

No. 5767.

An Act to amend the Licensing Acts, and for other purposes.

[22nd December, 1953.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

1. (1) This Act may be cited as the *Licensing (Amendment) Act* 1953 and shall be read and construed as one with the *Licensing Act* 1928 (hereinafter called the Principal Act) and any Act amending the same all of which Acts and this Act may be cited together as the Licensing Acts.

Short title
construction
and citation.

Nos. 3717, 3894,
4001, 4011, 4252,
4263, 4331, 5089,
5197, 5442, 5584,
5611, 5738.

(2) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

Commencement.

2. (1) The

Victoria to constitute one licensing district.

2. (1) The whole of Victoria shall constitute one single licensing district and all licensing districts heretofore existing are hereby abolished.

Consequential repeal of No. 3717 s. 6.

(2) Section six of the Principal Act is hereby repealed.

Licensing districts.

Consequential repeal of No. 5683 s. 14.

(3) Section fourteen of the *Electoral Districts Act 1953* is hereby repealed.

Licensing districts.

Licensing areas to facilitate administration.

(4) In order to facilitate the administration of the Licensing Acts the Governor in Council may by Order published in the *Government Gazette* from time to time—

- (a) divide or re-divide Victoria into areas (to be called licensing areas) constituted in such Order; and
- (b) alter such areas.

Construction of references to Licensing Districts in relation to clerks of Licensing Court.

(5) Any reference in the Licensing Acts or any other Act or any rules or regulations thereunder to a Licensing District or Districts in relation to any clerk or clerks of Licensing Courts or of the Licensing Court shall be deemed to be a reference to a licensing area or areas constituted under this section.

Construction of references to Licensing Districts generally.

(6) Any other reference in the Licensing Acts or any other Act or any rules or regulations thereunder to a Licensing District or Districts shall be deemed to be a reference to the single licensing district of Victoria constituted by this section.

No special numerical limitation on granting or renewal or reduction of licences.

3. (1) There shall be no special numerical limitation under the Licensing Acts as regards either—

- (a) the granting or renewal of licences or (in the case of clubs) of registrations; or
- (b) the reduction of licences.

Consequential repeal of No. 3717 s. 288.

Limitation on number of licences and club registrations.

(2) Section two hundred and eighty-eight of the Principal Act is hereby repealed.

Consequential amendment of No. 3717 s. 289.

Limitation on reduction of licences.

(3) Sub-section (2) of section two hundred and eighty-nine of the Principal Act is hereby repealed.

Amendment of No. 3717 ss. 11 (4), 12 (4).

Removal of spirit merchants' and grocers' licences.

4. In sub-section (4) of section eleven and in sub-section (4) of section twelve of the Principal Act for the words "the transfer of licences" there shall be substituted the words "applications for new licences".

5. (1) In

5. (1) In paragraph (1) of section seven of the Principal Act the words "including roadside victuallers' licences and Additional victuallers' licences" are hereby repealed.

Amendment of No. 3717 s. 7 (1).
Various kinds of licences.

(2) Section thirty-five of the Principal Act is hereby repealed.

Repeal of No. 3717 s. 35.
Roadside victuallers' licences.

(3) A roadside victualler's licence shall, subject to the provisions of the Licensing Acts relating to victuallers' licences, be renewable as a victualler's licence.

Renewal of roadside victuallers' licences as victuallers' licences.

6. (1) Sections thirty-six to thirty-nine of the Principal Act as amended by any Act are hereby repealed.

Repeal of No. 3717 ss. 36-39 as amended by Nos. 4001 s. 3, 5611 s. 2.
Additional victuallers' licences.

(2) Any additional victualler's licence shall be renewable as a victualler's licence.

Renewal of additional victuallers' licences.

7. (1) At the end of section sixty-five of the Principal Act there shall be inserted the following sub-sections:—

Amendment of No. 3717 s. 65.
Results of previous polls not to limit the power or discretion of Court.

"(2) In granting or renewing or transferring any licence or the registration of any club the power and discretion of the Court shall not be deemed to be limited by the result of any poll taken before the commencement of the *Licensing (Amendment) Act 1953*.

(3) Notwithstanding anything in the last preceding sub-section or in any other provision of the Licensing Acts where before the commencement of this Act a local option poll had been taken in any electoral district as constituted on the twenty-first day of October One thousand nine hundred and twenty and a resolution that no licences be granted in that district had been carried the following provisions of this sub-section shall take effect:—

Saving as to certain polls previously taken.

