1946

NEW ZEALAND

REPORT OF THE ROYAL COMMISSION ON LICENSING

Laid on the Table of the House of Representatives by Command of His Excellency

Royal Commission to Inquire into and Report upon Licensing Matters in New Zealand

GEORGE THE SIXTH by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith:

To our Trusty and Well-beloved the Honourable Mr. Justice David Stanley Smith, of Wellington, a Judge of the Supreme Court; Percy Taylor Coyle, of Wellington, Secretary; George William Hutchison, of Auckland, Public Accountant; Thomas Jordan, of Masterton, Barrister and Solicitor; Edmund Colin Nigel Robinson, of Morrinsville, Farmer; James Patrick Ruth, of Dunedin, Civil Servant; the Reverend John Thomson Macky, of Lower Hutt, Minister of Religion; Percy Malthus, of Hampden, Farmer; and the Honourable Mr. Frederick George Young, Member of the Legislative Council, of Auckland, Secretary: Greeting.

WHEREAS we have deemed it expedient that a Commission should issue to inquire into the working of the laws relating to the manufacture and importation, sale and supply of intoxicating liquors, and into the social

and economic aspects of the question, and to examine and report upon proposals that may be made for amending the law in New Zealand in the public interest:

Now know ye that We, reposing trust and confidence in your knowledge and ability, do hereby nominate, constitute, and appoint you, the said

David Stanley Smith,
Percy Taylor Coyle,
George William Hutchison,
Thomas Jordan,
Edmund Colin Nigel Robinson,
James Patrick Ruth,
John Thomson Macky,
Percy Malthus, and
Frederick George Young

to be a Commission to inquire into and report upon the working of the laws relating to the manufacture and importation, sale and supply, whether by wholesale or retail, of intoxicating liquors, and the social and economic aspects of the question and proposals that may be made for amending the law in the public interest, and to make such proposals as you may yourselves think fit for amendment of the law:

And generally to inquire into and report upon such other matters arising out of the premises as may come to your notice in the course of your inquiries and which you consider should be investigated in connection therewith, and upon any matters affecting the premises which you consider should be brought to the attention of the Government:

And We do hereby appoint you, the said

David Stanley Smith,

to be Chairman of the said Commission:

And for the better enabling you to carry these Presents into effect you are hereby authorized and empowered to make and conduct any inquiry under these Presents at such time and place as you deem expedient, with power to adjourn from time to time and place to place as you think fit, and so that these Presents shall continue in force, and the inquiry may at any time and place be resumed although not regularly adjourned from time to time or from place to place:

And you are hereby strictly charged and directed that you shall not at any time publish or otherwise disclose save to His Excellency the Governor-General, in pursuance of these Presents or by His Excellency's direction, the contents of any report so made or to be made by you or any evidence or information obtained by you in the exercise of the powers hereby conferred upon you except such evidence or information as is received in the course of a sitting open to the public:

And it is hereby declared that the powers hereby conferred shall be exercisable notwithstanding the absence at any time of any one or more of the members hereby appointed so long as the Chairman, or a member deputed by the Chairman to act in his stead, and at least four other members be present and concur in the exercise of such powers :

And We do further ordain that you have liberty to report your proceedings and findings under this Our Commission from time to time if you shall judge it expedient so to do :

And, using all due diligence, you are required to report to His Excellency the Governor-General in writing under your hands and seals not later than the first day of September, one thousand nine hundred and forty-five, your findings and opinions on the matters aforesaid, together with such recommendations as you think fit to make in respect thereof :

And, lastly, it is hereby declared that these Presents are issued under the authority of the Letters Patent of His late Majesty dated the eleventh day of May, one thousand nine hundred and seventeen, and under the authority of and subject to the provisions of the Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council of the Dominion of New Zealand.

In witness whereof We have caused this Our Commission to be issued and the Seal of Our Dominion of New Zealand to be hereunto affixed at Wellington, this thirty-first day of January, in the year of our Lord one thousand nine hundred and forty-five, and in the ninth year of Our Reign.

Witness our Trusty and Well-beloved Sir Cyril Louis Norton Newall, Marshal of Our Royal Air Force, Knight Grand Cross of Our Most Honourable Order of the Bath, Member of Our Order of Merit, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Commander of Our Most Excellent Order of the British Empire, on whom has been conferred Our Albert Medal of the First Class, Governor-General and Commander-in-Chief in and over our Dominion of New Zealand and its Dependencies, acting by and with the advice and consent of the Executive Council of the said Dominion.

[L.S.] C. L. N. NEWALL, Governor-General.

By His Excellency's Command—

H. G. R. MASON, Minister of Justice.

Approved in Council—

C. A. JEFFERY, Clerk of the Executive Council.

Member of Commission to Inquire into and Report upon Licensing Matters resigns

Department of Justice,
Wellington, 10th April, 1945.

HIS Excellency the Governor-General has been pleased to accept the resignation by

Thomas Jordan, Esquire,

of his appointment to the Royal Commission to Inquire into and Report upon Licensing Matters in New Zealand.

H. G. R. MASON, Minister of Justice.

Appointment of further Commissioner to Royal Commission to Inquire into and Report upon Licensing Matters in New Zealand

GEORGE THE SIXTH by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith:

To our Trusty and Well-beloved Bella Fernie Logie, widow of the late Sergeant George Logie, of the 15th Royal Scots Regiment: Greeting.

WHEREAS We did by Our Warrant bearing date the thirty-first day of January, one thousand nine hundred and forty-five, issued under the authority of the Letters Patent of His late Majesty dated the eleventh day of May, one thousand nine hundred and seventeen, and under the Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council, appoint Commissioners to inquire into the working of the laws relating to the manufacture and importation, sale and supply of intoxicating liquors, and into the social and economic aspects of the question, and to examine and report upon proposals that may be made for amending the law in New Zealand in the public interest:

And whereas it is desirable to appoint another member to the Commission:

Now know ye that We, reposing great confidence in your knowledge and ability, have authorized and appointed and do by these presents authorize and appoint you, the said

Bella Fernie Logie,

to be a Commissioner for the purposes aforesaid.

In witness whereof We have caused these presents to be issued and the Seal of Our Dominion of New Zealand affixed at Wellington, this sixth day of April, in the year of our Lord one thousand nine hundred and forty-five, and in the ninth year of Our Reign.

Witness Our Trusty and Well-beloved Sir Cyril Louis Norton Newall, Marshal of Our Royal Air Force, Knight Grand Cross of Our Most Honourable Order of the Bath, Member of Our Order of Merit, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Commander of Our Most Excellent Order of the British Empire, on whom has been conferred Our Albert Medal of the First Class, Governor-General and Commander-in-Chief in and over Our Dominion of New Zealand and its Dependencies, acting by and with the advice and consent of the Executive Council of the said Dominion.

[L.S.] C. L. N. NEWALL, Governor-General.

By His Excellency's Command—

H. G. R. MASON, Minister of Justice.

Approved in Council—

C. A. JEFFERY, Clerk of the Executive Council.

Extending Period within which the Commission appointed to Inquire into and Report upon Licensing Matters in New Zealand shall report

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GEORGE THE SIXTH by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith :

To Our Trusty and Well-beloved the Honourable Mr. David Stanley Smith, a judge of the Supreme Court, Percy Taylor Coyle, George William Hutchison, Edmund Colin Nigel Robinson, James Patrick Ruth, the Reverend John Thomson Macky, Percy Malthus, the Honourable Mr. Frederick George Young, and Bella Fernie Logie : Greeting.

WHEREAS by Our Warrant dated the thirty-first day of January, one thousand nine hundred and forty-five, you, the said

David Stanley Smith,
Percy Taylor Coyle,
George William Hutchison,
Edmund Colin Nigel Robinson,
James Patrick Ruth,
John Thomson Macky,
Percy Malthus, and
Frederick George Young,

together with Thomas Jordan, of Masterton, Barrister and Solicitor, now deceased, were appointed under the authority of the Letters Patent of His late Majesty dated the eleventh day of May, one thousand nine hundred and seventeen, and under the authority of the Commissions of

Inquiry Act, 1908, and with the advice and consent of the Executive Council, to be a Commission of Inquiry for the purposes in the said Warrant duly set out:

And whereas by Our further Warrant dated the sixth day of April, one thousand nine hundred and forty-five, you, the said Bella Fernie Logie, were appointed to be a member of the said Commission of Inquiry:

And whereas by Our said first-mentioned Warrant you were required to report not later than the first day of September, one thousand nine hundred and forty-five, your findings and opinions on the matters referred to you:

And whereas it is expedient that the time for so reporting should be extended as hereinafter provided:

Now, therefore, We do hereby extend until the thirty-first day of December, one thousand nine hundred and forty-five, the time within which you are so required to report:

And We do hereby confirm the said Commission and the two respective Warrants hereinbefore referred to except as altered by these presents.

In witness whereof We have caused these presents to be issued and the Seal of Our Dominion of New Zealand to be affixed hereto at Wellington, this twenty-second day of August, in the year of our Lord one thousand nine hundred and forty-five, and in the ninth year of Our Reign.

Witness Our Trusty and Well-beloved Sir Cyril Louis Norton Newall, Marshal of Our Royal Air Force, Knight Grand Cross of Our Most Honourable Order of the Bath, Member of Our Order of Merit, Knight Grand Cross of Out Most Distinguished Order of Saint Michael and Saint George, Commander of Our Most Excellent Order of the British Empire, on whom has been conferred Our Albert Medal of the First Class, Governor-General and Commander-in-Chief in and over Our Dominion of New Zealand and its Dependencies, acting by and with the advice and consent of the Executive Council of the said Dominion.

C. L. N. NEWALL, Governor-General,

By his Deputy,

[L.S.] MICHAEL MYERS.

By His Excellency's Command—

H. G. R. MASON, Minister of Justice.

Approved in Council—

C. A. JEFFERY, Clerk of the Executive Council.

Extending Period within which the Commission appointed to Inquire into and Report upon Licensing Matters in New Zealand shall report

GEORGE THE SIXTH by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith:

To Our Trusty and Well-beloved the Honourable Mr. David Stanley Smith, a Judge of the Supreme Court, Percy Taylor Coyle, George William Hutchison, Edmund Colin Nigel Robinson, James Patrick Ruth, the Reverend John Thomson Macky, Percy Malthus, the Honourable Mr. Frederick George Young, and Bella Fernie Logie: Greeting.

WHEREAS by Our Warrant dated the thirty-first day of January, one thousand nine hundred and forty-five, you, the said

David Stanley Smith,
Percy Taylor Coyle,
George William Hutchison,
Edmund Colin Nigel Robinson,
James Patrick Ruth,
John Thomson Macky,
Percy Malthus, and
Frederick George Young,

together with Thomas Jordan, of Masterton, Barrister and Solicitor, now deceased, were appointed under the authority of the Letters Patent of His late Majesty dated the eleventh day of May, one thousand nine hundred and seventeen, and under the authority of the Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council, to be a Commission of Inquiry for the purposes in the said Warrant duly set out:

And whereas by Our further Warrant dated the sixth day of April, one thousand nine hundred and forty-five, you, the said Bella Fernie Logie were appointed to be a member of the said Commission of Inquiry:

And whereas by Our said first-mentioned Warrant you were required to report not later than the first day of September, one thousand nine hundred and forty-five, your findings and opinions on the matters referred to you:

And whereas by Our further Warrant dated the twenty-second day of August, one thousand nine hundred and forty-five, the time within which you were so required to report was extended until the thirty-first day of December, one thousand nine hundred and forty-five:

And whereas it is expedient that the time for so reporting should be further extended as hereinafter provided:

Now, therefore, We do hereby extend until the thirty-first day of May, one thousand nine hundred and forty-six, the time within which you are so required to report:

And We do hereby confirm the said Commission and the three respective Warrants hereinbefore referred to except as altered by these presents.

In witness whereof We have caused these presents to be issued and the Seal of Our Dominion of New Zealand to be affixed hereto at Wellington, this 12th day of December, in the year of Our Lord one thousand nine hundred and forty-five, and in the tenth year of Our Reign.

Witness Our Trusty and Well-beloved Sir Cyril Louis Norton Newall, Marshal of Our Royal Air Force, Knight Grand Cross of Our Most Honourable Order of the Bath, Member of Our Order of Merit, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Commander of Our Most Excellent Order of the British Empire, on whom has been conferred Our Albert Medal of the First Class, Governor-General and Commander-in-Chief in and over Our Dominion of New Zealand and its Dependencies, acting by and with the advice and consent of the Executive Council of the said Dominion.

[L.S.] C. L. N. NEWALL, Governor-General.

By His Excellency's Command—
H. G. R. MASON, Minister of Justice.

Approved in Council—
W. O. HARVEY,
Acting Clerk of the Executive Council.

Extending Period within which the Commission appointed to Inquire into and Report upon Licensing Matters in New Zealand shall report

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GEORGE THE SIXTH by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith:

To Our Trusty and Well-beloved the Honourable Mr. David Stanley Smith, a Judge of the Supreme Court, Percy Taylor Coyle, George William Hutchison, Edmund Colin Nigel Robinson, James Patrick Ruth, Percy Malthus, the Honourable Mr. Frederick George Young, and Bella Fernie Logie: Greeting.

WHEREAS by Our Warrant dated the thirty-first day of January, one thousand nine hundred and forty-five, you, the said

David Stanley Smith,
Percy Taylor Coyle,
George William Hutchison,
Edmund Colin Nigel Robinson,
James Patrick Ruth,
Percy Malthus, and
Frederick George Young,

together with Thomas Jordan and John Thomson Macky, now deceased, were appointed under the authority of the Letters Patent of His late Majesty dated the eleventh day of May, one thousand nine hundred and

seventeen, and under the authority of the Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council, to be a Commission of Inquiry for the purposes in the said Warrant duly set out:

And whereas by Our further Warrant dated the sixth day of April, one thousand nine hundred and forty-five, you, the said Bella Fernie Logie were appointed to be a member of the said Commission of Inquiry:

And whereas by Our said first-mentioned Warrant you were required to report not later than the first day of September, one thousand nine hundred and forty-five, your findings and opinions on the matters referred to you:

And whereas by Our further Warrant dated the twenty-second day of August, one thousand nine hundred and forty-five, the time within which you were so required to report was extended until the thirty-first day of December, one thousand nine hundred and forty-five:

And whereas by Our further Warrant dated the twelfth day of December, one thousand nine hundred and forty-five, the time within which you were so required to report was further extended until the thirty-first day of May, one thousand nine hundred and forty-six:

And whereas it is expedient that the time for so reporting should be further extended as hereinafter provided:

Now, therefore, We do hereby extend until the thirty-first day of August, one thousand nine hundred and forty-six, the time within which you are so required to report:

And we do hereby confirm the said Commission and the four respective Warrants hereinbefore referred to except as altered by these presents.

In witness whereof We have caused these presents to be issued and the Seal of Our Dominion of New Zealand to be affixed hereto at Wellington, this twenty-fourth day of May, in the year of Our Lord one thousand nine hundred and forty-six, and in the tenth year of Our Reign.

Witness Our Trusty and Well-beloved Sir Michael Myers, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Chief Justice of New Zealand, the Administrator of the Government of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of the said Dominion.

[L.S.] MICHAEL MYERS,
Administrator of the Government.

By His Excellency's Command—
H. G. R. MASON, Minister of Justice.

Approved in Council—
W. O. HARVEY,
Acting Clerk of the Executive Council.

REPORT

To His Excellency the Governor-General of the Dominion of New Zealand.

May it please Your Excellency—

We, the undersigned Commissioners, appointed by Warrant dated the 31st day of January, 1945, have the honour to submit to Your Excellency our report under the following terms of reference :—

To inquire into and report upon the working of the laws relating to the manufacture and importation, sale, and supply, whether by wholesale or retail, of intoxicating liquors, and the social and economic aspects of the question and proposals that may be made for amending the law in the public interest, and to make such proposals as you may yourselves think fit for amendment of the law; and generally to inquire into and report upon such other matters arising out of the premises as may come to your notice in the course of your inquires and which you consider should be investigated in connection therewith, and upon any matters affecting the premises which you consider should be brought to the attention of the Government.

PREFACE

The report of the Commission which we present is the report of the majority of your Commissioners—viz., David Stanley Smith (Chairman), Bella Fernie Logie, Percy Malthus, Edmund Colin Nigel Robinson, and James Patrick Ruth.

We have divided our report into two books :—

Book I, comprising paragraphs 1 to 1521 inclusive, contains a statement of the facts concerning the liquor trade of New Zealand and the mischiefs and deficiencies connected with it. This book is lengthy, but, in our view, unavoidably so, because we are convinced that an objective account of the whole trade is the best foundation for considering and determining not only the main lines of control, but also the remedy for any particular ill.

Book II, comprising paragraphs 1522 to 1991 inclusive contains our recommendations for the remedies which we consider are required for the mischiefs and deficiencies revealed by the over-all picture of the facts in Book I. Book II relies on the detailed statement of those facts, but is, for practical purposes, complete in itself.

For the purpose of dealing with the facts, we have divided the books into various parts. This division, while convenient for our work, does not purport to constitute a classification of material, which is mutually exclusive throughout.

All Appendices have been attached to Book II.

In addition to the report of the Commission which we present in Books I and II, Book III contains the separate reports of the minority of your Commissioners—viz., Percy Taylor Coyle, George William Hutchison, and Frederick George Young.

Your Commissioner, George William Hutchison, has expressed (*a*) his general agreement with Book I of our report, which comprises paragraphs 1 to 1521 inclusive; (*b*) his general agreement with that part of Book II of our report, which is comprised in paragraphs 1522 to 1563 inclusive; and (*c*) his agreement with the remainder of our report in so far as it does not conflict with his own conclusions.

