

New Zealand.



ANALYSIS.

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1904, No. 42.

Title.

AN ACT to amend the Licensing Acts.

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

[8th November, 1904.]

Short Title.

1. The Short Title of this Act is "The Licensing Acts Amendment Act, 1904"; and it shall form part of and be read together

with the Licensing Acts as defined by "The Alcoholic Liquors Sale Control Act Amendment Act, 1895."

2. In this Act, if not inconsistent with the context,—

Interpretation.

"Amendment Act of 1893" means "The Alcoholic Liquors Sale Control Act, 1893"; and "Amendment Act of 1895" means "The Alcoholic Liquors Sale Control Act Amendment Act, 1895":

"Elector" means a person entitled to vote at a parliamentary general election in a district:

"Electoral Act" means "The Electoral Act, 1902":

"Electoral poll" means the poll taken under "The Electoral Act, 1902," for the purposes of a parliamentary general election:

"Licensing Acts" includes this Act:

"Principal Act" means "The Licensing Act, 1881."

3. The result of every valid licensing poll (whether taken before or after the passing of this Act) shall have effect until superseded at a subsequent valid licensing poll.

Result of poll to have effect.

4. In any district where no licenses exist as the result of any licensing poll it shall not be lawful, so long as such result is in force, to grant or renew therein any publican's license, New Zealand wine license, accommodation license, bottle license, packet license, wholesale license, conditional license, or charter of any club.

Licenses not to be granted in no-license district.

5. (1.) With respect to every such district as last aforesaid, and so long as, pursuant to the result of the licensing poll, no licenses exist therein, the following provisions shall apply:—

Effect of "no license."

(a.) Every person who gives any order (whether verbal or in writing) for any liquor intended to be sent or taken into the district shall notify the person to whom the order is given that the liquor is intended to be so sent or taken, and shall give to such last-mentioned person a statement in writing of his name and address, and (where the order is given on account of any other person) the name and address of such other person.

(b.) Every person who sells any liquor in compliance with any such order shall, if so notified as aforesaid, or if aware that the liquor ordered is to be sent or taken into such district, furnish to some Clerk of a Magistrate's Court to be appointed by the Minister a statement in writing of the nature and quantity of the liquor so sent or taken, and of the name and address of the person ordering the same, and of the person to whom it is sent or by whom it is taken; and all such statements shall be filed by the Clerk.

(c.) Every brewer, wine or spirit merchant, or other vendor of liquor shall keep a book in which he shall enter all orders received by him for the delivery of liquor in such district, the nature and quantity of all liquor so delivered by him in compliance with any such order, and the address of the person ordering the same and of the person to whom the liquor is to be delivered.

- (*d.*) All statements filed as aforesaid, and every such book as aforesaid, shall be open to inspection by any Magistrate, Inspector of Licensed Premises, or by any person appointed in that behalf by any Court before which proceedings under this section or under section thirty-three of the Amendment Act of 1895 have been taken, but save as aforesaid shall not be open to inspection by any person.
- (*e.*) Every person who—
- (*i.*) Being a resident in such district, obtains, or who, acting on behalf of any such resident, obtains or orders liquor to be delivered in such district to him or to any such resident without notifying the vendor or the vendor's agent that he is such a resident as aforesaid, or that the liquor is to be delivered to such a resident as aforesaid; or
 - (*ii.*) Sells any liquor to, or for delivery to, any such resident as aforesaid without making an entry of the sale in the book aforesaid, or without furnishing a statement to the Clerk of the Magistrate's Court as aforesaid; or
 - (*iii.*) Knowing that any liquor is being supplied in breach of this section, delivers such liquor to any resident as aforesaid—
is liable to a fine for the first offence not exceeding twenty pounds, and for the second or subsequent offence to a fine not exceeding fifty pounds; or, if he be a licensee, to a fine not exceeding fifty pounds for a first offence and one hundred pounds for a second offence, and for a third or subsequent offence to a fine not exceeding two hundred pounds, or his license may be cancelled.
- (*f.*) Nothing in this section shall prevent any resident in such district, when outside the district, from obtaining for his own personal use, with right to take the same into the district if he chooses, liquor not exceeding one quart of spirits or wine or one gallon of beer in any one day; and it shall not be necessary for the vendor to enter such sale as required by paragraph (*c*) hereof, or to furnish any statement to the Clerk of the Magistrate's Court in respect thereof.
- (*g.*) If the Clerk to the Magistrate's Court or any other person discloses any information supplied in any statement filed under paragraph (*b*) hereof, he shall, unless such disclosure be made in good faith for the purpose of detecting and punishing offenders, be liable to a fine not exceeding twenty pounds.
- (*h.*) Nothing in this section shall prevent any duly registered pharmaceutical chemist within such district from dispensing alcoholic liquors in medicinal quantities for medicinal purposes upon a certificate signed by a duly registered medical practitioner.
- (2.) The foregoing provisions of this section are supplementary to and not in abrogation of those of section thirty-three of the Amendment Act of 1895.

(3.) The said section thirty-three is hereby amended by repealing the words "Inspector appointed under the Licensing Acts" in paragraph (d), and substituting in lieu thereof the word "constable."

6. Whenever by reason of changes in electoral districts the whole or any part of the area of a licensing district (hereinafter called an "original district") becomes comprised within the boundaries of another licensing district (hereinafter called a "new district") the following provisions shall apply:—

Provision when changes made in electoral districts.

