on the amount of compensation payable to the mortgagor for the amount of the mortgage debt,

including any interest, costs, charges, and expenses lawfully owing to the mortgagee under or in respect of the mortgage.

(2) The amount for which the mortgagee has a lien under this section shall, unless otherwise ordered by a Judge of the Supreme Court on application made under this section, be a first charge on the compensation, which shall not be paid to the mortgagor except with the consent in writing of the mortgagee.

(3) Upon receipt of a notice from the mortgagee under this section the Commission shall forthwith send a copy thereof to the mortgagor. If the mortgagor disputes the title of the mortgagee or the amount owing under the mortgage as aforesaid, he may, within fourteen days after the service on him of the copy of the notice, and upon notice to the mortgagee, apply in a summary way to a Judge of the Supreme Court for a determination of the dispute. On any such application the Judge may make such order with respect to the compensation-moneys, and with respect to costs, as he thinks fit.

(4) Subject to any order made by the Judge as aforesaid, or if no such application is made by the mortgagor, the payment or tender to the mortgagee of the amount for which he has a lien under this section shall be deemed to be payment or tender to the mortgagor.

(5) For the purposes of this section, the term "mortgagee" includes a mortgagee of or the holder of any charge over the land upon which the licensed premises are situated or any estate or interest therein, and also the holder of any instrument by way of security or charge over or assignment by way of mortgage of the licence or goodwill of the licensed premises or any stock in trade or furniture or other chattels thereon or belonging thereto.

Payment or tender of compensation.

47. At any time after the amount of any compensation determined in accordance with the foregoing provisions of this Part is payable to the party entitled to it, payment or tender thereof may, subject to the provisions of the last two preceding sections, be made to that party personally. If it appears to the Commission that the party cannot be found, the amount due to

that party may be paid to the Public Trustee, and shall be deemed to be unclaimed property for the purposes of Part III of the Public Trust Office Act, 1908.

See Reprint of Statutes, Vol. VIII, p. 966

Power of Commission, on cancellation of licence, to require remaining licensees to contribute to Licensing Fund.

48. (1) The holders of publicans' licences, accommodation licences, and tourist-house licences in respect of premises situated in any locality may at any time lodge with the Commission a petition signed by those holders—

(*a*) Requesting that the number of such licences in that locality be reduced by the cancellation or surrender of such number of those licences as are specified in the petition or, as the case may be, by the cancellation or surrender of such number of those licences as the Commission thinks fit; and

(*b*) Agreeing to the payment into the Licensing Fund by the holders of such of those licences as will continue in force in that locality after such cancellation or surrender as aforesaid of such sum or sums as the Commission thinks fair and equitable in the circumstances by reason of the increase in profits that will in its opinion accrue to them as a result of the cancellation or surrender.

(2) On receipt of the petition the Commission may—

(*a*) Cancel or accept the surrender of any such licence as aforesaid in accordance with the foregoing provisions of this Part, and those provisions shall, as far as they are applicable and with the necessary modifications, apply accordingly:

(*b*) Require any one or more of the holders of the licences referred to in paragraph (*b*) of the last preceding subsection to pay into the Licensing Fund any such sum or sums as aforesaid.

(3) Where the Commission decides to require any licensee to pay any amount under this section it may in its discretion require the licensee to pay that amount either in one sum or in such instalments, at such times, or within such period as it thinks fit.

(4) Notice in writing of every such requirement shall be given to the licensee affected thereby. Any such requirement may from time to time in like manner be varied by the Commission.

(5) Where any licensee to whom any such notice as aforesaid has been given neglects or refuses to pay into the Licensing Fund any moneys for the time being due and payable by him in accordance with the notice, the following provisions shall apply:—

(*a*) The moneys so due shall be recoverable in the prescribed manner in any Court of competent jurisdiction as a debt due to the Commission from the licensee, and shall, when recovered, be paid into the Licensing Fund:

(*b*) The Commission may in its discretion direct the Licensing Committee for the licensing district in which the licensee's premises are situated to suspend the licence in respect of those premises until the moneys so due are paid into the Licensing Fund, and the Licensing Committee shall suspend the licence accordingly. While the licence is so suspended the holder of the licence shall be deemed not to be a licensed person and the premises shall be deemed not to be licensed premises.

Issue of New Publicans', Tourist-house, and Wholesale Licences

49. (1) No new publican's, tourist-house, or wholesale licence shall be granted except with the authority of the Commission and in accordance with the succeeding provisions of this Part of this Act:

New publicans', tourist-house, and wholesale licences to be granted only with authority of Commission.

Provided that this subsection shall not apply to any publican's licence granted in substitution for an accommodation licence, or to any licence granted in substitution for a licence of the same kind that has been transferred or forfeited or has been cancelled or determined by the Licensing Committee under the principal Act or this Act, if in any such case the licence is granted in respect of the same premises.

(2) Section one hundred and three of the principal Act is hereby amended by omitting all words after the word "fulfilled".

(3) Section one hundred and twenty-eight of the principal Act, and section two of the Licensing Amendment Act, 1920, are hereby repealed. Repeals.

Commission to determine where licence needed.

50. (1) Subject to the provisions of sections twenty-seven and twenty-eight of this Act (which relate to the maximum number of licences), if at any time the Commission is satisfied that the issue of any new publican's, tourist-house, or wholesale licence is necessary or desirable in any locality or place, it may authorize the granting of such a licence in accordance with the provisions of this Part.

(2) In determining whether any such licence is necessary or desirable as aforesaid, the Commission shall have regard to—

(*a*) The convenience of the public, and the requirements of the locality in which it is proposed that the licensed premises should be situated:

(*b*) The distance between the proposed situation of the licensed premises and the licensed premises nearest thereto.

(3) Subject to the considerations set out in subsection two of this section, the Commission may also have regard to the nature and standard of any accommodation and essential services provided by any licensed premises situated in the locality, the manner in which the business of those licensed premises has been conducted, and such other circumstances as it considers relevant.

(4) Where the Commission decides to authorize the granting of any licence under this section,—

(*a*) It shall, in the case of a publican's licence or tourist-house licence, define, with such particularity as it thinks fit, the locality or area within which the licence is proposed to be granted:

(*b*) It may, in the case of a wholesale licence, determine that it shall be granted only in respect of specified premises or in respect of premises situated at a specified place or within a specified locality or area.

(5) Where the Commission decides to authorize the granting of any publican's licence or tourist-house licence as aforesaid it may determine any actual or minimum standards of accommodation or services required to be provided in the proposed licensed premises, or may authorize the Licensing Committee for the district in which the proposed licensed premises will be situated

to determine any such requirements. Any such authority may be either general or in respect of specified matters, and shall, if given, be subject to any general or special directions of the Commission.

Authority to Licensing Committee to consider applications.

51. When the Commission has decided to authorize the granting of any licence pursuant to section fifty of this Act, it may issue a certificate in the prescribed form authorizing the Licensing Committee, in accordance with the principal Act and this Act, to receive and consider applications for the licence.

Advertisement by Licensing Committee.

52. (1) As soon as practicable after the receipt by it of the certificate under the last preceding section, the Licensing Committee shall cause public notice to be given of its intention to consider applications for the licence. For the purposes of this subsection the expression "public notice" means a notice published by advertisement at least three times in a newspaper circulating in the locality in respect of which the licence is proposed to be granted, with an interval of not less than seven nor more than ten days between each notification.

(2) The notice shall specify the locality or area within which the licence is proposed to be granted, and any requirements determined as aforesaid as to the provision of accommodation and services, and shall invite applications for the licence. The locality or area 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.

Applications for licence.

53. (1) Within sixty days after the last publication of the notice under the last preceding section, or within such further time as the Licensing Committee may in its discretion allow, any person qualified under the principal Act to apply for the licence may make application therefor in accordance with the principal Act and this Act.

(2) Any such application may be made in respect of premises then existing or in respect of any land on which premises are proposed to be erected if the licence is granted to the applicant.

(3) Every such application shall be accompanied by a statement in writing specifying particulars of the site and of the premises or proposed premises in respect of which the application is made, and of the estate or interest of the applicant therein.

(4) On receipt of any application for a licence under this section the Clerk to the Licensing Committee shall send particulars thereof to the Commission for the purpose of having a fair price fixed for the licence pursuant to the next succeeding section.

(5) Every applicant under this section shall from time to time furnish to the Licensing Committee or to the Commission such further information and particulars as may be required by the Committee or, as the case may be, the Commission.

Fair price of licence to be determined by Commission.

54. (1) As soon as practicable after the receipt by it of particulars of any application under the last preceding section, the Commission shall, having regard to the situation of the premises or proposed premises in respect of which the application is made, determine a fair price for a licence in respect of those premises, which shall be payable in accordance with this Part if the application is granted in respect of those premises.

(2) In the case of any publican's licence or tourist-house licence, the fair price shall be—

(*a*) Where the application is made in respect of any premises existing at the time of the Commission's determination, a sum representing the difference between the value of the premises at that time, as determined by the Commission, and what would in the opinion of the Commission be the value of the premises as licensed premises at that time, increased or reduced by such sum as the Commission may consider fair and equitable in the circumstances:

(*b*) Where the application is made in respect of any premises to be erected, such sum as in the opinion of the Commission will represent the difference between the value of the premises when erected and the value thereof as licensed premises, increased or reduced by such sum as the Commission may consider fair and equitable in the circumstances.

(3) In the case of any wholesale licence, the fair price shall be such sum as the Commission considers fair and equitable, having regard to all such circumstances as the Commission considers relevant.

(4) When the Commission has determined the fair price as aforesaid it shall forthwith cause notice thereof to be sent to the Clerk to the Licensing Committee. On receipt of the notice the Clerk shall forthwith notify the applicant of the fair price so fixed.

Hearing of applications for licence.

55. (1) No such application for any licence as aforesaid shall be heard by the Licensing Committee until—

(*a*) The time allowed for the lodging of applications under section fifty-three of this Act has expired; and

(*b*) The fair price has been fixed as aforesaid in respect of every application for that licence received within that time.

(2) Subject to the provisions of this section, the Licensing Committee shall, in accordance with the principal Act and this Act, consider and deal with all applications so received either at the quarterly licensing meeting next following the expiration of the time referred to in subsection one of this section, or at any special meeting which may be held by it for the purpose. For the purposes of this section the provisions of the principal Act shall apply to every such special meeting in all respects as if it were a quarterly licensing meeting.

(3) If the licence applied for is a publican's licence, the Licensing Committee shall not grant a licence immediately, but shall determine the premises or proposed premises in respect of which it considers the licence should be granted, and shall as soon as practicable thereafter cause public notice to be given of the fact that it intends to grant a licence in respect of those premises. For the purposes of this subsection the expression "public notice" has the same meaning as in subsection one of section fifty-two of this Act.

(4) Every notice under the last preceding subsection shall specify the site of the premises or proposed premises, and the description of licence proposed to be granted. The site 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.

(5) Subject to any order made by the Magistrate under the next succeeding section, in any case to which subsection three of this section applies, the Licensing

Committee may grant a licence in respect of the premises or proposed premises determined by it as aforesaid,—

(*a*) If a poll is held under the next succeeding section and the result of the poll is in favour of the proposal to grant a licence, at any time after the declaration of the result of the poll; or

(*b*) If no poll is applied for under that section within the period prescribed thereby, at any time after the expiration of that period; or

(*c*) If a poll is applied for under that section, and the Magistrate does not order that a poll be taken, at any time after the Magistrate's decision is given.