Your Commissioner, Frederick George Young, has expressed his general agreement with paragraphs 1 to 1521 inclusive, of our report, subject to certain general observations which he has made.

A Table of Contents, covering all the books, precedes the Introduction to Book I.

An index, covering all the books, which is the work of our colleague Mr. E. C. N. Robinson, and of our secretary, has been added to Book III.

The letter "R" before a number (*e.g.*, R. 2122) indicates a page in the bound volumes of the record of proceedings.

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BOOK I.—STATEMENT OF FACTS

PART I.—INTRODUCTION

1. There have been two changes in the personnel of the Commission. Before we commenced to take evidence, Mr. Thomas Jordan resigned, and on the 6th April, 1945, Mrs. Bella Fernie Logie was appointed a member of the Commission. On the 21st February, 1946, the Rev. J. Thomson Macky died. His death caused us the deepest regret on account both of his personal qualities and of the active part he had taken in the inquiry. Mr. Macky had also prepared for the Commission an index of the evidence and of counsels' addresses, which is very complete and has proved indispensable in the preparation of this report. Mr. Macky's death occurred after the close of the evidence, and his place was not filled.

2. Throughout our inquiry we have had the assistance of Mr. J. D. Willis, counsel appointed by the Government, to assist the Commission. Messrs. H. F. O'Leary, K.C., P. B. Cooke, K.C., and I. H. Macarthur appeared to represent the National Council of the Licensed Trade. They stated that they represented the great majority of the members of that organization. Messrs. F. C. Spratt and R. Hardie Boys appeared to represent the New Zealand Alliance. During the course of the inquiry other counsel (twenty-four in all) appeared to represent persons or organizations concerned with some particular aspect of our inquiry.

3. We record our deep appreciation of all the assistance we have received. We were much indebted to the counsel who appeared regularly throughout the sittings. They had to deal with a great mass of evidence under pressure of time in order to keep the members of the Commission, who came from different parts of New Zealand, continually occupied. We were particularly indebted to the counsel appointed to assist the Commission, Mr. J. D. Willis, who had the main burden of maintaining the flow of evidence. His power of work and his ability were equal to all demands upon them.

We acknowledge also the excellent work done by the staff of the Commission. We do not think we could have been better served. Our Secretary, Mr. A. B. Thomson, LL.M., by his effciency and organizing ability has ensured the smooth running of the Commission and the careful and accurate production of the record. He has also assisted, with care and skill, in the collation of the evidence for the preparation of this report. Our staff of typistes (Mrs. Worboys, Miss Will, and Miss Eadie), by their combination of accuracy with speed, and by their devotion to duty, have produced, we venture to think, a record which, on the whole, despite its volume, is admirably complete and correct. We express our thanks also to the other members of the staff for their efficient work.

We acknowledge also the great assistance we have received from those Stipendiary Magistrates and Judges of the Native Land Court, who have given us freely the benefit of their experience; from the Commissioner of Police and the members of the Police Force, who have given evidence and who also undertook extensive inquiries on our behalf, including a report upon the condition of all the hotels in New Zealand; from the officers of the various other Departments of Government and, in particular, of the Justice Department, the Native Department, and the Land Registries, who went to much trouble to collect information for us; from the Licensing Committees, who answered an extensive questionnaire prepared by the Justice Department; from members of the licensed trade, who answered our questionnaire and who gave evidence which must have taken them much time and trouble to collect and arrange; from the representatives of the New Zealand wine industry, who presented their case to us in a very complete form; from the New Zealand Alliance, which, through its Superintendent, supplied us with a great deal of information and freely presented its viewpoint; from the churches, some of whom held special conferences to deal with the matters in issue before us, and who gave much time and thought to the presentation of their respective cases; from women's organizations, clubs, Maori committees, and groups of citizens, who also took much trouble to collect their evidence and to present their points of view; and from the many individuals who stated their views.

4. We held a preliminary meeting in Wellington on the 9th February, 1945, and decided to sit in public to hear evidence and argument, but we reserved to ourselves the right to make any inquiries concerning the matters in question which we thought proper. We gave notice in the newspapers in various parts of the country of the sittings of the Commission, and invited evidence from those having knowledge of the matters under inquiry. We began our public sittings in Wellington on the 6th March, 1945, and continued until the 27th April, when we adjourned to Auckland. We have since held the following public sittings, the dates mentioned being inclusive: at Auckland from the 8th May to the 18th June; at Rotorua from the 26th June to the 2nd July; at Te Kuiti from the 4th July to the 7th July; at Christchurch from the 20th July to the 26th July; at Invercargill from the 1st August to the 3rd August; at Dunedin on the 7th and 8th August; at Wellington from the 28th August to the 20th September, and again at Wellington from the 15th October to the 30th October, 1945. In all, we held 93 public sittings. We heard 297 witnesses, and the evidence occupies 7,824 typed foolscap pages. In addition, many documents and files have been admitted as exhibits. The Chairman sat in Chambers on two occasions for the purpose of hearing legal argument. A case was stated for the Court of Appeal upon the question whether we were authorized to inquire as to what contributions were made by the licensed trade to the funds of political parties. The Court of Appeal held that we were not authorized by our order of reference to make that inquiry.

PART II.—ALCOHOLIC LIQUOR: THE NEED FOR CONTROL

CHAPTER 1.—THE NATURE AND EFFECTS OF ALCOHOLIC LIQUOR

5. As our inquiry is concerned with the problems arising out of the consumption of alcoholic liquor, we desire to explain briefly our view of the evidence concerning the nature and effect of alcohol upon the human body. Oral evidence was given by Professor D'Ath, Professor of Pathology at the Otago University Medical School, and by Dr. J. F. G. Richards, Medical practitioner, of Auckland. We have also been supplied with various books and reports on the subject.

6. The intoxicating ingredient in alcoholic liquor is ordinary or ethyl alcohol, to which we shall refer as "alcohol." The scientific evidence refers to the effect of alcohol, as distinct from alcohol in beverage form, as in beer, whisky, and the like. The distinction must be remembered in applying the evidence, because any specified quantity of alcohol is represented by a larger quantity of alcoholic beverage. For example, 15 c.c. of alcohol is the equivalent of 30 c.c. of whisky (R. 3536G).

7. Alcohol is usually produced by the fermentation of sugar. It has several effects upon the human body. The first effect when burnt in the body is that it liberates a certain amount of energy. This is the total value of alcohol as a food, but it has no advantages as a food over other much more desirable substances such as milk. Alcohol is seldom taken as a food.

8. The second effect of alcohol is that it operates as a drug if not taken in excessive quantities. A drug is a substance which temporarily modifies the activities of the bodily organs, including the brain, otherwise than by acting as a food. The use of alcohol as a drug is its main use. It may be used as a medicine in certain restricted cases—*e.g.*, in angina pectoris or in diabetes—but there are other more effective drugs for use in those conditions. When used as a beverage its main effect is that of a narcotic and not of a stimulant. It depresses the action of the nervous system and blunts the higher mental processes. The highest functions—those of the critical judgment and of self consciousness—are first affected. The result is some loss of self-control. The average individual counteracts this effect in its early stages by an increased effort at self-control. As the dosage of alcohol is increased, the effort at self-control tends to become ineffective.

9. The third effect of alcohol commences when the stage of drunkenness is reached. Alcohol then ceases to operate as a drug, and begins to operate as a poison upon the central nervous system. That involves danger to life. If the use of alcohol to the poisonous stage is continued by a normal person, chronic alcoholism is likely to arise and bring about diseased conditions of the organs of the drinker which may be of a permanent character. The important factors which contribute to chronic alcoholism are: (1) the use of strong alcoholic beverages, (2) the frequent repetition of the dose, (3) drinking without food, and (4) the use of alcohol as a source of energy in place of proper food. On the other hand, the effect varies with the individual. One person can take more alcoholic liquor than another without harmful effects, but it is established that any person suffering from a nervous disorder is particularly susceptible to the effect of alcohol and that its use is definitely injurious to him.

10. Effective doses of alcohol lower efficiency by decreasing accuracy. The deleterious effects are least marked in tasks that are familiar or do not require much attention. The effects vary also with the conditions under which they occur. They vary also for different individuals and also by reference to the extent to which the individual is accustomed to the effects of alcohol. Even so, it appears that most observers conclude that 30 c.c. of alcohol, or even less, has definite effects on performance and behaviour (28·5 c.c. equals 1 fluid ounce). Doses of 20 to 40 c.c. of alcohol practically double the errors in close work. With some individuals, 10 c.c. may produce this result, while habitual drinkers are more resistant. The concentration in which the alcohol is given does not materially influence the response, but the effect is less when the alcohol is taken with or just after meals, for then it is more slowly absorbed. The harmful effect of alcohol upon the driver of a motor-car is well known and, in the light of the facts stated, need not be elaborated.

11. The properties which make alcohol attractive as a beverage are: (1) its rubefacient effect on the lining of the stomach, producing an agreeable sense of warmth, (2) its property of dilating the peripheral circulation, producing an agreeable sensation of glow, and (3) its property of reducing the co-ordination of the nerve centres and thereby removing, from a slight to an increasingly greater extent, the inhibitions and controls of the individual. The results are described in a scientific text-book "A Manual of Pharmacology," by Sollmann (1943), (R. 3536E) in these words:—

> There is an increased vivacity of motion, action, and speech, which later may acquire a stamp of brilliancy, perhaps of inspiration. The subjective condition of the individual generally veers towards self-appreciation. Shyness, if it ordinarily exists, is replaced by self-confidence. The person under the influence of alcohol feels an unlimited confidence in his own powers and accomplishments, both intellectual and physical. He attempts difficult and impossible tasks, and feels that he accomplishes them. He may similarly overestimate the performance of others.

The author continues:—

> The view that alcohol increases the intellectual and physical powers of the individual is shown by actual experiments to be erroneous, and based almost entirely upon the subjective condition of the individual, his weakened faculty of judgment, and premature but faulty or misdirected reactions. The failure of alcohol to produce real stimulation is also attested by common experience. Persons who have to undergo severe exertion, either physical or intellectual, very rarely take alcohol before or during their labour, but only when this is finished, and then not for any stimulating, but really for its depressing effect, for the feeling of comfort and general relaxation which it induces. The continued use of large doses of alcohol greatly diminishes the activity of the individual, and even moderate doses tend to have the same effect. (R. 3536 F and G.)

12. Both Professor D'Ath and Dr. Richards were agreed that the consumption of alcohol may be regarded as reasonable if it is not excessive, but they were not in agreement as to what is excessive. Dr. Richards took the view that any consumption above "minimal quantities" is excessive, because it has a harmful effect upon health. He explained that the body can metabolize—*i.e.*, oxidize within the blood-stream and render harmless—10 c.c. of alcohol in an hour (R. 3536D). It might then be thought that 240 c.c., or about 8 oz. of alcohol could be metabolized within twenty-four hours. That would only be so, however, if 10 c.c. were taken every hour. The fact is that any

quantity over 10 c.c. circulated in the blood at any one time will not be metabolized within the hour, but will continue to circulate in the blood for a longer period. Thus 30 c.c., or 1 oz. or any composition or mixture containing 1 oz.—*e.g.*, 2 oz. of whisky—requires eight hours before it is metabolized. Forty-five cubic centimetres, or $1\frac{1}{2}$ oz. which is equal to 3 oz. of whisky, requires twelve hours before it is metabolized.

13. It is, however, the effect of alcohol upon the tissues before metabolization which makes it desirable as a convivial aid to those who consume it. What the moderate consumer should reasonably desire to know is the amount which he can individually take in aid of convivial enjoyment without injuring his self-respect or his health. Dr. Richard's general estimate of a permissible quantity was 12 c.c. per day, which is the amount of alcohol contained in the smaller bottle of beer (12 oz. or 13 oz.) or in $\frac{1}{2}$ oz. of whisky. This would permit a very small effect upon the brain, as most of the 12 c.c. would be metabolized within the body in an hour. That quantity might not affect some persons at all. Dr. Richards was prepared to allow for some variation in the time at which the pleasurable effects would be superseded by the obviously more toxic effects, according to the natural or acquired capacity of individuals to sustain the effect of alcohol upon their tissues. He was definitely opposed to what is known as "moderate drinking" because he thought the quantity represented thereby is injurious to health. He said that the statistics of life-assurance companies show only that *very moderate* drinking had no effect on longevity.

14. Professor D'Arth's view was that the moderate use of alcohol "within the prescribed limits" is permissible. We infer from his evidence that no general rule of precise guidance can be laid down; that the limit is "prescribed" (R. 5929) when the consumer feels "adverse effects"; that he will feel these effects sooner or later according to his own individual capacity; and that he will also judge whether the effects are to be described as "adverse" by reference to the occasion, as, for example, when he is going to drive a motor-car. We infer also from the whole of Professor D'Ath's evidence that the use of alcohol for a normal adult person does not have adverse effects if it is substantially diluted, taken at proper intervals, taken generally when the stomach has food, and taken only to such an extent that the individual consumer, though he may be convivial, retains his self-respect and self-control.

15. On the whole of the evidence, we conclude that moderate drinking of the kind described by Professor D'Ath is not physiologically harmful to any material extent to the majority of normal adults. On the other hand, drinking, even with moderation, may insidiously create a craving for itself which will overcome self-control, injure health, and make the consumer a drunkard. Its power to do this and to cause the misery and degradation associated with drunkenness has induced civilized communities to treat alcoholic liquor as an article of human consumption with dangerous possibilities, and, therefore, as an article which requires control both in consumption and in trade in the interest of the individual and of society.

PART III.—THE PRESENT LEGAL FRAMEWORK OF CONTROL

CHAPTER 2.—GENERAL EXPLANATION

16. We propose now to outline the methods which are employed in New Zealand for the control of the liquor trade and for the consumption of alcoholic liquor. Our object is to give a picture of the legal framework within which the liquor trade has developed to its present stage of organization in New Zealand. In this way we shall be better able to estimate what mischiefs have arisen in connection with the trade.

17. The methods of legal control which are in operation in New Zealand may first of all be shortly summarized. We shall later explain the principal methods more fully. These methods are:—

18. The licensing of private persons to manufacture or sell alcoholic liquor, subject to some specified form of supervision. The obligation to provide accommodation for the public is attached to two of the licenses granted under this system—viz., the

publican's and the accommodation license. Incidental to the control under this licensing system are important subsidiary elements such as the limitation of the hours of sale; the inspection of liquors and premises; the prohibition of the use of licensed premises as a dancing, concert, or theatrical saloon or a place of common resort; the prohibition of the employment of barmaids other than those already registered; the imposition of penalties on the holders of publicans' and accommodation licenses for permitting drunkenness, gambling, or for keeping a disorderly house; the prohibition of selling at unauthorized places and the requirement that accommodation shall be kept up to a certain standard. Some of these subsidiary elements have been made more stringent by the war regulations—*e.g.*, the restriction of hours—(see Regulations 1942/186 and 1943/122). This licensing of private individuals has been, and is, the main system in operation in New Zealand. The number of people living in the districts in which it was in operation at the census of 1945 was 1,428,368.

19. The creation of any district, pursuant to the vote of the electors, in which no licenses are issued for the sale of alcoholic liquors, although individuals may import alcoholic liquor from districts where the sale is licensed. This is the system of district no-license, or local option. The number of people living in these districts at the census of 1945 was 249,912.

20. The creation of any district, by virtue of a Proclamation under statutory authority, in which no licenses are issued for the sale of alcoholic liquors, although individuals may import liquor from districts where the sale is licensed. The district is virtually a no-license district, but is not subject to a licensing poll. The only district of this kind is the King-country. The number of persons living in that district at the census of 1945 was as follows: European, 30,195; Maori, 8,660.

21. The imposition of restrictions upon sections of the community, whether they reside in license or no-license districts. Special restrictions are imposed upon the Maoris and also upon all persons, whether European or Maori, who are under the age of twenty-one years.

22. The issue of a prohibition order against an individual who, by excessive drinking of liquor, wastes his estate or greatly injures his health or endangers or interrupts the peace or happiness of his family. There is in New Zealand no general prohibition of the right to drink which is subject to exceptions in favour of those individuals who are licensed to consume alcoholic liquor. That system is in operation in Sweden and in most Canadian States, where it is carried out by the issue of permits or coupons.

23. Control of the sale of alcoholic liquor within a specified district by a local Trust or Corporation appointed on behalf of the public. This method was established by statute in 1944 for the Invercargill Licensing District, which voted for the restoration of licenses in 1943. The Trust is also charged with the duty of providing hotel accommodation.

24. We now proceed to describe in more detail the main elements of these methods of control.

CHAPTER 3.—CONTROL BY LICENSING

25. Licenses granted in respect of alcoholic liquors are of various kinds. They may authorize both manufacture and sale. They may apply to all intoxicating liquors or to a particular kind only. We propose to classify them by reference to their purpose, though one license may cover both manufacture and sale. This procedure will make the function which each license may serve more clearly apparent.

26. We refer first to licenses which authorize the *manufacture* of the several kinds of alcoholic liquors.

Licenses for Manufacture

27. *Spirits.*—Under section 4 of the Distillation Act, 1908, the Minister of Customs has power to issue a license to distil, rectify, or compound spirits. Under the Act the word "spirits" is defined to include alcohol, brandy, rum, gin, whisky, low wine, feints,

and other spirituous liquors. The power to issue a license under section 4 for the manufacture of these spirits has not been exercised since the year 1874. At that time two distilleries were operating, one in Auckland and one in Dunedin. Prior to 1874 the duty on locally made spirits was only one-half of the duty upon imported spirits. By the Excise Duties Act, 1874, the duty on spirits distilled in New Zealand was raised to the level of the duty on imported spirits. The two distilleries were closed, compensation being paid to the distillers. Since 1874 all Governments, as a matter of policy, have refused applications for the issue of a license under section 4 of the Distillation Act.