(a.) Until the Committee of the new district is duly constituted, the Committee of the original district shall continue to have jurisdiction throughout the whole of the original area thereof in like manner as if such district existed unchanged.

(b.) Until the first valid licensing poll in the new district comes into force therein the result of the licensing poll in force in the original district immediately prior to the change shall continue in force throughout the whole of the area thereof in like manner as if such district existed unchanged.

7. (1.) For the purposes of the first licensing poll in every such new district the following provisions shall apply:—

How first licensing poll to be taken in new districts.

(a.) If the grant of licenses is prohibited throughout any area of the district containing more than half the population of the district, the poll shall be taken under section twelve of the Amendment Act of 1895, as if no licenses existed in the district:

Provided that if the result of such poll is that licenses be not restored in the district, then, notwithstanding such result, every license of any description existing at the time of the taking of the poll shall, subject to the provisions of this Act relating to forfeiture for breaches of the law, continue in force until the expiration of the current term of such license, and shall then lapse.

(b.) In any other case the poll shall be taken under sections three to nine of the Amendment Act of 1895, as if the grant of licenses were not prohibited in any part of the district.

(2.) For the purposes of this section the Governor shall, by notice in the *Gazette* published not less than fourteen days before the day for taking the licensing poll, specify with respect to each such licensing district the section or sections of the Amendment Act of 1895 under which the poll shall be taken in that district, and the poll shall be taken accordingly.

8. If the result of any licensing poll is disputed on the ground that the count of the Returning Officer was incorrect,—

Recount of votes.

(a.) Any six electors may, within seven days after the Returning Officer's public notice of such result, apply to a Magistrate for a recount of the votes.

(b.) Every such application shall be in writing under the hands of the applicants, and may be delivered to the Magistrate personally, or may be posted to him in a registered letter, or, where necessary, may be transmitted to him by telegraph.

- (c.) Every such application shall be accompanied by a deposit of ten pounds.
- (d.) The Magistrate shall, as soon as practicable after receiving the application and deposit as aforesaid, cause a recount of the votes to be made, and shall give at least two days' public notice of the time and place at which such recount will be made.
- (e.) The recount shall be made in the presence of the Magistrate, or of an officer appointed by him for the purpose, and shall, as far as practicable, be made in the manner provided in the case of the original count, and the provisions of the Electoral Act relating to the secrecy of the ballot shall apply to such recount.
- (f.) If on the recount the Magistrate finds that the result of the poll as determined by the Returning Officer was incorrect, he shall order the Returning Officer to give an amended public notice of the result of the poll as disclosed by such recount, and such amended public notice shall supersede the original notice and take effect accordingly.
- (g.) Where the Magistrate is of opinion that the application was made on insufficient or frivolous grounds, he may order that the expenses of and incidental to the recount, or any part thereof, be defrayed out of the deposit made under this section.
- (h.) Subject to any such order, the Magistrate shall direct that the deposit be returned to the person who made the same.
- (i.) Subject to any such order, the expenses of and incidental to the recount shall be deemed to form part of the expenses of the licensing poll, and shall be payable accordingly.

Petition for inquiry.

9. (1.) Where any fifty electors are dissatisfied with the result of any licensing poll they may, within fourteen days after the Returning Officer's public notice of such result, by petition filed in the Court as hereinafter mentioned, demand an inquiry as to the conduct of the poll or of any person thereat.

(2.) Every such petition shall be accompanied by a deposit of twenty pounds.

Constitution of Court.

(3.) Such petition shall be in the form in the Schedule hereto, or to the like effect, and shall be filed in the Magistrate's Court-house nearest to the principal polling-place at the poll to be inquired into, and shall be heard and determined before the Magistrate usually exercising jurisdiction at that Courthouse, together with the two other Magistrates residing nearest thereto, and the determination of a majority of such Magistrates (hereinafter referred to as "the Court") shall be sufficient :

Provided that where from any cause any such Magistrate is unable to act, the other two Magistrates shall select some other Magistrate to act in his stead.

(4.) Where any question arises as to which Magistrates are to constitute any Court, the same shall be decided by the Governor by notice in the *Gazette*.

Specified grounds only to be investigated.

(5.) The petition shall allege the specific grounds on which the complaint is founded, and no other grounds than those stated shall

be investigated except by leave of the Court and upon reasonable notice being given, which leave may be given upon such terms and conditions as the Court may deem just :

Provided that evidence may be given to prove that any proposal other than that declared to be carried was carried and not rejected, or was rejected and not carried.

10. Any six electors may, at any time not later than three clear days before the commencement of the inquiry, file in the Magistrate's Court in which the petition is filed a notice in writing of their intention to oppose the petition, and thereupon the electors giving such notice shall be deemed to be respondents to the petition. Who may be respondents.

11. (1.) The inquiry shall be commenced within fourteen days after the filing of the petition, and not less than seven days' public notice shall be given of the time and place at which the inquiry will be held. Time for holding inquiry.

(2.) The Magistrate usually exercising jurisdiction at the Magistrate's Courthouse in which the petition is filed, or in his absence such other member of the Court as the Minister directs, shall be Chairman of the Court.

12. (1.) For the purpose of the inquiry the Court shall have and may exercise all the powers of citing parties, compelling evidence, and maintaining order that Magistrates have in their ordinary jurisdiction; and, in addition, may at any time during the inquiry direct a recount or scrutiny of the votes given at the poll, and shall disallow the vote of every person who— Powers of Court.