(a) Before a new licence is granted in or an existing licence is removed to any part of the area corresponding with that district the Licensing Court may if it thinks proper order a vote of electors to be taken in the neighbourhood surrounding the proposed site of the premises in respect of which a licence has been applied for or to which a licence is sought to be removed (as the case may be).

(b) The

- (b) The neighbourhood shall be delineated by the Licensing Court after consultation with the Chief Electoral Officer.
- (c) The resolution to be submitted at the vote of electors shall be—

That a licence [*nature of licence to be stated*] be granted in [*or*] removed to [*as the case requires*] the neighbourhood [*neighbourhood to be sufficiently indicated*].

- (d) If a majority of the electors voting vote against the resolution the Licensing Court shall not grant the application for the licence or removal nor shall it grant any application for a licence in or removal of a licence to that neighbourhood within three years after the taking of such vote.
- (e) When the Licensing Court orders a vote to be taken under this sub-section the Chief Electoral Officer shall take a vote of electors accordingly and for that purpose—
- (i) he may make all proper arrangements for the taking of the vote ;
 - (ii) every elector within the neighbourhood delineated who is entitled to be enrolled on an electoral roll for the Legislative Assembly on the sixtieth day before the taking of the vote shall be qualified to vote but may vote once only ;
 - (iii) the manner of voting shall be similar to that followed in the election of members to serve in the Legislative Assembly but the voting paper shall be marked as prescribed thereon ;
 - (iv) subject to and for the purposes of this sub-section the provisions of any law relating to rolls electors and elections for the Legislative Assembly and offences in connexion with such elections shall with such adaptations as are necessary and so far as the said provisions can be made applicable by rules of the Governor in Council apply to the taking of a vote under this sub-section ;
 - (v) the

(v) the result of the voting shall be notified by the Chief Electoral Officer in the *Government Gazette* ;

(vi) the Governor in Council may make rules prescribing the form of voting paper and all matters and things authorized to be prescribed or necessary or convenient to be prescribed for the carrying out and giving effect to the provisions of this sub-section and the provisions of section three hundred and twenty-two of the Principal Act shall extend and apply to the making of any rules under this sub-section and to such rules when made.

(f) The costs and expenses incurred by the Chief Electoral Officer in taking any vote under this sub-section shall be paid out of the Licensing Fund."

(2) Every licence granted issued or renewed and every approval of the grant of a licence given by the Licensing Court after the twenty-first day of October One thousand nine hundred and twenty and before the commencement of this Act shall be deemed to have been validly granted issued renewed or given.

Validation of certain licences and approvals.

8. (1) For the purposes of the Licensing Acts there shall be a Court (to be called the Victorian Licensing Court) appointed by the Governor in Council and constituted as hereinafter provided and such Court shall be a court of record.

Constitution of Victorian Licensing Court.

(2) The Court shall consist of three members appointed by the Governor in Council of whom one shall be appointed as chairman.

(3) The person appointed as chairman shall be a Judge of County Courts.

(4) Of the other two members of the Court one shall be a person with experience in hotel accounting and finance.

(5) The members of the Court shall respectively be appointed for a term of not more than seven years and shall be eligible for re-appointment.

(6) Of

(6) Of the members of the Court—

- (a) the chairman shall, in addition to his salary as a Judge of County Courts, be entitled to be paid an allowance under this Act at such annual rate as is fixed by Order of the Governor in Council on or before his appointment;
- (b) the other two members shall respectively be entitled to be paid a salary at the rate of Two thousand five hundred pounds per annum—

and the members of the Court shall also be entitled to receive such travelling expenses as are from time to time fixed by Order of the Governor in Council.

(7) Subject to this section the members of the Court shall hold office during good behaviour for the terms for which they are respectively appointed:

Provided that it shall be lawful for the Governor to remove any such member upon an address of both Houses of Parliament.

(8) A member of the Court shall not (save with the sanction of the Governor in Council) engage in any business or employment other than the duties of his office.

(9) The office of any member of the Court shall become vacant—

- (a) if he dies;
- (b) if he is removed from office by the Governor pursuant to this section;
- (c) if he resigns or becomes incapable of carrying out his duties;
- (d) at the expiration of his term of appointment;
- (e) (in the case of the chairman) if he ceases to be a Judge of County Courts.

(10) On the occurrence of a vacancy in the office of a member the Governor in Council may subject to this Act appoint another eligible person to fill the vacancy.

