

LICENSING ACT, 1932-1936.

BEING

LICENSING ACT, 1932, No. 2102 OF 1932 [ASSENTED TO
30TH NOVEMBER, 1932.]

AS AMENDED BY

LOTTERY AND GAMING AND LICENSING ACTS AMENDMENT ACT,
1933, No. 2135 OF 1933 [ASSENTED TO 5TH DECEMBER, 1933.]

LICENSING ACT, 1933, No. 2137 OF 1933 [ASSENTED TO
7TH DECEMBER, 1933.]

LICENSING ACT, 1935, No. 2241 OF 1935 [ASSENTED TO
19TH DECEMBER, 1935.]

STATUTE LAW REVISION ACT, 1936, No. 2293 OF 1936
[ASSENTED TO 8TH OCTOBER, 1936.]

AND

SOUTH AUSTRALIAN RAILWAYS COMMISSIONER'S ACT, 1936 No. 2303
OF 1936 [ASSENTED TO 19TH NOVEMBER, 1936.]

An Act to consolidate the laws relating to the supply of
intoxicating liquors, the exercise of local option
with regard thereto, the licensing of billiard and
bagatelle tables, and other matters.

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

PART I.

PART I.

PRELIMINARY.

1. This Act may be cited for all purposes as the "Licensing Act, 1932-1936," and shall come into operation on a day to be fixed by proclamation. Short title and commencement.

2. This Act is divided into parts and divisions, as follows:— Division of Act.

PART I.—Preliminary.

PART II.—Licensing Districts.

s. 1. This Act was proclaimed to commence on 8th December, 1932: *Gazette* 8th December, 1932, p. 1079.

Licensing Act, 1935.—Sections 19 and 20 of this Act are now consolidated in the South Australian Railways Commissioner's Act, 1936, sections 104 and 105.

PART I.

PART III.—Licensing Courts.

PART IV.—Licences and the grant, renewal, transfer, transmission, removal, and forfeiture thereof.

DIVISION I.—Duty to obtain licence:

DIVISION II.—Classes of licences and fees:

DIVISION III.—Fees for publicans' licences:

DIVISION IV.—Applications for licences, memorials, and objections:

DIVISION V.—Transfer of licences:

DIVISION VI.—Transmission of licences:

DIVISION VII.—Removal of licences:

DIVISION VIII.—Procedure on hearing of applications:

DIVISION IX.—Special authorities to sell liquor:

DIVISION X.—Forfeiture of licences:

DIVISION XI.—General:

DIVISION XII.—Clubs:

DIVISION XIII.—Licences at Renmark:

PART V.—Railway licences.

PART VI.—Rights, duties, and liabilities of licensees and others, and offences.

PART VII.—Tied houses and onerous leases.

PART VIII.—Limitation of number of licences—

DIVISION I.—Local option polls:

DIVISION II.—The enforcing of the first resolution:

DIVISION III.—Effect of other resolutions:

DIVISION IV.—General:

PART IX.—Legal proceedings and evidence.

PART X.—Regulations and forms.

Repeal and savings.

3. (1) The Acts mentioned in the Schedule A hereto are repealed.

(2) Every licensing district and local option district and every licensing court in existence at the commencement of this Act and every special magistrate, clerk, and officer appointed to any such court and every inspector appointed before the commencement of this Act shall continue in existence or in office as if this Act had been in force when it or he was constituted or appointed and it or he was constituted or appointed under this Act.

(3) All legal proceedings and every application, petition, and appeal pending or not finally disposed of at the commencement of this Act shall be continued and completed and any appeal instituted in connection therewith and any legal proceedings or any alleged offence alleged to have been committed before the said commencement shall be instituted and completed and any appeal instituted in connection therewith dealt with under the repealed Acts as if this Act had not been passed.

(4) Subject to subsection (2) every licence, registration of a club, registration of a bar-maid, certificate, register, approval, permit, permission, order, conviction, local option resolution granted, issued, given, made, or passed under the repealed Acts shall continue in existence and be of the same force and effect as if this Act had been in force when it was granted, issued, given, made, or passed and it had been granted, issued, made or passed under this Act.

4. In this Act, except where the subject matter or context, or other provisions of this Act, require a different construction—

Interpretation.
1922, 1917,
s. 4.
1908, 1927,
s. 6.
Of U.K.
23 Geo. 5
c. 12, s. 6
(5).

“Bar-room” means any room in which liquor is kept and in or from which liquor is directly supplied to customers:

“Clerk” means the Clerk of the Licensing Court having jurisdiction according to this Act in the particular matter:

“Court” or “Licensing Court” means the Licensing Court which according to this Act has jurisdiction in the particular matter:

“District” means Licensing District:

“Elector” means a person who is registered as an elector on a House of Assembly electoral roll:

“Electoral District” means an Electoral District for the election of members or a member to serve in the House of Assembly:

“General election” means a parliamentary general election for the return of members pursuant to writs issued upon the dissolution or expiry of the House of Assembly:

“Immediate neighbourhood” means—

(a) as regards a house or proposed house situated within a town, the territory within a radius of 200 yards from the front door of the house

or from the front door as shown on the deposited plan of the proposed house:

(b) as regards a house or proposed house not situated within a town, the territory within a radius of one mile from the front door thereof.

“Inspector” means an inspector of licensed premises appointed under this Act:

“Licence” means licence granted under this Act:

Cf. U.K.
10 Edw. 7 &
1 Geo. 5
c. 24, s. 110.

“Licensed person” or “licensee” means a person holding a licence which is for the time being in force and authorises the act or matter referred to:

“Licensed premises” means premises in respect of which a licensed person is licensed:

Ibid., s. 110.

“Liquor” means brandy, gin, rum, whisky, cordials containing spirits, wine, cider, perry, mead, ale, porter, beer, or any other spirituous, malt, vinous, or fermented liquors, but does not include any liquor which does not contain more than two per centum of proof spirit:

Cf. U.K.
11 & 12
Geo. 5 c. 42,
s. 11 (part).

“Mead” means mead made from honey the produce of the State, and “wine,” “cider,” and “perry” mean wine, cider, and perry made from fruit grown in the State, such mead, wine, cider, or perry not containing a greater proportion than thirty-five per centum of proof spirit:

“Minister” means the Attorney-General for the time being of the State:

“Owner of licensed premises” includes a *cestui que trust*, and means the person for the time being receiving or entitled to receive the rents of such premises, whether on his own account or as agent, trustee, or attorney for any other person:

“Previously unlicensed premises” or “premises previously unlicensed” means premises not at the time licensed:

“Proof spirit” means spirit of a strength equal to that of pure ethyl alcohol compound with distilled water so that the resultant mixture, at a temperature of sixty degrees Fahrenheit, has a specific gravity of 0.9198 as compared with that of distilled water at the same temperature:

s. 4. (Definition of licensed premises.) *MATTIN v. MILLER* (1923) S.A.S.R. 452; 13 Austn. Digest 163. The yard of an hotel is part of the licensed premises.

SARA v. LENTHALL (1930) S.A.S.R. 384; 13 Austn. Digest 163. A urinal, although open to the public and not part of the main building of the hotel, which forms part of the usual accommodation of hotels, is part of the licensed premises.

“Sale” includes sale, barter, exchange, and retailing:

“Sale of liquor is prohibited by law” means sale of liquor in licensed premises is prohibited by this Act:

“Sell” includes sell, barter, exchange, and retail:

“Town” means—

(a) any city or corporate town within the said State, or

(b) any town, township, or village within the said State containing not less than forty dwelling-houses within a radius of one mile from some point in such town, township, or village, or

(c) any place proclaimed as a town for the purposes of this Act by the Governor:

“Treasurer” means the Treasurer for the time being of the said State:

“Unlicensed person” means a person other than a licensed person (as hereinbefore defined).

PART II.

PART II.

LICENSING DISTRICTS.

5. (1) The Governor may, by order published in the *Gazette*—

Constitution
of licensing
districts.
1922, 1917,
s. 5.

(a) declare that any area defined in the order shall constitute a licensing district;

(b) alter the boundaries of any licensing district;

(c) abolish any licensing district.

(2) Every order under this section shall specify therein the day from which it takes effect.

s. 5. The licensing districts in existence on the 26th day of April, 1937, were defined by order of the Governor published in the *Gazette* of 11th October, 1917, p. 852.

PART III.

PART III.

LICENSING COURTS.

Licensing
courts,
1922, 1917,
s. 6.
1908, 1927,
s. 7.

6. (1) There shall be a licensing court for each licensing district which shall be a court of record and shall have a seal which shall be judicially noticed.

(2) Every licensing court shall have jurisdiction in respect of all applications, objections, directions, and other proceedings and matters under this Act relating to—

- (a) any licensed or other premises and any other property within the district of such court:
- (b) any licence, certificate, permission, or permit issued or to be issued by the court in respect of any premises situate within the district of such court, or any application for any such licence, certificate, permission, or permit, or any objection to any such application:
- (c) any person to whom any licence, certificate, permission, or permit has been issued by the court in respect of any premises situate within the district of such court:
- (d) the register of barmaids for the district of such court:

and in respect of any other matter arising under this Act within the district of such court and requiring to be dealt with by the court.

(3) Each licensing court shall consist of one person appointed thereto by the Governor, and every person so appointed shall, at the time of his appointment, be a special magistrate. The Governor is hereby empowered from time to time to appoint such special magistrates as he thinks fit to constitute licensing courts under this Act, and every special magistrate so appointed shall hold office as a licensing court during the Governor's pleasure.

(4) The same special magistrate may be appointed to constitute the court for two or more licensing districts.

s. 6. R. v. YORKE'S PENINSULA LICENSING BENCH (1906) S.A.L.R. 214; 13 Austn. Digest 177; affirmed in part by RIEKEN v. YORKE PENINSULA LICENSING DISTRICT JUSTICES; KEANE v. ADELAIDE LICENSING DISTRICT JUSTICES (1908) A.C. 454, 487; 77 L.J.P.C. 129; 78 L.J.P.C. 45; 99 L.T. 457, 529; 24 T.L.R. 818, 821. Held that licensing benches under the Licensed Victuallers Act, 1880, were judicial bodies to which prohibition lay.

(5) If the special magistrate constituting any licensing court has any interest such as disqualifies him by law from hearing and determining any matter under this Act, the Governor shall appoint another special magistrate as the licensing court to hear and determine that matter.

(6) No special magistrate who is a member of any club shall be qualified—

Of. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 40.

(a) to act as a licensing court when any application relating to that club is being heard, inquired into, or determined by the court;

(b) to be a member of any special court constituted for the purpose of effecting a reduction of the number of licences in the local option district in which the premises in respect of which the club is registered are situated: Provided that this subsection shall not apply unless the number of registrations of clubs in such local option district is to be reduced; or

(c) to adjudicate on the hearing of any information, complaint, appeal, or matter in which the club is interested or concerned or relating to anything alleged to have been done or omitted to be done on the premises of the club.

(7) Every special magistrate constituting a court under this Act shall be entitled to such travelling and other allowances and expenses as the Governor determines.

7. The Governor may appoint a fit and proper person to be clerk of each licensing court, and such other officers for each court as he deems necessary. The same person may hold office as clerk for two or more licensing courts.

Clerks and
officers of
each court.
1322, 1917,
s. 7,
1808, 1927,
s. 8.

8. (1) Subject to the next succeeding subsections each licensing court shall hold annual and quarterly meetings for its district, and every such meeting shall be held on such day and at such place as is fixed in that behalf by the court by notification published in the *Gazette*.

Meetings of
each court.
1322, 1917,
s. 8,
1808, 1927,
s. 8,
2055, 1931,
s. 8.
Of. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 10 (1).

s. 8. *Re McCALMAN AND THE ADELAIDE LICENSING BENCH* (1870) 4 S.A.L.R. 45; 13 Austn. Digest 298. Held (under section 16 of the Licensed Victuallers Act, 1869-70, which provided that the licensing bench was to sit on a fixed day) that *mandamus* should not be granted after the day fixed for dealing with an application, to compel the bench to hear the application, as its jurisdiction could only be exercised on the days fixed by the Act.

R. v. LICENSING COURT AND McEVoy; *Ex relatione* MARSHALL (1924) S.A.S.R. 421; 13 Austn. Digest 291. The provision that the notice under s. 8 (1) must state the place of meeting is mandatory. The court cannot exercise jurisdiction unless a proper notice has been given.

(2) It shall not be obligatory for any court to hold any quarterly meeting unless notice of some application to be made at that meeting has been given to the clerk of the court or the court has been made aware at least seven days before the date fixed for the meeting of some business to be dealt with thereat.

(3) Whenever by reason of the absence of the special magistrate constituting a court, a meeting is not held on the day fixed therefor, the clerk of the court shall, except in the case of a meeting which, pursuant to this section, the court is not obliged to hold, and may in such a case also if he is made aware of any business to be dealt with at the meeting, adjourn the meeting to a day and time within a period of twenty-eight days, and to any convenient place. The clerk shall enter in the minute book of the court a memorandum of the adjournment and forward a copy of the memorandum forthwith to the Attorney-General.

(4) When a meeting of any court is not held, any plans required to be deposited with the clerk at such meeting may be deposited with him on the day fixed for such meeting, and the deposit thereof in such case shall have the same effect as if the court had met.

(5) Where the day fixed for any meeting of any court falls upon a public holiday the Attorney-General may, by notice in the *Gazette*, alter the day for holding the meeting to a day to be named in the notice.

Meetings of
court.

1322, 1917,

s. 9.

1808, 1927,

s. 9.

Cf. U.K.

10 Edw. 7 &

1 Geo. 5

c. 24, s. 10

(part).

9. (1) Every court shall hold annual meetings for the consideration of applications for licences other than packet licences and may adjourn any meeting for any time which appears to be necessary. No decision as to granting any licence shall be given on any day other than the day of the meeting or a day to which the meeting has been adjourned and when the court is assembled for the consideration of applications as aforesaid.

(2) 1. Every court shall hold quarterly meetings for the consideration of—

(a) such applications as aforesaid:

(b) applications for permission to transfer any existing licences other than packet licences:

(c) applications for permission to remove any existing licences other than packet licences:

(d) applications for the issue of licences for new premises:

II. The court may adjourn any quarterly meeting as it finds necessary:

III. A court at a quarterly meeting shall not have power or authority—

(a) to receive or consider any application by any person whose application has been rejected at the preceding annual meeting:

(b) to receive or consider any application by any person whose application has been rejected on personal grounds at any preceding quarterly meeting:

(c) to grant any licence to any person or for any premises to whom or for which a licence has been refused at the preceding annual or quarterly meeting, on the ground that such premises are not required for the accommodation of the public:

unless the court at the said preceding annual or quarterly meeting gave permission to the applicant to renew his application or to prefer a new application in respect of new or other premises at the quarterly meeting.

(3) Every adjourned meeting shall be deemed to be a continuation of the annual meeting or quarterly meeting (as the case may be).

(4) Any court may hold a special meeting at any time and place for the purpose of considering and determining informations for forfeiture of licences under the provisions of this Act.

9a. (1) In any case where during the hearing of any application for the issue or transfer of a licence the court is of opinion, from the nature of the application or the attitude of the parties or their counsel or solicitors or in order to save delay or the needless expense of litigation it is desirable so to do, the court may investigate and inquire into the matter before it for determination and on its own view or on the oath of witnesses determine the same in a summary way. For the purpose aforesaid the court may exercise all and every the powers and authorities vested in

Special
procedure.
Inserted by
2241, 1935,
S. 4.

the court under this Act in the same manner in every respect as if the application had been made and heard in the ordinary way.

(2) The court shall have power to order any party appearing on the application to pay costs.

Right of
appeal
against
decision of
court.
1922, 1917,
s. 10.
1908, 1927,
s. 10.

10. (1) There shall be an appeal to the Supreme Court from every direction, determination, order, or decision given or made by any court with respect to the grant, renewal, transfer, removal, or forfeiture of any licence, certificate, or permit.

(2) The appeal shall be instituted by notice within one calendar month from the time of the direction, determination, order, or decision appealed against.

(3) The notice of appeal shall be in writing and shall be given to the clerk and shall state the nature and grounds of the appeal.

(4) A copy of the notice of appeal shall be given also to each objector.

(5) The appeal shall be set down for hearing at the first sittings of the Supreme Court for hearing appeals under the "Justices Act, 1921," to be held not less than ten days after the giving of the notice of appeal, and forthwith after the setting down notice thereof shall be given to the clerk and each objector.

(6) When the appeal is instituted the clerk shall cause the originals of the evidence given and notes taken on the hearing before the court or true copies thereof certified by the clerk as such, to be transmitted to the Master of the Supreme Court.

s. 10. In the matter of an application by THOMAS BODDINGTON FOR A PUBLICAN'S LICENCE, AND OF THE LICENSED VICTUALLERS ACTS, 1869-70 AND 1872 (1880) 14 S.A.L.R. 68; 13 Austn. Digest 216. Application for *certiorari* directed to a licensing bench refused, where the applicant had no interest in the matter except as a member of the general public.

In *re* SOUTH AUSTRALIAN HOTEL (1917) S.A.L.R. 262; 13 Austn. Digest 275. The appeal given by 1269, 1916, s. 19, was not an appeal by way of re-hearing and consequently the question for the court on an appeal was whether the court below had proceeded on a wrong principle.

In the matter of an application for a publican's licence at Alawoona; WINNALL V. THOMAS AND OTHERS (1931) S.A.S.R. 52; 13 Austn. Digest 296. An appeal lies to the Supreme Court from a refusal by the Licensing Court to grant a publican's licence.

LOXTON HOTEL LIMITED AND OTHERS V. WATSON (1935) S.A.S.R. 14. S. 10 confers a right of appeal on an objector who has unsuccessfully objected to an application.

LEE AND OTHERS V. CASTLEREAGH BREWERY LIMITED (1935) S.A.S.R. 32. Objectors have a right of appeal under s. 10. Objections not taken in Licensing Court can be taken in the appellate court. Power of the appellate court considered.

BARTRUM V. KUHRI (1935) S.A.S.R. 273. A decision of the court under s. 39 (3) is appealable as being in the nature of a judgment subject to a condition.

J. AND A. G. JOHNSTON LIMITED V. WATSON (1935) S.A.S.R. 437. An objector against the registration of a club has a right of appeal against registration.

[See also BROWN V. NOBLET, LEWIS V. TONKIN noted on p. 424.]

(7) No evidence shall be received on the hearing of the appeal other than such originals or copies as aforesaid, except by consent of the parties or by the order of the Supreme Court.

(8) Every appeal shall be heard and be determined by the Supreme Court in a summary way and in accordance with the rules in force with reference to the proceedings of the Supreme Court in that behalf.

(9) Upon the hearing of the appeal the Supreme Court may—

- (a) adjourn the same from time to time;
- (b) mitigate any penalty, forfeiture, or sum;
- (c) affirm, quash, or vary the direction, determination, order, or decision appealed from, or substitute, give, or make any direction, determination, order, or decision which in its opinion ought to have been made in the first instance;
- (d) remit the subject matter of the appeal for hearing or further hearing before the appropriate Court; and
- (e) make such order as to costs or otherwise as to the Supreme Court shall think fit.

(10) When the Supreme Court makes any order as to the costs of an appeal it shall direct by, and to whom, and the time within which, such costs shall be paid.

PART IV.

PART IV.

LICENCES, AND THE GRANT, RENEWAL, TRANSFER, TRANSMISSION, REMOVAL, AND FORFEITURE THEREOF.

DIVISION I.—LICENCE FOR SALE OF LIQUOR.

DIVISION I.

11. Subject to section 13 of this Act, and except as allowed elsewhere in this Act, no person shall—

Duty to
obtain
licence.
1322, 1917,
s. 11.

- (a) directly or indirectly sell, or permit to be sold within the State, any liquor; nor

s. 11. MAZURE V. HORSEMAN (1930) S.A.S.R. 131; 13 Austr. Digest 360. A licence is required for the sale of any liquor whether sold in quantities of more or less than five gallons.

PART IV.
DIVISION I.

- (b) keep or maintain any billiard, bagatelle, or billiard-bagatelle table for hire, or as a means of gain or profit,

without being licensed so to do under this Act.

Disqualifica-
tion for
licence.
1822, 1917,
s. 12.

12. No person in any office or situation under or in the employ of the Government of the State, or of the Commonwealth, and no member of the police force nor inspector, and no sheriff's officer nor other person employed to execute any legal process, and no licensed auctioneer shall be licensed under this Act.

Exceptions to
application of
Act.

Ibid., s. 13.
1604, 1923,
s. 3.
1867, 1928,
s. 3.
Cf. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 111.

13. (1) The provisions of this Act relating to the sale of liquor shall not apply to—

- (a) the sale of spirituous or distilled perfume, *bona fide* as perfumery:

- (b) the prescription or administration of any liquor simply as medicine or for medicinal purposes by or under the direction of any known or practising physician, surgeon, or pharmaceutical chemist, within the meaning of the Pharmacy Act, 1935:

- (c) the sale by a pharmaceutical chemist of any spirituous medicinal wines compounded under a formula similar to one contained in the British Pharmacopœa Codex of 1934.

Para. (c)
inserted by
2241, 1935,
s. 5.

(2) No licence shall be required under this Act by any person who is the occupier of a cider factory, vineyard or orchard for the sale or delivery by himself or his servants, in quantities of not less than two imperial gallons of mead, wine, cider, or perry manufactured by such person from honey, or fruit produced or grown in the Commonwealth of Australia: Provided that such mead, wine, cider, or perry is—

- I. neither sold nor delivered to any person in a state of intoxication:
- II. neither sold nor delivered to any person to whom it is by this Act made unlawful to sell or supply liquor:
- III. not consumed on any premises in the possession or occupation of such occupier of a cider factory, vineyard, or orchard, or his servants:

s. 13. (1) (b) The expression "Pharmacy Act, 1935," substituted for "Pharmacy Act, 1891," pursuant to the Acts Republication Act, 1934.

BIRKS CHEMISTS LIMITED v. ALLCHURCH (1923) S.A.S.R. 112. The term "prescription" means the advising, ordering or directing of a particular remedy; "administration" means actually giving a dose.

iv. neither sold nor delivered during any day or time during which the sale of liquor is prohibited:

v. neither sold nor delivered at any place other than at the cider factory, vineyard, or orchard in the occupation of the person selling and delivering the same.

(3) Any person who, acting as an agent for more than one person, purchases or accepts delivery of any mead, wine, cider, or perry under the provisions of subsection (2) of this section, shall be liable to a penalty of not more than twenty pounds.

(4) No licence shall be required by the master or commander of any steamer or other vessel for the supply of any allowance of liquor to the crew of such steamer or vessel.

(5) This Act shall not apply—

i. to the sale or supply of liquor in the Parliamentary refreshment rooms by the permission and under the control of the proper authority; or

ii. to the sale or supply of liquor to any member of the Defence Forces in any canteen established under a permit issued by the proper authority.

DIVISION II.—CLASSES OF LICENCES AND FEES.

DIVISION II.

14. The licences to be granted by virtue of this Act shall be of eleven classes, and shall be denominated as follows:—

Nature of
licences.
1922, 1917,
s. 14.

(a) "Publican's licence," which shall be in the form No. 1 of Schedule B:

(b) "Storekeeper's licence," which shall be in the form No. 2 of Schedule B:

(c) "Wine licence," which shall be in the form No. 3 of Schedule B:

(d) "Storekeeper's Australian wine licence," which shall be in the form No. 4 of Schedule B:

(e) "Packet licence," which shall be in the form No. 5 of Schedule B:

s. 13. (2) *MAZURE V. HORSEMAN* (1930) S.A.S.R. 131; 13 Austn. Digest 360. Where a winemaker purported to deliver wine to himself as servant of a carrying company, the purported delivery taking place on his own premises, and the wine was then taken by him to a customer's premises, held that delivery did not take place on the winemaker's premises.

PART IV.
DIVISION II.

- (f) "Registration of a club," which shall be in the form No. 6 of Schedule B:
- (g) "Brewer's Australian ale licence," which shall be in the form No. 7 of Schedule B:
- (h) "Distiller's storekeeper's licence," which shall be in the form No. 8 of Schedule B:
- (i) "Billiard-table licence," which shall be in the form No. 9 of Schedule B:
- (j) "Railway licence," which shall be in the form No. 10 of Schedule B:
- (k) "Special licence," which shall be in the form No. 11 of Schedule B.

Publican's
licence.
1322, 1917,
s. 15.
U.K. 11
Geo. 4 & 1
Will. 4 c 64,
ss. 1, 10
(part).

15. (1) Every publican's licence shall authorise the person thereby licensed to sell and dispose of any liquor in any quantity, in the house or on the premises therein specified, in the manner hereinafter mentioned.

(2) The annual fee to be paid for a publican's licence shall be as provided in Division III. of Part IV. of this Act.

Storekeeper's
licence.
1322, 1917,
s. 16.
1844, 1927,
s. 4.

16. (1) Every storekeeper's licence shall authorise the person thereby licensed to sell and dispose of liquor in the house, or on the premises therein specified, in quantities of not less than one gallon of one kind of spirits, or one dozen reputed quart bottles, or two dozen reputed pint bottles of wine or other fermented liquor, to be taken away at one time by one person, and not to be drunk in or about the house, or on the premises in which such liquor is sold.

(2) The annual fee for a storekeeper's licence shall be twenty pounds.

Wine licence.
1322, 1917,
s. 17.
1844, 1927,
s. 4.

17. (1) Every wine licence shall authorise the person thereby licensed to sell in the house or shop, or on the premises therein specified, mead, wine, cider, or perry, in any quantity, for consumption on the premises or otherwise.

(2) The annual fee for a wine licence shall be twenty pounds.

Storekeeper's
Australian
wine licence.
1322, 1917,
s. 18.
1844, 1927,
s. 4.

18. (1) Every storekeeper's Australian wine licence shall authorise the person thereby licensed to sell on the premises therein specified mead, wine, cider, or perry, produced and manufactured in the Commonwealth, in quantities of not less

than one reputed quart bottle, to be taken away at one time by one person, and not to be drunk on the premises in which such liquor is sold.

(2) The annual fee for a storekeeper's Australian wine licence shall be ten pounds.

19. No person holding a storekeeper's or a storekeeper's Australian wine licence shall, whilst continuing to hold the same, be capable of holding a wine licence, and if any wine licence is at any time granted and issued to any person holding a storekeeper's or a storekeeper's Australian wine licence, the said wine licence shall be void and of no effect.

Disqualifica-
tions for
wine licence.
1822, 1917,
s. 19.

20. (1) Every packet licence shall authorise the master or commander thereby licensed to sell and dispose of liquor in any quantity to any passenger on board the steamer or vessel of which he is master or commander during any voyage or passage, subject to the following restrictions:—

Packet
licence.
Ibid., s. 20.
1844, 1927,
s. 4.
Of U.K.
5 & 6 Vict.
c. 44, s. 5.

(a) If the steamer or vessel plys only from port to port within the State, liquor shall not be sold nor disposed of whilst the steamer or vessel is at her berth or moorings, nor until she has proceeded on her voyage or passage:

(b) If the steamer or vessel is on a voyage extending or about to extend from start to finish for a distance not greater than forty miles, or is on the River Murray or any lake connected therewith, liquor shall not be sold or disposed of during any day or time during which the sale of liquor is prohibited by law.

(2) The annual fee for a packet licence shall be twenty pounds.

21. The effect of a registration of a club and the annual fee payable therefor shall be as provided in Division XII. of this Part.

Registration
of club.
1822, 1917,
s. 21.

22. (1) Every brewer's Australian ale licence shall authorise the person thereby licensed to sell and dispose of liquor on the premises therein specified in quantities of not less than two gallons of one kind of spirits or one dozen reputed quart bottles, or two dozen reputed pint bottles,

Brewer's
Australian
ale licence.
Ibid., s. 22.
1844, 1927,
s. 4.

s. 22. LEE AND OTHERS V. CASTLEREAGH BREWERY LIMITED (1935) S.A.S.R. 22. S. 22 (4) has not the effect of making s. 229 apply to brewers' Australian ale licences.

of wine or other fermented liquor, to be taken away at one time by one person, and not to be drunk in or about the house or premises in which such liquor is sold. Such a licence shall be granted only to a brewer of ale, stout, or other fermented liquor, or to any manufacturer of cordials containing spirits who at any time before the twenty-third day of December, nineteen hundred and fifteen, held a brewer's colonial ale licence.

(2) The annual fee for a brewer's Australian ale licence shall be twenty pounds.

Cf U.K.
23 & 24
Vict. c. 27,
ss. 22, 32.

(3) No person while holding a brewer's Australian ale licence shall be capable of holding a storekeeper's licence or a wine licence. Any grant of either of such last-mentioned licences to a person holding a brewer's Australian ale licence shall be void and of no effect.

(4) All the provisions of this Act relating to a storekeeper's licence shall apply to a brewer's Australian ale licence, except where inconsistent with or inapplicable to such licence.

Distiller's
storekeeper's
licence.
1322, 1917,
s. 23.
1844, 1927,
s. 4.

23. (1) Every distiller's storekeeper's licence shall authorise the distiller thereby licensed to sell and dispose of liquor on the premises therein specified, in quantities of not less at one time than two gallons of one kind of spirits, or one dozen reputed quart bottles, or two dozen reputed pint bottles of wine or other fermented liquor to be taken away at one time by one person, and not to be drunk in or about the house or premises in which such liquor is sold. Such a licence shall be granted only to a person holding a distillation licence under any Act in force in the Commonwealth.

(2) The annual fee for a distiller's storekeeper's licence shall be twenty pounds.

(3) No person, while holding a distiller's storekeeper's licence, shall hold a storekeeper's licence or a wine licence. Any grant of either of such last-mentioned licences to a person holding a distiller's storekeeper's licence shall be void and of no effect.

(4) All the provisions of this Act relating to a storekeeper's licence shall apply to a distiller's storekeeper's licence, except where inconsistent with or inapplicable to such a licence.

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24. (1) Every billiard-table licence shall authorise the person thereby licensed to keep, set up, and maintain, on the premises described in such licence, billiard, bagatelle, and billiard-bagatelle tables, or any of them, and to allow such tables to be used only between the hours of eight in the morning and eleven at night, but not at any time on any Sunday, Christmas Day, or Good Friday.

Billiard-table licence.
1822, 1917,
s. 24.

(2) The annual fee for a billiard-table licence shall be five pounds; but every holder of a publican's licence or club licence shall be entitled to a billiard licence in respect of his licensed premises without the payment of any fee.

25. Every railway licence shall authorise the person thereby licensed to sell and dispose of any liquor, in any quantity, on the premises therein specified, in the manner mentioned in Part V. of this Act.

Railway licence.
Ibid., s. 25.

26. The fees for all licences, certificates, and permits under this Act shall be paid to the Treasurer.

Payment of fees to Treasurer.
Ibid., s. 27.

27. (1) Every licence, other than a packet licence, or a special licence, shall,

Date when licences take effect.

(a) without regard to the date thereof, commence and take effect from the day on which it is actually issued by the Treasurer, as in this Act mentioned;

Ibid., s. 28.
Cf. U.K.
23 & 24 Vict.
c. 27, s. 11.

(b) if not previously forfeited, be in force until the expiration of a period of fourteen days immediately following the next succeeding annual meeting of the court, but no longer.

(2) Every packet licence shall, if not previously forfeited, be in force for twelve months from the date of its issue.

28. (1) Where any annual or quarterly meeting of a court held for the consideration of applications for licences other than packet licences is adjourned pursuant to section 9 of this Act to a day later than the fourteenth day immediately following the date of that meeting, the court may grant a special licence to any person applying at that meeting for a renewal of his licence, whose application has not been disposed of on or before the said fourteenth day.

Provision for special licence where renewal held over pending determination of objection.

1822, 1917,
s. 29.
1808, 1927,
s. 11.
Cf. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 89.

(2) The special licence shall be under the hand of the clerk of the court, and may be granted for such period, not exceeding three months, as the court thinks fit, and the period

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for which any such licence is granted shall be specified therein.

(3) A special licence shall have the same effect as if the licence the renewal whereof is applied for had been renewed in favour of the person named in the special licence for the period specified in such special licence.

Fee for
licence for
part of a
year.
1322, 1917,
s. 30.

29. If any licence is issued for a period of less than one year, a proportionate amount only of the licence fee shall be payable by the licensee.

DIVISION III.

DIVISION III.—FEES FOR PUBLICANS' LICENCES.

Method of
determining
annual fee
for publican's
licence where
rating on
annual values
is in opera-
tion.

Ibid., s. 31.
1844, 1927,
s. 5.
2055, 1931,
s. 4.

30. If the house or premises described in a publican's licence are situate within the limits of a municipality or district council district and the annual value thereof is assessed for rating purposes by the council of the municipality or district, the fee for the publican's licence shall be computed as follows:—

Where the said annual value does not exceed £100, the fee shall be £25.

Where the said annual value exceeds £100 but does not exceed £200, the fee shall be £35.

Where the said annual value exceeds £200 but does not exceed £300, the fee shall be £50.

Where the said annual value exceeds £300 but does not exceed £400, the fee shall be £60.

Where the said annual value exceeds £400 but does not exceed £500, the fee shall be £70.

Where the said annual value exceeds £500 but does not exceed £600, the fee shall be £80.

Where the said annual value exceeds £600 but does not exceed £700, the fee shall be £90.

Where the said annual value exceeds £700 but does not exceed £800, the fee shall be £100.

Where the said annual value exceeds £800 the annual fee shall increase by £10 for every £150 of the annual value in excess of £800 and for every fractional part of £150 in excess of an even multiple of £150.

The maximum fee payable shall be £150.

If the house or premises are not situated within the limits of any such municipality or district the annual fee for a publican's licence shall be twenty-five pounds.

The said licence fee shall be payable annually in equal quarterly instalments as provided by section 52 of this Act.

31. If the house or premises described in a publican's licence are situated within a municipality in which Part II. of the Land Value Assessment Act, 1893, or Division III. of Part XXIII. of the Municipal Corporations Act, 1923, is in operation, or within a district in which Division III. of Part X. of the District Councils Act, 1929, is in operation, or within a municipality or district in which Division III. of Part X. of the Local Government Act, 1934, is in operation, the annual fee to be paid for the licence shall be determined as follows:—

Method of
determining
licence fee
where rating
on land
values is in
operation.
1322, 1917,
s. 32.
1867, 1928,
s. 4.

Amended by
S.L.R. Act,
1936.

(a) If the house or premises are at the time when the fee becomes due, assessed under the Waterworks Act, 1882, or any Act incorporated therewith, the house or premises shall be deemed to be assessed at the annual value thereof shown on the assessment in force under the said Waterworks Act, 1882, or such other Act as aforesaid, at the said time:

(b) In any other case the house or premises shall be deemed to be assessed at the annual value on which the fees payable for the last licence granted in respect thereof before the first day of November, nineteen hundred and twenty-eight, were computed, but the Treasurer may at any time after that date and from time to time at intervals of not less than two years cause an assessment of the house or premises to be made in such manner as he deems convenient, and such house or premises shall thereafter be deemed to be assessed at the annual value shown by the assessment so made which is for the time being in force,

and in either case the fee to be paid shall be the same as if the house or premises were assessed by the corporation or district council for rating purposes at the annual value assessed as aforesaid.

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Right of
appeal
against
Treasurer's
assessment.
1922, 1917,
s. 33.
1867, 1928,
s. 4.

32. When the Treasurer has caused an assessment of any house or premises to be made he shall forthwith give the licensee notice thereof and the licensee may within one month thereafter appeal against that assessment to the local court, and the said court shall assess the annual value, and the value so assessed shall be the annual value for determining the amount of the annual fee for the licence.

Adjustment of
fee after
appeal.
1922, 1917,
s. 34.
1867, 1928,
s. 4.

33. If the annual value as assessed by the local court on appeal is different from that shown by the assessment appealed against, the Treasurer shall repay to, or shall be entitled to recover from, the licensee any excess or deficiency (as the case may be) in any fee already paid by the licensee, on the basis of the assessment appealed against, and such excess or deficiency may be recovered as a debt in any court of competent jurisdiction.

Principles
governing
assessments.
1922, 1917,
s. 35.
1867, 1928,
s. 4.

Amended by
S.L.R. Act,
1936.

34. Any assessment made under sections 31 or 32, or both, by the Treasurer or the local court, shall be merely for the purpose of determining the licence fee, and shall be made according to the principles laid down in section 173 of the Local Government Act, 1934.

Definition
of local
court.
1922, 1917,
s. 39.

35. In this division "local court" means the local court of full jurisdiction nearest to the house or premises.

DIVISION IV.

DIVISION IV.—APPLICATIONS FOR LICENCES, MEMORIALS,
AND OBJECTIONS.

Court to
which applica-
tion for
licences
made.
Ibid., s. 40.
U.K. 11
Geo. 4 & 1
Will. 4 c. 64,
s. 2.

36. Every application for a licence, except a packet licence, or for the transfer or removal of any licence, except a packet licence, shall be made to and considered by the court for the district in which the premises licensed or proposed to be licensed are situated.

Issue of
packet
licence.
1922, 1917,
s. 41.

37. A packet licence shall be issued by the Treasurer to the master or commander of any steamer or other vessel making passages and conveying passengers from any place within the State or its dependencies to any other place, upon payment of the licence fee mentioned in this Act, and upon receiving the certificate of a special magistrate or two justices, in the form in Schedule C.

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38. (1) No person shall be entitled to apply for a publican's licence or a wine licence in respect of previously unlicensed premises unless he has—

Conditions precedent to application for publican's or wine licence for previously unlicensed premises.
1322, 1917, s. 42.
1808, 1927, s. 12.
Cf. U.K. 10 Edw. 7 & 1 Geo. 5 c. 24, s. 15.

- (a) at the meeting of the court last before the meeting at which application for the licence is to be made, deposited with the clerk plans of the buildings erected or proposed to be erected on the said premises:
 - (b) within twenty-one days of the deposit caused notice of the deposit to be given by two advertisements in each of two daily and two weekly newspapers published in the State:
 - (c) during the whole of the interval between the deposit and the next meeting of the court posted and kept posted on the outer door of the said premises, or if the said premises have not been erected or completed, on a notice board placed on a conspicuous part of the land upon which it is intended to erect or complete the premises, notice in such of the forms contained in the Schedule D as is applicable:
 - (d) at the time of depositing the plans, deliver to the clerk a duplicate of the said notice, accompanied by a certificate in the form of Schedule E, of at least three known householders residing within a radius of one mile of the said premises or intended premises.
- (2) The plans deposited under this section must show exactly—
- (a) the site of the premises:
 - (b) the boundaries thereof:
 - (c) the situation thereon of the front door of the buildings erected or proposed to be erected:
 - (d) words indicating which is or is to be the front door.
- (3) Such plans shall be—
- I. upon paper of the width of twenty-four inches:
 - II. certified as correct by such person and by an architect or surveyor:
 - III. open to public inspection without fee.

s. 38. In the matter of an application for a Publican's Licence at Alawoona; WINNALL v. THOMAS AND OTHERS (1931) S.A.S.R. 52; 13 Austr. Digest 197. The fact that the certificate under s. 38 (1) (d) is untrue does not disentitle an applicant to apply under s. 39.

(4) Forthwith after the deposit of any plans the clerk shall cause notice thereof to be inserted in two consecutive numbers of the *Gazette*. The applicant shall pay the cost of the said insertion.

Mode of
dealing with
applications.
1922, 1917,
s. 43.

39. (1) Any person who has complied with the requirements of the next preceding section, may, at the annual or quarterly meeting of the court held next after the deposit of the plans, apply to the court for a licence in respect of the premises specified in the plans, and the court shall thereupon—

- (a) if the premises have already been erected or completed, grant or refuse the application:
- (b) if the premises have not then been erected or completed, decide whether a licence will be granted for such premises when erected or completed in accordance with such deposited plans to the satisfaction of and within a reasonable time to be then fixed by the court.

(2) If any application is rejected on the ground—

- (a) that the plans so deposited do not meet with the approval of the court, or
- (b) that the premises erected or proposed to be erected are not, or would not, in its opinion, be suitable to the locality,

the court shall, upon the request of the applicant or his counsel, state in what particulars—

- i. the plans do not meet with its approval, or
- ii. the buildings or proposed buildings are unsuitable.

(3) When the court has decided at any meeting that a licence will be granted for any premises not then erected or completed, those premises, upon being erected or completed in accordance with the deposited plans within the time fixed by the court, shall, for the purpose of regulating the mode of application for a licence therefor, be deemed to be previously licensed premises.

Application
for other
licences.
1922, 1917,
s. 44.

40. Every person applying for a licence, other than a publican's, wine, club, or packet licence, in respect of any premises which have not been previously so licensed shall—

- (a) not less than twenty-eight days next before the meeting of the court at which the application is to

s. 39. (3) *BARTRUM v. KUHRI* (1935) S.A.S.R. 273. A decision of the court under s. 39 (3) is appealable as being in the nature of a judgment subject to a condition.

be made, post, and during the whole of the interval, keep posted a notice, in such of the forms contained in Schedule D hereto as is applicable, on the outer door of the premises, or on a notice board on a conspicuous part of the premises, if the house or store has not been erected or completed; and

- (b) at least twenty-eight days before the said meeting, deliver to the clerk a duplicate of that notice, accompanied by a certificate in the form of Schedule E hereto, of at least three known householders residing within a radius of one mile of the premises.