(a.) Has voted, not being entitled to vote; or

(b.) Has given more votes than he was entitled to give.

(2.) The Court shall determine whether, by reason of some irregularity that in its opinion materially affected the result of the poll, the poll is void; or whether any and what proposal was duly carried; and such determination shall be final, and shall not be removed or questioned by *certiorari* or other process. Result of inquiry.

(3.) The order of the Court on any such determination shall supersede the Returning Officer's public notice of the result of the poll, and shall take effect accordingly.

13. (1.) On such inquiry the Chairman of the Court shall report in writing to the Minister the names of all persons found to have been guilty of any irregularity at or in connection with the poll, and shall state in such report whether or not in the opinion of the Court any such irregularity tended to defeat the fairness of the poll, and whether or not such irregularity tended materially to affect the result thereof. Persons committing irregularities to be named in report.

(2.) The Minister may, if he thinks fit, direct that proceedings be taken for the prosecution of any person named in such report, and on conviction such person shall be liable,— And liable to fins.

(a.) Where the irregularity tended in the opinion of the adjudicating Court materially to affect the result of the poll, to a fine not exceeding one hundred pounds; or

(b.) Where such irregularity did not in the opinion of the adjudicating Court tend materially to affect the result, but tended to defeat the fairness of the poll, to a fine not exceeding twenty pounds; or

- (c.) Where such irregularity did not in the opinion of the adjudicating Court tend either materially to affect the result or to defeat the fairness of the poll, to a fine not exceeding five pounds.

Irregularities at
licensing polls.

14. Every person shall be deemed to be guilty of an irregularity within the meaning of the last preceding section who—

- (a.) In any way interferes with any elector, either in the polling-booth or while on his way thereto, with the intention of influencing him or advising him as to his vote; or
- (b.) Prints or distributes or delivers to any person on the day of the poll, or at any time during the three days immediately preceding the poll, anything being or purporting to be in imitation of any voting-paper to be used at the poll, or having thereon the issue to be decided at the poll, together with any direction or indication as to how any person should vote, or in any way containing any such direction or indication; or
- (c.) During the hours in which the poll is being taken, makes any public demonstration having reference to the poll by means of living figures, effigies, paintings, placards, or other like means; or
- (d.) Obtains possession of or has in his possession any voting-paper other than the one given him by the Returning Officer for the purpose of recording his vote, or retains any voting-paper in his possession after leaving the polling-booth; or
- (e.) Does or omits to do any act that if done or omitted to be done at an electoral poll would be an offence under either Part II. or Part III. of the Electoral Act.

Costs of inquiry.

15. (1.) The Court may order that the expenses of and incidental to the inquiry shall be borne by any party to the inquiry; or, where it declares the poll void on the ground or partly on the ground of any negligence or misfeasance of any Returning Officer or other person acting officially at the election or poll, may order that such expenses or any part thereof shall be borne by that Returning Officer or other person; and such order shall have the same effect and may be enforced in like manner as if it were a judgment for a sum of money obtained in the Magistrate's Court holden at the Courthouse in which the petition is filed under "The Magistrates' Courts Act, 1893":

Provided that no such order shall be made against any person (other than a party to the inquiry) unless he has been summoned to attend and give evidence at the inquiry.

(2.) Subject to any such order the Court shall direct that the deposit accompanying any petition under section nine hereof shall be returned to the person who paid the same, unless the Court is of opinion that the petitioners have failed to establish the grounds specified in their petition, or any other grounds investigated by leave of the Court, in which case the deposit (or the surplus remaining after satisfying such order) shall be forfeited to the Crown.

(3.) Subject to any such order, the expenses of and incidental to the inquiry shall be deemed to form part of the expenses of the licensing poll, and shall be payable accordingly.

16. (1.) Where any licensing poll is declared void under section twelve hereof, notice thereof shall be given by the Chairman of the Court to the Returning Officer, and a fresh poll shall, on a day to be fixed by the Returning Officer, being not later than forty days after the date of such notice, be taken in the manner prescribed by the Licensing Acts in the case of a licensing poll :

Fresh poll.

Provided that no such fresh poll shall be valid unless the number of voters who recorded valid votes thereat is not less than fifty-five per centum of the number of such voters at the voided poll, and the provisions of subsection three of section four of the Amendment Act of 1895 shall not apply to such fresh poll.

(2.) At any such fresh licensing poll the same roll of electors shall be used as was used at the voided poll.

17. With respect to the Chalmers Licensing District the following special provision shall apply, anything in the Licensing Acts to the contrary notwithstanding :—

Special provision respecting Chalmers licensing poll.

If, as the result of the appeal now contemplated or pending before the Privy Council, it is established that the petition lately presented concerning the last licensing poll is a valid petition, it shall be heard and given effect to as if this Act had not been passed.

18. With respect to every area heretofore or hereafter proclaimed by the Governor under section twenty-five of the principal Act, the following provisions shall apply so long as such Proclamation is in force :—

No-license in Native proclaimed areas.

