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(Hon. Mr. Fox.)

## Local Option.

### ANALYSIS.

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### A BILL INTITULED

## AN ACT to further amend the Laws regulating the Sale of Intoxicating Liquors. Title.

**W**HEREAS it is desirable to give more efficient control over the sale of intoxicating liquors to the residents in the immediate neighbourhood of the houses where such sale is carried on or intended so to be : Preamble.

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

1. The Short Title of this Act shall be “The Local Option Act, 1877.” Short title.

10 2. That at any time after the passing of this Act, it shall be lawful for twenty or more adult persons, male or female, residing within any licensing district, by notice in writing under their hands, to require the Chairman of the Licensing Court of such district (hereinafter called the Chairman,) to define and declare a sub- Subdistricts may be asked for.

15 district in conformity with the provisions of this Act, and to take the votes of the adult residents in such subdistrict as to the propriety of bringing the subsequent clauses of this Act into operation therein.

3. The said Chairman shall, on receipt of such notice, forthwith define a subdistrict in conformity with the provisions hereinafter con- Chairman to define subdistricts.

20 tained, and shall cause a public notice to be published in some newspaper circulating in the neighbourhood, defining the boundaries of such subdistrict, and fixing some day, not less than days thereafter, on which the residents in such subdistrict shall be required to record their votes.

25 4. Every man and woman of the age of twenty-one years, shall be an adult for the purposes of this Act. Interpretation of adult.

5. Every licensing district now or hereafter to be defined under the powers of the Licensing Act of 1873, or any other Act, shall, Subdistricts of original districts.

on such requisition as aforesaid, be subdivided from time to time in manner hereinafter directed.

Centre of subdistricts.

6. Every house licensed for the sale of intoxicating liquors, or for which a license, renewal, or transfer of a license to sell intoxicating liquors shall be applied for, shall be the centre of the subdistrict in which such house shall be deemed to be. But if there shall be more than one such house in proximity to each other, then the Chairman shall fix some intermediate point which shall be the centre of the intended subdistrict. 5

Area of subdistricts in municipal borough.

7. The area of every such subdistrict, if within the limits of a municipal borough, shall be such as to include all *bonâ fide* inhabitants who reside and shall have resided for one month next previous within a radius of one hundred yards from such centre. 10

Outside of municipal borough.

8. If the said centre shall be beyond the limits of any municipal borough, then the radius of such subdistrict shall be two miles measured from the centre, but shall not include any municipal borough or part thereof. 15

Voting papers to be distributed.

9. The Chairman shall, immediately after the declaration of such subdistrict, cause voting papers in the form in Schedule A to this Act annexed to be prepared, and shall, \_\_\_\_\_ days before the day appointed for voting as aforesaid, cause to be delivered at the residence of every person entitled to vote in such subdistrict a separate voting paper for every such person. 20

Vote, how to be recorded.

10. Every such person shall, upon such voting paper so delivered, signify in writing the word "Yes" or "No" thereon, and sign his or her name thereon, to signify whether he or she votes for or against the adoption of this Act. Provided always that any person who cannot write may affix his or her mark in the presence of a witness, who shall write the name of the voter thereon, and attest the same by his or her own name and place of residence: Provided so that if any person entitled to vote shall not have received a voting paper, he or she shall, on application on or before the day of voting, be entitled to receive a voting paper, and to fill up and sign the same in the presence of the Chairman, and then and there deliver the same to him; and in case any voting paper left as aforesaid shall not have been collected by the person appointed for that purpose, the voter may on the polling day in person deliver the same to the Chairman at the polling place. 25 30 35

Collecting voting papers.

11. The Chairman shall cause the voting papers to be collected on the day appointed for the voting as aforesaid by persons employed by him for the purpose as he shall direct; but no voting papers shall be received or admitted unless the same shall have been delivered at the residence of the voters as aforesaid, nor unless the same be collected by the person appointed for that purpose, except in the cases provided for in the last preceding section. 40

Chairman to declare result of voting.

12 The Chairman shall, on the day immediately following the day of voting, examine the said votes, and shall declare whether a majority of duly qualified votes has been given in favour of the adoption of the prohibitory clauses of this Act, and the adoption or non-adoption of the prohibitory clauses within such subdistrict shall depend on such majority of votes, and the decision of such Chairman as to the number of votes shall (except as hereinafter provided) be absolutely final and binding for all purposes. 45 50

Penalty for fabricating, altering &c. voting papers.