28. *Spirits for Winemaking.*—Under section 12 of the Distillation Act, 1908, as amended by section 30 of the Customs Acts Amendment Act, 1934, the Minister of Customs may grant to the owner or occupier of a vineyard of not less than 5 acres in cultivation a license to keep and use a still for the purpose of distilling spirits from wine or the lees of wine, such spirits to be used for fortifying the wines produced on the vineyard, and so that when fortified they do not contain more than 40 per cent. of proof spirit. In 1945 there were 18 licenses for these wine-stills—13 in the Auckland District, 4 in the Napier District, and 1 in the Gisborne District.

29. *Wine.*—Under section 11 of the Licensing Amendment Act, 1914, a Stipendiary Magistrate may grant a winemaker's license for the manufacture of wine. Wine is defined to include any liquor being the produce of fruit (other than apples or pears) grown in New Zealand, and of a strength not exceeding 40 per cent. of proof spirit. The license continues until the 31st December next after its issue. It permits the holder to manufacture during the year of the currency of his license the quantity of wine stated in his application for the license, which may be a quantity not exceeding 500 gallons, or not exceeding 1,000 gallons, or a quantity exceeding 1,000 gallons.

30. *Beer.*—Beer may not be brewed, except under a license issued by the Minister of Customs pursuant to Part III of the Finance Act, 1915. This Act is expressed to be an Act to grant certain duties of Customs and excise and to deal with other matters of revenue, but, in relation to beer, Part III constitutes a code regulating its manufacture and sale as well as the collection of revenue. The Minister of Customs may license a person to carry on the business of a brewer and to sell, in quantities of not less than 2 gallons, beer, ale, or porter made at his brewery. This license is called a brewer's license. It is in force until the 31st December following its issue, and is renewable yearly upon payment of the supervision fees, which are payable to the Customs Department.

31. *Hop Beer.*—For the manufacture of hop beer a separate license is required, pursuant to section 73 of Part III of the Finance Act, 1915. Hop beer is defined to mean a fermented beverage containing hops or any extract thereof and containing not more than 3 per cent. of proof spirit. Any fermented beverage containing hops and containing more than 3 per cent. of proof spirit is deemed to be beer. The hop-beer license may be issued by a Collector of Customs for a fee of £1. It expires on the 31st December following its issue.

Licenses for Sale

32. We refer now to licenses which authorize the *sale* of alcoholic liquor. Of these, we refer first to wholesale licenses, and to those licenses which permit wholesale dealing in the liquor which they cover.

Wholesale Licenses

33. *Wholesale Licenses.*—A wholesale license authorizes the holder to sell and deliver liquors from a place specified in the license, or from a bonded warehouse, in quantities of not less than 2 gallons, to be delivered to any one person at any one time, but not to be consumed in or upon the licensee's house or premises. It continues in force until the 30th June following its day of issue, and then expires. There is no

provision for its renewal, but a new license is issued. A wholesale license covers all intoxicating liquor as defined by the Licensing Act, 1908—viz., any spirits, wine, ale, beer, porter, cider, perry, or other fermented, distilled, or spirituous liquor of an intoxicating nature, and also medicated wines containing more than 10 per cent. of proof spirit. This license enables dealing in imported liquors. A wholesale licensee may receive orders from a distance through a traveller or other representative provided that he accepts them on the licensed premises and delivers the goods *from* the specified premises: *Thomson* v. *Burrows*, [1916] N.Z.L.R. 223: *Bryant* v. *Eales*, [1916] N.Z.L.R. 1065. Whether delivery can be made *from* the specified premises if delivery is through an agency may be doubtful.

We deal at a later stage more fully with wholesale licenses.

34. A brewer's license may operate as a wholesale license in respect of beer manufactured at the brewery. A license for the manufacture of beer entitles the brewer to sell in quantities of not less than 2 gallons, beer, ale, or porter made at the brewery without taking out any other license under any other Act. In this way beer may be sold wholesale. Pursuant to section 46 (2) of the Finance Act, 1917, a brewer may not sell beer unless delivery of the beer is to be made from the brewery or from a depot or bottling store approved by the Collector of Customs. There are, at present, four depots or bottling stores approved for this purpose by the Collector of Customs. The language of section 46 (2) has not been directly in issue before a Court, but the judgment of Mr. Justice Reed in *Lawson* v. *the Minister of Customs*, [1931] N.Z.L.R. 656 at 657, suggests that delivery must be made from the brewery itself and not from a cart. In that particular case, however, the contracts of sale were not made at the brewery, but from the cart. (For the history of section 46 (2) see, *infra*, paras. 185–188.)

35. In practice some brewers take orders through travellers or agencies, but accept the order at the licensed brewery premises and then forward the beer to an agency for delivery. Whether this is a delivery "from the brewery" within section 46 (2) may be in doubt. Upon the view that this delivery is lawful, a brewery can engage in a large trade of a wholesale nature which may bring the brewer into competition with a wholesale merchant in the sale of beer. At a later stage in this report we state the quantities sold by breweries, both to hotelkeepers and to other persons (para. 342).

36. Similarly, a New Zealand winemaker's license may operate as a wholesale license in respect of the wine manufactured by the winemaker. A winemaker's license under the Licensing Amendment Act, 1914, authorizes the holder to sell wine of his own manufacture in quantities of not less than 2 gallons to any one person at any one time. This wine may be delivered from one place only as specified in the license, and wine sold under the license may not be consumed on the premises of the winemaker or at the place specified for delivery. The legal interpretation which governs the sales by wholesale licensees upon orders received through travellers or representatives applies to a winemaker's license also: *Crawford* v. *Nuttall*, [1918] N.Z.L.R. 385.

37. A publican's license is primarily a retail license (see next paragraph), but, as a publican can supply any kind of liquor in any quantity and has the benefit of the legal interpretation which governs sales received through travellers or agencies, a publican's license can be used as a wholesale license.

Retail Licenses

38. We deal now with licenses which primarily cover retail dealing. The following licenses permit retail sales of any kind of intoxicating liquor in any quantity:—

39. *A Publican's License.*—This license authorizes the licensee to sell and dispose of any intoxicating liquor in any quantity on the licensed premises. The publican is not required to sell and deliver liquor from the licensed premises, but to sell and dispose of liquor on the licensed premises. The legal interpretation, to which we have referred (para. 34, *supra*), which regards a sale as made at a specified place if the order for the

liquor (though taken by a traveller or forwarded by an agency established at a distance) has been accepted at the specified place, applies also to the business carried on under publican's license. It appears that, if delivery is then made direct from the hotel through a carrier, the liquor is regarded as being disposed of *on* the licensed premises: *Petersen* v. *Paape*, [1929] N.Z.L.R. 780. In this way the hotelkeeper is able to make sales of liquor which are, in fact, delivered to persons at a distance and not actually *on* the licensed premises. As noted above, the publican can compete with the wholesaler if he can sell at wholesale prices.

40. *An Accommodation License.*—This license is like a publican's license, save that it may be issued subject to special conditions, such as the repair of any road or bridge in the vicinity of the accommodation house. The same legal interpretation as to the acceptance of orders from a distance and delivery of the goods applies here also.

41. *A Packet License.*—This license authorizes the owner of a steam packet, or other vessel of a class approved under the regulations, to sell and dispose of any liquor during her passage to any passenger.

42. *A Conditional License.*—This license authorizes the licensee, being also the holder, of a publican's license, to sell and dispose of liquor at any fair, military encampment races, regatta, rowing match, cricket-ground, or other place of public amusement, or at any cattle saleyards, for a period not exceeding seven days, subject to such restrictions and conditions as the persons granting the license think fit. Conditional licenses are granted from time to time as required.

43. *The Charter of a Chartered Club.*—A chartered club under Part IX of the Licensing Act, 1908, must consist of not less than fifty members. So far as the sale, supply, or consumption of liquor is concerned, the club must be closed during the same hours as a licensed house and as if the aforesaid charter were a publican's license and the secretary of the club the licensee.

44. *A Brewer's License.*—Though 2 gallons is treated by the legislation as the minimum wholesale quantity, the sales of bottled beer by breweries direct to the public in 2 gallon lots are extensive (see the statistics in para. 342, *infra*, and the comments of the Marsden, Kaipara, and Bay of Islands Licensing Committee, R. 76). These sales of bottled beer compete with the sales of beer under publican's licenses.

45. *A License to sell New Zealand Wine, Cider, or Perry of a Strength not exceeding 20 per cent. Proof Spirit.*—Pursuant to section 77 of the Licensing Act, 1908, a Licensing Committee may issue a license to sell and dispose of, on the premises specified (provided they are in a borough and not elsewhere), any wine, cider, or perry, the produce of fruit grown in New Zealand, of a strength not exceeding 20 per cent. of proof spirit in any quantity not exceeding 2 gallons at any one time to any one person.

46. *A License or Permit to sell New Zealand Wine, Cider, or Perry, whether exceeding 20 per cent. Proof Spirit or not.*—Prior to the enactment of the Licensing Act Emergency Regulations 1942 (No. 2), Amendment No. 2 (1943/122), the Licensing Act, 1908, did not apply to any person selling wine, cider, or perry, in quantities of not less than 2 gallons at any one time, the produce of grapes, apples, pears, or other fruits respectively grown in New Zealand and not to be consumed on the premises: *Crawford v. Nuttall*, [1918] N.Z.L.R. 385. By virtue of the regulations (1943/122) no person may sell this wine otherwise than pursuant to a publican's license, accommodation license, wholesale license, conditional license, club charter, or winemaker's license in force under the Licensing Act or pursuant to a permit issued under the Regulations of 1943/122, which confer authority upon a Magistrate to issue the permit after reference of the application to a senior officer of police in the district.

47. We do not add winemakers' licenses to those which are for practical purposes retail licenses. Winemakers can sell only in 2-gallon lots or more. In normal times most of them sell substantially the whole of their product direct to the public. They have not, for the most part, competed with hotelkeepers because the latter have in the

past stocked only two or three brands of New Zealand wine. If more brands and larger quantities were stocked in the future, the New Zealand winemaker's license might possibly compete with the publican's license in a retail way, but at the present time it does not do so to any material extent.

Authorities for the Issue of Licenses

48. Though the businesses conducted under these various licenses may operate in competition with one another in the manner we have indicated, the licenses are granted by separate authorities as follows :—

(1) *The Minister of Customs.*—This Minister alone may grant the brewer's license for manufacture and sale, which gives such a wide scope to a brewery for its sales.

(2) *The Minister of Internal Affairs.*—This Minister alone may issue a charter for a club.

(3) *Stipendiary Magistrate.*—Only a Stipendiary Magistrate may grant a winemaker's license.

(4) *The Licensing Committee for each District.*—Only the Licensing Committee may grant a publican's license, an accommodation license, or a New Zealand wine license within the area of its district. Either the Licensing Committee for a district, or the Chairman and any two members thereof, may grant a packet or a wholesale license within that district. The Chairman of a Licensing Committee for a district and any two members may at any time grant a conditional license within that district.

49. This is a miscellaneous group of licensing authorities. None of them is likely, we think, to visualize the whole system of licensing control over the whole country when granting an individual license.

Limitations upon the Grant of New Licenses

50. From 1842 to 1880 there was no legal limitation upon the number of licenses of any description which might be granted in any district. There is to-day no legal prohibition against an increase in the number of *packet*, *conditional*, or *winemakers' licenses*, or *hop-beer manufacturing* licenses; nor is there in operation any practical policy of refusing all applications for these licenses.

51. The present position concerning the other licenses is as follows :—

52. *Distillation Licenses.*—As already explained (para. 27), there is no legal prohibition upon the issue of a license under section 4 of the Distillation Act, 1908, but in 1874 a practical restriction upon the profitable operation of such a license was imposed, and the two distilleries were closed. Since that year it has been the policy of the Government to refuse to issue any license under section 4.

53. *Brewers' Licenses.*—There is no legal bar to the grant of a new brewer's license, but as a matter of Government policy all applications for new brewery licenses have been declined by successive Ministers of Customs since 1932.

54. *Publican's Licenses, Accommodation Licenses, New Zealand Wine Licenses, and Wholesale licenses.*—No new license of any of these four kinds may be granted, except—

(i) When a license of the description applied for has been forfeited or has not been renewed or has otherwise ceased to exist. In the case of a publican's license, an accommodation license, or a New Zealand wine license no new license may be granted in respect of premises situate more than half a mile from the premises covered by the expired license if such premises are in a borough or more than one mile if they are in a county : section 30 of the Licensing Amendment Act, 1910.

(ii) Where the population of a riding in a county or in a road district outside a county has suddenly increased in a large degree, when one license may be issued for every 700 persons residing within a radius of two miles from the licensed premises: section 144 of the Licensing Act, 1908.

(iii) Where a restoration of licenses has been carried in a no-license district a new license of any of the four kinds mentioned above may be granted. There is no legal limit upon the number of accommodation, New Zealand wine, or wholesale licenses which may be granted after restoration has been carried. The only legal limit is that imposed upon the issue of publicans' licenses. They must be granted by a Licensing Committee and must not exceed one for every 500 electors, or be less than one for every thousand electors (section 11 of the Licensing Amendment Act, 1910).

55. *Club Charters.*—There is no legal limitation upon the issue of club charters. Nevertheless, since 1909 all applications for charters for clubs have, as a matter of Government policy, been declined by successive Ministers of Internal Affairs. There are at the present time only forty-seven chartered clubs, although the evidence shows that the best conditions for drinking alcoholic liquor may obtain in a well-conducted club.

56. *Bottle Licenses.*—Section 18 of the Alcoholic Liquors Sale Control Amendment Act, 1895, provided that no new bottle license should be granted within any licensing district after the commencement of that Act and that all bottle licenses then in existence should expire on the 30th June thereafter, which would have been 30th June, 1896. Bottle licenses should then have ceased to exist, but section 35 of the Licensing Amendment Act, 1910, provided that, after the passing of that Act, no bottle license should be granted or renewed. There are no bottle licenses in existence to-day.

57. *Numbers of Licenses.*—Excluding conditional licenses, which may not continue to operate for more than seven days, the following were the numbers of the various licenses in existence during the year 1945:—

	Number.
(1) Brewers' licenses	42
(2) Hop-beer licenses	31
(3) Winemakers' licenses for making wine	170
(4) Winemakers' licenses for making spirits for fortifying wine	18
(5) Wholesale licenses	140
(6) Publicans' licenses	948
(7) Accommodation licenses	150
(8) Packet licenses	5
(9) Licenses to sell New Zealand wines, cider, or perry, not exceeding 20 per cent. proof spirit, under section 77 of the Licensing Act, 1908	4
(10) Licenses for permits to sell New Zealand wine, cider, or perry pursuant to the Regulations 1943/122—	
To 30th September, 1945	54
To 31st May, 1946	75
(11) Club charters	47

In addition, the Invercargill Licensing Trust under its statute is able to purchase liquor anywhere, either wholesale or retail. It operates at present six premises for the retail sale of liquor.

58. The effect of the policy of not increasing brewery, wholesale, publicans' and accommodation licenses has been to limit the competition to the holders of existing licenses. They are free to make such arrangements as they think fit for limiting competition among themselves or for eliminating the competition from one class of license by acquiring the ownership of that class, or otherwise obtaining control over it. As we have indicated, the distinction between brewer's, wholesale, and publican's licenses has ceased to be important in respect of bottled beer, because 2 gallons of bottled beer has practically become a retail quantity, though it may be sold under brewery and wholesale licenses.

59. The limitation on the increase of licenses has resulted in the following alteration in the ratio of licensed houses under publicans' and accommodation licenses to the whole population: in 1905 there was one licensed house to every 583 persons in New Zealand;

in 1915, one to 911; in 1937, one to 1360; and in 1945, one to 1542. In general, the field of business for each licensed house has substantially expanded since 1905. This observation does not apply, of course, where the population has moved from any particular licensed locality. Other localities have then benefited to a proportionate degree.

CHAPTER 4.—POWERS OF INSPECTION AND ENFORCEMENT OF THE LAW IN RELATION TO LICENSEES AND LICENSED PREMISES

60. The operation of the licensees in conducting their businesses within the framework of licensing are subject to inspection for the purpose of ensuring that they comply with the law. Breaches may be visited by penalties, or by the loss of a license, or by the disqualification of premises. The last two consequences are very rare. We refer now to the most important of these matters, but we omit here reference to inspections under the Sale of Food and Drugs Act, 1908.

(1) As to a Brewery License and Premises

61. *Inspection.*—Premises subject to a brewery license are not subject to inspection under the Licensing Act or the Distillation Act. They are subject to the control and inspection of the Customs Department under Part III of the Finance Act, 1915. An officer of Customs may enter a brewery or any premises where beer is stored, kept, or sold, and every hotel or premises in which beer is sold retail, and every store or cellar attached thereto (sections 62 and 63 of the Finance Act, 1915). Under a Customs Warrant the officer may search any premises in which he has cause to suspect there are goods in respect of which an offence has been committed, or any books or other documents concerning them (section 176 of the Customs Act, 1913). In making a search under either the Finance Act or the Customs Act the officer of Customs may have the assistance of the police, if he thinks fit. Otherwise the police have no right to search brewery premises in respect of offences against the Finance Act or the Customs Act, and this imposes a heavy responsibility on the Customs Department. Furthermore, a Licensing Committee has no power of control over breweries.