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

(i.) To solicit or receive therein any order for any liquor ; or

(ii.) To sell, or expose or keep for sale, therein any liquor ; or

(iii.) To send (either from without or within any such area) or deliver to any person residing therein, or at any place situate therein, any liquor which the person sending or delivering the same has reasonable ground to suspect is intended to be sold, or exposed or kept for sale, therein ; or

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

(b.) In any prosecution for the sale of liquor in breach of this section it shall not be necessary, in proving the sale, to show that any money or money's worth passed, or that any other consideration for the sale existed, if the Court is satisfied that a transaction in the nature of a sale actually took place.

- (c.) In any prosecution for exposing or keeping liquor for sale in breach of this section it shall lie on the accused to show that the liquor proved to be exposed or kept was not so exposed or kept for sale.
- (d.) In any prosecution for sending or delivering liquor in breach of this section it shall lie on the accused to show that he had no reasonable ground to suspect that such liquor was intended to be sold, or exposed or kept for sale, within any such area.
- (e.) It shall not be lawful for any person within any such area to supply any liquor to any male Maori who is under the influence of liquor, or to sell, or in any way give or supply, or allow to be sold, given, or supplied, any liquor to any female Maori, except on the written certificate of a duly qualified medical practitioner that the same is required medicinally.
- (f.) Every person who commits a breach of any of the provisions of this section is liable for a first offence to a fine not exceeding fifty pounds, and for a second offence to imprisonment for any term not exceeding three months, and for any subsequent offence to imprisonment for any term not exceeding twelve months.

Sale of liquor in Cook Islands by private enterprise forbidden.

19. (1.) On and after the passing of this Act, any law or Ordinance to the contrary notwithstanding, the exportation of liquor from New Zealand proper to and its importation into the Cook and other Islands in the Pacific within the boundaries of the Colony of New Zealand, as defined by "The Cook and other Islands Government Act, 1901," and hereinafter referred to as "the said Islands," shall, so far as private enterprise is concerned, and except as hereinafter provided, absolutely cease.

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

- (a.) To solicit or receive any order for any liquor within the said Islands; nor
- (b.) To sell, or expose or keep for sale, any liquor therein; nor
- (c.) To send (either from without or within the said Islands) or deliver to any person residing therein, or at any place situate therein, any liquor which the person sending or delivering the same has reasonable ground to suspect is intended to be sold, or exposed or kept for sale, therein; nor
- (d.) To send or deliver to any person residing therein, or to any place situate therein, any package containing liquor, unless such package bears distinctly written or printed on the outside thereof a statement that it contains liquor.

(3.) Any constable, Customs officer, or any person appointed for the purpose by the Government, may detain and in the presence of at least two witnesses examine the contents of any package in respect whereof a violation of this provision is reasonably suspected by him.

(4.) Every person who commits a breach of any of the provisions of this section is liable for a first offence to a fine not exceeding fifty pounds, and for a second offence to imprisonment for any term not exceeding three months, and for any subsequent offence to imprisonment for any term not exceeding twelve months.

(5.) In any prosecution for sending or delivering liquor in breach of this section it shall lie on the accused to show that he had no reasonable ground to suspect that such liquor was intended to be sold, or exposed or kept for sale, within any of the said Islands.

20. Immediately on or after the passing of this Act the Collectors of Customs in the said Islands may take possession of all the intoxicating liquor in the said Islands, and may pay such compensation to the owners thereof as may be arranged between the said owners on the one part and the Collectors of Customs on the other part: Provided that the owner of any of the aforesaid liquors may re-export the same if he objects to the compensation offered: Provided also that a Collector of Customs may refuse to take over any liquor which in his opinion is unsaleable or of inferior quality.

Collectors of Customs to take possession of all liquor in the Islands.

21. (1.) From and after the passing of this Act it shall be unlawful for any person, except through the Resident Commissioner of the Cook Islands or the Resident Commissioner or Collectors of Customs at Niue and other Islands, to import any liquor into the said Islands, or to manufacture therein any liquor for sale or consumption therein; and in any prosecution for a breach of this section it shall lie on the accused to prove that any such liquor was not imported into or was not manufactured in the said Islands for sale or consumption, as the case may be, in breach of this section.

Importation and manufacture of liquor in the Islands forbidden.

(2.) All liquor imported into the said Islands on or after the first day of January, one thousand nine hundred and five, in breach of this section shall be stored at the expense of the importers, who shall forthwith cause the same to be landed and placed in the King's Bond, and such importers shall forthwith cause such of the liquor as is not retained by the Collector of Customs to be exported from the said Islands.

(3.) No liquor shall be landed in the said Islands on or after the first day of January next unless consigned to the Collector of Customs, or other Government officer duly authorised in that behalf to receive the same; and if any such liquor is so landed it shall be forfeited to His Majesty.

(4.) Every person who commits an offence against any of the provisions of this section is liable for a first offence to a fine not exceeding one hundred pounds, or to imprisonment with or without hard labour for any term not exceeding three months; and for the second or any subsequent offence to imprisonment with or without hard labour for any term not less than three months and not exceeding six months.

22. (1.) From and after the first day of January, one thousand nine hundred and five, liquor shall be sold and supplied in the said Islands for use in the arts or manufactures, or for medicinal, religious, or scientific purposes, but not for any other use or purpose, by such officers of His Majesty's Customs as may be specially appointed by the Governor for that purpose.

Liquor may be sold by officers of Customs.

(2.) Such liquor shall be sold only in bottles or other receptacles duly closed and sealed in such manner that the liquor cannot be extracted therefrom without breaking such seal, and every such bottle or receptacle shall have thereon a label setting forth the kind,

quantity, quality, and price of the liquor contained therein: Provided that, in the case of colonial wines or claret, the Collector of Customs may sell not less than one or more than six bottles to any person at any one time.

