



ANNO QUINTO

EDWARDI VII REGIS.

A.D. 1905.

No. 897.

An Act to amend "The Licensed Victuallers Further Amendment Act, 1896," "The Local Option Extension Act, 1904," and for other purposes.

[Assented to, December 9th, 1905.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as "The Local Option Act, 1905," and shall be incorporated and read with "The Licensed Victuallers Act, 1880," and all Acts amending the same or incorporated therewith.

Short title and incorporation.

2. In this Act the word "Minister" shall mean the Attorney-General for the time being of the State of South Australia.

Definition.
Victorian Licensing Act of 1890, sec. 3.

3. Section 25 of "The Licensed Victuallers Further Amendment Act, 1896," shall be read as if the following words were added after the word "Assembly" in the fourth line of such section:—"and whose names appear on the electoral roll as entitled to vote at a polling-place or polling-places situate within such local option district, and who reside in such local option district."

Who may vote.

4. Section 26 of "The Licensed Victuallers Further Amendment Act, 1896," is hereby repealed and the following subsections 1 and 2 are substituted in lieu thereof:—

Petition may be presented.

1. Any local option petition may pray that a local option poll be taken within the local option district.

2. Within

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Proof of validity of petition.

Victorian Licensing Act, 1890, sec. 28.

2. Within seven days after the presentation in manner prescribed of any local option petition, such petition shall be referred to the returning officer for the electoral district which constitutes such local option district, or in which such local option district is situate, who shall examine the same and the signatures thereto, and if the returning officer shall be of opinion that the petition has been duly and properly signed, he shall so certify to the Minister in writing, and such certificate of the returning officer shall be published by the Minister in the *Government Gazette*, and the *Government Gazette* containing such notice shall be conclusive evidence that a valid petition under this Act has been duly presented.

Repeal of sec. 27, Licensed Victuallers Further Amendment Act, 1896.

5. Section 27 of "The Licensed Victuallers Further Amendment Act, 1896," and Form D in the Schedule thereto are hereby repealed, and the following subsections, 1 to 10, inclusive, and the forms in the Schedule hereto are substituted in lieu thereof.

Poll to be taken.

S.A. Act, 1896.

1. The Governor shall, upon receipt of any such petition, by Order in Council direct the returning officer of the electoral district comprising the local option district concerned to cause a poll of the electors to be taken, upon a day to be fixed in the said Order in Council, which poll such returning officer shall cause to be taken, and the Governor may by Order in Council prohibit the granting of new licences in the local option district in which the poll is to be taken until such poll has been taken and the declaration hereinafter referred to is made.

Minister to fix integer of two-thirds and five-sixths.

New.

2. The Minister shall, upon the presentation of any such petition, fix a number (which shall be two-thirds or the nearest integer not less than two-thirds), which number is hereinafter called the integer of two-thirds, and a number (which shall be five-sixths or the nearest integer not less than five-sixths), which number is hereinafter called the integer of five-sixths, of each one of the following classes of licences which shall at the time of the receipt of the petition be current in respect of premises situate within such local option district, that is to say—(1) Publicans' licences, (2) wine licences, (3) storekeepers' colonial wine licences, (4) storekeepers' licences, (5) club licences. The decision of the Minister in fixing the integer of two-thirds and the integer of five-sixths shall be final; and a certificate under the hand of the Minister that he has fixed such integer shall be conclusive evidence in all Courts that such integer was properly fixed and that such number was the correct number.

Resolutions to be submitted.

New.

3. At every poll the following resolutions shall be submitted to electors in respect of each of the above-mentioned classes of licences, subject, however, to subsection 6 of this section:—

1. That the number of licences be reduced from the present number to the integer of two-thirds:
2. That the number of licences be reduced from the present number to the integer of five-sixths:
3. That

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3. That the number of licences be not increased or reduced :
4. That the number of licences be increased in the discretion of the Licensing Bench.

The above resolutions are hereinafter referred to as the first, second, third, and fourth resolutions respectively.