62. *Prosecution.*—The decision whether to prosecute the holder of a brewery license for a breach of the law in respect of the Customs Acts (of which is Part III of the Finance Act, 1915), depends on the decision of the Minister of Customs. If any person admits in writing that he has committed an offence against any of the Customs Acts, the Minister may, under section 244 of the Customs Act, 1913, whether legal proceedings have been commenced or not, accept from him in satisfaction of the penalty or fine incurred by him such sum as the Minister thinks fit, and the sum so accepted may be less than the penalty or fine provided for the offence. The Minister may cause publication in the *Gazette* of a notice of the particulars of any settlement made by him in pursuance of the section. Powers similar to these exist in Australia and in England. The same provisions apply to all persons included in the definition of a brewer in section 33 of the Finance Act, 1915—viz., any person acting or apparently acting in the general management, control, or working of any brewery where the owner is not personally conducting the same. These persons, comprising, for example, an agent, superintendent, manager, or foreman, are to be distinguished from the holder of a brewer's license, although he is also a brewer within the definition.

63. *Forfeiture.*—Although the function of the Customs Department is primarily the collection of revenue, the Minister of Customs has also the duty of deciding whether a brewer's license shall be cancelled or suspended for six months or not renewed, if the Minister is satisfied that the holder of such license is not a person of good character and reputation or that it is in the public interest to refuse the issue of a license (section 48 of the Finance Act, 1917, which gives a right of appeal from the Minister's decision to the Licensing Committee of the district, and section 21 of the Customs Acts Amendment Act, 1931). The Minister of Customs may also cancel or suspend a license for six months

if the holder is convicted of an offence under Part III of the Finance Act, 1915, or under the Licensing Act, 1908 (section 68 of the Finance Act, 1915, and section 47 of the Finance Act, 1917).

64. To meet the difficulty of imputing to a company a moral character when a company is the holder of a brewer's license, section 22 of the Customs Acts Amendment Act, 1931, provides that, where the holder is a company or other corporation or is an unincorporated association of persons, the Minister of Customs may regard the character and reputation of any director, manager, superintendent, foreman, agent, or other person acting or apparently acting in the general or special management or control of the brewery as the character and reputation of the holder of the license. (Similar provision is made in respect of *an application* for a license by a company.) The Minister is thus given a discretion as to whether or not he will attribute the bad character and reputation of a director or manager to a brewery company which has profited by the misdeeds of that manager or director.

65. Section 22 of the Act of 1931 also provides that, on an appeal from the decision of the Minister, the Licensing Committee shall, in determining any question as to the character or reputation of the company, attribute to the company the character and reputation of any person whose character and reputation has been considered by the Minister in arriving at his decision. Unless, therefore, the Minister decides to attribute to the company the character and reputation of any person engaged in the general or special management of the company, the Licensing Committee on appeal cannot do so. There may be no real restriction in this respect because a Minister is not likely to have cancelled a company's license without bringing in the character and reputation of the director or manager at fault.

66. It thus appears that for all practical purposes the question of the prosecution of a brewery company and of the penalties which it may suffer for a breach of the Finance Act, 1915, or of any of the Customs Acts has been reserved to the discretion of the Minister of Customs. The powers of the police are excluded unless the Customs choose to call for their assistance.

(2) As to a New Zealand Winemaker's License to distil Spirits from His Grapes and as to His Licensed Premises

67. *Inspection.*—This type of license is granted under section 12 of the Distillation Act, 1908. The premises are registered under the Distillation Act within the meaning of section 222 of the Licensing Act, 1908. They are therefore subject to inspection by the Customs Department, which administers the Distillation Act, and the holder is liable to prosecution in respect of offences under this license at the instance only of the Customs Department. As the Distillation Act is one of the Customs Acts, the power of settling a penalty out of Court under section 244 of the Customs Act, 1913, may be applied at the discretion of the Minister of Customs.

68. *Prosecution.*—The decision rests with the Customs Department.

69. *Forfeiture.*—As this license is granted under the Distillation Act, it may be forfeited only by the Minister of Customs pursuant to the provisions of that Act.

(3) As to all Licenses under the Licensing Act and the Premises licensed thereunder or registered under the Distillation Act

70. *Inspection.*—Premises licensed under the Licensing Act, or registered under the Distillation Act, are subject to the powers of inspection conferred by the Licensing Act, 1908 (section 222 of the Act of 1908). These premises are those licensed under the following licenses—viz., wholesale, winemaker's license to make wine, New Zealand wine, publican's, accommodation, packet, or conditional licenses, and a club charter. With the exception of the premises of a chartered club, these premises are subject to inspection by any Inspector appointed under Part VII of the Licensing Act, 1908.

Every officer of police, not below the rank of sergeant, is, by virtue of his office, an Inspector. He may at all times during business hours, and after such hours for reasonable cause, enter on any premises licensed under the Licensing Act or registered under the Distillation Act and take samples of liquor. In addition, any Inspector or constable may, for the purpose of preventing or detecting the violation of any of the provisions of the Licensing Act which it is his duty to enforce, at all times, enter on any licensed premises (section 226) or, pursuant to search warrant, on any unlicensed premises (section 228). These powers are now extended by Regulation 7 of the Licensing Emergency Act Regulations 1943/122. Furthermore, special Inspectors, not being officers of police, may be appointed by the Governor-General under section 237 for the purpose of preventing and detecting violations of the Licensing Act and the sale of adulterated liquor. The powers conferred (*a*) by the Licensing Act upon officers of police, and (*b*) by the Sale of Food and Drugs Act, 1908, upon officers and analysts thereunder may both be exercised by such special inspectors.

71. Regulations were made in 1897 to enable special Inspectors to carry out their duties (*N.Z. Gazette*, 1897, p. 884), but none has been appointed. Regulation 5 states that the standard strength to which spirituous liquors may be reduced by an admixture of pure water without being deemed to be adulterated is 25 degrees under proof for brandy, whisky, or rum, and 35 degrees under proof for gin. This regulation is inconsistent with Regulation 83 of the Regulations under the Sale of Food and Drugs Act, 1908 (*N.Z. Gazette*, 1924, p. 1543), which provides that the standard strength for brandy, whisky, rum, or gin shall be not more than 35 degrees under proof (see, *infra*, para. 389).

72. *Prosecution.*—The institution of legal proceedings in respect of all licenses under the Licensing Act is at the discretion of the police, with the exception of proceedings against a chartered club, which will be dealt with hereafter.

73. *Forfeiture of Licenses under the Licensing Act.*—The Licensing Act contains some provision for the compulsory forfeiture of a license upon the conviction of a licensee for particular offences—*e.g.*, if he is sentenced to imprisonment for any indictable offence (section 180), or is convicted of keeping a brothel (section 186), or is twice convicted of selling liquor at an unauthorized place (section 195), or of making an internal communication with unlicensed premises which are used for public entertainments or resort or as a refreshment house (section 199), or if three convictions have been endorsed on his license and noted in Part I of the register within three years, he shall lose his license (section 248 (1)), but it is provided that an endorsement shall lapse if a further endorsement is not made within two years (section 249).

74. There are other provisions which provide for forfeiture at the discretion of the Court—*e.g.*, if the licensee is at least twice convicted of the offence of adulteration of liquor. In this case also the premises may be disqualified for not less than two or more than five years and the offender's name may be published (sections 234–236). If the licensee is twice convicted of any offence against the Licensing Act within a period of six months, his license may be forfeited (section 253). If a licensee is convicted of a failure to comply with his duties in respect of selling any liquor to or for delivery to a resident in a no-license district thrice within five years, his license may be forfeited (section 147 (*e*)).

75. If three endorsements are made in Part II of the register within three years, the license may be cancelled and the licensee permanently disqualified from holding a license (section 248 (2)).

76. These provisions seem very strong, but they are of little practical importance. Many licensees are tenants, and the statute requires that notice of the record of any conviction endorsed on a license shall be sent to the owner or lessor by the Clerk of the Licensing Committee (section 250). The owner is then entitled to treat the licensee's lease as forfeited and to retake possession of the premises and to evict the licensee (section

254). Thereupon the owner may be authorized to carry on the business in the licensed premises for the remainder of the term of the license, and, at the annual meeting, a new licensee will take over.

77. Where the licensee is the manager, the owner in practice takes the precaution of obtaining from the manager a signed form of transfer and a power of attorney, which enables the owner to have the license transferred at any time.

78. It is clear that the provisions for the forfeiture of licenses have little value as a means of ensuring compliance with the law upon the licensed premises. Breaches of the law may continue, and only the licensee who is convicted will suffer.

(4) As to a Chartered Club

79. *Inspection.*—A chartered club is subject to inspection only by any person appointed for the purpose by the Minister of Internal Affairs. Every person so appointed has all the powers of an Inspector of licensed premises under the Licensing Act, but he reports from time to time to the Minister of Internal Affairs.

80. *Prosecution.*—No proceedings may be taken against a chartered club for sales after hours or for the improper conduct of the club, except by direction of the Minister of Internal Affairs (section 262 (4) of the Licensing Act, 1908). The Minister has power to order an inquiry by a Magistrate (section 262 (6) and (7)).

81. *Forfeiture.*—The Minister of Internal Affairs has the power to revoke the charter of any chartered club in respect of the matters set out in section 266 of the Licensing Act, 1908, including such matters as the sale of liquor in the club during prohibited hours, or the playing of unlawful games, or the non-compliance with the conditions upon which the charter was granted. If a Magistrate finds under an inquiry directed by the Minister that liquor has been unlawfully sold, supplied, or consumed in the club, under circumstances which would have justified the endorsement of a license, the charter shall be forthwith revoked (section 262 (6) and (7)).

82. In addition to the powers of forfeiture and disqualification of premises vested in the Court, the Licensing Committee of a district has also certain powers of control over licenses. As the important licenses—the brewers', wholesale, publicans', and accommodation licenses—have been largely stabilized, we do not summarize the provisions of the Licensing Act which control the applications for new licenses. They will be found in sections 83 to 97 of the Licensing Act, 1908. We refer only to the control which Licensing Committees may exercise in respect of existing licenses. These are as follows :—

83. Under section 104 of the Licensing Act, 1908, a Licensing Committee at any quarterly meeting may determine any license then current if it is proved that the licensed house is conducted in an improper manner or that the holder of the license is openly and repeatedly intoxicated or that any conditions upon which the license was granted have not been fulfilled in a satisfactory manner.

84. Under section 108 of the Act of 1908 the Licensing Committee may refuse to grant a certificate of renewal of any license if it is proved to the satisfaction of the Committee that such license is liable to be forfeited under any of the provisions of the Act.

85. Under section 109 of the Act of 1908 the Licensing Committee may refuse to renew a license on any of the following grounds :—

(*a*) That the applicant is of bad fame and character or of drunken habits ; or

(*b*) That the premises in question are not maintained at the required standard, or are out of repair, or that the rooms are insufficiently furnished for public accommodation, or that the place of convenience is not kept in a clean and wholesome state ; or

(*c*) That the house is conducted in an improper manner and drunkenness permitted therein; or

(*d*) That any of the conditions upon which the license was granted have not been satisfactorily fulfilled.

86. The usual grounds of objection to renewal are that the premises are not maintained at the required standard or are out of repair. The powers of a Licensing Committee in these matters are not extensive and are even, in important respects, in doubt. They are important principally in connection with publicans' and accommodation licenses.

87. In boroughs the required standard for premises under a publican's license is that prescribed by section 76 of the Act of 1908: *Penney* v. *Wairau Licensing Committee*, (1907) 26 N.Z.L.R. 234, and *English* v. *Bay of Islands Licensing Committee*, [1921] N.Z.L.R. 127, 132. Section 76 provides that a license shall not be granted unless the premises have—

(1) A principal entrance separate from and in addition to the bar;

(2) At least six rooms besides the billiard-room (if any) and the rooms occupied by the applicant's family;

(3) Sufficient doors and facilities for escape from fire;

(4) A place of convenience for the use of the public; and

(5) Where necessary, stabling accommodation for three horses.

88. The standard in relation to fire-escapes has been judically determined. It is a standard of sufficiency, and the Court has held that a new standard for fire-escapes may be fixed from time to time as may be reasonable: *Baker* v. *Johnston and Co.*, 21 N.Z.L.R. 268. It may be that a new standard may be fixed in respect of other matters mentioned in section 76, but, if so, it can only be within the purview of section 76

89. It is clear also that premises are not kept at the required standard or in repair unless they are in a sanitary condition. Section 38 of the Health Act, 1920, requires a Licensing Committee to take into consideration the report of a Health Inspector in relation to premises which are the subject of an application for the grant or renewal of a publican's or accommodation license. Alterations, therefore, to render premises sanitary may be required. But if, for example, it is not established that a hot-water service or additional water-closets are necessary in order to make the premises sanitary, a Licensing Committee has no power to require these amenities to be provided: *Collins* v. *Winter and Another* [1924] N.Z.L.R. 449. As was said by Salmond, J., in *English* v. *The Bay of Islands Licensing Committee*, [1921] N.Z.L.R. 127 at 132:—

> On an application for the renewal of a publican's license the question as to whether the premises are adequate for the public requirements of the district is wholly irrelevant. All that can be demanded by the Committee is that the premises, such as they are, shall be in good repair, and that they shall be maintained at the defined statutory standard.

A Licensing Committee which desires to bring hotels in a borough which do not satisfy public requirements up to the standard of those requirements has no legal power to do so.

90. No particulars of the required standard are laid down for licensed premises outside a borough. It seems that the Licensing Committee has only power to require that the premises, *such as they are*, be kept in a sanitary condition and in repair.

91. It is clear that a Licensing Committee has no power to order the rebuilding of any hotel, not even the oldest, no matter where it is situate, and no matter how profitable it has been to the proprietor unless repairs are impracticable or the state of sanitation is such that rebuilding is the only remedy: *Penney* v. *The Wairau Licensing Committee*, (1907) 26 N.Z.L.R. 234.

CHAPTER 5.—CONTROL BY NO-LICENSE

(1) As to a No-license District

92. The next method of control is the no-license district. This is a district in which there is in force a determination of the electors at a licensing poll that no licenses shall be granted. Control by the electors over licenses began with section 45 of the Licensing Act, 1881, which prohibited any increase in the number of publican's, accommodation, New Zealand wine, or bottle licenses in any district without the sanction of the ratepayers at a poll. These districts were small and the ratepayers were those on the roll of the local-governing body: *Scales* v. *Young*, [1929] N.Z.L.R. 855 at 875. The Alcoholic Liquors Sale Control Act, 1893, made the licensing districts conterminous with electoral districts and alterable, as the electoral districts were adjusted by the Representation Commission. This Act also gave the electors the opportunity of voting on three issues—viz., continuance, reduction, and no-license. These provisions continued until the year 1910, when the Licensing Amendment Act, 1910, omitted the issue of reduction and left only the issues of continuance or no-license in the no-license districts. But the Act also gave all the electors of New Zealand the opportunity of voting nationally on the question of continuance or national prohibtion. In 1918 the Licensing Amendment Act provided a special poll on national prohibition with compensation or national continuance. The poll was held in April, 1919, and continuance was carried. In that event the Act of 1918 provided—and it is the law to-day—that at each licensing poll the three issues of national continuance, State purchase and control, and national prohibition should be put to the electors.

93. The right to vote for district no-license was abolished, but at each licensing poll the electors of an existing no-license district were entitled to vote on the question whether licenses should be restored in that district. If the proposal were carried by a three-fifths majority, licenses were to be restored and there was to be no further vote on the question of no-license.

94. In 1910 the following no-license districts were in existence: Clutha, Mataura, Invercargill, Ashburton, Oamaru, Grey Lynn, Bruce, Wellington Suburbs, Wellington South, Masterton, Ohinemuri, and Eden. Roskill was constituted as a no-license district in 1918. Bruce was eliminated as an electorate in 1922 and Ashburton in 1928. Ohinemuri voted for restoration in 1925 and Invercargill in 1943 and each again became a license district. Auckland Suburbs and Wellington East were constituted as no-license districts in 1928 and Wellington West in 1938. Both Wellington East and Wellington West were formed mainly of portions of the old Wellington Suburbs no-license district, and when Wellington West was constituted in 1938 the name of Wellington Suburbs was given to a new district. As this new district was licensed, the name of Wellington Suburbs was then removed from the list of no-license districts. The districts continuing as no-license districts to-day are as follows: Clutha, Mataura, Oamaru, Grey Lynn, Wellington South, Masterton, Eden, Roskill, Auckland Suburbs, Wellington East, and Wellington West.

95. In a no-license district it is an offence to solicit or to receive an order for liquor or to sell liquor, or to expose it, or keep it for sale, or to send or deliver liquor for sale, or to keep any premises as a place of resort for the consumption of intoxicating liquor, or to store or keep liquor for any other person. It is not an offence for a person to consume liquor on any premises on which he dwells or is resident or to consume liquor supplied by way of gift by a person who dwells or is resident on the premises on which the liquor is consumed (see section 37 of the Act of 1910). A person may therefore lawfully in a no-license district consume alcoholic liquor in his own home or supply it to his guests there.

96. Special provisions have been enacted to enable persons lawfully to obtain alcoholic liquor for consumption in a no-license district. An order must be signed personally by the purchaser and delivered to the seller. A telegram or money-order telegram is not sufficient (section 8 (5)) of the Act of 1914 and *Crossan* v. *Sivyer*, (1915) 34 N.Z.L.R. 1046).

The seller must notify the Clerk of a Magistrate's Court, duly appointed for the purpose, of the order and make an entry of all orders in a book (section 147 of the Act of 1908). It is provided, however, that a resident of a no-license district, when outside the district, may obtain and take into the district liquor not exceeding 1 quart of spirits or wine or 1 gallon of beer in any one day without need for the vendor to enter the sale in his book or to notify the Clerk of the Court, but the purchaser must notify the seller that he is a resident of a no-license district and intends to take liquor there (section 147 of the Act of 1908 and section 8 (5) of the Act of 1914): *Miller* v. *Oliver*, [1918] G.L.R. 42, and *Birss* v. *Miller*, [1919] N.Z.L.R. 237.