(6) In determining applications under this section the Licensing Committee shall, so far as may be practicable, have regard to the desirability in the public interest of re-establishing in civil life any applicant who is a discharged serviceman within the meaning of the Rehabilitation Act, 1941; and the Director of Rehabilitation under that Act, or any officer in the service of the Crown authorized by him in that behalf, may make representations and produce evidence to the Committee with respect to any such application.

1941, No. 25

(7) Where any application is made to a Magistrate for an order under the next succeeding section, nothing in paragraph (*c*) of section ninety-one of the principal Act (which relates to the grounds of objection to the granting of licences) shall apply to any application for a licence for the premises in respect of which the application to the Magistrate is made.

Provision for objection by electors.

56. (1) Within thirty days after the first publication by the Licensing Committee of the notice of intention to grant any publican's licence, any twenty or more electors residing within the area described in the next succeeding subsection may apply to a Magistrate for an order—

(*a*) That licensed premises be not established on any site specified in the notice, on the ground that the premises are or 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 taken on the proposal that licensed premises be so established, on the ground aforesaid; or

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

(2) The area referred to in the last preceding subsection shall be,—

(*a*) In the case of a proposal to grant a licence in respect of premises 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 grant a licence in respect of premises on any other land, the area contained within a radius of one mile from a point at the middle of the frontage of that land.

(3) On any application under this section the Magistrate 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 shall make an order accordingly.

(4) 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:

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 two of this section:

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

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

(6) 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 as aforesaid.

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

(8) If in the case of a poll being ordered a majority of the votes recorded at the poll are in favour of the proposal to grant a licence, but not otherwise, the Licensing Committee may grant the licence in accordance with the provisions of the principal Act and this Part of this Act.

(9) The Governor-General may from time to time, by Order in Council, make such regulations, not inconsistent with this section, as may be deemed necessary or expedient for giving full effect to the provisions of this section. Without limiting the generality of the foregoing provisions of this subsection, it is hereby declared that regulations may be so made for all or any of the following purposes:—

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

(*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:

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

Procedure on granting of application.

57. (1) If the Licensing Committee grants any application for a licence made under the foregoing provisions of this Part, it shall forthwith notify the owner of the premises that the application has been granted, and that a certificate authorizing the issue of the licence will be issued under section ninety-eight of the principal Act when all requirements of the Commission and of the Licensing Committee as to the provision of accommodation and other services, being conditions lawfully imposed pursuant to the principal Act and this Act on the granting of the application, have been complied with.

(2) When such requirements as aforesaid have been complied with or provision for compliance therewith has been made to the satisfaction of the Licensing Committee, it shall issue to the owner of the premises, or to a nominee of the owner approved by the Committee, a certificate in the prescribed form pursuant to section ninety-eight of the principal Act, and thereupon the provisions of that section shall, subject to the provisions of subsection three of this section, apply accordingly.

(3) Notwithstanding anything contained in the principal Act, the licence shall not be issued by the local authority until it is satisfied that the fair price fixed by the Commission has been paid to the Licensing Fund or that payment thereof has been secured in the manner prescribed by regulations made under this Act.

Powers of Licensing Committees

Extending powers of Licensing Committees as to conditions on grant or renewal of certain licences.

58. (1) Subject to the provisions of this Act and of any order made by the Commission thereunder, and subject to any general or special directions of the Commission, the grant or renewal of any publican's licence or tourist-house licence, or the renewal of any accommodation licence, including the renewal of any licence in force on the passing of this Act, may in the discretion of the Licensing Committee be made subject to the condition that the licensee shall, within such time as the Committee may specify in that behalf, cause to be carried out—

(*a*) The installation of a proper hot-water service in connection with any bar, bedroom, bathroom, or other part of the licensed premises:

(*b*) The provision of sufficient sanitary or other accommodation for the comfort or convenience of the public or of lodgers, guests, or employees in the licensed premises:

(*c*) Such additions, alterations, or repairs in respect of the licensed premises or the furnishings or equipment thereof as the Committee may stipulate in that behalf:

(*d*) The rebuilding of the premises:

(*e*) The doing of such other acts or things as the Committee thinks proper in respect of the premises.

(2) Subject as aforesaid, in determining the nature and extent of any conditions to be imposed under this section, the discretion of the Committee shall not be limited by the requirements of the principal Act with respect to licensed premises, but the Committee may make such stipulations as in the circumstances it thinks proper, having regard to the reasonable requirements of the travelling public and of persons resorting to or employed in the licensed premises and to the locality in which the premises are situated.

(3) The Committee shall reduce to writing any conditions imposed by it on a licensee under this section. The terms of the licence shall be read subject to any such written conditions as aforesaid and to the provisions of this section.

(4) For the purposes of this section, but subject as aforesaid, the Licensing Committee may require any applicant, before his application is heard, to submit plans for any new building or additions to any building or for the rebuilding or alteration of any building, and may from time to time require such modifications or alterations as it thinks fit to be made in the plans before the hearing of the application. In any such case the Committee may at any time, without prejudice to its powers on the hearing of the application and to the right of objection conferred on any person by the principal Act or this Act, notify the applicant of its provisional approval of the plans.

(5) For the purpose of enabling its requirements or any requirements of the Commission under this Act to be satisfied the Licensing Committee may from time to time suspend any licence or grant a temporary licence for such period and upon such conditions as it thinks fit. While any licence is so suspended the holder of the licence shall be deemed not to be a licensed person and the premises shall be deemed not to be licensed premises.

Powers of Committee where premises destroyed or damaged.
Cf. Serial number 1944/86

59. The provisions of this Act and of the principal Act relating to any standard required in respect of licensed premises and relating to the maintenance of premises at the required standard shall not apply to prevent the granting of any application for the renewal of a licence or for a new licence in respect of any

premises or any land on which any licensed premises were formerly erected in any case where the Licensing Committee is satisfied that from any cause whatsoever the premises have been destroyed or damaged or otherwise are not of the standard required by the principal Act or under this Act or do not contain the accommodation so required, and that the failure to re-erect or repair the premises, maintain them at the required standard, restore them to that standard, or provide the required accommodation is due to the war or to conditions directly or indirectly caused thereby.

Cancellation of licences.
Cf. Serial number 1942/186, Regs. 8 to 10.

60. (1) Any Superintendent or Inspector of Police may at any time, with the approval of the Commissioner of Police, make application in the prescribed form to the Licensing Committee for the cancellation of any licence on any of the following grounds, namely:—

(*a*) That the licensee has committed a breach of the principal Act, or that he has committed a breach of any of the conditions of his licence:

(*b*) That the licensee has permitted the licensed premises to be frequented by disorderly or disreputable persons:

(*c*) That the licensee has failed to conduct the licensed premises in a proper manner, or that drunkenness is permitted therein:

(*d*) That the licensee has permitted the licensed premises to be used for the illegal sale of liquor at unauthorized times, or has allowed unauthorized persons to frequent the premises during a period when such premises are required to be closed:

(*e*) That for any other reason, to be specified in the application, the licensee is not a fit and proper person to be the holder of the licence.

(2) On the lodging of the application the Chairman of the Licensing Committee shall appoint a time and place for the hearing thereof.

(3) The applicant shall serve upon the licensee a notice in the prescribed form calling upon him to appear before the Licensing Committee at the time and place so appointed to show cause why his licence should not be cancelled on the ground or on any of the grounds specified in the notice. A copy of the notice shall also be

served on the owner of the licensed premises, who shall be deemed to be a party to the proceedings. The notice shall be given to the licensee and the owner not less than ten clear days before the hearing of the application.

(4) At the time and place appointed for the hearing of the application the Licensing Committee shall hold a special meeting and may make such inquiry and hear evidence from such interested parties as it thinks fit.

(5) Subject to the right of appeal conferred by section sixty-four of this Act, on the conclusion of the hearing of the application the Licensing Committee may on all or any of the grounds stated in the application, if in its opinion it is advisable so to do in the public interest, make an order declaring—

(*a*) That the licence is cancelled; and, if it thinks fit,—

(*b*) That no licence shall thereafter be granted in respect of the licensed premises for such period, not exceeding two years, as it may direct.

(6) The procedure for the hearing and determination of the application shall be such as is prescribed by regulations in that behalf made under this Act. In the absence of any such regulations or in so far as such regulations do not extend, the application shall be heard and determined, so far as may be practicable, in the same manner as an originating application made to a Magistrate's Court. Subject to the provisions of this section and of any such regulations as aforesaid, the Licensing Committee, in dealing with the application, shall have the powers that a Magistrate's Court would have in its ordinary civil jurisdiction if the application were an originating application made to that Court.

(7) On the making of any order under this section the Clerk to the Licensing Committee shall notify the Commission thereof, giving particulars of the order.

Provision for temporary licence on cancellation under last preceding section.

Cf. Serial number 1942/186, Reg. 12

61. (1) On the cancellation of a licence under the last preceding section, the Chairman and any two members of the Licensing Committee, with the approval of the owner of the licensed premises, may, unless an order has been made that no licence shall be granted in respect of the premises for any period, grant a temporary licence in respect of the premises to some fit

and proper person to hold the licence until the next succeeding quarterly meeting of the Committee; and at that meeting, or as soon as possible thereafter, the Committee shall consider and dispose of any application for a new licence in respect of the premises, and may grant a new licence to any fit and proper person approved for the purpose by the owner of the premises.

(2) If an order is made under the last preceding section that no licence shall be granted in respect of the premises for any period, the Chairman and any two members of the Licensing Committee, with the approval of the owner, may at the expiration of that period grant a temporary licence in respect of the premises to some fit and proper person to hold the licence until the next succeeding quarterly meeting of the Committee; and at that meeting, or as soon as possible thereafter, the Committee shall consider and dispose of any application for a new licence in respect of the premises, and may grant a new licence to any fit and proper person approved for the purpose by the owner of the premises.

(3) In any case where a temporary licence has been granted under this section within the twenty-eight days immediately before a quarterly meeting of the Licensing Committee, it shall not be necessary for the applicant for the new licence to comply with the provisions of subsection one of section eighty-four of the principal Act.

Order to vacate on cancellation of licence.
Cf. Serial number 1942/186, Reg. 13

62. (1) On the cancellation of any licence under section sixty of this Act, if the licensee is not the owner of the licensed premises, the Chairman of the Licensing Committee may, on the request of the owner of the premises, order the licensee to vacate those premises. If the licensee makes default in vacating the premises pursuant to the order, he shall be deemed to have committed an offence and shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding five pounds for each day during which the offence continues, or to both such imprisonment and such fine.

(2) Notwithstanding anything contained in any enactment, any such order may be enforced in any Court of competent jurisdiction, as if it were an order of that

Court for the possession of the premises, on the filing in the office of the Court of a copy of the order signed by the Chairman. No fee shall be payable on the filing of any such copy.

(3) If the licensee is a lessee or sub-lessee of the premises, the Chairman may, on the request of the lessor or sub-lessor, execute in the name and on behalf of the licensee an assignment or surrender of the lease or sub-lease, and such assignment or surrender shall have the same effect as if it were executed by the licensee himself.