(3.) All such sales shall be recorded.

(4.) Except as hereinafter provided, no claret or colonial wines shall be sold to any Native inhabitant of the said Islands.

Conditions of sale
of liquor to Natives,
&c.

23. (1.) No liquors shall be sold to any Native inhabitant of the said Islands except on the written authority of the Resident Commissioner, Resident Medical Officer, Collector of Customs, or other officer specially appointed for the purpose.

(2.) For the purposes of this Act all Polynesians resident in the said Islands shall be deemed to be Native inhabitants of the said Islands.

Penalty for manu-
facturing liquor.

24. (1.) Every person who manufactures the liquors known either as bush-beer or orange-beer, or in any way aids in or abets the manufacture or drinking of the same, is liable to a fine not exceeding five pounds.

(2.) Every person who distils or manufactures any intoxicating liquor other than bush-beer and orange-beer, or who aids in or abets the distillation or manufacture thereof, is liable to a fine not exceeding one hundred pounds and not less than five pounds.

(3.) For the purposes of this section "yangona" and "kava" shall not be deemed to be intoxicating liquors.

General penalty.

25. Every person who evades or attempts to evade any of the provisions of this Act relating to the said Islands, or any regulations made thereunder, for which no penalty is specially provided therein, is liable for each such offence to a fine not exceeding twenty pounds, or in default to imprisonment with or without hard labour for any term not exceeding six months.

Tribunal for hearing
proceedings for
offences.

26. All offences against any provision of this Act relating to the said Islands committed at or within the said Islands shall be heard in the High Court of the Cook Islands, or other properly constituted legal tribunals within the said Islands; and all offences committed by persons living without the said Islands shall be determined by any Court of competent jurisdiction.

Prohibition orders.

27. The High Court of the Cook Islands and the Federal or Island Councils (including the Niue Island Council) may respectively issue prohibition orders against any person on good cause being shown; and the provisions of the principal Act relating to prohibition orders and to prohibited persons shall, *mutatis mutandis*, extend and apply to prohibition orders and prohibited persons under this section.

Regulations.

28. The Governor may make regulations and do all things necessary to secure the proper administration of sections nineteen to twenty-seven of this Act. All such regulations shall be gazetted in the *New Zealand Gazette*, and those referring to the Cook Islands shall be published in the *Cook Islands Gazette*, and all such regulations shall have the force of law, and any breach thereof shall be punishable under this Act.

Licensing Com-
mittees.

29. With respect to the Licensing Committee of each district the following provisions shall apply:—

- (a.) (i.) If none of the elective members of any Committee are duly elected, or if the number elected is less than the number required to be elected, the Governor may appoint such number of fit persons resident in the district as will complete the required number.

(ii.) Section twenty-one of the Amendment Act of 1895 is hereby repealed. Repeal.

- (b.) (i.) The elective members of the Licensing Committee for each licensing district shall be elected on the second Tuesday in March, one thousand nine hundred and six, and on the same day in every third year thereafter; and it shall be the duty of the Returning Officer to give public notice of the day for the election not later than the third Monday in February next before every such election.

(ii.) Subsection one of section nineteen of the Amendment Act of 1895 is hereby repealed.

- (c.) (i.) Every member of a Licensing Committee who, by writing under his hand addressed to the Chairman, resigns his office, or who becomes disqualified, or is absent from two consecutive quarterly licensing meetings of the Committee, or ceases to permanently reside in the licensing district, shall immediately cease to be a member of the Committee.

(ii.) Where the office of a member of a Licensing Committee becomes vacant from any of the causes aforesaid, or from death, such vacancy shall be deemed to be an extraordinary vacancy, and the Governor shall appoint some person to fill the same, who shall hold office only until the next election of a Licensing Committee. Extraordinary vacancies on Licensing Committees.

(iii.) Paragraphs ten, eleven, and twelve of section seven of the Amendment Act of 1893 are hereby repealed. Repeal.

- (d.) (i.) The Chairman shall appoint the time and place for each quarterly meeting of the Committee.

(ii.) Paragraph six of section seven of the Amendment Act of 1893 shall be read accordingly.

- (e.) Section twenty of the Amendment Act of 1895 is hereby amended by the addition of the following words:—

“Provided that it shall not be necessary for the Chairman and the two members to be actually present together at one time and place for the purpose of jointly exercising any such powers.”

30. Section sixteen of the Amendment Act of 1895 is hereby amended by repealing paragraph (b) thereof. Costs of Licensing Committees election, &c.

31. (1.) No publican's license or accommodation license shall be removed from the premises in respect of which it was granted to any other premises beyond the boundary of the borough (if undivided), or of the ward (if divided into wards), or of the riding of the county, as the case may be, within which the first-mentioned premises are situate, nor shall it be removed to any premises situate more than half a mile from the first-mentioned premises if such premises are in a borough, or one mile if in a county. Removal of lapsed licenses.

(2.) In any case where a publican's or accommodation license lapses by reason of non-application for renewal or of the withdrawal or refusal of such application, and in consequence of the lapse the Committee has jurisdiction to grant a new license, such new license shall not be granted in respect of premises situate beyond the limits fixed by this section in the case of removals.

Applicant for
license to furnish
testimonials.