41. (1) No licence under this Act, other than a billiard or packet licence, in respect of previously unlicensed premises, shall be granted if a memorial, in the form of Schedule F hereto, or to the like effect, against the granting of the same, signed by at least two-thirds of the electors resident in the immediate neighbourhood of those premises, is presented to the court at the meeting at which the application for such licence is made.

Memorial
against
new licence.
1322, 1917,
s. 45.

(2) The genuineness of the signatures to such memorial shall be verified on oath before the court.

(3) No memorial shall be received unless it is signed by twenty qualified persons at the least: Provided always that if there are less than thirty persons qualified to sign such a memorial as aforesaid residing in the immediate neighbourhood (the onus of proof whereof shall lie on the person or persons objecting to the grant of the licence), the "immediate neighbourhood" shall, for the purposes of the memorial and all proceedings connected therewith, mean the territory within a radius of one mile from the front door, or proposed front door, of the said premises.

42. (1) Every such memorial against the granting of a licence, with a copy thereof for service on the applicant, shall be lodged with the clerk within the following times:—

Time for
lodging
memorial in
court.
1322, 1917,
s. 46.

- (a) If the licence intended to be applied for is a publican's or wine licence, within sixty days after the applicant has deposited with the clerk the plan under section 38;

s. 41. In *re* BEAGLEHOLE and the ADELAIDE LICENSING BENCH (1884) 18 S.A.L.R. 24; 13 Austn. Digest 215. *Semble*, that after a memorial has been lodged, the petitioners may withdraw their signatures and the court is obliged to take evidence as to such withdrawal, and also as to ss. 41 and 42 having been complied with.

(b) In any other case, within fourteen days after delivery to the clerk of the duplicate notice and certificate mentioned in section 40.

(2) The clerk shall forthwith cause the said copy of the memorial to be forwarded by post to the applicant.

Certified list
of electors,
1922, 1917,
s. 47.

43. (1) Any person applying for a licence or notifying his intention to oppose the granting of a licence shall, on application to the returning officer, be entitled to be furnished by the returning officer with a list of the electors residing within the said immediate neighbourhood or that part thereof which is within his district.

(2) The list shall be certified under the hand of the returning officer to be a true list of the said resident electors.

(3) Any such certified list or lists shall be *prima facie* evidence of the number and names of the electors residing within the immediate neighbourhood and qualified to sign a memorial under section 41.

(4) There shall be payable for any list a fee of ten shillings and sixpence with an additional threepence for every folio of seventy-two words of the said list.

(5) In this section—

“returning officer” means the returning officer for the district in which is situated the immediate neighbourhood of the premises for which a licence is applied for or opposed, or any part of such neighbourhood, or any person whose duty it is to keep the rolls for any such district;

“district” means an electoral district for the election of members or a member to serve in the House of Assembly.

Restriction on
grant of
licence after
refusal by
reason of
memorial.
1922, 1917,
s. 48.

44. When a licence has been refused because a memorial has been presented under this Act against the granting thereof the court shall not—

(a) at any time within two years after the refusal entertain any application for any licence in respect of the premises for which the licence was refused;

(b) after the expiration of the said two years entertain any such application unless a memorial has been presented in favour of granting the application, and the memorial is signed by at least two-thirds

of the electors resident in the immediate neighbourhood of the premises, and the genuineness of the signatures is verified as in the case of a memorial under section 41.

“Immediate neighbourhood” has the same meaning in this section as in section 41.

45. Any unlicensed person applying for any licence other than a club or packet licence, in respect of previously licensed premises, shall—

Manner of application by new applicant for licence in respect of previously licensed premises.
1322, 1917, s. 49.

(a) twenty-eight days at least before the date of the meeting at which he intends to apply for such licence, post on the outer door of the premises, and keep posted there until such meeting, a conspicuous notice in such of the forms contained in Schedule D hereto as is applicable; and

(b) deliver to the clerk a duplicate of that notice, accompanied by a certificate, in the form of Schedule E hereto, of at least three known householders residing within a radius of a mile of such premises.

46. Any householder who gives a certificate under section 38 or 45 which is untrue in any particular shall be guilty of an offence and liable to a penalty not exceeding five pounds.

Penalty for untrue certificate.
Ibid., s. 50.

47. Any licensed person, other than the holder of a packet licence, applying for a renewal of his licence under this Act shall, twenty-eight days at least before the annual meeting of the court, deliver to the clerk a notice in such of the forms in Schedule D hereto as is applicable.

Manner of application for renewal of any licence.
Ibid., s. 51.

48. Upon the receipt of any notice of application, the clerk shall file the same, and shall forthwith cause notice of such application and the particulars thereof to be forwarded to the Commissioner of Police, and to an inspector.

Notice of application to Commissioner of Police and Inspector.
Ibid., s. 52.

49. The clerk of each court shall give notice by advertisement in the *Gazette* published not less than five weeks before each annual meeting of the court, requiring all persons having any complaint against the management or condition of any licensed premises, or the licensee thereof as such licensee, to forward the complaint to the clerk at least fourteen days

Notice of time for making objections.
Ibid., s. 53, 1808, 1927, s. 13.

s. 45. R. v. LICENSING COURT; *Ex parte* DONNELLY (1925) S.A.S.R. 37; 13 Austr. Digest 197. The term “previously licensed premises” includes premises for which a licence has been previously held, although the previous licence may have expired.

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before the annual meeting, and to attend at such annual meeting to substantiate such complaint. The said notice may be in the form of Schedule G hereto.

Notice of
objection to
be served.
1322, 1917,
s. 56.
Cf. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 16 (2).

50. No person shall be heard, either personally or by counsel, in support of any objection to the grant, renewal, transfer, or removal of a licence before the court unless notice in writing of such objection, stating the nature and grounds thereof, signed by the objector, and giving his place of residence and occupation or style, has been delivered to the clerk and to the person who has given the notice of application prescribed by this Act at least fourteen clear days before the day on which such application is to be heard.

Objections to
licences and
renewals.
1322, 1917,
s. 57.
Cf. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
ss. 17, 18.

51. The objections to the grant or renewal of a licence of which notice may be given are the following:—

I.—*Publicans' licences.*

(1) As to all applications—

(a) that the applicant is—

I. of bad fame or character:

II. interested in keeping a brothel or house of ill-fame:

III. of drunken or dissolute habits:

IV. not a fit and proper person to be licensed:

s. 50. In the matter of an application by THOMAS BODDINGTON for a Publican's Licence, and of the LICENSED VICTUALLERS ACTS, 1869-70 and 1872 (1880) 14 S.A.L.R. 68; 13 Austn. Digest 224. An allegation in a notice of objection that the management of hotel premises had not been satisfactory in that the premises were frequented by bad and improper characters, held a sufficient statement of the grounds of objection. The description of the objector as Matthew Symonds Clark, of Adelaide, merchant, held sufficient.

In the matter of the application by THOMAS BODDINGTON for a Publican's Licence, and of the LICENSED VICTUALLERS ACT, 1880 (1881) 15 S.A.L.R. 80; 13 Austn. Digest 242. *Semble*, a person who has not given a notice of objection, cannot by *certiorari* or otherwise take advantage of an irregularity in the proceedings of the Licensing Court arising from the consideration of the objection of a person who has given notice.

In the matter of THOMAS HARVEY and in the matter of the LICENSED VICTUALLERS ACT, 1880 (1887) 21 S.A.L.R. 22; 13 Austn. Digest 242. A notice expressing an intention to "oppose" an application was held sufficient as a notice of objection.

THOMAS v. WILKINSON (1932) S.A.S.R. 448; 13 Austn. Digest 223. An objector has no right to be heard on an objection alleging a matter of mixed law and fact, of which objection no notice has been given.

s. 51. In the matter of an application for a Publican's Licence at Alawoona; WINNALL v. THOMAS AND OTHERS (1931) S.A.S.R. 52; 13 Austn. Digest 207, 221. The fact that the applicant for a publican's licence in respect of premises not yet licensed has partners in the proposed business does not preclude the grant of a licence. The expression in s. 51 (1) (e) "required for the accommodation of the public" connotes that there is a "public" of substantial magnitude likely to need the accommodation to be afforded by the premises.

- (a1) that during the twelve months preceding the day on which the notice of objection is given to the clerk, unlawful gaming within the meaning of the Lottery and Gaming Act, 1917, has taken place on the premises mentioned in the application:
- (b) that the applicant has within six months previously been deprived of a licence under this Act or any Act repealed by this Act:
- (c) that there is a direct means of communication between any store, shop, office, or dwelling house and the premises mentioned in the application or the appurtenances thereof or any premises within the same enclosure as the premises mentioned in the application:
- (d) that the said premises, or any adjacent store, shop, or house, owned or occupied by the applicant (whether there is or is not any such means of communication between such adjacent store, shop, or house and the said premises) is—
- I. of a disorderly character; or
 - II. frequented by prostitutes, thieves, or persons of bad character:
- (e) that the licensing of the premises is not required for the accommodation of the public.
- (2) As to applications for premises not previously licensed—
- (a) that the said premises are in the vicinity of a church or other place of public worship, or a hospital, or school, and would, if licensed, be the cause of inconvenience or annoyance to the persons using or frequenting such church, place of worship, hospital, or school:
- (b) that the quiet of the locality in which the said premises are situated will be disturbed if a licence is granted for the sale of liquor in the premises (this objection shall not be entertained unless a petition against the granting of the licence for the said premises has been presented to the court, signed by at least two-fifths of the electors residing in the immediate neighbourhood of the premises):
- (c) that, if the said premises are situated in or within ten miles of the city of Adelaide, the same have not at least two moderate-sized sitting rooms and

two sleeping-rooms, properly ventilated and furnished, constantly ready and fit for the accommodation of members of the public, independent of the rooms occupied by the applicant and his family:

- (d) that the said places have not decent and separate places of convenience for both males and females, or have not urinals on or near the premises for the use of the customers thereof, so as to prevent nuisances and offences against decency.

(3) As to applications for renewal of licences or by new applicants for previously licensed premises—

- (a) that the management of the licensed premises in such particulars as are specified in the notice has not been satisfactory:
- (b) that any direction of the court as to additional accommodation has not been complied with.

(4) As to applications for licences for premises not previously licensed, and for renewal of licences—

- (a) that, if such premises are situated more than ten miles from the city of Adelaide, such premises have not at least one sitting-room and two sleeping-rooms properly ventilated and furnished, constantly ready and fit for the accommodation of travellers, and separated from any bar by a space of at least twelve feet, with a separate entrance:

Of. U.K.
26 Geo. 5 & 1
Edw. 8 c. 49,
s. 89.

- (b) that such premises have not decent and separate places of convenience for both males and females, or have not urinals on or near to the premises for the use of the customers thereof, so as to prevent nuisances and offences against decency:

- (c) that there is not a stable on the premises capable of containing at least four horses, with a sufficient quantity of hay and corn: Provided that want of stable accommodation shall not be an objection as to premises within the limits of a municipality whose population numbers two thousand or over.

II.—*Wine licences.*

Of. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
ss. 17, 18.

- (1) As to all applications—

- (a) that the applicant is—

I. of bad fame or character:

- ii. interested in keeping a brothel or house of ill-fame:
 - iii. of drunken or dissolute habits:
 - iv. not a fit and proper person to be licensed:
 - (b) that he has been within six months previously deprived of a licence under this Act or under any Act hereby repealed:
 - (c) that the licensing of the premises is not required for the accommodation of the public.
- (2) As to applications for renewal of licences, or by new applicants for previously licensed premises—
- (a) that the management of the licensed premises in such particulars as are specified in the notice has not been satisfactory:
 - (b) that any direction of the court as to additional accommodation has not been complied with.
- (3) As to applications for licences for premises not previously licensed—
- (a) that the premises are in the vicinity of a church, or other place of worship, or a hospital, or school, and would, if licensed, be the cause of inconvenience or annoyance to the persons using or frequenting such church, or place of worship, hospital, or school:
 - (b) that the quiet of the locality in which the premises are situated will be disturbed if a wine licence is granted for such premises (this objection shall not be entertained unless a petition against the granting of the licence for the said premises is presented to the court, signed by at least two-fifths of the electors residing in the immediate neighbourhood of such premises).

III.—*All licences, except publicans', wine, and packet licences.*

(1) As to all applications—

(a) that the applicant is—

- i. of bad fame or character:
- ii. interested in keeping a brothel or house of ill-fame:
- iii. of drunken or dissolute habits:
- iv. Not a fit and proper person to be licensed:

(b) that he has been within six months previously deprived of a licence under this Act or any Act hereby repealed:

(c) that the licensing of the premises is not required for the accommodation of the public.

(2) As to applications for renewal of licences—That the management of the licensed premises, in such particulars as are specified in the notice, has not been satisfactory.

Effect of
non-payment
of licence
fee.
1322, 1917,
s. 59.
2055, 1931,
s. 6.

52. Until the licence fee, or in the case of a publican's licence, the first quarterly instalment of the licence fee is paid to the Treasurer or his deputy, and the licence is actually issued by him, the person entitled to the licence shall be deemed unlicensed, and if the said licence fee or quarterly instalment is not paid within two calendar months after the date of the meeting at which the licence was granted, the clerk may give notice in writing of such non-payment of such licence fee or quarterly instalment to the owner of the freehold of the premises in respect of which such licence was granted, and if such licence fee or instalment is not paid within fourteen days after the giving of such notice as aforesaid, the grant shall be wholly void. In the case of a publican's licence the subsequent quarterly instalments shall be paid three, six, and nine calendar months respectively after the date of the meeting at which the licence was granted, and if default is made in paying any such instalment on the due date and the default continues for two calendar months, the clerk may give notice in writing of such default to the owner of the freehold of the premises in respect of which such licence was granted, and if such default continues for fourteen days from the giving of such notice, the licence shall thereby be *ipso facto* forfeited and wholly void for all purposes.

Publication
of list of
licences issued
and notice
of non-
payment of
fees.
1322, 1917,
s. 60.

53. The Treasurer shall cause a list of all licences issued, and also notice of the non-payment of any licence fees or instalments as mentioned in the next preceding section, to be inserted in the *Gazette*, on the first, second, or third day of its publication after the issue of the licences, or after the expiration of the said period of two calendar months and fourteen days, as the case may be.

DIVISION V.

DIVISION V.—TRANSFER OF LICENCES.

Applications
to transfer.
Ibid., s. 61.
Of U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 22.

54. (1) Any person who—

(a) holds a licence other than a club or packet licence; or

(b) has a certificate under section 57 hereof; or

- (c) has given notice of entry to the clerk under subsection (2) of section 57,

may apply to the court at any quarterly meeting to have the licence transferred to some person other than himself.

(2) Any person who—

(a) has a certificate under section 57 hereof; or

(b) has given notice of entry to the clerk under subsection (2) of section 57 hereof,

may apply to the court at any quarterly meeting to have the licence transferred to himself.

(3) No application under this section shall be entertained unless twenty-eight days before the quarterly meeting the applicant has—

(a) delivered to the clerk a notice in the form of Schedule H to this Act or as near thereto as circumstances will permit:

(b) posted on the outer door of the licensed premises a duplicate of that notice:

(c) delivered to the clerk a certificate in favour of the intended transferee in the form of Schedule E from three known householders residing within a radius of one mile of the licensed premises.

(4) The clerk shall forthwith cause notice of every such application to be advertised in two consecutive numbers of the *Gazette* issued previously to the date of the meeting of the court to which the application is to be made.

55. The objections to a transfer, of which notice may be given, are the following:—

Objections to
transfers.
1922, 1917,
s. 62.

(1) That the licence of the person proposing to transfer the same is liable to be forfeited for offences against this Act, or any Act hereby repealed:

(2) That the person to whom it is proposed to have the licence transferred—

(a) is of bad fame or character,

(b) is interested in keeping a brothel or house of ill-fame,

(c) is of drunken or dissolute habits,

(d) is not a fit and proper person to be licensed,

Paragraph
(2a) inserted
by 2135,
1933, s. 17.

(e) has within six months previously been deprived of a licence under this Act, or any Act hereby repealed, as being personally incapable or unfit to hold the same:

(2a) That on any premises for which the proposed transferee held a licence at any time during the period of twelve months preceding the day on which the notice of objection is given to the clerk, unlawful gaming within the meaning of the Lottery and Gaming Act, 1917, took place during that period or that the said transferee is a bookmaker or reputed bookmaker:

(3) That the lease under which the holder of the licence occupies his house contains a covenant or prohibition against transferring the licence, or assigning, or subletting without the consent of the lessor, and that such consent has not been obtained:

(4) That any direction of the court as to additional accommodation has not been complied with.

Power of
court to
transfer
licence.
1922, 1917,
s. 63.

56. (1) The court at any quarterly meeting may, upon the application of—

(a) any holder of a licence,

(b) any holder of a certificate under section 57 hereof,

(c) any person who has given notice of entry to the clerk pursuant to subsection (2) of section 57 hereof,

upon being satisfied that the provisions of this Act have been complied with, transfer the licence to the proposed transferee.

(2) The clerk shall thereupon sign a certificate in the form of Schedule J hereto, and forward such certificate to the Treasurer.

(3) The transferee shall pay to the Treasurer the sum of twenty shillings, whereupon the Treasurer shall issue the certificate to the transferee.

(4) Upon the issue of the certificate—

(a) the transferee shall thereafter have and exercise the same privileges and be subject to the same liabilities and penalties as if such licence had been originally granted to him; and

(b) the person whose licence is so transferred shall cease to be a licensed person under this Act in respect of

s. 55. (2a) The Lottery and Gaming Act, 1917, has been repealed and superseded by the Lottery and Gaming Act, 1936.

the premises mentioned in such licence, but shall remain liable for any act or omission done, caused, permitted, or made by him prior to such transfer.

DIVISION VI.—TRANSMISSION OF LICENCES.

DIVISION VI.

57. (1) If any of the events mentioned in the first column of this subsection happens to the holder of any licence other than a club or packet licence, or of a certificate under this section, or if such holder does, permits, or suffers any of the acts, matters, or things mentioned in the first column, the person specified in the second column opposite to the events, acts, matters or things mentioned in the first column shall thereupon be entitled to enter upon the licensed premises of such holder, and may, subject to obtaining a certificate of a special magistrate or justices as hereinafter mentioned, continue and carry on the business thereof until the meeting of the court held next after the expiration of twenty-eight days from such entry.

Transmission
of licences.
1322, 1917,
s. 64.
1808, 1927,
s. 15.
2055, 1931,
s. 7.
Cf. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 23.

At that meeting an application shall be made by the person who has so entered for a transfer of the licence, or for a licence, as the case may require, and the proceedings to obtain the transfer or licence shall be the same, or as nearly as may be, and the court shall have and exercise the same discretion as in ordinary cases of applications for a transfer or licence.

First Column.

Second Column.

Cf. U.K.
3 & 4 Vict.
c. 61, s. 8.

I. On death:

I. The legal personal representative (or his nominee or assign), or the widow, widower, or any child of the deceased:

II. On insolvency, statutory assignment, or composition whereby the estate of a licensed person becomes an asset for the benefit of his creditors:

II. The assignee, trustee, or other person in whom the estate becomes vested, or his nominee or assign:

s. 57. In the matter of *LANGE* and the *LICENSED VICTUALLERS ACT (1880)* 14 S.A.L.R. 150; 13 Austn. Digest 283. Held (under s. 40 of the *Licensed Victuallers Act, 1869-70*) that the granting of a certificate was not a judicial act, and that *certiorari* would not lie in respect of a certificate.

PART IV.
DIVISION VI.

First Column.	Second Column.
III. On sickness or other infirmity, whereby the licensed person becomes disabled personally to conduct the business of the licensed premises:	III. The wife, or husband, or any child, or the nominee of the licensed person:
IV. On the lunacy of any licensed person:	IV. The committee of such person or the nominee of such committee:
V. On sale of the licensed premises:	V. The purchaser or his nominee:
VI. On surrender, forfeiture, recovery by legal process, or other determination of the right of the licensed person to the possession of the licensed premises, or upon the licensed person yielding up possession of the premises before the expiration of the licence, or allowing such premises to become vacant:	VI. The landlord, mortgagee, or other person who may be <i>bona fide</i> entitled to the licensed premises or the possession thereof, or the nominee or agent of any such landlord, mortgagee, or other person:
VII. On the neglect or refusal of the licensed person to give notice of application for the renewal of his licence, or, having given such notice, on his neglecting to apply at the annual meeting for such renewal, or, on his having so applied, his being refused a renewed licence merely on personal grounds, or having been granted a licence, on his refusing or neglecting to pay the first quarterly instalment of the licensing fee within thirty	VII. The landlord, mortgagee, or other person prejudiced thereby:

First Column.

Second Column.

days from the meeting of the court at which the licence was granted, or any other quarterly instalment within thirty days from the due date for the payment of the same:

VIII. On the neglect or refusal of a person to whom a certificate has been granted as herein-after mentioned to make application for a transfer of the licence or for a licence (as the case may require) or upon the refusal of the court to transfer the licence or to grant a licence (as the case may require) to such person.

VIII. The landlord, mortgagee, or other person prejudiced thereby.

(2) Every person entering upon any licensed premises, and continuing the business thereof under the provisions of this section, shall, within seven days after entry, give notice thereof in writing to the clerk, and shall, on receiving notice from the clerk, attend before a special magistrate or two justices, at a time and place to be specified in the last-mentioned notice. If the special magistrate or justices are satisfied that the said person is a desirable person to hold a certificate, has not been previously refused a licence by any court, the special magistrate or justices may, in his or their discretion, grant him a certificate, in the form of Schedule K hereto, and he shall, so long as the certificate continues in force, be deemed a licensed person, and shall be subject to the same liabilities and penalties as if he held a licence under this Act, and the certificate, shall, whilst in force, be deemed to be his licence.

(3) The time specified in the notice last mentioned in subsection (2) of this section shall be not less than fourteen days after the clerk has received the notice first mentioned in that subsection; and the clerk shall send to the Commissioner of Police and to an inspector particulars of the notice in this subsection first referred to.

(4) If in the event mentioned in subdivision v. of the said first column the special magistrate or justices refuse to grant a certificate as aforesaid to the purchaser or his nominee, upon an application made in accordance with subsection (2) of this section, the purchaser shall, notwithstanding any agreement to the contrary, be entitled to recover any money or other thing whatsoever paid or delivered to the vendor, or to any person on behalf of the vendor, on account of the purchase or agreement for the purchase, whether by way of deposit or payment or part payment of the purchase money, or by way of earnest or otherwise to bind the agreement.

(5) Any person entering upon premises in consequence of any of the events mentioned in subdivision vii. of the said first column shall, within fourteen days after obtaining a certificate, present or send the same to the Treasurer, and pay the same licence fee or, in the case of a publican's licence, instalments of licence fee as would have been payable if the licence had been granted at the annual meeting of the court; and, in the case of a publican's licence, if a licence is granted by the court at a subsequent meeting, the remaining instalments only of the licence fee shall be payable in respect of that licence for that licensing year.

(6) Any person entering upon premises within the twenty-eight days immediately preceding an annual meeting of the court in consequence of any of the events mentioned in any subdivision except vii. of the said first column, shall, within seven days after obtaining the certificate, present or send the same to the Treasurer, and pay the licence fee or, in the case of a publican's licence, the first instalment of the licence fee which would have been payable if the certificate had been a licence granted at such annual meeting and, in the case of a publican's licence, if a licence is granted by the court at a subsequent meeting, the remaining instalments only of the licence fee shall be payable in respect of that licence for that licensing year.

Cf. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 88.

(7) A person who enters on premises under this section shall from the time of entry until he is granted a certificate as aforesaid, be deemed a licensed person, and his certificate, when granted, shall be subject to the same indorsements as if it had been in force at the time of entry.

(8) The production of a notice of entry given by any person under this section shall be sufficient proof, in any proceedings for any offence against this Act, that he has entered upon the premises mentioned in the notice of entry, and that he is carrying on the business of those premises.

(9) Whenever a special magistrate or justices grant a certificate under this section, he or they shall forthwith send particulars of the same to the clerk.

DIVISION VII.—REMOVAL OF LICENCES.

DIVISION VII.

58. (1) Any person holding—

(a) any licence under this Act except a packet or railway licence; or

(b) a certificate under section 57,

may apply to the court at any annual or quarterly meeting to remove his business to other suitable and convenient premises.

Removal of
Licence.
1322, 1917,
s. 65.
1775, 1926,
s. 4.
1808, 1927,
s. 16.
1867, 1928,
s. 6.
Cf U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 24.

(2) No person shall be entitled to make any such application unless he has at least forty-two days before the meeting at which the application is to be made—

(a) delivered to the clerk a notice in the Form No. 1 in Schedule L;

(b) posted and kept posted until the said meeting a duplicate of the notice on—

i. the outer door of the licensed premises;

ii. the outer door of the premises to which it is proposed to remove the licence, or if those premises have not been erected or completed upon a notice board placed on a conspicuous part of the land upon which it is intended to erect or complete those premises.

(3) If the licence sought to be removed is a publican's or wine licence the applicant shall with the notice deliver to the clerk plans of the premises to which it is proposed to remove the licence and the clerk shall take proceedings thereon similar to the proceedings directed by this Act with regard to applications for licences.

(4) The plans to be delivered under subsection (3) of this section shall comply with all the requirements as to plans contained in section 38 of this Act.

(5) This section shall not render it obligatory on the holder of a licence who puts up on the site of his licensed premises new premises containing accommodation equal or superior to that contained in the licensed premises to apply for a removal of his licence to those new premises.

PART IV.
DIVISION VII.Objections to
removal of
licence.1932, 1917,
s. 66.

59. (1) The objections to a removal of which notice may be given are the following:—

- (a) That the licensing of the premises to which it is proposed to remove the licence is not required for the accommodation of the public:
- (b) That the said premises are in the vicinity of a church or other place of public worship, or a hospital, or school, and would, if licensed, be the cause of inconvenience or annoyance to persons using or frequenting such church, place of worship, hospital, or school:
- (c) That the quiet of the locality in which the said premises are situated will be disturbed, if a licence is granted for the sale of liquor in those premises (but such last-mentioned objection shall not be entertained unless a petition against the removal of the licence to the said premises is presented to the court signed by at least two-fifths of the electors in the immediate neighbourhood of the said premises):
- (d) That the lease under which the holder of the licence occupies his premises contains a covenant or prohibition against removing the licence to any other premises without the consent of the lessor, and that such consent has not been obtained:
- (e) That there is direct means of communication between any store, shop, office, or dwelling-house and the said premises or the appurtenances thereof or any premises within the same enclosure as the premises mentioned in the application:
- (f) That the said premises or any adjacent store, shop, or house, owned or occupied by the applicant (whether there is or is not any such means of communication between such adjacent store, shop, or house and the said premises) is of a disorderly character, or frequented by prostitutes, thieves, or persons of bad character.

(2) If the application is for the removal of a publican's licence notice of the following objections may be given, in addition to the foregoing, namely:—

- (a) If the premises are situated in or within ten miles of the city of Adelaide, that they have not at least two moderate-sized sitting-rooms and two sleeping-rooms, properly ventilated and furnished,

constantly ready and fit for the accommodation of members of the public, independent of the rooms occupied by the applicant and his family:

(b) If the premises are situated more than ten miles from the city of Adelaide—

- i. that they have not, at least, one sitting-room and two sleeping-rooms, properly ventilated and furnished, constantly ready and fit for the accommodation of travellers, and separated from any bar by a space of at least twelve feet, with a separate entrance:
- ii. that there is not a stable on the premises, capable of containing at least four horses, with a sufficient quantity of hay and corn (but want of stabling accommodation shall not be an objection to premises within the limits of a municipality whose population numbers two thousand or over):

(c) Wherever the premises are situated, that they have not—

- i. decent and separate places of convenience for both males and females:
- ii. urinals on or near the premises, for the use of the customers thereof, so as to prevent nuisances and offences against decency.

60. (1) Any person who has complied with the provisions of section 58 may at the meeting of the court held next after the delivery of the notice required by that section apply for the removal of his licence or his certificate under section 57 in accordance with the notice.

Procedure on application for removal.
1922, 1917,
s. 67 (1).

(2) The provisions of section 39 *mutatis mutandis* shall apply to the application: Provided that if the premises to which it is proposed to remove the licence have not at the time of the application been erected or completed, and the court decides that the application will be granted when the premises have been erected or completed as mentioned in section 39, the application shall be adjourned to be finally dealt with at a meeting of the court held after the premises have been so erected or completed.

s. 60. R. v. LICENSING COURT FOR THE WESTERN LICENSING DISTRICT; *Ex parte* FRANCIS (1929) S.A.S.R. 140; 13 Austr. Digest 251, 299. On an application for removal of a licence to premises not yet built, the court has no power to require a building different from the deposited plans, but must either grant or refuse consent to the removal. The premises need only be in substantial compliance with the deposited plans. Prohibition lies to restrain the Licensing Court on an application for consent to a removal, notwithstanding the right of appeal.

(3) When an application for removal is granted a certificate shall be issued in the form of Schedule M. Upon the issue of the certificate and payment of the sum of twenty shillings therefor—

(a) the holder of a licence or of a certificate under section 57 shall be authorised to carry on business thereunder in the premises to which the licence or certificate is removed, instead of in his former house, in the same manner as if the licence had been originally granted in respect of the premises to which the licence or certificate is removed according to the tenor and effect of the licence:

(b) the premises in respect of which the licence was originally granted shall thereupon cease to be licensed.

Prohibition on removal from one local option district to another.
1322, 1917,
s. 67 (2)
part.

61. No licence shall be removed from premises situated within any local option district to premises situated within another local option district.

Petition against removal.
Ibid., s. 67
(3).
1867, 1928,
s. 7.

62. (1) If not later than twenty-one days before the meeting to consider an application for removal a petition is presented to the Minister signed by at least twenty or one-fifth (whichever is the lesser number) of the electors residing in the immediate neighbourhood of the premises to which it is proposed to remove the licence praying that a poll of electors be taken on the question whether the licence shall or shall not be removed to those premises, the application—

(a) shall be adjourned to be finally dealt with at a meeting of the court held after a poll has been taken as provided by subsection (4) hereof; and

(b) shall not be granted unless the poll results in a majority in favour of the removal.

(2) For the purposes of this section a certificate purporting to be signed by the secretary to the Minister stating that a petition has been received within the time prescribed by subsection (1) and that the petition complies with the requirements of subsection (1) shall be conclusive evidence of the matters so certified.

(3) If a petition is presented as mentioned in subsection (2) the Minister shall by notice published in the *Gazette*—

(a) define the area within which the poll shall be taken:

(b) fix the date for taking the poll and the hours when it shall open and close:

(c) prescribe the place at which the poll shall be taken:

(d) appoint a returning officer and such other officers as are necessary for the purposes of the poll.

(4) A poll of the electors residing within the area defined by the notice shall be taken in accordance with the notice and in the manner prescribed; and the result shall be published in the *Gazette*, and the *Gazette* containing the result shall be conclusive evidence that the poll was duly held and of the result thereof.

DIVISION VIII.—PROCEDURE ON HEARING OF APPLICATIONS.

DIVISION VIII.

63. (1) The provisions of this Act as to the proceedings upon an application for a licence shall apply as nearly as possible to the proceedings upon an application for the transfer of a licence or the removal of a licence from one house to another.

Proceedings
on considera-
tion of
application.
1922, 1917,
ss. 54, 68.

(2) The proceedings on the consideration of—

(a) any application for any licence:

(b) any objection to any such application:

(c) every application to renew, transfer, or remove any such licence:

(d) any objection to any such application, shall be public.

(3) The court at its annual or quarterly meetings, or at any adjournment thereof shall—

(a) hear, inquire into, and determine—

i. all such applications:

ii. all such objections:

(b) hear on oath such witnesses as are called.

(4) The court at any such meeting may—

(a) grant, subject to this Act, such licences to such persons as are approved by the court:

(b) direct the holder of a licence to—

i. supply additional accommodation at his premises:

ii. make repairs therein,

Cf. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 72.

s. 63. (4) (b) *Ex parte Foote* (1933) S.A.S.R. 142. Held that, where an order for additional accommodation and repairs was made by consent, *certiorari* should be refused, on the ground that the applicant was not aggrieved by the order.

in such manner and within such reasonable time as it deems fit.

Personal
attend-
ance.
1322, 1917,
s. 55.
Cf. U.K.
10 Edw. 7
& 1 Geo. 5
c. 24, s. 16
(2).

64. Subject to section 68 hereof, and without diminishing the effect of section 66, no person, having given the notice by this Act prescribed, shall be required to attend the court for the purpose of procuring a renewal or transfer of his licence, or of a licence, unless notice of objection to the application, stating the grounds thereof, has been given to the clerk in duplicate. Upon receipt of any notice of objection the clerk shall forthwith forward one part thereof, by post, to the applicant.

Duties of
clerk, magis-
trate, and
treasurer at
meetings.
1322, 1917,
s. 58.
1808, 1927,
s. 14.
2055, 1931
s. 5.

65. (1) The clerk shall—

- (a) attend all the meetings of the court:
- (b) minute the result of the proceedings:
- (c) prepare a list of applications to be heard at each meeting of the court:
- (d) lay that list before the special magistrate constituting the court:
- (e) sign a licence in respect of every application for a licence granted by the court in such of the forms contained in Schedule B hereto as is applicable:
- (f) record the signing of each licence together with the date of the signing on the said list:
- (g) forthwith after recording the signing, forward the licence to the Treasurer or his deputy hereinafter referred to.

(2) (a) The special magistrate constituting the court shall record the grant of every application at the time of the grant by writing under his hand opposite to or against the name of the applicant in the said list:

(b) The record so made by the special magistrate shall be a valid authority to the clerk to sign any licence pursuant to clause (e) of subsection (1) of this section.

(3) The Treasurer shall either—

- (a) attend every annual and quarterly meeting of the court, or
- (b) appoint a deputy to attend every such meeting.

(4) Every such deputy shall attend every such meeting.

(5) The Treasurer or deputy, as the case may be, shall issue and deliver every such licence forwarded to him by the clerk pursuant to clause (g) of subsection (1) of this section, but shall first—

- (a) receive the annual licence fee or, in the case of a publican's licence, the first quarterly instalment of the annual fee payable in respect of the licence:
- (b) receive the sum of two shillings and sixpence as a fee for the licence:
- (c) record at the foot of the licence the date of the issue and delivery thereof.

66. (1) No licence shall be renewed nor shall any application be granted as a matter of course; and upon the hearing of any application for the grant, renewal, transfer, or removal of a licence, whether notice of objection has been delivered or not, and whether objection is taken at the hearing or not, the court shall hear, inquire into, and determine the application and all such objections (if any) on the merits, and shall grant or refuse the application upon any ground which, entirely in the exercise of its discretion, it deems sufficient.

Discretion
of court as to
all appli-
cations.
1322, 1917,
s. 69.
1808, 1927,
s. 17.
Of U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 16 (4).

(2) No compensation shall be payable to any person by reason of the refusal of the court to grant any application.

67. (1) The applicant, or any person objecting to the grant of a licence, or to the renewal, transfer, or removal, of a licence, may obtain, at the office of the clerk, summonses for witnesses.

Summons for
witnesses.
1322, 1917,
s. 70.

(2) Every such summons shall be in the form in Schedule N hereto, or to the like effect.

(3) The court may direct that any person, whose evidence it deems desirable to have, be summoned to attend and give evidence in the matter of any application for the grant, renewal, transfer, or removal of a licence. The clerk shall thereupon issue such summons as mentioned in subsection (1), and cause the same to be served upon the said person.

(4) Any person summoned under this section who refuses or neglects to attend or to give evidence or to answer any relevant question may be dealt with in the same manner as a court of summary jurisdiction might deal with a person so offending.

s. 66. *WHITE v. LICENSING COURT* (1919) A.C. 927; 88 L.J.P.C. 111; 121 L.T. 524; 26 C.L.R. 257; 13 Austn. Digest 178; affirming *LICENSING COURT (S.A.) v. WHITE* 24 C.L.R. 318 which reversed *R. v. LICENSING COURT*; *Ex parte WHITE* (1917) S.A.L.R. 157. The absolute discretion of the court to refuse a licence may be exercised notwithstanding that the second resolution under Part VIII. of the Act has been carried at a local option poll.

PART IV.
DIVISION VIII.

(5) The provisions of section 270 shall apply to a person summoned as a witness under this section.

Duty of
applicant to
give evi-
dence.
1322, 1917,
s. 71.
Of U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 16 (4).

68. (1) The applicant for the grant, renewal, transfer, or removal of a licence may be summoned under the next preceding section hereof to attend and give evidence upon the hearing of the application; and, whether summoned or not, such applicant may, if present at the hearing, be called as a witness.

(2) All the provisions of the last preceding section and of the section therein mentioned shall apply to any applicant so summoned and to any applicant present at the hearing.

Power to
order costs
against
unsuccessful
applicants or
objectors.
1322, 1917,
s. 72.
Amended by
2241, 1935,
s. 6.

69. (1) If the court assembled at an annual or quarterly meeting refuses an application for the grant, renewal, transfer, or removal of a licence it may order payment of a sum to meet the reasonable costs and expenses of the person who has objected successfully to the granting of such application, to be made to the person by the unsuccessful applicant.

(2) If the said court so assembled grants any such application to which objection has been made it may in its discretion order the person objecting and failing to support his objection to its satisfaction to pay to the applicant such sum as the court thinks reasonable for the costs incurred by the applicant in supporting such application.

(3) Costs so ordered may be recovered in the same manner as any sum of money ordered to be paid by an order of justices.

(4) No order for costs shall be made where the objection is made by any member of the police force or any inspector.

Special
permits to
carry on
licensed
premises.
1322, 1917,
s. 73.

70. (1) If any person entitled to apply for the renewal of any licence in respect of any premises fails to make application therefor to the court within the proper time, a special magistrate may, if satisfied that the failure arose through illness, accident, or misadventure, grant to that person a certificate which shall authorise him to carry on the business of the premises until the next quarterly meeting of the court.

(2) The person to whom such a certificate is granted shall, during the period such certificate continues in force, be deemed a licensed person, and shall be subject to the same liabilities and penalties as if he held a licence, and the certificate shall whilst in force be deemed to be the licence of such person.

(3) The said person shall, within seven days after obtaining the certificate, present or send the same to the Treasurer, and pay the same licence fee or instalment as would have been payable if the certificate had been a licence granted at the annual meeting of the court, and if a licence is granted by the court at a subsequent meeting no further fee shall be payable in respect of that licence for that licensing year.

DIVISION IX.—SPECIAL AUTHORITIES TO SELL LIQUOR.

DIVISION IX.

71. (1) Any person—

- (a) who holds a publican's or wine licence;
- (b) has obtained the consent and approval of the stewards, committee of management, or other persons having the conduct, control or management of any fair, military encampment, agricultural exhibition, races, regatta, rowing match, cricket ground, or other place of public amusement; and
- (c) has obtained the consent and approval of the officer of the police force in charge of the station nearest his licensed premises:

Five days'
certificate.
1322, 1917,
s. 74.
Cf. U.K.
35 Geo. 3.
c. 113, s. 17.

may apply to any two justices living within ten miles of his licensed premises, or any special magistrate, for a certificate of approval authorising him to sell for a period not exceeding five days liquor or mead, wine, cider and perry (as the case may be) in any booth or building at the said fair, military encampment, agricultural exhibition, races, regatta, rowing match, cricket ground, or other place of public amusement.

(2) If the justices or magistrate are satisfied that the consents and approval have been obtained as mentioned in subsection (1) they or he may signify their or his approval in writing by a certificate in the form contained in Schedule O.

(3) Upon the issue of the certificate and payment by any person holding a publican's licence, of a fee of one pound for the first day and ten shillings for every subsequent day for which the certificate is granted, and by any person holding a wine licence, of a fee of ten shillings for each day for which the certificate is granted, it shall be lawful for the licensed person therein mentioned to sell liquor or mead, wine, cider and perry (as the case may be) accordingly in the said booth or building and for the number of days specified in the certificate.

(4) Nothing in this section shall authorise any person—

- (a) to sell or supply liquor to any person to whom it is by this Act made unlawful to sell or supply liquor;
- (b) to admit any such person to the said booth or building, or allow him to remain therein; or
- (c) to sell or supply any liquor during any day or time during which the sale of liquor on licensed premises is prohibited by law.

(5) Nothing in this section shall apply to the occasion of any cadets' military encampment, or any races, regatta, rowing or other match, or sports held in connection with any college or school, or any association of which the members are or may be of less than twenty-one years of age.

Packet
certificates.
1922, 1917,
ss. 75 and
150.

72. (1) Any special magistrate or two justices may, by a certificate in duplicate, give permission to the master or commander of any steamer or other vessel in respect of which a packet licence has not been granted or is not subsisting to sell liquor on such steamer or vessel on the occasion of any excursion or trip for a period not exceeding one day.

(2) Every person who obtains such a permission shall forward one of the certificates in a prepaid registered letter together with a fee of one pound to the Commissioner of Police within twenty-four hours after obtaining it.

(3) The person to whom any such certificate is granted may sell liquor on the said steamer or vessel during the period mentioned in the certificate.

(4) Nothing in this section shall authorise any person—

- (a) to sell liquor to any person to whom it is by this Act made unlawful to sell or supply liquor;
- (b) to admit any such person to any bar on the said steamer or other vessel, or to allow him to remain therein; or
- (c) to supply or sell liquor during any day or time during which the sale of liquor on licensed premises is prohibited by law.

