

[AS REPORTED FROM THE MASTERTON LICENSING BILLS
COMMITTEE]

House of Representatives. 15th October, 1947.

Hon. Mr. Mason

MASTERTON LICENSING TRUST

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A BILL INTITULED

Title. AN ACT to constitute the Masterton Licensing Trust District, and to constitute the Masterton Licensing Trust for the Purpose of Providing for the Establishment of Hotels and the Sale of Intoxicating Liquor in the District in the Interests of the Public Well-being; and to provide for Matters Incidental thereto. 5

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:— 10

Short Title. 1. This Act may be cited as the Masterton Licensing Trust Act, 1947.

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

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

“Intoxicating liquor ” and “liquor ” have the same meaning as in the Licensing Act, 1908:
“Masterton Licensing Trust district ”, or “Trust district ”, means the Masterton Licensing Trust district constituted under this Act: 20

“Minister ” means the Minister of Justice:
“Trust ” means the Masterton Licensing Trust constituted under this Act. 25

Masterton Licensing Trust District

Constitution of Masterton Licensing Trust district. 3. There is hereby constituted for the purposes of this Act a district, to be called the Masterton Licensing Trust district, comprising the area described in the First Schedule to this Act. 30

Masterton Licensing Trust

4. (1) There is hereby established for the purposes of this Act a Trust, to be called the Masterton Licensing Trust.

Establishment of Masterton Licensing Trust.

5 (2) The Trust shall be a body corporate, having perpetual succession and a common seal, with power to make, alter, and renew the same, and with power to purchase, take, hold, transfer, and lease property, real and personal, to sue and be sued in any Court, and to do and suffer all other acts and things which a body corporate may lawfully do and suffer.

10 5. Subject to the provisions of section *six* of this Act, the Trust shall consist of ~~four~~ *six* members (hereinafter referred to as the elective members) who shall be elected by the electors of the Trust district in the manner hereinafter provided.

Constitution of Trust.

15 6. (1) If at any time moneys are advanced to the Trust out of the Consolidated Fund pursuant to this Act, or any guarantee of any overdraft of the Trust is given by the Minister of Finance, the Minister of Justice may, at any time while any moneys so advanced remain owing by the Trust or, as the case may be, while the guarantee continues, appoint *one* member) to be a member of the Trust.

Government member may be appointed.

20 (2) The Government member shall come into office on his appointment.

30 (3) When in the case of moneys so advanced all such moneys are wholly repaid, or when in the case of any such guarantee as aforesaid the guarantee ceases to exist, the Minister of Justice shall revoke the appointment of the Government member.

35 (4) Subject to the provisions of the *last preceding* subsection, the Government member shall hold office at the pleasure of the Minister of Justice.

40 (5) While the Government member is in office he shall be deemed for all purposes to be a member of the Trust, and neither his appointment nor the continuance of his membership shall in any proceedings be questioned on the ground that the occasion for the appointment or continuance had not arisen or had ceased.

Term of office
of elective
members of
Trust.

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

(2) Except as otherwise provided in this Act, every elective member of the Trust shall hold office for a term of *six* years, but may from time to time be re-elected. 5

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

(a) ~~Two~~ *Three* of those members shall hold office for a term of *three* years, and the remaining ~~two~~ *three* shall hold office for a term of *six* years: 10

(b) The members to hold office for a term of *three* years shall be determined by agreement between the elective members of the Trust within *three* months after the date of the first election or, failing any such agreement, shall 15 be determined by lot within the said *three* months:

(c) If there is no such determination as aforesaid within the said *three* months the members to hold office for a term of *three* years shall be 20 determined by the Minister.

(4) Every elective member of the Trust, unless he sooner vacates his office, shall continue in office until his successor comes into office, notwithstanding that his term of office may have expired. 25

Deputies of
members.

8. (1) In any case in which the Minister is satisfied that any *elective* member of the Trust is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may on the nomination of the Trust or, failing such nomination, if he thinks fit, appoint a deputy to act for that member during his incapacity, and any such deputy shall, while he so acts as such, be deemed for all purposes to be a member of the Trust. 30

New 35

(1A) Notwithstanding anything contained in sub-section *one* of this section, not more than one deputy shall hold office under this section at any one time.

(2) No appointment of a deputy and no acts done by him as such, and no acts done by the Trust 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. 40

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

Remuneration and expenses of members.

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

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

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

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

15 *Electors and Elections*

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

Electors of Trust district.

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

1941, No. 2

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

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(b) If that person, not being then enrolled by virtue of that other qualification, duly makes a claim for enrolment on the grounds of possessing the residential qualification and the other qualification, unless to the knowledge of the Clerk any statement made by the applicant in his claim is untrue; or

(c) If to the knowledge of the Clerk that person possesses the residential qualification.