32. Every applicant for a publican's, or New Zealand wine, or accommodation license, or for a transfer thereof, shall with his application deliver to the Clerk of the Licensing Committee testimonials as to his character and suitability for the particular premises applied for, and such testimonials shall forthwith be forwarded by the Clerk to the Inspector, who shall report thereon to the Chairman of the Committee.

Indorsement of
licenses.

33. Except as regards offences against sections one hundred and twenty-seven and one hundred and forty-seven of the principal Act, the following provisions shall apply with respect to the recording or indorsing of convictions on licenses, anything in the Licensing Acts to the contrary notwithstanding:—

- (a.) In every case where, under the Licensing Acts, it is directed that a conviction shall be recorded or indorsed on a license, the convicting Court shall have a discretion to record or indorse or not to record or indorse the conviction, as the Court thinks fit.
- (b.) Every record or indorsement made before the passing of this Act on any license shall lapse and be deemed to be cancelled if, at the expiration of twelve months from the date of the conviction so recorded or indorsed, another conviction has not been recorded or indorsed on the license.
- (c.) Every record or indorsement made after the passing of this Act on any license shall lapse and be deemed to be cancelled if, at the expiration of two years from the date of the conviction so recorded or indorsed, another conviction has not been recorded or indorsed on the license.
- (d.) In a district where, as the result of a licensing poll, the number of licenses is to be reduced, every record or indorsement that has lapsed or is deemed to be cancelled as aforesaid shall, for the purposes of such reduction, be deemed never to have been made.
- (e.) Section twenty-two of the Amendment Act of 1893 (relating to indorsement of licenses) is hereby repealed.

Register of Licenses.

34. (1.) The Register of Licenses required by the principal Act to be kept shall be kept in the prescribed form, and shall be in two Parts, as follows:—

Part I. shall be a register of licensed persons, and shall contain particulars of the names of the persons to whom licenses are granted, and the premises in respect of which each license is granted.

Part II. shall be a register of licensed premises, and shall contain particulars of the premises in respect of which licenses are granted, the names of the owners of the premises, and the names of the persons for the time being holding each license.

(2.) The register to be kept under this section shall in the first instance be compiled from the register kept under the principal Act, and shall contain a record of all convictions recorded in such register that have not lapsed pursuant to the last preceding section.

(3.) Until the register has been so compiled, the register kept under the principal Act shall be deemed to be the register under this Act.

35. (1.) Where after the passing of this Act a record of any conviction is indorsed on a license, a corresponding record against the offender shall be made in Part I. of the register; and where at any time after the passing of this Act a record of three convictions within three years is made in the register against the same person, such person's license shall be cancelled, and he shall be permanently disqualified from holding a license.

Recording
convictions.

(2.) Where such record or indorsement is in respect of any offence mentioned in sections one hundred and forty-six, one hundred and forty-seven, one hundred and forty-nine, or one hundred and ninety-two of the principal Act, or in section forty of this Act, a corresponding record against the premises in which the offence was committed shall also be made in Part II. of the register; and where a record of three convictions within three years is made in the register against the same premises (whether the conviction was of the same person or not), the license in respect of such premises shall (unless the Committee, on the application of the owner, otherwise determines) be forfeited, and no license shall thereafter be granted in respect thereof for a period of two years from the date of the third of such indorsements:

Provided that should any licensing poll be taken during the two years aforesaid, and continuance be declared to be carried, then, for the purpose of computing the total number of licenses that are to continue, the forfeited license shall be included.

36. Where two or more records of convictions have been made in Part II. of the Register of Licenses against any licensed premises, and another such record would disqualify the premises under the last preceding section from receiving a license, the licensee, if a tenant, shall be deemed to have forfeited his lease, and the Licensing Committee may by order, on the application of the immediate landlord, cancel the license, and authorise any person nominated by such landlord and approved by the Committee to carry on the business of such premises until the end of the period for which the license was granted in the same manner as if the license had been formally transferred to such person.

Transfer where
lease determined on
account of
indorsement of
license.

37. (1.) Where an application for the renewal of a license has been duly made, and is not finally disposed of by the Committee on or before the day of the expiry of the license by effluxion of time, the license shall be deemed to be extended until the application is finally disposed of.

Provision where
license not renewed
before expiry of old
license.

(2.) During the period of such extension the licensee shall pay monthly in advance a proportion of the annual license fee for each month during any part of which liquor is sold in the premises in respect of which the application for renewal is made.

(3.) If the application is ultimately granted, the renewal shall be for the period ending the thirtieth day of June next following the

date on which it was granted, and the license fee for the whole period of extension and renewal, or so much thereof as remains unpaid, shall be payable accordingly.

Repeal.

(4.) This section is in substitution for section twenty-three of the Amendment Act of 1895, which section is hereby accordingly repealed.

Section 22 of
Amendment Act of
1895 amended.

Wholesale licenses.

38. Subsection five of section twenty-two of the Amendment Act of 1895 is hereby repealed so far as the same refers to travellers.

39. (1.) A wholesale license shall authorise the licensee to sell and deliver liquors from one place only (such place to be specified in the license), in quantities of not less than two gallons of liquors to be delivered to any one person at any one time, such liquor not to be consumed in or upon the licensee's house or premises: Provided that nothing herein shall prevent the holder of a wholesale license from selling or delivering liquor from any bonded warehouse.