(11) In the case of illness or absence of any member the Governor in Council may if the occasion arises appoint an eligible person as deputy to act for such member during such illness or absence and every such deputy shall while he acts for such member have all the powers and duties of such member and be entitled to receive such remuneration for his services as is fixed by Order of the Governor in Council.

(12) If

(12) If any person appointed a member of the Court was, immediately prior to his appointment, an officer of the public service he shall (while being or continuing to be or on ceasing to be a member of the Court) be eligible on the recommendation of the Public Service Board to be appointed to an office in the public service with a classification and emolument corresponding with or higher than that which he held in the public service immediately prior to his appointment as a member of the Court as if the period of his service as such member had been service in the public service.

(13) If any person appointed a member of the Court was at the date of such appointment an officer within the meaning of the Superannuation Acts he shall notwithstanding such appointment be deemed to continue subject to those Acts to be an officer within the meaning of those Acts.

Nos. 3782, &c.

(14) In sub-section (2) of section eight of the *County Court Act* 1928 for the word "nine" there shall be substituted the word "ten".

Amendment of No. 3663 s. 8. Increase of number of Judges of County Courts.

9. Upon the appointment of the Victorian Licensing Court pursuant to this Act—

Provisions to operate upon appointment of Victorian Licensing Court.

- (a) the members of the Licensing Court or Courts as theretofore constituted under the Licensing Acts shall go out of office;
- (b) the Victorian Licensing Court and the members thereof shall respectively be deemed to be the successors in law of the Licensing Court or Courts and licensing magistrates as theretofore constituted or appointed and (save as otherwise provided in this Act) shall have and may exercise all powers authorities duties and functions respectively conferred or imposed upon the Licensing Court or Courts or licensing magistrates (as the case may be) as theretofore constituted or appointed; and any pending matter or proceeding may be continued before the Victorian Licensing Court or any member thereof accordingly;
- (c) each member of the Victorian Licensing Court shall be deemed to have been appointed and be a licensing magistrate under the Licensing

Acts

Acts and shall not be subject to the Public Service Acts but no member shall enter upon the duties of his office until he has taken before the Supreme Court or a judge thereof an oath as nearly as may be in the form of the Fifth Schedule to the *Public Service Act* 1946 ;

No. 5124
Fifth Schedule.

(d) any reference in the Licensing Acts or any other Act or in any rules or regulations thereunder to a Licensing Court or Courts or to the Licensing Court for any licensing district shall be deemed to be a reference to the Victorian Licensing Court ;

(e) sections fifty-five to fifty-nine of the *Licensing Act* 1928 shall be hereby repealed.

Consequential
repeal of
No. 3717 ss.
55-59.

Constitution,
&c., of Licensing
Courts.

Amendment of
No. 3717 s. 60.

Constitution of
Licensing
Court.

10. (1) In sub-section (1) of section sixty of the Principal Act—

(a) after the words “licensing magistrates” there shall be inserted the expression “or any two licensing magistrates (one of whom is the chairman of the Licensing Court)” ;

(b) after the words “in and for such Licensing District” there shall be inserted the words—

“Provided that on the hearing of any application for the grant of a new licence (other than a temporary victualler’s licence or a temporary packet licence) or for the new registration of a club the Licensing Court shall be fully constituted of three magistrates.”

Amendment of
No. 3717 s. 61
(3).

Questions of
law.

(2) At the end of sub-section (3) of section sixty-one of the Principal Act there shall be inserted the following proviso :—

“Provided that whenever the Court is constituted of three magistrates or of two magistrates (one of whom is the chairman of the Court) any question of law which arises before the Court shall be decided by the chairman alone.”

(3) In section sixty-five of the Principal Act—

(a) in paragraph (a) after the word “issued” there shall be inserted the words “and the granting or refusal of registration of clubs” ;

Amendment of
No. 3717 s. 65.

Jurisdiction
over granting
and renewal of
registration
of clubs.

(b) in

(b) in paragraph (b) after the word "licence" there shall be inserted the words "or the granting or refusal of a renewal of the registration of a club".

(4) In section sixty-six of the Principal Act—

(a) for paragraph (1) there shall be substituted the following paragraph:—

"(1) To hear and determine every application for the renewal of a licence or of the registration of a club if such application is not objected to";

(b) for the expression "(32) To exercise" there shall be substituted the expression—

"(32) To hear and determine applications for approval of the re-building alteration or extension of licensed premises;

(33) To exercise".

(5) Section two hundred and fifty-five of the Principal Act is hereby repealed.

