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*This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES,
and, having this day passed as now printed, is transmitted to
the LEGISLATIVE COUNCIL for its concurrence.*

*House of Representatives,
20th September, 1917.*

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE.]

Legislative Council, 4th October, 1917.

Right Hon. Mr. Massey.

SALE OF LIQUOR RESTRICTION.

ANALYSIS.

Title.	3. Provision for reduction of rent payable in respect of licensed premises.
1. Short Title.	4. Refund of rates by local authority in certain cases.
2. Fixing hours of closing of licensed premises during continuance of war.	5. Duration of Act.

A BILL INTITULED

AN ACT to restrict the Hours within which Intoxicating Liquor may be sold in Licensed Premises during the Continuance of the War. Title.

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

1. This Act may be cited as the Sale of Liquor Restriction Act, 1917. Short Title.

10 2. (1.) On the first day of ~~November~~ *December*, nineteen hundred and *seventeen*, and thereafter while this Act remains in force, the Licensing Act, 1908, and its amendments, and all licenses thereunder, and all other Acts relating to the sale of intoxicating liquor, shall, notwithstanding anything to the contrary therein, be read and
15 construed as if the following provisions were substituted for the provisions of subsection one of section one hundred and eighty-nine of the first-mentioned Act, namely,—

“Subject as hereinafter mentioned, all licensed premises shall be closed as follows, that is to say:—

20 “(a.) On Saturday night, from six o'clock until nine o'clock of the following Monday morning:

“(b.) On the nights of all other days, from six o'clock until nine o'clock of the following morning.”

New.

(2.) While this Act remains in force, sections seventy-four, seventy-seven, and seventy-eight of the Licensing Act, 1908, shall be read as if in each case the word "nine" were substituted for the word "six," and the word "six" was substituted for the word "ten."

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Struck out.

Provision for
reduction of rent
payable in respect
of licensed
premises.

3. (1.) Every licensee of licensed premises (not being the owner thereof, within the meaning of the Licensing Act, 1908) may at any time before the *first* day of February, nineteen hundred and *eighteen*, by notice in writing served on the owner, require the owner to reduce the rent payable by the licensee in respect of the premises, pursuant to any lease, to such amount as may be specified in the notice; or, in the discretion of the owner, to accept a surrender by the licensee of the lease on payment to the licensee of—

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(a.) A proportionate part of any bonus or premium that may have been paid by the licensee to the owner or any other person, in consideration of the grant of the lease, calculated by reference to the proportion which the unexpired portion of the term of such lease bears to the whole term of the lease; and

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(b.) The value of the furniture and stock-in-trade of the licensee, to be ascertained in case of dispute by arbitration under the Arbitration Act, 1908.

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(2.) If the owner of the premises does not, within *fourteen* days after service on him of any such notice as aforesaid, either—

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(a.) Reduce the rent to the amount specified in the notice; or

(b.) Accept a surrender of the lease as aforesaid—

the licensee may, by notice in the prescribed form, apply to the Licensing Committee of the licensing district in which the licensed premises are situate for an order reducing the rent payable by the applicant in respect of the licensed premises on the ground that the rent as fixed by the lease is inequitable, having regard to the operation of the foregoing provisions of this Act for the reduction of the hours during which the licensed premises may be kept open.

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(3.) Upon receipt of any such application the Clerk of the Licensing Committee shall arrange a time and place for the holding of the meeting of the Licensing Committee to deal with the application, and shall notify the applicant and the owner of the premises of the time and place fixed for such meeting.

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(4.) On any application being made under this section, the Licensing Committee shall thereupon have jurisdiction to hear and determine the same, and may, if it thinks fit, by order, reduce the rent payable by the licensee to such amount as it deems just and equitable in the circumstances.

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(5.) On the hearing of an application under this section a Licensing Committee shall have the same powers of summoning witnesses, and of hearing evidence on oath, as it has in respect of proceedings before it under the Licensing Act, 1908, and may make such order as it thinks proper as to the payment of costs.

