

No. , 1897.

A BILL

To regulate, in accordance with polls taken in certain areas, the sale and the keeping for sale of intoxicating liquors and the granting and renewing of licenses for the sale of such liquors within those areas; to provide for compensation to owners and occupiers of hotels which may be injuriously affected by the provisions hereof; to amend the law relating to the sale of intoxicating liquors and the granting and renewing of licenses for the same; and for purposes of and incidental to the aforesaid objects.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Liquor Traffic Local Option Act 1897"; and it shall have effect on and after the first day of January, one thousand eight hundred and ninety-eight. Short title and commencement of Act.

2. The unrepealed portions of sections thirty-four and thirty-five of the Licensing Act of 1882 and the whole of section thirteen of the Licensing Act of 1883 are hereby repealed. Repeal of enactments in the Licensing Acts 1882-3.

3. In this Act unless the context otherwise requires— Interpretation of terms.
 "Elector" means any person entitled at the time of a vote being taken under this Act to vote for a Member of the Legislative Assembly.

Liquor Traffic Local Option.

- “Elector for the Electorate” means an elector enrolled under the Electoral Acts on the electoral roll of the electoral district, or of the electoral division or electoral divisions constituting the electorate, or on the electoral roll for a district included in the electorate, as the case may be.
- “Electorate” means an electoral district, but in the case of the electoral districts of Belmore, Bligh, Cook, Denison, Fitzroy, Flinders, Gipps, King, Lang, Phillip, and Pymont, those electoral districts shall together be deemed to be one electorate for the purposes of this Act. And where under this Act any division or divisions of an electoral district are appointed an electorate for the purpose of taking a poll, that division or those divisions shall be deemed to be an electorate for the purposes of this Act.
- “Electoral district” has the meaning given to that expression in the Electoral Acts.
- “Electoral Acts” include any Act for the time being in force regulating the procedure to be observed at Parliamentary elections.
- “License” means license for the sale of intoxicating liquors granted under the Licensing Acts, 1882–1883, or any Acts regulating licenses for the sale of intoxicating liquors.
- “Licensing Authority” means Licensing Court or Licensing Magistrate for any licensing district or portion of a licensing district included within the boundaries of the electorate in reference to which the expression is used.
- “Liquor” has the same meaning as in the Licensing Act of 1882.
- “Minister” means Minister charged with the administration of the Licensing Acts then in force.
- “Returning officer of the electorate” or “Returning officer” means the returning officer under the Electoral Acts of the electoral district constituting the electorate or of which the electorate forms part, as the case may be, and where the electorate consists of more than one electoral district means the returning officer under the Electoral Acts of such of the said districts as the Governor may name in a notification made by him.

And the definition of other expressions in the Licensing Act of 1882 shall apply to the same expressions when used in this Act.

4. It shall be lawful for any number of electors for any electorate, being not less than one-tenth of the whole, by requisition, in writing, made to the returning officer of such Electorate between the first day of July and the last day of September in any year, to require such returning officer to take a poll of the electors for such electorate for or against the adoption of either of the following resolutions to have effect within the electorate:—

- (a) First resolution—That the number of licenses be reduced to the number specified in such requisition.
- (b) Second resolution—That no new licenses be granted.

The requisition shall specify which of the resolutions the poll is required to be taken upon, and should the poll be required to be taken upon the first resolution shall specify the extent of the reduction in the number of licenses, not being less than ten per centum of the number in force on the day on which the requisition is made.

5. Not later than fourteen days after receiving such requisition the Returning Officer shall cause a notice to be affixed on or near the door of every post-office and railway-station in the electorate, and shall also cause a notice to be inserted in one or more newspapers published within the electorate, or, if there be no newspaper published within

Poll may be demanded upon certain resolutions.

Notice of poll to be given, &c.

Liquor Traffic Local Option.

3

within the electorate, then in some newspaper circulating therein, setting forth the substance of such requisition and the purposes for which the poll is to be taken, and specifying a day on which a poll will be taken, not being earlier than *fourteen* nor later than *twenty-eight* days after the last publication of such notice in a newspaper, as herein-before provided :

Provided that no day shall be so specified which falls within fourteen days after the day on which any Parliamentary election is held for the electorate, or for any electoral district of which the electorate forms part, or which is included in the electorate, as the case may be.