(5) If any master or commander of any steamer or other vessel who has obtained permission under this section to sell liquor on such steamer or other vessel fails or neglects to forward one of the certificates for such permission, together with the fee of one pound to the Commissioner of Police, in manner and at the time by this section provided, he shall be

guilty of an offence and liable to a penalty not exceeding ten pounds.

73. Notice of the grant of any certificate under the next preceding section hereof, giving the name of the person to whom, and the name of the steamer or vessel in respect of which, the same has been granted, and also the name of the special magistrate or justices by whom the same has been granted, shall be published by the Commissioner of Police in the *Gazette* as soon as practicable after he receives notice of the grant thereof.

Gazetted
of certifi-
cates.
1822, 1917,
s. 76.

74. (1) Any holder of a licence who intends to leave the State for a time may obtain permission for a person to act for him during his absence in the following manner:—

Provision for
carrying on
business
during the
absence of
licensed
person.
Ibid., s. 77.

(a) He shall give notice of his intention to the clerk stating the time he intends to be absent and the name and description of the person he wishes to be appointed to act for him.

(b) He shall, on receiving notice from the said clerk, attend before a special magistrate with the person he wishes to be appointed.

(2) If the special magistrate in his discretion deems the said person to be a desirable person to act and if that person has not been previously refused a licence on personal grounds by the court the special magistrate may grant a certificate in the form in Schedule P, permitting the said person to act for the holder of the licence during his absence for such time not exceeding twelve months as the special magistrate in his discretion allows.

(3) Any person so permitted to act shall be liable to the same liabilities and penalties as if he were the holder of a licence under this Act and as if the licence of the person who appointed him to act were his licence.

(4) The power by this section conferred on a special magistrate may also be exercised by any two justices.

75. (1) If the special magistrate nearest to any goldfield approves of any person holding a publican's licence selling liquor or any person holding a wine licence selling mead, wine, cider and perry, on such goldfield, in any erection or building to be approved by such special magistrate, the said special magistrate may, upon being satisfied that such licensed

Certificates to
sell liquor
on gold-
fields.
1822, 1917,
s. 78.
1970, 1908,
s. 68.

s. 75. TAYLOR V. MILLS, 14th August, 1894; 13 Austn. Digest 235. A certificate may be renewed without obtaining the approval of the officer in charge of the gold field.

PART IV.
DIVISION IX.

person has first obtained the consent of the officer in charge of such goldfield, grant one or more certificate or certificates, in the form contained in Schedule Q hereto, to sell liquor, or mead, wine, cider, and perry, as the case may be, in a stated place on such goldfield for the residue of the term of the applicant's licence, subject to a fee of five pounds for a publican's licence, and one pound for a wine licence, being paid into the hands of the officer in charge of such goldfield before any such sale is made. Such officer shall pay all fees so received to the Treasurer.

Renewal of
such cer-
tificates.

(2) Any such certificate may on like payment be renewed from time to time for a further term not exceeding six months by the court for the district in which the goldfield is situate at any annual or quarterly meeting, so long as the person holding the certificate holds a licence under this Act: Provided that any person holding such a certificate for premises situate within one mile from the nearest boundary of any town or township which is proclaimed, or from any hotel for which a licence is obtained, shall, after thirty days' notice by the clerk, and although the period for which such certificate was granted has not expired, cease to be entitled to sell any liquor under the certificate.

(3) No certificate shall be granted to any person in respect of premises situate on Crown lands unless such person has lawful authority to occupy those Crown lands.

DIVISION X.

DIVISION X.—FORFEITURE OF LICENCES.

Forfeiture of
licences.
1922, 1917,
s. 79.

76. (1) If any person holding a licence is convicted of any felony, his licence shall immediately thereupon be forfeited and void.

(2) If any person holding a publican's licence—

(a) permits any person whomsoever, other than a member of his family, to manage, superintend, or conduct the business of his licensed premises during his absence for a longer period than one month, without the previous consent in writing of a special magistrate or two justices; or

(b) whether residing in the premises or not, permits any unlicensed person to become virtually or in effect the keeper thereof; or

(c) suffers his licensed premises to become ruinous or dilapidated; or

(d) neglects or fails to comply with any direction of the court as to additional accommodation;

then, upon complaint by any person and on proof of the facts to the satisfaction of the court or of any special magistrate or any two justices, the court, special magistrate, or justices shall, by an order under the hand of the clerk, or under his or their hand or hands, declare the said licence to be forfeited, and the said licence shall thereupon cease to be of any force or effect: Provided that if the licensed premises have become ruinous or dilapidated by reason of fire, tempest, or other cause beyond the control of the holder of the licence, then the licence shall not be declared forfeited until a reasonable time has elapsed for the holder to repair or reinstate the licensed premises.

77. (1) If any person holding a licence is within a period of two years convicted two several times of offences for which his licence is liable to be forfeited as provided in this Act, the special magistrate or justices by whom that person is convicted for the second offence or the court may declare the licence to be forfeited.

Forfeiture of
licence for
convictions.
1322, 1917,
ss. 80, 206,
269.
1604, 1923,
s. 4.

(2) If any person holding a licence is within a period of three years convicted three several times of such offences as aforesaid, the special magistrate or justices by whom that person is convicted for the third offence or the court shall declare the licence to be forfeited.

(3) The declaration of forfeiture shall be made upon complaint by any person and proof of the convictions, by an order under the hand or hands of the special magistrate or justices or the hand of the clerk. The order may be in the form in Schedule R.

(4) Upon the making of such an order the licence shall cease to be of any force or effect and the person whose licence is forfeited shall be disqualified for a term of two years from holding any licence under this Act.

(5) No such declaration of forfeiture shall be made by the court except upon a complaint lodged with the clerk within four months after the second or third conviction, as the case may be, nor unless seven days notice of the hearing of the complaint and of the time and place of the meeting of the court has been given by the clerk to the holder of the licence.

(6) An order for forfeiture under this section may be made but shall not be enforced while the hearing of any appeal against the second or third conviction, as the case may be,

s. 77. (1) and (2) *R. v. MUIRHEAD; Ex parte LYONS* (1927) S.A.S.R. 116; 13 Austn. Digest 261. *Semble*, the offences for which forfeiture of a licence may be ordered must all have been committed whilst the defendant was the holder of a licence in respect of the same premises.

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DIVISION X.

is pending, but if that conviction is upheld on appeal the order shall take effect from the time when the appeal is disposed of.

(7) If the special magistrate or justices by whom any person is convicted of any such offence as in this section before mentioned consider that the offence is of a trifling nature and in the order of conviction certify accordingly, this section shall not apply in respect of that offence.

(8) The offences mentioned in sections 134, 135, 139, 140, 141, 144, 145, 146, 148, 149, 151, 152, 154, 155, 156, 157, 159, 167, 172, 174, 177, 179, 180, 182, 189, 191, 192, 206, 209, 210, 214, 216, 218, of this Act, and in the section or subsection of any repealed Act respectively corresponding to these sections or subsections, are hereby declared to be offences for which a licence may be forfeited as provided in this section.

(9) No conviction prior to the passing of the Licensing Act Amendment Act, 1910, under subsection (4) of section 168 of the Licensing Act, 1908, shall be deemed to be a conviction within the meaning and for the purposes of this section; and any special magistrate shall, on the application of the licensee upon whose licence such a conviction prior to the said passing of the said Act has been endorsed, remove the endorsement thereof.

Forfeiture of
licence for
unsatisfac-
tory manage-
ment of
premises.

1922, 1917,
s. 81.
1908, 1927,
s. 18.

78. (1) An inspector may apply to the court to forfeit any licence on the ground that the management of the licensed premises has not been satisfactory.

s. 77. (7) *BROWN v. NOBLET* (1929) S.A.S.R. 222; 13 Austn. Digest 447, 448. An appeal lies against the grant or refusal of a certificate. *Semble*, a certificate may be granted on a conviction for an unlawful supply, where the evidence shows a light in the bar-room, but totally negatives a supply to anyone.

LEWIS v. TONKIN (1929) S.A.S.R. 324; 13 Austn. Digest 448. An appeal lies against the grant or refusal of a certificate under s. 77 (7). A magistrate is not entitled to hold that an offence against s. 189 is trivial in itself, but, *Semble*, there must be some mitigating circumstances.

SARA v. LENTHALL (1930) S.A.S.R. 384; 13 Austn. Digest 448. The fact that the defendant did not know of the unlawful supply of liquor is not necessarily a ground for treating the offence as trivial.

JACKSON v. KIMBER (1934) S.A.S.R. 315. The burden of showing that an offence was trifling is on the defendant. The fact of triviality should be shown by proper evidence.

CRAPFER v. SCHUBERT (1934) S.A.S.R. 84. A typical instance of a trivial offence is where the contravention is unintentional or due to inadvertence. An offence may also be trivial if committed in circumstances altogether different from those that Parliament must be considered to have foreseen and prohibited, but a deliberate and substantial breach of the law, even though there are circumstances of mitigation, is not trivial.

s. 78. *THE LICENSING COURT (SOUTH AUSTRALIA) v. CUMMINS* (1919) 27 C.L.R. 26; 13 Austn. Digest 261; reversing *Ex parte CUMMINS* (1918) S.A.L.R. 247. Held (before the

(2) The court may hear and enquire into the application at any meeting: Provided that notice in writing, stating the particulars in which it is alleged that the management of the premises has not been satisfactory, and signed by the applicant, has been delivered to the clerk and to the licensee, at least fourteen days before the day fixed for the meeting.

(3) If the court is satisfied that the management of the premises has not been satisfactory, and is of opinion that the licence should be forfeited, the court shall, by an order signed by the special magistrate constituting the court or by the clerk, declare the licence to be forfeited, and the licence shall thereupon cease to be of any force or effect.

(4) Upon the hearing of an application under this section no evidence shall be led to prove the commission by the licensee of any offence against the provisions of the Act unless the licensee has been convicted of such offence.

Subsec (4)
inserted by
2241, 1935,
s. 7.

79. If, after any holder of a licence has been convicted of any offence for which his or her licence is liable to be forfeited, as in this Act provided he or she procures the transfer of the licence to his or her wife or husband (as the case may be), and after the transfer the wife or husband is convicted of any offence or offences, the licence of the transferee shall be under the same liability to forfeiture as if the transferee had been the holder of the licence at the time the transferor was convicted of the offence, and had been convicted in the place of the transferor.

Effect of
convictions
prior to
transfer of
licence to
spouse.
1322, 1917,
s. 82.

80. Nothing in this Act shall prevent the infliction of any pecuniary penalty nor any term of imprisonment to which any person whose licence is forfeited would be liable nor shall in any way limit the power of the court to refuse any licence to such person.

Forfeiture
not a
waiver of
penalty.
1322, 1917,
s. 83.

81. (1) Upon granting the renewal of any publican's or wine licence the court may impose the condition that the licensee shall deposit new plans of his licensed premises with the clerk: Provided that no such condition may be imposed within five years of the first grant of such a licence in respect of the premises, nor within five years of the last deposit of plans thereof as mentioned in this section.

Forfeiture
for not
depositing
fresh plan of
premises.
Ibid., s. 84.

s. 78. enactment of s. 78 (4) that unsatisfactory management may be established by
(contd.) proof of acts which are offences for which forfeiture may be ordered under s. 77,
although there has been no conviction for any of those acts.

s. 79. WHITE V. THOMAS (1932) S.A.S.R. 66; 13 Austr. Digest 262. Convictions recorded
against the transferor of a licence before his marriage to the transferee are not
taken into account against transferee by virtue of s. 79.

PART IV.
DIVISION X.

(2) If such a condition is imposed the licence shall at the expiration of six months after the said renewal become forfeited and void unless in the meantime the licensee has deposited with the clerk such plans of his licensed premises as would be necessary if he were applying for a publican's or wine licence in respect thereof, as premises which had not been previously licensed.

Power of
landlord or
mortgagee
when licence
forfeited.
1822, 1917,
s. 85.
Of. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 87.

82. (1) If the person who holds a licence which is forfeited under this Act is a tenant or a mortgagor of the premises in respect of which the licence is forfeited, a Judge of the Supreme Court may, on an *ex parte* application by the owner or superior landlord, or other person entitled to the reversion of the said premises, or the mortgagee, and on proof by affidavit or otherwise of the forfeiture, make an order authorising the owner or superior landlord, or other person entitled to the reversion of the said premises, or the mortgagee, or the agent of either of those persons, to enter and take possession of the said premises.

(2) Thereupon the person mentioned in the order may enter upon the said premises, and continue and carry on the business thereof until the meeting of the court held next after the expiration of twenty-eight days from the time of such entry, at which meeting an application may be made by that person in possession for a new licence; and the proceedings to obtain a licence shall be the same as in ordinary cases for obtaining a licence for previously licensed premises.

(3) The person authorised by the said order to enter and take possession shall until the said meeting of the court be deemed to be a licensed person, and the order shall be deemed to be his licence, and he shall be liable to the same liabilities and penalties as if he were the holder of a licence.

Costs on for-
feiture.
1822, 1917,
s. 89.

83. Any special magistrate, justices, or the court who or which hears any information for forfeiture of a licence may, if he, they or it thinks fit, order any person whose licence is forfeited to pay costs to the person on whose information such forfeiture is ordered; or in case any such information is dismissed, may order the person (other than a member of the police force or an inspector) laying such information to pay costs to the holder of the licence.

Report of
forfeiture.
Ibid., s. 90.
Of. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 90.

84. The clerk of the court of summary jurisdiction in which any forfeiture of a licence is ordered, or if there is no clerk, then the special magistrate or justices declaring such forfeiture, shall, within seven days after such forfeiture, report the same to the clerk: Provided that if the person

whose licence is so declared forfeited appeals against such forfeiture, no such report shall be made until such appeal is disposed of.

DIVISION XI.—GENERAL.

DIVISION XI.

85. (1) A company incorporated under the laws of the State, and with the sole object of carrying on the business of a licensed victualler, may hold a publican's licence in respect of one hotel only, and any company incorporated under the said laws may hold any licence other than a publican's licence.

Power of
company to
hold licence.
1322, 1917,
s. 86.
1808, 1927,
s. 19.
2088, 1932,
s. 3.

(2) Upon applying for any such licence the company shall submit to the court the name of a person as its manager of the licensed premises, and for the purpose of objections that person shall be deemed to be the applicant. The licence shall state the manager's name, and the approval in writing of the special magistrate constituting the court shall be necessary before any change of manager will be recognised for the purposes of this Act.

(3) For the purposes of this Act the manager of the licensed premises shall be deemed to be the person licensed in respect of the premises or the holder of the licence thereof; and the premises shall be deemed to be his licensed premises or the premises in respect of which he is licensed or holds a licence.

(4) In addition to the manager the company shall be liable to pay the amount of any fines or penalties incurred or inflicted in consequence of any offence upon the licensed premises against this Act or any Act amending this Act, and the same may be enforced by distress in manner provided by the Justices Act, 1921.

(5) Any licence granted or issued to any person prior to the fifteenth day of November, nineteen hundred and thirty-two, shall be deemed to be a valid licence if the only ground of objection to such licence is or was that it was issued or granted to or held by or on behalf of a company incorporated under the laws of the State.

s. 85. ROENFELDT AND ANOTHER V. FLECKER (1903) S.A.L.R. 136; 13 Austn. Digest 167. Held (under the Licensed Victuallers Act, 1880) that neither an incorporated company, nor the manager of an incorporated company on its behalf could hold a licence.

THOMAS V. WILKINSON (1932) S.A.S.R. 448; 13 Austn. Digest 223. Law as to granting storekeepers' licences to managers of limited companies discussed.

BOND V. DENTON (1933) S.A.S.R. 112; 13 Austn. Digest 264; affirming BOND V. DENTON (1933) S.A.S.R. 82. *Semble*, that the provision in s. 85 (3) that the manager shall be "deemed to be" the licensee is machinery for making the Act effective where a licence is granted to a company, and the licence is the company's licence.

PART IV.
DIVISION XI.S. 86 repealed
by 2241,
1935, s. 8.

* * * * *

Disqualifica-
tion of
minors.
1922, 1917,
s. 88.Publication
of applica-
tions and
forfeitures.
Ibid., s. 91.

87. No licence of any class shall be granted to any person who is under the age of twenty-one years.

88. (1) The clerk—

(a) shall cause a report to be inserted in the first, second, or third number of the *Gazette* published next after each annual and quarterly meeting of the court showing—

- i. the date of the meeting:
- ii. the names of all applicants:
- iii. the nature of the applications:
- iv. the names and situations of the premises in respect of which the applications were made:
- v. the manner in which the applications were disposed of, including (if the court so directs), in case of a refusal, any objection or objections on account of which the refusal was made; and

(b) shall cause particulars of every forfeiture of a licence and of the issue of every certificate or other authority under this Act to sell or supply liquor, or carry on the business of any licensed premises so situated of which he receives notice or has knowledge to be inserted in the first, second, or third number of the *Gazette* published next after he receives notice or acquires knowledge of such events.

(2) The clerk shall file duplicates of the reports referred to in subsection (1) (a) of this section as a record which shall be open for inspection by any person at the office of the clerk without payment of any fee.

Duty of clerk
as to plan.
Ibid., s. 91a.
1808, 1927,
s. 20.

89. The clerk, as soon as practicable after the deposit with him of any plans, shall forward those plans to the Superintendent of Licensed Premises. The said Superintendent shall keep the said plans in his custody, but shall produce them for the use of the court whenever necessary.

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DIVISION XI.

90. (1) Whenever any licence is lost or destroyed, the licensee or the holder of a certificate authorising such holder to carry on business in any licensed premises, may apply to the court at any quarterly meeting for a duplicate thereof.

(2) If the court is satisfied of the loss or destruction of the licence, and that the same has not been forfeited or transferred or wilfully destroyed, may grant the issue of a duplicate licence; and the clerk shall make out and forward to the Treasurer, or to some officer appointed by him, a duplicate of the original licence, and the Treasurer or officer shall, upon payment of a fee of one pound, deliver the duplicate licence to the licensee or holder of a certificate.

Provision for issuing duplicate of lost licence.
1822, 1917, s. 92.
Cf. U.K. 10 Edw. 7 & 1 Geo. 5 c. 24, s. 43 (3).

91. (1) The Governor may make regulations, not inconsistent with this Act, as to the mode of hearing applications for licences, and for the renewal, transfer, and removal of licences, and generally as to the manner of conducting the business of the court and providing for emergencies.

Power of Governor to make rules and regulations.
1822, 1917, s. 93.
1808, 1927, s. 21.

(2) All such regulations shall, after being approved by the Governor in Council, be published in the *Gazette*. Upon such publication, after approval, every such regulation shall have the full force of law.

(3) Until such regulations are made the regulations contained in the Schedule S hereto shall be observed by every court.

DIVISION XII.—CLUBS.

DIVISION XII.

92. (1) No liquor shall be sold or supplied by or on behalf of a club in the club premises or kept in or upon those premises unless the club has been duly registered pursuant to this Act, and unless the liquor is sold or supplied to a member of the club, or is supplied to a visitor in the presence and at the expense of a member thereof.

Registration of clubs.
1822, 1917, s. 94.
Cf. U.K. 10 Edw. 7 & 1 Geo. 5 c. 24, ss. 91, 94.

(2) Every person who sells or supplies or keeps liquor, and every member of the committee of management of a club who permits the sale or supply or keeping of liquor, in contravention of this section, shall be guilty of an offence and liable to a penalty not exceeding ten pounds.

Cf. U.K. 10 Edw. 7 & 1 Geo. 5 c. 24, s. 93.

s. 92. *HORSEMAN v. KAVANAGH* (1930) S.A.S.R. 1; 5 Austn. Digest 136; 13 Austn. Digest 323. An admission by the defendant while on club premises that he was one of the committee is *prima facie* evidence that he was a member of the committee of management. "Permit" means to fail to use due diligence to prevent the act in question.

CRAFTER v. DE LUCIA (1935) S.A.S.R. 45. Held that the sale of liquor by an unlicensed person on the premises of an unregistered club was properly charged as an offence against s. 161. Relation between s. 92 and s. 161 discussed.

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DIVISION XII.

Conditions of
registration.
1322, 1917,
s. 95.
Of U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
ss. 92, 95

93. (1) No club shall be or continue to be registered under this Part of this Act unless all the following conditions exist with respect to it:—

- (a) The club must be a *bona fide* association, body, or company of not less than one hundred persons in the case of a club established in the City of Adelaide, and not less than fifty persons in the case of a club established elsewhere:
- (b) The club must be a body, association, or company associated together for social, literary, political, sporting, athletic, or other lawful purpose.
- (c) The club must be established for the purpose of providing accommodation for the members thereof, or for the members and their guests, upon premises of which the said association, body, or company is the *bona fide* occupier:
- (d) The accommodation must be provided and maintained from the joint funds of the club, and no person must be entitled under its rules or articles to derive any profit, benefit, or advantage from the club which is not shared equally by every member thereof:
- (e) The premises upon which the club is established and the accommodation must be suitable for the purposes of the club:
- (f) No payment or part payment of any secretary, manager, or other officer or servant of the club shall be made by way of commission or allowance from or upon the receipts of the club for liquor supplied:
- (g) A register of members of the club for the time being shall be kept on the club premises as hereinafter required:
- (h) The business and affairs of the club must be under the management of a committee elected for not

s. 93. (1) (a) *LOXTON HOTEL LIMITED AND OTHERS v. WATSON* (1935) S.A.S.R. 14. To secure registration a club must be "established" at the time of posting and delivering the notice under s. 95. Until there is a finally closed set of foundation members and the rules as to election of new members have become binding and effective for exclusion of persons not already foundation members and not elected under the rules, a club is not established within the meaning of the Licensing Act.

J. AND A. G. *JOHNSTON LIMITED v. WATSON* (1935) S.A.S.R. 437. If the members of a club cannot be named, or if it is doubtful whether any member who can be named is a foundation member or has been properly elected, or if persons have claims, not merely speculative, to be members, the club is not established within the meaning of the Licensing Act.

less than twelve months by the general body of members:

- (i) The books of account, minute books, and other records of the club and of all committees thereof, the register of members, and all other books relating to the transactions, business, rules, and management of the club, shall be written in the English language:
- (j) If the club existed as a *bona fide* club, and was duly licensed on or before the first day of January, one thousand nine hundred and seven, it may be registered under this Part of this Act, notwithstanding that it does not comply with the provisions of paragraphs (c) and (d) of this section.

(2) The certificate of registration as a club granted to the secretary or manager of the Returned Sailors and Soldiers Imperial League of Australia (South Australian Branch) Incorporated (an association incorporated under the Associations Incorporation Act, 1890), in respect of the premises formerly known as the Prince of Wales Hotel, situated in Angas Street, Adelaide, may be renewed from time to time notwithstanding that the said association does not comply with paragraphs (c) and (d) of subsection (1) of this section.

94. (1) No club shall be eligible to be registered unless its rules provide that—

Rules of
club.
1322, 1917,
s. 96.

- (a) The committee shall hold meetings at least once a quarter, and minutes of all resolutions and proceedings of the committee shall be entered in a book to be kept for that purpose;
- (b) The names and addresses of persons proposed as ordinary members of the club shall be displayed in a conspicuous place in the club premises for at least a week before their election, and an interval of at least two weeks shall elapse between nomination and election of ordinary members;
- (c) All members shall be elected by the general body of members or by a general or by an election committee, and a record shall be kept by the secretary of the club of the number of the members voting;

s. 93. (2) The Associations Incorporation Act, 1890, has been repealed and superseded by the Associations Incorporation Act, 1929.

- (d) There shall be a defined subscription of not less than twelve shillings per annum payable by members monthly, quarterly, half-yearly, or annually, in advance;
- (e) Correct accounts and books shall be kept showing the financial affairs of the club and the particulars usually shown in the books of accounts of a like nature;
- (f) A visitor shall not be supplied with liquor in the club premises unless in the company and at the expense of a member;
- (g) No person shall be allowed to become an honorary or temporary member of the club, or be relieved of the payment of the regular subscription, except those possessing certain qualifications defined in the rules and subject to conditions and regulations described therein;
- (h) No person under twenty-one years of age shall be admitted a member of the club except when a club is primarily devoted to some athletic purpose in which case there shall be no limitation in the age of a member. No liquor shall be sold or supplied to any person under twenty-one years of age;
- (i) No liquor shall be sold or supplied for consumption elsewhere than in the club premises unless that liquor is removed from the club premises by the member purchasing the same; and
- (j) No person under eighteen years of age, except boys who are being trained as waiters or messengers and are not allowed to serve behind the bar, shall be employed in the premises of such club.

(2) The Governor may, by proclamation, declare that any club named therein which is mainly devoted to some athletic purpose, and the management of which is vested in trustees, shall be exempted from compliance with paragraphs (b) and (c) of this section, and with paragraphs (e) and (h) of section 93, and such trustees shall, for the purposes of this Division, be deemed the elected committee of the club.

95. The secretary, steward, or manager of a club desiring to be registered under this Act shall, twenty-eight days

before the meeting of the Court at which he intends to apply for a certificate—

- (a) post on the outer door of the premises in respect of which the certificate is intended to be applied for a notice in the form applicable in Schedule D hereto; and
- (b) deliver to the clerk a duplicate of the said notice, accompanied by a certified copy of the rules of the club and a statutory declaration by the secretary, steward, or manager of the names and addresses of the committee of management thereof and of the number of *bona fide* members of the club at the date of application.

96. (1) The secretary, steward, or manager of a club desiring to obtain a renewal of its certificate of registration shall, twenty-eight days at least before the annual meeting of the court, deliver to the clerk a notice in the form applicable in Schedule D hereto.

Application
for renewal.
1322, 1917,
s. 98.

(2) The notice shall be accompanied by—

- (a) a printed copy of all rules of the club certified as correct by the secretary, steward, or manager:
- (b) a statutory declaration by the secretary, steward or manager of the names and addresses of the members of the committee of management, and of the number of *bona fide* members of the club at the date of the application.

97. When application is made for the grant or renewal of any such certificate of registration the clerk shall file the same and forthwith cause notice of the application and the particulars thereof to be forwarded to the Commissioner of Police and an inspector.

Notice of
application
to Commis-
sioner of
Police and
inspector.
Ibid., s. 99.

98. The inspector, on receipt of any such notice, may inspect the premises of the club and the register of its members, and satisfy himself by proper inquiries that the premises are in a satisfactory condition, and that the provisions of this Division are being duly observed.

Inspection
of club
premises.
Ibid., s. 100.

99. The clerk shall, by advertisement in the *Gazette* published not less than five weeks before each annual meeting of the court, give notice requiring all persons having any complaint against the management or condition of any registered club, or of the premises thereof, to forward such

Notice of
time for
making
objections.
Ibid., s. 101.

complaint to the clerk at least fourteen days before the annual meeting, and to attend at the annual meeting to substantiate the complaint. The notice may be in the form of Schedule G hereto.

Personal
attendance of
applicant.
1322, 1917,
s. 102.

100. (1) Every applicant for registration of a club not previously registered shall—

(a) attend the court on the hearing of his application: and,

(b) if required by the court verify upon oath the averments contained in the application.

(2) No applicant for a renewal of a certificate of registration of a club who has given notice as required by this Act shall be required to attend the court for the purpose of obtaining a renewal of the certificate of registration unless notice of objection to the application, stating the grounds, has been duly served as required by section 103.

Proceedings
on considera-
tion of
application.
Ibid., s. 103.
1808, 1927,
s. 22.

101. (1) The proceedings on the consideration of any application or any objection to an application for a certificate of registration of a club, and also of every application or objection to any application to renew such a certificate or change the premises, shall be public.

(2) The court assembled at its annual or quarterly meeting, or any adjournment thereof—

(a) shall hear, inquire into, and determine on the merits all such applications, and also all objections which are made to any such applications:

(b) shall hear on oath such witnesses as are called:

(c) shall grant or refuse the application entirely in the exercise of its discretion:

(d) may direct that such additional accommodation shall be supplied in or repairs made to such club premises and in such manner and within such reasonable time as it deems fit.

(3) No compensation shall be payable to any person by reason of the refusal of the court to grant any application.

Objections
to grant or
renewal
of registra-
tion.
1322, 1917,
s. 104.
Of U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 95.

102. (1) At the hearing of an application for grant or renewal of registration objections may, subject to section 103, be taken upon one or more of the following grounds:—

(a) That the application made by the club or the rules of the club or any of them are in any respect

specified in such objection not in conformity with this Act:

- (b) That the club has ceased to exist or that the number of members is less than one hundred or fifty, as the case may be, according to the locality in which the premises are situated:
 - (c) That the club is not conducted in good faith as a club, or that it is kept or habitually used for any unlawful purpose or mainly for the supply of liquor:
 - (d) That there is frequent drunkenness in the club premises, or that persons in a state of intoxication are frequently seen to leave the club premises, or that the club is conducted in a disorderly manner:
 - (e) That illegal sales of liquor have taken place in the club premises:
 - (f) That persons who are not members are habitually admitted to the club premises, merely for the purpose of obtaining liquor:
 - (g) That a licence of any class or a certificate of registration under this Act, or any Act hereby repealed, in respect of the premises occupied or proposed to be occupied by the club, has been forfeited or cancelled, or the renewal thereof has been refused within twelve months next preceding the formation of the club, or next preceding the application:
 - (h) That the supply of liquor to the club is not under the control of members of the committee appointed by the members:
 - (i) That any of the rules of the club are habitually broken:
 - (j) That the rules have been so changed as not to be in conformity with the provisions required by this Act to be embodied in the rules:
 - (k) That persons are habitually admitted as members without an interval of at least two weeks between nomination and election:
 - (l) That any other specified provision of this Division has not been complied with.
- (2) For the purpose of determining whether a club is conducted in good faith as a club, the court shall, amongst other

PART IV.
DIVISION XII.

things, have regard to the nature of the premises occupied by the club.

Persons
entitled to
object and
notice of
objection.
1322, 1917,
ss. 105, 106.

103. (1) An objection to the grant or renewal of the registration of a club may be taken by—

(a) an inspector:

(b) the council of the municipality or district council district within which the club premises are situate:

(c) a ratepayer of property situate within one mile from those premises.

(2) The signature to any objection under paragraph (c) of subsection (1) shall be witnessed by a justice.

(3) No objector shall be heard against any application unless notice in writing of the objection has been given to the clerk and to the applicant at least fourteen days before the time appointed for the hearing of the application to which the notice applies.

Powers of
court to
grant certifi-
cate of
registration.
1322, 1917,
s. 107.

104. (1) Upon proof being made to the satisfaction of the court of the matters mentioned in sections 93 and 94 hereof, the court may grant to the applicant a certificate of registration for the club.

(2) The clerk shall forthwith sign a certificate in the Form No. 6 in the Schedule B hereto, and forward the same to the Treasurer or some officer appointed by him.

(3) The certificate shall state the name of the person who is then the secretary, steward, or manager of the club; and until receipt by the clerk of a notice in writing of change of secretary, steward, or manager, as provided by section 107, the certificate shall be *prima facie* evidence that that person is the secretary, steward, or manager of the club.

Annual fee
for clubs.
Ibid., s. 108.

105. The annual fee to be paid for a certificate of registration of a club shall be the same as the annual fee for a publican's licence, and be determined by the assessed value in the same way as the fee for a publican's licence is determined.

Club unregis-
tered until
certificate
actually
issued.
Ibid., s. 109.

106. Until the annual fee for the certificate of registration of a club is paid to the Treasurer or to an officer appointed by him for the purpose, and the certificate is actually issued, the club shall be deemed unregistered.

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107. (1) The committee of management of a registered club shall—

Duty to
notify change
of steward
or manager
and altera-
tion of rules.
1322, 1917,
s. 110.

(a) within fourteen days after any change in the secretaryship, stewardship, or managership thereof forward notice in writing of the change to the clerk, and that notice shall be *prima facie* evidence of the appointment of the person named therein as the secretary, steward, or manager of such club;

(b) within fourteen days from the making of any amendment or alteration in the rules of such club forward to the said clerk a certified copy of every such amendment or alteration.

(2) Every member of any committee which fails to comply with this section shall be liable to a penalty not exceeding five pounds.

108. (1) Upon the information of an inspector or of an inspector or sub-inspector of police, the secretary, steward, or manager, or other person conducting or managing a club, may be called upon to show cause before any special magistrate or two justices why the certificate of registration of the club should not be cancelled.

Cancellation
of certificate
of registra-
tion.
1322, 1917,
s. 111.

(2) Upon the hearing of the information, if it is proved that—

(a) the conditions of sections 93 and 94 or any of those conditions have not substantially been fulfilled with respect to the club; or

(b) that any one or more of the grounds set forth in section 102 exists with respect to the club or the premises thereof; or

(c) that three or more convictions for offences for which a licence under this Act is liable to be forfeited as provided by section 77, or against this Division, have been made in respect of any acts or omissions in connection with the club,

the said special magistrate or justices shall cancel the certificate of registration; or if two such convictions have been made the said special magistrate or justices may cancel the certificate.

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Duty to
produce
certificate
upon hear-
ing.
1322, 1917,
s. 112.
Cf. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 84.

109. (1) Every secretary, steward, manager, or other person conducting or managing a club shall, on the hearing of any charge against himself or against any member of the committee of management of the club for any offence against this Act, produce the certificate of registration of the club to the special magistrate or justices hearing such charge.

(2) If the secretary, steward, manager, or other person conducting or managing the club, or any member of such committee is convicted of any offence, the special magistrate or justices shall indorse a memorandum of the conviction on the certificate.

(3) If the secretary, steward, or manager of or other person conducting or managing the club refuses or neglects to produce the certificate upon the hearing of the charge, he shall for every offence be liable to a penalty not exceeding twenty pounds.

Duty to
produce
certificate,
register, and
rules of club
on demand.
1322, 1917,
s. 113.
Cf. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 84.

110. The steward, secretary, manager, or other person for the time being conducting or managing any club who refuses or neglects to produce to any inspector or any inspector or sub-inspector of police, when demanded, the certificate of registration for the club, or the register of existing members, or a certified copy of the rules of the club shall for every such offence be liable to a penalty not exceeding ten pounds.

Certificate of
removal.
1322, 1917,
s. 114 (1),
(2), (3) and
(4).

111. (1) The premises of a registered club may be changed under the authority of a certificate of removal.

(2) When a registered club desires to remove from the premises occupied by it to other premises the secretary, steward, or manager shall, at least twenty-eight days before applying for a certificate, deliver to the clerk, and also post, and keep posted until the application is made, on the outer door of the club premises and of the said other premises, a notice in the Form No. 2 in Schedule L, or in a form to the like effect.

(3) If on any such application a notice of objection has not been duly given, the clerk shall issue the certificate of removal, but if notice of objection is so given the application shall be dealt with by the court as provided by section 101.

(4) The only objection that may be taken to any such application shall be that the proposed premises are not suitable for a club, or the objection set out in paragraph (g) of section 102.

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112. If the premises of a club are by fire, tempest, or other calamity, or by dilapidations, or because they are being repaired or rebuilt, rendered unfit for the purposes thereof, the club may, without application to the court, remove to other premises under its existing certificate for any period not extending beyond the currency of the certificate. Notice of such removal and of the reason therefor shall be forthwith given by the secretary, steward, or manager to the clerk.

Removal
without
certificate.
1922, 1917,
s. 114 (5).

113. The provisions of this Act or any amendments thereof (other than sections 92 to 112), shall not apply to any club established before the first of January, nineteen hundred, which on the twenty-third of December, nineteen hundred and fifteen, was used *bona fide* for residential purposes and had no bar-room on the club premises.

Exemption
of certain
clubs.
Ibid., s. 115.

114. (1) The Governor may by proclamation exempt from any of the provisions of this Act other than sections 92 to 112 any club which—

Exemption of
certain
residential
and athletic
clubs.

(a) was established before the first of January, nineteen hundred; and

Ibid., s. 116.

(b) is used *bona fide* and mainly for residential purposes, or mainly for the purpose of playing any athletic game or sport approved by the Governor and carried on during the day time in the open air.

(2) The Governor may at any time by proclamation cancel any exemption granted under this section if he considers that the club should no longer be so exempted.

115. Any secretary, steward, or manager of a club, or any person purporting to be secretary, steward, or manager of a club, who makes any untrue statement in any notice or declaration under the provisions of this Division, knowing the same to be untrue, shall be guilty of an offence and liable to be imprisoned for any term not exceeding twelve months, with or without hard labour.

Punishment
for false
statement in
notice or
declaration.
Ibid., s. 117.
Of. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24.
s. 97.

116. For the purposes of the provisions of this Act, other than this Division—

Application
of other
provisions
of Act.
1922, 1917,
s. 118.

(a) registrations of clubs shall be deemed to be a class of licences;

(b) the registration of a club shall be deemed to be a licence;

s. 114. The following proclamations were in force under this section on the 26th day of April, 1937:—(a) Proclamation exempting the Adelaide Bowling Club: *Gazette* 26th May, 1932, p. 963. (b) Proclamation exempting the Royal Adelaide Golf Club: *Gazette* 8th June, 1933, p. 974. (c) Proclamation exempting the Commercial Travellers' Club: *Gazette* 29th June, 1933, p. 1093.

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- (c) the secretary, steward, or manager named in the certificate of registration of a club or in such notice as mentioned in section 107 shall be deemed to be the person licensed in respect of the premises of the club or the holder of the licence thereof; and
- (d) the premises of a registered club shall be deemed to be the licensed premises of the secretary, steward, or manager, or the premises in respect of which he is licensed or holds a licence:

Provided that Division X. of this part shall not apply to any club registered under this Act.

Effect of
non-renewal
of Returned
Soldiers
League's
registration
as club.
1529, 1922,
s. 6.

117. If at any time after the passing of this Act the renewal of the certificate of registration as a club granted to the secretary or manager of the Returned Sailors and Soldiers Imperial League of Australia (South Australian Branch) Incorporated in respect of the premises formerly known as the Prince of Wales Hotel, situated in Angas Street, Adelaide, is not applied for or is refused by the court the court may, upon application made pursuant to this Act, grant a publican's licence in respect of the said premises to a person appointed for the purpose of holding such a licence by the trustees appointed by or pursuant to a certain indenture made on the 27th day of July, 1922, between Arthur Seaforth Blackburn and others of the first part, Sir Henry Newman Barwell, K.C.M.G., of the second part, the said association of the third part, and the said Arthur Seaforth Blackburn and others of the fourth part, and filed in Action No. 648 of 1921 in the Supreme Court of South Australia.

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XIII.

DIVISION XIII.—LICENCES AT RENMARK.

Licences for
premises at
Renmark.
1882, 1917,
s. 119.
2083, 1932,
s. 2.

118. (1) No licence shall be granted in respect of any previously unlicensed premises situated in that portion of the State which is comprised and described in "The Chaffey Brothers Irrigation Works Act, 1887," and in the schedule thereto, unless—

- (a) the Governor has consented to the grant of such licence; and
- (b) a petition has been presented to the court signed by not less than a majority of the electors resident within the said portion of the State, praying that the licence be granted; and
- i. setting forth the purposes to which any profits of the business to be carried on under the said licence are intended to be applied;

- ii. nominating the first members of the committee in this section after mentioned; and
- iii. stating the mode of appointing subsequent members of the said committee.

(2) Upon the presentation of such a petition, and upon being satisfied that the Governor has consented as aforesaid, the court may in its discretion grant the licence upon the following conditions, but not otherwise, namely:—

(a) That arrangements be made for the said business being vested in and managed by a committee in trust to carry on the said business, and to apply the profits thereof for the purposes set out in the petition:

(b) That the said purposes be approved by the Treasurer.

(3) Upon the said arrangements being made to the satisfaction of the Treasurer, and upon the said purposes being approved by him, the Treasurer may issue the licence.

(4) The Treasurer may from time to time entirely or partially change or vary the purposes to which the profits of the said business shall be applied, and upon receiving notice in writing of any such change or variation the committee shall, until receipt of notice of further change or variation, use any profits not already applied and any future profits accordingly: Provided that the Treasurer shall not make any such change or variation except upon petition setting forth the proposed change or variation and signed by two-thirds at least of the electors resident within the said portion of the said State.

(5) A licence granted and issued as provided by this section may be renewed or transferred, or be removed to other premises situated in the said portion of the State, upon the court being satisfied that the committee is at the time fully constituted, and that the business is being properly managed by the committee, and that the profits (if any) are being applied for the purposes for the time being in force in respect thereof: Provided that notwithstanding anything in this section, such renewal, transfer, or removal shall be entirely at the discretion of the court.

(6) The provisions of subsections (4) and (5) of this section shall apply to all licences granted in respect of premises situated in the said portion of the State, whether granted before or after the passing of this Act, and whether such premises were licensed or not at the time of the passing of this Act, and to the businesses carried on under such licences.

(7) This section shall apply to licences in respect of premises situated within the Cobdogla Irrigation Area in the same way and to the same extent as it applies to licences in respect of premises situated within the portion of the State mentioned in subsection (1) of this section.

(8) In any case where before the fifteenth day of November, nineteen hundred and thirty-two, the court decided that a licence would be granted in respect of premises proposed to be erected in the Cobdogla Irrigation Area and which were not completed at the time when the application for the licence was made the requirements of this section as to the presentation and signature of the petition shall be deemed to be complied with if a petition otherwise complying with this section is signed by the members of the House of Assembly for the electoral district in which the premises are situated and is duly presented to the court.