4. At every poll taken under this Act a separate ballot paper in respect of each of the above-mentioned classes of licence shall be issued to each elector voting at such poll, and, until altered by regulation, such ballot paper shall be in the Form A in the Schedule hereto, with such variations as the provisions of subsection 6 of this section may require.

Separate ballot papers to be issued in respect of each class of licence.

New.

5. Each elector may record only one vote on each ballot paper, and such vote shall be counted as recorded in favor of the resolution in respect of which it purports to be given.

One vote on each paper.

New.

6. If at the time of taking any poll the number of licences of any class current in respect of premises situate within any local option district shall be less than six, then the first, third, and fourth resolutions only shall be submitted to the electors in respect of such class of licences ; if at such time the number of licences of any class current in respect of premises situate within any local option district shall be less than three, then the third and fourth resolutions only shall be submitted to the electors in respect of such class of licences : but whatever resolutions are submitted to the electors each such resolution shall bear the number given to it in subsection 3 of this section.

No ballot where not more than two licences of any class.

New.

7. The following provisions shall obtain in regard to the votes recorded in respect of each class of licence :—

How votes to be counted.

New.

- (a) If the votes recorded in favor of the first resolution constitute a majority of the valid votes recorded at such poll, the first resolution shall be adopted :
- (b) If the votes recorded in favor of the first resolution do not constitute a majority of the valid votes recorded at such poll, the votes recorded in favor of the first resolution shall be added to the votes recorded in favor of the second resolution :
- (c) If the sum of the votes thus found shall constitute a majority of the valid votes recorded at any poll, then the second resolution shall be adopted :
- (d) If the sum of the votes recorded in favor of each of the first and second resolutions do not constitute a majority of the valid votes recorded at such poll, the votes recorded in favor of each of the first and second resolutions shall be added to the votes recorded in favor of the third resolution :
- (e) If the sum of the votes thus found shall constitute a majority of the valid votes recorded at such poll, then the third resolution shall be adopted :
- (f) If

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(f) If the sum of the votes thus found shall not constitute a majority of the valid votes recorded at such poll, then the fourth resolution shall be adopted.

Electoral rolls to be deemed correct.

Victorian Licensing Act, 1890, sec. 29.

Scrutineers may be appointed.

8. For the purpose of any such poll the electoral rolls then in force shall be accepted as correct, and their correctness shall not be inquired into by any Court or person whatsoever.

9. The Governor may make regulations to provide for the appointment of not more than ten scrutineers to act at each polling-place at polls to be taken under this Act, and every scrutineer so appointed shall, so far as is consistent with this Act, have the same rights and powers as are conferred upon scrutineers by "The Electoral Code, 1896": Provided that such regulations shall contain provisions which will enable holders of each class of the licences affected by such poll to appoint one of such scrutineers, and shall also contain provisions which will enable those who are in favor of reducing the number of any class or classes of such licences to appoint one of such scrutineers for each of such class of licence.

Declaration of result of ballot.

Victorian Licensing Act, 1890, sec. 29.

10. The returning officer, at the conclusion of the poll, shall proceed to count the votes recorded thereat for the various resolutions voted upon, and shall forthwith, by advertisement in the *Government Gazette*, declare the determination of the electors in the local option district; and the *Government Gazette* containing such notice shall be conclusive evidence that such poll has been duly taken, and such determination duly arrived at. Such declaration may be in the Form B in the Schedule hereto.

Local option petitions on which no poll taken to be void.

New.

6. All local option petitions presented to the Governor before the coming into operation of this Act in respect of which no poll has then been taken shall be void and of no effect, and it shall not be necessary for the Governor to take any polls in respect of such petitions.

Repeal of section 28 of 666 of 1896.

7. Section 28 of "The Licensed Victuallers Further Amendment Act, 1896," is hereby repealed.

Amendment of section 30.