(3) Every elector shall have one vote only at each election at which he is entitled to vote under this Act.

First election
of members
of Trust.

11. (1) The first election of members of the Trust shall be held on a day to be appointed by the Minister by notice published in the *Gazette*. The Minister shall, in the notice, appoint a day as the latest day for the nomination of candidates for the election.

(2) The first election of members of the Trust shall be held and conducted in accordance with the provisions set out in the *Second Schedule* to this Act.

Subsequent
elections of
members of
Trust.

12. (1) An election of ~~two~~ *three* members of the Trust to fill the vacancies created by the expiry of the term of office of members in accordance with this Act (hereinafter referred to as a triennial election) shall be held on the day on which the triennial election of Councillors under the Municipal Corporations Act, 1933, is held in the year nineteen hundred and fifty.

1933, No. 30

(2) Thereafter a triennial election of ~~two~~ *three* members of the Trust shall be held on every day appointed for holding the triennial election of such Councillors.

(3) At every election held under this Act, other than the first election, the Returning Officer for the Borough of Masterton shall be the Returning Officer for the Trust district.

(4) The rolls of electors for the districts which are situated wholly or partly within the Trust district shall be the rolls of electors for elections, other than the first election, under this Act.

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

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

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

(8) Subject to the provisions of this Act and of any regulations under this Act, the provisions of the Local Elections and Polls Act, 1925, shall apply with respect to every election under this Act, except the first election.

See Reprint
of Statutes,
Vol. V, p. 477

30 *New*

(9) Every candidate at any election under this Act shall at the time of nomination deposit the sum of *three* pounds with the Returning Officer for the election. If
35 at the election that candidate does not receive one-eighth of the votes received by the successful candidate, or, as the case may be, by the successful candidate receiving the fewest votes, the deposit shall be forfeited to the Trust; but otherwise, or if the candidate duly
40 withdraws his nomination before the election or is elected without a poll, the deposit shall be returned to him.

In default
of election
Governor-
General may
appoint
members.

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

Disqualification and Vacancies

Disqualification
of members
of Trust.

14. (1) The following persons shall be incapable of being elected or appointed to be or of being members of the Trust:— 10

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

Provided that this paragraph shall not apply with respect to the Government member: 15

(b) A person who carries on the business of a brewer, wine or spirit merchant, maltster, or distiller, or of an importer for sale of or a dealer in fermented or spirituous liquors, or who is in partnership with any person carrying on any such business, or who is a member or employee or the husband or wife of a member or employee of an incorporated company which carries on any such business as a substantial part of its undertaking: 20 25

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

(d) A person of unsound mind: 35

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

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

(f) A person convicted of any offence punishable by imprisonment, unless he has received a free pardon or has served his sentence or otherwise suffered the penalty imposed on him.

5

(2) The Trust shall be deemed to be a local authority for the purposes of the Local Authorities (Members' Contracts) Act, 1934:

1934, No. 17

New

10 | Provided that for the purposes of the application
of that Act to the Trust the reference in section three
thereof to ten pounds in the case of any contract shall
be deemed to be a reference to *twenty* pounds, and the
reference in that section to twenty-five pounds
15 | altogether in any financial year shall be deemed to be
a reference to *fifty* pounds.

(3) If any person does any act as a member, being incapacitated under subsection *one* of this section, except paragraph (*d*) thereof, he shall be liable to a
20 | fine not exceeding *fifty* pounds.

(4) It shall be the duty of the Audit Office to institute proceedings for the recovery of any fine under this section, but nothing herein shall be so construed as to prevent those proceedings being taken by any
25 | other person.

15. The office of a member of the Trust shall become vacant, and the vacancy shall be deemed to be an extraordinary vacancy, if the member—

Vacation of office by members.

- (a) Dies; or
30 | (b) Resigns his office by writing under his hand delivered to the Secretary or Chairman of the Trust, or is ousted from office; or
(c) Is absent without the leave of the Trust from *four* consecutive meetings of the Trust; or
35 | (d) Becomes incapable of continuing to hold office under the *last preceding* section.

16. (1) In the event of an extraordinary vacancy in the office of an elective member of the Trust occurring within *twelve* months before the expiry of the term of
40 | office of that member the Trust may by resolution determine—

Filling of extraordinary vacancies.