(2.) No new wholesale license shall be granted authorising the sale of liquor from any place within a borough or town district in which a publican's license does not exist.

Repeal.

Supplying certain
liquors to youths.

(3.) Section thirty-five of the principal Act is hereby repealed.

40. (1.) Every licensee who supplies or allows to be supplied in his licensed premises, by purchase or otherwise, to be consumed on the premises,—

Any spirits, wine, ale, beer, or porter to any person apparently under the age of eighteen years, not being resident on the premises or a *bona fide* guest or lodger, is liable for each offence to a fine not exceeding ten pounds, and his license may be indorsed.

(2.) Every person who, by falsely representing himself or herself as being of the age of eighteen years or upwards, obtains for consumption on the premises any spirits, wine, ale, beer, or porter is liable to a fine not exceeding ten pounds.

Repeal.

(3.) Section one hundred and sixty-six of the principal Act is hereby repealed: Provided that such repeal shall not affect subsection eight of section twelve of the Amendment Act of 1893.

Sending children
for liquor.

41. Every person who sends a child under the age of thirteen years to a licensed house for any liquor is liable to a fine not exceeding ten pounds.

Persons found on
licensed premises
after closing-hours.

42. (1.) Every person found on licensed premises at any time when such premises are required by the Licensing Acts to be closed is liable to a fine not exceeding two pounds, unless he satisfies the Court that he was an inmate, servant, or lodger on such premises, or a *bona fide* traveller, or that otherwise his presence on such premises was not in breach of the provisions of the Licensing Acts with respect to the closing of licensed premises.

(2.) Any constable may demand the name and address of any person so found, and, if he has reasonable ground to suppose that the name or address given is false, may require evidence of the correctness thereof, and if such person fails upon such demand to give his name and address, or such evidence, the constable shall caution him, and, if he still persists in such failure, may apprehend him without warrant, and take him, as soon as practicable, before a

Justice, who, if such person gives his correct name and address, may order him to be released on bail.

(3.) Any person required under this section to give his name and address who fails to give the same, or gives a false name or address, or gives false evidence with respect to such name and address, is liable to a fine not exceeding five pounds.

43. (1.) In any proceedings under the Licensing Acts against a licensee for selling liquor to a prohibited person, it shall be a sufficient defence if the defendant satisfies the Court that he, or, as the case may be, his agent actually selling the liquor, had no reasonable opportunity of knowing and did not know that the person to whom the liquor was sold was a prohibited person. As to prohibited persons.

(2.) Section thirteen of the Amendment Act of 1893 is hereby amended as follows:—

(a.) By repealing the words “licensed person within any district in which such prohibition order is in force,” and substituting in lieu thereof the words “person whomsoever”; and also

(b.) By adding at the end of the section the words “and the fact of such person being found drinking liquor or having it in his possession shall be sufficient evidence of having procured it in breach of this section.”

(3.) The provisions of the Licensing Acts relating to prohibition orders shall extend and apply in like manner as if railway refreshment-rooms at which liquor may lawfully be sold were licensed premises and the licensees of the refreshment-rooms were licensed persons within the meaning of such provisions.

(4.) Section one hundred and sixty-seven of the principal Act is hereby amended as follows:—

“Any person who, on any of the grounds set forth in this section, desires that a prohibition order shall be made against himself may personally apply for the issue of the same to a Magistrate, who may grant it without dealing with the case in open Court.”

(5.) When any person has been three times convicted of drunkenness within six months, the Magistrate may make a prohibition order against him without the necessity of formal application being made for the issue of the same.

44. Every licensee who permits or connives at gambling or the playing of any unlawful game on his licensed premises is liable to a fine not exceeding ten pounds. Permitting gambling.

45. Where in any licensed premises any person other than the licensee supplies liquor to— Persons actually supplying liquor liable in certain cases.

(a.) Any person who is already in a state of intoxication; or

(b.) Any young person, in breach of section forty hereof; or

(c.) Any child, in breach of subsection eight of section twelve of “The Alcoholic Liquors Sale Control Act, 1893”; or

(d.) Any prohibited person; or

(e.) Any person at a time at which such person is not entitled lawfully to be supplied with liquor—

he shall be liable to a fine not exceeding ten pounds, irrespective of any liability that may attach to the licensee in respect of the same offence.

Supplying liquor to Maoris for consumption off the premises.

46. Every person (whether a licensed person or not) who supplies liquor to any Maori for consumption off the premises within such parts of the colony as may be hereafter defined by the Governor in Council and gazetted is liable to a fine not exceeding fifty pounds: Provided that this section shall not apply to any Maori who is married to a European or to half-castes living as Europeans.

Use of injurious materials.

47. For the purposes of section one hundred and ninety-one of the principal Act, relating to adulteration, the Governor may from time to time declare any ingredient or material to be injurious to health, and in such case any liquor with which such ingredient or material is mixed shall be deemed to be adulterated.

Limitation of proceedings.

48. All prosecutions for the breach of any of the provisions of the Licensing Acts shall be commenced within three months after the date of the breach, and not later.

Consideration for landlord's consent to transfer void.

49. (1.) It shall not be lawful for the owner or landlord of any licensed premises to demand or receive any fine, payment, bonus, premium, or consideration for his consent to any assignment, sub-lease, or transfer of the licensed premises or any lease thereof or the license by the licensee.

