Extent of Act. **1.** This Act shall extend to Scotland only.

Construction of Act. **2.** This Act shall be read and construed together with the recited Acts respectively.

Amendment of recited Acts. **3.** The sixth section of the first-recited Act, and the seventeenth section of the second-recited Act, shall be read and construed as if for the words "ten thousand" therein respectively the words "five thousand" were substituted.

CHAPTER 26.

An Act to assimilate the Law of Scotland relating to the granting of Licenses to sell intoxicating Liquors to the Law of England. [13th July 1876.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title. **1.** This Act may be cited as "The Publicans' Certificates (Scotland) Act, 1876."

Extent of Act. **2.** This Act shall apply to Scotland only.

Commencement of Act. **3.** This Act shall, except so far as is otherwise expressly provided, commence and come into operation on the first day of January one thousand eight hundred and seventy-seven.

Interpretation of terms. **4.** In this Act the following words and terms have the meanings herein-after assigned to them; that is to say,

"County" includes a county of a city, and for the purposes of this Act the upper and middle wards of the county of Lanark shall be considered as constituting a county, and the lower ward of the county of Lanark as also constituting a county:

"Burgh" means any burgh having at present the power of licensing vested in the magistrates thereof; and the boundaries of a burgh shall, for the purposes of this Act, be the same as those within which the magistrates of the burgh have now jurisdiction in granting certificates for licenses for the sale of exciseable liquors:

"Magistrate" means a magistrate of a burgh:

"A new certificate" means a certificate granted by the competent authority, for a license for the sale of exciseable liquors to any person in respect of any premises which are not certificated at the time of the application for such grant, but shall not apply to the rebuilding of certificated premises which have been destroyed by fire, tempest, or other unforeseen and unavoidable calamity.

Refusal of new certificate by justices or magistrates to be final. **5.** Notwithstanding anything contained in section fourteen of the Act of the ninth year of the reign of His Majesty King George the Fourth, chapter fifty-eight, or in any other enactment, no appeal shall lie to any justices of the peace assembled in quarter sessions against any proceeding of any justices of the peace for any county, or magistrates of any burgh, assembled for granting or renewing certificates for licenses for the sale of exciseable liquors, in refusing any application for a new certificate, but every such proceeding and refusal shall be final.

Grant of new certificates in counties. **6.** A grant of a new certificate in any county in Scotland, except the county of the city of Edinburgh, shall not be valid unless it shall be confirmed by a standing committee of the justices of the peace for the county (hereafter in this Act called the county licensing committee).

Provisions in regard to a county licensing committee. **7.** The following provisions shall have effect with respect to the appointment and proceedings of a county licensing committee; that is to say,

(1.) The justices of the peace in quarter sessions assembled for each county, except the county of the city of Edinburgh, shall at the meeting of quarter sessions directed by law to be held in August of the year one thousand eight hundred and seventy-six, or at any adjournment thereof, and annually in every sub-

sequent year at the meeting of quarter sessions to be held in April, or any adjournment thereof, appoint from among themselves, for the purposes of this Act, a county licensing committee, or they may appoint more than one such committee, and assign to any such committee such area of jurisdiction as they may think expedient:

(2.) A county licensing committee shall consist of not less than three, nor more than twelve members:

(3.) The quorum of a county licensing committee shall be three members:

(4.) Any vacancy arising in any such committee from death, resignation, or other cause, may be from time to time filled up by the justices of the peace in quarter sessions by whom the committee is appointed:

A person appointed to fill a vacancy shall retire from office when the person creating the vacancy would so retire:

Any such committee may, if a quorum exists, act notwithstanding vacancies thereon:

(5.) A county licensing committee shall continue in office until another such committee is appointed as herein-before provided:

The members of a committee retiring may be re-appointed:

(6.) A county licensing committee shall have power to elect one of their own number to act as chairman during their tenure of office, and until a chairman is appointed, and, in case of his absence from any meeting, the committee shall elect one of their members present at the meeting to act as chairman of that meeting; and in the event of an equal division of the committee, the chairman shall have a second vote:

(7.) The clerk of the peace of the county, and in the case of the upper and middle wards of the county of Lanark the clerk of the peace for the upper ward, shall by himself or his deputy be the clerk of the county licensing committee or committees, and also of any joint committee to be appointed, as herein-after provided, in respect of any burgh or part of a burgh being situated in the county, and shall perform all such duties in relation to any such committee or committees as he is required by law to perform in relation to the justices in quarter sessions assembled.