- (a) That the vacancy shall be filled by election in the manner prescribed by the provisions in that behalf of the Local Elections and Polls Act, 1925; or
45 |

See Reprint of Statutes, Vol. V, p. 477

(b) That the vacancy shall be filled by appointment by the Trust of a person qualified to be elected as a member:

Provided that where any such vacancy occurs within *six* months before the expiry of the term of office of the member whose office has become vacant the Trust may by resolution determine that the vacancy shall not be filled until the next triennial election of members is held. 5

(2) Notwithstanding anything to the contrary in the Local Elections and Polls Act, 1925, every resolution of the Trust under this section shall have effect according to its tenor. 10

(3) Every person appointed by the Trust pursuant to this section shall for all purposes be deemed to have been elected to fill the vacancy. 15

New

(4) Any member elected or appointed to fill any extraordinary vacancy shall hold office only for the unexpired portion of the term of office of his predecessor. 20

Ouster of Office

Ouster of office.

17. (1) Upon proof in the first instance by affidavit or otherwise that any member of the Board is or has become incapable under this Act or any other Act of holding his office, any Magistrate's Court in the Trust district may grant a summons calling upon the person holding such office to show cause why he should not be adjudged to be ousted of his office. 25

(2) If on the return of the summons it appears to the Court, on affidavit or oral evidence on oath, that the person is incapable under this Act or any other Act of holding the said office, the Court may adjudge him to be ousted of that office, and he shall be ousted of that office accordingly. 30 35

(3) In any proceedings under this section the Magistrate's Court may exercise all the powers and authorities that it may exercise in its ordinary jurisdiction in civil cases; and the procedure of the Court shall, so far as applicable, apply generally to proceedings under this section. 40

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

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

Chairman and Deputy Chairman

10 18. (1) At the first meeting of the Trust after the the first election of members, and at its first meeting after every triennial election of members thereafter, the Trust shall elect one of its members to be the Chairman of the Trust.

Chairman to be appointed by Trust.

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

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

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

35 19. (1) The Trust may from time to time appoint from among its members a Deputy Chairman, who shall act as Chairman of the Trust during the temporary absence or incapacity of the Chairman.

Deputy Chairman of Trust.

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

(3) The fact that the Deputy Chairman exercises any power, duty, or function of the Chairman shall be sufficient evidence of his authority so to do; and no person shall be concerned to inquire whether any occasion has arisen requiring or authorizing him so to do, or be affected by notice that no such occasion has arisen. 5

Proceedings of Trust

Meetings of Trust.

20. (1) The first meeting of the Trust shall be held at a time and place to be fixed in that behalf by the Minister. 10

(2) Thereafter meetings of the Trust shall be held at such times and places as the Trust determines.

(3) At any meeting of the Trust *three* members shall form a quorum. 15

(4) The Chairman shall preside at all meetings of the Trust at which he is present.

(5) At any meeting of the Trust the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote. 20

(6) All questions before the Trust shall be decided by a majority of the valid votes recorded thereon.

Regulating the conduct of business.

21. Subject to the provisions of this Act and of any regulations under this Act, the Trust may from time to time regulate the meetings, proceedings, and general conduct of the business of the Trust in such manner as it thinks fit. 25

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

22. No act or proceeding of the Trust, or of any person acting as a member of the Trust, shall be invalidated in consequence of there being a vacancy in the membership of the Trust at the time of the act or proceeding, or of the subsequent discovery that there was some defect with regard to the election or appointment of any member of the Trust or of any person so acting or that he was or had become disqualified. 30 35

Officers

Trust may appoint officers and servants.

23. (1) The Trust may from time to time appoint a Secretary, a Treasurer, and all such other officers and servants as it thinks necessary; and may from time to time remove any of the officers or servants; and may pay such salaries and allowances to the officers and servants respectively as it thinks reasonable. 40

(2) One person may hold two or more offices under the Trust.

(3) No member of the Trust shall be capable of holding any such office, unless without remuneration.

5 (4) During the absence from duty of any officer of the Trust by reason of illness, leave of absence, or other cause, his duties and powers may be performed and exercised by an acting officer appointed by resolution of the Trust, and any such appointment may be either
10 general or for some occasion only.

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

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

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

Trust may
contract as
to tenure of
office of
employees.

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

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

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

Contracts

Functions
of Trust.

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

(2) Any contract which if made between private persons must be in writing signed by the parties to be charged therewith shall, if made by the Trust, be either in writing under the seal of the Trust or in writing signed by *two* members of the Trust on behalf of and by direction of the Trust. 5 10

(3) Any contract which if made between private persons may be made orally may be similarly made by or on behalf of the Trust by any member or duly authorized agent of the Trust acting by direction of the Trust, but no oral contract shall be made involving the payment by the Trust of a sum exceeding *twenty* pounds. 15

(4) Notwithstanding anything in the foregoing provisions of this section, no contract made by or on behalf of the Trust shall be invalid by reason only that it is not made in the manner prescribed by this section if it is made pursuant to a resolution of the Trust or to give effect to a resolution of the Trust. 20

Functions and Powers of Trust

Contracts
of Trust.