97. Delivery by carrier, other than a Government Railway servant, into a no-license district is regulated by section 8 of the amending Act of 1914. The carrier must have a signed order from the purchaser. If the liquor is taken into the no-license district at a point within a radius of ten miles from the residence of the purchaser, or is taken by the carrier from a railway-station within such radius, it must be delivered to the purchaser on the same day. The carrier may not remove the liquor from the vehicle, except at the residence of the purchaser, or retain the liquor longer than is necessary for the purpose of actual transit. If the residence of the purchaser is more than ten miles from the point at which the liquor is taken into the no-license district or from the railway-station at which the liquor is received, the carrier must deliver the liquor with no more delay than is reasonably necessary for the course of transit.

98. No limit of time is imposed on delivery through the Government railway. Liquor consigned through the railway may remain at the station until delivery is sought.

99. Notwithstanding these restrictions, it will be seen later that large quantities of liquor are lawfully delivered into the no-license districts.

100. In the no-license districts the inspection of unlicensed premises and the enforcement of the law are in the hands of the police.

(2) As to a Proclaimed Area

101. A special kind of no-license district is constituted by a proclaimed area under section 272 of the Licensing Act, 1908 (formerly section 25 of the Licensing Act, 1881). The areas proclaimed under this section are known as the King-country. The northern part of the King-country was first proclaimed on the 3rd December, 1884 (*N.Z. Gazette*, 1884, p. 1685), and was known as the Kawhia Licensing Area. The southern part was proclaimed on the 26th day of March, 1887 (*N.Z. Gazette*, 1887, p. 436), and was known as the Upper Whanganui Licensing Area. The King-country area comprises 6,270 square miles and, at the census of 1945, a total population of 38,855, of whom 8,660 are Maoris. Since the issue of these Proclamations it has been unlawful to issue any license in the King-country. The boundaries have been amended by subsequent Proclamations, the Proclamation now in force being that of 8th May, 1894 (*N.Z. Gazette*, 1894, p. 712). The Proclamations are subject to the validating provisions of the King-country Licenses Act, 1909. By section 29 of the Licensing Amendment Act, 1910, the operation of the Proclamations is not affected by a licensing poll.

102. The prohibitions upon soliciting or receiving orders for the sale of liquor and the other provisions which are applied by section 146 of the Licensing Act to no-license districts are enacted for the King-country by section 273 of the Licensing Act, 1908.

103. Section 147 of the Act of 1908, which permits orders for liquor for delivery to a person residing in a no-license district, are applied to the King-country by section 45 of the Licensing Amendment Act, 1910.

104. The provisions of section 8 of the 1914 Act, relating to delivery by carriers and the personal signing of orders for liquor, do not apply to the King-country, but the special provisions of section 9 of that Act do apply. Section 9 provides, in effect, that no liquor shall be consigned upon the New Zealand railway, or sent through the Post Office, to any place within a proclaimed area, or taken by any person into that area, unless a

statement in writing of the nature and quantity of the liquor and of the name and address of the person to whom it is sent is attached to the outside of the package. Postal and Railway officials are empowered to detain or to refuse to receive or to deliver any liquor in respect of which it appears there has been non-compliance with any legal condition or requirement.

105. Notwithstanding these various restrictions upon the importation of liquor into the King-country, large quantities of alcoholic liquor do lawfully enter the King-country. We shall later give the figures.

106. In the King-country the inspection of unlicensed premises and the taking of legal proceedings are in the hands of the police. The Postal and Railway officials have the powers just mentioned to refuse to receive or deliver, or to detain, any liquor.

CHAPTER 6.—METHODS OF CONTROL AFFECTING ONLY MEMBERS OF THE MAORI RACE EITHER THROUGHOUT NEW ZEALAND OR IN SPECIFIED AREAS

107. The general restrictions upon members of the Maori race are as follows. The first restriction to be mentioned is the only one which applies throughout the North and South Islands of New Zealand :—

108. By section 44 of the Licensing Amendment Act, 1910 (first enacted in section 24 of the Alcoholic Liquors Sale Control Act Amendment Act, 1895), it is an offence for any person in any part of New Zealand to supply liquor (*a*) to an intoxicated male Native, or (*b*) to any female Native, not being the wife of a person other than a Native, or except for medicinal purposes upon the authority of a registered medical practitioner. This is the only provision which governs the supply of liquor to Natives, male or female, in the South Island of New Zealand. In that Island a male Native may purchase liquor in the same way and to the same extent as a European. Section 44 applies also in the North Island, but all other restrictions upon members of the Maori race apply only in the North Island. The reason lies, apparently, in the difference in the Maori populations of the Islands. In 1945 the Maori population of the North Island was 95,308, and the Maori population of the South Island was 3,436.

109. The whole of the North Island of New Zealand and the Chatham Islands have been proclaimed as districts under section 43 of the Licensing Amendment Act, 1910. The effect of this section is to make the supply of liquor to a Native by any person, whether licensed or not, unlawful unless the supply is (*a*) on licensed premises for consumption on those premises, or (*b*) for medicinal purposes on the authority of a registered medical practitioner, or (*c*) to any Native who is the wife of any person other than a Native. A Native is defined to mean a person belonging to the aboriginal race of New Zealand and to include a half-caste and persons intermediate in blood between half-castes and persons of pure descent.

110. Section 273 (*e*) of the Licensing Act, 1908, prohibits in the King-country the supply of liquor to any male Maori who is under the influence of liquor or to any female Maori, except on the written certificate of a duly qualified medical practitioner that the same is required medicinally. This section confers no exemption in favour of the wife of a non-Native in the King-country.

111. The Council of any Maori District under the Maori Councils Act, 1900, may make by-laws and prescribe fines for the prevention of drunkenness and the introduction of alcoholic liquors into any Maori *kaianga*, village, or *pa*. The fines are imposed by the Maori Council, but may be reviewed by a Magistrate. The Chairman of the Maori Council may seize liquor introduced or taken into the area. Liquor introduced or taken, in pursuance of a medical certificate that it is necessary for the health of a person, is exempt.

112. Pursuant to section 46 of the Licensing Amendment Act, 1910, the Maoris in a Maori Council District may, if the district is proclaimed by the Governor-General for the purposes of section 46, determine at an election on a day appointed by the Governor-General whether liquor shall be supplied to Natives in that district or not. If the negative is carried, supply is unlawful to any Native, male or female, and whether on licensed premises or not, unless (*a*) for medicinal purposes on the authority of a registered medical practitioner, (*b*) for religious purposes, or (*c*) to any Native who is the wife of a person other than a Native. These provisions were enacted at the same time as provision was made for a National Prohibition Poll, and these districts may be appropriately termed Native Prohibition Districts.

113. It may here be noted that four of these districts were proclaimed under section 46—the Takatimu and the Arawa Districts, by Proclamation of the 26th July, 1911 (*N.Z. Gazette*, 1911, p. 2305), and the Horouta and the Wairoa Districts, by Proclamation of the 3rd November, 1911 (*N.Z. Gazette*, 1911, p. 3333). The proposal that liquor should be supplied to Maoris was carried in the Takatimu, Arawa, and Wairoa Districts, but the proposal that liquor should not be supplied to Maoris was carried in the Horouta District. This district remained subject to the restrictions of section 46 until a further poll was taken on 6th December, 1922, pursuant to the Horouta District Licensing Poll Act, 1922, when it was decided by 1,272 votes to 221 that liquor should be supplied to Natives. There are, therefore, no Native Prohibition Districts in operation to-day under section 46 of the Act of 1910.

114. The Licensing Act, 1908, continues the provisions of the Act of 1881 for the constitution of Native Licensing Districts (section 5 (3) and (4) of the 1908 Act). We have stated the position concerning the Maoris so far without reference to these districts because it has been assumed for many years that none exist. We have, however, had a search made by the Under-Secretary for Native Affairs, and it is not now clear that this is so. If any Native licensing districts do exist, then the statement of the law which we have already made may require modification. The position, as we have ascertained it, is as follows :—

115. A Native licensing district cannot be constituted unless, in the opinion of the Governor-General, at least half the inhabitants of the district are Maoris and the district cannot include any part of a borough. Many licensing districts were, however, constituted prior to the Licensing Act of 1881. By section 17 of that Act all parts of the Colony which had been proclaimed districts under the provisions of the Outlying Districts Sale of Spirits Act, 1870, and the districts described in the Schedule to the Licensing Amendment Act, 1875, were constituted Native Licensing Districts under the Act of 1881. By section 17 also those districts might be altered or abolished by Order in Council. The search undertaken with great care and trouble by the Under-Secretary for Native Affairs shows that all the districts have been abolished, save, apparently, the following : (1) Inland Patea, which was constituted on the 16th May, 1889 (*N.Z. Gazette*, 1889, p. 489) ; and (2) the district of Mangonui, Hokianga, and Bay of Islands, defined in the Schedule to the Licensing Amendment Act, 1875, which was declared to be a Native licensing district by section 17 of the Act of 1881.

116. The Under-Secretary has been unable to find any Orders in Council abolishing these two districts. If they have not been abolished by Order in Council, they may not have been abolished by the implied effect of subsequent legislation, such as section 43 of the Act of 1910, because the provisions concerning Native licensing districts are still retained and they constitute special legislation. If these two districts have not been abolished, at least two effects appear to follow :—

(1) An ordinary Licensing Committee within the area of either of these districts cannot deal with any application for the grant, renewal, transfer, or removal of a license unless one Native Assessor, elected for that district, is present and consents to the application (sections 68 and 69 of the Licensing Act, 1908). His consent is declared to be indispensable. Native Assessors have not been elected in these districts for many years, but that would not a ter the prohibition. It would only mean that licenses could not be dealt with until an Assessor had been elected.

(2) Furthermore, the non-election of Assessors does not alter the second consequence—viz., that the supply of liquor to any Native in those districts is absolutely prohibited unless it is satisfactorily proved that the supply was administered medicinally (section 269). This prohibition prevents a male Native from consuming liquor on licensed premises in any area within those two districts.

117. It seems clear that the position in these districts should be established by legislation as though the districts had been abolished since the expiry of the term of office of the last elected Assessors or from some other suitable date.

117A. Certain provisions of the Maori Social and Economic Advancement Act, 1945, and in particular sections 34 to 44, confer upon Tribal Executives and Maori Wardens powers of preventing drunkenness and of otherwise controlling the consumption of alcoholic liquor among Maoris.

CHAPTER 7.—CONTROL BY THE PROHIBITION OF SUPPLY TO INDIVIDUALS, WHETHER EUROPEAN OR MAORI

118. Another method adopted for the control of the consumption of alcoholic liquor is the general prohibition of the supply of liquor to any person apparently under the age of twenty-one years, whether European or Maori, who is not resident on the premises or not a *bona fide* guest or lodger (see section 202 (1) of the Act of 1908, as amended by section forty-two of the Act of 1910 and section 6 of the Act of 1914).

119. The persons charged with the duties of inspection and enforcement in relation to this prohibition are the police.

120. The method of control of alcoholic liquor by individual restriction is by the prohibition of the supply to an intoxicated person (section 181 of the Licensing Act, 1908) or to a prohibited person (sections 211 to 217 of the Licensing Act, 1908). Special provision is made for a prohibition order against a male Maori (see section 217 of the Act of 1908).

121. Inspection and control in these matters are in the hands of the police.

122. All these restrictions imposed upon individual persons, whether as a class or as individuals, operate upon the individual, whether he is in a license or in a no-license district. The only aspect of this personal disqualification which is carried by an individual wherever he may be which requires explanation is that which affects the Maoris.

123. Each no-license district *in the North Island* is part of an area proclaimed under section 43 of the Licensing Act, 1910. The effect of section 43 is to make it unlawful for any person to supply liquor to a Native unless the supply is (*a*) on licensed premises for consumption on those premises, or (*b*) for medicinal purposes, or (*c*) to a Native who is the wife of a non-Native. As there are no licensed premises in no-license districts, the supply of liquor as a beverage to any Native, male or female, other than the wife of a non-Native, is prohibited.

124. The King-country is also part of the areas proclaimed under section 43 of the Act of 1910, and a Native in the King-country is subject to the restrictions imposed by section 43. A Native in the King-country is also subject to the restrictions imposed by section 273 (*e*) of the Act of 1908, which prohibits the supply of liquor to any male Maori under the influence of liquor or the supply of any liquor to any female Maori, except on a medical certificate that the same is required medicinally. When section 43 was enacted, section 273 (*e*) was not modified. The effect of both sections, therefore, appears to be that alcoholic liquor may not be supplied in the King-country to any male Native because there are no licensed premises where he may obtain it or consume it, or to any female Native, whether the wife of a non-Native or not, unless the supply for either male or female Native is for medicinal purposes on the authority of a registered medical practitioner.

125. In the no-license districts in the *South Island* of New Zealand the non-existence of licensed premises imposes no special restriction upon a male Native. He may order and obtain liquor from a licensed district in the same way as a European. Nor does

no-license in the South Island increase the restrictions upon a female Native. Whether there are licensed premises or not in the district where she lives, the supply to her is prohibited by section 44 of the Act of 1910, unless she is the wife of a person other than a Native or the supply is for medicinal purposes upon the authority of a registered medical practitioner.

126. There is no legal provision expressly prohibiting a Native from accepting a drink of alcoholic liquor in any license or no-license area or in the King-country, but if the Native does accept a drink, he is no doubt, guilty of the offence of aiding and abetting the person who commits the offence of supplying him or her.

CHAPTER 8.—CONTROL BY THE METHOD OF A LOCAL TRUST BOARD

127. The method of control by a local Trust Board was established in New Zealand for the first time by the Invercargill Licensing Trust Act, 1944. The system was set up following the vote for restoration in the Invercargill Licensing District in 1943. The Act establishes a Trust Board of six persons appointed by the Governor-General, of whom two are nominated by the Invercargill City Council, one by the South Invercargill Borough Council, and three by the Minister of Justice. One of the members is appointed by the Governor-General to be the Chairman of the Trust.

128. The functions of the Trust are set out in section 13 of the Act, and are as follows :—

(1) To provide accommodation and other facilities for the travelling public within the Invercargill Licensing District ;

(2) To establish and maintain hotels and suitable places within the district for the sale or supply of refreshments ;

(3) To sell and supply intoxicating liquor within the district and establish and maintain premises for that purpose ; and

(4) To do all such other acts and things as may in the opinion of the Trust be necessary or desirable, having regard to the general purposes of the Act.

129. Except as expressly provided, the Licensing Act applies in the Invercargill Licensing District. One exception is contained in section 17, which provides that it shall not be necessary for any license under the Licensing Act, 1908, to be issued to the Trust or to any person selling liquor on behalf of the Trust. It is provided, however, that liquor shall not be sold for consumption on premises unless the premises are of a standard at least equal to the standard required of premises in respect of which a license under the Licensing Act is in force.

130. Section 19 gives the Trust power to establish and maintain such number of hotels as it thinks fit, and to establish them in such localities as it determines, having regard to the requirements of the travelling public and of the residents within the district. But a resident of a neighbourhood in which the Trust proposes to establish an hotel may object on the grounds that it is not required in the neighbourhood or that it will be in the immediate vicinity of a place of public worship, hospital, or school, or that the quiet of the neighbourhood will be disturbed, and he may apply to a Judge of the Supreme Court, whose decision is final, for an order determining whether or not the hotel may be established.

131. The premises maintained by the Trust in which liquor is sold or supplied are deemed to be licensed premises within the Licensing Act, and the person charged with the management of the premises is deemed to be a licensed person and to be the licensee within the meaning of the Act. Any premises of the Trust in which lodging is provided are deemed to be an inn, and the person managing the same deemed to be an innkeeper. The Licensing Act and the Licensing Act Emergency Regulations 1942 (No. 2) apply to the persons mentioned and the premises, with certain exceptions.

132. The Trust is liable to income-tax and to rates and to all other taxes and duties as if it were a body corporate formed for private pecuniary profit. The net profits arising from its operations, or so much thereof as the Trust shall determine, may be

expended or distributed by the Trust within the Southland Land District in such manner as the Trust thinks fit for the promotion of education, science, literature, art, physical welfare, and other cultural and recreational purposes; for the erection, laying out, maintenance, or repair of buildings or places intended to further any of those purposes; for any philanthropic purposes, or for any other purposes for the benefit of the Southland Land District or the residents therein as the Minister of Justice may approve.

133. By section 37 of the Statutes Amendment Act, 1944, the Trust was enabled to sell intoxicating liquor for consumption on the premises in any premises maintained by the Trust as a dining-room or refreshment-room and in which accommodation is not provided for the travelling public. In such case the dining-room or refreshment-room is not deemed to be a public bar or private bar within the meaning of the Licensing Act, but it is provided that no female or person under the age of twenty-one years shall be employed in the serving of liquor therein.

134. Part III of the Licensing Act, 1908, does not apply in the Invercargill Licensing District. There is therefore no Licensing Committee. The powers of inspection and of law enforcement are in the hands of the police. We deal at a later stage with the operations of the Invercargill Licensing Trust.

PART IV.—DEVELOPMENT OF THE TRADE UNDER NEW ZEALAND LEGISLATION

CHAPTER 9.—CONDITIONS OF THE TRADE, 1881 TO 1902, AND THE REPORT OF THE LICENSING COMMITTEE OF 1902

135. In order to understand some of the problems involved in the liquor trade to-day it is desirable to look at the nature of its development. For many years there have been special features in the control of the trade in New Zealand, such as the practical limitation in the number of licenses; the electoral power of the public, exercisable usually every three years to reduce or abolish licenses; the nation-wide agitation to secure either no-license or prohibition; and the nation-wide opposition to that agitation. These methods of control have been exercised while the population and the wealth of the country have been increasing. On two occasions conditions have arisen under these methods of control which have been investigated by parliamentary Committees, the first by a Committee of the Legislative Council in 1902 (1902, L.C. 2), and the second by a Committee of the House of Representatives in 1922 (1922, I.–14). We think it desirable to review briefly the events leading up to these Committees of Inquiry and to refer to their reports in order to ascertain what were the problems which emerged and to note, at a later stage, whether they have continued.