(2.) In any case where any such fine, payment, bonus, premium, or consideration has been paid after the commencement of this Act, then any moneys so paid may be recovered as a debt from the person receiving the same by the person paying the same.

(3.) In the case of an assignment or sublease of a lease executed after the passing of this Act, and in the case of a transfer of a license executed after that date, the owner or landlord shall not arbitrarily or unreasonably refuse such consent, and if any question arises as to whether his refusal is arbitrary or unreasonable it shall be decided by a Judge of the Supreme Court on the application of any party concerned, for which purpose the proceedings may be by way of originating summons.

Clubs liable to certain provisions of the Licensing Acts.

50. (1.) Every club now or hereafter holding a charter under section two hundred and twenty-nine of the principal Act shall (so far as the sale of liquor is concerned) be closed during the same hours and shall be subject to the provisions of the Licensing Acts relating to gambling or the playing of any unlawful game in the same manner as if the club were licensed premises, the club charter a publican's license, and the secretary of the club the licensee.

(2.) For every such club there shall at all times be a secretary, whose name shall from time to time be notified by the committee of the club to the Colonial Secretary.

(3.) Where any such club is situate in a licensing district in which for the time being no licenses exist, whether as the result of a licensing poll taken before or after the passing of this Act, the charter of the club, in so far as it confers the right to sell liquor, shall be suspended for so long as the result of such poll continues.

Provided that in the case of the Club at Ashburton the charter shall be suspended as from the first day of July, one thousand nine hundred and five.

(4.) For all the purposes of the Licensing Acts, liquor disposed of by the Club to its members shall be deemed to be sold to them.

(5.) The Colonial Secretary may at any time cancel the charter of any club on being satisfied that—

- (a.) Default is made in compliance with subsection two of this section ; or
- (b.) Liquor is sold in the club when the charter is suspended as aforesaid or during prohibited hours ; or
- (c.) Gambling or the playing of any unlawful game is permitted ; or
- (d.) Any breach is permitted of the rules or conditions upon which the charter was granted.

51. Whereas certain practices exist by which associations or clubs, not holding charters under the Licensing Acts, supply liquor to their members or enable the members to procure liquor on the premises of the association or club under circumstances which may not constitute a sale in law, but which show that the liquor so supplied or procured is directly or indirectly paid for by subscription, levies, voluntary contributions, or other payments of money from the members generally or the individual members to whom the liquor is supplied or who obtain it ; and whereas all such practices are illegal evasions of the law relating to illicit sales of liquor : Be it therefore enacted that in every case where, on any premises used by or for the purposes of any association or club (howsoever formed or named), liquor is supplied to or procured by a member or any other person under any such circumstances as aforesaid, such member or other person and also every officer or other person managing or concerned in the management of the association or club shall be severally liable to a fine of five pounds :

Sale of liquor by unchartered clubs, &c.

Provided that the conviction of any person under this section shall not relieve him from liability to punishment for any offence against any other provision of the Licensing Acts.

52. Nothing in section fifty-one hereof shall apply to cases where, at the meetings of any association, society, or club *bonâ fide* formed for and engaged in legitimately carrying out literary or musical entertainments, or friendly society, charitable, or masonic purposes, or outdoor games and exercises, or where, at the shows of agricultural and pastoral associations, the refreshments supplied to members and their guests at the expense of the association, society, or club include liquor.

Exemption in regard to certain associations, &c.

53. The Licensing Committee may, on the application of the licensee, from time to time, by certificate, authorise him to wholly or partially close his licensed premises, or suspend his business as licensee, during any specified period of the year.

Power to close premises for specified period.

54. Notwithstanding anything in section thirteen of the Amendment Act of 1895,—

- (a.) So long as, pursuant to the result of a licensing poll, no licenses exist in the Wellington Licensing District, no liquor shall be sold in the Parliament Buildings.
- (b.) No liquor shall be sold in the Parliament Buildings on Sundays, nor after ten o'clock in the evening on week-days.

Provisions as to Bellamy's under certain conditions.

55. The Governor may from time to time, by Order in Council gazetted, make regulations,—

Regulations.

(a.) For the guidance of Returning Officers, Deputy Returning Officers, poll-clerks, and scrutineers, respecting the conduct of licensing polls; and a copy of all such regulations in force shall be supplied free of charge to all such persons engaged at any such poll;

(b.) Prescribing forms and whatever else he thinks necessary in order to give effect to the Licensing Acts.

Licensing Acts
modified.

56. The Licensing Acts are hereby modified in so far as they are in conflict with this Act.

Repeals.

57. Section four of the Amendment Act of 1893, paragraph (o) of section seven of the Amendment Act of 1895, and section four of "The Licensing Committees and Polls Act, 1902," are hereby repealed.

Schedule.

SCHEDULE.

PETITION FOR INQUIRY AS TO RESULT OF POLL.

In the matter of a licensing poll held in the [*State licensing district*] on the day of , 19 .

THE petition of the undersigned electors of the [*State licensing district*], namely: A. B., of , C. D., of , &c.

1. Your petitioners state that the said licensing poll was held on the day of , 19 , and that the Returning Officer has declared the proposal to be carried that licenses be granted [*or be not granted*] in the district.

2. And your petitioners say that [*State the facts and grounds on which the petitioners rely*].

Wherefore your petitioners pray that it may be determined that the said proposal was rejected and not carried [*or that the poll was void*].

A. B.,
C. D.,
&c.