Grant of new certificates in burghs.

8. A grant of a new certificate in any burgh in Scotland shall not be valid unless it shall be confirmed by a joint committee of the magistrates of the burgh and the justices of the peace of the county in which the premises in respect of which the certificate is applied for are situated (hereafter in this Act called the joint committee for the burgh).

Provisions in regard to a joint committee for a burgh.

9. The following provisions shall have effect with respect to the appointment and proceedings of a joint committee for a burgh; that is to say,

(1.) A joint committee for a burgh shall consist of three justices of the peace of the county in which the burgh is situated, and three magistrates of the burgh, except where by the constitution of the burgh there are only two magistrates therein, in which case the joint committee shall consist of two justices of the peace for the county in which the burgh is situated and of the two magistrates of the burgh:

(2.) Where a burgh is situated partly in one county and partly in one or more other counties, there shall be as many joint committees for the burgh as there are counties in which the burgh is partly situated:

The magistrates appointed to be members of any one of such joint committees shall be members of all of them, and subject to this provision the joint committee for the part of the burgh situated in any county shall be so appointed, and shall have the same duties and powers with respect to such part, as if such part were a separate burgh within such county:

(3.) The justices of the peace on a joint committee shall be appointed by the county licensing committee within whose area of jurisdiction the burgh, or any part thereof for which such joint committee is to be appointed, is situated; and in the case of the city or burgh of Edinburgh, by a general meeting of the justices of the peace for such city, which is hereby directed to be called for the second Tuesday of November in each year, commencing with the year one thousand

eight hundred and seventy-six; and the magistrates on a joint committee shall be appointed by the magistrates of the burgh:

(4.) The joint committees for the several burghs shall be appointed in each year on the second Tuesday of November, commencing with the year one thousand eight hundred and seventy-six:

(5.) The members of a joint committee for a burgh shall be deemed to be appointed for the year succeeding their appointment, and shall be eligible for re-appointment, and if from any cause members have not been appointed in any year to succeed the retiring members, such retiring members shall continue to act on the joint committee till their successors are appointed:

(6.) Any vacancy arising in a joint committee for a burgh from death, resignation, or other cause, may be from time to time filled up by the magistrates or county licensing committee or justices of the peace by whom the person creating such vacancy was appointed:

Any such joint committee may, if a quorum exist, act notwithstanding a vacancy thereon:

A person appointed to fill a vacancy shall retire from office when the person creating the vacancy would so retire:

(7.) Where the joint committee of a burgh consists of six members the quorum shall be five members; and where it consists of four members the quorum shall be three members:

(8.) The senior magistrate on a joint committee for a burgh present at any meeting shall be its chairman, and in the event of an equal division of the committee the chairman shall have a second vote. If the provost or lord provost of a burgh is a member of the joint committee of that burgh, he shall be deemed to be the senior magistrate on the said joint committee.

As to proceedings for confirming new certificate.

10. In a county the justices of the peace in quarter sessions assembled, and in a burgh the magistrates, shall make such regulations with respect to the meetings of the county licensing committee and the joint committee for the burgh respectively, with respect to the meetings thereof and the transaction of business thereat, as they may think fit, and the following provisions shall have effect; that is to say,

(1.) The application for confirmation of a certificate shall be in the form as nearly as may be set forth in the schedule annexed to this Act, and shall be lodged (together with the certificate) with the clerk of the peace of the county within ten days after the grant of the certificate:

(2.) The county licensing committee, or the joint committee for the burgh, as the case may be, shall have power to award costs to or against any party to such proceedings, except the procurator fiscal for the public interest, as they shall think just.