136. The Licensing Act of 1881 began the policy of preventing the issue of new licenses in any licensing district without the sanction of the electors of that district. Between 1881 and 1893 no new publican's, accommodation, New Zealand wine, or bottle licenses could be created in the small licensing districts then existing without a poll of the ratepayers. The Alcoholic Liquors Sale Control Act, 1893, provided that the electoral districts should constitute the ordinary licensing districts. It also provided that no new publican's, accommodation or bottle licenses then in force should be renewed until the electors had determined whether the present number should continue or be reduced, or whether there should be no licenses. A power to vote for restoration was given. These provisions must have tended to increase the value of licenses that remained after a vote for reduction. The Alcoholic Liquors Sale Control Act Amendment Act of 1895 purported to extend the poll to all licenses existing in a district, but wholesale licenses were subsequently held not to be included (para. 942, *infra*). The power to vote for restoration was retained, but bottle licenses were not to be renewed in any event after June, 1896. This provision must again have tended to increase the value of the licenses which remained in existence.

137. These voting-powers meant in practice that licenses would not be extended. The limitation so created, coupled with an expanding population, gave an increased value to the licenses. As between those who held licenses and those who did not, the holders had, in practice, the benefit of a monopoly, though there was competition among the holders of licenses themselves.

138. In 1881 the trade was carried on by brewers and wholesale merchants on the one hand, and by hotelkeepers on the other. Houses were "tied" by a formal tie which bound the hotelkeeper to take his beer or wines and spirits from the brewer or wholesale merchant without the option of going elsewhere. The purpose of this tie, from the point of view of the brewer or wholesale merchant, was to secure a steady outlet for his liquors and to reduce wasteful competition. These facts may all be gathered from the report of the Licensing Committee of the Legislative Council of 1902 (1902, L.C. 2).

139. In 1895 legislation was enacted against the tie. Section 35 of the Alcoholic Liquors Sale Control Act Amendment Act of that year provided that no agreement whereby any person was bound to purchase alcoholic liquors from any other person to the exclusion of any other persons should, if entered into after the passing of the Act (on 31st October, 1895) have any force or validity whatever, and that every bond, bill of exchange, or promissory note given for the purpose of securing performance of such agreement should be void. This legislation was avoided by altering the form of the "tie" agreement. The licensed premises were leased at a high rent, but, if the tenant purchased his beer, and sometimes his wines and spirits and other supplies from the owner or from the person nominated by the owner, he could pay a substantially lower rent. In the case of *Captain Cook Brewery, Ltd.* v. *Ryan*, 19 N.Z.L.R. 595, decided in April, 1901, Sir Robert Stout, C.J., made this comment upon this provision (p. 603):—

> The tenant is not bound, in fact, to purchase beer from his landlord, though, no doubt, this so-called concession will force him to do so. The terms used in the Act do not seem to me to cover this, what I may term "conveyancing device," and if it does not, the Court is helpless. . . . I am therefore compelled, though I may think the spirit of the statute has been ingeniously evaded, to hold that the letter has not been violated. It is for Parliament, not the Court, to make the statute effective if it is desirable to prevent hotelkeepers being even indirectly compelled to prefer one brewer or spirit merchant to another in the purchase of their supplies.

140. This decision was followed by the introduction into the Legislative Council by the Honourable John Rigg, M.L.C., of the Tied Houses Bill, 1902. Its objects were:—

(1) To make it unlawful for any brewer to be the owner of any licensed premises after the 1st January, 1904;

(2) To make it unlawful for any brewer or wine and spirit merchant to advance money to any licensed person;

(3) To provide that, after the expiration of the term of any existing loan or, if no term were fixed, after the 1st January, 1904, all instruments purporting to secure payment should be deemed null and void; and

(4) To provide that the registration of every such instrument should be cancelled.

141. If this Bill had become law, brewers and wholesale merchants would have had to call up and obtain repayment of all advances at call by the 1st January, 1904. This drastic situation naturally brought immediate opposition from the brewers and the wine and spirit merchants, and they gave evidence before the Licensing Committee of 1902.

142. The reasons for the increase in the value of licenses, notwithstanding the local option polls, were pointedly expressed by the Honourable Charles Louisson, the manager of the Crown Brewery Co., Ltd., Christchurch, as follows (1902, L.C. 2, p. 104, Nos. 105 and 106):—

> 105. Can you explain how it is that since licenses have been restricted by the action of the Prohibitionists hotel property has risen in the market?—The reason is quite plain and apparent: certain reductions have been made in the number of licenses; the population is increasing all the time, and there is a larger percentage of population to each public house than there formerly was.
>
> 106. And the more the population increases the higher the value becomes?—Yes. I went into a calculation some time ago and found out what the last public house would be worth if reduction were carried every three years. I think it would have paid the national debt of England, or the Colony's debt at any rate.

One brewer who supported the Tied Houses Bill, Mr. Frank Egan, of Kaiapoi, gave evidence as follows (p. 60, Nos. 116 to 120):—

116. Will you tell the Committee what you consider has been the cause of the advance in value of hotel property during recent years?—The monopoly given to the trade and the very keen competition between brewing companies.

117. What do you mean by the monopoly given to the trade?—No increases of licenses, but a reduction.

118. The result of the local option poll?—Yes; and the increased population and the keen competition of the brewers.

119. It is the result not so much of the action of the brewers as of legislation—the local option poll?—Yes.

120. Is that not the main factor in creating vested interests in hotel property and so increasing their value?—Well, apparently it is so.

143. But this increase in value existed only for the trade. The periodical taking of the local option polls rendered the security of licensed premises unattractive to outside lenders. That is plain from the whole of the evidence, but one passage may be quoted. The Honourable Mr. Louisson gave this evidence (p. 104, No. 95):—

Do you think that the periodical taking of the local option poll has any effect in curtailing advances to hotelkeepers?—Yes, that is one of the principal reasons why people will not advance money now.

The result of the legislation, therefore, was that licenses became more valuable, in the eyes of the brewers, the wholesale merchants, and the hotel keepers.

144. If a tenant had a lease for years for, say, five, seven or even more years (and these were commonly given prior to 1902), he had a valuable property of which he could dispose to his own advantage. The leases often contained an arbitrary provision enabling the landlord to refuse his consent to a lease (p. 78, No. 8), but landlords found it difficult to rely on this clause. The reasons were given by Mr. Martin Kennedy, of Staples Brewery, when he said (pp. 78 and 79):—

We have arbitrary clauses, it is true, in most of our leases which give us the option of refusing; but if we felt inclined to do that we should be met with the reply that they were ill and wanted a change: a man would say that he was not well, or that his wife was ill, or that he wanted to get out—to get away. As a matter of fact, they want to get out simply because the price they are offered is a big one . . . In several instances we have stopped them for some time, but they get over the difficulty by obtaining doctors' certificates or they go to members of Parliament and complain of the iniquity of the brewers and owners, who, they say, will not allow them to have the benefit of their industry.

145. This power of the lessee to traffic in his license was found by the brewers to be detrimental to the proper conduct of the house and to the financial stability of the incoming tenants. The evidence before the Committee of 1902 makes it plain that many incoming tenants had paid too high prices for their leases and that they were thereby tempted to do after-hour trading. This conflict of interests between the brewers and wholesale merchants on the one hand, and the publicans on the other, was apparent in the evidence concerning all centres other than Auckland and Dunedin.

146. We refer now to the position in each centre of which evidence was given to the Licensing Committee of 1902.

147. In Auckland in 1902 there were no apparent differences between the brewers and wholesalers and their tenants. The reasons were explained by Mr. Arthur Myers (later Sir Arthur Myers), of Campbell, Ehrenfried, and Co., on behalf of his company and the brewers of Auckland (p. 25). He said that when reduction was carried in the Auckland areas, and Licensing Committees of strong prohibition views ordered the rebuilding of hotels in brick, under penalty of a refusal to renew a license (the power to order rebuilding being then thought to be within the powers of Licensing Committees), only the brewers and wholesalers were able to step into the breach. In some cases they bought the hotels; in others they advanced moneys to tenants to enable them to comply with the requirements of the Licensing Committees. The brewers and wholesale merchants then tied these houses to themselves. Both Mr. Myers and Mr. Moss Davis said that they gave their tenants leases for years, but that there were some weekly or monthly

tenancies. It is clear that people in the trade in Wellington understood that there were short tenancies in Auckland. Mr. Martin Kennedy, of Staples Brewery, said (p. 80, No. 15) :—

> I may say that we were going to try yearly tenancies in order to check the frequent change of licensees; but a very strong feeling arose against this innovation, and it was alleged that, as there were no leases in Auckland, we were trying to follow suit, and the complaint was so serious that we gave up and granted those recent leases I mentioned—those I just read out. Otherwise we should prefer that there should be no leases, or very short ones, and no bonuses, and that the lessees should remain in the houses so as to stop the evil of frequent changing.

148. Apart from the factor of short tenancies, it seems that the Auckland wholesale trade was in but a few hands. Mr. Arthur Myers said (p. 25) :—

> In Auckland we are unique, in so far as the concentration of the wholesale trade in a few hands is concerned.

Also, it is clear that the brewers and wholesale merchants—viz., Hancock and Co., Ltd., Campbell and Ehrenfried, Ltd., the Great Northern Brewery Co., Ltd., and L. D. Nathan and Co., Ltd., had mutual business arrangements (see 1902, L.C., p. 55, Nos. 603 to 606, and p. 50, Nos. 451 and 452, and p. 51, No. 489 to 494). We are also aware, from evidence given orally before us, that Hancock and Co., Ltd., and L. D. Nathan and Co., Ltd., were at this time (1894 to 1896) acting together in the acquisition of hotel properties at Rotorua.

149. The evidence shows that, even in 1902, the great majority of the hotels in Auckland Province were under the control of the brewers and wholesale merchants, either as freeholds or leaseholds as outlets for their beer, wines, and spirits.

150. It appears then that, in Auckland in 1902, when the tenancy of licensed premises was short, the tenant had no goodwill and that, when the tenancy was long, the tenant could not traffic in its value to the detriment of the brewer or wholesale merchant if the few in those businesses chose to support one another.

151. In Wellington the position was different. Most of the houses in the city were tied houses. Mr. Kennedy, of Staples and Co., indicated, when he was presenting a letter in support of the business dealings of his firm, that the list included nearly all the owners of free houses and said that "the four free houses in the city" did a very large proportion of their business with Staples and Co. (p. 81, No. 19). It appears that until about 1902, leases in Wellington had been generally for terms of years, from five to ten or more. One was as short as three years. Within two or three years before 1902 hotel brokers had been busy assisting the tenants to dispose of their hotels. A contributing reason for the trafficking in leases and licenses, Mr. Kennedy thought, might be that, as the tenants were not tied to his company for wines and spirits, wine and spirit merchants were assisting with the transfers (p. 79, No. 14, and p. 83, Nos. 69 to 71). Mr. Kennedy made bitter complaint of the practice of speculation in leases by the tenants. He said they were being induced to purchase at prices that were too high and that they were not financial when they went in. If they were driven to after-hour trading, he had no sympathy with them. He had thought of various ways of stopping the practice, but there seemed to be objections to all methods of prevention. He had attempted, without success, to follow the Auckland practice of the short lease (referred to above, para. 147). On the other hand, a well-known hotelkeeper of Wellington, Mr. Edward John Searl, said that he had become aware that monthly tenancies had recently come into vogue, and he gave the names of hotels under them (1902, L.C., p. 87, Nos. 37 to 40, and p. 90, No. 129). Actually it appears from the report that Staples and Co., had a clause in their leases in 1902 enabling them to repurchase a lease and secure the transfer of the license upon giving one week's notice and paying to the tenant the costs of the transfer and such part of the price of his lease as was proportionate to the unexpired term. This clause is set out in the report (1902,L.C. 2, 113 and 114).

152. Another method adopted by Staples and Co. to stop speculation was the use of the power to refuse consent to the transfer of a lease. They did this on some occasions

with success and secured delay, but they claimed that in the end they never refused consent to a desirable applicant (1902, L.C., p. 80). However, there were the difficulties in the way of refusal which we have already quoted (para. 144).

153. In 1902 brewers and wholesale merchants could also require a payment by their lessee for their consent to a transfer, but Mr. Kennedy, of Staples and Co., said his company did not do that (p. 80). On the other hand, his company sometimes required premiums on the renewal of leases instead of asking a higher rent (p. 79, No. 13).

154. According to Mr. Kennedy, of Staples and Co., if speculation by lessees in the goodwill of their leases could be stopped, the tied house was much better than the untied house. A different view was expressed by Mr. E. J. Searl. He kept a first-class hotel, and he said that the tied-house system was the curse of the trade. It put into hotels "beer men," not hotelkeepers, but keepers of grog shops, whose sole object was the beer trade and who never tried to give accommodation to the public (p. 87, Nos. 28 and 29).

155. In Wanganui and Taranaki there was apparently much speculation by tenants in their leases. Mr. Hope Gibbons, of Gibbons and Hole, brewers, Wanganui, said that their leases were for terms of years, about seven years (p. 20, Nos. 334 and 335), and that speculation in them was the bane of the whole business (p. 19, No. 310). He said that his firm had about thirty tied houses (p. 20, No. 339), and that 75 per cent. of the houses on the Coast were tied (p. 20, No. 337).

156. It appears from the evidence of Mr. Martin Kennedy, of Staples and Co., that the South Island brewers were bidding for hotels in the Wanganui area (p. 85, No. 113). The question and answer were as follows:—

Q. As to these frequent changes of hotel property—I have seen a good many, particularly where I have been living, Taranaki—do you think that they are partly due to this: that the various brewery companies outside, the North Island are anxious to obtain a footing here and so they help to run up prices?—*A.* No doubt. The fact of the local brewers in the neighbourhood of Wanganui and other places having to struggle for existence against such competitors has much to do with these high prices. The last few years prices have run up so high that we have virtually ceased to compete; we consider the risk is too great.

Mr. Arthur Myers said that he knew that in Taranaki there was a combination among a class of men to buy hotels and keep them under their own system of management exclusively (p. 27).

157. It does not appear that the remedy of the short-term tenancy was being applied in Wanganui, but Mr. Hope Gibbons said that he was refusing financial assistance to budding publicans.

158. One kind of tie was explained by Mr. Frederick Charles Faber, of the Rutland Hotel, Wanganui. He said, in effect, that advances were secured by a guarantee at the bank, and that, if the tenant took his liquors from any brewer or merchant other than the guarantor or guarantors, they could withdraw their guarantee (p. 74, Nos. 177 to 183). This witness said that he was himself only under a moral obligation to the brewer and the wine and spirit merchant. They had helped him over a difficulty, and, therefore, he dealt with them (p. 73, Nos. 142 and 143).

159. In Canterbury it appeared that all leases were for terms of years. There were various estimates of the number of tied houses, but it is clear that the great majority were tied. Mannings brewery had from thirty to forty in Canterbury (p. 14, No. 177). Fletcher Humphreys and Co. had from twenty-five to thirty (p. 18, No. 271). The Crown Brewery was said to have about fifty houses (p. 100, No. 7). Estimates given by witnesses were that at least two-thirds (p. 16, No. 236) of the houses in Canterbury were tied, or at least three-quarters (p. 43, No. 281), or that nearly all were tied (p. 58, Nos. 70 and 71). These estimates were given on the basis that the tie existed under the optional rent and, in practice, whenever the hotelkeeper was under a financial obligation to his brewer or wholesaler (p. 56, No. 11; p. 58, No. 72; p. 59, Nos. 96 and 97; and p. 59, No. 100).

160. One hotelkeeper said there had very often been attempts at speculation in Canterbury, but it had always been put down (p. 3, No. 22). According to the manager of Mannings Brewery, however, there was a great deal of speculation by tenants in their leases (p. 16, Nos. 221 and 222), and, according to the managing director of the Crown Brewery, Ltd., there had been a good deal of speculation in Canterbury, though not as much as in the North Island (p. 101, No. 19). Mr. Egan, the dissenting brewer who had lost most of his licensed houses through the competition of the brewing companies, said (p. 55, No. 4) :—

> My reason for thinking so (*i.e.*, that the Tied Houses Bill was a very good measure) is that competition is so exceedingly keen between the brewing companies and the price of hotel property has got to such a figure now that, in order to pay interest on capital, the companies are obliged to demand exorbitant rentals from their tenants. In point of fact, they are rack-renting their tenants, and this is leading to the worst possible abuses and evils in the trade. It is compelling many hotelkeepers to trade illegally and to have recourse to means that probably they would never employ if they could take hotels at adequate and just values.

161. No particular remedy appears to have been tried in Canterbury, though the dissenting brewer (Egan) said that he had let a house monthly (p. 62, No. 159), and that he had heard that other houses were let in the same way.

162. In Dunedin the position was different. The evidence of the secretary of the Licensed Victuallers' Association of New Zealand was that there were practically no tied houses in Dunedin (p. 63, No. 205). Mr. E. J. Searl said that he believed Speights Brewery, when they made advances, did not tie houses (p. 87, No. 20). On the other hand, it is clear from the whole of the evidence that the advancing of money was regarded as sufficient anywhere to create a tie for business purposes.