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(6.) At the hearing of any such application the applicant and the owner, and any other person or persons whom the Licensing

Committee may deem to be interested in the subject-matter of the application, may appear personally or by counsel.

5 (7.) The provisions of the Licensing Act, 1908, relating to the conduct of meetings of a Licensing Committee, shall, so far as applicable, apply to meetings of the Committee for the purposes of any application under this section, and, in so far as such provisions or the provisions of any regulations under this section do not apply, the Committee may determine its own procedure.

10 (8.) Every order made by a Licensing Committee under this section shall have effect according to its tenor, and shall take effect as from the date of the service on the owner of a notice under subsection *one* hereof, and shall continue in force during the continuance of the lease or for the duration of this Act, which ever period is the shorter, and the terms of the lease shall be deemed to
15 be modified accordingly.

(9.) For the purposes of this section the term "lease" includes an agreement for a lease and any other tenancy.

20 (10.) The Governor-General may, by Order in Council gazetted, make such regulations as may be deemed necessary prescribing forms of notices to be given under this section, for the hearing and determining of applications, and for such other matters as may be deemed necessary.

New.

25 3A. (1.) Any lessee of licensed premises (but, in the case of a lessee who is licensee of the licensed premises, subject to his having complied with the provisions of section *three B* hereof) may at any time before the *first* day of March, nineteen hundred and
30 *eighteen*, by notice in writing served on his lessor, require the lessor to reduce the rent payable by the lessee in respect of the premises, pursuant to any lease, to such amount as may be specified in the notice; or, at the option of the lessor, to accept a surrender by the lessee of the lease on payment or giving credit to the lessee of—

Provisions or reduction of rent and for adjustment of other charges between lessor and lessee of licensed premises by reason of reduction of hours of sale of intoxicating liquor.

35 (a.) A proportionate part of any bonus or premium that may have been paid, or agreed to be paid, to the lessor or any other person on account of the lessor in consideration of the grant of the lease (including in such bonus or premium anything paid or agreed to be paid for goodwill), calculated by reference to the proportion which the unexpired portion of the term of such lease bears to the
40 whole term of the lease:

Provided that no person shall receive any greater amount than the proportion of the sum which he shall have paid to the person from whom he purchased in respect of the unexpired period of the lease:

45 (b.) The value of the usual and ordinary furniture and stock-in-trade of the lessee, to be ascertained in case of dispute by arbitration; and

(c.) The proportionate part of the publican's or other license fee for the unexpired portion of the term of such license.

50 (2.) On any such surrender there shall be an adjustment between the parties of rates, insurance premiums, and other outgoings for the then current year.

(3.) If the lessor does not, within *fourteen* days after service on him of any such notice as aforesaid, either—

(a.) Reduce the rent to the amount specified in the notice ; or

(b.) Accept a surrender of the lease as aforesaid,—

the question shall be referred to arbitration as to what reduction (if any) shall be made in the rent payable by the lessee in respect of the licensed premises on the ground that the rent as fixed by the lease is inequitable, having regard to the operation of the foregoing provisions of this Act for the reduction of the hours during which the licensed premises may be kept open. 5 10

(4.) In the case of a lease at a ground rental only, the option of the lessor to accept a surrender thereof shall not apply, but the lessee may nevertheless, by notice as by subsection *one* provided, require the lessor to reduce the rent, and if the lessor does not, within *fourteen* days after service on him of such notice, agree to reduce the rent to the amount specified in such notice, the question as to what reduction (if any) shall be made shall be referred to arbitration in accordance with the provisions of this section. The question whether a lease is at a ground rental shall be determined by arbitration in manner aforesaid. 15 20

(5.) Every reference under this Act shall, unless the parties agree upon a single arbitrator, be to two arbitrators, who shall appoint their umpire before proceeding with their reference, and such umpire shall sit with the arbitrators, but, beyond examining witnesses if he thinks fit so to do, shall take no part in the proceedings unless the arbitrators disagree. 25

(6.) Each of the parties to any such reference to arbitration shall pay his own costs and expenses of and incidental to such reference and one moiety of the charges and expenses of the arbitrators and umpire. 30

(7.) Except as herein expressly varied or modified, the provisions of the Arbitration Act, 1908, shall apply to any reference under this Act.