(4) Nothing in this section shall derogate from any other rights or remedies of the owner against the licensee.

Tied Houses

Tied houses.

63. (1) If any document contains a provision that the holder of any publican's, accommodation, or tourist-house licence shall be entitled to some concession or reduction in payment of rent or interest or to the extension of the term of any lease or mortgage, or to any other benefit whatsoever, on condition that the holder of the licence shall purchase his liquor from a particular holder of a brewer's or wholesale licence or one of a number of holders of such licences, the Commission may, on the application of any party to the document, make an order varying the provision in such manner as it thinks just and equitable having regard to the interests of each of the parties thereto.

(2) No such order shall be made unless it is proved to the satisfaction of the Commission that, having regard to the circumstances of the case, including the purposes for which such provision was included in the document, such provision is harsh and unconscionable, or has the effect of precluding the licensee from fulfilling his obligations under the principal Act or this Act.

(3) Notice of the application shall be served by the applicant on all other parties to the document. The Commission may order that notice of the application shall also be served upon any other person who, in the opinion of the Commission, may be affected by any order that may be made as a result of the application.

(4) The applicant and any person upon whom notice of the application has been served may appear and be heard either personally or by his solicitor, counsel, or agent in relation to the application.

(5) Any party to the proceedings before the Commission may appeal to the Supreme Court against the order of the Commission, on giving notice of appeal within seven days after the making of the order, in the same manner as if the order of the Commission were a decision of the Licensing Committee to which subsection one of section sixty-four of this Act applies. The provisions of subsections two to five of the said section sixty-four shall, as far as applicable and with the necessary modifications, apply to the appeal as if references therein to the Licensing Committee and to the Clerk were references to the Commission and to the Secretary of the Commission.

(6) Where—

(*a*) No appeal is brought under the last preceding subsection, or any appeal so brought is dismissed for want of prosecution; or

(*b*) An appeal is brought, and the Supreme Court confirms or modifies the Commission's order; or

(*c*) An appeal is brought, and by reason of the decision of the Supreme Court thereon the provisions of the document are varied in any respect,—

any party to the document, not being the party who applied to the Commission for the order, may, by notice in writing served on the applicant within fourteen days after the making of the order by the Commission, or, where an appeal has been brought as aforesaid, within fourteen days after the decision of the Supreme Court thereon or, as the case may be, after the dismissal of the appeal for want of prosecution, cancel the document and the whole transaction evidenced thereby.

(7) Where any notice is served under the last preceding subsection, the party giving the notice may at any time thereafter apply to the Commission for an order giving directions as to the delivery of possession of the licensed premises, the repayment of moneys, and the doing of any other act or thing that may be necessary to give effect to the cancellation. The provisions of subsections three and four of this section shall apply with respect to the application.

(8) Upon any application being made under the last preceding subsection, the Commission shall make an order giving such directions as aforesaid. Every such order shall include directions requiring—

(*a*) In any case in which the transaction is a lease, sublease, or tenancy, delivery of possession of the licensed premises within a period not exceeding one month from the date of the order:

(*b*) In any case in which the transaction is a mortgage, repayment of the mortgage moneys within a period not exceeding one month from the date of the order.

(9) Subject to the provisions of the last preceding subsection, every order and direction under this section shall take effect as from a date to be fixed by the Commission, being a date not earlier than the date of the making of the order:

Provided that no order or direction shall be made or given for the repayment of any rent or interest that has been paid before the date of the order, and that no order or direction shall be made or given which affects any liability to pay rent or interest accrued up to the date of the order.

(10) Any order under this section may be filed in the Supreme Court and may thereupon be enforced as if it were a judgment or order of that Court.

(11) Where under this section the Commission makes an order requiring delivery of possession of any premises, that order shall, notwithstanding anything contained in any enactment, have effect and be enforceable as if it were a judgment or order of the Supreme Court for the recovery of possession of the premises.

(12) Nothing in this section shall apply to any provision contained in any document that was executed, or to any transaction that was entered into, before the passing of this Act.

Appeals from Licensing Committees

Appeal to Supreme Court where decision of Licensing Committee is on ground of character.

64. (1) Where—

(*a*) Any application for the grant or transfer of any licence is refused by the Licensing Committee on any ground set out in paragraph (*a*) of section ninety-one of the principal Act; or

(*b*) Any application for the renewal of any licence is refused by the Committee on any ground set out in paragraph (*a*) or paragraph (*c*) of section one hundred and nine of the principal Act; or

(*c*) Any licence is determined by the Committee under section one hundred and four of the principal Act on the ground that the licensed house is conducted in an improper manner or that the holder of the licence is openly and repeatedly intoxicated; or

(*d*) Any licence is cancelled or other order made by the Licensing Committee under section sixty of this Act,— *Cf.* Serial number 1942/186, Reg. 11

the applicant or licensee, as the case may be, may appeal to the Supreme Court against the decision or order of the Committee on giving notice of appeal within seven days after the giving of the decision or, as the case may be, the making of the order.

(2) The notice of appeal shall be in writing and shall be filed in the Supreme Court. Either before or immediately after the filing of the notice of appeal, a copy of the notice shall be served on each of the other parties to the proceedings before the Licensing Committee, and a copy shall be left with the Clerk to the Committee. It shall not be necessary to state in the notice of appeal the grounds of appeal.

(3) The operation of the decision or order appealed against shall be suspended until the final determination of the appeal. In the case of the refusal of an application for the renewal of a licence, or in the case of the determination or cancellation of a licence, the licence shall, if the appeal is not finally determined on or before the expiry of the licence by effluxion of time, be deemed to be extended until the final determination of the appeal, and the provisions of subsections two and three of section one hundred and sixteen of the principal Act shall, with the necessary modifications, apply with respect to the licence.

(4) Every appeal under this section shall be by way of rehearing of the original proceedings, in like manner as if the proceedings had been properly and duly commenced in the Supreme Court. The Court may, on

hearing the appeal, confirm, modify, or reverse the decision or order appealed against, and the decision of the Court shall be final and binding on all parties.

(5) If the appellant does not prosecute his appeal with due diligence any other party to the proceedings may apply to the Supreme Court for the dismissal of the appeal.

Appeals to Licensing Control Commission in other cases.

65. (1) Where—

(*a*) Any application for the grant or transfer of any licence is refused by the Licensing Committee on any ground set out in paragraph (*b*) or paragraph (*c*) of section ninety-one of the principal Act; or

(*b*) Any application for the renewal of any licence is refused by the Committee on any ground set out in paragraph (*b*) or paragraph (*d*) of section one hundred and nine of the principal Act; or

(*c*) Any licence is determined by the Committee under section one hundred and four of the principal Act on the ground that any conditions upon which the licence was granted have not been fulfilled in a satisfactory manner; or

(*d*) Any application for the removal of a licence is refused by the Committee under the principal Act,—

the applicant or licensee, as the case may be, may appeal to the Licensing Control Commission against the decision of the Committee on giving notice of appeal within seven days after the giving of the decision.

(2) Where any party to any proceedings before any Licensing Committee under the principal Act or this Act is dissatisfied with any decision of the Committee in the proceedings, not being a decision or order to which the last preceding section or subsection one of this section applies, that party may appeal to the Licensing Control Commission against the decision on giving notice of appeal within seven days after the giving of the decision.

(3) Every notice of appeal under this section shall be in writing and shall be sent to the Secretary of the Commission. Either before or immediately after the notice of appeal is sent to the Secretary, a copy of the

notice shall be served on each of the other parties to the proceedings before the Licensing Committee, and a copy shall be left with the Clerk to the Committee. It shall not be necessary to state in the notice of appeal the grounds of appeal.

(4) The operation of the decision appealed against shall be suspended until the final determination of the appeal. In the case of the refusal of an application for the renewal of a licence, or in the case of the determination of a licence, the licence shall, if the appeal is not finally determined on or before the expiry of the licence by effluxion of time, be deemed to be extended until the final determination of the appeal, and the provisions of subsections two and three of section one hundred and sixteen of the principal Act shall, with the necessary modifications, apply with respect to the licence.

(5) Every appeal under this section shall be by way of rehearing of the original proceedings. Subject to the provisions of this Act, the procedure for the institution, hearing, and determination of the appeal shall be such as is prescribed by regulations made under this Act.

(6) On hearing the appeal the Commission may confirm, modify, or reverse the decision appealed against, or direct that the matter be referred back to the Committee for further consideration.

(7) If the appellant does not prosecute his appeal with due diligence any other party to the proceedings may apply to the Commission for the dismissal of the appeal.

New Kinds of Licences

66. (1) In addition to the kinds of licences which may be granted under the principal Act, the following kinds of licences may be granted by Licensing Committees pursuant to the principal Act as amended by this Act, namely :— New kinds of licences which may be granted by Licensing Committees.

(*a*) Tourist-house licences:

(*b*) Works canteen licences.

(2) Every such licence as aforesaid shall be in the form prescribed in that behalf by regulations made under this Act.

(3) Notwithstanding anything contained in the principal Act, or in any Proclamation for the time being in force thereunder, or in Part VI of this Act, tourist-house licences and works canteen licences may be granted pursuant to this Act in respect of premises situated in any proclaimed area, and liquor may be sold and disposed of, pursuant to this Act and to the terms of such licences, on the premises in respect of which they are granted.

(4) Subject to the provisions of this Act, every application for any such licence as aforesaid shall be made and dealt with in accordance with the provisions of the principal Act, and those provisions shall, subject as aforesaid and with the necessary modifications, apply to every such licence so granted and to the holder thereof and to the premises in respect of which it is granted.

Tourist-house licence.

67. (1) No tourist-house licence shall be granted or renewed in respect of any premises unless accommodation and meals are regularly provided therein for travellers, and the premises are approved by the Commission as a tourist house, hostel, or accommodation house.

(2) Subject to the provisions of this Act, a tourist-house licence shall authorize the licensee to sell and dispose of liquor on the premises described in the licence—

(*a*) To any person who is for the time being a lodger living or staying in the licensed premises, or an employee of the licensee, for consumption on the premises; or

(*b*) To any person actually partaking of a meal in a room set apart and used as a dining-room, for consumption by that person as part of the meal.

(3) The Commission may from time to time, in its discretion, exempt the holder of any tourist-house licence from the provisions of section one hundred and sixty-four of the principal Act in so far as they relate to dancing, concerts, or theatrical entertainments, or from the provisions of section one hundred and ninety of the principal Act in so far as they relate to the playing of billiards or bagatelle or other games. Any such

exemption shall be in writing, and may be granted subject to such conditions and restrictions as the Commission thinks fit, and may at any time in like manner be varied or revoked.

(4) Section four of the principal Act is hereby amended by adding to the definition of the term "inn-keeper" the words "or a tourist-house licence".

(5) Section eighty-five of the principal Act is hereby amended by inserting in subsection one, after the words "New Zealand wine", the words "or tourist-house".

(6) Section one hundred and seventy-two of the principal Act is hereby amended by inserting, after the words "accommodation licence", the words "or a tourist-house licence".

(7) Section ten of the Sale of Liquor Restriction Act, 1917, is hereby amended by inserting in subsection one, after the words "accommodation licence", the words "or a tourist-house licence". See Reprint of Statutes, Vol. IV, p. 373

(8) Section one hundred and thirty-nine of the principal Act (which relates to licence fees) is hereby amended by adding to subsection one the following paragraph:—

"(*g*) For a tourist-house licence, ten pounds."