163. As has already been mentioned, certain brewers in the South Island were about the year 1902, competing for hotels to the dismay of hotelkeepers and of smaller brewers. This competition had been going on in Canterbury and about Wanganui. Even Staples and Co. had virtually ceased to compete for hotels (p. 85, No. 113). Egan, the dissenting brewer of Kaiapoi, said that the prices paid had been so high that he knew the tenants were being rack-rented and could only pay their way with after-hour trading, and he had retired from the competition with the loss of most of his tied houses (p. 56, Nos. 20–24). Moffatt, an hotelkeeper in Canterbury, said that things were getting into such a state, and that such monopoly had been created, he did not know what would be the end of things (p. 43, No. 294). The plain inference is that the hotelkeeper or the small brewer was finding it difficult to secure any hotels because of the competition of strong breweries.

164. The effect of the legislation as it existed in 1902 may be summarized by saying that it induced a brewer or a wholesale wine and spirit merchant to attempt to control as many licenses as he needed for his business. If he controlled all the licenses, the loss of several by a reduction vote would make no difference to the total value of his assets. The value of the rest would increase accordingly. On the other hand, the same legislation gave to a lessee for years a valuable interest. Naturally, he wanted the right to dispose of it as he thought fit, for his own benefit. This power of disposal led, however, to trafficking in leases, notwithstanding the tie, and frequent changes were detrimental to the brewer or wholesale merchant who controlled the house and who desired a reliable and financial tenant.

165. Thus the object of the brewer or wholesale merchant was to evolve some system which would stop frequent transfers of leases. He had a power in his lease to refuse consent to a transfer and the power to require a payment on a transfer, but he found difficulties in using these. Prior to 1902 he had instituted the policy of the weekly or monthly tenancy in appropriate cases.

166. But the object of the lessee was to secure a long lease and to be able to deal with it without interference. For this purpose the Licensed Victuallers of New Zealand had in 1900 prepared a Bill, which is set out in 1902, L.C. 2, at pp. 118 to 122. All that need be noted here is that this Bill provided, *inter alia*, (1) that a lease of licensed premises

should be for a term of not less than five years; (2) that no owner or landlord of licensed premises should be entitled to any payment for his consent to any assignment, sublease, or transfer of the licensed premises; (3) that no owner or landlord should refuse his consent to any assignment, sublease, or transfer to any person who had a certificate of fitness to hold a publican's license signed by a Stipendiary Magistrate; and (4) that all persons selling under a wholesale license should not sell less than 5 gallons at any one time and that of the total quantity at least 5 gallons should be of the same description and brand of liquor. A part of this Bill was dealt with by the legislation of 1904.

167. The Licensing Committee of 1902 reported against the Tied Houses Bill, and it was not passed.

168. The Licensing Acts Amendment Act, 1904, made certain provisions in favour of the tenant—viz., (1) that any payment for the consent of an owner or landlord to any assignment, sublease, or transfer should be void, and (2) that an owner or landlord should not arbitrarily or unreasonably refuse such consent and, if any question arose as to whether the refusal was arbitrary or unreasonable, it should be decided by a Judge of the Supreme Court.

169. On the other hand, the Legislature did not enact any further legislation against the tied house, or require that leases should be for not less than five years, or that sales under a wholesale license should be not less than 5 gallons. Section 39 of the Act of 1904 repeated the provision of section 35 of the Act of 1881 that a wholesale license authorized the licensee to sell and deliver liquors in quantities of not less than 2 gallons at any one time, such liquors not to be consumed upon the licensee's premises, but section 39 required, in addition, that the liquors should be sold and delivered from one place only (to be specified in the license), but that nothing in the section should prevent the licensee from selling or delivering liquor from any bonded warehouse.

Section 39 also required that no new wholesale license should be granted within a borough or town district in which a publican's license did not exist.

170. The right of the brewer to sell liquor in quantity remained as it had been fixed by the Beer Duty Act, 1880, Amendment Act, 1886. By section 2 of that Act a brewer was entitled under his brewer's license, without taking out any other license to sell, in quantities of not less than 2 gallons, beer brewed at his brewery, provided that he sold the beer only (*a*) in casks of prescribed sizes at his brewery or other place where beer might be legally stored prior to the duty being paid thereon, or (*b*) in bottle at his bottling store, which was not to be situated on his brewery premises, but was to be situated within the licensing district wherein was the brewery.

171. The tenant was thus left comparatively free by the legislation of 1904 to deal as he pleased with a lease for such length of term as he could get, while the brewer or the wholesale merchant, who had control of licensed premises, was left free (1) to fix the term of the lease; (2) to continue to tie licensed premises in the manner held lawful in Ryan's case—*i.e.*, by the optional rent, or by the obligation created through the advance of money or by any other method; and (3) to sell in not less than 2-gallon lots in the manner prescribed by the legislation respectively applying to the brewer or the wholesale merchant.

172. The development of the organization of the trade since 1902 has been a development from this position. The contest was not likely to be an equal one. In the first place, hotelkeepers as a class generally required finance, and, by reason of the local option polls, could get that finance only from the brewers or wholesale merchants. In the second place, most of the hotels in the main centres outside Dunedin were already either in the ownership or under the control of the brewers or wholesale merchants.

CHAPTER 10.—CONDITIONS OF THE TRADE, 1902 TO 1922, AND THE REPORT OF THE LICENSING COMMITTEE OF 1922 (THE HOCKLY COMMITTEE)

173. In 1902 Clutha was the only no-license electorate. At the end of that year, Ashburton and Mataura carried no-license. The polls in Newtown, Chalmers, and Bruce, where there was a return of no-license, were declared invalid.

174. In 1905 Grey Lynn, Oamaru, and Invercargill carried no-license.

175. It may be indicative of the apprehension felt by prominent members of the licensed trade at this time that a new company, Hancock and Co. (N.Z.), Ltd., was incorporated in London in the year 1906 to take over the brewery, wine, and spirit business and the hotels of the Auckland company of Hancock and Co., Ltd. The price paid by the English company was £172,440. It carried on its trading operations in New Zealand as a foreign company through its appointed attorneys, whose duties were to manage its trading operations in the Dominion and transmit accounts and accumulated funds to London at stated intervals. Particulars of the company's accounts and capital operations were not transmitted to New Zealand.

176. In 1908 Eden, Ohinemuri, Masterton, Wellington South, Wellington Suburbs, and Bruce carried no-license. These six electorates, with the others which had retained no-license, made a total of twelve electorates under no-license. It seemed that the country was going steadily against the liquor trade.

177. In 1910 the Licensing Amendment Act of that year took away the right to vote for reduction of licenses in each no-license district and made provision as follows :—

(1) For a poll in all districts on the question of national continuance or national prohibition ;

(2) For a poll in every license district on the question of local continuance or local no-license ; and

(3) For a poll in every no-license district on the question of local restoration or local no-license. If national prohibition were carried, there was to be a poll on national restoration.

In the case of all polls, a three-fifths majority was required to carry a proposal.

178. The amending Act of 1910 also provided that no licensing poll under the Act should affect the proclaimed areas under the King-country Licenses Act, 1909. The Act of 1910 also provided that, except upon a restoration of licenses and where there was a sudden increase in population in a county or road district outside a county, no new publican's license was to be issued, except when a publican's license had been forfeited or not renewed or had otherwise ceased to exist. The employment of barmaids was restricted. Power was given to enable the Governor-General to proclaim districts in which restrictions on the supply were imposed on Maoris (para. 109, *supra*) and other districts in which the Maoris could vote for the prohibition of supply to themselves (para. 112, *supra*). The Act also provided that licenses should not be granted to breweries within five miles of a no-license district and that brewery depots were not to be established within five miles of a no-license district. This provision did not abolish depots established before the Act came into force.

179. In 1911, at the national poll, the vote for continuance was 205,661, or 44·17 per cent. of the total votes. The vote for prohibition was 259,943, or 55·82 per cent.

180. The Licensing Amendment Act of 1914 provided that the Representation Commissioners should fix the boundaries of electoral districts so that, wherever practicable no licensed premises should be placed in a no-license district. Provision was made for the delivery of liquor into no-license districts by carrier (para. 97, *supra*). The consignment of liquor through the railways into a proclaimed area, or the delivery of liquor through the Post Office into such area, was regulated (para. 98, *supra*). Provision was also made for the manufacture of wine only under a winemaker's license (para. 36, *supra*).

181. In 1914, at the national poll, the vote for continuance was 257,442, or 51·01 per cent. of the total votes. The vote for prohibition was 247,217, or 48·98 per cent.

182. In 1915 the Beer Duty Act of 1908 was repealed and breweries and beer duty were regulated by Part III of the Finance Act, 1915. Under the Beer Duty Act of 1908, beer duty was paid by affixing special revenue stamps to the tap-hole of each cask before delivery from the brewery. These stamps denoted the contents of the cask and

the amount of duty paid. The stamps represented duty at the rate of 3d. per gallon, and this rate was in force from 1880 to 1915. The stamps were purchased by the brewers from Collectors of Customs and a discount of 5 per cent. was allowed on purchases of £10 and over.

The chief objections to the stamping system were stated by the Customs Department (R. 309) as follows :—

(*a*) Liability of the stamps to get damaged in transit ;
(*b*) Possibility of stamps being returned to the brewer undefaced by the hotelkeeper and the consequent danger of the casks being filled up and sent out again without payment of duty ;
(*c*) Lack of supervision in the brewery and possibility of brews being understated ; and
(*d*) Possibility of beer being bottled without payment of duty.

183. The Finance Act of 1915 introduced the method adopted in England of taxing beer on the quantity of the worts pitched for fermentation, the duty being payable according to the specific gravity of the worts. The Act prescribed a duty of $3\frac{1}{16}$d. for worts not exceeding 1047 specific gravity. Where the specific gravity exceeded 1047 but did not exceed 1055, the rate was increased by $\frac{1}{16}$d. for every unit of specific gravity above 1047. Where the specific gravity exceeded 1055 the duty was $4\frac{4}{16}$d. plus $\frac{2}{16}$d. for every unit of specific gravity above 1055. There were changes during the ensuing years in the actual rate of duty per gallon.

184. Although the English method of taxation was adopted, the lowest quantity of 2 gallons which a brewer might sell under his license was not increased to the amount permitted in England to the holder of a manufacturer's license who was a brewer for sale. That license authorized wholesale dealing in any liquor which was the produce of the manufacturer at the premises where the liquor was manufactured if the liquor was supplied to the purchaser direct from the premises where it was manufactured : see Paterson's Licensing Acts, 53rd Ed., p. 440. In the case of beer and cider, this wholesale dealing was limited to any quantity not less than $4\frac{1}{2}$ gallons or not less than two dozen reputed quart bottles : see Paterson's Licensing Acts, 53rd Ed., p. 441. In New Zealand, however, brewers' licenses have, since the Distillation Act of 1868, permitted the sales of quantities as low as 2 gallons.

185. This quantity of 2 gallons has been found suitable for what is, in practice, a retail trade in bottled beer. Under section 6 (4) and section 28 of the Beer Duty Act, 1908, a brewer was not entitled to sell beer except in casks of the prescribed sizes at his brewery or other place where beer might be legally stored prior to the duty being paid thereon or except in bottle at his bottling store away from the premises of his brewery. The quantities which brewers could sell included casks (a cask comprising any receptacle) of various capacities down to 2 imperial gallons (*N.Z. Gazette*, 1888, p. 1426). The provisions of section 6 (4) and of section 28 of the Act of 1908 were omitted from the Finance Act, 1915, and in lieu thereof section 38 (7) of the latter Act provided that a brewer's license entitled the holder to sell, in quantities of not less than 2 gallons, beer brewed at his brewery without taking out a wholesale or other license under any other Act.

186. Some brewers took advantage of this authority to institute the practice of selling and delivering beer indiscriminately from carts or vans : see letter of Comptroller of Customs to counsel for the Commission of 31st January, 1946. In order to prevent this practice, section 46 of the Finance Act, 1917, provided :—

(1) That a brewer should not sell or deliver any beer at any time when it was unlawful to sell intoxicating liquor in any licensed premises within the licensing district as defined in the Act ; and

(2) That no beer should be sold under a brewer's license unless the delivery was to be made from a brewery or from a depot or bottle store approved by the Collector of Customs.

187. When these provisions were explained in Parliament, the Minister of Finance said :—

Provision has been made for the sale or delivery of beer to be made only between 7 a.m. and 6 p.m. and at his brewery or an approved depot or bottling store. (*Hansard*, Vol. 179, p. 695.)

188. It seems clear that section 46 of the Act of 1917 was intended to ensure that delivery should be made " at " the brewery and not " from " the brewery. Nevertheless, in reliance upon the legal interpretation of similar statutory enactments, brewers have competed with publicans by selling 2-gallon lots and delivering them through " agencies " in a town to purchasers who might otherwise have dealt with the local publican. Some of these agents, for the taking of orders and the delivery of the orders, have wholesale licenses and some have not. In one case, Dominion Breweries established an agency at Waiuku in order to enable residents to obtain delivery of its ale, which the hotel in the town, owned by New Zealand Breweries, did not stock. (R. 2837ff.) At a later stage in this report we deal with the question of agencies.

189. In 1917 the Sale of Liquor Restriction Act introduced 6 o'clock closing. The publicans thought they would lose trade, and provision was made for the reduction of rent and the adjustment of other charges between a lessor and lessee of licensed premises by reason of a reduction of hours. Hotels and clubs were permitted to serve liquor at the evening meal in a dining-room between 6 p.m. and 8 p.m. The consumption of liquor in restaurants while licensed premises were required to be closed was prohibited.

190. It was found in practice that the hotels suffered no loss of revenue by 6 o'clock closing.

191. Section 8 of the Act of 1917 permitted the holder of a wholesale license to sell or deliver liquor between 7 a.m. and 6 p.m. on any day on which licensed premises were not required to be closed, but not at any other time.

This provision seems also to have been a protection to an hotelkeeper against the operations of a wholesale licensee.

192. There had been no licensing poll in 1917, owing to the war of 1914–18, and the Licensing Amendment Act, 1918, made provision for a special national licensing poll on the questions of national continuance or national prohibition with compensation. A three-fifths majority was required. If national prohibition with compensation was not carried, the issue of district no-license was to be abolished, and the issue of State purchase and control was to be submitted at the next general election in addition to the issues of national continuance and national prohibition.

If at both the special poll and the next general licensing poll continuance was carried, thereafter the three issues of national continuance, State purchase and control, and national prohibition were to be submitted to the electors. The majority required to carry either State purchase and control or prohibition was a majority of more than one-half of all the valid votes recorded at the poll. To be carried, therefore, prohibition had to gain more votes than the total of the votes polled for both continuance and State purchase and control; and State purchase and control more votes than the total polled for both continuance and prohibition. The vote on national restoration was repealed. The only vote to be taken thereafter in a no-license district was on the question of restoration in the district, for which a three-fifths majority was required (paras. 92 and 93, *supra*).

193. The special poll at which prohibition with compensation was in issue was held in April, 1919. The vote for continuance was 264,189, or 51 per cent. of the total votes, and for prohibition with compensation 253,827, or 48·99 per cent. of the total votes.

At the general licensing poll in December, 1919, the vote for continuance was 241,251, or 44·36 per cent. of the total votes, for State purchase and control 32,261, or 5·93 per cent., and for prohibition 270,250, or 49·70 per cent.

As continuance had been carried both at the special poll in April, 1919, and the general poll in December, 1919, the provisions of the Act of 1918 relating to subsequent polls became operative and they are in force to-day.

194. In December, 1921, a Select Committee of the House of Representatives, under the Chairmanship of Mr. F. Hockly, M.P., was set up to consider, in the interests of the public, what amendments to the Licensing Act were required in order to ensure

its more satisfactory working. The report was printed in the Appendices to the Journals of the House of Representatives (1922, I.–14), but not the evidence. A copy of the report with the evidence was put in by Mr. Spratt. The recommendations of the report require some explanation by reference to the circumstances of the time as revealed by the evidence.

195. The Rev. J. Dawson, of the New Zealand Alliance, alleged before the Committee (p. 30) that during the previous seven years—*i.e.*, apparently, since the war of 1914–18 began—not less than £36,000,000, and probably as much as £50,000,000, had been spent on alcoholic liquors, that there had been 70,000 convictions for drunkenness, and 2,900 prosecutions against the licensed-hotel keepers. These are general figures and we cite them only to indicate the kind of grounds there were for public dissatisfaction.

196. The nature of the dissatisfaction at the time is, however, more fully indicated by the evidence of the Rev. Jasper Calder, of the Anglican Missionary Society of Auckland. He said that during the preceding two years he had, with assistance, carried on an inquiry throughout the Dominion into the conduct of the liquor trade. His complaints to the Hockly Committee concerned unsuitable licensees and the ease with which Licensing Committees allowed unsuitable men to become licensees; concerned also unsuitable barmen, after-hour trading, the drinking by women in bars, and the failure of some hotels to supply accommodation when they had it. He informed the Committee that he had called meetings of the trade in Auckland, Wellington, and in the main centres of New Zealand (p. 231), and that within the last eighteen months he had cause for considerable gratitude because he had found the trade was really trying to improve the position. Within the last three months, he said that fourteen unsuitable licensees had been put out. He had had assistance from the brewery in the matter. After-hour trading had greatly diminished. The drinking by women was still bad in Auckland, but not nearly so bad in Wellington, Christchurch, or Dunedin. He thought the trade was trying to get drinking by women abolished.

He said that the worst trouble, in his opinion, was "the mad three years' rush." He proposed a longer period between the polls, provided good licensees and good barmen could be obtained. He said the licensee was almost entirely in the hands of his barmen (pp. 231 and 232).

197. There were forty-one witnesses, comprising representatives of the trade, the Prohibitionists, the Moderate Party, and the clubs. A feature of the evidence was the suggestion that goodwills and rents should be controlled. The necessity for the redistribution of licenses was generally accepted.