8. The words "in accordance with regulations to be made by the Governor," in section 30 of "The Licensed Victuallers Further Amendment Act, 1896," are hereby repealed, and the words "and the Governor may make regulations" are substituted in lieu thereof.

Amendment of section 32 of 666 of 1896.

New.

9. Section 32 of "The Licensed Victuallers Further Amendment Act, 1896," is hereby repealed, and the following is substituted in lieu thereof:—"If the third resolution be adopted in any local option district in respect of any class of licence no licence of that class for the sale of liquors shall thereafter be granted in such district except in respect of premises licensed at the time of such adoption, or in respect of premises to which a licence existing within such district at such time has been transferred. If the fourth resolution is adopted in respect of any class new licences of that class may be granted in the discretion of the Licensing Bench: Provided

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Provided that such new licences shall not exceed in number one-third of the number of licences of such class current in respect of premises situate within such district at the time of taking such poll."

10. The words "If the third resolution be adopted, or if the fourth resolution be negatived," in the first and second lines of section 33 of "The Licensed Victuallers Further Amendment Act, 1896," are hereby repealed, and the words "If the first or second resolution be adopted" are substituted in lieu thereof. The words "If the third resolution be negatived, or if the fourth resolution be adopted, renewals of licences may be granted" appearing in the last three lines of the said section are hereby repealed. Amendment of section 33 of 666 of 1896.

11. Section 2 of "The Local Option Extension Act, 1904," is hereby repealed, and the following is substituted in lieu thereof:—
"Every local option district constituted before the passing of 'The Constitution Act Amendment Act 1901,' shall be deemed, notwithstanding the passing of such Act, to have continued to be a local option district; but this section shall not affect anything which has been lawfully done by any Proclamation of the Governor heretofore made. Until such local option districts are altered each such local option district shall bear the same name as such district bore as an electoral district prior to the passing of the said 'The Constitution Act Amendment Act, 1901'; and when such districts are altered the new districts shall bear the names given to them by proclamation in the *Government Gazette*." Amendment of section 2 of 846 of 1904.

12. Section 31 of "The Licensed Victuallers Further Amendment Act, 1896," shall be read as if the word and figures "and 35" after the figures 34 had been omitted therefrom. Section 31, corrected.

13. Section 35 of "The Licensed Victuallers Further Amendment Act, 1896," shall be read as if the figures "36, 37, and 38" had been inserted therein instead of the figures "37, 38, and 39." Section 35, corrected.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

GEORGE R. LE HUNTE, Governor.

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SCHEDULES.

A.

Form of ballot paper
New.

*Vote at Local Option Poll taken in respect of [naming the class of licence]
Licences.*

Each elector is entitled to record only one vote on this paper, which will be counted as recorded in favor of the resolution opposite the square in which the elector places a cross.

RESOLUTIONS.

- 1. That [naming the class] licences be reduced from [the present number] to [the integer of two-thirds]
- 2. That [naming the class] licences be reduced from [the present number] to [the integer of five-sixths]
- 3. That the number of [naming the class] licences be not increased or reduced
- 4. That new [naming the class] licences be granted in the discretion of the Licensing Bench

The words in brackets in the above form are not part of the form, but the spaces occupied by such words are to be filled up in the manner indicated by such words.

B.

[“The Local Option Act, 1905.”]

I hereby certify that on the _____ day of _____ 190____, a poll of the electors of the Local Option District of _____ was taken in terms of Order in Council made the _____ day of _____, 190____, and that on taking such poll the determinations arrived at were as follows:—

- 1. With regard to publicans' licences
- 2. With regard to wine licences
- 3. With regard to storekeepers' colonial wine licences
- 4. With regard to storekeepers' licences
- 5. With regard to club licences

Dated the _____ day of _____ 190____, _____, Returning Officer.

If the first or second resolution be carried fill in “that the number be reduced from _____ to _____.” If the third resolution be carried fill in “that the number be not increased or reduced.” If the fourth resolution be carried fill in “that new licences be granted in the discretion of the Licensing Bench.”