(6) In sub-section (1) of section two hundred and fifty-six of the Principal Act for the words "any such application" there shall be substituted the words "any application for the grant or renewal of the registration of a club".

11. (1) Subject to the Public Service Acts and this Act the Governor in Council may appoint a properly qualified person (to be called "Supervisor of Licensed Premises") and such other officers as appear to the Governor in Council to be necessary to enable such supervisor to carry out his duties and functions:

Provided that a member of the police force may be appointed as such supervisor and if he is so appointed he shall, notwithstanding anything in the foregoing provisions of this sub-section, continue during his term of office as such supervisor to be a member of the police force.

(2) It shall be the duty of such supervisor—

(a) from time to time to examine and (where he thinks necessary or the Licensing Court so requires) to report to the Court upon the state nature

and

Amendment of No. 3717 s. 66. Powers where Court consists of single magistrate.

Consequential repeal of No. 3717 s. 255. Applications for registration of clubs.

Consequential amendment of No. 3717 s. 256. Objections to application for club registration.

Appointment duties and powers of Supervisor of Licensed Premises and officers to assist him.

and extent of the accommodation for the public and the provision made for the supply and the supply of meals and refreshments to the public in the licensed premises of any licensed victualler or holder of an Australian wine licence ;

- (b) after consultation with any Licensing Inspector concerned, to report to the Licensing Court on every plan for proposed new licensed premises of any licensed victualler or holder of an Australian wine licence or for additions extensions or alterations to, or the re-building or reinstatement of, any existing licensed premises ;
- (c) in relation to any licensed premises or the premises of any registered club to make any examination and report which he thinks proper to make or which the Licensing Court requires him to make ;
- (d) to appear before the Licensing Court whenever so required by the Court to assist it.

(3) Such supervisor and any officer authorized in writing by him (whether generally or in any particular case) may at any time enter and examine all or any part of any licensed premises or the premises of any registered club.

(4) Any person who prevents or attempts to prevent such supervisor or any such officer from entering or examining any premises as aforesaid or obstructs any such supervisor or officer in the discharge of his duties shall be liable to a penalty of not more than Twenty pounds.

Amendment of
No. 3717 s. 12.
Effect of
grocer's
licence.

12. Paragraph (a) of sub-section (1) of section twelve of the Principal Act is hereby repealed.

Amendment of
No. 3717 s. 28.
Bedroom
accommodation
for public in
hotels.

13. In section twenty-eight of the Principal Act—

- (a) in paragraph (b) of sub-section (1) after the words "six bedrooms" there shall be inserted the expression "or (in the case of a house the building or re-building of which is commenced after the first day of March One thousand nine hundred and fifty-four) such greater number of bedrooms as the Licensing Court thinks necessary" ;

(b) in

(b) in paragraph (a) of sub-section (2) after the words "three bedrooms" there shall be inserted the expression "or (in the case of a house the building or re-building of which is commenced after the first day of March One thousand nine hundred and fifty-four) such greater number of bedrooms as the Licensing Court thinks necessary".

14. (1) In sub-section (2) of section forty-three of the Principal Act—

(a) after the words "*bona fide* meal" there shall be inserted the words "on any day";

(b) for the words "eight o'clock in the evening" there shall be substituted the words "ten o'clock in the evening or on Sundays or Good Friday or Anzac Day from the hours of twelve noon until such time not being later than half-past two in the afternoon".

(2) In sub-section (4) of section forty-three of the Principal Act after the word "times" there shall be inserted the words "while a meal is being served within the times".

(3) In section one hundred and eighty and in sub-section (2) of section two hundred and fifty of the Principal Act—

(a) for the word "two" there shall be substituted the words "half-past two";

(b) for the word "eight" there shall be substituted the word "ten".

(4) In sub-section (1) of section two hundred and sixty-six of the Principal Act—

(a) for the word "two" there shall be substituted the expression "half-past two (or such earlier hour as is specified in any permit granted under this Act)";

(b) for the word "eight" there shall be substituted the word "ten".

15. (1) In section eighty-seven of the Principal Act—

(a) in sub-section (1) for the words "in the month of November or December in every year at the place" there shall be substituted the words "during such period in every year at such places as is or are";

(b) for

Amendment of
No. 3717 s. 43.

Supply of
liquor with
bona fide meals
in licensed
or club
premises.

Amendment of
No. 3717 s. 43
(4).

Door to
dining-room
to be kept
unlocked.