(8.) At the hearing of any such arbitration as aforesaid the lessee and the lessor may appear personally or by his solicitor or authorized agent. 35

(9.) In any arbitration involving the question as to whether the rent payable under a lease shall be reduced the arbitrators and umpire shall have regard to all the circumstances of the case and in particular (where applicable) to— 40

(a.) The loss of trade (if any) directly attributable to the restriction of trading-hours imposed by section *two* hereof :

(b.) The reduction (if any) in the expenses of the lessee in carrying on his business on the licensed premises consequent on the said restriction of trading-hours : 45

(c.) Any sum received or receivable by the lessor as a bonus or premium on the granting of the lease :

(d.) The proportions in which it is equitable that the reduction in rental value of the licensed premises by reason of the reduction of trading-hours imposed by section *two* hereof should be apportioned between the lessor and the lessee : 50

(e.) Any increase in the rental value of the licensed premises since the date of the granting of the lease.

(10.) Where as the result of an award made under this section the amount of any rent payable as aforesaid to a lessor is reduced, and the said lessor is himself a lessee of the premises, the amount of rent payable by the first-mentioned lessor to his lessor shall, during the continuance of the award, be proportionately reduced: Provided that the rental as so reduced shall in no case be less than the reduced rent fixed under the provisions of this section as payable by the lessee in possession. Where a lessor, who is himself a lessee, has accepted a surrender of the lease granted by him and has thereby acquired the stock-in-trade and furniture of his lessee, all the foregoing provisions of this section shall apply as between the first-mentioned lessor and his own lessor: Provided that the time for giving the notice by such first-mentioned lessor to his own lessor required by subsection *one* hereof shall be extended to the *first* day of April, nineteen hundred and *eighteen*.

(11.) The provisions of this section shall not apply to the case of any lease heretofore granted containing express provisions for a reduction of rent or that there shall be no reduction of rent in the event of the trading-hours being restricted to the extent provided by this Act.

(12.) Every award made by the arbitrators or umpire (as the case may be) under this section shall have effect according to its tenor, and shall take effect as from the date of the service on the lessor of a notice under subsection *one* hereof, and shall continue in force during the continuance of the lease or for the duration of this Act, whichever period is the shorter, and the terms of the lease shall be deemed to be modified accordingly.

(13.) For the purposes of this section the term "lease" includes an agreement for a lease and any other tenancy, "lessor" includes the executors, administrators, or assigns of a lessor, and "lessee" includes an assignee in possession, and the executors or administrators of a lessee.

3B. Every lessee, being a licensee of licensed premises who desires to take advantage of the provisions of section *three A* hereof shall, within twenty-one days from the first day of December, nineteen hundred and *seventeen*, lodge with the Clerk of the Licensing Committee for the district in which his licensed premises are situate an account or inventory, verified by statutory declaration, showing the amount, quantity, and description of wines, spirits, beer, liqueurs, cordials, aerated waters, and groceries held by him in stock on the morning of the said first day of December, nineteen hundred and *seventeen*.

Licensee required to furnish to lessor inventory of stock-in-trade as on 1st December, 1917.

4. (1.) Where the rent payable in respect of any licensed premises has been reduced pursuant to section *two* hereof, the occupier of those premises, within the meaning of the Rating Act, 1908, shall, if the premises are situated in a district in which the system of rating on the annual value is in force, be entitled to claim a refund from the local authority of a proportion of the rates paid in respect of those premises for the period elapsing between the first day of November, nineteen hundred and *seventeen*, and the end of the period for which such rates were levied.

Refund of rates by local authority in certain cases.