26. (1) The functions of the Trust shall be to provide accommodation and other facilities for the travelling public within the Trust district, to establish and maintain hotels and suitable places within the district for the sale or supply of refreshments, to sell and supply intoxicating liquor within the district and establish and maintain premises for that purpose, and to do all such other acts and things as may in the opinion of the Trust be necessary or desirable having regard to the general purposes of this Act. 25 30

(2) Except as otherwise expressly provided in this Act the Licensing Act, 1908, shall apply in the Trust district. 35

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

General powers
of Trust.

27. (1) The Trust shall have all such powers, rights, and privileges as may reasonably be necessary or expedient to enable it to carry out its functions. 40

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

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

Establishment and maintenance of hotels, &c.

(2) The Trust may establish and maintain in such hotels facilities for the accommodation of the travelling public, and dining and refreshment rooms for the sale or supply of meals and refreshments to the general public, including, if the Trust thinks fit, the sale or supply of intoxicating liquor.

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

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

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

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

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

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

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

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

New

(2) Nothing in paragraph (b) or paragraph (c) of subsection *one* of section *fourteen* of this Act shall be construed to apply with respect to any person by reason only of the fact that he is for the time being acting as the authorized representative of the Trust in relation to any company in the capital of which the Trust holds any shares or stock under this section. 5

Acquisition
of premises,
&c.

31. (1) The Trust may purchase or otherwise acquire, or take on lease or bailment, any land, plant, and equipment and may construct, alter, and maintain any buildings or works necessary or convenient for the purpose of carrying out its functions. 10

(2) The Trust may from time to time let or sublet any premises or any part of any premises owned or leased by the Trust. 15

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

(3) For the purpose of facilitating the acquisition of land for the purposes of this Act the Governor-General may, on the application of the Trust and at its expense in all things, take under the Public Works Act, 1928, any land, or any particular estate or interest in land (whether for the time being subsisting separately or not), or any easement over any land (whether for the time being subsisting or not). 20

(4) Notwithstanding anything to the contrary in the Public Works Act, 1928, the effect of a Proclamation issued for the purposes of this section shall be to vest the land, estate, interest, or easement, as the case may be, in the Trust instead of His Majesty; and all proceedings subsequent to the issue of the Proclamation in respect of compensation, or otherwise for the purpose of complying with the said Act, shall be taken against the Trust, which shall be deemed to be the respondent and shall be liable in respect of the taking to the same extent as His Majesty or the Minister of Works would have been liable if the taking had been for the purposes of a Government work. 25 30 35

Premises in
which liquor
may be sold.

32. (1) Intoxicating liquor may be sold in the district by or on behalf of the Trust in such premises as the Trust may determine, and it shall not be necessary for any licence under the Licensing Act, 1908, to be issued to the Trust or to any person selling liquor on behalf of the Trust: 40

Ibid.,
Vol. IV, p. 234

Provided that except in the case of premises

Struck out

which

5 are maintained by the Trust as a dining-room or refreshment-room and in which accommodation is not provided for the travelling public, or premises which have been

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

(2) Intoxicating liquor may be sold at any fair, show, races, or other place of public amusement, ~~for the period of the fair, show, races, or amusement,~~ or at any saleyard or other place used for the sale of livestock ~~for the period of any such sale,~~ —

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

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

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

New

(5) Notwithstanding anything contained in this Act or in section three of the Masterton Licensing Restoration Act, 1947, the Licensing Committee for the
40 licensing district of Pahiatua or for the licensing district of Wairarapa may, at any time before the first

New

meeting of the Trust is held, but not otherwise, grant a conditional licence under section eighty-two of the Licensing Act, 1908, in respect of any place to which that section applies and which would, but for this Act, be within the jurisdiction of the Licensing Committee. Every licence granted under this subsection shall, subject to the provisions of the Licensing Act, 1908, have effect according to its tenor. 5

Temporary provision pending acquisition of hotel premises.

33. (1) The Trust shall as soon as practicable after the first meeting thereof establish premises for the sale or supply of liquor in the Trust district. 10

(2) If the Trust is not able to arrange for suitable permanent premises, premises may be established temporarily until sufficient suitable permanent premises are available. 15

(3) The Minister may at any time, if he thinks fit, and if any premises established temporarily under the *last preceding* subsection are not in his opinion equal to the standard required of a publichouse under the Licensing Act, 1908, require that the premises be closed, and thereupon the Trust shall close the premises. 20

Number and situation of hotels.