13 If any person fabricates in whole or in part, or alters, defaces, destroys, abstracts, or purloins any voting paper, or personates any person entitled to vote in pursuance of this Act, or falsely assumes to act in the name or on behalf of any person so entitled to vote, or interrupts the distribution or sending any voting papers, or distributes or sends any voting paper or any document purporting to be a voting paper under a false pretence of being lawfully authorized so to do, he shall for every such offence be liable on conviction before two Justices to be imprisoned for any period not exceeding six months. 55 60

14. If the prohibitory clauses of this Act shall have been adopted as aforesaid, the Chairman shall immediately make and sign a declaration to that effect, and from and after the publication in the Government Gazette of such declaration as hereinafter provided, the prohibitory clauses of this Act shall be and shall be deemed for all purposes whatsoever to be in force in such district; and such declaration shall not be liable to be impeached or called in question in any Court or before any Justices for or by reason of any error, defect, omission, or irregularity in the proceedings before or on the day of voting, or for any other cause whatsoever, save only such gross negligence or such wilful misconduct on the part of the Chairman as shall have caused the opinions of the majority as aforesaid of the persons entitled to vote in such district to be untruly represented by such declaration.

If Act adopted, Chairman to sign declaration, and after publication in Gazette &c. Act to be in force &c.

15. The Chairman shall immediately cause a copy of his said declaration to be published not less than twice in a newspaper generally circulating in the district, and shall forward a copy of his said declaration to the Colonial Secretary for publication in the Government Gazette, and after such last-mentioned publication all Courts and all Justices shall take judicial notice of such declaration, and of the adoption of the prohibitory clauses of this Act in such shire, road district, city, town, or borough. If the persons entitled to vote in any district shall determine in manner aforesaid against the adoption of the prohibitory clauses of this Act, it shall not be lawful within one year after such determination, again to take the votes of the persons entitled to vote in such district as to the expediency of bringing into operation therein the provisions of the said Act.

Declaration to be published in newspaper.

16. If the persons entitled to vote in such district shall determine in manner aforesaid in favour of the adoption of this Act, it shall be lawful after the expiration of three years, but not before, from the time of the said adoption for any fifty persons resident in such district again to require the Chairman of the said district again to take the votes of the voters of such district in like manner as hereinbefore provided for the adoption of the prohibitory clauses of this Act, and the continuance or otherwise of the operation of such clauses within such district shall be determined by a majority aforesaid of the votes so given.

After three years Chairman may be again required to take votes.

17. From and after the coming into force of the prohibitory clauses of this Act in any subdistrict as hereinbefore provided, no certificate or license whatsoever shall be granted or renewed or transferred for the sale of alcoholic liquor within such subdistrict, and any person selling or disposing of, or allowing to be sold or disposed of, any alcoholic liquor within such subdistrict shall be dealt with as selling without a license, and shall, on conviction before a Resident Magistrate or two Justices of the Peace, be liable to be committed to any common gaol for any period not less than fourteen days nor more than six months without the option of a fine; and all liquors found in his possession or control shall be seized and forfeited in the manner provided by any law now or hereafter in force regulating the sale of alcoholic liquors: Provided nevertheless that nothing herein contained shall affect any right or privilege conferred or enjoyed by virtue of any license current or in force at the time of the said coming into force of this Act during the currency of the said license.

After prohibitory clauses come into operation, no license to be issued, &c.

18. All expenses incurred by the Chairman in carrying into effect all or any of the provisions of the prohibitory clauses of this Act shall be chargeable upon and shall be paid out of the fees payable for publicans and other licenses.

Payment of expenses.

19. If the Chairman, his clerk, or any other person who may assist in the examination of such voting papers as aforesaid, shall

Penalty for divulging the vote of any individual voter.

divulge the vote of any individual voter, except he be required to do so by and in any Court of law, he shall be liable to a penalty of twenty pounds for every such offence.

Voting papers to be kept for the period of six months after the election.

20 All such voting papers as aforesaid shall be kept in some safe place by the Chairman for the period of six months after the election at which they shall have been taken, unless proceedings may have been taken in some Court of law which may require the production of such papers or any of them, and notice thereof shall have been given to such Chairman, after which period of six months they shall be burnt by such Chairman.