In this subsection and the preceding subsection "Cobdogla Irrigation Area" means the irrigation area commonly known by that name as delineated by the proclamation made on the third day of November, nineteen hundred and sixteen, under the Irrigation and Reclaimed Lands Acts, 1914 and 1915, or by any other proclamation substituted for or amending that proclamation.

PART V.

PART V.

RAILWAY LICENCES.

Power to
lease
refreshment-
rooms.
1322, 1917,
s. 120.

119. The South Australian Railways Commissioner (in this Part hereafter referred to as "the Commissioner") may, from time to time, demise for refreshment-rooms, for any period not exceeding seven years, upon such terms and conditions as may appear to him expedient, any premises at any railway station in South Australia vested in him as such Commissioner.

Grant of
licences by
Treasurer.
Ibid., s. 121.

120. The Treasurer may issue to any lessee under the last preceding section a licence to be called a Railway Licence, in form No. 10 of Schedule B hereto, which licence shall authorise the holder thereof to sell and dispose of liquor in any quantity, at such refreshment-rooms upon such days and during such hours as are authorised by the licence, any law relating to the sale of such liquors to the contrary notwithstanding.

121. (1) No railway licence shall authorise the sale or supply of any liquor except during the times specified in the licence.

Times of
sale.
1922, 1917,
s. 122.

(2) The times so specified shall have reference to certain trains specified in the licence, and each of such times shall commence on the actual arrival of the train and shall continue for not more than fifteen minutes after such arrival of such train at the station; and none of such times shall include any day or time during which the sale of liquor is prohibited by law, or any part of any such day or time.

122. No railway licence shall be granted or issued for a longer period than twelve calendar months from the day of the issue thereof, or shall continue in force for any longer period.

Period of
licence.
Ibid., s. 123.

123. The annual licence fee for a railway licence shall be ten pounds.

Licence fee.
Ibid., s. 124.

124. Every railway licence shall determine and become forfeited on the holder thereof becoming insolvent, or making any assignment for the benefit of his creditors, or on his lease becoming determined, or on his being convicted within a period of nine months for three several offences against this Part.

Forfeiture of
licences.
Ibid., s. 125.

125. The Commissioner may, on the expiration or forfeiture of any lease under this Part of this Act, by any writing under his hand, authorise any person to take possession of the premises mentioned in such lease on behalf of the Commissioner; and it shall be lawful for the person so authorised and his assistants, without any further authority, to forcibly eject any person and the goods and effects of any person in possession or occupation of such premises, and to take possession thereof on behalf of the Commissioner.

Summary
recovery of
possession.
Ibid., s. 126.

126. If any person holding a railway licence directly or indirectly sells, supplies, barterers or exchanges by retail, or permits to be sold, supplied, bartered or exchanged by retail any liquor—

Penalty on
sales at
unauthorised
hours or to
railway
employees.
1922, 1917,
s. 127.

- (a) at any time not authorised by his licence;
- (b) during any day or time during which the sale of liquor is prohibited by law; or
- (c) to any railway employee contrary to any rule or regulation of the Railway service,

PART V.

he shall be guilty of an offence against this Part and shall be liable to a penalty of not less than two pounds and not more than twenty pounds.

Effect of
railway
licence.
1922, 1917,
s. 128.

127. Every person holding a railway licence, shall, for the purposes of sections 139, 140, 144, 145, 151, 154, 174, 177, 178, 179, 180, 182, and 218 of this Act, be deemed to be a person holding a licence, and the refreshment-rooms for which he holds a licence under this Act shall, for such purposes, be deemed to be licensed premises.

Other
offences.
Ibid., s. 129.

128. The provisions of sections 191, 196, 201, 202, 204, 207, and 208 of this Act shall apply to any person holding a railway licence, to the refreshment-rooms for which he is licensed, to the sale or supply of liquor therein, to the purchase or obtaining of liquor therein, or the attempt to purchase or obtain liquor therein, or the drinking of liquor therein, and to the presence of any person therein. A conviction in proceedings taken in relation to the provisions of any one or more of the sections in this section mentioned shall be deemed to be a conviction for an offence against this Part of this Act.

Power of
Commissioner to
make regulations.
Ibid., s. 130.

129. The Commissioner may make regulations to be observed by every lessee under this Part for regulating the quality and variety of the refreshments (including liquor) to be provided by such lessee: to limit the scale of charges to be made therefor: to provide the forms, particulars, terms, and conditions of tendering, for any lease, and to provide what covenants, conditions, and provisoes shall be inserted in any lease and generally for carrying this Part into effect.

Publication
of regulations.
Ibid., s. 131.

130. All such regulations shall be published in the *Government Gazette*, and shall thereafter have the force of law; and all regulations for the time being in force shall, for all purposes, be incorporated with and form part of this Part of this Act.

Licence to be
granted by the
Court.
Ibid., s. 132.

131. No railway licence shall hereafter be issued unless it has been previously granted by the court, which grant, in the discretion of the court, may be obtained in like manner as the grant of a wine licence.

PART VI.

PART VI.

RIGHTS, DUTIES, AND LIABILITIES OF LICENSEES
AND OTHERS, AND OFFENCES.

132. (1) Every person holding a publican's licence shall keep his Christian name and surname and the words "Licensed Dealer in Wines and Spirits," and every person holding a wine licence shall keep his Christian name and surname and the words "Licensed Dealer in Australian Wines," legibly painted, in letters not less than three inches in length, on some conspicuous part of the front of his licensed house.

Duty to display names.
1322, 1917, s. 133 (part).
Of U.K.
10 Edw. 7 & 1 Geo. 5 c. 24, s. 74.

(2) Any person who fails to observe any provision of this section shall be guilty of an offence and liable to a penalty of not less than ten shillings and not more than ten pounds.

133. (1) Every person holding a publican's licence shall—

- (a) have a lamp fixed in front of his licensed premises either opposite to or over the principal or entrance door thereof and at a distance of not less than seven feet from the ground, and the said lamp shall, unless electricity, gas or mineral oil is used therein, contain at least two burners;
- (b) keep the said lamp well cleaned and trimmed;
- (c) if the said premises are situated within a corporate town keep the said lamp alight continuously from sunset during such time as he is authorised to keep the said premises open for the sale of liquor;
- (d) if the said premises are not situated within any corporate town keep the said lamp alight from sunset to sunrise throughout the year.

Duty as to lamps on licensed premises.
1322, 1917, s. 133 (part).

(2) Any person who fails to observe any provisions of this section shall be guilty of an offence and liable to a penalty of not less than ten shillings nor more than ten pounds: Provided that—

- (a) no person holding a publican's licence shall be liable to a penalty by reason of his lamp having ceased to be alight after six o'clock in the evening unless he has been called upon by some person to re-light it and has neglected to do so;

- (b) the Governor, upon a recommendation in writing of the Harbors Board or of any body to which the

powers of that Board are hereafter transferred, may make regulations respecting lamps required to be kept by licensed persons residing near the sea coast. When those regulations have been published in the *Gazette* and notice has been given to any licensed person affected thereby that person shall forthwith make any alterations necessary to comply with the regulations and such compliance shall free and discharge him from any penalty to which he might otherwise be liable in respect of any lamp. Any licensed person failing to comply with the regulations within a reasonable time after the said notice shall be liable to a penalty of not less than ten shillings nor more than ten pounds for every night or part of a night during which he so fails.

Bar-rooms.
1322, 1917,
s. 134.
Of. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 71.

134. (1) No licensee shall sell or supply liquor in more than one bar-room in or upon his licensed premises, or shall have more than one bar-room in or upon such premises, unless he has obtained the permission of the court so to do.

For the purposes of this section, a room divided into compartments by wooden partitions, if approved by the court, shall be one room if there are doors in the partition giving at all times direct access from one such compartment to the other.

(2) Every applicant for such permission shall, with the notice of his application, deposit with the clerk a plan showing the position of each proposed additional bar-room for which he has not at the time such permission. Notice of application for such permission may be in the form of schedule T hereto.

(3) A fee of five pounds shall be paid annually, with and in addition to the fee payable for the licence, in respect of every additional bar-room for which such permission is granted.

(4) No such additional bar-room shall be deemed to form any part of the accommodation required by this Act to be provided in any licensed premises.

(5) No licensee shall let or sublet any bar-room or the right to sell liquor on his licensed premises.

Penalty.

(6) (a) Any licensee on whose licensed premises any liquor is sold or supplied in more than one bar-room, or on whose licensed premises there is

more than one bar-room, except as permitted under the provisions of this Act, and after payment of the fees hereinbefore required to be paid, and any licensee who lets or sublets any bar-room or the right to sell any liquor on his licensed premises shall be liable to a penalty for a first offence of not less than five nor more than twenty pounds, and for every subsequent offence of not less than twenty pounds:

- (b) A separate offence shall be deemed to be committed upon every day upon which, contrary to this section, liquor is sold or supplied, or a bar-room exists, or liquor is sold by any person to whom any bar-room or the right to sell liquor is let or sublet:
- (c) A separate offence shall be deemed to be committed in respect of every bar-room in which liquor is sold, or which exists contrary to the provisions of this section.

(7) Whenever a licence is transferred the transfer shall be deemed also to apply to any permission under this section, for the time being in force, to use an additional bar-room on the licensed premises.

135. If any person holding a publican's licence in respect of licensed premises not within two miles of a police station refuses to receive any corpse which is brought to those premises for the purpose of a coroner's inquest being held thereon, he shall be liable to a penalty of not less than one pound nor more than twenty pounds: Provided that nothing herein contained shall make it compulsory upon any licensed person to receive a corpse in an offensive state of decomposition, or the corpse of a person reasonably supposed to have died of an infectious disease.

Duty of licensee to receive corpses.
1322, 1917, s. 135.
Of. U.K.
10 Edw. 7 & 1 Geo. 5 c. 24, s. 83.

136. (1) No *bona fide* property of any traveller, guest, or inmate of any premises, in respect of which a publican's licence has been granted under this Act, or of any person who has entrusted any such traveller, guest, or inmate therewith, and being in or on the said premises or any part thereof, or in or on any place used or occupied therewith, shall be liable to be distrained or seized for or in respect of the rent of the said premises or place.

Exemption from distress of stranger's goods.
1322, 1917, s. 136.

(2) If any such property is so distrained or seized, any special magistrate or two justices may inquire into any complaint made in respect of the seizure or distress in a summary manner, and order the property to be restored, and award reasonable costs to the complainant, and may levy such costs by distress and sale of the goods or effects of the person so distraining or seizing as aforesaid.

(3) Nothing in this section shall deprive licensed persons of their lien on any such property for their own lawful demands.

Liability of
licensee for
loss of
property of
guests.
Cf. U.K.
26 & 27 Vict.
c. 41.
2055, 1931,
s. 8.

137. (1) In this section "licensee" means the holder of a publican's licence; and "licensed premises" means the premises in respect of which a publican's licence is in force.

(2) No licensee shall be liable to make good to any guest of such licensee any loss of or injury to goods or property brought on the licensed premises to any greater amount than the sum of thirty pounds, except in the following cases:—

(a) Where the goods or property has been stolen, lost, or injured through the wilful act, default, or neglect of the licensee or any servant in his employ:

(b) Where the goods or property has been deposited with or entrusted to the licensee expressly for safe custody: Provided that in such a case the licensee may, if he thinks fit, require as a condition of his liability that the goods or property shall be deposited or placed in a box, room, outhouse, or other receptacle or place fastened and sealed or locked by the person depositing the same.

(3) Every licensee shall cause at least one copy of the second subsection of this section printed in plain type to be exhibited in a conspicuous part of the hall or entrance to his licensed premises, and he shall be entitled to the benefit of this section in respect of such goods or property only as are brought to his licensed premises while the copy is so exhibited.

s. 137. O'DEA v. O'HARA, 17th May, 1895; 1 Austn. Digest 820. Where the plaintiffs had drinks at an hotel and left their bicycles in the hotel yard with the consent of the licensee, and the bicycles were injured, held that the licensee was not liable.

138. (1) No person holding a publican's or wine licence shall recover any debt or demand for or on account of any liquor, unless the debt has been *bona fide* contracted at one time to the amount of twenty shillings or upwards.

(2) No debt for liquor shall be recovered where the value of the liquor actually delivered at one time does not amount to twenty shillings, notwithstanding that the debt or any part thereof has been secured or agreed to be paid, unless—

- i. a written order for the liquor or wine was given by the purchaser before the liquor or wine was delivered; or
- ii. the purchaser was at the time of the delivery resident in the licensed premises; or
- iii. the purchaser was when the liquor was supplied a *bona fide* traveller within the meaning of section 200 hereof.

(3) If any person is supplied by the holder of any publican's or wine licence with liquor, meals, or accommodation on licensed premises, and refuses on demand made by the holder of such licence or his servant or agent to pay a reasonable sum therefor, he shall be deemed to be a rogue and vagabond, and shall be liable to be dealt with as such under the enactments relating to rogues and vagabonds.

Tippling
clause.
1322, 1917,
s. 137.
2055, 1931,
s. 9.
Cf. U.K.
24 Geo. 2
c. 40, s. 12.
Cf. U.K.
11 & 12
Geo. 5 c. 42,
s. 8.
Cf. U.K.
24 & 25
Geo. 5 c. 53,
s. 188.

Penalty for
non-payment
of cost of
liquor or
accommoda-
tion.

139. If any person holding a publican's or wine licence—

- (a) takes or receives in payment or as a pledge, for any liquor or entertainment supplied in or from the licensed premises, anything except coin commonly current, or the note or notes of some known bank or banker, or a cheque or order on some known bank or banker, or a money order or orders; or
- (b) takes any such note, cheque, or order at less than the full nominal value thereof, he shall be guilty of an offence and be liable to a penalty of not less than ten pounds nor more than fifty pounds.

Penalty on
licensed
persons
taking pay-
ment in
anything
except coin
or banknotes,
etc.
1322, 1917,
s. 138.
Cf. U.K.
24 Geo. 2
c. 40, s. 12.

PART VI.

Unlawful gaming, etc., and presence of certain persons on licensed premises.

1322, 1917, s. 139.
2055, 1931, s. 10.
Cf. U.K. 2 & 3 Vict. c. 47, s. 44.
Cf. U.K. 10 Edw. 7 & 1 Geo. 5 c. 24, s. 79.

140. (1) If on any licensed premises, or the appurtenances thereof, any person—

- (a) exercises or plays any unlawful game or sport, or
- (b) bets by way of wagering or gaming, or
- (c) gets up or takes part in any sweepstake, or
- (d) exercises, exposes, opens, or shows to be played, thrown or drawn at, any lottery,

the licensee shall be guilty of an offence.

(2) If on any licensed premises, or the appurtenances thereof, any reputed prostitute or thief, or any drunken or disorderly person, or any person in a state of intoxication, is found, the licensee shall be guilty of an offence.

(3) Any person guilty of an offence under this section shall be liable to a penalty, for the first offence, of not more than twenty-five pounds and not less than five pounds, and for any subsequent offence, of not more than fifty pounds and not less than ten pounds.

Cf. U.K. 10 Edw. 7 & 1 Geo. 5 c. 24, s. 75 (2).

(4) It shall be a defence to any charge of an offence under this section to show—

- (a) that the licensee, or, if at the time of the offence the licensee was not on the premises, the person then in charge thereof, did not know, and could not by the exercise of all practicable diligence have known, that (according to the nature of the charge) the act alleged was taking place, or the person referred to was of the description or in the state alleged, or
- (b) that (according to the nature of the charge) the act alleged took place, or the person referred to was

S. 140. DINEEN v. NICHOLSON (1922) S.A.S.R. 1; 9 Austn. Digest 502. The prosecution need not prove *mens rea* under s. 140, since want of knowledge is made a matter of defence.

ALMOND v. ALLCHUTCH (1925) S.A.S.R. 53; 9 Austn. Digest 503; varying **ALMOND v. ALLCHURCH** (1924) S.A.S.R. 486; 8 Austn. Digest 275. Evidence of previous bets by the person named in the complaint is admissible as evidence for the prosecution, to show the defendant's state of mind.

PINCHBECK v. GLEESON (1926) S.A.S.R. 379; 9 Austn. Digest 502. Held that the evidence was sufficient to prove the making of a bet. Evidence of previous bets by the person named in the complaint is admissible evidence to show the defendant's state of mind. The defence under subsection (4) need only be established on the balance of probabilities.

NORVAL v. NOBLET (1928) S.A.S.R. 38; 9 Austn. Digest 502. Where betting with a considerable number of men went on for an hour and a half in a room in an hotel near the bar where the licensee was serving, held that the licensee was properly convicted although he denied that he knew the betting was taking place. S. 140 requires a licensee to be diligent in ascertaining what takes place on his premises and to take all reasonable steps to prevent betting, but he is not made an insurer.

on the premises, contrary to the will of the licensee, or, if the licensee was not at the time on the premises, contrary to the will of the person who was then in charge thereof, and that (according to the nature of the charge) the licensee or the person so in charge (as the case may be) took all reasonable steps to prevent such act from taking place, or to prevent the person referred to from being on the premises and to remove her or him therefrom.

140a. (1) If—

Liability of licensee.

(a) any person is convicted for an offence against section 62 of the Lottery and Gaming Act, 1936; and

Inserted by 2135, 1933, s. 18.

(b) the said offence took place on licensed premises, the licensee of those premises shall be guilty of an offence.

Penalty—For a first offence a fine of not less than five pounds nor more than twenty-five pounds, and for any subsequent offence not less than ten pounds, nor more than fifty pounds.

(2) In any proceedings against a licensee under this section any statement in the conviction for the offence under section 62 of the Lottery and Gaming Act, 1936, as to the place where that offence was committed shall be *prima facie* evidence of the place where that offence was committed.

(3) It shall be a defence to a charge under this section against a licensee to show—

Cf. U.K. 10 Edw. 7 & 1 Geo. 5 c. 24, s. 75 (2).

(a) that the licensee or, if the licensee was not on the premises when the offence against section 62 of the Lottery and Gaming Act, 1936, was committed, the person then in charge of the premises, did not know and could not by the exercise of all practicable diligence have known that the said offence was being committed; or

(b) that the said offence was committed contrary to the will of the licensee, or, if the licensee was not on the premises when the said offence was committed, contrary to the will of the person who was then in charge of the premises, and that the licensee or person so in charge, as the case may be, took all reasonable steps to prevent the offence from being committed:

s. 140a. References to s. 62 of the Lottery and Gaming Act, 1936, have been substituted for references to s. 39 of the Lottery and Gaming Act, 1917, pursuant to the Acts Reproduction Act, 1934.

Provided that none of the defences mentioned in this subsection shall be available if it is proved that within one month previous to the commission of the offence against the said section 62, a member of the police force had warned the licensee that such member suspected that unlawful gaming was taking place on the licensed premises, and informed the licensee of the name of the person whom he suspected and that the person so named was the person convicted of the offence against section 62 of the Lottery and Gaming Act, 1936, in respect of which the licensee is charged.

(4) An offence for which a licensee is convicted under this section shall be included in the offences mentioned in subsection (8) of section 77 of this Act for which a licence may be forfeited as provided in that section.

Power of
court to
close hotels
on Saturday
afternoons.
1922, 1917,
s. 139b.
1844, 1927,
s. 7.

Amended by
2135, 1933,
s. 19.

141. (1) If any licensee is found guilty of an offence under paragraph (b) of subsection (1) of section 140 or under section 140a, and the offence is a first offence, the court may, in addition to or in lieu of imposing a fine as mentioned in that section by the conviction order that the licensed premises of that licensee be closed at twelve o'clock noon on one, two, or three Saturdays next after the conviction; and if the offence is a second or subsequent offence the court shall in addition to or in lieu of imposing a fine as aforesaid order that the said licensed premises be closed at twelve o'clock noon on the three Saturdays next after the conviction: Provided that if any proceedings by way of appeal or otherwise are instituted in respect of the conviction and after those proceedings have been finally disposed of the conviction is affirmed or otherwise remains in full force and effect, the order shall be deemed to refer to the Saturday or Saturdays next after the date when the order finally disposing of the said proceedings is made.

(2) No licensed person with respect to whose licensed premises an order has been made under this section shall on any day mentioned in that order after the hour of twelve o'clock noon keep his licensed premises open for the sale of liquor, or sell or supply any liquor or permit any liquor to be consumed on his licensed premises:

Provided that nothing in this section shall relate to the sale or supply to or consumption of liquor by the licensee, any member of his family living or staying on the premises, any servant of the licensee living or staying on the premises, or any *bona fide* lodger (which persons are in this Act called

“excepted persons”), if the liquor is not drunk in any bar-room on the licensee’s premises.

Every licensee who offends against any provision of this subsection shall be liable to a penalty for the first offence of not less than five pounds, and for the second and every subsequent offence of not less than ten pounds.

(3) Section 190 of this Act shall apply in any proceedings for an offence against this section in the same way as it applies in proceedings for an offence against section 189.

(4) For the purposes of sections 190, 191, and 192 of this Act the hour of twelve o’clock noon shall be deemed the closing time for the licensed premises mentioned in any order under this section on any day to which the order relates, and the remainder of the day after that hour shall be deemed hours during which the sale of liquor is prohibited by law, in addition to any other time during which the sale of liquor is so prohibited.

142. (1) If any member of the police force has reasonable grounds for suspecting that any person whom he finds on any licensed premises has at any time on the day on which he finds him been guilty of betting or offering to bet by way of wagering or gaming on those licensed premises, or that the said person is on the licensed premises for the purpose of so betting, that member of the police force may without warrant arrest that person and remove him from the licensed premises, or cause him to be so arrested and removed.

Power of police to remove persons betting from licensed premises.

1322, 1917, s. 139a.
1844, 1927, s. 7.

(2) If any person who has been so removed from any licensed premises re-enters or is again upon those premises during the day on which he was so removed, he shall be guilty of an offence and shall be liable to a penalty not exceeding fifty pounds.

(3) No member of the police force who has acted *bona fide* in the intended exercise of the powers conferred on him by subsection (1) of this section, and no person acting under the instructions of, or for the purpose of assisting any such member shall be liable to any proceedings civil or criminal in consequence of his having so acted.

143. (1) Any person holding a licence under this Act may refuse to admit to and may turn out of the premises in respect of which his licence is granted any person—

Power to exclude or expel certain persons from licensed premises.

1322, 1917, s. 140.
Cf. U.K. 10 Edw. 7 & 1 Geo. 5 c. 24, ss. 76, 80.

(a) who is a reputed prostitute or thief;

(b) who is drunken, violent, quarrelsome, or disorderly;
or

(c) whose presence on the premises would or might subject the holder of the licence to a penalty under this Act.

Cf. U.K.
23 & 24 Vict.
c. 27, s. 41.

(2) Any such person who, upon being requested in pursuance of this section by the holder of the licence, or his agent or servant, or any member of the police force or an inspector, to quit the premises, refuses or fails so to do, shall be guilty of an offence and liable to a penalty not exceeding five pounds.

(3) Every member of the police force shall, on demand of the holder of the licence, or his agent or servant, expel or assist in expelling every such person from the premises, and may use such force as is required for that purpose.

Permitting
drunkenness
or riotous
conduct on
premises.
1822, 1917,
s. 141.
Cf. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 75 (1).

144. (1) If any person holding a licence permits drunkenness, or any indecent, violent, quarrelsome, or riotous conduct to take place on his licensed premises or the appurtenances thereof, he shall be guilty of an offence and liable to a penalty for the first offence of not less than five pounds, and for every subsequent offence of not less than ten pounds nor more than fifty pounds.

(2) Where any person is charged under this section with permitting drunkenness on his licensed premises or the appurtenances thereof, and it is proved that any person was drunk on such premises or appurtenances, it shall lie on the person so charged to prove that he and the persons employed by him took all reasonable steps to prevent that drunkenness.

Penalty on
licensees
drunk on
premises.
1822, 1917,
s. 142.

145. Any person holding a licence who is found drunk in any part of his licensed premises or the appurtenances thereof to which the public have access shall be guilty of an offence and liable to a penalty of not less than five pounds nor more than twenty pounds.

Restriction on
use of
licensed
premises for
theatrical
perform-
ances, etc.
Ibid., s. 143.

146. (1) Notwithstanding the provisions of the Places of Public Entertainment Act, 1913, no portion of any premises in respect of which a publican's or wine licence is current, or of the appurtenances thereof, or of any premises adjoining any such licensed premises or appurtenances, shall be used as a theatre, concert-room or ball-room for public entertainment, or be licensed as a place of public entertainment, without the written permission, in the form of Schedule U hereto, of two justices, one of whom shall be the commissioner, superintendent, or an inspector or sub-inspector of police.

(2) Any person who uses or permits to be used any portion of any such premises or appurtenances in contravention of this section, or at any hour not authorised by the permission, shall be guilty of an offence and liable to a penalty for the first offence of not less than five pounds, and for every subsequent offence of not less than ten pounds nor more than fifty pounds.

(3) Every person obtaining any such permission shall pay a fee of five shillings to the commissioner, superintendent, or inspector, or sub-inspector of police on the issuing thereof.

(4) This section shall not apply to licensed premises or the appurtenances thereof or adjoining premises situate within a municipality, town, or township wherein there is no theatre, town hall, assembly-room, concert-room, or other building suitable for use as a theatre, concert-room, or ball-room for public entertainment, nor to licensed premises or the appurtenances thereof or adjoining premises not situated within a municipality, town, or township.

(5) No such permission shall extend over a longer period than one month: Provided that when the permission is in respect of premises adjoining (as distinguished from premises within) licensed premises or the appurtenances thereof, the permission may extend over a period longer than one month, but no longer than twelve months, upon payment of a fee of one pound.

1286, 1915,
s. 37.

147. (1) Every person holding a publican's or wine licence shall cause sections 172, 174, 177, and 178 to be printed or fairly written in large legible, permanent, and conspicuous characters, and affixed in one of the most public parts of every bar-room, in his licensed premises, or in the case of a wine licence, in one of the most public parts of his licensed premises, and keep the same so affixed, and fair and legible.

Duty to set
up parts of
this Act in
bar-room.
1822, 1917,
s. 144.

(2) Any person failing to comply with the requirements of this section shall be guilty of an offence and be liable to a penalty of two pounds, and to a further penalty of ten shillings for every day during which the said sections or any of them are not kept affixed, and fair and legible as aforesaid.

PART VI.

Restriction on
keeping
retail stores
together
with licensed
premises.
1322, 1917,
s. 145.
Cf. U.K.
2 & 3 Vict.
c. 47, s. 45.

148. (1) No person holding a publican's or wine licence, whose licensed premises are in any city or town within the State, shall have or keep any retail store or shop on account of himself, or of any other person, which, by door, window, or in any other manner internally communicates or admits of a communication with the licensed premises or any part thereof, or which communicates or admits of communication with such licensed premises externally, save by a separate public outer door or entrance thereto.

(2) Any person contravening the provisions of this section shall be guilty of an offence and liable to a penalty of not more than five pounds for every day during which such store or shop is kept as aforesaid.

(3) This section shall not extend to confectioners' shops, or refreshment rooms, had or kept by the holder of a wine licence, and forming part of his licensed premises.

Prohibition of
communica-
tion between
licensed
premises and
stores or
eating-
houses.
1322, 1917,
s. 146.
Cf. U.K.
2 & 3 Vict.
c. 47, s. 45.

149. (1) No person holding a publican's or wine licence shall use or keep open, or permit to be used or kept open, any communication, by door, window, passage, or in any other manner (save by a separate public outer door or entrance), between his licensed premises or any part thereof, and any retail store, shop, eating-house, or refreshment-rooms.

(2) Any person offending against the provisions of this section shall be guilty of an offence and liable to a penalty of not more than five pounds for every day during or upon which such communication is, or is permitted to be, used or kept open as aforesaid.

Penalty for
drinking on
unlicensed
premises
during pro-
hibited hours.
1322, 1917,
s. 147.
Cf. U.K.
35 & 36 Vict.
c. 94, s. 27.

150. (1) (a) Any person (excepting the occupier of the premises or any member of his family dwelling on the premises or any of his servants) who, during any day or time during which the sale of liquor is prohibited by law, drinks liquor in any unlicensed premises shall be guilty of an offence and liable to a penalty for a first offence of not more than five pounds, and for any subsequent offence of not more than ten pounds:

(b) Any person who permits or allows any liquor to be drunk (except by any of the persons

excepted as aforesaid) on his unlicensed premises during any such day or time as aforesaid, shall be guilty of an offence and liable to a penalty for a first offence of not less than five pounds and not more than twenty pounds, and for every subsequent offence of not less than ten pounds and not more than fifty pounds.

(2) For the purposes of enforcing the provisions of this section any inspector or any such officer or constable as referred to in section 218 may, at any time during any day or time during which the sale of liquor is prohibited by law, demand entrance into any unlicensed premises or the appurtenances thereof. If admittance is delayed for such time that it may reasonably be inferred that wilful delay was intended—

Cl. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 81.

(a) the occupier of the premises shall be guilty of an offence and liable to a penalty of not less than five pounds and not more than twenty pounds; and

(b) the inspector, officer, or constable may break into and enter such premises and any part thereof in which he suspects that an offence against this section is being or has been committed.

(3) In this section “unlicensed premises” means any premises where meals or refreshments are ordinarily sold or disposed of to the public for consumption on the premises, and without affecting the generality of this definition, includes any cafe, restaurant, oyster saloon, or other eating-house, not being licensed premises, and any premises which the occupier of such unlicensed premises is permitted to use or uses for the purposes of or in connection with his business.

(4) Nothing in this section shall make lawful anything which would have been a contravention of any of the provisions of this Act or any amendment of this Act if this section had not been contained therein.

151. (1) If any person holding a publican's or wine licence—

(a) knowingly employs or permits to be employed any prohibited person as overseer, manager or superintendent of any licensed premises, or

(b) knowingly permits any prohibited person to appear or act as overseer, manager, or superintendent of any licensed premises, or in any way which may

Prohibition of
employment of
certain per-
sons as
managers of
licensed
premises.
1922, 1917,
s. 148.

induce customers or the public to believe that he is overseer, manager, or superintendent of any licensed premises,

he shall be guilty of an offence and liable to a penalty of not less than two pounds nor more than twenty pounds.

(2) "Prohibited person" means a person who has forfeited or been deprived of a licence as being personally unfit or incompetent to hold a licence under this or any of the Acts hereby repealed, or who from misconduct or bad character has been refused a certificate to entitle him to receive a licence.

Exclusion of
unlicensed
persons from
interest in
profits, etc.,
of licensed
premises.
1322, 1917,
s. 149.
Cf. U.K.
11 Geo. 4
& 1 Will. 4
c. 64, s. 10
(part).

152. If any person holding a publican's or wine licence—

- (1) admits any unlicensed person as or to be his partner, or
- (2) directly or indirectly permits an unlicensed person to participate in the profits of the business of his licensed premises, or
- (3) directly or indirectly agrees with any unlicensed person to let him have any interest whatever in the said premises, or the profits thereof, or
- (4) remunerates or suffers any unlicensed person to be remunerated for, or in any manner agrees that he shall be remunerated for any services, or on any account, in proportion to the profits of the business carried on in the said premises or to the quantity of liquors sold or retailed in or from the said premises, or
- (5) abandons the occupation of the said premises as his place of residence, and permits any person not duly authorised to manage, superintend, or conduct the business of the said premises, or,
- (6) whether residing in the said premises or not, permits any unlicensed or unauthorised person to appear to the public as, or to become virtually or in effect, the keeper of the said premises,

the court, a special magistrate, or two justices, shall—

- (a) declare the licence of the said premises for the then current year to be void, and the same shall thereupon become and be absolutely void; or
- (b) at the discretion of the court or the convicting special magistrate or justices impose on the said

licensed person a penalty of not less than five pounds nor more than one hundred pounds:

Provided that this section shall not prohibit a *bona fide* agreement between the holder of a wine licence and the keeper of a confectioner's shop or refreshment room for the carrying on of their respective trades in partnership on one and the same licensed premises.

153. (1) All liquor sold under the authority of this Act, in a quantity not less than half a pint shall, if required by the purchaser, be measured and delivered according to imperial standard measures, and shall, upon demand by the person receiving the same, be remeasured for his satisfaction in the same premises and in the same measures, or any other standard measures he procures, but not if the liquors have been taken to any other room of or away from the licensed premises, or have been partly consumed before a remeasurement is demanded.

Duty to sell liquor according to standard measure.
1822, 1917, s. 151.
Cf. U.K.
10 Edw. 7 & 1 Geo. 5 c. 24, s. 69.

(2) If any licensed person selling any liquor as aforesaid, fails to measure or remeasure the same in accordance with this section, he shall be guilty of an offence and liable to a penalty not exceeding five pounds.

154. (1) No wine licence shall authorise any person to sell any liquid containing more than thirty-five per centum of proof spirit, or containing any noxious drug, chemical, or other thing.

Penalty on holder of wine licence selling liquids containing over 35 per cent. of spirit.
1822, 1917, s. 152.

(2) Any person who sells any liquid in contravention of this section shall be guilty of an offence and liable to a penalty not less than ten pounds and not exceeding fifty pounds, or to be imprisoned for any period not exceeding six months, with or without hard labour, and, in either case, to have his licence forfeited.

155. (1) Every person who—

Penalty on sale of adulterated liquor.
Ibid., s. 153.

(a) mixes or causes or permits to be mixed with any liquor sold, or offered or exposed for sale by him, any deleterious ingredient; or

(b) sells, or offers, or exposes, or has for sale any adulterated liquor, or liquor containing any ingredient deleterious to health; or

(c) has on any premises where liquor is sold or exposed for sale any substance, matter, or thing of a deleterious character, which it may be reasonably

inferred is kept for the purpose of adulterating or mixing with liquor,

shall be guilty of an offence, and liable for a first offence to a penalty of not less than twenty pounds nor more than fifty pounds, or to imprisonment for any term not exceeding three months, with or without hard labour; and for the second or any subsequent offence, to a penalty of not less than fifty pounds nor more than one hundred pounds, or to imprisonment for any term not exceeding six months, with or without hard labour, and also to be declared disqualified perpetually from applying for or obtaining a licence, or a renewal or a transfer of a licence under this Act.

(2) Any justice may, on complaint on oath made to him that there is reason to believe that any such liquor is adulterated, or contains any deleterious ingredient as aforesaid, or that any such substance, matter, or thing of a deleterious character is to be found upon any premises,

(a) authorise the seizure of that liquor, substance, matter, or thing;

(b) cause the same, or a sample thereof, to be analysed by some competent person; and,

(c) order the forfeiture of the whole of the kind of liquor analysed and found to be adulterated or to contain any deleterious ingredient, and also of any substance, matter, or thing of a deleterious character found in the possession or on the premises of the person offending.

(3) The justice may order that the expense of and attending such seizure, analysis and forfeiture shall be a portion of the costs payable by any person convicted under this section.

(4) In every proceeding under this section proof of the fact that any liquor was adulterated, or contained any deleterious ingredient, or that any substance, matter, or thing of a deleterious character was found upon the premises shall be *prima facie* evidence that the person in whose possession the same was found, or who at the time occupied the premises whereon the same was found, did sell, or offer, or expose, or have for sale such liquor, or that such substance, matter or thing of a deleterious character was kept for adulterating or mixing with liquor.

(5) No person shall be liable to a penalty under this section if he satisfies the justices hearing the complaint that such liquor was when seized in the same condition as it was

when it came into his possession by a *bona fide* purchase, and was not adulterated or mixed with any deleterious ingredient by him or any person acting under his authority or in his employ, or that such substance, matter, or thing was not kept for adulterating or mixing with liquor.

156. (1) Any justice, if any riot or tumult happens, or is expected to take place, may order or direct that any person licensed under this Act, and keeping any house where the riot or tumult happens, or is expected to take place, shall close his house for any time which the said justice so orders or directs.

Closing of houses against riot. 1322, 1917, s. 154. Cf. U.K. 10 Edw. 7 & 1 Geo. 5 c. 24, s. 63.

(2) Any person who does not obey any such order or direction shall be guilty of an offence and liable to a penalty not exceeding twenty pounds.

157. If any person holding a storekeeper's, storekeeper's Australian wine, brewer's Australian ale, or distiller's storekeeper's licence, with intent to evade the provisions of this Act, takes, or carries, or authorises, employs, permits, or suffers any person to take or carry any liquor out of or from the premises of the said licensed person for the purpose of being sold on his account or for his benefit, or of being drunk or consumed in any other premises whatever belonging to or hired, used, or occupied by him that liquor shall be deemed to have been drunk or consumed upon the licensed premises of such licensed person, and he shall be guilty of an offence and liable to a penalty of not less than five pounds and not more than twenty pounds.

Penalty for evasion of provisions disallowing consumption of liquor on premises under certain classes of licences. 1322, 1917, s. 155. Cf. U.K. 10 Edw. 7 & 1 Geo. 5 c. 24, s. 66 (2).

158. If any person who has purchased any liquor from any person holding a storekeeper's, storekeeper's Australian wine, brewer's Australian ale, or distiller's storekeeper's licence, or from the occupier of a vineyard or orchard, drinks such liquor, or opens any bottle or other vessel containing such liquor, in or about the house, or on the premises described in the licence granted to the said holder, or on the premises of the said occupier, he shall be guilty of an offence and liable to a penalty of not less than twenty shillings nor more than five pounds.

Penalty for drinking in the house or store of persons holding certain licences, or of vigneronns. 1322, 1917, s. 156.

159. If any person holding a storekeeper's, wine, storekeeper's Australian wine, brewer's Australian ale, or distiller's storekeeper's licence, sells or retails any liquor, except according to the tenor of and as authorised by his licence, he shall be guilty of an offence and liable to a penalty of not less than ten pounds and not more than fifty pounds.

Penalty for selling liquor otherwise than as authorised by licence. 1322, 1917, s. 157. Cf. U.K. 10 Edw. 7 & 1 Geo. 5 c. 24, s. 50 (4).

PART VI.

Offences in connection with sale of liquor on steamers.

1322, 1917, s. 158.
Cf. U.K. 5 & 6 Vict. c. 44, s. 5.

160. (1) Subject to section 72 of this Act if—

- (a) any master or commander of an unlicensed vessel, or any of the officers or crew of such a vessel directly or indirectly sells or permits to be sold within the State any liquor; or
- (b) any master or commander or any of the officers or crew of a licensed vessel directly or indirectly sells or permits to be sold within the State any liquor contrary to the terms of and not as authorised by the licence;

the master, commander, officer or member of the crew so acting shall be guilty of an offence and liable for a first offence to a penalty of not less than fifty pounds and not more than one hundred pounds or imprisonment for a term not exceeding six months, and for any subsequent offence to imprisonment for any term not exceeding one year.

(2) Every sale of liquor on board any such licensed or unlicensed vessel in the circumstances mentioned in this section shall be deemed a sale by the master or commander until the contrary is proved.

(3) “Unlicensed vessel” means a steamer or vessel the master of which has not a packet licence in respect thereof.

“Licensed vessel” means a steamer or vessel the master of which has a packet licence in respect thereof.

(4) No court shall have power to impose a fine in lieu of imprisonment for any such subsequent offence.

Retailing liquor without a licence.

1322, 1917, s. 159,
1867, 1928, s. 8,
2055, 1931, s. 11.
Cf. U.K. 35 Geo. 3 c. 113, s. 1.
Cf. U.K. 3 & 4 Vict. c. 61, s. 7.
Cf. U.K. 10 Edw. 7 & 1 Geo. 5 c. 24, s. 65.

161. (1) If any unlicensed person, except as allowed by this Act, directly or indirectly sells or supplies for profit, or permits to be sold or supplied for profit, any liquor, in any quantity, he shall be guilty of an offence, and shall be liable, for a first offence, to a penalty of not less than fifty pounds and not more than one hundred pounds, or to be imprisoned for a term not exceeding six months, and for any subsequent offence shall be imprisoned for a term not exceeding one year: Provided that this section shall not apply to a sale, in a quantity not less than five imperial gallons, of liquor

s. 161. SMITH v. EDWARDS (1916) S.A.L.R. 116; 13 Austn. Digest 315. The words “for profit” apply to “supplies” and not to “sells.” A person aiding and abetting a sale under this section may be charged with sale.

ALLCHURCH v. COOPER (1923) S.A.S.R. 370; 5 Austn. Digest 150; 13 Austn. Digest 303. A servant of an unlicensed person selling liquor in ignorance of the nature of the article sold is not guilty of an offence under s. 161.

BOND v. ALDERSON (1929) S.A.S.R. 313; 13 Austn. Digest 445. In considering whether an offence is a subsequent offence within the meaning of s. 161, a previous offence

to a person licensed to sell liquor of the kind which is the subject matter of such sale.

(2) No court shall have power to impose a fine in lieu of imprisonment for any such subsequent offence. Of. ibid., s. 100.

162. If any unlicensed person—

Attempt to evade last section.
1322, 1917, s. 160.

(a) gives away or delivers any liquor to any person, under the pretence of such person being a customer for other things, or under any pretence whatever; or

(b) sells or delivers to any licensed person any liquor in a quantity equal to or more than five imperial gallons, with an understanding that part thereof shall be returned, and the quantity so sold or delivered, after deducting the part returned or to be returned, is or will then be under five imperial gallons—

that unlicensed person shall be guilty of an offence under section 161 of this Act.

163. (1) Any person who, except as allowed by this Act, purchases, or attempts to purchase, any liquor from, or in or from the premises of, any person who does not hold a licence under this Act, shall be guilty of an offence and liable to a penalty for a first offence not exceeding twenty pounds, and for any subsequent offence not exceeding fifty pounds. Penalty on purchasing liquor from unlicensed persons.
1322, 1917, s. 159a, 281 (4).
1867, 1928, s. 9.