34. (1) Subject to *the provisions of this section and of any regulations that may be made under this Act*, the Trust may establish and maintain such number of hotels as it thinks fit, and may establish them in such localities as it determines: 25

New

Provided that the number of hotels established by the Trust shall not exceed the number of publicans' licences that could be granted under section eleven of the Licensing Amendment Act, 1910, in respect of the Trust district if the Trust district were a district to which that section applies. 30

(2) In determining from time to time the number of hotels to be established and maintained and the type and location of each hotel regard shall be had to the requirements of the travelling public and of the residents within the Trust district. 35

(3) The Trust shall give not less than *fourteen* days' notice by advertisement in a newspaper circulating in the Trust district of its intention to establish any hotel. 40

Struck out

and if any resident in the neighbourhood objects to the establishment of the hotel on the ground that it is not required in the neighbourhood, or that it will be in the immediate vicinity of a place of public worship, hospital, or school, or that the quiet of the neighbourhood will be disturbed, he may within the said *fourteen* days give notice of his objection to the Trust and apply to a Judge of the Supreme Court, whose decision shall be final, for an order determining whether or not the hotel may be established.

New

The position of the land on which it is proposed to establish the hotel shall be sufficiently described or referred to in the notice to enable it to be readily identified without necessity of reference to the plans or records of any office.

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

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

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

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

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

(a) In the case of a proposal to establish a hotel on any land in the Borough of Masterton, the area contained within a radius of one-quarter of a mile from a point at the middle of the frontage of that land:

New

(b) In the case of a proposal to establish a hotel on any land elsewhere in the Trust district, the area contained within a radius of one mile from a point at the middle of the frontage of that land. 5

(6) 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 may make an order accordingly. 10

(7) If the Magistrate orders that a poll be taken under this section, he may, by the same or any further order— 15

(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 *five* of this section: 20

(b) Fix the date for the taking of the poll. 25

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

(9) Every poll under this section shall be a poll of the electors residing, on a date to be determined in accordance with regulations under this section, in the area determined by the Magistrate. 30

(10) Every such poll shall, subject to the provisions of this section, be held and conducted in such manner as may be prescribed in that behalf by regulations under this section. 35

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

(12) The Governor-General may from time to time make such regulations, not inconsistent with this section, as may in his opinion be necessary or expedient for giving full effect to the provisions of this section. 40

New

Without limiting the generality of the foregoing provisions of this subsection, any such regulations may be made for all or any of the following purposes:—

- 5 (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:
- 10 (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:
- (e) Providing for the payment by the Trust of the reasonable costs and expenses incurred by any Government Department or local authority in connection with any poll.
- 15 (13) For the purposes of this section the term “hotel” includes any premises intended to be used for the retail sale or supply of liquor in quantities of less than two gallons at any one time.
- 20

Miscellaneous

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

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

30

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

40

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

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

(4) In the application of the provisions of the Licensing Act, 1908, pursuant to the *last preceding* subsection, any premises of the Trust in which lodging is provided shall be deemed to be an inn and the person for the time being charged with the management thereof shall be deemed to be the innkeeper. 5

Struck out

(5) Notwithstanding anything in the foregoing provisions of this Act, intoxicating liquor may be sold for consumption on the premises in any premises which are maintained by the Trust as a dining-room or refreshment-room and in which accommodation is not provided for the travelling public, and in any such case the dining-room or refreshment-room shall not be deemed to be a public bar or private bar within the meaning of the Licensing Act, 1908: 10 15

Provided that no female or person under the age of twenty-one years shall be employed in the serving of liquor therein.

Licence fees payable to local authority.

36. (1) The Trust shall pay in respect of premises in which liquor is sold by or on behalf of the Trust the annual fee prescribed in respect of publicans' licences by the Licensing Act, 1908. 20

(2) The fees shall be paid within fourteen days after the commencement of each financial year of the Trust, or, in the case of premises first used during any financial year for the sale of liquor, within fourteen days after the premises are so first used. 25

(3) The fees payable under this section shall be paid to the treasurer of the local authority within whose district the premises are situated. 30

Borrowing-powers of Trust. See Reprint of Statutes, Vol. V, p. 354

37. (1) The Trust may borrow by way of overdraft in manner prescribed by section three of the Local Bodies' Finance Act, 1921-22, and the provisions of that section shall, with the necessary modifications, apply to the Trust in all respects as if it were a local authority within the meaning of that Act. 35

(2) In addition to the power conferred by the *last preceding* subsection the Trust shall have power, with the consent of the Minister of Finance and upon and subject to such conditions as that Minister thinks fit, to borrow moneys and mortgage or charge any of its real or personal property. 40

(3) For the purpose of enabling the Trust to commence to exercise its functions without delay, the Minister of Finance may from time to time, upon and subject to such terms and conditions as he thinks fit, advance to the Trust out of the Consolidated Fund without further appropriation than this Act any moneys required for the acquisition of any property or the payment of any preliminary or general expenses (including salaries) payable by the Trust before it has sufficient revenue for the payment thereof.