Consequential
amendment of
No. 3717
ss. 180, 250.

Meal hours
of boarders
and of members
of clubs.

Consequential
amendment of
No. 3717
s. 266 (1).

Sale of liquor
in clubs on
Sundays, &c.

Amendment of
No. 3717 s. 87.

Annual sitting
of Licensing
Court.

(b) for sub-section (3) there shall be substituted the following sub-section:—

“(3) All applications for the renewal of licences and permits and registrations of clubs in force under this Act shall be made at such sitting.”;

(c) in sub-section (4) for the words “the thirty-first day of December” there shall be substituted the words “the last day of the period appointed as aforesaid”.

(2) In section eighty-eight of the Principal Act—

(a) sub-sections (1) and (2) are hereby repealed;

(b) for sub-section (5) there shall be substituted the following sub-section:—

“(5) If in order to enable the Court to deal with the renewal of any licence or of the registration of any club the period of the annual sitting of the Licensing Court is prolonged and the currency of such licence (not being a temporary licence) or registration would in accordance with the terms thereof terminate before the end of that period the licence or registration shall nevertheless continue in force until the end of the prolonged sitting of the Court.”

(3) In sub-section (1) of section ninety-six for the words “month of January or February” there shall be substituted the words “two months”.

(4) In section one hundred and eight of the Principal Act after the words “was granted” there shall be inserted the expression “or (in the case where a transfer takes place after the issue of a certificate for renewal of a licence and before the date of commencement of such licence) for the whole of the term for which the licence is to be renewed”.

(5) In section one hundred and eighteen of the Principal Act—

(a) for the words “the third day of December” (where first occurring) there shall be substituted the words “a day being twenty-eight days before the end of the period of the annual sitting”;

(b) for the words “the third day of December” (where occurring for the second time) there shall be substituted the words “such day”.

Amendment of
No. 3717 s. 88.
Unopposed
applications
for licences
permits and
renewals.

Continuance of
certain licences
and
registrations.

Amendment of
No. 3717 s. 96.
Special
prolonged
sitting.

Amendment of
No. 3717 s. 108.
Transfer of
a licence.

Amendment of
No. 3717 s. 118.
Certificates
granted or
indorsed at
annual sitting.

16. In section one hundred and eleven of the Principal Act for the words "nine months" there shall be substituted the words "twenty-four months."

Amendment of
No. 3717 s. 111.
Transfer of
licences.

17. Section one hundred and twenty-seven of the Principal Act as amended by any Act is hereby amended as follows:—

Amendment of
No. 3717 s. 127
as amended by
No. 4252 s. 2.

(a) In sub-section (1) the words "in the same village or township" are hereby repealed;

Removal of
licensed
victualler's
premises to new
site.

(b) For sub-section (5) there shall be substituted the following sub-section:—

"(5) Authority to build licensed victualler's premises on a new site or to remove the licence thereto shall not be granted unless the Licensing Court is satisfied that such removal would be likely to effect a material improvement in the facilities of the district in which the new site is situated and is desirable for the convenience of the public."

(c) In sub-section (6) for the words "such village or township" there shall be substituted the words "the district in which the existing site or the new site is situated."

18. At the end of section one hundred and forty-seven of the Principal Act there shall be inserted the following sub-sections:—

Amendment of
No. 3717 s. 147.
Licensed
victualler and
Australian
wine licensee to
appoint person
to be in charge
during absence.

"(2) A licensed victualler or holder of an Australian wine licence shall not absent himself (except pursuant to the previous consent in writing of the Licensing Court as aforesaid) from his licensed premises unless he appoints in writing some responsible person to be in charge of the premises during his absence and causes such written appointment to be placed in some prominent position in such premises.

(3) Any licensed victualler or holder of an Australian wine licence who contravenes the provisions of the last preceding sub-section shall be liable to a penalty of not more than Twenty pounds."

19. (1) In sub-section (1) of section one hundred and seventy-five of the Principal Act for the words "not less than Two nor more than Five pounds, and for a second offence of not less than Five nor more than Twenty pounds, and for a third or any subsequent

Amendment of
No. 3717 ss.
175, 176, 193,
204.

Increase of
penalties.
Supplying
liquor to
intoxicated
persons.

offence

offence to a penalty of Twenty-five pounds" there shall be substituted the words "not more than Twenty-five pounds and for a second or any subsequent offence to a penalty of not more than One hundred pounds".

Alding
intoxicated
persons to get
liquor.