68. (1) Subject to the provisions of this Act, a works canteen licence shall authorize the holder thereof to sell and dispose of liquor for consumption on the premises specified in the licence, being a canteen situated at a camp established for the purposes of the construction of any public work within the meaning of the Public Works Act, 1928, to persons who for the time being are actually living or staying in the camp. Works canteen licence. Ibid., Vol. VII, p. 622

(2) Liquor may be sold or supplied pursuant to a works canteen licence within such hours as the Licensing Committee may, in its discretion, fix from time to time:

Provided that in no case shall any liquor be so sold or supplied at any time when licensed premises are required by the principal Act or any other Act to be closed.

(3) An application for a works canteen licence may be made only with the prior approval in writing of the Minister of Works.

(4) No works canteen licence shall be granted or renewed to any applicant who in the opinion of the Licensing Committee is not a fit person to be the holder of such a licence.

(5) In considering any application for a works canteen licence the Licensing Committee shall have regard to the nature and amenities of the locality in which the camp is situated.

(6) Subject to any general or special directions of the Commission, any works canteen licence may be granted subject to such conditions as the Licensing Committee thinks fit.

(7) The officer for the time being in charge of the public work that is being constructed may from time to time close the canteen for such periods as he thinks fit.

(8) The Chairman and any two members of the Licensing Committee may at any time, either of their own motion or on the application of any officer in the service of the Crown authorized in that behalf by the Minister of Works, cancel any works canteen licence, or suspend it for such period as they think fit, if they are of opinion that the need for the licence no longer exists.

(9) For the purposes of section one hundred and four of the principal Act (which relates to the cancellation of licences), the premises in respect of which a works canteen licence is for the time being in force shall be deemed to be a licensed house.

(10) Section one hundred and twenty-seven of the principal Act is hereby amended by inserting in subsection one, after the words "packet licence", the words "a works canteen licence".

(11) Section one hundred and thirty-nine of the principal Act, as amended by subsection eight of section sixty-seven of this Act, is hereby further amended by adding to subsection one the following paragraph:—

"(*h*) For a works canteen licence, ten pounds."

Miscellaneous

Restrictions on sale of wine.

Cf. Statutory Regulations, Serial Nos. 1943/122 (Reg. 3), 1948/89

69. (1) No person shall sell wine, cider, or perry, being the produce of grapes, apples, pears, or other fruits grown in New Zealand, otherwise than pursuant to a licence or club charter in force under the principal Act or this Act, or pursuant to a wine-seller's licence granted under this section.

(2) Subject to the provisions of this Act, a wine-seller's licence shall authorize the holder thereof to sell wine, cider, or perry, being the produce of fruit grown in New Zealand as aforesaid, in quantities of not less than two gallons to any one person at any one time.

(3) The liquor may be sold and delivered from one place only, being premises specified in the licence, and shall not be consumed on the wine-seller's premises or at the place so specified for delivery:

Provided that the holder of a wine-seller's licence may arrange for delivery to be made by the holder of a wine-maker's licence granted under section eleven of the Licensing Amendment Act, 1914, from the place and in the manner permitted by the last-mentioned licence as if the sale had been made by the holder of that licence; and where the delivery is so made the sale and delivery shall be deemed for the purposes of this Act and the principal Act to have been made by the holder of the wine-seller's licence from the place and in the manner specified in the wine-seller's licence.

See Reprint of Statutes, Vol. IV, p. 369

(4) The holder of a wine-seller's licence may sell and deliver wine, cider, or perry pursuant to this section and to the terms of his licence at any time when the holder of a wholesale licence may sell or deliver liquor pursuant to section eight of the Sale of Liquor Restriction Act, 1917, but not at any other time.

Ibid., p. 373

(5) A wine-seller's licence may be granted to the holder of any other licence under the principal Act:

Provided that in any such case the licence may, if the Licensing Committee thinks fit, be granted only in respect of the same premises as are specified in that other licence.

(6) No wine-seller's licence shall be granted or renewed to any applicant who in the opinion of the Licensing Committee is not a fit person to be the holder of such a licence, or in respect of premises which in the opinion of the Committee are not suitable for the storage and sale of wine, cider, and perry.

(7) A wine-seller's licence may be granted at any time by the Chairman and any two members of the Licensing Committee, or by the Licensing Committee at a licensing meeting:

Provided that every intending applicant shall give to the Clerk of the Committee, in the prescribed form, not less than seven days' notice in writing of his intention to apply.

(8) Section one hundred and thirty-nine of the principal Act, as amended by subsection eight of section sixty-seven and subsection eleven of section sixty-eight of this Act, is hereby further amended by adding the following paragraph:—

"(*i*) For a wine-seller's licence, one pound."

(9) The provisions of subsections two and four of section sixty-six of this Act shall apply with respect to every wine-seller's licence.

Saving for existing wine-sellers' permits.
Serial number 1943/122

(10) Every wine-seller's permit issued under Regulation two A of the Licensing Act Emergency Regulations 1942 (No. 2), as set out in Regulation three of the Licensing Act Emergency Regulations 1942 (No. 2), Amendment No. 2, and in force on the passing of this Act shall, unless sooner forfeited or otherwise terminated under the principal Act, continue in force until the thirtieth day of June, nineteen hundred and forty-nine, in all respects as if it were a wine-seller's licence issued under this section.

(11) The holder of any permit to which the last preceding subsection applies may apply to the Licensing Committee for the licensing district in which his premises are situated, at the annual meeting of that Committee to be held in the month of June, nineteen hundred and forty-nine, for the surrender of his permit and the issue to him of a wine-seller's licence under this section. On any such application the fee to be paid shall, notwithstanding anything contained in this Act, be fifteen shillings. Subject to the provisions of this section, the application shall be dealt with as if it were an application for the renewal of a licence under section one hundred and six of the principal Act, and the provisions of that Act shall, as far as they are applicable and with the necessary modifications, apply accordingly as if the holder of the permit were the holder of a licence. If the Licensing Committee grants the application it shall issue a certificate authorizing the issue of a licence under this section.

(12) Section three of the principal Act is hereby amended by repealing paragraph (*c*). Repeal.

70. (1) Section four of the principal Act is hereby amended as follows:— Consequential amendments.

(*a*) By inserting, before the definition of the term "treasurer", the following definition: "'Tourist-house licence' means a tourist-house licence granted pursuant to the Licensing Amendment Act, 1948:"

(*b*) By adding the following definitions:—

"'Wine-seller's licence' means a wine-seller's licence granted pursuant to the Licensing Amendment Act, 1948:

"'Works canteen licence' means a works canteen licence granted pursuant to the Licensing Amendment Act, 1948."

(2) The form numbered one in the Seventh Schedule to the principal Act is hereby amended by repealing the clause numbered one in the endorsements to that form.

(3) The Licensing Amendment Act, 1910, is hereby amended as follows:—

(*a*) By inserting in section six, after the words "accommodation licence", the words "tourist-house licence, wine-seller's licence, works canteen licence":

(*b*) By inserting in subsection two of section twenty, after the words "accommodation licence", the words "tourist-house licence, wine-seller's licence, works canteen licence".

PART III

Brewers' Licences

71. (1) The functions of the Minister of Customs under Part III of the Finance Act, 1915, in relation to the approval of applications for brewers' licences and to the cancellation or suspension of brewers' licences shall hereafter be functions of the Licensing Control Commission, which for those purposes shall have and may exercise all the powers and authorities conferred on the said Minister in that behalf by that Part and by Part II of the Finance Act, 1917, and Part II of the Customs Acts Amendment Act, 1931. Commission to approve applications for brewers' licences. See Reprint of Statutes, Vol. VII, p. 246 Ibid., pp. 258, 262

(2) All references to the Minister of Customs in sections thirty-eight and sixty-eight of the Finance Act, 1915, section forty-eight of the Finance Act, 1917, sections twenty-one and twenty-two of the Customs Acts Amendment Act, 1931, and section five of the Finance Act (No. 2), 1940, shall hereafter be read as references to the Licensing Control Commission.

1940, No. 19

Consequential amendments.

72. (1) Section thirty-three of the Finance Act, 1915, is hereby amended by inserting, after the definition of the term "district", the following definition: "'Licensing Control Commission' means the Licensing Control Commission established under the Licensing Amendment Act, 1948:".

(2) Section forty-six of the Finance Act, 1917, is hereby amended as follows:—

(*a*) By omitting from subsection one the words "Collector of Customs", and substituting the words "Licensing Control Commission":

(*b*) By omitting from subsection two the word "Collector", and substituting the words "Licensing Control Commission".

(3) Section forty-eight of the Finance Act, 1917, is hereby amended by omitting from subsection three all words after the words "appeal from the decision", and substituting the words "to the Supreme Court".

(4) The said section forty-eight is hereby further amended by repealing subsections four and five, and substituting the following subsections:—

"(4) The procedure for the institution, hearing, and determination of the appeal shall be such as is prescribed by rules of Court made in accordance with the provisions of the Judicature Amendment Act, 1930.

See Reprint of Statutes, Vol. II, p. 96

"(5) For the purpose of hearing and determining the appeal the Court shall have all the powers vested in it in its ordinary civil jurisdiction, and the decision of the Court shall be final and conclusive."

(5) Section twenty-two of the Customs Acts Amendment Act, 1931, is hereby amended by omitting the words "the Licensing Committee", and substituting the words "the Court".

PART IV

Club Charters

This Part to be read with Part IX of principal Act.

73. The provisions of this Part of this Act shall be deemed part of Part IX of the principal Act.

Commission to administer Part IX of principal Act.

74. (1) Subject to the provisions of this Part of this Act, the Commission shall hereafter be charged with the administration of Part IX of the principal Act.

(2) All references in the said Part IX to the Minister of Internal Affairs shall hereafter be read as references to the Licensing Control Commission.

Power to grant new club charters.

75. (1) The Commission may from time to time, in its discretion, grant charters to clubs in accordance with this Part of this Act.

(2) Nothing in subsection four of section two hundred and sixty of the principal Act shall apply to any charter granted under this Part of this Act.

(3) Subject to the provisions of this Part, the provisions of Part IX of the principal Act shall apply to every charter granted or renewed under this Part of this Act.

Effect of charter granted under this Part.

76. (1) Subject to the provisions of this Part of this Act, a charter granted under this Part shall authorize the club to sell and dispose of any liquor to any member of the club on the premises of the club:

Provided that any such charter may, if the Commission thinks fit, authorize only the sale of liquor for consumption on the premises of the club.

(2) Every charter granted under this Part of this Act shall be in the prescribed form.

(3) Subject to the provisions of this Part, every such charter as aforesaid shall be in force until the thirtieth day of June next following the date of the charter, and may from time to time be renewed for a period of twelve months from the day on which the charter, or the last preceding renewal thereof, expires. Where any charter is so renewed, the renewal may, subject to the provisions of any regulations made under the principal Act or this Act, be made by an endorsement on the charter.

Conditions on which new charter may be granted or renewed.

77. (1) In considering any application for the grant or renewal of any charter under this Part of this Act, the Commission shall have regard to the facilities then existing, in the locality in which the club is situated, for social amenities, recreation, or refreshment, and to the objects of the club.