38. The Trust may establish at such branch or branches of the Bank of New Zealand as it thinks fit, in the name of the Trust, such accounts as it deems necessary or convenient for the exercise of its powers under this Act, and may authorize the accounts to be operated on respectively by such person or persons as the Trust from time to time appoints for that purpose.

Bank accounts
of Trust.

39. The Trust may in every financial year expend for purposes not authorized by this Act or by any other Act or law for the time being in force any sum or sums not amounting in the whole to more than one hundred pounds.

Unauthorized
expenditure.

40. (1) The Trust shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid, and of the several purposes for which such sums of money have been received and paid.

Proper books
of account
to be kept.

(2) The Trust shall keep such accounts of moneys and stores, and keep them in such manner, as may be required by the Audit Office.

41. (1) The Trust shall establish a depreciation reserve, to which may be charged any depreciation in the value of the Trust's assets, and any loss involved in the destruction of or injury to any such assets, and any expenditure involved in the replacement of assets.

Power to
establish
depreciation
and other
reserves.

(2) The Trust may also from time to time, with the consent of the Minister of Finance, establish such other reserves as it deems necessary or expedient.

(3) The Trust may invest any of the moneys to the credit of any reserve account either in the business of the Trust or as provided in the *next succeeding* section,

Investment
of moneys
belonging
to Trust.

42. Any moneys belonging to the Trust and available for investment may be invested in the manner following:—

- (a) In New Zealand Government securities; or
- (b) On deposit in the Bank of New Zealand or in the Post Office Savings-bank; or 5
- (c) In any other securities that may from time to time be authorized by the Minister of Finance.

Yearly
balance-sheet
and
statements.

43. (1) On or before the thirtieth day of April in each year the Treasurer of the Trust shall prepare and send to the Audit Office a yearly balance-sheet and a profit and loss account together with such other statements of accounts as may be necessary to show fully the financial position of the Trust and the financial results of its operations during the financial year ended on the thirty-first day of March then last past. 10 15

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

(2) The yearly balance-sheet, account, and statements shall be audited by the Audit Office, which for that purpose shall have and may exercise all such powers as it has under the Public Revenues Act, 1926, in respect of public moneys and public stores and the audit of local authorities' accounts. 20

(3) A copy of the yearly balance-sheet, profit and loss account, and statements shall, when duly audited, be submitted by the Trust to the Minister accompanied by a report as to the operations of the Trust for the year; and a copy of the balance-sheet, account, statements, and report shall be laid before Parliament within twenty-eight days after its receipt by the Minister if Parliament is then in session, and, if not, then within twenty-eight days after the commencement of the next ensuing session. 25 30

Distribution
of profits
arising from
operations
of Trust.

44. (1) The net profits arising from the operations of the Trust, or so much thereof as the Trust shall determine, may be expended or distributed by the Trust within the Trust district in such manner as the Trust thinks fit for the promotion, advancement, or encouragement of education, science, literature, art, physical welfare, and other cultural and recreational purposes; for the erection, laying out, maintenance, or repair of buildings or places intended to further any of those 35 40

purposes; for any philanthropic purpose; or for any other purpose for the benefit of the Trust district or the residents therein as the Minister may approve:

New

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

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

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

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

SCHEDULES

Schedules.

FIRST SCHEDULE

Section 3

MASTERTON LICENSING TRUST DISTRICT

ALL that area in the Wellington Land District bounded by a line commencing at a point on the summit of the Tararua Range due west of the source of the Hector River, in Block I, Eretonga Survey District; thence generally along the summit of the Tararua Range to and along the western watershed of the Mangahao River, to the intersection of that watershed with the northern boundary of Section 2, Block IV, Waiopahu Survey District; thence along a right line to the south-western