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The Governor in Council may make regulations for the prosecution of inquiries &c.

21 The Governor in Council may from time to time make regulations for the prosecution of any inquiry into offences under section of this Act, and direct prosecutions for the same to be undertaken in such manner and by such persons as he may think proper. But no such inquiry or prosecution shall operate to reverse the declaration made by the Chairman as to the adoption or non-adoption of the prohibitory clauses as aforesaid.

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Vote against particular licenses.

22. In any part of any licensing district which shall not have been constituted a subdistrict, and where no poll shall have been taken as aforesaid, or in any subdistrict in which a poll adverse to the introduction of this Act shall have been taken, it shall be lawful for any twenty persons resident within the distances before mentioned from any house for which a license or renewal or transfer of license is applied for, to object, in writing addressed to the Chairman, to the issue of any such license or transfer, and if there be not already a subdistrict to require a subdistrict to be defined and declared in such manner as aforesaid; and it shall then be the duty of the Chairman if so required, to define and declare such subdistrict, and to distribute voting papers, in the form prescribed by Schedule B hereinafter annexed, among the residents in such subdistrict, and to collect the same and take such poll as hereinbefore directed; and in case a majority of the voters shall be against the issue of a license to the house referred to, then no license shall be issued in respect thereof. And no fresh application shall be entertained for a license for such house for the space of one year thereafter.

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Excepting sales for medical purposes.

23. Nothing in this Act contained shall extend to any sale of alcoholic liquor by any qualified medical practitioner, nor by any chemist or druggist who may dispense the same under the prescription of such medical practitioner, nor to the sale or use of any methylated spirits, spirit of wine, or other alcoholic liquors, for the *bond fide* purpose of some manufacture or the exercise of some art, and not for the purpose of being drunk; and in case of a prosecution for any sale thereof contrary to the intention thereof, it shall rest with the person charged with such illegal sale to prove that it was not a sale contrary to this Act.

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SCHEDULES.

SCHEDULE A.

VOTING PAPER.

Licensing District of . . . Subdistrict of . . .  
If you are in favour of intoxicating liquors being sold in the subdistrict in which you reside, write the word "Yes" on this paper. If you are opposed to the sale of intoxicating liquors, write "No"; and in either case sign your name hereto.

This paper will be called for on the of , or may be handed to me in person, at my office, in , on the polling day,

If the voter cannot write, he or she will make his or her mark, in the presence of a witness, who will write "Yes" or "No" as above directed, and sign the voter's name, and add his or her own name as witness.

Chairman of Licensing Board.

Take Notice.—If any person wilfully commits any of the acts following, that is to say, fabricates in whole or in part, alters, defaces, destroys, abstracts, or purloins, any

voting paper, or personates any person entitled to vote in pursuance of this Act, or falsely assumes to act in the name or on behalf of any person so entitled to vote, or interrupts the distribution or sending of any voting papers, or distributes or sends any voting papers or any document purporting to be a voting paper, under a false pretence of being lawfully authorized so to do, he shall for every such offence be liable on conviction before two Justices to be imprisoned for any period not exceeding six months.

SCHEDULE B.

VOTING PAPER.

Licensing District of . Subdistrict of .

APPLICATION having been made to me by A.B., of , for a license to sell intoxicating liquors by retail [or in quantities not less than two gallons, or for a transfer of a license now held by him], at a house and premises in the above subdistrict, called or to be called (The ), you are hereby required to record your vote for or against such license or transfer, by writing hereon the words "Yes" or "No," and signing your name.

This paper will be called for on the day of , or may be handed to me by the voter in person, at my office, on the polling day, the day of .

If the voter cannot write, he or she will make his or her mark, in the presence of a witness, who will write "Yes" or "No" as above directed, and sign the voter's name, and add his or her own name as witness.

Chairman of Licensing Board.

Take Notice.—If any person wilfully commits any of the acts following, that is to say, fabricates, in whole or in part, alters, defaces, destroys, abstracts, or purloins any voting paper, or personates any person entitled to vote in pursuance of this Act, or falsely assumes to act in the name or on the behalf of any person so entitled to vote, or interrupts the distribution of any voting papers, or distributes the same under a false pretence of being lawfully authorized so to do, he shall for every such offence be liable, on conviction before two justices, to be imprisoned in the common gaol or house of correction for any period not exceeding three months, with or without hard labour.