(2) No club charter shall be granted or renewed under this Part unless the Commission is satisfied that, in addition to the conditions specified in section two hundred and sixty-one of the principal Act, the following conditions exist, namely:—

(*a*) That the club provides reasonable facilities for the purposes for which it is established:

(*b*) That the club is conducted in good faith as a club:

(*c*) That the club's premises and the facilities provided therein are suitable for the purposes of the club:

(*d*) That correct accounts and books are kept showing the financial affairs of the club and the particulars usually shown in books of account of a like nature.

Application for charter or renewal.

78. (1) Every application for the grant or renewal of a charter under this Part of this Act shall be made to the Commission in the prescribed form. On the making of the application there shall be supplied to the Commission such information and particulars as may be prescribed.

(2) With every application for the grant of a charter there shall be supplied to the Commission a copy of the rules of the club, certified as correct under the hand of the secretary of the club.

Amending Part IX of principal Act.

79. (1) Section two hundred and fifty-nine of the principal Act is hereby amended by inserting in the definition of the term "club", after the word "persons", the words "(whether incorporated or not)".

(2) Section two hundred and sixty of the principal Act is hereby amended by repealing subsections one to three thereof.

(3) Section two hundred and sixty-one of the principal Act is hereby amended as follows:—

(*a*) By inserting, after the words "issued to a club", the words "and every renewal of a charter":

(*b*) By omitting from paragraph (*g*) the words " (save as mortgagee) ", and substituting the words " (save as mortgagee or save as tenant of any part of the property of the club not for the time being used for the purposes of the club) ".

(4) The said section two hundred and sixty-one is hereby further amended by adding the following new paragraphs:—

" (*i*) No visitor shall be supplied with liquor on the club's premises unless the visitor is present on the invitation of a member, and is in the company of a member, and the liquor is supplied for consumption on the premises:

" (*j*) No liquor shall be sold or supplied to any person under the age of twenty-one years:

"(*k*) No payment or part payment of any secretary, manager, or other officer or employee of the club shall be made by way of commission or allowance from or upon the receipts of the club for liquor sold or supplied."

(5) Section two hundred and sixty-two of the principal Act is hereby amended by omitting from subsection three the words " paragraph (*c*) of section one hundred and nine ", and substituting the words " section one hundred and eighty-one ".

(6) Section two hundred and sixty-two of the principal Act is hereby further amended by repealing subsections six and seven thereof, as enacted by section nine of the Sale of Liquor Restriction Act, 1917.

(7) Section two hundred and sixty-five of the principal Act is hereby amended by inserting, after the word " granted ", the words " or renewed, as the case may be ".

See Reprint of Statutes, Vol. IV, p. 373

(8) Section two hundred and sixty-six of the principal Act is hereby amended by inserting, after the word " granted " wherever that word occurs, the words " or renewed, as the case may be ".

(9) The said section two hundred and sixty-six is hereby further amended by adding the following new *paragraph*:—

"(*f*) Liquor has been unlawfully sold, supplied, or consumed on the premises of the club in circumstances that would, if the sale, supply, or consumption had taken place on licensed premises, have justified the forfeiture of the licence in respect of the premises."

Existing club charters.

80. (1) Every permanent club charter heretofore issued under subsection three of section two hundred and sixty of the principal Act or under any former Licensing Act, and in force on the passing of this Act, shall continue to be a permanent club charter, and the provisions of Part IX of the principal Act, as amended by sections seventy-four and seventy-nine of this Act, shall, as far as they are applicable and with the necessary modifications, apply thereto accordingly.

(2) Notwithstanding anything contained in subsection one of this section, any chartered club holding a charter to which that subsection applies may, with the approval of the Commission, surrender its charter and obtain instead a charter under this Part of this Act.

Provision for temporary charters in King-country.

81. (1) Notwithstanding anything contained in the foregoing provisions of this Part, the Minister of Internal Affairs may, in his discretion, grant a temporary charter to any club existing on the passing of this Act in respect of premises situated in the area known as the King-country, if he is satisfied that the conditions referred to in subsection two of section seventy-seven of this Act exist in respect of the club.

(2) Every temporary charter granted under this section shall, while it continues in force, have the same effect as a club charter granted under this Part of this Act.

(3) Any such temporary charter may at any time be revoked by the Minister of Internal Affairs.

(4) If on the taking of the polls of the electors of the King-country under Part VI of this Act the determination of those electors is deemed to be against the proposal that licences be issued in the King-country, every such temporary charter shall expire at the expiration of fourteen days after the declaration of the result of the polls on that proposal.

(5) If on the taking of such polls as aforesaid the determination of the electors is deemed to be in favour of the said proposal, or if the number of votes recorded in favour of the said proposal at the poll of electors, other than Maori electors, is not less than three-fifths of all the votes recorded at that poll, every such temporary charter shall continue in force until an application by the holder thereof for a club charter under this Part in respect of the club premises is disposed of by the Commission. Every such application shall be made, within the said period of fourteen days, to the Minister of Internal Affairs, who shall in due course refer the application to the Commission for its consideration. If no application is so made, the temporary charter shall expire at the end of the said period of fourteen days.

PART V

Local Restoration Polls

Questions to be submitted at local restoration polls in no-licence districts.

See Reprint of Statutes, Vol. IV, p. 351

82. (1) The Licensing Amendment Act, 1910, is hereby amended by repealing section eight, and substituting the following new section:—

"8. (1) At every licensing poll there shall be submitted for the determination of the electors of every no-licence district the question whether licences shall be restored in that district, and the further question whether, if licences are to be restored, provision should be made for all licensed hotels in the district to be conducted by a local Trust.

"(2) The questions shall be submitted in one voting-paper in the form in the Second Schedule to this Act, and in the manner prescribed by the principal Act as amended by this Act.

"(3) The questions shall be submitted concurrently with the questions submitted at the licensing poll in accordance with section fifty-six of the Licensing Amendment Act, 1918."

Ibid., p. 375

(2) Section nine of the said Act is hereby amended by omitting from subsection one the words "the proposals submitted under section eight hereof", and substituting the words "that proposal".

(3) The said section nine is hereby further amended by adding the following subsection:—

"(3) If the number of votes recorded in favour of the proposal that provision should be made for all licensed hotels in the district to be conducted by a local Trust exceeds the number of votes recorded against that proposal, the determination of the electors of the district shall be deemed to be in favour of the proposal, and nothing in subsection two of this section or in section ten or section eleven of this Act shall apply."

Consequential amendments.

83. (1) The Licensing Amendment Act, 1910, is hereby further amended as follows:—

(*a*) By omitting from subsection one of section fourteen the words "section three or", and by inserting in that subsection, after the words "in favour of", the words ", and against,".

(*b*) By repealing the Second Schedule, and substituting the new Second Schedule set out in the First Schedule to this Act.

1946, No. 40

(2) Section fifty-one of the Statutes Amendment Act, 1946, is hereby amended by omitting from subsection three the words "on the question whether licences shall be restored in any no-licence district", and by inserting in paragraph (*b*) of that subsection, after the words "in favour of", the words ", and against,".

Repeal.
See Reprint of Statutes, Vol. IV, p. 378

(3) Section seventy-seven of the Licensing Amendment Act, 1918, is hereby repealed.

Grant of licences where restoration proposal comes into force.

84. (1) Section eleven of the Licensing Amendment Act, 1910, is hereby amended by omitting from subsection one the words "the said determination", and substituting the words "the determination in favour of the restoration of licences".

(2) Subject to the provisions of subsection three of the said section eleven, the provisions of sections forty-nine to fifty-eight of this Act shall, with the necessary modifications, apply with respect to the granting of publicans', tourist-house, and wholesale licences under the said section eleven.

Repeal.

(3) Subsection two of the said section eleven is hereby repealed.

PART VI

Special Polls

Interpretation.

85. For the purposes of this Part of this Act, the expression "appointed day" means the day fixed by the Governor-General by Order in Council, pursuant to the Gaming Poll Act, 1948, for the taking of the poll referred to in section two of that Act.

1948. No. 19

General Poll as to Hours for Sale of Liquor

Special poll of electors on proposal to change hours for sale of liquor.

1945, No. 10

See Reprint of Statutes, Vol. VI, p. 542

86. (1) On the appointed day there shall be taken, in accordance with section ninety-one of this Act, a poll of the electors of each electoral district constituted under the Electoral Amendment Act, 1945, and of each Maori electoral district constituted under Part IV of the Electoral Act, 1927, upon the proposal that provision be made changing the hours appointed for the sale and disposal of liquor in hotel bars.

(2) The proposal shall be submitted in the form in the Second Schedule to this Act.

Local Polls in Certain Areas

Special poll of electors of Ashburton area.

87. (1) On the appointed day there shall be taken, in accordance with section ninety-one of this Act, a special poll of the electors, being electors entitled to vote at licensing polls under the principal Act, of the area which constituted the licensing district of Ashburton in the year nineteen hundred and two (in this Part of this Act referred to as the Ashburton area) upon the proposal that licences be restored in that area (in this section referred to as the restoration proposal), and upon the further proposal that, if licences are to be restored, provision be made for all licensed hotels in the area to be conducted by a local Trust (in this section referred to as the Trust proposal).

(2) The proposals shall be submitted in one voting-paper in the form in the Second Schedule to the Licensing Amendment Act, 1910, as set out in the First Schedule to this Act.

(3) If the number of votes recorded in favour of the restoration proposal is less than three-fifths of all the votes recorded in respect thereof, the determination

of the electors of the area shall be deemed to be against the restoration of licences. While the determination continues in force the following provisions shall apply :—

(*a*) No licences shall be granted in the area pursuant to sections forty-nine to fifty-seven of this Act:

(*b*) On every day on which the licensing poll is taken under the principal Act there shall be taken, concurrently with the licensing poll, a special poll of the electors of the area upon the proposals referred to in subsection one of this section. The provisions of this section shall apply to every such special poll as if the reference in that subsection to the appointed day were a reference to the day on which the licensing poll is taken.

(4) If the number of votes recorded in favour of the restoration proposal is not less than three-fifths of all the votes recorded in respect thereof, the determination of the electors of the area shall be deemed to be in favour of the restoration of licences, and thereupon the following provisions shall apply:—

(*a*) If the number of votes recorded in favour of the Trust proposal exceeds the number of votes recorded against that proposal, the determination of the electors of the area shall be deemed to be in favour of the Trust proposal:

(*b*) If the number of votes recorded in favour of the Trust proposal does not exceed the number of votes recorded against that proposal, the determination of the electors of the area shall be deemed to be against the Trust proposal:

(*c*) If in accordance with paragraph (*b*) of this subsection the determination of the electors of the area is deemed to be against the Trust proposal, the Licensing Committee for the time being in office for the licensing district of Ashburton shall, subject to the provisions of section ninety of this Act, have in respect of the area the powers and functions conferred by section eleven of the Licensing Amendment Act, 1910, on Licensing Committees constituted under section ten of that Act, and the provisions of the said section eleven, as amended

See Reprint of Statutes, Vol. IV. p. 351

by this Act, shall, as far as they are applicable and with the necessary modifications, apply accordingly as if the Ashburton area were a licensing district.

Special poll of electors of Geraldine area.