(2) In section one hundred and seventy-six of the Principal Act for the words "of not more than Two pounds" there shall be substituted the words "for a first offence of not more than Ten pounds and for a second or any subsequent offence to a penalty of not more than Fifty pounds".

Delivering
liquor to
children.

(3) In section one hundred and ninety-three of the Principal Act—

(a) in sub-sections (1) and (2)—

(i) for the word "sixteen" there shall be substituted the word "eighteen";

(ii) for the word "Two" there shall be substituted the word "Twenty";

(iii) for the word "Five" there shall be substituted the word "Fifty";

(b) in sub-section (1) the words "excepting only such liquor as is sold or delivered in corked and sealed vessels in quantities not less than one reputed pint for consumption off the premises" are hereby repealed;

(c) in sub-section (2) the words "excepting as aforesaid" are hereby repealed;

(d) in sub-section (3) for the word "sixteen" (wherever occurring) there shall be substituted the word "eighteen";

(e) sub-section (4) is hereby repealed.

Permitting
unlawful games
or disorderly or
drunken
persons, &c., on
licensed
premises.

(4) In sub-section (1) of section two hundred and four of the Principal Act for the words "of not less than Two nor more than Twenty pounds" there shall be substituted the words "for a first offence of not more than Twenty pounds and for a second or any subsequent offence to a penalty of not more than Seventy-five pounds".

Amendment of
No. 3717 s. 177.
Unauthorized
sales of liquor.

20. (1) In paragraph (b) of section one hundred and seventy-seven after the word "lodger" there shall be inserted the words "or weekly or other boarder or inmate or servant".

Amendment of
No. 3717 s. 178.
Sunday, &c.,
trading.

(2) In paragraphs (a) and (b) of section one hundred and seventy-eight after the word "boarder" there shall be inserted the words "or an inmate or a servant".

(3) In

(3) In section one hundred and eighty-three after the word "boarder" (wherever occurring) there shall be inserted the words "or inmate or servant".

Amendment of No. 3717 s. 183.
Dismissal of case where true belief of licensee.

(4) In sub-section (1) of section one hundred and eighty-seven of the Principal Act after the word "boarder" there shall be inserted the words "or inmate".

Amendment of No. 3717 s. 187.
Drinking during prohibited times.

21. (1) At the end of sections one hundred and seventy-seven and one hundred and seventy-eight of the Principal Act there shall be inserted the following sub-section:—

Amendment of No. 3717 ss. 177, 178.

"(2) The gratuitous disposal of liquor by—

Gratuitous disposal of liquor to guest by lodger or licensee for consumption in room set apart or reserved not an offence.

(a) any lodger in any room set apart for the purpose in any licensed premises; or

(b) any licensee in a room occupied by him or reserved for his private use in his licensed premises—

to any guest of such lodger or licensee (as the case may be) for consumption in such room shall not be deemed to render such licensed person liable for a contravention of the provisions of this section."

(2) At the end of sub-section (1) of section one hundred and eighty-seven of the Principal Act there shall be inserted the following proviso:—

Amendment of No. 3717 s. 187 (1).

"Provided that a person shall not be deemed to be guilty of a contravention of the provisions of this sub-section by reason only of obtaining or drinking liquor gratuitously disposed of in circumstances which would not render the licensed person liable for a contravention of the provisions of section one hundred and seventy-seven or one hundred and seventy-eight of this Act."

Obtaining or drinking liquor during prohibited times.

22. (1) In paragraph (a) of section one hundred and seventy-nine of the Principal Act for the words "in a direct line" there shall be substituted the words "by the shortest practicable route".

Amendment of No. 3717 s. 179.
"Bond fide traveller."

(2) In sub-section (1) of section one hundred and eighty-three of the Principal Act after the words "licence under" there shall be inserted the expression "paragraph (b) of section one hundred and seventy-seven or".

Amendment of No. 3717 s. 183.
Belief that person is a bond fide traveller, &c.

23. For

Amendment of
No. 3717 s. 188.
Onus of proof
on licensee when
person found on
premises during
prohibited
hours.

23. For sub-section (3) of section one hundred and eighty-eight of the Principal Act there shall be substituted the following sub-section:—

“(3) Every licensed person upon whose licensed premises any person is so found shall unless he proves to the satisfaction of the Court—

(a) that the person so found was on the premises for a lawful purpose; or

(b) that he or the person in charge of the premises (as the case may be) had exercised all reasonable diligence to prevent persons being thereon otherwise than for a lawful purpose; or

(c) if he or the person in charge (as the case may be) had knowledge of the presence on the premises of any person so found thereon, that he or the person in charge—

(i) believed on reasonable grounds that the person so found was thereon for a lawful purpose; or

(ii) had taken prompt action to remove from the premises the person so found thereon—

be liable to a penalty of not more than Five pounds”.