corner of Eketahuna County, being the intersection of the Tararua Range by a right line bearing $295^{\circ} 30'$ magnetic (1898) from a point in the middle of the Makakahi River, in line with the western boundary of Section 21, Block XIV, Tararua Survey District; thence along that right line to the middle of the Makakahi River; thence down the middle of that river to a point in line with the northern boundary of Section R 182, Block XIII, Mangaone Survey District, to and along that boundary, the northern boundaries of Section 132, Block XIII aforesaid, Sections 135, 140, Road Reserve 173 and 68 all of Block XIV, Mangaone Survey District, and the production of the last-mentioned boundary to the middle of the Mangaoronga Road; thence along the middle of that road to a point in line with the north-western boundary of section 77, Block XIV, aforesaid; thence to and along that boundary, and the north-western and north-eastern boundaries of Section 26, Block XV, Mangaone Survey District, and the production of the last-mentioned boundary to the middle of Baker Road; thence along that road to a point in line with the north-eastern boundary of Section 29, Block XV aforesaid; thence to and along that boundary and the north-eastern boundaries of Sections 20, 19, 18, and 17, and the production of the last-mentioned boundary to the middle of Barton's Road; thence along that road to a point in line with the north-eastern boundary of Section 91, Block XVI, Mangaone Survey District; thence to and along that boundary, the north-eastern boundaries of Section 92, Block III, Kopuaranga Survey District, Sections 93, 94, 95, 96, and 17, all of Block IV, Kopuaranga Survey District to the north-western boundary of Section 22, Block I, Mangapakeha Survey District; thence along that boundary and the north-western boundaries of Sections 23, 24, and 25, and along the north-eastern boundaries of Section 25 aforesaid and Section 26, all of Block I aforesaid, to the easternmost corner of the last-mentioned section; thence along a right line to the northernmost corner of Section 148, Block II, Mangapakeha Survey District; thence along the north-western boundaries of that section and Section 149 to the north-eastern boundary of Section 225, both of Block II aforesaid; thence along that boundary and its production to the middle of the Tauweru River; thence up the middle of that river to a point in line with the north-eastern boundary of Section 824, Whareama District; thence to and along that boundary to the south-western boundary of Section 822, Whareama District; thence along that boundary and the western boundaries of Sections 825, 826, and 397, all of Whareama District, and the production of the last-mentioned boundary to the middle of the Eketahuna-Tinui Road; thence along the middle of the Eketahuna-Tinui Road to and along the middle of the Makiriri Valley Road to a point in line with the north-eastern boundary of Section 293, Whareama District, in Block VI, Mangapakeha Survey District; thence to and

along the north-eastern and south-eastern boundaries of Section 293, the north-eastern boundary of Section 872, and the north-eastern, northern, and south-eastern boundaries of Section 875, all of Whareama District, to the westernmost corner of Lot 2, as shown on the plan numbered 945, deposited in the office of the District Land Registrar at Wellington, being part of Section 877, Whareama District; thence along the southern boundary of the said Lot 2, the western and southern boundaries of Lot 1, as shown on the plan numbered 1175, deposited as aforesaid, being parts of Sections 879 and 881, Whareama District, and the north-western boundaries of Sections 403, 882, and 880, Whareama District, to and across the Bideford-Mangapakeha Road; thence along the generally northern and western boundaries of Section 880, Whareama District, and the generally western boundaries of Lots 3 and 2, as shown on the plan numbered 880, deposited as aforesaid, being parts of Section 865, Whareama District, to the westernmost corner of the said Lot 2; thence along a right line bearing $296^{\circ} 33'$ to the south-eastern boundary of Section 876, Whareama District; thence along the south-eastern and southern boundaries of the said Section 876 to the north-eastern boundary of part Lot 5, as shown on the plan numbered 2336, deposited as aforesaid, being parts of sections of Whareama District; thence along the generally north-eastern boundary of the said part Lot 5 to the south-eastern boundary of Section 863, Whareama District; thence along the south-eastern and southern boundaries of Section 863, the south-eastern boundaries of Sections 868 and 866, all of Whareama District and the production of the last-mentioned boundary to the middle of the Rorokoko Stream; thence up the middle of that stream to a point in line with the southern boundary of Section 98, Whareama District, in Block XVI, Kopuaranga Survey District; thence to and along the southern boundaries of Sections 98, 97, 13, and 12, Whareama District, and the production of the last-mentioned boundary to the middle of the Tauweru River; thence down the middle of the Tauweru River, to and up the middle of the Mangatopitopi Stream, to a point in line with the western boundary of Punui Block, in Block III, Otahoua Survey District; thence to and along the western boundary of Punui Block, the northern and western boundaries of Taumatawhakapono West Block, the western and south-western boundaries of Taumataria Block, and the production of the last-mentioned boundary to the middle of the Tauweru River; thence down the middle of the Tauweru River, to and down the middle of the Ruamahanga River, to a point in line with the middle of the road forming the south-western boundary of Section 110, Taratahi Plain Block, in Block XVI, Tiffin Survey District; thence to and along the middle of the road forming the south-western boundaries of Sections 110, 32, and 11, Carter's Road forming