88. (1) On the appointed day there shall be taken, in accordance with section ninety-one of this Act, a special poll of the electors, being electors entitled to vote at licensing polls under the principal Act, of the whole of the area comprising the several areas added to the licensing district of Ashburton between the years nineteen hundred and three and nineteen hundred and twenty-six and adjoining the south-western boundary of that district as constituted in the year nineteen hundred and two (in this Part of this Act referred to as the Geraldine area) upon the proposal that licences be restored in that area (in this section referred to as the restoration proposal), and upon the further proposal that, if licences are to be restored, provision be made for all licensed hotels in the area to be conducted by a local Trust (in this section referred to as the Trust proposal).

(2) The proposals shall be submitted in one voting-paper in the form in the Second Schedule to the Licensing Amendment Act, 1910, as set out in the First Schedule to this Act.

(3) If the number of votes recorded in favour of the restoration proposal does not exceed the number of votes recorded against that proposal, the determination of the electors of the area shall be deemed to be against the restoration of licences. While the determination continues in force the following provisions shall apply:—

(*a*) No licences shall be granted in the area pursuant to sections forty-nine to fifty-seven of this Act:

(*b*) On every day on which the licensing poll is taken under the principal Act there shall be taken, concurrently with the licensing poll, a special poll of the electors of the area upon the proposals referred to in subsection one of this section, and the provisions of this section shall apply to every such special poll as if the reference in that subsection to the appointed day were a reference to the day on which the licensing poll is taken.

(4) If the number of votes recorded in favour of the restoration proposal exceeds the number of votes recorded against that proposal, the determination of the electors of the area shall be deemed to be in favour of the restoration of licences, and thereupon the following provisions shall apply:—

(*a*) If the number of votes recorded in favour of the Trust proposal exceeds the number of votes recorded against that proposal, the determination of the electors of the area shall be deemed to be in favour of the Trust proposal:

(*b*) If the number of votes recorded in favour of the Trust proposal does not exceed the number of votes recorded against that proposal, the determination of the electors of the area shall be deemed to be against the Trust proposal.

(5) If in accordance with paragraph (*b*) of subsection four of this section the determination of the electors of the area is deemed to be against the Trust proposal, then, subject to the provisions of section ninety of this Act, the following provisions shall apply:—

(*a*) The Licensing Committee for the time being in office for the licensing district of Ashburton shall have in respect of that portion of the Geraldine area which is within that licensing district the powers and functions conferred by section eleven of the Licensing Amendment Act, 1910, on Licensing Committees constituted under section ten of that Act, and the provisions of the said section eleven, as amended by this Act, shall, as far as they are applicable and with the necessary modifications, apply accordingly as if that portion were a licensing district:

See Reprint of Statutes, Vol. IV, p. 351

(*b*) The Licensing Committee for the time being in office for the licensing district of Waimate shall have in respect of that portion of the Geraldine area which is within that licensing district such powers and functions as aforesaid, and the provisions of the said section eleven shall apply as aforesaid.

89. (1) On the appointed day there shall be taken, in accordance with section ninety-one of this Act, a special poll of the Maori electors of the area known as the King-country (in this Part of this Act referred to as the King-country) upon the proposal that licences for the sale of liquor be issued in the King-country (in this section referred to as the licensing proposal), and upon the further proposal that, if licences are to be issued, provision be made for all licensed hotels in the King-country to be conducted by a local Trust or local Trusts (in this section referred to as the Trust proposal). Special polls of electors of the King-country.

(2) Simultaneously with the poll referred to in subsection one of this section, there shall be taken in accordance with section ninety-one of this Act, a special poll of the electors, other than Maori electors, of the King-country upon the same proposals.

(3) The proposals shall, in the case of each poll, be submitted in one voting-paper in the form in the Third Schedule to this Act.

(4) The determination of the electors of the King-country shall be deemed to be in favour of the licensing proposal—

(*a*) If the number of votes recorded in favour of that proposal at the poll of Maori electors is not less than three-fifths of all the votes recorded at that poll; and

(*b*) If the number of votes recorded in favour of that proposal at the poll of electors, other than Maori electors, is not less than three-fifths of all the votes recorded at that poll—

and in any other case shall be deemed to be against the licensing proposal.

(5) If in accordance with subsection four of this section the determination of the electors of the King-country is deemed to be in favour of the licensing proposal, the votes recorded at both polls in respect of the Trust proposal shall be counted together, and thereupon the following provisions shall apply:—

(*a*) If the number of votes so recorded in favour of the Trust proposal exceeds the number of votes so recorded against that proposal, the determination of the electors of the King-country shall be deemed to be in favour of the Trust proposal:

(*b*) If the number of votes so recorded in favour of the Trust proposal does not exceed the number of votes recorded against that proposal, the determination of the electors of the King-country shall be deemed to be against the Trust proposal:

(*c*) If in accordance with paragraph (*b*) of this subsection the determination of the electors is deemed to be against the Trust proposal, every Licensing Committee in whose district any part of the King-country is situated shall, subject to the provisions of section ninety of this Act, have in respect of that part the powers and functions conferred by section eleven of the Licensing Amendment Act, 1910, on Licensing Committees constituted under section ten of that Act, and the provisions of the said section eleven, as amended by this Act, shall, as far as they are applicable and with the necessary modifications, apply accordingly as if each such part as aforesaid were a licensing district:

See Reprint of Statutes, Vol. IV, p. 351

(*d*) On the coming into force of the determination referred to in paragraph (*b*) of this subsection the King-country shall be deemed to have ceased to be a proclaimed area for the purposes of Part X of the principal Act, and all Proclamations subsisting or in force under the King-country Licences Act, 1909, on the coming into force of the said determination shall be deemed to be revoked:

Ibid., p. 349

(*e*) On the coming into force of such determination as aforesaid, sections two hundred and seventy-two and two hundred and seventy-three of the principal Act, section forty-five of the Licensing Amendment Act, 1910, and the King-country Licences Act, 1909, shall cease to have effect.

(6) Notwithstanding anything contained in this section, if the determination of the electors of the King-country is deemed in accordance with this section to be in favour of the Trust proposal, the premises administered by the Department of Tourist and Health Resorts and known as the Chateau Tongariro and the

Hotel Waitomo shall not be affected by that determination, but shall be under the jurisdiction of the respective Licensing Committees in whose districts they are situated, and tourist-house licences may be granted in respect of them pursuant to the provisions of this Act.

(7) Notwithstanding anything contained in this section or in the principal Act, if the number of votes recorded in favour of the licensing proposal at the poll of electors, other than Maori electors, is not less than three-fifths of all the votes recorded at that poll, club charters may be granted pursuant to Part IV of this Act in respect of premises situated in any part of the King-country, and liquor may be sold and disposed of, pursuant to the said Part IV and to the terms of such charters, on the premises in respect of which they are granted. The provisions of this subsection shall apply whether or not the result of the poll of Maori electors is in favour of the licensing proposal, and whether or not the determination of the electors of the King-country is deemed to be in favour of the Trust proposal.

Modification, for purposes of foregoing provisions of this Part, of section 11 of Licensing Amendment Act, 1910.

90. In the application of section eleven of the Licensing Amendment Act, 1910, for the purposes of any of the foregoing provisions of this Part of this Act, the following provisions shall apply:—

(*a*) The determination of the electors in favour of the restoration of licences or, in the case of the King-country, in favour of the issue of licences shall come into force at the expiration of two months after the appointed day:

(*b*) In determining applications for licences the Licensing Committee shall, after complying with the provisions of subsection three of the said section eleven, have regard to the desirability in the public interest of re-establishing in civil life discharged servicemen within the meaning of Part I of the Rehabilitation Act, 1941: 1941, No. 25

(*c*) In determining applications for transfers of licences the Licensing Committee shall have regard to the desirability in the public interest of re-establishing in civil life such discharged servicemen as aforesaid:

(*d*) The Director of Rehabilitation under the Rehabilitation Act, 1941, or any officer in the service of the Crown authorized by the Director in that behalf shall be entitled to make representations and to produce evidence to the Licensing Committee with respect to the subject-matter of any such application for a licence or for a transfer of a licence as aforesaid:

(*e*) Subject to the foregoing provisions of this section, the provisions of sections forty-nine to fifty-eight of this Act shall, with the necessary modifications, apply with respect to the granting of publicans', tourist-house, and wholesale licences under the said section eleven.

General Provisions as to Polls under this Part

Polls under this Part to be taken concurrently with poll under Gaming Poll Act, 1948.

1948. No. 19

91. (1) Every poll to be taken under this Part of this Act shall be taken concurrently with the poll to be taken under section two of the Gaming Poll Act, 1948.

(2) Subject to the provisions of this Part and of any regulations under this Part, and subject to all necessary modifications, every poll under this Part shall be taken in the same manner as the poll to be taken under the Gaming Poll Act, 1948, and the provisions of that Act shall, as far as they are applicable and subject as aforesaid, apply accordingly:

Provided that no elector shall be entitled to vote at any special poll under section eighty-seven or section eighty-eight, or section eighty-nine of this Act except at a polling-place within the area and the electoral district of which he is an elector or by means of a postal voting-paper issued by the Returning Officer, or a Deputy Returning Officer, of his electoral district pursuant to section one hundred and forty of the Electoral Act, 1927, as applied by this section.

See Reprint of Statutes, Vol. VI, p. 525

Regulations.

92. (1) The Governor-General may from time to time, by Order in Council, make all such regulations as may be deemed necessary or expedient for the purpose of giving full effect to the provisions of this Part of this Act and for the due administration thereof.

(2) Without limiting the generality of the powers conferred by the last preceding subsection, it is hereby declared that regulations may be made under this section defining the Ashburton and Geraldine areas and the King-country.

PART VII

MISCELLANEOUS

Principal Act not to apply to supply of liquor for medicinal purposes by registered chemists. 1939, No. 33

93. (1) Section three of the principal Act is hereby amended by repealing paragraph (*b*), and substituting the following paragraph:—

"(*b*) To any person duly registered under the Pharmacy Act, 1939, as a pharmaceutical chemist who supplies, keeps for sale, or sells any spirituous, distilled, or fermented liquors exclusively for medicinal purposes and in accordance with regulations made by the Governor-General in Council in that behalf; nor ".

(2) Section one hundred and forty-seven of the principal Act is hereby amended by inserting in paragraph (*h*) of subsection one, after the words " Nothing in this section ", the words " or in the last preceding section ".

Consequential repeal. See Reprint of Statutes, Vol. IV, p. 364

(3) So much of the Sixth Schedule to the Licensing Amendment Act, 1910, as relates to section three of the principal Act is hereby repealed.

Amending definition of intoxicating liquor.

94. Section four of the principal Act is hereby amended by omitting from the definition of the expression " intoxicating liquor " or " liquor " the words " of an intoxicating nature ", and substituting the words " which on analysis is found to contain more than three parts per centum of proof spirit ".

Amending provisions as to half-holiday on day of licensing poll or election of Licensing Committee. Ibid., Vol. VI, p. 521 1946, No. 40

95. (1) The principal Act is hereby amended by repealing section thirty-nine, and substituting the following section:—

" 39. The provisions of section one hundred and twenty-eight of the Electoral Act, 1927, shall apply with respect to all licensed premises on every day on which the licensing poll is taken in any district. For the purposes of subsection three of that section, as enacted by section twenty-six of the Statutes Amendment Act, 1946,

the carrying-on of the business of any licensed house, except with respect to the sale of intoxicating liquors, shall be deemed to be the carrying-on of an essential work or service."