(2) Except as allowed by this Act no person shall directly or indirectly purchase or attempt to purchase any liquor, or directly or indirectly receive or attempt to receive any liquor, supplied for profit, unless the same is sold or supplied by a licensed person and according to the tenor of and as authorised by his licence. Any person offending against this

s. 161. committed before the amending Act of 1928 (which prescribed imprisonment as (contd.) the penalty for a subsequent offence) must be taken into account.

LENTHALL V. STAGBOUER (1930) S.A.S.R. 410; 13 Austn. Digest 358. "Sale" within the meaning of s. 161 means merely a transfer of property in liquor for a monetary consideration, whether the transaction is carried out by the actual owner, or by a person acting for him.

STOKES V. GRANT (1931) S.A.S.R. 151; 13 Austn. Digest 375. The holder of a licence who sells liquor elsewhere than on his licensed premises is an unlicensed person as regards that sale and commits an offence against s. 161.

POLONI V. LENTHALL (1933) S.A.S.R. 146; 12 Austn. Digest 353. Conviction set aside where the prosecution had refused to disclose the name and address of a witness on whose evidence the conviction was partly founded.

CRAFTER V. DELUCIA (1935) S.A.S.R. 45. Sale of liquor by an unlicensed person on the premises of an unregistered club is properly charged as an offence against s. 161. Relation between s. 92 and s. 161 discussed.

subsection shall for the first offence be liable to a penalty of not less than five pounds, and for the second and every subsequent offence not less than ten pounds, and for the third and every subsequent offence to be imprisoned for a term not exceeding four weeks.

Determina-
tion of
what is re-
tailing.

1322, 1917,
s. 161.
Cf. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 85 (1).

164. The special magistrate or justices sitting at or on the hearing of any complaint under this Act for retailing without a licence or otherwise than according to the tenor of and as authorised by the licence of the person charged may determine the fact of retailing according to the circumstances of or attending each case, without direct evidence of money or value having been given for the liquor alleged to have been sold or retailed, or of any particular person having himself so sold or retailed.

Prohibition
on carrying
mead, wine,
cider, or
perry about
for sale.

1322, 1917,
s. 162.
Cf. U.K.
11 & 12
Geo. 5 c. 42,
s. 7.
Cf. U.K.
43 & 44 Vict.
c. 24, s. 146.

165. (1) No person shall carry about for sale any mead, wine, cider, or perry unless—

(a) he is the actual owner or occupier of a vineyard or orchard, or a servant in the actual and *bona fide* employ of such an owner or occupier:

(b) the mead, wine, cider, or perry is the produce of the vineyard or orchard of, or actually manufactured by, the said owner or occupier.

(2) No such owner or occupier shall carry about for sale any mead, wine, cider, or perry except within the limits of a municipality or district council district.

(3) Any person contravening any provision of this section shall be guilty of an offence and liable to a penalty not exceeding ten pounds.

Power to
seize liquor
unlawfully
carried about
or exposed
for sale.

1322, 1917,
s. 163.

166. (1) Any justice, member of the police force or inspector may seize and take away, or cause to be seized and taken away—

(a) any liquor which he has reasonable cause to suspect to be carried about or exposed for sale in any place whatever by any person not licensed or authorised to sell the same there:

(b) the vessels containing any such liquor:

s. 166. *BADMAN V. ALLCHURCH* (1927) S.A.S.R. 174; 13 Austn. Digest 354. S. 166 (2) applies to the holder of a publican's licence carrying liquor about or exposing it for sale elsewhere than on his licensed premises. Where the defendant carried liquor, which had not been ordered, from his hotel to a road with the intention of carrying it back to the hotel if it was not sold on the road, held that he had carried liquor about within the meaning of s. 166.

(c) the vessels and utensils used for drinking or measuring any such liquor:

(d) any carriage, wagon, cart, dray, barrow or other means of conveyance and any horse or other animal employed or reasonably suspected to be employed in drawing or carrying any such liquor.

(2) Any person who carries about or exposes for sale any liquor without a licence shall be guilty of an offence and upon conviction before any justice shall be liable to a penalty of not less than ten pounds nor more than fifty pounds or to be imprisoned for any period not exceeding four months.

(3) The convicting justice may adjudge the said liquor and any vessel or utensil containing it and any carriage, wagon, cart, dray, barrow or other means of conveyance and any horse or other animal employed for carrying it or drawing it to be forfeited and may order the same to be sold; and the proceeds of the sale, after deducting the expenses of sale, shall be appropriated in the same manner as fines and penalties are by this Act directed to be appropriated.

Cf. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 105.

167. Any person who—

(a) keeps, sets up, or maintains any billiard, bagatelle, or billiard-bagatelle table for hire, or as a means of gain or profit, without a billiard table licence; or

(b) who holding a billiard table licence permits or allows any billiard, bagatelle, or billiard-bagatelle table on his licensed premises to be used otherwise than during the days and hours authorised or otherwise than in accordance with the authority conferred by that licence, shall be guilty of an offence and liable to a penalty for a first offence of not less than two pounds and not more than ten pounds, and for a second and every subsequent offence of not less than ten pounds and not more than fifty pounds.

Penalty for
keeping
billiard
tables, etc.,
except under
the authority
of a licence.
1322, 1917,
s. 164.
Cf. U.K.
35 & 36 Vict.
c. 94, s. 75.
Cf. U.K.
8 & 9 Vict.
c. 109, s. 11.

168. Nothing in this Act shall be held to make it unlawful for a licensee (being the holder of a billiard table licence) to permit any billiard, bagatelle, or billiard-bagatelle table to be used between the hours of six o'clock in the evening and eleven o'clock at night, on any day upon which his said licence authorises him to allow the same to be used, provided that such table is not in any such bar-room or place as mentioned in section 191.

Right to use
billiard tables
between six
and eleven
reserved.
1322, 1917,
s. 165.

PART VI.

Penalty for
allowing
persons in
billiard rooms
in prohibited
hours.
1922, 1917,
s. 166.

169. (1) No holder of a billiard table licence, who is not also the holder of a publican's licence, shall permit or suffer any person, who is not a member of the family, or a servant, of such holder, dwelling on his licensed premises, to be or to remain upon his licensed premises at any time when it is not lawful for him to permit or allow the billiard, bagatelle, or billiard-bagatelle tables upon his premises to be used.

(2) Any licensed person who is guilty of any contravention of this section, and any person who is, during any such time as aforesaid, upon any such licensed premises shall be liable to a penalty not exceeding twenty pounds.

(3) In any proceedings for an offence against this section, the presence of any person upon any such licensed premises, at any such time as aforesaid, shall be *prima facie* evidence that the licensee permitted or suffered such person to be upon those premises at that time.

Exclusion
of children
from billiard
saloons.
Ibid., s. 166a.
1867, 1928,
s. 10.
Of U.K.
8 Edw. 7
c. 67, s. 120.

170. (1) If any child is in or upon the licensed premises of any holder of a billiard table licence, and that child is not the son, daughter, or servant of the said holder of the licence, the said holder, if he is on the premises while the child is there, or, if he is not on the premises at that time, the person in charge of the premises at that time, shall forthwith remove the said child or cause him to be removed from the licensed premises.

(2) Any person who fails to comply with this section shall be guilty of an offence against this Act.

Penalty—Not less than two pounds nor more than twenty pounds.

(3) In this section "child" means person under the age of sixteen years.

Offences in
connection
with supply
of liquor to
King's ships.
1922, 1917,
s. 167.

171. (1) No person shall bring on board any of His Majesty's ships or vessels any spirituous or fermented liquor of any description without the previous consent of the officer commanding that ship or vessel.

(2) No person shall in any boat or vessel hover about or approach any of His Majesty's ships or vessels for the purpose of bringing any spirituous or fermented liquor on board that ship or vessel without the consent of the officer commanding the same, or for the purpose of giving or selling spirituous or fermented liquor to men in His Majesty's service without the said consent.

(3) Any person who contravenes this section shall be guilty of an offence and liable to a penalty not exceeding ten pounds.

(4) Any officer in His Majesty's service or any warrant or petty officer of the Navy or non-commissioned officer of Marines may with or without seamen or persons under his command search any boat or vessel which is hovering about or approaching or which has hovered about or approached any of His Majesty's ships or vessels and if any spirituous or fermented liquor is found on board that boat or vessel may seize that liquor, and the same shall be forfeited to His Majesty.

(5) Any such officer, warrant or petty officer or non-commissioned officer or any member of the police force with or without a warrant or other process may arrest any person offending against this section and bring him or cause him to be brought before a special magistrate or two justices for the purpose of having him summarily tried for his offence.

Persons not to be supplied.

172. Any person who sells, gives, or supplies, or permits to be sold, given, or supplied, any liquor to any aboriginal native of Australia, or half-caste of that race, shall be guilty of an offence and liable to a penalty of not less than five pounds nor more than twenty-five pounds.

Prohibition of supply of liquor to aboriginals.
1322, 1917,
s. 168.

173. Any aboriginal native of Australia, or any half-caste of that race, who is found drinking liquor, or to have been drinking liquor, or in possession of liquor, shall be guilty of an offence and liable to a penalty of not more than ten pounds, or to be imprisoned for a first offence for a term not exceeding seven days, and for any subsequent offence for a term not exceeding four weeks.

Prohibition of consumption and possession of liquor by an aboriginal.
Ibid., s. 169.

174. (1) Any licensed person, or any person in the employ of a licensed person, who sells or supplies, or permits to be sold or supplied, any liquor to any person under the age of twenty-one years, shall be guilty of an offence and liable to a penalty of not less than five pounds and not more than twenty pounds.

Prohibition of supply of liquor to person under 21.
Ibid., s. 170.
Cf. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 68 (1).
Cf. U.K.
13 & 14
Geo. 5 c. 28,
s. 1.

s. 172. *AMESBURY V. COPELAND* (1928) S.A.S.R. 485; 13 Austn. Digest 398. Where five gallons of beer were supplied to an aboriginal native, held that the court was justified in imposing the maximum fine.

s. 174. *SHARP V. ADAMSON* (1918) S.A.L.R. 301; 13 Austn. Digest 380. Where a boy under 18 ordered and took delivery of liquor on behalf of his father, held there was no supply to the boy.

(2) It shall be a defence in any proceedings for an offence under this section to prove—

- (a) that the person charged had reasonable cause to believe that the person to whom the liquor was sold or supplied was of or above the age of twenty-one years; and
- (b) that the person to whom the liquor was sold or supplied was actually of or above the age of eighteen years.

Penalty on sending child for liquor.

1322, 1917, s. 171.
Cf. U.K.
10 Edw. 7 & 1 Geo. 5 c. 24, s. 68 (2).

175. Any person who sends or causes to be sent any person under the age of sixteen years to any licensed premises for the purpose of procuring any liquor, or causes any person under the age of sixteen years to enter or be in any bar-room in any licensed premises for any purpose, shall be guilty of an offence and liable to a penalty of not less than five pounds nor more than ten pounds.

Exclusion of children from bar-room.

1322, 1917, s. 172.
Cf. U.K.
8 Edw. 7 c. 67, s. 120.
Cf. U.K.
23 Geo. 5 c. 12, s. 6 (1).

176. (1) If any person under the age of sixteen years other than a child of the licensee is for any purpose in any bar-room of any licensed premises, the licensee of those premises shall forthwith remove that person or cause that person to be removed from the bar-room.

(2) No licensee shall employ any person under the age of eighteen years to sell, supply, or serve liquor in any bar-room, excepting a child of the licensee.

(3) Any licensee who fails to comply with this section shall be guilty of an offence and liable to a penalty of not less than one pound nor more than five pounds.

Prohibition of supply of liquor to intoxicated persons.

1322, 1917, s. 173.
Cf. U.K.
10 Edw. 7 & 1 Geo. 5 c. 24, s. 75 (1).

177. Any licensed person or any person in his employ who supplies, or permits to be supplied, any liquor to any person in a state of intoxication shall be liable for the first offence to a penalty of not less than five pounds; and for every subsequent offence to a penalty of not less than ten pounds nor more than forty pounds.

Prohibition of supply of liquor to police on duty.

1322, 1917, s. 174.
Cf. U.K.
10 Edw. 7 & 1 Geo. 5 c. 24, s. 78.
Cf. 2 & 3 Vict. c. 93, s. 16.
Cf. U.K.
10 & 11 Vict. c. 89, s. 84.

178. Any licensed person or any person in his employ who supplies, or permits to be supplied, any liquor to any member of the police force whilst on duty, except when such member of the police force is a *bona fide* traveller within the meaning of section 200 hereof, shall be guilty of an offence and liable to a penalty not exceeding five pounds.

179. (1) Upon complaint in writing made to any special magistrate or justice of the peace, that any person, by the habitual or excessive use of liquor, wastes his means, or injures or is likely to injure his health, or endangers or interrupts the peace, welfare, or happiness of his family, the magistrate or justice shall issue his summons, calling upon that person to appear at a time and place to be therein named, and show cause why an order should not be made forbidding all persons to supply him with liquor.

Order for-
bidding
supply of
liquor to
drunkards.
1322, 1917,
s. 175.
Of. U.K.
2 Edw. 7 c. 28,
s. 6.

(2) At the time and place named in the summons, any special magistrate or two justices of the peace may—

- (a) investigate the matters contained in the complaint and hear the evidence adduced in support thereof, and also the evidence (if any) of the person informed against, and of any witnesses called on his behalf:
- (b) adjourn the investigation from time to time:
- (c) upon proof to his or their satisfaction of the facts alleged in the complaint, make an order forbidding all persons whomsoever to supply the person named in the order with liquor, or to permit him to be within any licensed premises for the period of twelve months from the date thereof.

(3) Any person whosoever who, during the currency of any such order, supplies the person named therein with liquor, and any person holding a publican's or wine licence under this Act who permits the person named in any such order to loiter about or frequent his licensed premises, shall be guilty of an offence and liable for the first offence to a penalty not exceeding five pounds, and for the second offence to a penalty of not less than ten pounds, and for any subsequent offence to a penalty of not less than twenty pounds.

(4) All proceedings under subsection (1) of this section shall be heard with closed doors.

180. (1) If any person by the habitual or excessive use of liquor wastes his means, or injures, or is likely to injure his health, or endangers or interrupts the peace, welfare, or happiness of his family, either parent of that person or any guardian of that person if under the age of twenty-one years, or the wife or husband, or any son, daughter, brother, or sister not under the age of twenty-one years of that person, or a friend (not being under the age of twenty-one years) of any son, daughter, brother, or sister under the age of twenty-one years of that person, may by a notice in writing (hereinafter

Warning
against
supplying
liquor.
1322, 1917,
s. 176.

called a "caveat") signed by such parent, guardian, wife, husband, friend, or son, daughter, brother or sister (hereinafter called "the caveator"), and delivered to the holder of any licence, warn such holder not to supply liquor to the said person (hereinafter called "the subject of the caveat").

(2) If after any holder of a licence has been so warned, and before the notice has been withdrawn by writing signed by the caveator and delivered to the said holder, he or his servant or employee supplies the subject of the caveat with any liquor, he or the said servant or employee shall be guilty of an offence and liable for a first offence to a penalty not exceeding five pounds, and for the second and every subsequent offence to a penalty of not less than five pounds nor more than ten pounds.

(3) (a) Upon complaint in writing, made to any special magistrate or justice of the peace by the subject of the caveat that there is no reason why a caveat should be in force concerning him, the magistrate or justice shall issue his summons calling upon the caveator to appear at a time and place therein named and show cause why the caveat should not be removed:

(b) At the time and place named in the summons any special magistrate or two justices of the peace may—

(i.) investigate the matter contained in the complaint and hear the evidence adduced in support thereof, and also the evidence (if any) of the caveator and of any witnesses called by the caveator:

(ii.) may adjourn the investigation from time to time:

(iii.) if satisfied that the subject of the caveat did not prior to the delivery of the caveat, or will not if the caveat is removed, by the habitual or excessive use of liquor waste his means, or injure or endanger his health, or injure or endanger the health, or welfare, or happiness of his family or of any member of his family, make an order removing the caveat, and thereupon the caveat shall cease to have any force or effect as to anything done after such order.

(4) If upon making an order removing a caveat the special magistrate or justices are satisfied that the caveat was delivered frivolously or maliciously they may order that the caveator pay to the subject of the caveat such damages and costs of the complaint and hearing as they deem reasonable.

(5) Upon the death of the caveator, or if the caveator has been absent from the said State for a period of not less than six months, the caveat shall have no force or effect as to anything done after the said death or after the expiration of the said period, as the case may be.

181. (1) Any person, whether a licensed person or not, who supplies liquor in any quantity to any person knowing, or having reason to know, that the liquor, or any part thereof, is intended to be sold or supplied contrary to any provision of this Act, shall be guilty of an offence and liable to a penalty for a first offence of not more than twenty-five pounds, and for any subsequent offence of not more than one hundred pounds.

Penalty for
supplying
liquor to be
illegally
disposed of.
1822, 1917,
s. 177.

(2) In any proceedings for an offence under this section the facts—

(a) that liquor in a quantity exceeding five imperial gallons was supplied, in one lot at one time, or in separate lots at different times within a period of one month, to any person; and

(b) that such person has been convicted of an offence under section 160 or 161 committed within one month after the supplying of such liquor, or any of it,

shall be *prima facie* evidence that such liquor was when supplied, intended to be sold or supplied contrary to a provision of this Act; and if those facts are proved to the satisfaction of the special magistrate or justices hearing the information or complaint, the onus shall be on the defendant to prove that he did not know, and had no reason to know, that the said liquor was intended to be sold or supplied as last mentioned.

Employment of Barmaids.

182. (1) No holder of a publican's licence, wine licence, or a certificate of registration of a club shall allow any female, other than his wife or his daughter, or his sister, or his step-daughter, or his mother, to sell, supply, or serve any liquor at, in, or about any bar-room, unless that

Restriction of
employment of
women to
serve liquor.
Ibid., s. 178.
1604, 1923,
s. 7.

female at the time of such sale, supply, or serving is a registered barmaid whose name appears in the register of barmaids referred to in section 183 for the district in which such bar-room is situated. Any licensee acting in contravention of this section shall be guilty of an offence and liable for a first offence to a penalty of not less than two pounds and not more than ten pounds, and for any subsequent offence to a penalty of not less than five pounds and not more than twenty-five pounds.

(2) In any proceedings under this section, unless the contrary is proved to the satisfaction of the special magistrate or justices, any female being at, in, or about any bar-room shall be deemed—

(a) to be allowed by the defendant to sell, supply, or serve (as the case may be) liquor thereat or therein; and

(b) not to be registered as a barmaid if on demand of any member of the police force or any inspector she fails to produce within a reasonable time a certificate of such registration.

(3) Nothing in this section shall prevent any female who is the holder of a licence or her daughter or step-daughter or sister or mother from selling, supplying, or serving liquor in the premises in respect of which she holds such licence.

(4) For the purposes of this section and section 186 “bar-room” means any bar, bar-room, bar-parlour, shop, or other room or place used exclusively or mainly for the sale, supply, serving, or consumption of liquor.

Register of
barmaids.
1322, 1917,
s. 179.
1808, 1927,
s. 23.

183. (1) The clerk shall keep the register of barmaids for each licensing district compiled pursuant to the provisions of section 150 of The Licensing Act, 1908.

(2) Subject to subsection (4) hereof no name shall, after the passing of this Act, be entered upon any register of barmaids.

(3) The clerk may, if satisfied that the original of any certificate of registration issued pursuant to the provisions of section 150 of the Licensing Act, 1908, has been accidentally destroyed, obliterated, or lost, cause a duplicate thereof to be issued upon payment of a fee of five shillings.

(4) Any person who is registered in the register of barmaids for any district shall also be entitled to be registered in the register of barmaids for any other district, upon producing to the clerk the certificate of her registration in the first-mentioned district. As soon as practicable after being registered under this subsection, a barmaid shall be entitled

to a certificate of such registration in the form contained in Schedule V. hereto, or to the like effect, signed by the special magistrate constituting the court for the said other district.

184. Any person upon payment of a fee of one shilling, and any member of the police force and any inspector without fee, may inspect any register of barmaids and take copies of any entry therein.

Inspection of register of barmaids.
1822, 1917,
s. 180.

185. Any person who—

(a) by fraud or misrepresentation obtains or attempts to obtain registration in any register of barmaids in which she is not entitled to be registered, or by fraud or misrepresentation obtains or attempts to obtain a duplicate of any certificate of registration as a barmaid; or

Fraud, etc., in connection with registration.
Ibid., s. 181.

(b) forges or falsifies any entry in any register of barmaids or any certificate of registration as a barmaid; or

(c) falsely represents herself to be registered as a barmaid, or to be any person who is so registered,

shall be guilty of an offence and liable to a penalty not exceeding twenty pounds.

186. (1) Any female not being registered as a barmaid in the register of barmaids for a licensing district who sells, supplies, or serves liquor in any bar-room within that district shall be guilty of an offence and liable for a first offence to a penalty not exceeding five pounds, and for any subsequent offence to a penalty of not less than five pounds and not more than twenty pounds.

Unregistered person acting as barmaid.
Ibid., s. 182.
1604, 1923,
s. 8.

(2) This section shall not apply to the female licensee, or the wife of the male licensee, or the daughter or step-daughter or sister or mother of the male or female licensee of the premises in which the bar-room exists.

187. (1) No female, other than the licensee or the wife, sister, mother, daughter, or step-daughter of the licensee, shall be required or permitted or suffered to sell, supply, or serve liquor at, in, or about any bar-room (as defined in section 182) in any licensed premises after the hour of six o'clock in the evening of any day.

Prohibition of employment of female in bar-room after six p.m.
1822, 1917,
s. 183.
1604, 1923,
s. 9.

(2) The licensee of any premises in which any female is employed contrary to this section shall be guilty of an offence and liable to a penalty for a first offence of not less than five pounds nor more than ten pounds, and for any subsequent offence of not less than ten pounds nor more than twenty pounds.

Cancellation
of barmaid's
registration.

1822, 1917,
s. 184.
1808, 1927,
s. 24.

188. (1) The court may, at any annual or quarterly meeting, on the application of any inspector, cancel the registration of a barmaid who is proved, to the satisfaction of the court, to have been convicted of any indictable offence, or to have been convicted twice of offences against the Police Act, 1916, or any amendment thereof, or against the Licensing Act, 1917, or this Act, or to be a person of bad fame or character.

(2) No such application shall be heard by the court unless notice in writing, stating the ground of the application, has been delivered to the clerk and also to the barmaid, at least fourteen clear days before the day fixed for the meeting of the court at which the application is to be heard.

(3) If the court is satisfied that the ground of the application is proved, the court may, by an order signed by the special magistrate constituting the court, or the clerk, declare the barmaid's registration to be cancelled, and thereupon her registration as a barmaid in every district in which she is so registered shall cease to have any force or effect, and she shall deliver up to the clerk all certificates of registration as a barmaid held by her.

Times of Selling.

189. (1) Subject as hereinafter mentioned, no licensed person shall keep his licensed premises open for the sale of liquor, or shall sell or supply any liquor or shall permit any liquor to be consumed on his licensed premises—

(a) upon any Sunday or Good Friday:

(b) upon any Christmas Day except between the hours of nine o'clock and eleven o'clock in the morning:

(c) upon any other day except between the hours of five in the morning and six in the evening:

Times when
premises may
not be open
nor liquor
sold.

1822, 1917,
s. 185.
1436, 1920,
s. 3.

2055, 1931,
s. 12.

Of. U.K.

11 & 12

Geo. 5 c. 42,
ss. 1, 2.

Amended by
2241, 1935,
s. 9.

Of. U.K.

27 & 28 Vict.
c. 64, s. 5.

s. 188. The Police Act, 1916, has been repealed and superseded by the Police Act, 1936.

s. 189. BEE v. ROBERTS (1885) 19 S.A.L.R. 147; 7 A.L.T. 88; 12 Austn. Digest 299; 13 Austn. Digest 334. Held (under the Licensed Victuallers Act, 1880, s. 96, which differs from s. 189) that the onus was on the prosecution to prove that the person supplied was not a *bona-fide* lodger.

KNABE v. PRIEST (1909) S.A.L.R. 47; 13 Austn. Digest 321. The supply of liquor by a club to a member of the club in exchange for money is a sale, notwithstanding the proprietary interest of the member in the assets of the club.

BUTTFIELD v. KENNY (1921) S.A.S.R. 51; 12 Austn. Digest 365; 13 Austn. Digest 436. Where the evidence for the prosecution establishes a supply to more than one person, the prosecutor need not elect for which supply the defendant should be convicted until the close of the case for the prosecution. [But see YOUNG v. ALLCHURCH, SARA v. LENTHALL, *infra*, p. 475.]

TOTHILL v. BUTTFIELD (1921) S.A.S.R. 264; 13 Austn. Digest 437. A conviction for unlawful supply which does not state the name of the person supplied, may be amended by inserting the name or particulars of the person supplied.

SPENCER v. BUTTFIELD (1921) S.A.S.R. 273; 13 Austn. Digest 331. The phrase "living or staying on the premises" means "living" in the sense of dwelling or

Provided that nothing in this section shall relate to the sale or supply to or consumption of liquor by the licensee, any member of his family living or staying on the premises, any servant of the licensee living or staying on the premises, or any *bona fide* lodger or *bona fide* traveller (which persons are in this Act called "excepted persons"), if the liquor is not drunk in any bar-room on the licensee's premises.

A *bona fide* traveller is a person who within twelve hours before the time of his arrival at the licensed premises has travelled from a place at least sixty miles from those premises calculated by the nearest practicable route, and has made and signed a declaration on the prescribed form that he has

Inserted by
2241, 1935,
s. 9.

s. 189. residing, or "staying" in the sense of dwelling or residing but in a manner less permanent than "living."
(*contd.*)

O'CONNELL v. LEE (1922) S.A.S.R. 320; 5 Austn. Digest 1110; 13 Austn. Digest 431. Special leave to appeal to the High Court refused, O'CONNELL v. LEE 30 C.L.R. 607 (note). S. 189 prohibits sale or supply only on licensed premises.

MATTIN v. MILLER (1923) S.A.S.R. 452; 13 Austn. Digest 163. The yard of an hotel is part of the licensed premises.

PIERCE v. KENNEDY (1923) S.A.S.R. 476; 12 Austn. Digest 406; 13 Austn. Digest 314, 436. Held (before the passing of 1604, 1923, s. 13) that "supply" does not include "give." Where the conviction appealed against is drawn up without discriminating between two supplies proved, the appellate court should ask the complainant to elect for which supply the conviction should be drawn up, and if he refuses to elect, allow the appeal. [But see YOUNG v. ALLCHURCH, SARA v. LENTHALL *infra*.]

BODEN v. GROW (1924) S.A.S.R. 132; 13 Austn. Digest 341. The appropriation on licensed premises, of liquor to a sale made elsewhere, is not a supply on the licensed premises.

TUCKER v. NOBLET (1924) S.A.S.R. 326; 5 Austn. Digest 1097; 13 Austn. Digest 437. The dismissal of a complaint for unlawful supply of liquor, on the hearing of which evidence was given of an open bar-door, will not support a plea of *autrefois acquit* on a charge of having a bar-door open contrary to s. 191.

YOUNG v. ALLCHURCH (1927) S.A.S.R. 185; 12 Austn. Digest 406; 13 Austn. Digest 445. A conviction should show the particular transaction of sale to which it relates. The responsibility of determining for what sale a defendant should be convicted is on the court and does not depend on election on the part of the complainant.

JOLLY v. VIRGO (1927) S.A.S.R. 188; 5 Austn. Digest 135; 13 Austn. Digest 318. A licensee permits the consumption of liquor if it takes place with his knowledge or connivance or by his failure to use diligence to prevent it.

SARA v. LENTHALL (1930) S.A.S.R. 384; 13 Austn. Digest 163, 314, 437. A urinal, though open to the public and not part of the main building of an hotel, but forming part of the usual accommodation of hotels, is part of the licensed premises. The amendments made to s. 281 (1) and (2) of the Licensing Act, 1917, by the Licensing Act Amendment Act, 1923, s. 13, leave "supply" in s. 189 with its natural meaning. Where the evidence discloses more than one supply, the court may properly ask the complainant to elect for which offence he wishes the conviction to be drawn up, but if he refuses to elect the court must decide the matter for itself. If the defendant is prejudiced by evidence showing two offences, he is entitled to an adjournment.

BOND v. MCMAHON (1933) S.A.S.R. 41; 13 Austn. Digest 315. A sale of liquor after a previous conviction for supply is a second offence against s. 189, for the purpose of the penalty.

CRAFTER v. WISE (1934) S.A.S.R. 405. A fine of five pounds is the maximum penalty for a first offence.

BROWNE v. NOBLET (1935) S.A.S.R. 451. Conviction for unlawful supply affirmed where two persons (one unexcepted) were on the licensed premises and the defendant did not satisfy the court as required by s. 267 (4) prior to the amendment made by 2241, 1935, s. 18.

so travelled. No person shall be deemed to be a *bona fide* traveller between the hours of five o'clock in the morning and ten o'clock in the evening on any Christmas Day or Good Friday.

(2) Every licensee who offends against any provision of this section shall be liable to a penalty for the first offence of not less than five pounds, and for the second and every subsequent offence of not less than ten pounds.

Presumption
in certain
cases.

1322, 1917,
s. 186,
2055, 1931,
s. 13.

190. If in any proceedings for an alleged offence against section 189 it is proved to the satisfaction of the special magistrate or justices hearing the case that, during any day or time during which the sale of liquor is prohibited by law (except during the time for clearing bar-rooms permitted by section 191)—

(a) any door or other entrance or means of any kind by which admission could be gained, whether from outside or inside the licensed premises, to—

(i.) any bar-room on the licensed premises; or

(ii.) any place on the said premises where liquor is kept for sale or is stored; or

any aperture or other means of any kind through or by which any liquor could be delivered or obtained from any such bar-room or place, was open or unlocked, or

(b) any person other than the licensee or his servant was in any such bar-room or place, or

(c) any light was in any such bar-room or place,

s. 190. *SMITH v. MCCARRON* (1921) S.A.S.R. 244; 13 Austn. Digest 391; *JOB v. MATTIN* (1922) S.A.S.R. 461; 13 Austn. Digest 384; *JOLLY v. VIRGO* (1927) S.A.S.R. 188; 13 Austn. Digest 318. As to onus of proof placed on defendant by s. 190 before the amendment made by 2055 1931, s. 13, by which the matters mentioned in paragraph (a) (b) or (c) were made *prima facie* evidence only of a sale of liquor.

TOTHILL v. BUTTFIELD (1921) S.A.S.R. 264; 13 Austn. Digest 437. The presumption of unlawful supply of liquor arising from the fact that a bar-room door was open may be applied on a charge of unlawful supply of liquor, although the defendant has been acquitted of the offence of leaving a bar-room door open contrary to s. 191.

DERBY AND ANOTHER v. HOMES (1924) S.A.S.R. 6; 13 Austn. Digest 379. S. 190 is not subject to any implied exceptions.

FRANCE v. HUMPHREYS (1926) S.A.S.R. 214; 13 Austn. Digest 385. S. 190 applied. When a place is described in evidence as a bar-room, the court will take judicial notice that that place is a room where alcoholic liquor is kept.

ALLCHURCH v. HEALEY (1927) S.A.S.R. 370; 8 Austn. Digest 162; 13 Austn. Digest 385. The court will take judicial notice of the fact that a "saloon bar" is a bar-room and that liquor is necessarily kept there and from there supplied to customers. S. 190 applies where liquor is handed by the licensee to a person outside the licensed premises.

SARA v. LENTHALL (1930) S.A.S.R. 384; 13 Austn. Digest 385. Probably s. 190 does not apply where the act or thing proved was so remote in time that it could not reasonably have any relation to the offence charged.

the act or thing so proved shall be *prima facie* evidence of a sale of liquor at the time the act or thing was done or existed.

191. (1) During any day or time during which the sale of liquor is prohibited by law—

Duty to close means of entrance or aperture to bar-room. 1322, 1917, s. 187.

(a) no door or other entrance or means of any kind by which admission can be gained, whether from outside or inside any licensed premises to—

(i.) any bar-room on the licensed premises; or

(ii.) any place in the said premises where liquor is kept for sale or stored; and

(b) no aperture or other means of any kind through or by which any liquor can be delivered or obtained from any bar-room on any licensed premises, or from any place on the said premises where liquor is kept for sale or is stored,

shall be open or unlocked for any purpose contrary to the provisions of this Act, and the onus of proving that the bar-room, place, or aperture as the case may be was not open for a purpose contrary to the provisions of this Act, shall be upon the defendant.

Amended by 2241, 1935, s. 10.

(2) Any licensed person on whose premises any contravention of this section occurs shall be guilty of an offence and liable to a penalty for a first offence of not less than five pounds and not more than ten pounds, and for every subsequent offence of not less than ten pounds and not more than twenty pounds.

(3) Notwithstanding anything in this Act a licensee is hereby permitted to keep his bar-room open for ten minutes immediately after the closing time on any day solely for the purposes of clearing such bar-rooms of the persons who are therein at the said closing time and of adjusting the goods and furniture therein: Provided that if on any day any liquor is sold or supplied or consumed in any such bar-room after such closing time, the permission granted by this subsection shall not apply on that day; and if any licensee is convicted of any offence against section 189 or this section, the convicting magistrate or justices may, in addition to any penalty imposed for that offence, declare that this subsection shall, for such time as is declared by such magistrate or justices, not apply in favour of that licensee, and thereafter it shall not apply accordingly.

s. 191. TOTHILL v. BUTTFIELD (1921) S.A.S.R. 264; 13 Austn. Digest 437. The presumption of unlawful supply of liquor arising from the fact that a bar-room door was open may be applied on a charge of unlawful supply of liquor, although the defendant has been acquitted of the offence of having a bar-room door open contrary to s. 191.

PART VI.

Prohibition
of sale of
temperance
drinks in
licensed
premises.

1822, 1917,
s. 188,
1808, 1927,
s. 25.

192. (1) No licensed person shall—

- (a) keep his licensed premises open for the sale of non-intoxicating liquor; or
- (b) sell or supply any non-intoxicating liquor; or
- (c) permit any non-intoxicating liquor to be consumed on his licensed premises

during any day or time during which the sale of liquor is prohibited by law.

(2) Nothing in this section shall relate to the sale or supply to or consumption of non-intoxicating liquor by any excepted person, if the liquor is not supplied or consumed in any bar-room on the licensee's premises or in any such place as mentioned in section 191, nor to any non-intoxicating liquor which is sold or supplied to and consumed only by persons taking *bona fide* meals on such premises and with such meals, and is not supplied or consumed in any such bar-room or place as aforesaid.

(3) Every licensee who offends against any provision of this section shall be liable to a penalty for a first offence of not more than five pounds and for any subsequent offence of not more than fifty pounds.

(4) In this section "non-intoxicating liquor" means any liquor not being liquor as defined by section 4.

(5) This section shall not apply to any non-intoxicating liquor sold or supplied or consumed on any licensed premises if those licensed premises are further licensed for the sale of non-intoxicating liquor by a permit granted by the Licensing Court and issued under the hand of the clerk: Provided that—

- I. the court in its discretion may refuse to grant any such permit;
- II. every such permit shall expire on the fourteenth day immediately following the next succeeding annual meeting of the court; and
- III. any such permit may be cancelled, either permanently or for any specified time, if the court, in the exercise of its discretion, considers such cancellation desirable.

Closing on
Sundays.

1822, 1917,
s. 189.

193. Subject to section 200, no person holding a publican's or wine licence shall be compelled to open his premises during any hour on Sunday.

194. (1) Every holder of a publican's licence shall keep on his licensed premises a book to be called the "Register of Lodgers."

Register of
lodgers.
1822, 1917,
s. 190,
1867, 1928,
s. 11.
2055, 1931,
s. 14.

(2) In the said book the said holder shall every day enter, or cause to be entered, the name of every *bona fide* lodger (as defined by paragraphs (a), (b), or (c) of section 195) in the said premises on the night of that day, showing clearly opposite the name of each lodger the distinguishing number or description of the room in the said premises occupied by him on the said night, and shall at the time of assigning a room in such premises to a *bona fide* lodger within the meaning of paragraph (d) of section 195 enter or cause to be entered the name of that lodger, and the distinguishing number or description of the room so assigned to him. This subsection shall apply in respect of regular as well as casual lodgers.

(3) All the entries by this section required to be made in the said book shall be made in black ink.

(4) The Register of Lodgers kept on any licensed premises shall be open to inspection at any time, upon demand, by an inspector or any member of the police force.

(5) The fact that any person is found on any licensed premises during any day or time during which the sale of liquor is prohibited by law shall, unless his name appears, as required by subsection (2) hereof, in the Register of Lodgers kept on such premises, together with the distinguishing number or description of the room in such premises occupied by him on the night immediately preceding the day or night when he is so found, or assigned to him on that day or night, be *prima facie* evidence as against the holder of the licence, and *prima facie* evidence as against the said person, in any proceedings under this Act that the said person was not a *bona fide* lodger in the premises when he was so found.

(6) Any holder of any publican's licence who—

- (a) neglects or fails to keep a register of lodgers as provided by this section; or
- (b) neglects or fails to enter, or cause to be entered, in the register any of the particulars required by this section to be entered therein; or
- (c) makes, or causes to be made, in the register any false or misleading entry in respect of any of the particulars required by this section to be entered therein; or

- (d) enters or causes to be entered in the register the name of any person who is not at the time when the entry is made a *bona fide* lodger,

shall be guilty of an offence and liable to a penalty for a first offence of not more than five pounds, and for every subsequent offence of not less than five pounds and not more than fifty pounds.

Definition of
bona fide
lodger.
1822, 1917,
s. 191.
2055, 1931,
s. 15.

195. No person shall for the purposes of this Act be deemed to be a *bona fide* lodger in licensed premises unless—

- (a) he is a regular boarder in the premises; or
- (b) he lodged therein on the night immediately preceding the day whereon an offence is alleged to have been committed; or
- (c) if the offence is alleged to have been committed between any hour of any night and five o'clock in the following morning, he lodged therein on the night immediately preceding that night; or

Amended by
2241, 1935,
s. 11.

- (d) he resides at least twenty miles from the said premises, and has within twelve hours before the time of his arrival at the licensed premises travelled from a place at least twenty miles from the said premises and has ordered and been assigned a bedroom therein for his lodging during the night ensuing upon the day of his arrival, or if he arrives in the night for his lodging during that night and has made and signed a declaration in the prescribed form that he so resides, has so travelled, and intends to occupy the said bedroom throughout the night. The declaration may be made before the licensee, or any person authorised by the licensee, or any justice of the peace, and shall not be chargeable with stamp duty. Any person who in any such declaration knowingly makes any false statement, shall be guilty of an offence and liable to a fine not less than ten pounds and not exceeding fifty pounds. The distance of twenty miles shall be calculated along the shortest practicable route along or over any public highway or thoroughfare or by or across any port, arm of the sea, or any lake, river, inlet, stream, or creek.

196. In any proceedings under this Act against the holder of a licence for selling or supplying or permitting the sale or supply of liquor, or the drinking or consumption of liquor on his premises, it shall be no defence to prove that the said holder himself took, or carried, or employed, or authorised or suffered any other person to take or carry such liquor out of or from such premises for the purpose of being sold or supplied for the holder's benefit or profit, or on his account, and of being drunk or consumed in any other house, or in any tent, shed, or other building of any kind whatsoever, belonging to or hired or used or in the occupation of the holder, or in any public place or public thoroughfare; but in all such cases the liquor shall be deemed to have been sold or supplied by the holder on his licensed premises, and to have been drunk or consumed by the purchasers thereof or the persons to whom supplied on the premises of the holder, and with his privity and consent.

Evasion of law as to sale, &c., of liquor on premises.
1322, 1917,
s. 192.

* * * * *

S. 197
repealed by
2241, 1935,
s. 12.

197a. (1) The occupier of any unlicensed premises as defined by subsection (3) of section 150 may apply to a special magistrate for a permit authorising him to sell or supply dry wines and cider as defined by this section on those premises for consumption by persons taking *bona fide* meals thereon with such meals. In this section "dry wines and cider" means dry wines and cider manufactured in the Commonwealth of Australia, containing, in the case of wine, not more than twenty-five per centum of proof spirit, and, in the case of cider, not more than twelve per centum of proof spirit.

Permits to sell liquor in restaurants.

Inserted by
2241, 1935,
s. 14.

(2) If, in the opinion of the special magistrate, the premises are serving the needs of the public for the supply of meals, the special magistrate may in his discretion grant the application.

(3) A fee of fifteen pounds shall be payable for every such permit if the unlicensed premises are wholly within ten miles of the General Post Office at Adelaide; and a fee of ten pounds shall be so payable if the unlicensed premises are wholly or partly outside ten miles from the General Post Office at Adelaide.

(4) Every permit shall unless sooner cancelled or suspended remain in force for twelve months from the issue thereof and may be renewed on payment of the annual fee.

s. 196. *BODEN V. GROW* (1924) S.A.S.R. 132; 8 Austn. Digest 164; 13 Austn. Digest 341.
Judicial notice cannot be taken that every place called a road is a public thoroughfare within the meaning of this section.