Repeal of
No. 3717 s. 191.
Dancing on
licensed
premises.

Consequential
repeal of
No. 3717 s. 52.
Special leave
for dancing
in licensed
premises.

Consequential
amendment of
No. 5197 s. 2.
“Public hall”
not to include
licensed
premises.

Amendment of
No. 3717 s. 202.
Breaking into
private rooms
in licensed
premises by
police.

24. (1) Section one hundred and ninety-one of the Principal Act is hereby repealed.

(2) Section fifty-two of the Principal Act is hereby repealed.

(3) At the end of sub-section (3) of section two of the *Licensing Act* 1946 there shall be inserted the words “but does not include any part of any licensed premises”.

25. At the end of section two hundred and two of the Principal Act there shall be inserted the following sub-section:—

“(4) Nothing in this section shall authorize any member of the police force to break into any room in such licensed premises which is occupied by or set

apart

apart for the private use of any lodger or is occupied by or reserved for the private use of the licensee in such premises unless the member of the police force—

- (a) has first given notice of his intention to the lodger or licensee or (in the absence of either of them) to the person appearing to be in charge of the licensed premises and has given the lodger or licensee or person (as the case may be) an opportunity of accompanying him to such room; or
- (b) has obtained the consent of such lodger licensee or person (as the case may be) to break into such room."

26. At the end of section two hundred and six of the Principal Act there shall be inserted the following sub-section:—

"(5) Notwithstanding anything in the foregoing provisions of this section or any other provision in this Act—

- (a) (i) a licensed victualler or holder of an Australian wine licence may keep a bar-room open for a period not exceeding fifteen minutes immediately after six o'clock in the evening on any day other than Sunday Good Friday or Anzac Day for the purpose of clearing from such bar-room persons who were in such bar-room at six o'clock as aforesaid;
- (ii) during the period of fifteen minutes immediately after six o'clock as aforesaid liquor which was served to persons in such bar-room before six o'clock as aforesaid may be consumed in such bar-room by such persons;
- (b) any door by which admittance is gained from inside the premises to any bar-room on the premises of a licensed victualler or holder of an Australian wine licence shall not be deemed not to be shut and locked on Sunday or Good Friday or Anzac Day or during prohibited hours by reason only of the fact that the door is opened solely to enable—

- (i) the licensed person or his servant or agent to enter the bar-room for the purpose of cleaning the same and the receptacles

Amendment of
No. 3717 s. 206.

Closing of
bar-room
during
prohibited
times.

receptacles therein or of checking cash therein or of re-stocking the bar-room ; or

- (ii) the licensed person or his servant or agent to leave the bar-room after effecting the purpose aforesaid for which he entered the bar-room."

Licensed victuallers to keep bar-room open during authorized hours and not to sell liquor on other parts of licensed premises unless also available in bar-room.

27. Any licensed victualler who during the hours in which liquor may be lawfully sold to the public in his bar-room—

- (a) closes the bar-room to the public except for some pressing emergency or other just cause ; or
 (b) sells disposes of or supplies liquor on or from any other part of the licensed premises unless at the time of such sale disposal or supply liquor of that kind is also available for purchase and consumption by customers in the bar-room—

shall be liable to a penalty of not more than Twenty pounds.

Amendment of No. 3717 ss. 212, 213.

Provision of meals and accommodation.

28. (1) In section two hundred and twelve of the Principal Act for the word "demanding" there shall be substituted the word "requesting".

(2) In section two hundred and thirteen of the Principal Act—

- (a) in sub-section (1) for the word "demanding" there shall be substituted the word "requesting";
 (b) in sub-section (3) for the word "demanded" there shall be substituted the word "requested".

Repeal of No. 3717 s. 231.

As to offences of a trifling nature.

29. Section two hundred and thirty-one of the Principal Act is hereby repealed.

Amendment of No. 3717 s. 256.

Objections to grant or renewal of registration of clubs.

30. In sub-section (1) of section two hundred and fifty-six of the Principal Act for the expression—

" or

- (l) That any provision "

there shall be substituted the expression—

- (l) That a club is not required in the neighbourhood ;
 (m) That the premises are in the immediate vicinity of a place of public worship hospital or school ;

(n) That

(n) That the quiet of the place in which such premises are situate will be disturbed if the registration is granted ; or

(o) That any provision”.