the south-eastern boundary of Section 1, Somerset Road forming the south-western boundary of Section 1, Dorset Road forming the north-western boundaries of Sections 1, 2, 3, 4, and 5, Francis Road forming the south-western boundaries of Sections 84, 166, and 150, and Hughes Road forming the south-eastern boundary of Section 186, to a point in line with the north-eastern boundary of Section 187, all of Taratahi Plain Block; thence to and along the north-eastern boundary of the said Section 187 and its production to the middle of the Wellington-Wairarapa Railway; thence along the middle of the said railway to the middle of Chester Road forming the south-western boundary of the said Section 187; thence along the middle of Chester Road, to and along the middle of the Masterton-Carterton Road to a point in line with the north-eastern boundary of Section 205, Taratahi Plain Block; thence to and along the north-eastern boundaries of Sections 205 and 141 to a point distant 2300 links from the easternmost corner of the last-mentioned section; thence along a right line parallel to the south-eastern boundary of the said Section 141 to the north-eastern boundary of Section 173; thence along the north-eastern boundary of Section 173 to a point distant 2028 links from the easternmost corner of that section; thence along a right line to a point on the south-western boundary of Section 173, distant 2026 links from the southernmost corner of that section, and the production of that line across Belvedere Road; thence along the south-western side of Belvedere Road to the northernmost corner of Lot 4, as shown on the plan numbered 1834, deposited as aforesaid being part of Section 175; thence along the north-western boundaries of Lots 4, 3, 2, and 1, as shown on the said Plan 1834, to the south-western boundary of Section 175; thence along the south-western boundary of Section 175 to Lincoln Road; thence along the north-western side of Lincoln Road to the easternmost corner of Section 241, Taratahi Plain Block; thence along the north-eastern boundaries of Sections 241 and 240, the south-eastern and north-eastern boundaries of Section 237, the south-eastern and north-eastern boundaries of Section 308, the north-eastern boundaries of Sections 307 and 306, Taratahi Plain Block, the south-eastern and north-eastern boundaries of Section 2, the north-eastern and western boundaries of Section 3, both of Block V, Tiffin Survey District, to the Kaitangata Stream; thence along a right line due west to the Waiohine River; thence up the right bank of the Waiohine River to and up the right bank of the Hector River to the source of the last-mentioned river; thence along a right line due west to the summit of the Tararua Range, being the point of commencement.

SECOND SCHEDULE

Section 11

PROCEDURE FOR CONDUCTING FIRST ELECTION OF MEMBERS
OF TRUST

1. Subject to the necessary modifications and to the modifications hereinafter contained, the election shall be held and conducted within the Trust district in the same manner as elections of members of the House of Representatives are held and conducted in the electoral districts of Pahiatua and Wairarapa.

2. The Clerk of the Magistrate's Court at Masterton shall, without further appointment, be the Returning Officer for the election.

3. The publication in the *Gazette*, pursuant to section eleven of this Act, of the notice by the Minister shall, for the purpose of determining who are entitled to be on the roll of electors, and for the purpose of the nomination of candidates, have the same effect as the issue of a writ for an election, and the date of such publication shall be deemed to be equivalent to the date of the issue of a writ.

4. In the preparation of supplementary rolls for the purposes of the election it shall not be necessary to include the name of any person who is an elector of the electoral district of Pahiatua or of the electoral district of Wairarapa unless he is an elector entitled to vote at elections of members of the Trust under this Act.

5. The names of the persons who are entitled to vote at the election shall be indicated by appropriate words, abbreviations, or marks on the electoral rolls of the electoral districts of Pahiatua and Wairarapa.

6. No elector shall be entitled to vote except at a polling-place within the district.

~~7. No deposit shall be payable by any candidate for the election.~~

New

7A. The provisions of subsection *nine* of section *twelve* of this Act (which relates to deposits by candidates) shall apply, and nothing in section one hundred and eleven of the Electoral Act, 1927, shall apply.

8. If the result of the election is disputed, the dispute shall be inquired into and determined by a Magistrate under the provisions in that behalf of the Local Elections and Polls Act, 1925, and not otherwise.

Section 35

THIRD SCHEDULE

PROVISIONS OF THE LICENSING ACT, 1908, NOT APPLICABLE IN
THE MASTERTON LICENSING TRUST DISTRICT

PART III; Part IV (except section 143); sections 148 to 160,
166, 171, 180, 200, 234 to 236, 246 to 251, 253 to 258, 291 to
296, 299 to 301.

PROVISIONS OF THE LICENSING AMENDMENT ACT, 1910, NOT
APPLICABLE IN THE MASTERTON LICENSING TRUST DISTRICT
Sections 8 to 12.