(2) The principal Act is hereby further amended by repealing section forty-six, and substituting the following section:—

"46. (1) On the day on which the election of the Licensing Committee takes place, the employer of every worker shall allow the worker to leave his work for a reasonable time for the purpose of recording his vote, and no deduction shall be made from any remuneration payable to the worker in respect of any time, not exceeding one hour, occupied in recording his vote as aforesaid.

"(2) The provisions of section one hundred and twenty-eight of the Electoral Act, 1927 (as amended by section twenty-six of the Statutes Amendment Act, 1946), shall apply to the election of the Licensing Committee as if subsection one of this section had been substituted for subsections one and three of the said section one hundred and twenty-eight."

Magistrate may act as Chairman of Licensing Committee in absence of Chairman.

96. (1) Section forty-two of the principal Act is hereby amended by inserting, after subsection two, the following subsection:—

"(2A) In any case where the Chairman of the Committee is prevented by illness or other cause from acting in his office, any Magistrate may act in his place, and while so acting shall have all the powers and may perform any of the functions of the Chairman. The fact that any Magistrate so acts shall be conclusive evidence of his authority so to do; and no acts done by him as Chairman, whether together with any other member of the Committee or not, and no acts done by the Committee while he is acting as such, shall in any proceedings be questioned on the ground that the occasion for his so acting had not arisen or had ceased."

(2) Section fifty-five of the principal Act is hereby amended by inserting, after the words " his absence ", the words " and of the absence of any Magistrate for the time being acting in his place ".

97. Section forty-nine of the principal Act is hereby amended by inserting in subsection one, after the words " or is absent ", the words " without leave of the Committee ". Amending provisions as to casual vacancies in membership of Licensing Committees.

98. Section fifty-three of the principal Act is hereby amended by adding the following as subsection two thereof:— Deputy Clerks to Licensing Committees.

"(2) In any case where the Clerk has died or is prevented by illness or other cause from acting in his office, the Chairman may appoint any fit person to be the deputy of the Clerk to act in the place of the Clerk for such period as the Chairman thinks fit. The fact that any person, with the concurrence of the Licensing Committee, acts as the deputy of the Clerk shall be conclusive evidence of his authority so to do."

99. Section fifty-four of the principal Act is hereby amended as follows:— Times for meetings of Licensing Committee to be fixed by Chairman.

(*a*) By omitting from subsection one the words " At noon ":

(*b*) By inserting in subsection four, after the words " licensed premises ", the words " and the time ".

100. (1) Section seventy-six of the principal Act is hereby amended by omitting from subsection one all words after the words " the use of the public ". Stabling accommodation not required.

(2) Section one hundred and sixty-six of the principal Act is hereby repealed.

101. Section ninety-eight of the principal Act is hereby amended by adding to subsection seven the words " or unless the omission to pay the fee within that time is waived by the Committee pursuant to section two hundred and ninety-two of this Act and the fee is paid within a reasonable time fixed by the Committee ". Omission to pay licence fee within prescribed time.

102. (1) Section one hundred and eighteen of the principal Act is hereby amended by omitting the words " a wholesale licence ". Making provision for transfer of wholesale licences.

(2) Section one hundred and twenty of the principal Act is hereby amended by omitting from subsection one the words " a wholesale licence ".

(3) Section one hundred and twenty-five of the principal Act is hereby amended by omitting the words " a wholesale licence ".

Amending provisions as to objections to renewal of licence on ground of improper conduct.

103. Section one hundred and nine of the principal Act is hereby amended by omitting from paragraph (*c*) the word " and ", and substituting the word " or ".

Authorizing holders of wine-makers' licences to blend wine of their own manufacture with other wines.

104. (1) The authority conferred on the holder of a wine-maker's licence under section eleven of the Licensing Amendment Act, 1914, to manufacture wine shall be deemed to include authority to blend wine of his own manufacture with wine manufactured by any other holder of a wine-maker's licence under that section, so long as the following conditions are complied with, namely :—

(*a*) The total quantity of wine, including blended wine, manufactured by the licensee during the year of the currency of his licence shall not exceed the quantity specified in the licence:

(*b*) The strength of the wine after blending shall not exceed forty per centum of proof spirit.

(2) Notwithstanding anything contained in the principal Act, it shall be lawful for the holder of a wine-maker's licence to sell and deliver wine to any other holder of such a licence for the purpose of being blended with wine manufactured by that other holder, and for that other holder to purchase and receive the wine for that purpose, notwithstanding that the premises of either or both of the parties to the sale are situated within a no-licence district, and none of the provisions of the principal Act relating to no-licence districts shall apply to any such sale.

(3) For the purposes of this section and of the said section eleven, the term " manufacture " shall be deemed to include the blending of wine as aforesaid.

Amending provisions as to sale and delivery by holder of wine-maker's licence.

See Reprint of Statutes, Vol. IV, p. 370

105. (1) Section eleven of the Licensing Amendment Act, 1914, is hereby amended by repealing subsection fourteen, and substituting the following subsections:—

" (14) Where the place specified in any wine-maker's licence as the place from which wine may be delivered on sale is situated in a no-licence district, nothing in section one hundred and forty-six of the principal Act shall prevent the holder of the licence from selling wine,

pursuant to this section and to the terms of his licence, to any person not residing or carrying on business within the district—

"(*a*) If the wine is to be delivered beyond the limits of the district; or

"(*b*) If the wine is sold and delivered to the purchaser in person on the premises of the wine-maker and is taken away by the purchaser from the place where it is sold.

"(14A) Notwithstanding anything contained in the principal Act, the holder of a wine-maker's licence may sell and deliver wine pursuant to this section, and to the terms of his licence, at any time when the holder of a wholesale licence may sell or deliver liquor pursuant to section eight of the Sale of Liquor Restriction Act, 1917, but not at any other time."

Cf. Serial number 1942/186, Reg. 2 (4)

(2) The said section eleven is hereby further amended by inserting in subsection fifteen, before the words "The place specified", the words "Subject to the provisions of subsection fourteen A of this section".

106. (1) Section seventy-seven of the principal Act is hereby amended as follows:—

Strength of wine that may be sold by holders of New Zealand wine licences.

(*a*) By omitting the word "wine" before the word "cider":

(*b*) By inserting, after the words "twenty per centum of proof spirit", the words "and any wine of a kind that may lawfully be manufactured by the holder of a wine-maker's licence pursuant to the terms of that licence".

(2) The form numbered two in the Seventh Schedule to the principal Act is hereby consequentially amended as follows:—

(*a*) By omitting the word "wine" before the word "cider":

(*b*) By inserting, after the words "twenty per centum of proof spirit", the words "and any wine of a kind that may lawfully be manufactured by the holder of a wine-maker's licence pursuant to the terms of that licence".

107. (1) Notwithstanding anything contained in the principal Act or in section ten of the Sale of Liquor Restriction Act, 1917, the Chairman of any Licensing Committee may from time to time, in his discretion, on application made to him in the prescribed manner, grant

Extended hours permits and restaurant permits.

to the holder of any publican's licence or accommodation licence, or to the secretary of any chartered club, a permit authorizing the holder thereof to supply liquor, for consumption on the licensed premises or, as the case may be, the club premises after the hour at which those premises are required to be closed, to persons attending any social gathering, being a gathering to be held on a day specified in the permit, held or promoted by any person or body of persons (whether incorporated or not) or by the committee of the chartered club.

(2) Notwithstanding anything contained in the principal Act or in section eleven of the Sale of Liquor Restriction Act, 1917, the Chairman of any Licensing Committee may from time to time in his discretion, on application made to him in the prescribed manner, grant to any person, or to the secretary or other authorized officer or representative of any body of persons (whether incorporated or not) a permit authorizing the supply and consumption of liquor, after the hour at which licensed premises are required to be closed, in any restaurant within the meaning of section two of the Sale of Liquor Restriction Act, 1917, by persons attending any social gathering, being a gathering to be held on a day specified in the permit, held or promoted by such person or body of persons as aforesaid.

(3) Every such permit shall be in the prescribed form, and shall be deemed to be issued subject to the following conditions:—

(*a*) That no charge shall be made to any person for liquor supplied under the permit other than a charge, of such sum as may be approved by the Chairman, payable for admission to the gathering:

(*b*) That, except in the case of employees or other persons engaged in service at the gathering, no persons shall be admitted to the gathering except the person or persons holding or promoting the gathering and guests specially invited thereto:

(*c*) That liquor shall not be supplied or consumed after such hour as the Chairman may determine.

(4) Nothing in this section shall limit or affect the provisions of section fifty-nine of the Statutes Amendment Act, 1939 (which relates to liquor at dances).

1939, No. 39

108. (1) Notwithstanding anything contained in the principal Act or this Act, it shall be lawful for liquor to be supplied and consumed on any unlicensed premises, not being a restaurant within the meaning of section two of the Sale of Liquor Restriction Act, 1917, at any social gathering held on those premises at which not less than twenty persons are present, if the following conditions are complied with, namely:— Provisions as to consumption of liquor at social gatherings on unlicensed premises.

(*a*) That the persons present are members of a society, association, or body of persons (whether incorporated or not) by whom the social gathering is held or promoted, or are guests specially invited thereto:

(*b*) That no charge is made to any person for liquor supplied or to be supplied to him at the gathering, other than a charge for admission to the gathering:

(*c*) That any charge made for admission to the gathering is reasonable, having regard to the circumstances of the case:

(*d*) That any profit arising out of the holding of the gathering belongs to the society, association, or body, and that no member thereof receives or is directly or indirectly entitled to any such profit.

(2) Where the foregoing conditions are complied with, the making of a charge for admission to the gathering, or the sale of tickets entitling persons to admission thereto, shall not be deemed to be a sale of liquor.

(3) In any prosecution for any offence alleged to have been committed against the principal Act or this Act in relation to the sale, supply, or consumption of liquor on unlicensed premises, the burden of proving that the conditions specified in subsection one of this section have been complied with shall be on the defendant.

(4) Nothing in this section shall limit or affect the provisions of section fifty-nine of the Statutes Amendment Act, 1939 (which relates to liquor at dances).

109. (1) Every innkeeper shall keep a register, in which he shall enter or cause to be entered the name and address of, and particulars of the accommodation allocated to, every person who is lodging in the premises. Innkeeper to keep register. *Cf.* Serial number 1942/186, Reg. 23

(2) The entry in the register in respect of each lodger shall be made in ink as soon as he becomes a lodger.

(3) Every innkeeper shall on demand made by any constable allow the constable to inspect the register.

(4) Every innkeeper commits an offence and shall be liable to a fine not exceeding fifty pounds who fails to comply with the provisions of this section or who makes or causes to be made any false entry in the register.

Record of sales by holders of certain licences.
Cf. Serial number 1942/186, Reg. 24
Serial number 1943/122, Reg. 9

110. (1) Every person who is the holder of a wholesale licence, a brewer's licence, a wine-maker's licence, or a wine-seller's licence shall keep a record of every sale of liquor made by him:

Provided that it shall not be necessary to keep a record under this section of any sale to any person lawfully entitled to sell liquor or of any sale of liquor for delivery at any building, vessel, or place at or upon which liquor may lawfully be sold.