(5) The permit shall authorise the sale and supply of such liquor as aforesaid for consumption on the premises to a person having a *bona fide* meal thereon, but not otherwise on any day except Sunday, Good Friday, and Christmas Day, between the hours of—

(a) twelve o'clock noon and two o'clock in the afternoon; and

(b) six o'clock and eight o'clock in the evening.

(6) Upon application to a special magistrate the special magistrate may, if satisfied that any permit has been abused in any way, cancel the permit.

(7) For the purpose of dealing with any application under this section the special magistrate shall have the like powers of summoning and examining witnesses and administering oaths as justices have under the Justices Act, 1921, and sections 23 to 26 inclusive of that Act with the necessary modifications shall apply in relation to an application under this section and to witnesses and persons summoned as witnesses on any such application.

(8) Nothing in this section shall authorise the sale or supply of such liquor as aforesaid to any person to whom it is by this Act made unlawful to supply liquor.

Permit to supply liquor with meals.
2055, 1931,
s. 16.
Cf. U.K.
11 & 12
Geo. 5 c. 42,
s. 3.

Amended by
2241, 1935,
s. 13.

198. (1) If on premises for which a publican's licence is in force meals are regularly supplied to the public or if on the premises of any registered club meals are regularly supplied to members of the club, the holder of the publican's licence, or, as the case may be, the secretary of the club, may apply for a permit authorising the sale, supply, and consumption of liquor on the said premises between the hours of six o'clock and eight o'clock in the evening on ordinary days, and on Sunday, Good Friday, and Christmas Day, as hereinafter provided.

(2) Every such application shall be made to the special magistrate constituting the court for the district in which the premises are situated, and on the application the special magistrate may, in his discretion, grant or refuse the permit, and his decision shall be final and conclusive, and shall not be questioned in or amended by any court whatsoever.

(3) A permit granted under this section shall render lawful the sale, supply, and consumption of liquor on the premises

s. 198. BOND v. DENTON (1933) S.A.S.R. 112 (F.C.); 13 Austr. Digest 264; affirming BOND v. DENTON (1933) S.A.S.R. 82. A permit granted under s. 198 to a person holding a licence as manager of a company is no longer in force after forfeiture of the licence.

mentioned therein in accordance with the following terms and conditions:—

(a) The liquor may be sold, supplied, and consumed between the hours of six o'clock and eight o'clock in the evening on ordinary days and between the hours of one o'clock in the afternoon and half-past two o'clock in the afternoon and between the hours of six o'clock in the evening and eight o'clock in the evening on any Sunday, Good Friday, or Christmas Day:

Amended by
2241, 1935,
s. 13.

(b) The liquor shall not be sold, supplied, or consumed except in that dining-room of the said premises in which meals are usually served to the public or members of the club, as the case may be:

(c) The liquor shall not be sold, or supplied to, or consumed by any person other than a person *bona fide* taking a meal in the said dining-room at the time of the sale, disposal, or supply:

(d) Between the hours of six o'clock and eight o'clock in the evening all doors by which access can be had to the said dining-room shall be kept unlocked.

(4) A permit under this section shall, unless revoked, remain in force so long as the person to whom it is granted remains the licensee of the licensed premises mentioned therein.

(5) For every permit under this section there shall be paid a fee of one guinea.

(6) The court, if satisfied on complaint made by a licensing inspector, or a member of the police force that any term or condition of a permit has been broken, may revoke the permit.

(7) Nothing in this section shall be construed to permit the sale or supply of liquor on any licensed or unlicensed premises, or in any registered club to any person to whom it is by this Act unlawful to supply liquor.

Amended by
2241, 1935,
s. 13.

(8) In this section "meal" means a meal of at least two courses at which the persons partaking thereof are seated at a table, and which includes fish or meats other than in sandwich form and cooked vegetables, and for which the charge shall be not less than one shilling and sixpence.

Amended by
2241, 1935,
s. 13.

(9) Any person, other than an excepted person, who upon any premises in respect of which a permit under this section has been granted obtains or attempts to obtain liquor during

the hours for which the permit is in operation by falsely representing that he intends at the same time to partake of a meal upon the said premises, shall be guilty of an offence, and liable to a penalty not exceeding twenty pounds.

Permits to
supply liquor
on special
occasions

1322, 1917,
s. 194.
1529, 1922,
s. 7.

Cf. U.K.
27 & 28 Vict.
c. 64, s. 57.
U.K. 10
Edw. 7 & 1
Geo. 5 c. 24,
s. 57, s. 64.

Substituted
by 2241,
1935, s. 15.

199. Notwithstanding anything contained in this Act permission for the sale, supply, and consumption of liquor, in premises in respect of which a publican's licence or wine licence or a certificate of registration of a club is for the time being in force, or for the consumption of liquor in unlicensed premises as defined by subsection (3) of section 150 of this Act, may be granted in manner hereinafter provided and subject to the conditions hereinafter set forth, namely:—

- (a) The permission shall be granted only in respect of one night and shall be in force until midnight or such earlier time as is specified therein on that night:
- (b) The permission shall be granted on the occasion of a dinner, banquet, social gathering or other similar engagement to be given or held by any person, *bona fide* club, association or society or public body:
- (c) The application shall be made by writing in form in the Schedule VI. of this Act, signed by the licensee or, in the case of unlicensed premises, by the occupier thereof and by or on behalf of the person, club, association, society or public body on whose behalf permission is sought:
- (d) A copy of the application shall be delivered to the officer-in-charge of the police station nearest to the premises not less than twenty-four hours before the hearing of the application:
- (e) The application shall be made to a special magistrate or to two justices living within ten miles of the premises:
- (f) The magistrate or justices, upon hearing the application and anything stated in support thereof or in opposition thereto by any inspector or any member of the police force, may grant or refuse the permission, entirely at his or their own discretion:
- (g) Any permission granted under this section shall be by writing in the form of Schedule VII. to this Act:

- (h) Liquor may be sold or supplied or consumed in the case of licensed premises or may be consumed in the case of unlicensed premises under a permission granted under this section only to and by persons present at and taking part in the dinner, banquet, social gathering, or other similar engagement, and only in such room or rooms or other portion or portions of the premises as are specified in the permission and no bar room or place as mentioned in section 190 hereof, shall be so specified:
- (i) For the purposes of section 189, and for the purpose of section 202, the persons mentioned in paragraph (h) hereof shall, for the time for which the permission is granted, but only in so far as is necessary to make the permission effective, be deemed to be excepted persons:
- (j) Except to the extent by this section expressly provided, nothing in this section or in any permission granted hereunder shall authorise or excuse the doing or omission of anything contrary in any way to any provision of this Act.

200. (1) No holder of a publican's licence shall, if there is accommodation available in his house, refuse to receive any *bona fide* traveller as a guest into his house, or to supply him with food or lodging, or to receive his horse or horses, or to supply any such horse with sufficient provender, whether the owner lodges in his house or not, unless such traveller is intoxicated or is a known disreputable person.

Penalty on refusal to receive travellers. 1922, 1917, s. 195.

(2) And every such holder failing to comply with this section shall be guilty of an offence and liable to a penalty not exceeding five pounds.

(3) For the purposes of this section no person shall be deemed a *bona fide* traveller unless he resides at least five miles from the licensed premises where he requires to be received as a guest, or to be supplied with food or lodging, or to have his horse or horses received or supplied with provender, or to be supplied with food or other accommodation, and has travelled at least five miles on the day when he so requires to be received or supplied, or to have his horse or horses received or supplied.

201. Any person who by falsely representing himself to be a *bona fide* lodger within the meaning of section 195 hereof buys, or obtains, or attempts to buy or obtain at any licensed premises any liquor during any day or time during which the

Penalty for obtaining or attempting to obtain liquor by false representation. Ibid., s. 196.

sale of liquor is prohibited by law shall be guilty of an offence and liable for a first offence to a penalty of not less than five pounds, and for every subsequent offence to a penalty of not less than ten pounds.

Penalty for purchasing liquor or drinking liquor on licensed premises during prohibited time.
1322, 1917, s. 197.
1867, 1928, s. 12.

202. Any person other than an excepted person who during any day or time during which the sale of liquor is prohibited by law—

- (a) purchases or obtains or attempts to purchase or obtain liquor from any licensed premises;
- (b) is found drinking liquor in any licensed premises; or
- (c) is present in any bar-room on any licensed premises or in any place on licensed premises where liquor is kept for sale or stored,

shall be guilty of an offence and liable for a first offence to a penalty of not less than five pounds, and for the second and every subsequent offence of not less than ten pounds, and for the third and every subsequent offence to be imprisoned for not more than four weeks.

Penalty for persons unlawfully present on licensed premises.
1322, 1917, s. 198.
1436, 1920, s. 4.

203. (1) Any person, other than an excepted person, who during any day or time during which the sale of liquor is prohibited by law is present in any room or other part of any licensed premises, which room or part—

- (a) adjoins any bar-room on such premises or any place therein where liquor is kept for sale or is stored; and
- (b) has any door or other entrance or means of any kind by which admission can be gained to such bar-room or place; or
- (c) has any aperture or other means of any kind through or by which any liquor can be delivered or obtained from such bar-room or place,

such door, entrance, means, or aperture being at the time open or unlocked, shall be guilty of an offence and liable for a first offence to a penalty of not less than five pounds, and for every subsequent offence to a penalty of not less than ten pounds, unless he satisfies the special magistrate or justices that his presence in the said room or part was not for the purpose of purchasing or obtaining or attempting to purchase or obtain liquor.

(2) Any person other than an excepted person who is present on any licensed premises during any Sunday or Good Friday, except between the hours of one o'clock in the afternoon and half-past two o'clock in the afternoon and between the hours of six o'clock in the evening and eight o'clock in the evening or during any Christmas Day except between the hours of nine o'clock and eleven o'clock in the morning and between the hours of one o'clock and half-past two o'clock in the afternoon and between the hours of six o'clock in the evening and eight o'clock in the evening, or at any time on any other day except between the hours of five o'clock in the morning and eleven o'clock at night shall be guilty of an offence and liable to a penalty of not less than two pounds unless he satisfies the special magistrate or justices that his presence on those premises on that day or at that time was not for the purpose of purchasing or obtaining or attempting to purchase or obtain liquor.

Substituted
by 2241,
1935, s. 16.

204. In any proceeding for an offence against section 189 or section 202 or section 203 of this Act, any person present in the licensed premises shall, until the contrary is proved, be deemed not to be an excepted person.

Presumption
that persons
present on
premises not
excepted
persons.

1922, 1917,
s. 199.

205. (1) If any person, whether an excepted person or not, carries away liquor in any vessel from any licensed premises during any day or at any time during which the sale of liquor is prohibited by law, he shall be guilty of an offence and liable for a first offence to a penalty of not less than five pounds and not more than twenty pounds, and for a second or subsequent offence of not less than ten pounds and not more than fifty pounds.

Penalty for
carrying
liquor from
licensed
premises
during pro-
hibited times.

1922, 1917,
s. 200.
1867, 1923,
s. 13.

(2) No child under the age of sixteen years shall be convicted of an offence against this section if it is proved to the satisfaction of the special magistrate or justices that the child was ordered or requested by some other person to obtain or carry liquor as aforesaid.

(3) Any member of the police force or inspector may without any warrant stop and detain any person seen coming out of any licensed premises during any day or any time during which the sale of liquor is prohibited by law, and may

s. 205. *ALLCHURCH v. DARWENT* (1926) S.A.S.R. 376; 13 Austn. Digest 353. There must be an intention to carry away liquor in order to constitute an offence against s. 205.

CRAFTER v. JOHNSON (1935) S.A.S.R. 39. The penalty for an offence against s. 205 (1) should not be reduced below the prescribed minimum merely because there is no evidence of sale.

search that person and seize and carry away any vessel found in his possession and which the said member or inspector has reasonable cause to believe contains liquor.

(4) Any person who resists or obstructs any member of the police force or inspector in the exercise of his powers under this section shall be guilty of an offence, and in addition to any other penalty, be liable to a penalty of not less than two pounds.

Penalty on licensee when liquor delivered to persons outside licensed premises after hours.

1322, 1917,
s. 200a,
1367, 1928,
s. 14.

206. (1) If any liquor is conveyed by any person from any licensed premises to any person outside those licensed premises during any day or time during which the sale of liquor is prohibited by law, the holder of the licence in respect of those licensed premises shall be guilty of an offence, and shall be liable to a penalty for the first offence of not more than twenty pounds, and for the second and every subsequent offence of not less than five pounds, and not more than one hundred pounds, unless the holder of the licence proves to the satisfaction of the special magistrate or justices hearing the case that the liquor was conveyed, as aforesaid—

(a) contrary to the will of the holder of the licence, or if he was not at the time on the licensed premises, contrary to the will of the person at that time in charge thereof, and that the holder of the licence or the person in charge, as the case may be, took all reasonable steps to prevent the person conveying the liquor from doing so; or

(b) without the knowledge of the holder of the licence, or if he was not at the time on the licensed premises, without the knowledge of the person at that time in charge thereof and that the holder of the licence or the person in charge, as the case may be, exercised all practicable diligence to prevent the person conveying the liquor as aforesaid from doing so.

(2) In this section the term “convey” includes to transmit by hand or otherwise, with or without any change of bodily position on the part of the person conveying.

Provisions as to proof of liquor, and separate offences.

1322, 1917,
s. 201.

207. In any proceedings for an offence against any of the provisions of this Act—

(a) any liquid shall, until the contrary is proved, be deemed to be liquor; and

S. 206. *TREGILGAS V. JOHNS* (1933) S.A.S.R. 88; 13 Austn. Digest 441. In proceedings for an offence against s. 206 the prosecution must establish the conveyance of liquor by the person named in the complaint.

- (b) every separate sale or supplying shall be a separate offence.

208. (1) Any member of the police force or inspector may demand from any person found on or seen coming out of any licensed premises during any day or time during which the sale of liquor is prohibited by law the name and address of that person, and if he has reasonable ground to suppose that the name or address so given is false, may require that person to produce evidence of the correctness of the name or address given by him.

Powers of police with respect to persons on licensed premises at prohibited times.

1322, 1917, s. 202.
Cf. U.K. 10 Edw. 7 & 1 Geo. 5 c. 24, s. 82 (4), (5).

(2) If any such person, on demand being made as aforesaid, refuses or neglects to give his name or address, or fails, without reasonable cause, to produce any such evidence as aforesaid, the member of the police force or inspector may without any warrant apprehend the said person forthwith, and shall bring him before any special magistrate or two justices as soon as practicable to be dealt with according to law.

(3) Every such person who, on demand being made as aforesaid, refuses or neglects to give his name or address, or fails, without reasonable cause, to produce any such evidence as aforesaid, or gives a false name or address, or produces false evidence with respect to his name or address, shall be guilty of an offence and liable to a penalty of not less than two pounds.

209. (1) Any licensee on whose licensed premises any person is found, or out of whose licensed premises any person is seen coming during any Sunday or Good Friday except between the hours of one o'clock in the afternoon and half-past two o'clock in the afternoon and between the hours of six o'clock in the evening and eight o'clock in the evening, or during any Christmas Day except between the hours of nine o'clock and eleven o'clock in the morning and between the hours of one o'clock and half-past two in the afternoon and between the hours of six o'clock in the evening and eight o'clock in the evening, or at any time on any other day except between the hours of five o'clock in the morning and six o'clock at night shall be guilty of an offence and liable to a penalty of not less than two pounds and more than ten pounds unless he proves to the satisfaction of the special magistrate or justices hearing the case, that the said person—

Liability of licensee when person on premises during certain times.

1322, 1917, s. 203.
1436, 1920, s. 5.

Amended by 2241, 1935, s. 17.

- (a) was not on the premises for any purpose (whether the sole purpose or not) contrary to the provisions of this Act; or

- (b) was on the premises contrary to the will of the licensee, or, if the licensee was not at the time on

the premises, contrary to the will of the person at such time in charge thereof, and that the licensee or the person in charge (as the case may be) took all reasonable steps to prevent the said person from entering the premises and to remove him therefrom; or

- (c) was on the premises without the knowledge of the licensee, or, if the licensee was not at the time on such premises, without the knowledge of the person at such time in charge thereof, and that the licensee or the person in charge (as the case may be) exercised all practicable diligence to prevent the said person from entering or being on the premises.

(2) If a licensee charged with an offence against this section, which offence is alleged to have been committed between the hours of six o'clock in the evening and eleven o'clock at night, proves to the satisfaction of the special magistrate or justices hearing the case that he has at all times—

- (a) kept the front door of his licensed premises unlocked and capable of being readily opened; and

- (b) afforded to members of the police force desiring to enter and inspect his licensed premises all reasonable facilities for so doing,

he shall be deemed to be charged with an offence against section 210.

Liability on licensee when person unlawfully on premises between 6 and 11 p.m.
1322, 1917, s. 204.

210. Any licensee upon whose licensed premises any person is found, or out of whose licensed premises any person is seen coming, on any other day than Sunday, Good Friday, or Christmas Day, between the hours of six o'clock in the evening and eleven o'clock at night, shall be liable to a penalty of not less than two pounds and not more than ten pounds, if it is proved to the satisfaction of the special magistrate or justices hearing the case, that the said person was in such premises for any purpose (whether the sole purpose or not) contrary to the provisions of this Act, and with the knowledge of the licensee or the person in charge of the premises, unless it is proved to the satisfaction of the magistrate or justices that he was on the premises against the will of the licensee or person in charge.

Purposes contrary to provisions of Act.
Ibid., s. 205.

211. If any person is on licensed premises for the purpose of drinking, or obtaining possession or custody of, or carrying away liquor previously bought or supplied or given to him or any other person, this shall be deemed a purpose contrary to the provisions of this Act within the meaning of sections 209 and 210.

PART VI.

212. (1) The Governor may appoint a superintendent of licensed premises and such inspectors of licensed premises as he thinks fit.

Appointment of supervisor of licensed premises and inspectors.

1922, 1917, s. 207, 1908, 1927, s. 26.

(2) The offices of the superintendent of licensed premises and of the inspectors of licensed premises shall be offices in the Police Department, but the holders of those offices, if not members of the police force, shall be subject to the Public Service Act, 1936.

(3) The superintendent of licensed premises shall himself have all the powers of an inspector under this Act, and where necessary to give effect to this subsection the term inspector in this Act shall be construed as including the superintendent of licensed premises.

213. It shall be the duty of every such inspector—

Duties of inspectors.

1922, 1917, s. 208.

- (a) to ascertain by personal inspection the mode in which the licensed premises are conducted and managed:
- (b) to ascertain by personal inspection the state, condition, nature, and extent of accommodation of such premises:
- (c) to keep a record of all convictions against all licensees of such premises:
- (d) to see that the provisions of this Act are duly observed and followed by every person holding a licence thereunder:
- (e) to attend the annual and quarterly meetings of each court:
- (f) to report upon all or any of the licensed premises situated in the district of each court, with regard to the conduct and management of the same, and of the business carried on therein, and to the accommodation thereof.

And any such inspector may (subject to the provisions of section 50 hereof) object to any application for the grant of a new licence, or the renewal, removal, or transfer of an existing licence.

214. (1) Subject to this section every inspector may at any time—

Powers of inspectors to search for and seize suspected liquor.

Ibid., s. 209. Of U.K. 3 & 4 Vict. c. 61, ss. 11, 12.

- (a) enter the premises of, or any premises occupied or used by, any person (in this section referred to as the vendor) selling, or keeping, or offering, or exposing for sale any liquor:

s. 212. The expression "Public Service Act, 1936," has been substituted for "Public Service Act, 1916," pursuant to the Acts Republication Act, 1934.

- (b) search such premises for the purpose of ascertaining whether the vendor has in or upon them any substance, matter, or thing of a deleterious character which it may reasonably be inferred is kept for the purpose of adulterating or mixing with the liquor sold, or kept, or offered, or exposed for sale, or has for sale any adulterated liquor, or liquor containing any deleterious ingredient, or any liquor whatever not authorised to be sold by the licence (if any) held by him:
- (c) seize and take away any liquor whatsoever which he has reasonable grounds for believing to be adulterated, or to contain any deleterious ingredient, or to be not authorised to be sold as aforesaid, or to be unfit for human beings to drink, and also any substance, matter, or thing which he has reasonable grounds for believing to be of a deleterious character, and which he discovers on the premises of the vendor:
- (d) either on such premises or elsewhere, submit any liquor, substance, matter, or thing seized, or any sample thereof, to any test or analysis which he considers necessary for determining whether that liquor, substance, matter, or thing seized, or any ingredient, or is authorised to be sold by such licence as aforesaid, or is fit for human beings to drink, or whether that substance, matter, or thing is of a deleterious character.

(2) Every person upon whose premises, or upon the premises occupied or used by whom, any adulterated liquor, or liquor containing any injurious ingredient, or unfit for human beings to drink, or not authorised by such licence as aforesaid to be sold, or any substance, matter, or thing of a deleterious character, which it may reasonably be inferred is kept for the purpose of adulterating or mixing with the liquor sold, or kept, or offered, or exposed for sale, is found (of all which several matters the fact of such liquor, substance, matter, or thing being found on such premises shall be *prima facie* evidence) shall be guilty of an offence and liable to the like penalties, imprisonment, and disqualification as are provided in section 155.

(3) All liquor of the like kind to that seized, and all substances, matters, and things of a deleterious character found upon the premises shall be confiscated upon the order of the convicting magistrate or justices.

(4) No inspector shall enter any private room in the actual use or occupation of any *bona fide* lodger, or of any person holding a licence unless—

- (a) he has first given reasonable notice of his intention to that lodger or licensed person, or, in the case of the absence of either of them, to the person appearing to have charge of the licensed premises; or
- (b) he has the assent of such lodger or licensed person, or of the person appearing to be in charge of such premises as aforesaid.

(5) An inspector making any seizure under this section, if requested by the vendor at the time of seizure, shall in his presence—

- (a) set aside in a separate vessel or vessels, for analysis, a sample of the liquor, substance, matter, or thing seized:
- (b) annex to every such vessel the name and address of the vendor:
- (c) with such seal or seals (if any) as the vendor furnishes, secure such vessel, name, and address, in such manner that the vessel cannot be opened, or the name and address taken off, without breaking such seal or seals:
- (d) leave with the vendor a vessel containing a corresponding sample, and the name and address of the vendor secured thereto by such inspector, with his own seal, in manner aforesaid.

(6) No evidence of the analysis of the sample so sealed shall be receivable on the hearing of any complaint under this section, unless, previous to the opening of the vessel containing such sample, reasonable notice has been given by the inspector to the vendor or by the vendor to the inspector (as the case may require) of the time and place at which it is intended to open such samples for analysis, in order that the vendor or inspector may, if he thinks fit, attend and inspect the condition of the seals attached to such vessel.

215. (1) The holder of a publican's licence shall at all times keep the licensed premises in good repair and sufficiently well furnished for the accommodation of travellers and other persons using the same, and every part thereof thoroughly cleansed and disinfected.

Duty to keep
licensed
premises in
repair and
clean.
1922, 1917,
s. 210.

(2) If the holder of a publican's licence fails to put the said premises into such repair, or to have them so furnished

as aforesaid, or have the same or any part thereof so cleansed or disinfected as aforesaid, within the time mentioned in any notice in that behalf delivered to him by any inspector, the said holder shall be guilty of an offence and liable to a penalty not exceeding five pounds.

(3) The special magistrate or justices before whom any such holder is convicted under this section, or the court, after such a conviction, may direct the licensed premises to be closed until the notice is complied with; and thereafter and until the inspector has signified by notice in writing delivered to the holder that he is satisfied with the state of the premises, or until the special magistrate or justices who made the direction, or the court, directs that the said premises may be reopened, the said premises shall for all purposes under this Act be regarded as unlicensed and the said holder as not licensed in respect thereof.

Penalty on obstructing inspectors.
1922, 1917, s. 211.
Cf. U.K. 23 & 24 Vict. c. 27, s. 18.
Cf. U.K. 10 Edw. 7 & 1 Geo. 5 c. 24, s. 81.

216. Any person who—

- (a) refuses to permit any inspector to make any search;
or
- (b) hinders or delays any such search; or
- (c) obstructs or hinders any inspector in the performance of any of his duties under this Act, or the execution of any of the powers by this Act vested in or conferred upon him,

shall be guilty of an offence and liable to a penalty of not less than ten pounds nor more than one hundred pounds, or to be imprisoned for any period not exceeding six months, with or without hard labour.

Authority of inspectors and proof of appointment.
1922, 1917, s. 212.

217. Any inspector without further or other authority than this Act may execute the duties of his office in every district in the State, and it shall not be necessary for any inspector in any proceedings to prove his appointment as such inspector.

Power of justices and other authorised persons to enter licensed premises.
1922, 1917, s. 213.
1604, 1923, s. 10.
U.K. 10 Edw. 7 & 1 Geo. 5 c. 24, s. 81.

218. (1) Any inspector, justice, or officer of the police force of rank not lower than sub-inspector, or any member of the police force authorised in writing by any such officer of the police force, may demand entrance at any time into any licensed premises, or any bar-room, or other part thereof, or any appurtenances thereof, or any premises adjoining and occupied with such licensed premises or appurtenances, at any time, by day or night, and if admittance is refused or delayed for such time as makes it appear that wilful delay was intended, the licensee and any person to whom such demand was made shall be guilty of an offence and liable to

a penalty for a first offence of not less than five pounds and not more than twenty pounds and for any subsequent offence of not less than ten pounds and not more than thirty pounds.

(2) If on demand made as aforesaid admittance is refused or delayed for such time as last aforesaid, the inspector, justice, officer, or constable may break into and employ force to enter the licensed premises, bar-room or other part, or appurtenances or other premises as aforesaid.

(3) Such breaking and entry shall not affect the liability of the licensee and the person to whom such demand was made.

(4) The authority of a member of the police force, referred to in subsection (1) of this section, may be limited to one or more specified occasions, or one or more specified localities, or one or more specified premises, or may authorise the constable to act generally as in the subsection mentioned without limitation as to occasion, locality, or premises, or may be limited in any manner deemed proper by the officer giving the authority.

219. (1) Any inspector or any member of the police force who is of opinion that any liquor is being or has been sold, contrary to the provisions of this Act, in any house or place not being licensed premises, or in any licensed premises otherwise than is authorised by the licence granted in respect thereof, may at any time by day or night, with such (if any) assistants as he considers necessary—

Power to search premises when sale of liquor suspected.
1322, 1917, s. 214.
1867, 1928, s. 15.
Of. U.K.
10 Edw. 7 & 1 Geo. 5 c. 24, s. 82.

- (a) enter and search the said house, place, or premises, and every part thereof in which he suspects that liquor is sold or may be found;
- (b) if necessary break open the doors or other means of access to the said house, place, or premises, and every such part thereof, and any vessels suspected to contain liquor; and
- (c) seize all such liquor as he finds in the said house, place, or premises, and the vessels containing liquor.

(2) The inspector or member of the police force who effects a seizure pursuant to this section may detain the liquor and vessels seized until the owner thereof attends before a special magistrate or two justices to claim them, and satisfies such magistrate or justices how and for what purpose he became possessed thereof; and if the owner does not so attend within seven days after the day of their seizure, or if he does so

attend and it appears to the magistrate or justices, after examination, that the liquor was in the house, place, or premises for the purposes of being illegally disposed of, then the magistrate or justices shall adjudge the liquor, and the vessels containing it, to be confiscated to the Crown, whereupon it shall be absolutely confiscated to and become the property of the Crown; otherwise the liquor and vessels shall be restored to the person from whom they were seized.

Removal of devices.

Power of court to order removal of device calculated to facilitate breach of Licensing Acts.
1922, 1917, s. 215.

220. (1) The Licensing Court may, upon the recommendation of any inspector of licensed premises or of any member of the police force of rank not lower than sergeant, cause notice to be served upon the licensee of any licensed premises to attend before the said court to show cause why he should not remove from his licensed premises any contrivance, device, or thing whatsoever, which, in the opinion of the person making the recommendation, might be used by the licensee or by any other person to facilitate a breach by any person of any of the provisions of this Act.

(2) If the licensee fails to show cause to the satisfaction of the said court, then the said court may order the removal of the contrivance, device, or thing within such time as specified by the said court.

(3) Any licensee of any licensed premises who—

(a) refuses or neglects or fails to remove from his licensed premises within the time specified by the court any such contrivance, device, or thing when ordered so to do by the Licensing Court pursuant to subsection (1) of this section; or

(b) restores or replaces, whether in the same place or elsewhere on the said premises any such contrivance, device, or thing, or any contrivance, device, or thing substantially the same, after having removed the same when so ordered as aforesaid,

shall be guilty of an offence and liable to a penalty not exceeding fifty pounds.

Telephones on licensed premises.

Inserted by 2135, 1933, s. 20.

220a. (1) If after three months from the enactment of this section—

(a) there is upon any licensed premises any telephone not directly and solely connected with a public telephone exchange; and

- (b) there is not in force an order of the Licensing Court permitting that telephone to be on those licensed premises,

the licensee shall be guilty of an offence and liable to a penalty not exceeding fifty pounds, and an additional penalty of one pound for every day on which the offence continues.

(2) The Licensing Court may at any time make or revoke any order permitting any such telephone to be on any licensed premises.

PART VII.

PART VII.

TIED HOUSES AND ONEROUS LEASES.

221. (1) It shall not be lawful without the consent of the special magistrate constituting the court for the Midland District for any licensed person to give, or for any person to take, any security or charge for the payment of money over the lease, licence, goodwill, interest or other property of the licensee, in or in connection with the licensed premises, in which security or charge there is any agreement express or implied on the part of the borrower to have, take, or purchase liquor.

Tied houses.
1822, 1917,
s. 216,
1808, 1927,
s. 27.

(2) As a condition precedent to the giving of any such consent, the court may require to be satisfied that the terms and conditions of the security or charge, or any collateral agreement between the same parties relating to the licensed premises, are fair and reasonable.

No such term or condition shall be deemed to be fair and reasonable unless it is stipulated—

- I. that the prices to be charged to the borrower for any such liquor shall be fair and reasonable;
- II. that the borrower shall not be restricted in the purchase of any liquor to any particular brand, kind, class, or quality; and
- III. that the borrower shall, at any time, be at liberty to discharge the whole of his liability to the person to whom he is bound.

(3) This section shall be construed to extend to every document, agreement, condition, proviso, or stipulation, operating as a security or charge for the payment of money contained in any instrument or agreement for lease of the licensed

PART VII.

premises executed after the twenty-sixth day of March, nineteen hundred and sixteen, but not to any document, agreement, condition, proviso, or stipulation which merely extends a security or charge for the payment of money lent before that day, and not for any further advance, or which does not contain any agreement express or implied on the part of the borrower to have, take, or purchase liquor.

(4) In any proceedings for obtaining the consent of the court under this section, any inspector shall have the right to lodge any objection and to appear before the court and be heard.

Time for
application
as to tied
houses.
1322, 1917,
s. 217.

222. An application for the consent of the court under section 221 of this Act may be made, in manner prescribed by regulation, at any meeting of the court, or at such other time and place as are fixed and notified by the court in manner so prescribed.

PART VIII.

PART VIII.

LIMITATION OF NUMBER OF LICENCES.

DIVISION I.

DIVISION I.—LOCAL OPTION POLLS.

Power to
proclaim new
local option
districts.
Ibid., s. 219.
1752, 1926,
s. 3.

223. (1) The Governor may by proclamation—

- (a) declare the whole of any electoral district to be a local option district:
- (b) declare any subdivision of an electoral district or any group of two or more adjoining subdivisions, whether belonging to one electoral district or more than one electoral district, to be a local option district:
- (c) alter any local option district, but so always that the district as altered shall consist of an electoral district, or a subdivision of an electoral district or two or more adjoining subdivisions of one or more electoral districts:

s. 223. The local option districts in existence on the 26th day of April, 1937, were defined by proclamation; *Gazette* 1st July, 1926, p. 1.

(d) assign a name to any local option district so constituted.

(2) The power given by this section may be exercised from time to time and notwithstanding that any other Act or any proclamation (whether made under this or any other Act) is in force by or under which any local option districts have been constituted.

(3) No proclamation shall be made pursuant to the powers conferred by this section unless a resolution of both Houses of Parliament has previously been carried approving of the terms of the proposed proclamation and of the making thereof; and any proclamation made contrary to the requirements of this subsection shall be void. This subsection, however, shall not apply with respect to any proclamation made prior to the ninth of December, nineteen hundred and twenty-six.

224. (1) For the purposes of this section—

“old local option district” means any local option district existing immediately prior to the time of the making of any proclamation under the next preceding section:

Saving of resolutions in old districts until resolutions adopted in new districts.
1752, 1926, s. 3.

“new local option district” means a local option district constituted by any such proclamation.

(2) When any proclamation under the next preceding section has been made dealing with any area comprised in an old local option district in which a resolution adopted at a local option poll taken in that district is in force, that resolution shall notwithstanding the proclamation remain in force throughout the said area comprised in the old local option district: Provided that if a local option resolution is adopted in any new local option district which includes or consists of the whole or any part of the old local option district, the said resolution which was in force in the old local option district at the time of the making of the proclamation shall upon the said adoption cease to be in force as regards the said whole or part of the old local option district.

225. (1) A quorum of electors in any local option district (hereafter in this Division called “the local option district”) may, at any time prior to the issue of the writ for the then

Right to petition for poll.
1822, 1917, s. 220.

s. 224. R. (*ex relatione* DAVEY) v. THE LICENSING COURT (1922) S.A.S.R. 478; 13 Austn. Digest 179. As to effect of change of boundaries of a local option district under the law prior to Act 1752, 1926.

next general election, cause to be presented to the Governor a local option petition (hereafter in this Division called "the petition") praying that a local option poll be taken within the local option district. The petition may be in the form provided in Schedule W hereof. The writ referred to in this subsection is the writ for the House of Assembly election to be held, at the said general election, in the electoral district which constitutes the local option district, or in which the local option district is situate.

(2) For the purpose of this section "electors" means electors as defined in section 4 of this Act who reside within the local option district, and a "quorum" consists of five hundred of such electors, or one-tenth of the total number of such electors, whichever is the smaller number.

(3) The petition shall be deemed to be duly presented if delivered at the Minister's office to the Minister, or to the Secretary or Acting Secretary to the Minister.

Proof of
validity of
petition.
1822, 1917,
s. 221.

226. (1) Within seven days after the presentation of the petition, or as soon thereafter as is practicable, the Minister shall cause the petition to be referred to the Returning Officer for the State.

(2) The said officer shall examine the petition and the signatures thereto, and if he is of opinion that the petition has been duly and properly signed, he shall certify to the Minister in writing that it has been so signed.

(3) The certificate of the Returning Officer shall be published by the Minister in the *Gazette*, and the *Gazette* containing the certificate shall be conclusive evidence that the petition is valid and has been duly presented.

Duty to take
poll.
Ibid., s. 222.

227. (1) The Governor shall, upon receipt of the *Gazette* containing the certificate mentioned in the next preceding section, by Order in Council direct the returning officer for the electoral district which constitutes the local option district, or in which the local option district is situated (which returning officer is hereafter in this Division called "the returning officer") to cause a poll of the electors in the local option district to be taken on the day fixed for the poll at the then next general election, and at the polling-places within the local option district at which the poll at such election is taken.

(2) If no poll is taken at any such election within the local option district, then the local option poll shall be taken at the polling-places for the House of Assembly elections situated within that local option district.

(3) When the election is held within a period of one and a half years after the last preceding local option poll, no such poll shall be taken at that election, but a local option poll shall be taken on the day fixed for the poll at the next succeeding general election, not being within the said period of one and a half years.

(4) After the publication of the certificate of the returning officer for the State as provided by section 226, the Governor may, by Order in Council, prohibit the granting of licences for previously unlicensed premises in the local option district until the poll has been taken, and the declaration of the determination of the electors referred to in section 234 has been made.

228. The following persons and no others shall be entitled to vote at a local option poll, namely:—

Persons
entitled to
vote at
local option
polls.

1322, 1917,
s. 223,
1752, 1926,
s. 4.

Every person who is registered as an elector on the electoral roll for a subdivision of an electoral district, which subdivision forms the whole or a part of the local option district in which the local option poll is being held.

229. The classes of licences to which this Part applies are the following, namely:—Publicans' licences, wine licences, storekeepers' Australian wine licences, storekeepers' licences, and registration of clubs.

Licences to
be dealt with.
1322, 1917,
s. 224.

s. 229. *R. v. ADELAIDE LICENSING BENCH* (1906) S.A.L.R. 214; 13 *Austn. Digest* 177; affirmed in part by *RIEKEN v. YORKE PENINSULA LICENSING DISTRICT JUSTICES*; *KEANE v. ADELAIDE LICENSING DISTRICT JUSTICES* (1908) A.C. 454, 487; 77 L.J.P.C. 129; 78 L.J.P.C. 45; 99 L.T. 457, 529; 24 T.L.R. 818, 821. Brewers' colonial ale licences are not storekeepers' licences. *Seemle*, distillers storekeepers' licences are storekeepers' licences within the meaning of s. 229.

MCGRATH v. JUSTICES FOR THE ADELAIDE LICENSING DISTRICT (1908) A.C. 487; 77 L.J.P.C. 129; 99 L.T. 457, 529; 24 T.L.R. 818, 821; affirming *R. v. LICENSING BENCH OF YORKE'S PENINSULA*; *R. v. LICENSING BENCH FOR ADELAIDE LICENSING DISTRICTS* (1906) S.A.L.R. 214; 13 *Austn. Digest* 177. Brewers' colonial ale licences are not storekeepers' licences within the meaning of s. 229.

LEE AND OTHERS v. CASTLEREAGH BREWERY LIMITED (1935) S.A.S.R. 32. The term "storekeeper's licence" does not include brewers' Australian ale licence, notwithstanding s. 22 (4).

PART VIII.
DIVISION I.

Resolutions
to be sub-
mitted at local
option polls.
1322, 1917,
s. 225.

230. (1) The resolutions to be submitted at a local option poll are the following:—

- i. That the number of licences be reduced:
- ii. That the number of licences be not increased or reduced:
- iii. That the court may in its discretion increase the number of licences:

The above resolutions are hereafter in this Part referred to as the first, second, and third resolutions respectively. Until altered by regulation the ballot-paper may be in the form provided in that behalf in Schedule W hereto.

(2) There shall not be separate ballot-papers with reference to the separate classes of licences, but one ballot-paper shall apply to all classes of licences, subject to the following explanation:—

- (a) As to each class of licence of which there are not less than three licences current within the local

s. 230. The following is a table showing the resolutions which have been carried at local option polls and are in force on the 26th day of April, 1937:—

Name of District.	Poll Taken.	Result.	Gazette.	Page.
Adelaide	26th March, 1927	Resolution 2	7th April, 1927	803
Barossa	2nd April, 1910	Resolution 2	14th April, 1910 ...	677
East Torrens	26th March, 1927	Resolution 2	7th April, 1927	803
Encounter Bay	26th March, 1927	Resolution 2	7th April, 1927	803
Flinders Northern	No poll.			
Flinders Southern	26th March, 1927	Resolution 2	14th April, 1927 ...	846
Gladstone	26th March, 1927	Resolution 2	14th April, 1927 ...	846
Gumeracha	26th March, 1927	Resolution 2	14th April, 1927 ...	846
Kangaroo Island	2nd April, 1910	Resolution 2	14th April, 1910 ...	677
Kooronga	26th March, 1927	Resolution 2	28th April, 1927 ...	936
Kulpara	26th March, 1927	Resolution 2	7th April, 1927	803
Lameroo	26th March, 1927	Resolution 2	14th April, 1927 ...	846
Light	2nd April, 1910	Resolution 2	14th April, 1910 ...	677
Loxton	5th April, 1930	Resolution 3	24th April, 1930 ...	780
Millicent	26th March, 1927	Resolution 2	14th April, 1927 ...	845
Mount Barker	26th March, 1927	Resolution 2	7th April, 1927	803
Mount Gambier	26th March, 1927	Resolution 2	14th April, 1927 ...	846
Naracoorte	26th March, 1927	Resolution 2	14th April, 1927 ...	846
Newcastle Northern	At last poll this district	formed part of	Newcastle.	
Newcastle Southern	26th March, 1927	Resolution 2	14th April, 1927 ...	846
Noarlunga	26th March, 1927	Resolution 2	7th April, 1927	803
North Adelaide	26th March, 1927	Resolution 2	14th April, 1927 ...	846
Onkaparinga	26th March, 1927	Resolution 2	14th April, 1927 ...	846
Ororoo	26th March, 1927	Resolution 2	28th April, 1927 ...	936
Peterborough	26th March, 1927	Resolution 2	28th April, 1927 ...	936
Port Adelaide	26th March, 1927	Resolution 2	5th May, 1927	997
Port Pirie	26th March, 1927	Resolution 2	7th April, 1927	803
Stanley	26th March, 1927	Resolution 2	14th April, 1927 ...	846
Strathalbyn	26th March, 1927	Resolution 2	7th April, 1927	803
Sturt	26th March, 1927	Resolution 2	14th April, 1927 ...	846
Walleroo	26th March, 1927	Resolution 2	7th April, 1927	803
West Torrens	26th March, 1927	Resolution 2	14th April, 1927 ...	845
Woorora	26th March, 1927	Resolution 2	7th April, 1927	803
Yatala	26th March, 1927	Resolution 2	14th April, 1927 ...	845
Yorke Peninsula	26th March, 1927	Resolution 2	7th April, 1927	803

option district at the date of the poll, the first resolution shall be taken to mean that the number of licences so current be reduced by one-third of that number: Provided that where one-third is a mixed number the fraction shall be disregarded and the integer be deemed to be one-third; and

- (b) As to each class of licence of which there are less than three licences or no licence so current, the first resolution shall be taken as equivalent to the second resolution.