Provisions for the case of justice or magistrate being disqualified to act as such.

11. No justice of the peace or magistrate of a burgh shall be qualified to be appointed a member of any county licensing committee or joint committee of a burgh under this Act, unless he is qualified to act as such justice of the peace or magistrate in the execution of the Act of the ninth year of the reign of His Majesty King George the Fourth, chapter fifty-eight, according to the provisions contained in the thirteenth section thereof; and every justice of the peace or magistrate of a burgh who shall be appointed a member of any such committee not being qualified as aforesaid shall, if he shall knowingly or wilfully act as a member of such committee, be liable to forfeit and pay the same penalty, to be recovered and applied in the same manner, and subject to the same conditions, as if he had been guilty of an offence under the said thirteenth section: Provided that no grant of a new certificate confirmed under the provisions of this Act shall be liable to objection on the ground that the magistrates or justices of the peace who granted or confirmed the same or any of them were not qualified to make such grant or confirmation.

Confirmation of new certificates.

12. Any person who appears before the justices of the peace or magistrates, and opposes the grant of a new certificate, and no other person, excepting the procurator fiscal for the public interest, may appear and oppose the confirmation of such grant by the confirming authority in counties or burghs.

Deliverances to be entered in book or register.

13. All deliverances or applications for the confirmation of new certificates shall be entered in the book or register appointed to be kept in terms of the schedule annexed to the Act passed in the sixteenth and seventeenth years of the reign of Her present Majesty, chapter sixty-seven.

Fees.

14. The fees demandable in respect of proceedings under this Act shall be as nearly as may be the same as those payable under the Public Houses Acts Amendment (Scotland) Act, 1862, for the like proceedings under that Act.

Certificate holders need not attend licensing meeting unless required to do so.

15. Where a person holding a certificate applies for the renewal of his certificate, he need not attend in person at the meeting for granting and renewing certificates, unless he is required by the justices of peace of the county or magistrates of the burgh, as the case may be, so to attend.

Renewal and transfer of certificates.

16. Subject to the provisions of this Act, certificates shall be renewed and transferred and the powers and discretion of justices or magistrates and the rights of appeal relative to such renewal and transfer shall be exercised as heretofore.

Table beer licenses not to be granted without certificates.

17. No license in the terms of the Act passed in the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter twenty-one, for the sale in any house, shop, or premises of table beer at a price not exceeding one penny halfpenny the quart, and not to be drunk on the premises, shall be granted by the commissioners or by any officer of inland revenue to any person in Scotland who shall not produce to the said commissioners or officer a certificate in terms of "The Public Houses Acts Amendment (Scotland) Act, 1862," and the Acts therein recited, or of this Act, and such certificate shall be applied for, granted, confirmed, transferred, and renewed in the manner, and subject to all the provisions applicable to other certificates in the like circumstances granted, confirmed, transferred, and renewed in terms of the foresaid Acts, and, mutatis mutandis, may be in the form (so far as the same is applicable) of Schedule A., No. 3., of the "Public Houses Acts Amendment (Scotland) Act, 1862."

SCHEDULE.

No. 1.

Application for Confirmation of new Certificate.

To the County Licensing Committee for the County of *or*
To the Joint Committee for the Burgh of and the County of .
I , *A.B.*, hereby apply for confirmation of the grant made to me of the certificate herewith produced by the [justices of the peace of the county of *or* magistrates of the burgh of *as the case may be*] on [*give date*].

(Signed) [*A.B.*]
or
[*C.D., law agent of A.B.*]

No. 2.

Confirmation of new Certificate.

This certificate was confirmed by the licensing committee of the said county of [*or* by the joint committee of the said county of and the said burgh of], at a meeting holden on the day of in the year .

The above confirmation is made out according to the deliverance in the book or register appointed to be kept in terms of the Act of Parliament.

G.H., Clerk.