6. On the day specified as aforesaid a poll shall be taken, and subject to the provisions of this Act the poll may be taken on more than one resolution. The polling shall, subject to any regulations made under the authority of this Act, be conducted as nearly as possible as in a parliamentary election: Provided that the ballot-papers shall be in the form and of the description specified in the Schedule to this Act, and the directions for the guidance of the electors at the poll shall be those only which are set forth in the said Schedule.

Poll to be taken.

7. In the taking of any such poll the electors for the electorate within which the poll is to be taken shall each be entitled to one vote for or against either or both of the resolutions upon which a poll is taken, and a resolution shall be deemed to be carried if a majority of those who voted for or against the resolution have voted for the resolution.

Schedule.

Any person voting so as to infringe the Electoral Acts so far as incorporated by this Act shall be liable to the penalties or the imprisonment imposed by those Acts for such infringement.

8. If the first resolution is carried it shall be adopted, and its adoption shall include the adoption of the second resolution, whether a poll has or has not been required or taken on the second resolution and whether that resolution has or has not been carried.

Procedure at voting

If the second resolution is carried, and the first is not carried, the second resolution shall be adopted.

9. The Returning Officer shall, as soon as possible after the poll, declare the result of the voting and notify the same to the Minister, and shall within seven days thereafter or, if a petition be presented to test the validity of the poll, then within seven days after a decision that the vote is valid, forward a notice in writing under his hand of the adoption of any resolution to the Minister (who shall forthwith publish the same in the Gazette), and to every Licensing Authority having jurisdiction within the electorate; and any of such notices as last-mentioned shall be conclusive proof in any proceedings under this Act that the resolution has been adopted.

What resolutions may be adopted.

10. (1) Where the first resolution is adopted, the Minister shall, on receiving notice thereof, forthwith arrange with the Licensing Authorities having jurisdiction within the electorate for the holding of such meetings and such inspection of licensed premises within the electorate, and for the obtaining by such Authorities of such information respecting such premises and the conduct thereof by the licensees as may enable them to determine which licenses in the electorate shall not be renewed after the expiration of the two years hereinafter referred to.

Duties of Returning Officer.

Procedure, &c., on adoption of first resolution.

Within sixty days after being required by the Minister to make such determination, such Authorities shall notify to the Minister the description of the licensed premises in respect whereof they agree and determine that there shall be no renewals of licenses on the expiration of the renewal license current at the end of a period of two years from the

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Liquor Traffic Local Option.

the date of the adoption of the resolution, and if they do not come to a determination as to the description of the premises aforesaid they shall notify to the Minister the description of the premises in respect whereof they agree, and the premises in respect whereof they do not agree as aforesaid.

In case of any such disagreement as aforesaid, the Minister shall forward the notification to a District Court Judge, to be named by him, who shall determine the premises in respect whereof there shall be no renewals of licenses as aforesaid.

The Minister shall forthwith, on the receipt of any such determination by the licensing authorities or by the said Judge, notify the same in the Gazette, and cause a copy of the same to be served on the licensees affected by the said determination; and such notice shall be deemed to be compensation to the owners and occupiers of the licensed premises within the meaning of this Act.

On notification in the Gazette as aforesaid, it shall be the duty of each Licensing Authority in the electorate to carry the said determination into effect; and any act of the said Authority in contravention of the said determination shall be null and void.

(II) For the purpose of making such determination, a District Court Judge or member of a Licensing Court or Licensing Magistrate, and every inspector or other person authorised in writing by such Judge, Court, or Magistrate, may enter any licensed premises and the appurtenances thereto at any time during the day or night. And if admittance to such premises or appurtenances be refused or unreasonably delayed, after demand made, the licensee of such premises and every person who refuses or wilfully delays admittance as aforesaid shall each be liable to a penalty not exceeding *fifty* pounds, to be recoverable summarily before any court of summary jurisdiction.

(III) No liability of any kind shall attach to any member of a Licensing Court or to any Licensing Magistrate or to any other persons in respect of anything done or any communication made by him or them pursuant to this section, or in compliance with any direction or request of the Minister.