(3) On the ballot-paper each resolution shall bear the number given to it in subsection (1) of this section.

231. Each elector may record only one vote on his ballot-paper, and such vote shall be counted as recorded in favour of the resolution in favour of which it purports to be given.

Mode of
voting.
1822, 1917,
s. 226.

232. The following provisions shall obtain in regard to the votes recorded at a local option poll:—

Effect of
vote.
Ibid., s. 227.

- (a) If the votes recorded in favour of the first resolution constitute a majority of the valid votes recorded at the poll, the first resolution shall be adopted:
- (b) If the votes recorded in favour of the first resolution do not constitute a majority of the valid votes recorded at the poll, the votes recorded in favour of the first resolution shall be added to the votes recorded in favour of the second resolution :
- (c) If the sum of the votes thus found constitutes a majority of the valid votes recorded at the poll, then the second resolution shall be adopted:
- (d) If the sum of the votes thus found does not constitute a majority of the valid votes recorded at the poll, then the third resolution shall be adopted.

233. For the purpose of a local option poll the electoral rolls in force at the time of the poll shall be accepted as correct, and their correctness shall not be inquired into by any court, tribunal, or person whatsoever.

Electoral
rolls to be
deemed
correct.
Ibid., s. 228.

234. (1) The returning officer, at the conclusion of a local option poll, shall proceed to count the votes recorded thereat for the various resolutions voted upon, and shall as soon as

Declaration
of determina-
tion of
electors.
Ibid., s. 229.

practicable, by advertisement in the *Gazette*, declare the determination of the electors at the poll.

(2) The *Gazette* containing the said advertisement shall be conclusive evidence that the poll has been validly held and duly taken, that the votes have been correctly counted, and that the determination has been correctly ascertained and duly declared.

(3) The said declaration may be in the form provided in that behalf in Schedule W hereto.

Appointment
of scrutineers,
1922, 1917,
s. 230.

235. (1) The Governor may make regulations to provide for the appointment of not more than ten scrutineers to act at each polling-place at a local option poll.

(2) The regulations so made shall contain provisions which will enable—

- (a) the holders of each class of licence which may be affected by the poll to appoint one scrutineer;
- (b) those who are in favour of reducing the number of any class or classes of those licences to appoint one scrutineer for each such class; and
- (c) the appointment of scrutineers to act on each side in respect of classes of licences of which there are no licences current.

(3) Until such regulations are made, Regulations Nos. 8-13 inclusive in the Schedule W shall apply to the appointment of scrutineers.

(4) Every scrutineer appointed pursuant to this section shall, so far as is consistent with this Act, have the same rights and powers as are conferred upon scrutineers by the Electoral Act, 1929.

Mode of
conducting
local option
polls.
1922, 1917,
s. 231.

236. (1) All local option polls shall be taken by ballot.

(2) Such polls shall be taken in the manner prescribed by the regulations as to polls in Schedule W hereto, but the Governor may, by proclamation, repeal, alter, or amend those regulations, or any of them, and make regulations in substitution for, or in addition to, those regulations, prescribing the mode in which such polls are to be taken.

PART VIII.
DIVISION I.Validity of
poll.1922, 1917,
s. 232.

237. (1) No local option poll shall be held to be void on the ground of any error or omission in any matter of form or procedure, or for non-compliance with any such matter, or on any other ground whatsoever, unless the error, omission, non-compliance or other ground is proved to have affected the result of the poll.

(2) This section shall not be regarded as diminishing the effect of any of the provisions of this Part.

DIVISION II.—THE ENFORCING OF THE FIRST RESOLUTION.

DIVISION II.

Court for
giving effect
to resolutions.Ibid., s. 233.
1808, 1927,
s. 28.

238. (1) If the first resolution is adopted at any local option poll in any local option district, a special court shall be constituted for the purpose of effecting a reduction of the number of licences in that district in pursuance of the resolution so adopted.

(2) Hereafter in this Division the local option poll at which the first resolution was adopted is called "the poll," the local option district in which the poll was taken is called "the local option district," the special court constituted for the purpose hereinbefore mentioned is called "the special court," and the resolution so adopted is called "the resolution."

(3) The special court shall consist of three members appointed by the Governor by proclamation published in the *Gazette*. A special magistrate shall be appointed to be one of the members of the special court and to be president thereof. The president of the special court is hereafter in this Division called "the president."

(4) The members of the special court shall be appointed within one month after the publication of the *Gazette* containing the returning officer's declaration of the determination of the electors at the poll: Provided that if any member or members are appointed at a later time, neither that appointment nor any proceedings of the special court shall for that reason be invalid: Provided also that in the case of the death or resignation of any member another member may be appointed as aforesaid in his place.

s. 237. *R. v. YORKE'S PENINSULA LICENSING BENCH* (1906) S.A.L.R. 214; 13 Austn. Digest 177; affirmed in other parts by *RIEKEN v. YORKE PENINSULA LICENSING DISTRICT JUSTICES*; *KEANE v. ADELAIDE LICENSING DISTRICT JUSTICES* (1908) A.C. 454; 77 L.J.P.C. 129; 78 L.J.P.C. 45; 99 L.T. 457, 529; 24 T.L.R. 818, 821. Held under The Local Option Act, 1905, that the inclusion in the ballot papers of an unauthorised resolution, and the mis-statement of the number of licences current, invalidated the whole poll in the particular district.

(5) The president shall preside at all meetings of the special court, and the special court shall be duly constituted if the president and one other member are present.

(6) The president may appoint any person to be clerk to the special court, and may appoint any other officers deemed by him necessary for the performance of the functions of such court, and may discharge such clerk and other officers, and from time to time make any other such appointments.

Court to
meet as soon
as conveni-
ent.
1322, 1917,
s. 234.

239. The special court shall meet for the purpose mentioned in the next preceding section as soon as convenient after its appointment, and not later than two months after the publication of the proclamation appointing it: Provided that if for any reason it does not meet within the time herein mentioned it shall meet as soon thereafter as practicable, and that failure to meet within any particular time shall not affect the validity of its proceedings. The special court may adjourn from time to time, and may sit at and adjourn to such place or places as it deems convenient.

Powers of
special court.
Ibid., s. 235.

240. (1) The special court shall be a court of record, with power to make all general and other rules necessary for the conduct of its business, and for the enforcing of its orders and adjudications.

(2) The president may take, administer, and cause to be taken and administered, oaths, declarations, and affirmations in any matter within the jurisdiction of the special court.

(3) The provisions of sections 67 and 68 of this Act relating to the Licensing Court and its proceedings, and to persons summoned to attend as witnesses or present at any hearing, shall apply respectively to the special court and its proceedings, and to persons summoned to attend as witnesses before the special court or present at any of its meetings.

(4) The special court may obtain all such information as it deems convenient for the purposes of this Division by such means as it deems expedient, and may require any member of the police force, or any inspector, to make any inspections and reports of and upon any licensed premises.

s. 240. *R. v. YORKE'S PENINSULA LICENSING BENCH* (1906) S.A.L.R. 214; 13 Austn. Digest 177; affirmed in part by *RIEKEN v. YORKE PENINSULA LICENSING DISTRICT JUSTICES*; *KEANE v. ADELAIDE LICENSING DISTRICT JUSTICES* (1908) A.C. 454, 487; 77 L.J.P.C. 129; 78 L.J.P.C. 45; 99 L.T. 457, 529; 24 T.L.R. 818, 821. *Semble*, the functions of the special court are judicial and not administrative and prohibition will lie to prevent the court from exceeding its jurisdiction. It is not necessary, in order that the special court shall have jurisdiction, to prove the presentation of a local option petition, the taking of the poll or other steps preliminary to the publication of the determination of the electors.

(5) Any member of the special court or any person authorised by it in writing, may enter and inspect any licensed premises at any time, by day or night.

If admittance to any such premises is refused or delayed, after demand made by such member or person as aforesaid for such time as makes it appear that wilful delay was intended, the licensee of the premises, and every person who wilfully refuses or for such time as last aforesaid delays such admittance shall be guilty of an offence and liable to a penalty not exceeding twenty pounds.

The powers conferred upon any person by this subsection are in addition to any powers conferred upon him or any other person by or under the provisions of section 218 hereof.

(6) The determination of the special court for giving effect to the resolution shall be final and conclusive, and there shall be no appeal therefrom, and no other proceedings before or order by the special court shall be appealed against, challenged, stayed, reversed, arrested, removed, or avoided for any error or omission unless some substantial wrong appears to have been done, or some other miscarriage of justice appears to have been occasioned by reason of that error or omission.

241. The special court shall give effect to the resolution, as explained by subsection (2) of section 230, by determining which of the licences in each class in which a reduction is to be effected shall not be renewed after the expiration of the year for which they were granted.

How reduction to be effected.
1322, 1917,
s. 236.

242. (1) For the purpose of making its determination under the next preceding section (hereafter in this Division called "the determination") the special court shall cause a classification to be made as hereinafter provided of the premises licensed under each class of licences in which a reduction is to be effected: Provided that no error in such classification shall invalidate the determination.

Procedure for determining what licences not to be renewed.
Ibid., s. 237.

(2) The classification shall include licensed premises as to which the following conditions or any of them apply:—

- (a) It is proved that the business in the premises is so badly conducted as to be a serious inconvenience to persons requiring accommodation or a nuisance to neighbours, or that the premises are insufficiently provided with proper sanitary conveniences:

- (b) There have been within the three years next preceding the poll either two or more convictions for one of the offences for which a licence is liable to be forfeited under this Act, or one conviction for one and one conviction for another of such offences of the same or different licensees of the same premises:
- (c) There has been within the said three years a conviction of any licensee of the premises for any one of the said offences.
- (3) In making the determination the special court shall—
- (a) consider the convenience of the public and the requirements of the several localities in the local option district:
- (b) subject to such consideration, determine in the first place that the licences of premises to which paragraph (a) of the next preceding subsection applies, or so many of those licences as are necessary for giving effect to the resolution as to the particular class of licences, and, in its absolute discretion, which of those licences, shall not be renewed; and if, after having so determined as to all the licences of premises to which paragraph (a) applies, the required reduction has not been provided for, shall deal in the same manner with those to which paragraph (b) of the said subsection applies; and if the required reduction has not then been provided for, shall deal in the same manner with those to which paragraph (c) of the said subsection applies.
- (4) If, after giving effect to the provisions of this section relating to premises to which paragraphs (a), (b), and (c) of subsection (2) apply, the required reduction has not been provided for, the special court shall determine, in its absolute discretion, which other licences shall not be renewed.
- (5) Subject to the foregoing provisions of this section, the special court in making the determination shall decide as in its absolute discretion it deems proper.
- (6) The president shall sign a certificate (hereinafter called "the president's certificate") setting forth the determination.

(7) The president's certificate shall be conclusive that the determination was properly and validly made, that all proceedings taken or required to be taken for making the same were duly taken, and that the determination is correctly stated therein.

243. (1) At least seven days before the first meeting of the special court for the purpose mentioned in section 238 hereof, the president shall give notice in writing of that meeting to every person who holds a licence of any class in which a reduction is to be effected and whose licensed premises are situate within the local option district.

Right of
licensees to
be notified
and be
heard.
1322, 1917,
s. 238.

(2) In any proceedings by the special court under the next preceding section for—

- (a) classifying licensed premises, or
- (b) making the determination,

any person who may be directly affected by the determination may appear before the special court, and shall, if he so requests, be heard in person or by counsel or agent, and may call evidence.

244. If the number of licences of any class in which a reduction is to be effected by any means becomes more or less after the poll than it was at the date of the poll, the special court shall nevertheless by the determination provide for the reduction of the number of licences of that class by one-third of the number of those licences current at the date of the poll.

Effect of
reduction of
licences after
poll.
Ibid., s. 239.

245. (1) When the special court has made the determination the president shall—

- (a) publish the president's certificate in the *Gazette*:
- (b) give notice to the holders of the licences which it is determined shall not be renewed. The notice shall be in the form in Schedule X. hereto, but failure of any notice to reach any licensee shall not invalidate any action of the special court or of the licensing court:

Publication
and notifica-
tion of the
determina-
tion.
1322, 1917,
s. 240.

- (c) send a duplicate signed by him of the president's certificate to the clerk of the licensing court.

(2) The clerk shall preserve and file the said duplicate for future reference.

PART VIII.
DIVISION II.

(3) The production of the *Gazette* containing the president's certificate shall be *prima facie* evidence in all proceedings of the contents of the president's certificate and of the determination.

Licensing
Court to give
effect to the
determina-
tion.
1922, 1917,
s. 241.

246. (1) The licensing court shall, at its annual meeting next after the determination is made, reduce the number of licences by not renewing any of the licences which the special court has determined shall not be renewed.

(2) The licensing court shall not at the said annual meeting or at any subsequent meeting, whilst the resolution continues in force, be bound to grant as many licences of any class as the number to which licences of that class are by the resolution as explained by subsection (2) of section 230, required to be reduced, and shall not grant more licences of that class than that number. In other respects the discretion of the licensing court shall continue as before the local option poll.

DIVISION III.

DIVISION III.—EFFECT OF OTHER RESOLUTIONS.

Effect of
adoption of
second resolu-
tion.
Ibid., s. 242.

247. If the second resolution is adopted at a local option poll in any local option district, no licence of any class shall thereafter, whilst that resolution continues in force, be granted in that district, except in respect of premises licensed at the time of the poll or premises to which a licence existing within the said district at the said time is removed.

Effect of
adoption of
third resolu-
tion.
Ibid., s. 243.

248. If the third resolution is adopted at a local option poll in any local option district, licences of any class may, whilst that resolution continues in force, be granted in the discretion of the licensing court in respect of premises situate within that district which were not licensed at the time of the poll: Provided that the licences of any class so granted for any year shall not exceed in number one-third of the number of licences of that class current at the time of the poll in respect of premises so situated: Provided, nevertheless, that if the number of such licences so current in respect of such premises is less than three, or there were no such licences current, one licence, and no more, may be so granted.

s. 247. *WHITE v. LICENSING COURT* (1919) A.C. 927; 88 L.J.P.C. 111; 121 L.T. 524; 26 C.L.R. 257; 13 Austn. Digest 178; affirming *LICENSING COURT (S.A.) v. WHITE* 24 C.L.R. 318 which reversed *R. v. LICENSING COURT*; *Ex parte WHITE* (1917) S.A.L.R. 157. The adoption of the second resolution does not preclude the Licensing Court from exercising the absolute discretion given by s. 66 to refuse to renew a licence.

DIVISION IV.—GENERAL.

DIVISION IV.

249. If any local option poll is for any reason invalid, the Governor may, by Order in Council, direct the returning officer of the electoral district constituting or comprising the local option district wherein that poll was taken to cause a further local option poll to be taken upon a day to be fixed in the Order in Council, which poll such returning officer shall cause to be taken, and the like proceedings shall thereupon be taken and the like results follow as if the former poll had not been taken.

Further poll
when poll
invalid.
1822, 1917,
s. 244.

250. A resolution adopted at a local option poll taken under this Act or under any Act repealed by this Act shall continue in force until altered or rescinded by a resolution adopted at a subsequent local option poll.

Time for
which resolu-
tions con-
tinue in
force.
Ibid., s. 245.

251. If, at the date of any local option poll, the number of licences of any class as to which a resolution for reduction was adopted at any former local option poll (whether taken before or after the passing of this Act) has not been reduced in accordance with the resolution, and whether the licensing court or special court (as the case may be) has or has not at the said date determined, for the purpose of the reduction, what licences shall not be renewed, the number of licences of that class current at the date of the first-mentioned poll shall be deemed to be not more than the number to which such licences were by such resolution required to be reduced.

Number of
licences
deemed to be
current when
earlier resolu-
tion not given
effect to.
Ibid., s. 246.

Whatever is the result of the later poll, effect shall be given to the said resolution, and if a resolution for reduction is adopted at the later poll, effect shall be given to the last-mentioned resolution also.

252. (1) Where in consequence of—

- (a) a resolution adopted at a local option poll under this Act; or
- (b) the refusal by the court under section 66 of any application,

Surrender of
tenancy if
licence not
renewed.
Ibid., s. 247.
1449, 1920,
ss. 3 and 4.

the licence of any premises is not renewed or ceases to be in force, and such premises are in the occupation of a lessee, the lessee may, at any time after the non-renewal of such licence or after such licence has ceased to be in force, give to his immediate lessor written notice of his intention to

PART VIII.
DIVISION IV.

surrender his lease at the expiration of fourteen days from the giving of such notice.

(2) At the expiration of such fourteen days the lessee may surrender his lease, and the lessor shall—

(a) accept such surrender; and

(b) execute all documents and do all other things which are necessary to give effect to such surrender and acceptance.

(3) Nothing in this section shall affect any right or remedy to which the lessor or lessee is lawfully entitled for anything done or omitted to be done under the lease so surrendered, prior to the date of such surrender.

(4) In this section the term “lease” means a lease or agreement for tenancy, whether in writing or not, and includes a sublease, and the terms “lessor” and “lessee” have corresponding meanings.

(5) The provisions of this section shall apply notwithstanding that the non-renewal of the licence occurred, or the licence ceased to be in force before the passing of this Act.

Fees for
members of
special courts
and officers.
1922, 1917,
s. 248.

253. The Governor may by regulation make provision for salaries and fees and allowances for expenses to be paid to members of special courts appointed under this Part, and to the clerks and officers of these special courts, and to the returning officers and other persons for taking local option polls and in connection therewith, and for allowances for travelling expenses of members of licensing courts, and may from time to time by regulation alter or rescind any such provision, and make such other (if any) provision for such salaries, fees, and allowances as he deems expedient.

PART IX.

PART IX.

LEGAL PROCEEDINGS AND EVIDENCE.

Enforcement
of orders for
payment.
Ibid., s. 267.
1808, 1927,
s. 29.
Of. U.K.
35 Geo. 3
c. 113, s. 2
(part).

254. The payment of any money ordered by the court to be paid under the authority of this Act may be enforced upon the order of the court, signed by the special magistrate constituting the court in like manner as an order of a justice made under the provisions of the Justices Act, 1921; or, at

the discretion of the court, by the committal of the offender to prison for a period not exceeding three calendar months, unless payment thereof be sooner made.

255. In all cases where costs or any other moneys are ordered by the court to be paid, the form of order may be in the form in Schedule Y hereto, or to the like effect.

Form of
order by the
court.
1322, 1917,
s. 268.

256. (1) Any person duly summoned to attend and give evidence in the matter of any application for the grant, renewal, transfer, or removal of any licence, and to whom payment or a tender of payment of his expenses at the rate mentioned in this section has been made, and who refuses or neglects, without sufficient cause, to attend, and also every person present at the hearing, whether so summoned or not, who is required to give evidence in such matter, and who refuses to be sworn and give evidence, shall be liable to pay such fine, not exceeding ten pounds, as the court imposes.

Penalty on
witness duly
summoned not
appearing.
Ibid., s. 270.
Of U.K.
35 Geo. 3
c. 113, s. 10.
Of U.K.
23 & 24 Vict.
c. 27, s. 38.

(2) The whole or any part of any such fine shall at the discretion of the court be applicable towards indemnifying the party injured by such refusal or neglect.

(3) The rate of payment for expenses is as follows:—

For persons other than children under fifteen—Seven shillings and sixpence per day.

For children under fifteen—Three shillings and sixpence per day.

Travelling expenses per mile one way—Sixpence.

257. (1) Whenever any licensed person is charged with any offence under this Act he shall produce his licence, certificate, permit, or order to the special magistrate or justices hearing the charge, and if the licensed person is convicted of any offence on the hearing the special magistrate or justices shall indorse a memorandum of that conviction on the licence, certificate, permit, or order.

Production
of licences
on hearing of
charges.
1322, 1917,
s. 271.
Of U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 84.

(2) Any licensed person who upon the hearing of such a charge refuses or neglects to produce his licence, certificate, permit, or order shall be guilty of an offence and liable to a penalty not exceeding twenty pounds.

258. Every proceeding under this Act for omissions, defaults, neglects, acts, or offences, to which forfeitures, fines, imprisonments, or other penalties attach shall, except where otherwise provided, be heard and determined in a summary

Summary
procedure.
1322, 1917,
s. 272.
Of U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 99.

way by any special magistrate or two justices, under the provisions of the Justices Act, 1921.

Service of
process,
notices, and
documents.
1922, 1917,
s. 273.
Cf. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 108.

259. (1) Except where otherwise expressly provided, and subject to the provisions of this section, any summons, information, complaint, or other proceeding whatsoever, and any notice of application, or other notice, or other document whatsoever, required by this Act to be served upon or delivered or given to any person, shall be deemed to have been duly served upon or delivered or given to such person if and when served upon or delivered or given to or left with him personally, or left with some person for him at his last known or most usual place of abode. Service, delivery, or giving in all cases provided for in this section may be proved either orally or by affidavit sworn before any Commissioner for taking Affidavits in the Supreme Court, or by declaration made before any justice.

(2) Any notice of objection to the grant, renewal, transfer, or removal of a licence, and any notice required to be given by any special court or the president of a special court shall, for the purposes of this Act, be deemed to have been duly delivered or given to and received by the person to whom addressed if posted in a prepaid registered letter or packet, addressed to the person to whom it is required by this Act to be delivered or given at his usual or last known place of abode; and such notice shall be deemed to have been delivered or given to and received by such person at the time when the letter or packet containing it would be delivered to such person in the ordinary course of post, or if postal matter is not usually delivered at the said place of abode, then at the time when the said letter or packet would in the ordinary course of post be received by such person.

When com-
plaint to be
laid.
1922, 1917,
s. 274.
Cf. U.K.
35 Geo. 3
c. 113, s. 16.

260. (1) All complaints under this Act against any licensed person (other than the holder of a packet licence) for any offence shall be laid, and the summons thereon shall be served, within one month after the commission of the act in respect of which the complaint is laid.

s. 260. *R. v. NESBIT; Ex parte SMITH* (1928) S.A.S.R. 470; 12 Austn. Digest 328; 13 Austn. Digest 435. Where the summons was served within the prescribed month, but was not shown to have come to the notice of the defendant, and the magistrate did not take action under the proviso to s. 27 of the Justices Act, 1921, held that the service was good.

TREGILGAS v. HOWIE (1926) S.A.S.R. 122; 12 Austn. Digest 233; 13 Austn. Digest 427. Where a "complaint" which disclosed no offence was amended, after the expiration of one month after the commission of the act charged, so as to disclose an offence, held that the proceedings were out of time.

(2) All such complaints against any holder of a packet licence shall be laid against and the summons thereon shall be served upon such holder within two months after the commission of such act.

(3) All such complaints against any unlicensed person shall be laid against and the summons thereon shall be served upon such person within six months after the commission of such act.

261. Any complaint under this Act shall be held sufficient if it gives the accused a reasonably clear and intelligible statement of the offence with which he is charged, and no conviction or warrant of commitment shall be held void, invalid, or be quashed for any defect in substance or in form; and the special magistrate or justices shall, at or before the hearing, amend any complaint which in their opinion is defective or ought to be amended, upon such terms (if any) as to costs, adjournment, or otherwise as they think fit; and any special magistrate may amend any conviction or warrant of commitment at any time after the same has been signed, and before it has been executed.

Power to
amend.
1322, 1917,
s. 275.

262. Every person who aids, abets, counsels, or procures the commission of any offence under this Act, which is punishable on summary conviction, shall be liable to be proceeded against and convicted for the same offence, either together with the principal offender or before or after his conviction, and shall be liable on conviction to the same penalty, forfeiture, and punishment as the principal offender is by law liable.

Prosecution
and punish-
ment of
aiders and
abettors in
the commis-
sion of
offences.
Ibid., s. 276.

263. For the purposes of this Act every order, proclamation, notice, or other notification appearing in the *Gazette* relating to any licensing or local option district, the licensing or any special court, any member or clerk or other officer of any such court, any inspector, member of the police force, electoral or other officer or person, or any licence, certificate, permit, order, or other matter shall be *prima facie* evidence in all judicial and other proceedings of the matters mentioned in such order, proclamation, notice, or notification.

Notices
appearing in
Gazette to be
prima facie
evidence.
Ibid., s. 277.

s. 261. *JAMES V. TRELOAR* (1922) S.A.S.R. 536; 12 Austn. Digest 631. This section does not prevent an appellate court from setting aside a conviction on the ground that there was no evidence to support it.

s. 262. *SMITH V. EDWARDS* (1916) S.A.L.R. 116; 13 Austn. Digest 315. Held on the facts that a servant of an unlicensed person, who sold liquor aided and abetted the sale.

ALLCHURCH V. COOPER (1923) S.A.S.R. 370; 5 Austn. Digest 150; 13 Austn. Digest 303. A servant of an unlicensed person selling liquor in ignorance of the nature of the article sold does not thereby aid and abet an offence under s. 161.

PART IX.

Presumption
that
defendant
unlicensed
in certain
cases.
1322, 1917,
s. 278.

264. In all proceedings against any person for selling, or permitting to be sold, any liquor without a licence, that person shall for all purposes connected with those proceedings be deemed unlicensed, unless he at the hearing of the case produces his licence, certificate, permit, or order to the special magistrate or justices, or furnishes other satisfactory proof of his being licensed.

Proof that
person or
premises is
licensed.
1322, 1917,
s. 279.
1604, 1923,
s. 12.

265. (1) Any person alleged in any complaint under this Act to be a licensed person shall, for all purposes connected with and in all proceedings under or upon the complaint, be deemed to be a licensed person, and to be licensed in respect of the premises (if any) in respect of which he is, in the complaint, alleged to be licensed, unless he at the hearing of the complaint satisfies the special magistrate or justices to the contrary.

(2) Any premises alleged in any complaint under this Act to be licensed premises shall, for all purposes connected with and in all proceedings under or upon such complaint, be deemed to be licensed premises, unless at the hearing of such complaint the special magistrate or justices are satisfied to the contrary.

Proof of
sale of
liquor.
1322, 1917,
s. 280.

266. (1) The fact that any person who does not hold a licence—

(a) keeps up any sign, writing, or other mark on or near to his house or premises, or has his house or premises fitted up with a bar or other place containing bottles, casks, or other utensils openly displayed so as to imply or give reasonable cause to believe that the house or premises is or are licensed for the sale of any liquor, or that any liquor is sold or served therein; or

(b) has in his house or premises a quantity of liquor more than is reasonably required for the use of the persons residing therein;

shall be *prima facie* evidence of the unlawful sale of liquor by that person.

(2) In all cases where liquor is carried about from one place to another the burden of proving that the liquor was

s. 265. *STIEVEN v. ALLCHURCH* (1922) S.A.S.R. 379; 13 Austn. Digest 382. Held that s. 265 applied where the defendant was described in the complaint as "the holder of a licence."

s. 266. *BADMAN v. ALLCHURCH* (1927) S.A.S.R. 174; 13 Austn. Digest 354. Subsection (2) of s. 266 applied. Where the defendant carried liquor, which had not been ordered, from his hotel to a road with the intention of carrying it back to the hotel if it was not sold on the road, held that he had carried liquor about.

Of. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 73 (2).

not so carried or exposed for sale or that the person charged is within the exceptions in this Act set out shall be cast on the person carrying or exposing the liquor.

267. (1) In proving the sale or consumption of liquor for the purpose of any proceeding relative to any offence under this Act, it shall not be necessary to show that any money or other consideration actually passed, or that any liquor was actually consumed, if the special magistrate or justices sitting at or on the hearing of the complaint are satisfied that a transaction in the nature of a sale of liquor actually took place, or that any consumption of liquor was about to take place.

Evidence of sale or consumption of liquor.
1322, 1917, s. 281.
Of. U.K.
10 Edw. 7 & 1 Geo. 5 c. 24, s. 85 (1).

(2) The delivery to any person of liquor by a licensed or unlicensed person, or by the owner or occupier of any licensed or unlicensed house, place, or premises, or by his servant or any other person in the licensed or unlicensed house, place, or premises shall be deemed to be *prima facie* evidence of the supply of liquor by the holder of the licence, or by the person delivering the liquor.

Delivery of liquor to be *prima facie* evidence of supply.
Of. U.K.
10 Edw. 7 & 1 Geo. 5 c. 24, s. 85 (2).

(3) The delivery to any person of liquor by a licensed or unlicensed person, or by the owner or occupier of any licensed or unlicensed house, place, or premises, or by his servant or any other person in the licensed or unlicensed house, place, or premises, shall be deemed to be sufficient evidence of the sale of liquor by the holder of the licence, or by the person delivering the liquor, or of the consumption of liquor by the person to whom delivered, so as to support a conviction, unless evidence to the contrary to the satisfaction of the special magistrate or justices is given.

(4) Where in any complaint it is alleged that liquor has been sold, or supplied, or consumed, on the premises specified

Amended by 2241, 1935, s. 18.

S. 267. *STIEVEN V. ALLCHURCH* (1922) S.A.S.R. 379; 8 Austn. Digest 466; 13 Austn. Digest 382. S. 267 is not limited to cases where sale is the sole ingredient of the offence.

HAMPTON V. BOURKE (1922) S.A.S.R. 454; 8 Austn. Digest 466; 13 Austn. Digest 383. The presence on licensed premises of two or more such persons, as mentioned in s. 267 (4) is evidence of the sale, supply or consumption alleged in the complaint.

DINEEN V. ALLCHURCH (1924) S.A.S.R. 10; 13 Austn. Digest 340. Subsec. (1) only assists in proving fact of sale—the time and place must be established by other means. S. 267 (2) held, on the evidence, not to apply.

CASEY V. MILLER (1928) S.A.S.R. 26; 13 Austn. Digest 383. The presumption in subsec. (4) extends to the fact of supply, the illegality of the supply and the time of supply.

PITTOCK V. NOBLET (1930) S.A.S.R. 305; 13 Austn. Digest 384. If a complaint describes the premises in such a way that more than one place answers the description, the premises are not “specified” and s. 267 (4) does not apply.

S. 267. (4) *BROWNE V. NOBLET* (1935) S.A.S.R. 451. S. 267 (4) (as existing prior to the passing of Act 2241, 1935) applied.

in the complaint, the presence thereon of two or more persons shall be *prima facie* evidence of such sale, supply, or consumption (according to the nature of the charge): Provided that if the said premises are licensed premises this subsection shall not apply unless one or more of the said persons is not an excepted person.

Members of
police force,
etc., not
accomplices.
1322, 1917,
s. 282.

268. No member of the police force or inspector who purchases liquor, and no person who purchases liquor at the request of a member of the police force or an inspector, shall be deemed an accomplice or guilty of an offence against this Act where any complaint has been laid for such an offence, nor shall the evidence of any such member of the police force, inspector, or person be deemed, on the hearing of a complaint, to be the evidence of an accomplice.

Power of
court to
act on evi-
dence of
accomplices
without
corrobor-
ation.
Ibid., s. 283.

269. (1) The special magistrate or justices sitting at or on the hearing of any complaint under this Act may, if in the circumstances of the case they deem it proper, convict the person accused upon the uncorroborated evidence of an accomplice; nor shall he or they acquit the person accused merely on the ground that the only evidence against him is the uncorroborated evidence of an accomplice, unless, in the circumstances of the case, he or they suspect the truth of that evidence.

(2) There shall be no appeal from any conviction merely on the ground that the only evidence against the accused was the uncorroborated evidence of an accomplice.

Duty to
answer in-
criminating
questions.
Ibid., s. 285.

270. (1) No witness in any proceedings for an offence under this Act shall be excused from answering any relevant question notwithstanding that the answer thereto would or might tend to show him to be an accomplice or accessory with, or an aider or abettor of, the person being tried, in the offence for which he is being tried, or otherwise to incriminate him.

(2) If any person who gives evidence as required by this section satisfies the special magistrate or justice or justices that he has made true, faithful, and complete discovery to the best of his knowledge as to all things on which he is examined, he shall at his request be furnished by the special magistrate or justice or justices with a certificate to that effect, and shall

s. 270. BARRINGTON V. ANDERSON (1935) S.A.S.R. 196. A certificate only protects a witness from proceedings in respect of matters of which he has given evidence which is relevant. A certificate granted to a licensee for evidence given on a complaint against one L. for being on licensed premises during prohibited hours was held not to be a protection against a charge against the licensee for supplying liquor to A. on the same occasion.

thereafter be free from all criminal prosecutions and proceedings and all penal actions in respect of all matters of which he has so given evidence.

271. All moneys received for licences, certificates, or permits, or for penalties, or as fees under or by virtue of this Act, shall be paid into the General Revenue of the State: Provided that any fines or penalties may, notwithstanding any provisions of this Act, be remitted by the Governor either wholly or in part.

Application of
licence
moneys,
penalties,
fines, for-
feitures, and
fees.

1322, 1917,
s. 286.
Of. U.K.
10 Edw. 7 & 1
Geo. 5 c. 24,
s. 104.

272. (1) All actions, prosecutions, and other proceedings against any person for anything done in pursuance of this Act shall be commenced within three months after the act complained of was committed, and not otherwise.

Protection to
officers.

1322, 1917,
s. 289.
Of. U.K.
56 & 57 Vict.
c. 61, s. 1.

(2) Notice in writing of such action, prosecution, or other proceeding, and the cause thereof, shall be given to the defendant or person prosecuted or proceeded against, one month at least before the commencement of the action, prosecution, or proceeding; and the defendant or person prosecuted or proceeded against in any such action, prosecution, or proceeding may plead the general issue and give this Act and the special matter in evidence at any trial.

(3) The plaintiff shall not recover in such action if tender of sufficient amends is made before action brought, or if after action brought the defendant pays into court sufficient amends, but in such last named case the plaintiff shall recover his costs of suit up to the time of payment into court; and if a verdict passes for the defendant, or the plaintiff becomes nonsuit or discontinues, the defendant shall recover full costs as between solicitor and client, and have his remedy for the same in the usual way.

PART X.

PART X.

REGULATIONS AND FORMS.

273. (1) The Governor may from time to time make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be

Regulations.

1322, 1917,
s. 290.

s. 273. In *re HENDER*: *HENDER v. SMEDLEY* (1916) S.A.L.R. 158; 3 Austn. Digest 328; 13 Austn. Digest 456. *Seemle*, a regulation imposing fees is not a regulation necessary or convenient for giving effect to the Licensing Act, 1932.

prescribed for giving effect to this Act, and may by regulation prescribe penalties not exceeding twenty pounds for breach of the same or any other regulation.

(2) All such regulations shall—

(a) be published in the *Gazette*;

(b) take effect from the date of publication or from a later date to be specified in the regulations; and

(c) be laid before both Houses of Parliament within fourteen days after publication, if Parliament is then in Session, and if not, then within fourteen days after the commencement of the next Session.

(3) Notwithstanding any publication thereof, no regulation shall continue to have any force or effect if the same is disapproved, either wholly or in part, by resolution of either House of Parliament within thirty sitting days of that House after the regulation has been laid before Parliament, if Parliament is so long in Session: Provided that if Parliament is not so long in Session, then no regulation shall continue to have any force or effect if disapproved by either House of Parliament within thirty sitting days of such House after the commencement of the next Session.

(4) In any proceedings in any court, or before any justice or justices, or any tribunal or person, the production of the *Gazette* containing any regulations purporting to be made under the provisions of this Act shall be *prima facie* evidence that the same, as therein printed, have been duly made and published under this Act and are in force.

(5) Any penalty provided as aforesaid by such regulations may be recovered before any special magistrate or two justices.

Regulations
unchallenge-
able unless
quashed.
1822, 1917,
s. 291.

274. (1) A person desiring to dispute the validity of a regulation made under this Act may apply to the Supreme Court upon affidavit for a rule calling upon any inspector to show cause why such regulation should not be quashed, either wholly or in part, for the illegality thereof.

(2) The said court may make absolute or discharge the said rule with or without costs.

(3) All regulations, unless and until so quashed, shall have the like effect as if enacted in this Act.

(4) No regulation shall be challenged or disputed in any other manner.

275. (1) It shall be sufficient in all cases to use such of the forms provided in the schedules to this Act, or by regulation as in this section mentioned, as are applicable.

Forms.
1822, 1917,
s. 292.

(2) Any form may be varied to suit the circumstances of the case, and no variation in any form used shall invalidate the form, provided that the substance and effect thereof is not altered.

(3) By regulations made under this Act any form provided in the schedules may be altered and new forms may be provided in substitution for, or in addition to, or for other purposes than those for which any of the forms provided in the schedules are provided.

276. All salaries, fees, and allowances required or permitted by this Act, or by regulation under this Act, to be paid in respect of anything done under this Act or any such regulation, shall be paid out of the moneys to be provided by Parliament.

Salaries, etc.,
to be paid
out of
moneys pro-
vided by
Parliament.
Ibid., s. 293.

THE SCHEDULES.

SCHEDULE A. ACTS REPEALED.

Reference to Act.	Title of Act.
No. 1322 of 1917	Licensing Act, 1917.
No. 1436 of 1920	Licensing Act Amendment Act, 1920.
No. 1449 of 1920	Licensing Act Amendment Act (No. 2), 1920.
No. 1529 of 1922	Licensing Act Amendment Act, 1922.
No. 1604 of 1923	Licensing Act Amendment Act, 1923.
No. 1752 of 1926	Licensing Act Amendment Act, 1926.
No. 1775 of 1926	Licensing (Validity of Licence) Act, 1926.
No. 1808 of 1927	Licensing Act, 1927.
No. 1844 of 1927	Licensing Act (No. 2), 1927.
No. 1867 of 1928	Licensing Act, 1928.
No. 2055 of 1931	Licensing Act, 1931.
No. 2083 of 1932	Licensing Act, 1932.

Sec. 14.

SCHEDULE B.

FORMS OF LICENCES.

FORM 1.

PUBLICAN'S LICENCE.

The Licensing Act, 1932.

I, A.B., Clerk of the Licensing Court, do hereby certify that on the day of , 19 , a Publican's Licence was granted by the said Court, at a meeting of the said Court, held at , to C.D., of , and that the said C.D. is hereby licensed to sell liquor in any quantity in the house called or known as , situated at , in the said State, and the appurtenances to the said house belonging, but not elsewhere. This licence shall commence upon the day of the issue hereof by the Treasurer, and continue in force until the day of , in the year now next ensuing, inclusive, provided it be not forfeited in the meantime.

Given under my hand, at this day of , 19 .
A.B., Clerk of the Licensing Court.

Issued the day of , 19 .
E.F., Treasurer.

Ibid., Form 2.

FORM 2.

STOREKEEPER'S LICENCE.

The Licensing Act, 1932.

I, A.B., Clerk of the Licensing Court, do hereby certify that on the day of , 19 , a Storekeeper's Licence was granted by the said Court, at a meeting of the said Court, held at , to C.D., of , and that the said C.D. is hereby licensed to sell and dispose of liquor in the shop, store, or room of the said C.D., situated at , in quantities of not less than one gallon of one kind of spirits, or one dozen reputed quart bottles, or two dozen reputed pint bottles of wine or other fermented liquor to be taken away at one time by one person, and so that no portion of such liquor shall be drunk in or about the house or on the premises above described; and no liquor shall be sold or disposed of earlier than six o'clock in the morning, or later than six o'clock in the evening. This licence shall commence upon the day of the issue hereof by the Treasurer, and continue in force until the day of , in the year now next ensuing, inclusive, provided it be not forfeited in the meantime.

Given under my hand, this day of , 19 .
A.B., Clerk of the Licensing Court.

Issued the day of , 19 .
E.F., Treasurer.

Ibid., Form 3.

FORM 3.

WINE LICENCE.

The Licensing Act, 1932.

I, A.B., Clerk of the Licensing Court, do hereby certify that on the day of , 19 , a Wine Licence was granted by the said Court, at a meeting of the said Court, held at , to C.D., of , and that the said C.D. is hereby licensed to sell mead, wine, cider, and perry, produced and manufactured in South Australia, in any quantity, on the premises [describing them], and the appurtenances belonging thereto, but not elsewhere. This licence shall commence upon the day of the issue hereof by the Treasurer, and continue in force until the day of , in the year now next ensuing, inclusive, provided it be not forfeited in the meantime.

Given under my hand, this day of , 19 .
A.B., Clerk of the Licensing Court.

Issued the day of , 19 .
E.F., Treasurer.

FORM 4.

Sec. 14,
Form 4.

STOREKEEPER'S AUSTRALIAN WINE LICENCE.

The Licensing Act, 1932.

I, A.B., Clerk of the Licensing Court, do hereby certify that on the day of , 19 , a Storekeeper's Australian Wine Licence was granted by the said Court, at a meeting of the said Court, held at , to C.D. of , and that the said C.D. is hereby licensed to sell and dispose of mead, wine, cider, and perry, produced and manufactured in the Commonwealth of Australia, in quantities of not less than one reputed quart bottle at a time on the premises [*describing them*], so that no portion of such liquor shall be consumed on the said premises; but no liquor shall be sold or disposed of earlier than six o'clock in the morning or later than six o'clock in the evening. This licence shall commence on the day of the issue hereof, and continue in force until the day of , in the year now next ensuing, inclusive, provided it be not forfeited in the meantime.

Given under my hand, this day of , 19 ,
A.B., Clerk of the Licensing Court.
Issued the day of , 19 ,
E.F., Treasurer.

FORM 5.

Ibid., Form 5.

PACKET LICENCE.