(2) The record required by this section shall be kept in a book and shall show the date of each sale, the name and address of each purchaser, and the nature and quantity of the liquor sold to him.

(3) Every sale required to be recorded shall be entered in the record on the day on which the sale is made.

(4) Every person required to keep a record of sales of liquor as aforesaid shall on demand made by any constable allow the constable to inspect the record.

(5) Every person required to keep a record as aforesaid commits an offence and is liable to a fine not exceeding fifty pounds who fails to comply with any of the provisions of this section.

(6) Every person commits an offence and is liable to a fine not exceeding twenty pounds who gives a false name or address to any person required to keep a record under this section.

Prohibiting remuneration of managers by commission on liquor sold or profits earned.
Cf. Serial number 1942/186, Reg. 17

111. (1) It shall not be lawful for any person to enter into any contract relating to the management or control of any premises in respect of which a publican's licence, accommodation licence, or tourist-house licence has been granted if the contract provides for the payment of remuneration to any person at a rate, or at rates, determined or affected by reference, directly or

indirectly, to the amount of intoxicating liquor sold in the premises or to the profits of the business carried on therein.

(2) Any such contract as aforesaid entered into before the passing of this Act shall be adjusted so as to provide for the payment of remuneration at a rate or rates not determined or affected by reference, directly or indirectly, to the amount of intoxicating liquor sold in the premises or to the profits of the business carried on therein.

(3) If the parties to any such contract as aforesaid entered into before the passing of this Act cannot agree upon the adjustment thereof as required by subsection two of this section, the matter shall be referred to the arbitration of one arbitrator if the parties can agree upon one, otherwise to two arbitrators, one to be appointed by the party or parties entitled to remuneration under the contract and the other by the other party or parties thereto, under the provisions of the Arbitration Act, 1908.

See Reprint of Statutes, Vol. I, p. 346

(4) Every applicant for any such licence as aforesaid, or for any transfer or renewal thereof, shall, if required so to do by the Licensing Committee, produce to the Committee every document in which the terms or any of the terms of any contract relating to the management or control of the premises are set out, and shall furnish to the Committee such further information and particulars relating thereto as the Committee may from time to time require.

Drinking of liquor in public conveyances.

Cf. Serial number 1942/186, Reg. 4

112. (1) Every person commits an offence and is liable to a fine not exceeding twenty pounds who, in any railway train, rail-car, tramcar, omnibus, service-car, taxicab, or other vehicle for the time being used for the carriage for hire or reward of members of the public, or any ferry vessel for the time being so used on any harbour, lake, or river (not being a vessel in respect of which a packet licence is in force),—

(*a*) Drinks any intoxicating liquor:

(*b*) Supplies any intoxicating liquor to any person for consumption therein:

(*c*) Has possession or control of any intoxicating liquor intended for consumption therein.

(2) Any constable may seize and remove any liquor which there is reasonable ground to suppose is intended for consumption in contravention of subsection one of this section, and the vessels containing the liquor.

Increasing penalties for sale of liquor at unauthorized times.

113. Section one hundred and ninety of the principal Act is hereby amended as follows:—

(*a*) By omitting the words "ten pounds", and substituting the words "twenty pounds":

(*b*) By omitting the words "twenty pounds", and substituting the words "fifty pounds".

Selling or keeping for sale of liquor by unauthorized persons or at unauthorized places.

Cf. Serial number 1943/122, Reg. 6

114. (1) Section one hundred and ninety-five of the principal Act is hereby amended as follows:—

(*a*) By inserting in subsection one, after the words "or expose", the words "or keep"; and by inserting in that subsection, after the words "to sell", the words "or keep":

(*b*) By inserting in subsection two, after the words "or exposing", wherever those words occur, the words "or keeping"; and by inserting in that subsection, after the words "to sell", the words "or keep":

(*c*) By omitting from paragraph (*a*) of the said subsection two the words "fifty pounds", and substituting the words "one hundred pounds":

(*d*) By omitting from paragraph (*b*) of the said subsection two the words "one hundred pounds", and substituting the words "one hundred and fifty pounds":

(*e*) By omitting from paragraph (*c*) of the said subsection two the words "one hundred pounds", and substituting the words "two hundred pounds".

(2) Section two hundred and one of the principal Act is hereby amended by inserting in subsection one, after the words "or exposing", wherever those words occur, the words "or keeping"; and by inserting in the proviso to that subsection, after the words "to sell", the words "or keep".

(3) The said section two hundred and one is hereby further amended by inserting in subsection two, after the words "illicit sales", the words "prohibition orders".

(4) Section two hundred and seven of the principal Act is hereby amended by inserting in subsection one, after the words " allowing to be sold ", the words " or exposing or keeping for sale ".

Prohibiting supply of liquor to youths by holders of brewers' licences.

115. Section two hundred and two of the principal Act, as amended by section six of the Licensing Amendment Act, 1914, is hereby further amended by inserting, after the words " of any description ", the words " (including a brewer's licence) ".

Authorizing Welfare Officer or Chairman of Tribal Executive or Committee to apply for prohibition order against Maori.

1945, No. 43

116. Section two hundred and seventeen of the principal Act is hereby amended by adding to subsection two the words " or by any Welfare Officer appointed under the Maori Social and Economic Advancement Act, 1945, or by the Chairman of any Tribal Executive or Tribal Committee established under that Act ".

Illegal use of premises for consumption of intoxicating liquor.

Cf. Serial number 1943/122, Reg. 6

117. (1) Section thirty-seven of the Licensing Amendment Act, 1910, is hereby amended by omitting from subsection one the words " in any no-licence district ".

(2) The said section thirty-seven is hereby further amended by inserting, after subsection one, the following subsection:—

"(1A) Nothing in this section shall extend or apply to the consumption of liquor by any person in any premises in respect of which a publican's licence, accommodation licence, tourist-house licence, conditional licence, New Zealand wine licence, works canteen licence, or club charter is for the time being in force under the principal Act."

Forfeiture of liquors after seizure.

Cf. Serial number 1942/186, Reg. 22

118. The principal Act is hereby amended by repealing section two hundred and twenty-nine, and substituting the following section:—

" 229. Upon the conviction for an offence against this Act of any person appearing to the Court to be an owner or to have been in possession of any intoxicating liquor or vessel seized under this Act, or to be an owner or occupier of the place where the liquor or vessel was seized, the Court, unless on any special grounds it thinks it inadvisable so to do, shall make an order declaring the liquor or vessel to be forfeited."

Conditional licences may be granted to persons other than holders of publicans' licences.

119. Section eighty-two of the principal Act is hereby amended by adding the following proviso:—

"Provided that a conditional licence may, if in the opinion of the Licensing Committee, or, as the case may be, the Chairman and members granting the licence, it is desirable so to do, be granted to any fit and proper person who is not the holder of a publican's licence."

Moneys to be appropriated by Parliament for purposes of this Act.

120. Except as otherwise specially provided in this Act, all moneys payable and expenses incurred under this Act or in the administration thereof shall be payable out of moneys appropriated by Parliament for the purpose.

Regulations.

121. (1) The Governor-General may from time to time, by Order in Council, make all such regulations as may be deemed necessary or expedient for the purpose of giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the generality of the powers conferred by the last preceding subsection, it is hereby declared that regulations may be made under this section enabling any local authority to make application for a licence pursuant to this Act on behalf of any local Trust to be formed to conduct the premises in respect of which the application is made, and prescribing, subject to the provisions of this Act, the procedure to be followed in making and dealing with any such application, and providing for the constitution of any such Trust and for the defining of its functions, powers, and obligations.

Repealing provisions as to Maori licensing districts and proclaimed areas (other than King-country).

122. (1) Subsections three and four of section five, subsection three of section sixty-five, sections sixty-six to sixty-nine, section ninety, and section two hundred and sixty-nine of the principal Act are hereby repealed.

(2) Sections forty-three, forty-four, and forty-six of the Licensing Amendment Act, 1910, are hereby repealed.

Revocation of emergency regulations.
Serial numbers
1942/186,
1943/71, 122
1944/86
1945/112
1947/88
1948/89

123. The Licensing Act Emergency Regulations 1942 (No. 2), the Licensing Act Emergency Regulations 1942 (No. 2), Amendment No. 1, the Licensing Act Emergency Regulations 1942 (No. 2), Amendment No. 2, the Licensing Act Emergency Regulations 1942 (No. 2), Amendment No. 3, the Licensing Act Emergency Regulations 1942 (No. 2), Amendment No. 4, the Licensing Act Emergency Regulations 1942 (No. 2), Amendment No. 5, and the Licensing Act Emergency Regulations 1942 (No. 2), Amendment No. 6 are hereby revoked.

SCHEDULES

Schedules.

FIRST SCHEDULE

Section 83

" SECOND SCHEDULE

"FORM OF VOTING-PAPER AT LOCAL RESTORATION POLL IN NO-LICENCE DISTRICT

" *Licensing District of*

" PART I

" I vote FOR Local Restoration
" I vote AGAINST Local Restoration

" *Directions*

" The voter must strike out one line, leaving untouched the line which shows the way he wishes to vote.

" If the voter strikes out both lines or fails to strike out one of the lines, this Part of the voting-paper will be void, and his vote on the above question will not be recorded.

" PART II

" I vote FOR Trust Control
" I vote AGAINST Trust Control

" *Directions*

" The voter must strike out one line, leaving untouched the line which shows the way he wishes to vote.

" If the voter strikes out both lines or fails to strike out one of the lines, this Part of the voting-paper will be void, and his vote on the question of Trust Control will not be recorded.

" Note

" When the voting-paper has been marked, it is to be placed by the voter in the ballot-box.

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

Section 86

SECOND SCHEDULE

FORM OF VOTING-PAPER

Electoral District of

HOURS FOR SALE OF LIQUOR IN HOTEL BARS

(The proposed hours during which hotels shall be open for the sale of liquor are as follows: Hotels to be open, as at present, between 9 a.m. and 6 p.m.; or for a total of nine hours, at times to be decided, between 10 a.m. and 10 p.m.)

I vote for closing at 6 p.m.
I vote for closing at 10 p.m.

Directions

The voter must strike out one line, leaving untouched the line which shows the way he wishes to vote.

If the voter strikes out both lines or fails to strike out one of the lines, the voting-paper will be void, and his vote will not be recorded.

The voting-paper so marked is to be placed by the voter in the ballot-box.

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

THIRD SCHEDULE

Section 89

FORM OF VOTING-PAPER

Electoral District of

PART I

(Proposal that Licences for the Sale of Liquor be Issued in the King-country)

I vote FOR the Issue of Licences
I vote AGAINST the Issue of Licences

Directions

The voter must strike out one line, leaving untouched the line which shows the way he wishes to vote.

If the voter strikes out both lines or fails to strike out one of the lines, this Part of the voting-paper will be void, and his vote on the above question will not be recorded.

PART II

(Proposal that all Licensed Hotels in the King-country be Conducted by a Local Trust or Local Trusts)

I vote FOR Trust Control
I vote AGAINST Trust Control

Directions

The voter must strike out one line, leaving untouched the line which shows the way he wishes to vote.

If the voter strikes out both lines or fails to strike out one of the lines, this Part of the voting-paper will be void, and his vote on the question of Trust Control will not be recorded.

Note

When the voting-paper has been marked, it is to be placed by the voter in the ballot-box.

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