11. If the second resolution is adopted it shall not be lawful for a Licensing Authority, after receiving notice thereof, to grant a certificate to any person for the sale of liquor in any house or premises within the electorate, unless at the time of the adoption of such resolution a license was current and in force for the sale of liquor in such house or premises, and any certificate granted in contravention of this section shall be null and void.

Effect of adoption of second resolution.

12. (I) If the first resolution is adopted, and after the lapse of two years from such adoption a poll for its repeal may be required to be taken and shall be taken in the manner provided by regulations to be made under this Act, or a poll may be again required on the question of a further reduction of the number of licenses.

When poll may be again taken.

(II) If the second resolution is adopted, and after the lapse of two years from such adoption a poll for its repeal may be required to be taken and shall be taken in the manner provided by regulations as aforesaid, or a poll may be required on the first resolution.

(III) Any resolution adopted shall have effect until repealed or superseded by another resolution under the authority of this Act.

(IV) When any resolution is rejected, a poll may be again demanded upon it in the manner provided in this Act, after the lapse of two years from the last taking of the poll, so often as a requisition is forwarded to the Returning Officer according to section four of this Act.

Liquor Traffic Local Option.

5

13. Any fifty electors qualified to vote at any poll taken under this Act within any electorate, may, within seven days after the taking of such poll, petition the Minister to test the validity of the poll given for or against any resolution for the adoption of a resolution or for its repeal, upon grounds to be set forth in the petition. The Minister shall thereupon, unless he considers the grounds of the petition to be frivolous and vexatious, in which event he shall so notify the Licensing Authority without delay, state a case on behalf of such petitioners for the decision of a District Court Judge to be named by him, as to the validity or otherwise of the poll, which decision shall be final.

Procedure testing of validity of poll.

If the said Judge decides that the poll is invalid, the poll shall be annulled by a notification in the Gazette to that effect, to be published by the Minister, and in that case a fresh poll may be taken on the resolution specified. If the Judge decides that the poll is valid, the Minister shall publish a notification in the Gazette to that effect, and in that case the poll shall be carried into effect under this Act.

14. The Governor may, by notification in the Gazette, appoint any division or divisions of an electoral district situate outside the county of Cumberland to be and the same shall thereupon be deemed to be an electorate within the meaning of and for the purposes of this Act.

Electoral divisions may be constituted electorates.

15. The expenses of and incidental to the taking of a poll under this Act and the testing of the validity of any poll so taken shall be chargeable to and paid out of the Consolidated Revenue Fund.

Provision for payment of expenses of taking poll.

16. The Governor may make regulations for carrying out the objects of this Act in respect of the conduct of elections, the appointment of polling-places, and of presiding officers and poll-clerks, the preparation and supply of ballot-papers, the disposal of ballot-papers, and for all other matters appertaining to the taking of polls and the conduct of voting under this Act, the remuneration to be paid to any such persons, and generally in respect to the carrying out of all details incident to the due execution, and for the full enforcement of this Act.

Regulations.

All such regulations shall be published in the Gazette, and shall within fourteen days after such publication be laid before Parliament, if Parliament be then actually in session, and if not, then within fourteen days from the commencement of the next ensuing session, or the resumption of any session suspended by adjournment.

SCHEDULE.

FORM OF BALLOT-PAPERS.

(1) *First resolution (red paper).*

For Reduction.

Against Reduction.

(2) *Second resolution (blue paper).*

Against New Licenses.

For New Licenses.

FORM OF DIRECTIONS FOR THE GUIDANCE OF THE ELECTOR IN VOTING.

[To be printed in conspicuous characters, and placarded outside every polling-place and in every compartment of every polling-place.]

The elector will go into one of the compartments, and with the pencil provided in the compartment strike out the clause to which he is opposed as in a Parliamentary election he would cross out the name of a candidate he did not wish returned.

The elector will then fold up the ballot-paper so as to conceal the mode in which he has voted, put the paper into the ballot-box, and forthwith quit the polling-place.

If the elector inadvertently spoils a ballot-paper, he can return it to the Presiding Officer, who will, if satisfied of such inadvertence, give him another paper.

If the elector places any mark on the paper by which it may be afterwards identified, his vote will not be counted.

NOTE.—These directions may be illustrated by examples of the ballot-paper.