The Licensing Act, 1932.

Whereas A.B., of , being the master (*or commander*) of the steamer [*or if any other kind of vessel, describe it*], has deposited in my office a certificate signed by a special magistrate (*or two justices of the Peace, as the case may be*), and whereas the said A.B. has paid into my office the sum of ten pounds sterling as the fee for a Packet Licence: Now I, the undersigned, being the Treasurer of South Australia, do hereby license the said A.B. to sell liquor in any quantity to any passenger on board of such vessel during any voyage or passage, in accordance with the provisions of the above-mentioned Act. This licence shall commence on the day of the issue hereof, and continue in force for twelve calendar months, provided it be not forfeited in the meantime.

Given under my hand, this day of , 19 ,
C.D., Treasurer.

FORM 6.

Ibid., Form 6.

REGISTRATION OF A CLUB.

The Licensing Court, sitting at , on the day of , 19 , having granted the application for the registration of the Club, in respect of the premises thereof situated at , in the State of South Australia, this is to certify that the body, association, or company of persons occupying such premises are now registered as a club within the meaning of the Licensing Act, 1932.

The secretary (*or steward or manager*) of the said club is [*here state full Christian and surname and address*].

This registration shall commence on the day of , 19 , and continue in force till the day of , in the year now next ensuing, both days inclusive, if not in the meantime cancelled.

A.B., Clerk of the Licensing Court.

Sec., 14,
Form 7.

FORM 7.

BREWER'S AUSTRALIAN ALE LICENCE.

The Licensing Act, 1932.

I, A.B., Clerk of the Licensing Court, do hereby certify that on the day of , 19 , a Brewer's Australian Ale Licence was granted by the said Court, at a meeting of the said Court, held at , to C.D., of , brewer, and that the said C.D. is hereby licensed to sell and dispose of liquor on the premises situated at [*describe them*], in quantities of not less than two gallons of one kind of spirits or one dozen reputed quart bottles or two dozen reputed pint bottles of wine or other fermented liquor to be taken away at one time by one person, and so that no portion of such liquor shall be drunk in or about the house or on the said premises; and no liquor shall be sold or disposed of earlier than six o'clock in the morning or later than six o'clock in the evening. This licence shall commence on the day of the issue hereof by the Treasurer, and continue in force until the day of in the year now next ensuing, inclusive, provided it be not forfeited in the meantime.

Given under my hand, this day of , 19 .
A.B., Clerk of the Licensing Court.
Issued the day of , 19 .
E.F., Treasurer.

Ibid., Form 8.

FORM 8.

DISTILLER'S STOREKEEPER'S LICENCE.

The Licensing Act, 1932.

I, A.B., Clerk of the Licensing Court, do hereby certify that on the day of , 19 , a Distiller's Storekeeper's Licence was granted by the said Court, at a meeting of the said Court, held at , to C.D., of , distiller, and that the said C.D. is hereby licensed to sell and dispose of liquor on the premises situated at , in quantities of not less than two gallons of one kind of spirit, or one dozen reputed quart bottles or two dozen reputed pint bottles of wine or other fermented liquor to be taken away at one time by one person; and so that no portion of such liquor shall be drunk in or about the house or on the said premises, and no liquor shall be sold or disposed of earlier than six o'clock in the morning or later than six o'clock in the evening. This licence shall commence on the day of the issue hereof by the Treasurer, and continue in force until the day of , in the year now next ensuing, inclusive, provided it be not forfeited in the meantime.

Given under my hand, this day of , 19 .
A.B., Clerk of the Licensing Court.
Issued the day of , 19 .
E.F., Treasurer.

Ibid., Form 9.

FORM 9.

BILLIARD-TABLE LICENCE.

The Licensing Act, 1932.

I, A.B., Clerk of the Licensing Court, do hereby certify that on the day of , 19 , a Billiard-table Licence was granted by the said Court, at a meeting of the said Court, held at , to C.D., of , and that the said C.D. is hereby licensed to keep, set up, and maintain billiard, bagatelle, and billiard-bagatelle tables, or any of them, on [*describe the premises*], but not elsewhere, and to allow such tables to be used between the hours of eight in the morning and eleven at night, but not at any time on any Sunday, Christmas Day, or Good Friday. This licence shall commence upon the day of the issue hereof by the Treasurer, and continue in force until the day of in the year now next ensuing, inclusive, provided it be not forfeited in the meantime.

Given under my hand, at , this day of , 19 .
A.B., Clerk of the Licensing Court.
Issued the day of , 19 .
E.F., Treasurer.

FORM 10.

RAILWAY LICENCE.

The Licensing Act, 1932.

I, the undersigned, Treasurer of the State of South Australia, do hereby license _____, of _____, the Lessee of the Railway Station Refreshment-room at _____, in the said State, to sell brandy, gin, rum, whisky, cordial containing spirits, wine, ale, porter, beer, and any other spirituous, malt, vinous, and fermented liquors, in any quantity, at the Railway Refreshment-rooms at _____, in the said State, subject to the provisions of the above-named Act and the regulations made or to be made thereunder. This licence shall commence on the day of the issue hereof and continue in force until the day of _____, in the year now next ensuing, inclusive, provided it be not determined or forfeited in the meantime. This licence authorises the sale of liquor only at the times hereinafter specified, namely:—Commencing in each case on the actual arrival at the said station of the passenger or mixed trains from _____ and the passenger or mixed trains from those places respectively to Adelaide, and continuing in each case for fifteen minutes after such arrival on every day of the week except Sunday, and not otherwise: Provided that no such time shall include any time between the hours of six o'clock in the evening and five o'clock in the morning.

Given under my hand this _____ day of _____, 19____.

A.B., Treasurer.

FORM 11.

SPECIAL LICENCE

The Licensing Act, 1932.

I, _____, of Adelaide, in the State of South Australia, Clerk of the Licensing Court, do hereby certify that on the _____ day of _____, 19____, a Special Licence was granted for the period of _____ by the Licensing Court then assembled at the _____ meeting held at _____, to C.D. _____ of _____, to sell liquor in any quantity in the house called or known as _____, situate at _____, in the said State, and the appurtenances to the said house belonging, but not elsewhere. This licence shall commence upon the day of the issue hereof by the Treasurer, and continue in force until the _____ day of _____, 19____, provided it be not forfeited in the meantime.

Given under my hand at _____, this _____ day of _____, 19____.

Issued the _____ day of _____, 19____.

A.B., Clerk of the Licensing Court.

Issued the day of , 19 .
E.F., Treasurer.

SCHEDULE C.

CERTIFICATE FOR A PACKET LICENCE.

The Licensing Act, 1932.

I (or we), the undersigned [*Special Magistrate's or Justices' names*], of [*address and description*], do hereby certify that C.D., the master (or commander, as the case may be) of the steamer [*or other vessel, as the case may be*], conveying passengers between [*name the place*] and [*name the place*], is a person of good fame and reputation, and fit to be entrusted with a Packet Licence.

Dated this day of , 19 .
[Signature of Special Magistrate or of two Justices of the Peace.]

Secs. 38, 40,
47, 95, 96.

SCHEDULE D.

FORMS OF APPLICATION.

NOTICE OF APPLICATION FOR A PUBLICAN'S LICENCE.

The Licensing Act, 1932.

To the Licensing Court:

I, A.B. [*state residence and trade or calling*], hereby give notice that it is my intention to apply at the next meeting of the Licensing Court, to be held at , for a licence to sell and retail liquor in the house and premises situate (or which I intend to erect) in street, at , and which I intend to keep as an inn or public-house, to be called the and also [*if such is the case*] for a billiard-table licence in respect of the same premises.

[*If the applicant desires to sell or supply liquor in more than one bar-room, add as follows:—*]

And I desire to receive the approval of the Court of my selling and supplying liquor in the additional bar-room shown on the plan deposited herewith.

Dated this day of , 19 .

A.B.

NOTICE OF APPLICATION FOR A STOREKEEPER'S LICENCE.

The Licensing Act, 1932.

To the Licensing Court:

I, A.B., [*state residence and trade or calling*], hereby give notice that it is my intention to apply, at the next meeting of the Licensing Court, to be held at , for a storekeeper's licence to sell and retail liquor in the house and premises situate at street, at , and which I intend to keep as a store.

Dated this day of , 19 .

A.B.

NOTICE OF APPLICATION FOR A DISTILLER'S STOREKEEPER'S LICENCE.

The Licensing Act, 1932.

To the Licensing Court:

I, A.B., of [*state residence*], distiller, hereby give notice that it is my intention to apply at the next meeting of the Licensing Court, to be held at , for a Distiller's Storekeeper's Licence to sell and dispose of liquor in the premises situate [*describe situation of premises*].

Dated this day of , 19 .

A.B.

NOTICE OF APPLICATION FOR A WINE LICENCE.

The Licensing Act, 1932.

To the Licensing Court:

I, A.B., of [*state residence and trade or calling*], hereby give notice that it is my intention to apply, at the next meeting of the Licensing Court, to be held at , for a licence to sell mead, wine, cider, and perry, produced and manufactured in the said State, in the house and premises situate (or which I intend to erect) in street, at , and which I intend to keep as a wine shop.

[*If the applicant desires to sell or supply liquor in more than one bar-room, add as follows:—*]

And I desire to receive the approval of the Court of my selling and supplying mead, wine, cider, and perry in the additional bar-room shown on the plan deposited herewith.

Dated this day of , 19 .

A.B.

NOTICE OF APPLICATION FOR A BILLIARD-TABLE LICENCE.

The Licensing Act, 1932.

To the Licensing Court:

I, A.B., of [*state residence and trade or calling*], hereby give notice that it is my intention to apply, at the next meeting of the Licensing Court, to be held at _____, for a Billiard-table Licence for premises situate (or which I intend to erect) at _____ street, at _____

Dated this _____ day of _____, 19 ____ .
A.B.

APPLICATION FOR STOREKEEPER'S AUSTRALIAN WINE LICENCE.

The Licensing Act, 1932.

To the Licensing Court:

I, A.B., of [*state residence and trade or calling*], hereby give notice that it is my intention to apply, at the next meeting of the Licensing Court, to be held at _____, for a Storekeeper's Australian Wine Licence to sell and retail Australian wine in the house and premises now in my occupation, situate (or which I intend to erect) in _____ street, at _____

Dated this _____ day of _____, 19 ____ .
A.B.

NOTICE OF APPLICATION FOR A BREWER'S AUSTRALIAN ALE LICENCE.

The Licensing Act, 1932.

To the Licensing Court:

I, A.B., of [*state residence*], brewer, hereby give notice that it is my intention to apply at the next meeting of the Licensing Court, to be held at _____ for a Brewer's Australian Ale Licence to sell and dispose of liquor in the premises situated at [*describe situation of premises*].

Dated this _____ day of _____, 19 ____ .
A.B.

NOTICE OF APPLICATION FOR A CLUB CERTIFICATE.

The Licensing Act, 1932.

To the Licensing Court:

I, A.B., of [*state residence*], the secretary, (or steward or manager) of the _____ Club, hereby give notice that it is my intention to apply at the next meeting of the Licensing Court, to be held at _____, for a certificate of registration of the said club in respect to the premises thereof situate at _____; and I do hereby declare that I am the duly appointed secretary (or steward or manager) of the said club, and am duly authorised by the committee of the said club to make this application, and that the accompanying documents are (or contain) a true copy of the existing rules, and of the names, descriptions, and addresses of the existing members of the committee of the said club.

Dated this _____ day of _____, 19 ____ .
A.B.

SCHEDULE H.

Sec. 54.

FORM OF NOTICE OF INTENTION TO APPLY FOR TRANSFER OF LICENCE.

The Licensing Act, 1932.

I, A.B., the holder of a licence (or a certificate from a Special Magistrate) for the house and premises known as (or the shop, store, or rooms, as the case may be), situate at _____, hereby give notice that it is my intention to apply to the Licensing Court sitting at its quarterly meeting, to be holden at _____, on the _____ day of _____ (next or instant) to have the licence for the said premises transferred to C.D., of _____ [state present occupation (if any) of proposed transferee.]

Dated this _____ day of _____, 19 _____.

A.B.

SCHEDULE J.

Sec. 56.

FORM OF CERTIFICATE OF TRANSFER OF LICENCE.

The Licensing Act, 1932.

I, A.B., Clerk of the Licensing Court, sitting at the quarterly meeting of such Court at _____ on the _____ day of _____, 19 _____, do hereby certify that, upon the application of C.D., the requisite notices for a transfer having been proved before the said Court to have been duly given, the said Court has transferred the rights and privileges of the licence granted to the said C.D. in respect of the licensed premises situate at _____, and known as _____, to E.F., for the residue of the term for which the same has now to run.

Given under my hand, at _____ the _____ day of _____, 19 _____.
A.B., Clerk of the Licensing Court.

SCHEDULE K.

Sec. 57.

FORM OF CERTIFICATE AUTHORISING PERSON TO ENTER AND CARRY ON BUSINESS IN LICENSED HOUSE UNTIL NEXT MEETING.

The Licensing Act, 1932.

I, A.B., Esquire, a Special Magistrate (or we, A.B. and C.D., Justices of the Peace) in and for the State of South Australia, do hereby certify that I (or we) have considered the application made to me (or us) by E.F., and am (or are) satisfied that he has complied with the requirements of "The Licensing Act, 1932," and that he is a desirable person to enter into and carry on the business of a publican [or as the case may be], in the premises situate at _____, and known as _____, and I (or we) therefore hereby authorise him to enter and carry on business therein as a publican [or as the case may be] until the meeting of the Licensing Court to be holden on the _____ day of _____ next.

Given under my hand, this _____ day of _____, 19 _____.
A.B.
or { A.B.
C.D.

SCHEDULE L.

Sec. 58

FORM NO. 1.

FORM OF NOTICE OF APPLICATION TO REMOVE LICENCE TO OTHER PREMISES.

The Licensing Act, 1932.

I, A.B., the holder of a [state the nature of the licence] licence for the house and premises known as (or the shop, store, or rooms, as the case may be) situated _____, do hereby give notice that it is my intention to apply to the Licensing Court, sitting at the quarterly meeting to be held at _____ on _____ to remove the licence to [describe the premises to which it is proposed to remove the business.]

Dated this _____ day of _____, 19 _____.

A.B.

Sec. 111.

FORM No. 2.

FORM OF NOTICE OF APPLICATION TO REMOVE REGISTRATION OF CLUB TO OTHER PREMISES.

The Licensing Act, 1932.

I, A.B., the secretary (or steward, or manager) of the Club, which is registered as a club under the above-mentioned Act in respect of the premises thereof situated at , do hereby give notice that it is my intention to apply on behalf of the said club to the Licensing Court, sitting at the quarterly meeting to be held at , on , to remove the registration of the said club to [describe the premises to which the club proposes to remove]; and I do hereby declare that I am duly authorised by the committee of the said club to apply as aforesaid.

Dated this day of , 19 .
A.B.

Sec. 60.

SCHEDULE M.

FORM OF CERTIFICATE OF A REMOVAL TO OTHER PREMISES.

The Licensing Act, 1932.

I, A.B., Clerk to the Licensing Court for the Licensing District of , do hereby certify that on the day of , 19 , the licence held by C.D., in respect of the house and premises called or known as , situated at , in the State of South Australia, was removed by the said Court to the house and premises called or known (or to be called or known) as , situated at , in the said State. From the day of the issue hereof by the Treasurer the said licence shall cease to apply in respect of the house and premises first hereinbefore mentioned, and shall apply in respect of the house and premises secondly hereinbefore mentioned and the appurtenances to such house and premises, but not in respect of any other place.

Given under my hand, at , this day of , 19 .
A.B., Clerk of the Licensing Court.
Issued the day of , 19 . [or as the case may be.]
E.F., Treasurer.

Sec. 67.

SCHEDULE N.

SUMMONS TO WITNESS.

The Licensing Act, 1932.

South [Royal Arms.] Australia.

Summons to Witness.

In the Licensing Court.

District,

No.

of 19 .

In the matter of the application of
of for a
at

licence for premises situate

You are hereby required to attend at the meeting of the Licensing Court, to be held at on the day of 19 , at the hour of o'clock in the forenoon, to give evidence in the above application, and to continue in attendance until the said application shall be disposed of, and there to have and produce and all other books, papers writings, and other documents relating to the said application which may be in your custody, possession, or power. In default of your attendance you will be liable to a penalty of Ten Pounds.

Dated this day of , 19 .
A.B., Clerk of the Licensing Court.
To

SCHEDULE O.

Sec. 71.

CERTIFICATE TO SELL LIQUORS IN A BOOTH AT RACES,
FAIRS, ETC.

The Licensing Act, 1932.

I, A.B., Esquire, a Special Magistrate (or we, C.D. and E.F., two of His Majesty's Justices of the Peace) in and for the State of South Australia, hereby approve of G.H., now holding a publican's licence (or wine licence, *as the case may be*), selling liquor (or mead, wine, cider and perry, *as the case may be*) in an open booth (or tent, or building), at _____ on the occasion of a _____ for the space of _____ days, subject to the provisions of "The Licensing Act, 1932."

A.B., S.M.
or { C.D., J.P.
 { E.F., J.P.

SCHEDULE P.

Sec. 74.

CERTIFICATE ALLOWING OTHER THAN LICENSED PERSON TO CARRY
ON BUSINESS DURING LICENSEE'S TEMPORARY ABSENCE.

The Licensing Act, 1932.

I, A.B., Esquire, a Special Magistrate (or we, C.D. and E.F., two of His Majesty's Justices of the Peace) in and for the State of South Australia, hereby authorise and permit G.H., of [*residence and occupation*] to act for I.J., the holder of a publican's licence in respect of the premises known as [*state name of licensed premises and where situate*] during his absence from the State, for a period of _____ months from this date.

Dated this _____ day of _____, 19 _____.

A.B., S.M.
or { C.D., J.P.
 { E.F., J.P.

SCHEDULE Q.

Sec. 75.

CERTIFICATE TO SELL LIQUORS IN A CERTAIN PLACE UPON
GOLDFIELDS.

The Licensing Act, 1932.

I, A.B., Esquire, a Special Magistrate in and for the State of South Australia, hereby certify that C.D., the holder of this certificate, now holding a publican's (or wine) licence at _____, may sell liquor (or mead, wine, cider, and perry *as the case may be*) in a certain place or building known as or called _____, situate upon the goldfield known as _____, for the residue of the term of the publican's (or wine) licence held by him, subject to the provisions of the Licensing Act, 1932.

A.B., S.M.

(N.B.—The place or building to which the above certificate is to apply must be specified as accurately as circumstances will allow.)

SCHEDULE R.

Sec. 77.

ORDER FORFEITING LICENCE.

The Licensing Act, 1932.

South Australia } Be it remembered that A.B. of _____, being the holder
to wit. } of a _____ licence, is this day convicted before me (or us),
the undersigned, a Special Magistrate in and for the said State (or two of His Majesty's Justices of the Peace for the said State) for that the said A.B. [*here set out the offence of which he has been convicted, and if the offence is one to which forfeiture is not specially attached, add*]; and it having been proved to me (or us) that the said A.B. has been (once or twice, *as the case may be*) before,

within a period of (two or three years, as the case may be), convicted of offences against "The Licensing Act, 1932": Now I (or we) do therefore order and adjudge that the said licence of the said A.B. shall be and the same is hereby forfeited [if costs are given, add an order for costs and imprisonment in default of payment thereof, following as nearly as may be, the forms in use under the Justices Act, 1921, with regard to costs.]

Given under hand this day of , 19 .
or { C.D., S.M.
 E.F., J.P.

Sec. 91.

SCHEDULE S.

REGULATIONS FOR CONDUCTING THE BUSINESS OF THE
LICENSING COURT.

1. The Commissioner of Police shall obtain, and furnish to the Clerk at least three weeks before every annual or quarterly licensing day, a report of every licensed house in each licensing district, and as to applications for new houses, or new applications for old houses, as soon after the application as possible, such report to contain a description of the condition of the houses, premises, and furniture, the manner in which the house has been conducted during the past twelve months, the character of the persons frequenting the house, and a statement of the number, locality, and distance of other licensed houses in the neighbourhood, and such report shall be open to public inspection without fee.

2. In the case of applications for new houses, and new applications for old houses, and of transfer of licences, it shall be the duty of the Clerk to search the copy of the record published by him in the *Gazette*; and upon the consideration of such application, to report to the Court whether the applicants or, in the case of transfers, whether the intended transferees have previously applied for any licences, or have been intended transferees of licences, together with the result of such applications respectively; and in case of the rejection or refusal thereof, then the cause of such rejection or refusal, if such cause appears in the *Gazette*.

3. The Special Magistrate shall have power to call for the production of the applicant's licence in all cases where an application is made for a renewal of such a licence.

4. At the meetings of the Licensing Court the applications for renewals of publicans' licences shall be taken first, the new applicants for old houses next, and the rest of the business shall follow.

5. The Clerk shall give notice to those applicants applying at the annual meeting for a renewal of their licences to whose applications notices of objection have been received by the Clerk to attend at such annual meeting; and in such notices the Clerk shall state the natures of the objections.

6. On the hearing of any application, except for renewals, the applicant, by himself or by his counsel, shall open his case; then the objectors are to be heard by themselves, or their counsel, and the applicant may reply.

7. In the case of applications for renewals, the objectors shall commence, and the applicant reply only.

8. The evidence (if any) shall be given in the same manner as in courts of law.

Sec. 134.

SCHEDULE T.

NOTICE OF APPLICATION FOR ADDITIONAL BAR-ROOM.

The Licensing Act, 1932.

To the Licensing Court:

I, A.B., of [state residence and trade or calling], hereby give notice that it is my intention to apply at the next meeting of the said Court, to be held at _____, for permission to sell and supply liquor in the additional bar-room in my licensed premises, shown on the plan of such premises deposited herewith (or for which I now hold such permission for the current year.)

Dated this _____ day of _____, 19____.

A.B.

SCHEDULE U.

Sec. 183.

PERMISSION TO USE LICENSED PREMISES FOR A PUBLIC ENTERTAINMENT.

The Licensing Act, 1932.

We, A.B. (Commissioner of Police, *or as the case may be*), and C.D., two of His Majesty's Justices of the Peace in and for the State of South Australia, hereby approve of E.F., now holding a licence, using a portion of his licensed premises as a (theatre, concert-room, ball-room, *as the case may be*) during the hours from six in the morning till eleven at night [*or as the case may be*], Christmas Day, Good Friday, and Sundays excepted.

This permission shall terminate on [*state date*].

A.B., J.P. (Commissioner, *or as the case may be*).

C.D., J.P.

SCHEDULE V.

Sec. 146.

CERTIFICATE OF REGISTRATION AS A BARMAID.

The Licensing Act, 1932.

.....*Licensing District.*

This is to certify that [*name*] of [*address*] is registered as a barmaid in the register of barmaids for the above-mentioned Licensing District.

Dated the

day of

, 19

Special Magistrate constituting the Licensing Court.

SCHEDULE VI.

Sec. 199.

APPLICATION FOR PERMISSION FOR THE CONSUMPTION OF LIQUOR AFTER SIX O'CLOCK ON SPECIAL OCCASION.

The Licensing Act, 1932.

I, C.D., being the holder of a publican's licence in respect of the licensed premises situate at , and known as (or being the occupier of the unlicensed premises situated at , and known as , or being the person named in the certificate of registration of the Club, which is registered as a Club in respect of the premises thereof situated at), hereby apply for permission for liquor to be consumed on the day of 19 , until the hour of o'clock, on the occasion of a dinner [*or as the case may be*] to be held by the club [*or as the case may be*] at the said premises, by persons present at and taking part in the said dinner [*or as the case may be*], but by no other persons, the liquor to be consumed in [*describe room or rooms or other part or parts of the premises*], and not elsewhere, on the said occasion.

Dated this

day of

, 19

C.D.

SCHEDULE V2.

Sec. 199.

PERMISSION FOR THE CONSUMPTION OF LIQUOR AFTER SIX O'CLOCK ON SPECIAL OCCASION.

The Licensing Act, 1932.

I (or we), [*full name or names*], the undersigned Special Magistrate (or Justices of the Peace for the State of South Australia residing within ten miles of the premises hereinafter mentioned), do hereby grant permission for C.D., now holding a publican's licence in respect of the licensed premises situate at , and known as (or being the occupier of the unlicensed

premises situate at _____, and known as _____, or being the person named in the certificate of registration of the _____ Club, which is registered as a Club in respect of the premises thereof situated at _____), to permit the consumption of liquor on the _____ day of _____, 19____, until the hour of _____ o'clock, on the occasion of a dinner [or as the case may be] to be held by the _____ Club [or as the case may be] at the said premises, by persons present at and taking part in the said dinner [or as the case may be], but by no other persons. Such liquor may be consumed in [describe room or rooms or other part or parts of the premises], and not elsewhere, on the said occasion.

Dated the _____ day of _____, 19____.

S.M.
{ J.P.
} J.P.

Act 2137,
1933, s. 2
(2).

NOTE.—The forms contained in Schedules V1 and V2 are where necessary to be varied so as to render them applicable to the holder of a wine licence.

Sec. 234.

SCHEDULE W.

THE FIRST SCHEDULE.

LOCAL OPTION POLLS.—REGULATIONS.

[Made by Proclamation dated 21st December, 1932; *Government Gazette* 22nd December, 1932, p. 1180.]

Powers of Returning Officers.

1. The returning officer for the Assembly electoral district comprising a Local Option District, or within which such Local Option District is situated, shall be the returning officer for the local option poll, and shall, for the purposes of the poll, have all the powers conferred on a returning officer by the Electoral Act, 1929, or any Act amending or substituted for the said Act, and the proceedings shall, except where otherwise directed by these regulations, be conducted in the manner prescribed by the said Act.

Notice of Poll.

2. Upon receipt by the returning officer for the Local Option District of a direction by the Governor to take a local option poll therein, such returning officer shall forthwith give notice of such direction and the date of the poll by advertisement in at least two daily newspapers circulating in such Local Option District.

The notice of poll may be in accordance with Form 3.

Polling-places.

3. Each polling-place for a Parliamentary election within such Local Option District shall be a polling-place for the local option poll.

Nomination and Appointment of Scrutineers.

4. The classes of licences referred to in the following regulations are the classes of licences mentioned in section 229 of the Licensing Act, 1932.

5. Not less than two of the holders of each of the classes of licences current in respect of premises situated within a Local Option District may nominate a scrutineer to act at each polling-place within the Local Option District: Provided that if there is only one licence current of any class of licences the holder of such licence may nominate a scrutineer under this regulation.

The form of nomination may be in accordance with Form 4.

6. Not less than ten (10) electors qualified to vote in the Local Option District at the local option poll, who state that they are in favour of the grant of a licence in respect of premises situated within such district, or any class or classes of which there are no licences current, may nominate one person to be a scrutineer at each polling-place in respect of such class or each of such classes of licences.

The form of nomination may be in accordance with Form 5.

7. Not less than ten (10) electors qualified to vote in the Local Option District at a local option poll, who state that they are in favour of the reduction or exclusion of any class or classes of licences, may nominate one person to be a scrutineer at each polling-place in respect of such class or each of such classes of licences, whether there are any licences of such class or classes, or any of them, current in such district or not.

The form of nomination may be in accordance with Form 6.

8. All nominations shall be handed to the returning officer seven clear days before the day fixed for the taking of the local option poll.

9. From the persons nominated such returning officer shall appoint one scrutineer in respect of each class of licences in respect of which nominations have been made pursuant to regulations 5 and 6, to act at each polling-place within the Local Option District, and one scrutineer in respect of each class of licences in respect of which nominations have been made under regulation 7, to act at each polling-place within the Local Option District.

10. The returning officer shall forward a notice of appointment to each person appointed as a scrutineer.

The notice of appointment may be in accordance with Form 7, 8, or 9, as the case requires.

Postal Voting.

11. (a) An application by an elector for a postal ballot-paper for a House of Assembly election shall be deemed to include an application for a postal ballot-paper for a local option poll being taken on the same day in the same subdivision, and the Returning Officer shall issue a postal ballot-paper for the said poll, pursuant to such application, if he is satisfied that the applicant is entitled to vote at the poll.

Provided that if no House of Assembly election is being held in a subdivision in which a local option poll is being taken, the forms provided in the Electoral Act for the purpose of postal voting, varied as may be necessary, may be used.

(b) The postal ballot-paper shall be substantially in the terms of Form 10, and may include such directions as may, in the opinion of the Returning Officer for the State, be necessary.

Authorised witnesses for the purposes of postal voting at a local option poll shall be the same as those prescribed for a Parliamentary election.

Absent Voting.

12. Where a House of Assembly election is being held in a subdivision in which a local option poll is being taken, the declaration made by an elector voting as an absent voter at the said election may be deemed to include a declaration for the purpose of the local option poll and shall entitle the elector to be issued with an absent voter's ballot-paper for the local option poll. The local option ballot-paper shall, after being marked by the elector voting as an absent voter, be enclosed in the envelope bearing the declaration.

Provided that if no House of Assembly election is being held in a subdivision in which a local option poll is being taken, the forms provided in the Electoral Act for the purpose of absent voting, varied as may be necessary, may be used.

Provided further that an elector may only vote as an absent voter at a local option poll in a subdivision which is in or forms part of the same Local Option District as the subdivision for which he is enrolled.

The absent voter's ballot-paper shall be substantially in the terms of Form 10 and may include such directions as may, in the opinion of the Returning Officer for the State, be necessary.

Hours of Polling.

13. The booths shall be open on the day of the poll from 8 a.m. until 7 p.m.

Ballot-boxes.

14. When an election for either House of Parliament is taken on the same day as the local option poll, the same ballot-boxes as are used for the election may be used for the purposes of the local option poll.

Local option ballot-papers found in a ballot-box used for the purposes of a Parliamentary election shall be securely fastened in sealed parcels by the Assistant Returning Officer and forthwith transmitted by him by registered post or special delivery to the Returning Officer.

Mode of Voting.

15. (a) Each voter shall indicate his vote on the ballot-paper by placing the figure 1 in the square opposite to the resolution in favour of which he desires to vote. Provided that a ballot-paper shall not be informal if the voter, in addition

to placing the figure 1 in a square, also places figures other than the figure 1 in all or any of the remaining squares on the ballot-paper.

(b) A ballot-paper shall be informal—

- (1) if the vote is not marked thereon by the method allowed under paragraph (a) of this regulation;
- (2) if it is not authenticated by the initials of the presiding officer or by an official mark;
- (3) if it has upon it any mark or writing by which, in the opinion of the officer conducting the scrutiny, the voter can be identified.

(c) The ballot-paper shall be in accordance with Form 10.

Challenges.

16. At the taking of a local option poll, when no Parliamentary election is being held at the same time and place—

(a) The Presiding Officer or poll clerk shall put to every person claiming to vote, the following question:—

“Have you already voted here or elsewhere at this poll?” (In the case of a person claiming to vote as an absent voter the presiding officer only shall put such question.) Unless the person claiming to vote answers such question in the negative his claim to vote shall be rejected:

(b) The presiding officer may, and, at the request of any scrutineer shall, also put all or any of the following questions to any person claiming to vote:—

I. “Are you the person whose name appears (here state the name under which the person claims to vote) on the certified list of electors for this subdivision?”

II. “Are you of the full age of 21 years?”

III. “Do you reside within this Local Option District?”

If such person refuses to fully answer any of the above questions, numbered I., II., and III. respectively, so put to him, or by his answer shows that he is not entitled to vote, his claim to vote shall be rejected.

Fees and Allowances for Members and Officers of Special Courts.

17. The fees and allowances set forth hereunder shall be paid to the several persons mentioned therewith respectively for the performance of the several duties and for the several expenses also mentioned in connection therewith respectively.

I. In connection with a local option poll—

(1) To a returning officer—

£ s. d.

(a) For all duties in connection with and consequent upon one or more local option poll (or polls) when an Assembly election is contested on the same day and at the same place as such local option poll (or polls)—for each poll.. 2 10 0

(b) For all duties in connection with and consequent upon one or more local option poll (or polls) when an Assembly election is not contested on the same day and at the same place as such local option poll (or polls)—for each poll.. 5 0 0

(c) Hire and erection of polling-booths when a local option poll is taken otherwise than at the same time as the poll at a Parliamentary election—the actual cost as proved by vouchers.

(d) Ballot-boxes, conveyance, stationery, advertising, and such other expenses as are approved by the Returning Officer for the State.

(e) Travelling—actual expenses approved by the Returning Officer for the State.

(2) To a presiding officer—

(a) For all duties on polling-day, if such officer acts at a Parliamentary election at the same time and place 0 12 6

(b) If such officer does not act at a Parliamentary election at the same time and place 1 15 0

(3) To an assistant presiding officer—

(a) For all duties on polling-day, if such officer acts at a Parliamentary election at the same time and place 0 7 6

- | | £ | s. | d. |
|--|---|----|----|
| (b) If such officer does not act at a Parliamentary election at the same time and place | 1 | 12 | 0 |
| (4) To a poll clerk— | | | |
| (a) For all duties on polling-day, if such officer acts at a Parliamentary election | 0 | 7 | 6 |
| (b) If such officer does not act at a Parliamentary election at the same time and place | 1 | 0 | 0 |
| (5) To a doorkeeper— | | | |
| (a) For acting at a local option poll when no Parliamentary election is held at the same time and place | 0 | 12 | 6 |
| (6) For Authorised Service prior or subsequent to polling-day by a Presiding Officer, Assistant Presiding Officer, or Poll Clerk—Rates and conditions as prescribed in the Regulations to the Electoral Act, 1929. | | | |
| II. In connection with the functions of Special Courts appointed under Division II. of Part VIII. of the Act— | | | |
| (1) To each member of a Special Court— | £ | s. | d. |
| (a) For each day upon which such member attends a meeting of the Court | 1 | 1 | 0 |
| (b) Travelling and other expenses necessarily incurred—the actual cost. | | | |
| (2) To a clerk or other officer of a Special Court— | | | |
| (a) Such sum by way of fee as allowed by the Attorney-General for the time being of the State. | | | |
| (b) Travelling and other expenses necessarily incurred—the actual cost. | | | |

Forms.

18. The forms set out in these regulations may be used at and in connection with a local option poll. Where no appropriate form has been provided, the form prescribed in the Electoral Act, with such variations as the case requires, may be used.

FORM 1.

LOCAL OPTION PETITION.

To His Excellency the Governor of the State of South Australia.

The petition of the undersigned electors for the House of Assembly enrolled on the electoral roll for the Assembly District, and each of whom resides in the Local Option District of , which petition is made in pursuance of the provisions in that behalf of the Licensing Act, 1932:

Humbly prays—

That a local option poll be taken within the said Local Option District of .
And your petitioners will ever pray, &c.

Signature of Elector.	Address.

FORM 2.

CERTIFICATE BY THE RETURNING OFFICER FOR THE STATE OF THE VALIDITY
OF THE PETITION.

Local Option District of

I, , Returning Officer for the State of South Australia, hereby certify that I have examined the local option petition presented to His Excellency the

Governor of the State of South Australia on the day of , 19 ,
praying that a local option poll be taken in the Local Option District of ,
and the signatures thereto, and that such petition has been duly and properly
signed.

Dated this day of , 19 ,
Returning Officer for the State of South Australia.

FORM 3.

NOTICE OF POLL.

Local Option District of .

Notice is hereby given that His Excellency the Governor of the State of South Australia, in pursuance of the Licensing Act, 1932, has, by Order in Council, directed me to cause a poll of the electors to be taken in the Local Option District of , on , the day of , 19 .

Dated this day of , 19 ,
Returning Officer for the Local Option District of .

FORM 4.

State of South Australia.

NOMINATION OF SCRUTINEER BY HOLDERS OF LICENCES.

Local Option District of .

We, the undersigned, being the holders of [*state the class*] licences, granted in respect of premises situate within the Local Option District of , do hereby nominate to act as scrutineer at the local option poll to be taken on the day of , 19 , at polling-place.

Dated this day of , 19 ,
[Signatures of holders of licences.]

FORM 5.

State of South Australia.

NOMINATION OF SCRUTINEER BY PERSONS IN FAVOUR OF THE GRANT OF A LICENCE.

Local Option District of .

We, the undersigned, being electors qualified to vote at a local option poll within the Local Option District of , and being in favour of the grant of a licence (*or licences*) of the class (*or classes*) hereunder mentioned, do hereby nominate the person (*or each of the persons*) named hereunder to act as scrutineer (*or scrutineers*) at polling-place in respect of the said class (*or the class of licences immediately preceding his name*) at the local option poll to be taken on the day of , 19 .

With regard to licences.....

With regard to licences.....

[*and as the case requires.*]

Dated this day of , 19 ,
[Signatures of electors.]

FORM 6.

State of South Australia.

NOMINATION OF SCRUTINEER BY PERSONS IN FAVOUR OF THE REDUCTION OF LICENCES.

Local Option District of .

We, the undersigned, being electors qualified to vote at a local option poll within the Local Option District of , and being in favour of the reduction or exclusion of licences of the classes hereunder mentioned, do hereby nominate each of the persons named hereunder to act as scrutineers at

polling-place in respect of the class of licences immediately preceding his name at the local option poll to be taken on the day of , 19 .

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

Dated this day of , 19 .
[Signatures of electors.]

FORM 7.

State of South Australia.

APPOINTMENT OF SCRUTINEERS.

Local Option District of .

I, A.B., hereby appoint , nominated by the holders of [state the class] licences, to act as scrutineer at polling-place at the local option poll to be held on the day of , 19 .

Dated this day of , 19 .
A.B., Returning Officer for the
Local Option District.

FORM 8.

State of South Australia.

Local Option District of .

I, A.B., hereby appoint , nominated by [state the number] electors who are in favour of the grant of [state the class] licence, to act as scrutineer at polling-place at the local option poll to be taken on the day of , 19 .

Dated this day of , 19 .
A.B., Returning Officer for the
Local Option District.

FORM 9.

State of South Australia.

Local Option District of .

I, A.B., hereby appoint , nominated by [state the number] electors who are in favour of the reduction (or exclusion) of [state the class] licences, to act as scrutineer at polling-place at the local option poll to be taken on the day of , 19 .

Dated this day of , 19 .
A.B., Returning Officer for the
Local Option District.

FORM 10.

State of South Australia.

BALLOT-PAPER.

The Licensing Act, 1932.

DIRECTIONS.—The elector must mark his vote on this ballot-paper by placing the figure 1 in the square opposite to the resolution in favour of which he desires to vote.

Resolutions.

- First. That the number of licences be reduced. ☐
- Second. That the number of licences be not increased or reduced.. ☐
- Third. That the Licensing Court may in their discretion increase the number of licences ☐

NOTE.—The elector is entitled to record only one vote on this paper, which will be counted as recorded in favour of the resolution printed opposite to the square in which the elector places the figure 1.

FORM 11.

State of South Australia.

DECLARATION OF DETERMINATION OF ELECTORS.

The Licensing Act, 1932.

I hereby declare that on the day of , 19 , a poll of the electors of the Local Option District of was taken pursuant to the above-mentioned Act, and that on taking such poll the determination arrived at was as follows:—

[Here state the resolution which was adopted, thus—

1. That the number of licences be reduced;

or

2. That the number of licences be not increased or reduced;

or

3. That the Licensing Court may, in its discretion, increase the number of licences

(as the case may require).]

Dated this day of , 19 .
Returning Officer.

SCHEDULE X.

NOTICE OF NON-RENEWAL OF LICENCE.

The Licensing Act, 1932.

To A.B.

Pursuant to the provisions of the Licensing Act, 1932, I hereby give you notice that, on the day of , 19 , a poll of the electors of the Local Option District of was taken, and that the following resolution was adopted on the taking of such poll, namely [*set out resolution adopted*]: And I further give you notice that the licence issued in respect of the premises situated [*describe situation or locality*], and known as [*give name or otherwise describe*], will not be renewed.

Dated this day of , 19 .
C.D., Clerk of the Licensing Court.

SCHEDULE Y.

FORM OF ORDER FOR PAYMENT OF MONEY BY LICENSING COURT.

The Licensing Act, 1932.

Be it remembered that on this day of , in the year of our Lord nineteen hundred and of is ordered by the Licensing Court, under the Licensing Act, 1932, to pay to the sum of for his cost of [*or as the case may be*], or to be committed to Adelaide [*or as the case may be*] Gaol for the space of

Special Magistrate constituting the Licensing Court.

Regulations.

The following regulations were in force under this Act on the 30th day of April, 1937:—

REGULATIONS AS TO POLLS UNDER SECTION 62—

Gazette—22nd December, 1932, p. 1187.

REGULATIONS UNDER SECTION 189 AS TO DECLARATIONS BY BONA FIDE TRAVELLERS—

Gazette—6th February, 1936, p. 302.

REGULATIONS UNDER SECTION 195 AS TO DECLARATIONS BY BONA FIDE LODGERS—

Gazette—17th December, 1931, p. 1118.

REGULATIONS UNDER SECTION 197A AS TO PERMITS TO SELL LIQUOR IN RESTAURANTS—

Gazette—30th January, 1936, p. 271.

REGULATIONS UNDER SECTION 199 AS TO PERMITS TO SELL OR CONSUME LIQUOR ON SPECIAL OCCASIONS—

Gazette—23rd January, 1936, p. 208.

9th April, 1936, p. 813.

29th April, 1937, p. 945.

LIENS FOR FREIGHT

see Mercantile Law.

LIENS OF UNPAID VENDORS

see Mercantile Law : Sale of Goods.