(2.) The refund to be made pursuant to this section shall be computed so that the amount of the refund shall bear the same proportion to the total amount of rates paid for the period aforesaid in respect of the premises as the annual amount by which the rent of the premises has been reduced bears to the total annual amount of rent as fixed by the lease. 6

(3.) If any rates in respect of the period aforesaid have not been paid, the local authority shall be entitled to recover only an amount equal to the difference between the total amount levied and the amount of the refund to which the occupier would be entitled under this section if the full amount of rates had been paid. 10

New.

Licensee may, without prejudice to his right to obtain renewal of license, close the licensed premises during continuance of Act.

4A. Notwithstanding anything to the contrary contained or implied in the Licensing Act, 1908, or in any other Act, the licensee of any licensed premises may, with the consent of the owner and mortgagee (if any), and of the Licensing Committee, upon proving to the satisfaction of such Committee that the business of the licensee cannot be profitably carried on therein, close his licensed premises and keep the same closed during the continuance of this Act, without prejudice to his right to apply for and obtain, at every annual meeting of the Committee, a certificate of renewal of his license; and, provided that he shall have paid his license fee during each year, he shall be entitled at any time while this Act is in force, while holding a certificate, to open the said premises and thereafter to carry on his business therein as if his said business had been carried on without interruption. 15 20 25

Restriction of sale and delivery of liquor by holder of wholesale license.

4B. During the hours when licensed premises are required to be closed no liquor shall be sold at or removed from any place where the holder of a wholesale license is authorized to sell and deliver liquor. 30

Consequential alteration of law as to chartered clubs.

4C. While this Act remains in force section two hundred and sixty-two of the Licensing Act, 1908, shall be read as if the following subsections were added thereto:—

“(6.) If a person appointed to inspect a chartered club reports to the said Minister that liquor has been supplied therein during the hours when licensed premises are required to be closed to persons other than lodgers, the said Minister shall cause an inquiry to be held by a Stipendiary Magistrate, and, if the Stipendiary Magistrate upon such inquiry finds that liquor has been so supplied under circumstances which in the case of the conviction of a licensee of licensed premises would, in his opinion, have justified the endorsement of the license, the charter of the club shall be forthwith revoked. 35 40

“(7.) A Stipendiary Magistrate holding such inquiry shall have the same power and jurisdiction in all respects as in proceedings for offences against the Licensing Act, 1908.” 45

Provision as to persons found on licensed premises during hours while, by this Act, those premises are required to be closed.

4D. (1.) While this Act remains in force the provisions of subsection one of section one hundred and ninety-four of the Licensing Act, 1908, shall not apply to the case of a person found on licensed premises between the hours of six and nine in the morning and six and ten at night of any day other than Sunday, Christmas Day, and Good Friday. 50

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(2.) Between the said hours on every day other than Sunday, Christmas Day, and Good Friday, the following persons, and no others, may lawfully be upon licensed premises, that is to say,—

(a.) The licensee and the members of his family :

5 (b.) Persons actually employed in respect of such licensed premises by the licensee thereof :

(c.) Lodgers :

(d.) The guests of any lodger and persons visiting or having business with any lodger :

10 (e.) Persons having actual business with the licensee or his family :

(f.) Persons taking the meal of breakfast during the hours between six and nine in the morning, or dinner between the hours of six and ten at night, and persons who *bona fide* propose to take, or have taken, such a meal :

15 (g.) *Bona fide* travellers.

(3.) No liquor shall be sold to or consumed by any such persons except the licensee and the members of his family and lodgers during the said hours, whether at a meal or otherwise.

20 (4.) No person other than the licensee or a servant of the licensee shall be deemed to be lawfully upon the licensed premises during the said hours if such person be found in any bar or private bar.

25 (5.) Any person found on licensed premises between the said hours, not being a person who under the provisions of this section may lawfully be upon such premises between the said hours, shall be liable to a penalty not exceeding *ten* pounds.

30 (6.) The provisions of subsections two and three of the said section one hundred and ninety-four shall apply in respect of persons found upon licensed premises between the said hours.

5. This Act shall remain in force during the continuance of the present war with Germany and for six months thereafter, and no longer. Duration of Act.