31. (1) In sub-sections (1) and (2) of section two hundred and sixty-six of the Principal Act after “lodgers” insert “or inmates”.

Amendment of No. 3717 s. 266. Sale or disposal of liquor in registered clubs.

(2) For sub-section (2) of section two hundred and sixty-six of the Principal Act there shall be substituted the following sub-section :—

“(2) No liquor shall be sold or disposed of in any club (except to *bona fide* travellers or lodgers or members of the club) during prohibited hours that is to say the hours when liquor may not be sold or disposed of to the public generally on licensed victuallers’ premises.”

32. In sub-section (2) of section three hundred and twenty-two of the Principal Act for the expression “(c) generally” there shall be substituted the expression—

Amendment of No. 3717 s. 322. Rules as to sanitation, &c., in licensed premises.

“(c) for or with respect to sanitation hygiene ventilation cooling heating fire-prevention in or of licensed premises (including the premises of registered clubs) and securing the cleanliness of food and its freedom from contamination and adulteration in such premises ;

(d) generally”.

33. (1) With the approval of the Governor in Council given on the recommendation of the Licensing Court a construction authority may establish canteens in any area or district in which the works of the authority are constructed or are in course of construction and may authorize the sale at any such canteen of liquor subject to such terms and conditions as are prescribed by regulations.

Power of construction authorities to establish canteens and authorize sale of liquor therein. Comp. (T.) 10 Geo. VI. No. 33 ss. 2, 3.

(2) No

Nos. 3717, &c.

(2) No authority shall be given under the last preceding sub-section for the sale of liquor at any canteen which is situate at any place within three miles by road of the licensed premises of any licensed victualler or holder of an Australian wine licence under the Licensing Acts.

No. 3717 s. 84.

(3) (a) Save as provided in this section the provisions of the Licensing Acts shall not apply to or in respect of any canteen established by a constructing authority under this section.

(b) The provisions of section eighty-four of the Principal Act shall with such adaptations as are necessary extend and apply to any canteen so established and liquor sold thereat and in particular as if any reference in the said section to a licensed person or to licensed premises included a reference respectively to the person in charge of such canteen and the canteen.

Nos. 3749, &c.

(c) For the purposes of the Police Offences Acts such canteen shall be deemed to be the premises of a licensed victualler.

Regulations.

(4) (a) The Governor in Council on the recommendation of the Licensing Court may make regulations for or with respect to regulating the sale of liquor at canteens established by any authority under this section, the maintenance of order at or in the vicinity of such canteens, prescribing the hours during which liquor may be sold or supplied to any person in any such canteen and regulating controlling restricting or prohibiting the sale supply disposal use or possession of liquor at or in any such canteen or in or on any land or premises of the authority and generally prescribing any matters or things necessary or expedient to be prescribed for carrying into effect the objects and purposes of this section.

Publication.

(b) All such regulations shall be published in the *Government Gazette* and shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting and if Parliament is not then sitting then within fourteen days after the next meeting of Parliament; and a copy of all such regulations shall be posted to each member of Parliament.

"Construction authority."

(5) In this section "construction authority" means the State Electricity Commission of Victoria the State Rivers and Water Supply Commission the Victorian Railways

Commissioners

Commissioners and any other public statutory body specified by Order of the Governor in Council for the purposes of this section.

34. (1) For the purpose of furthering community interests in any locality—

Provision for
community
hotels.

(a) any municipality (including the city of Melbourne and the city of Geelong) in respect of any premises within its municipal district ;

(b) any co-operative society incorporated and registered under any Act relating to co-operative societies—

subject to the Licensing Acts may apply for and be granted or may by transfer become the holder of a licensed victualler's licence and conduct business thereunder.

(2) Without limiting the generality of the expression "body corporate" in section twenty-six of the Principal Act that expression shall be deemed to include such a municipality and such a co-operative society.

No. 3717 s. 26.

(3) Notwithstanding anything in the Local Government Acts or any Act relating to the city of Melbourne or the city of Geelong a municipal council may apply the municipal or town fund of the municipality for or towards the costs and expenses incurred in or arising out of applying for or holding such a victualler's licence and the conduct of business thereunder and all proceeds arising from the holding of the licence and the conduct of business thereunder shall be paid into the municipal or town fund.

Nos. 5203, &c.