198. Proposals for reform put forward by the witnesses for the trade included—

(1) Redistribution of licenses.

(2) A proposal for license fees at an increased flat rate, as against a fee based on the percentage of the liquor sold.

(3) An extension of the period between polls to nine years. On this point the Rev. J. Dawson, of the New Zealand Alliance, said (p. 36) that he quite believed that if the trade had a nine years' tenure they would provide better accommodation, but he said that the New Zealand Alliance opposed extension because, if the monopoly were abolished, there would be an open field and satisfactory accommodation would be provided (p. 31).

(4) Nearly all the witnesses for the trade advocated the substitution of a Bench of three Magistrates for the district Licensing Committee, on the ground that a judicial determination was required and that a Licensing Committee was subject to bias. This was supported by a brewer (pp. 5, 11, and 18), by the Secretary of the National Council of the Licensed Trade of New Zealand (p. 63), by the President of the Licensed Victuallers' Association of Wellington on behalf of his association generally (p. 67), and by individual witnesses (pp. 47, 87, 115, 120, 127, 188, and 260). Two representatives of the brewery interests thought that there were difficulties in obtaining the services of Magistrates, and neither seemed to have made up his mind on the subject (pp. 205 and 225). The only direct opposition was from the Chairman of the Auckland Licensed Victuallers' Association, who said his association was in favour of the present system (p. 192).

199. The Committee did not recommend any extension of the period between polls or the substitution of a Bench of Magistrates for a district Licensing Committee. They did propose that barmen should be licensed.

200. The following are the recommendations of the 1922 Committee (the Hockly Committee) :—

1. That no more licenses are required in the Dominion. It is, however, necessary that there should be a redistribution of licenses more in accordance with the needs of the population in the various districts. Before a Licensing Committee consents to any redistribution the consent of a substantial portion of the inhabitants in the vicinity should be obtained.

2. That the system of a flat-rate licensing fee should be abolished, and that licensing fees should be based on the percentage of liquor sold in the licensed premises. That local authorities should receive the amount of license fees as at present, but that all increased fees should be paid into the Consolidated Fund.

3. That provision should be made as follows : No premium, money, or other valuable consideration shall be paid or given for goodwill on the granting, transfer, or renewal of a lease of licensed premises. Any person receiving any such consideration shall be liable to a fine of £500, and on the second offence the license for the house shall be cancelled. Any person paying such premium or purchase-money, or giving any valuable consideration for such goodwill, shall have the right to recover the same, or the value thereof, by action at law. The Court shall have full power to decide whether the payment, premium, or consideration was, either directly or indirectly, in the nature of a provision or payment for goodwill.

4. That all leases or licenses to occupy licensed premises shall, before becoming operative, have the consent of a Chairman of a Licensing Committee. That in considering the granting or refusal of such consent the Chairman of the Licensing Committee shall take into consideration the general terms of the lease, and decide if the terms are reasonable or unduly oppressive. That the Chairman shall refuse consent to any lease which in his opinion makes provision constituting the premises a tied house under the provisions of the Licensing Act, 1908. If the lease is not strictly within the meaning of the Act, but is obviously in avoidance of the system against which the Act is directed, the Chairman shall have power to refuse consent.

5. That if national prohibition is not carried at the next licensing poll the people of the Rohe Potae should be given the opportunity of voting as to whether they desire license or not; the poll to be taken on the lines laid down in the Licensing Act.

6. That it is necessary that there should be a more effective inspection of liquor and of licensed premises, and more ample penalties provided for adulteration of liquor. That there should be appointed under section 237 of the Licensing Act, 1908, special Inspectors for the purpose of preventing and detecting violations of the Act in connection with adulteration of liquor. That a General Inspector of Licensed Premises, together with Sub-Inspectors under his control, should be appointed. That it should be the duty of the Inspectors to make constant and complete inspection of all parts of licensed premises for the purpose of seeing (1) that the provisions of the Licensing Act are strictly observed, and that the general standard of the accommodation is in keeping with the tariff charged; (2) that the premises are reasonably required and used for public accommodation; (3) that sufficient information as to the guests who sleep in the house be kept by the licensee, so as to enable the Inspector to ascertain if the licensed premises are required for public accommodation. That a penalty be provided for failure to keep such information as is prescribed. That the Inspectors should have full power conferred upon them to enable them effectively to carry out their duties.

7. That, in order to avoid trafficking in licenses, transfers should not be allowed under three years, except through sickness, or death, or other special circumstances.

8. That all powers and authorities conferred on Licensing Committees should be deemed to be subject to the veto of the Minister.

9. That with a view to making it possible for licensees to provide additional accommodation where necessary without the risk of personal loss, the Licensing Act should be so amended as to provide that in the event of prohibition being carried at any poll it should not come into force until four years have elapsed after the date of such poll.

10. That section 64 of the Licensing Act, 1918, be repealed.

11. That no extension of hours for sale of liquor in chartered clubs should be allowed, but that provision should be made whereby members of such clubs are allowed to adopt the locker system. That provision should be made with regard to the extension of the hours during which liquor may be consumed on club premises for special occasions, each such extension to be granted under a permit and for a particular room in the club. No permits exceeding six in number should be granted in the case of any one club in any one year. That the power to revoke the license of a chartered club provided in section 9 of the Sale of Liquor Restriction Act, 1917, should be modified on the ground that the present penalty is too drastic.

12. That the licensing law should be so amended as to put restaurants on the same footing as halls or other rooms in regard to the consumption of liquor at social gatherings, provided a permit is first obtained from the police for this purpose.

13. That any Licensed Victuallers' Association, or other organization of the liquor trade, should be permitted to furnish the Chairman of any Licensing Committee with a certificate of character with regard to any applicant for a license.

14. That where a conviction for serious breaches of the Licensing Act is obtained the Magistrate should be given power to declare the person convicted unfit to hold a publican's license.

15. That section 294 of the Licensing Act, 1908, should be amended by omitting the words "of the electors of the district" after the words "result of a poll."

16. That provision should be made for the holding of Licensing Committee meetings in any public building which is centrally situated, in order to avoid the inconvenience which is now caused by holding these meetings of necessity in the Courthouse, whether the Courthouse is conveniently situated or not.

17. That section 138 of the Licensing Act, 1908, be amended by inserting, after the words "six calendar months," the words "and that the Committee to have power to grant a further extension not exceeding six calendar months if the Committee deems it necessary."

18. That when licensed premises are situated adjacent to a main road, and that by reason of alterations the main traffic which passed such licensed premises is diverted, the Licensing Committee should have power to allow the license to be granted in respect of premises situated adjacent to the road to which the traffic has been diverted at the nearest position which the Committee deems advisable.

19. That no man should act as barman without a license granted by the Licensing Committee, or by the police, to such persons as may be thought fit. That all convictions against a barman should be endorsed on his license; that his license should be cancelled after three endorsements. That all barmaids be required to make a statutory declaration before a Magistrate that they are entitled to hold a license under the existing provisions of the law.

20. That Licensing Committees should have power to determine the number of public and private bars in any hotel. That it should be illegal to serve any woman with intoxicating liquor in a bar to which the public have access, or any room opening on to such bar.

21. That electoral enrolment be compulsory. That rolls be prepared and printed in polling-booth or sub-district areas.

22. That if national prohibition be carried it be made clear that there is no restriction on the making of liquor containing not more than 3 per cent. of alcohol for home consumption.

23. That section 46 of the Licensing Amendment Act, 1910, be so amended as to provide for a further poll at stated intervals to enable the Natives in such districts as have carried a poll under this section to review the position.

201. In 1922 Parliament carried out the last recommendation of the Committees' report by passing the Horouta District Licensing Poll Act, 1922, which enabled the Maoris in the Horouta district to vote whether the prohibition of the supply of liquor to them in that district which had been carried in 1911 should be continued. The poll was taken in December, 1922, and it was decided by 1,272 votes to 221 that liquor should be supplied to the Natives in the district (para. 106, *supra*).

202. In December, 1922, at the national poll the vote for continuance was 282,669, or 45·65 per cent. of the total votes, for State purchase and control 35,727, or 5·76 per cent., and for prohibition 300,791, or 48·57 per cent.

CHAPTER 11.—1923–1939—PROPOSED REFORMS: AMALGAMATION OF BREWERIES; SUBSEQUENT COMPETITION BETWEEN AMALGAMATED BREWERY COMPANY AND OTHER BREWERY COMPANIES; LICENSING POLLS, ETC.

203. Following upon the national poll of 1922, certain clergymen of the Church of England made certain proposals for the reform of the trade by a system of corporate control. They also made certain other proposals for immediate legislation to provide better control of the existing system of private ownership. These proposals were supported by prominent representatives of the trade. They stated in a pamphlet which they issued (Exhibit C. 25) that the deciding factor at the last poll was the vote cast for the third issue of State purchase and control. They asserted that this issue did not serve adequately to express the opinion of the growing body in favour of sweeping licensing reform. They therefore asked for the substitution of corporate control in place of the third issue of State purchase and control.

204. Under this scheme for corporate control a Corporation was to be formed with a capital in A and B shares, 20 per cent. being A shares and 80 per cent. B shares. All owners of hotel premises and lessees from local bodies of hotel premises and all holders of brewers' licenses and wholesale licenses were to sell their properties and, in the case of brewers and wholesale licensees, their businesses as manufacturers and wholesale vendors to the Corporation in return for B shares. The values of the transferred assets were to be assessed in the manner provided by the Public Works Act for the

compulsory taking of land, including in the total amount a sum equal to three years' net profits. The A shares were to be allotted to the Government. Dividends were to be limited to 10 per cent. per annum, the dividends on the Government shares to be applied first in paying up those shares. All profits above 10 per cent. were to be applied to national purposes. The Corporation was to consist of nine persons, of whom the Government would nominate five, including the Chairman, and the B shareholders would elect the remaining four. The Government was always to have a majority on the Board. The Corporation, with the assistance of a district Licensing Board, was to issue permits to sell alcoholic liquors, and the permit holders were to become tenants of the Corporation. A permit was to be issued upon the condition that a hotel was maintained at a high standard and adequate accommodation provided to meet the requirements of the public. There was to be an appeal to a Magistrate by any person affected. The Corporation was to supervise the retail trade, and trafficking in licenses at fictitiously high values was to be abolished. If corporate control were carried by the electors, there was to be no further poll for nine years. The powers of the Corporation were not to apply to clubs.

205. Pending the adoption of corporate control by a vote of the people the reformers made the following proposals for the improvement of the trade by immediate legislation :—

1. That a special Department, or a Branch of an existing Department, be specifically charged with the duty of supervising the manufacture, importation, and sale of alcoholic liquors and all matters in connection with the laws relating thereto.

2. That the present system of elective Licensing Committees be abolished, and that the Dominion be divided into licensing districts in such manner that three Stipendiary Magistrates would constitute a permanent Licensing Committee for each district.

3. That such Licensing Committees investigate all matters relating to the granting of licenses, covering the fitness of the applicant and the terms under which the applicant is to occupy licensed premises.

4. That, in order to prevent trafficking in licenses, transfers should not be allowed under three years, except through sickness or death or other special circumstances.

5. That the penalties for allowing drunkenness on the premises and for illegal trading and all abuses of license be more strictly enforced. The licensee to be at all times personally responsible for the acts of his servants.

6. That no man shall act as a barman without a license granted by the Licensing Committee, or by the Chairman and any two members thereof. Provided that a man may be employed as a barman for any period not exceeding fourteen consecutive days without a license.

That all convictions against a barman should be endorsed on his license ; that his license should be cancelled after three endorsements.

That every barmaid be required to make a statutory declaration before a magistrate that she is entitled to hold a license under the existing provisions of the law.

7. That where a conviction for a serious breach of the Licensing Act is obtained, the Magistrate should be given power to declare the person convicted unfit to hold a publican's license ; subject always to the right of appeal to a Judge of the Supreme Court by the person affected.

8. That, with a view to lessening the consumption of spirits, legislation be promoted to provide for the establishment, in certain premises upon the termination of any lease, of the cafe system for the sale of light wines and beer only.

9. That there be a redistribution of redundant licenses from one licensing district to another if necessary, more in accordance with the needs of the population in the various districts.

10. That the Government establish a standard basis of quality for all liquors imported and manufactured, and institute a scheme of rigid examination in both wholesale and retail houses to ensure that all liquors dispensed be in strict accordance with such standard quality and true to label. No license to be granted to any manufacturer, importer, or retailer except under such regulations as will secure conformity to such standard basis.

11. That no extension of hours of sale of liquor in chartered clubs should be allowed, but that provision should be made whereby members of such clubs are allowed to adopt the locker system. That provision should be made with regard to the extension of hours during which liquor may be consumed on club premises for special occasions, each such extension to be granted under a permit and for a particular room in the club. No permits exceeding six in number should be granted in the case of any one club in any one year. That the power to revoke the license of a chartered club provided in section 9 of the Sale of Liquor Restriction Act, 1917, should be modified on the ground that the present penalty is too drastic.

12. That the licensing law should be so amended as to put restaurants and hotels on the same footing as halls or other rooms in regard to the consumption of liquor at social gatherings, provided a permit is first obtained from the police for this purpose.

206. In April and May, 1923, a series of conferences, convened by a number of Anglican clergymen, were attended by official representatives of the New Zealand Moderate League, the associated clubs, and the licensed trade in all its sections. A programme of licensing reform was unanimously adopted, and a New Zealand Licensing Reform Association was constituted to advocate the proposals for corporate control. On the executives of the organization in the various centres were some of the most prominent men in the trade.

207. A pamphlet issued by this association (Exhibit C. 25) contained this particular reference to the trade as parties to the proposal for Corporate Control :—

The Licensed Trades.—Some criticism has been levelled against the promoters of corporate control for having invited representatives of the licensed trade to participate in framing the proposals that are now being advocated. Such criticism, however, is quite unwarranted, for any reasonable person will realize that as the licensed trade was the institution to be immediately affected by the proposals their co-operation was of the utmost value. Furthermore, no other body could give the same assistance in putting the proposal into practical shape.

The trade has not been unaware that there is a growing body of public opinion in the Dominion demanding more effective control of the licensing system and a better general service to the public. They claim that, hampered as they have been with insecurity of tenure and inefficient legislation, they have done their best under the circumstances. They recognize that under the referendum their destiny is in the hands of the people, and they desire to co-operate in ascertaining the true will of the people. To this end they are supporting the submission to the people of corporate control as a definite measure of licensing reform.

Speaking in Christchurch recently at a meeting of the New Zealand Licensing Reform Association, Mr. A. S. Duncan (representing the brewers), said : "The opponents of the licensed trade had twitted them with not reforming their business from within ; but, as a matter of fact, the community had decided many years ago to assume direct and special control of the trade through the Legislature, and it was only through the Legislature that reform measures could be made operative and effective. The representatives of the trade were glad to be given the opportunity of joining in a movement which, while aiming at proposals imposing fresh restrictions on their business, was framing those proposals along lines that were admittedly sound in direction and in the interests of the community."

208. While these proposals were being made in association with the trade, the ten principal brewery companies of the Dominion were taking steps to sell their breweries to one company. These companies were James Speight and Co., Ltd., W. Strachan and Co., Ltd., McGavin and Co., Ltd., all of Dunedin ; the Crown Brewery Co., Ltd., Ward and Co., Ltd., S. Manning and Co., Ltd., all of Christchurch ; J. Staples and Co., Ltd., Wellington ; D. J. Barry, Ltd., Gisborne ; and the Lion Brewery, Ltd., of Auckland, and Hancock and Co. (N.Z.), Ltd., registered in London and carrying on business in New Zealand as a foreign company. On the 15th June, 1923, New Zealand Breweries, Ltd., with a capital of £500,000 in 500,000 shares of £1 each, was incorporated to take over the brewery businesses, but not the wine and spirit or the hotel businesses of these brewery companies. The board of directors of New Zealand Breweries comprised directors from the amalgamating companies. The 500,000 ordinary shares were issued to the vendor companies in payment for the goodwill of their businesses. Thus the whole of the initial capital was fully paid up in exchange for the goodwills of the businesses purchased.

209. The public was offered £1,000,000 of first-mortgage debenture stock carrying interest at 10 per cent. per annum, free of income-tax, redeemable at the company's option at the expiration of ten or twenty years from the date of issue. The moneys to be raised by this means were to be used in purchasing the brewery premises, machinery, plant, and stock in trade of the vendor companies. No shares were offered direct to the public, but the vendor companies offered to give each applicant for debenture stock the option of purchasing from them, at par, one share for every £5 worth of debenture stock.

210. The offer of the £1,000,000 of debenture stock was made by a prospectus which set out, *inter alia*, the reasons for the sale by the vendors of their respective breweries to one large company. They were as follows (R. 7689) :—

The present owners have decided to afford the public the opportunity of becoming financially interested upon fair and reasonable terms in the important and successful brewing industry as carried on in New Zealand. The vendors have been induced to dispose of their old-established and remunerative businesses in the manner herein indicated so as to bring into effect certain reforms which

they are led to believe are desired by the public. One of these reforms, it is suggested, is that of abolishing what has hitherto been contended as being "A restricted monopoly." Without an amalgamation of the chief interests it is impracticable to give effect to the desire of the public. The merger now proposed will enable the public not only to become financially interested in the industry in which they are so directly concerned, but also to obtain the particular beverage which they may desire.

Another reform that it is confidently expected will be brought about will be in the direction of limiting the goodwills paid in respect of hotel properties to reasonable amounts. Hitherto, with the various brewery firms in active competition for avenues for the disposition of their outputs, goodwills have been paid for hotels far in excess of their intrinsic values, a position which, from a public point of view, was not beneficial. With this competition removed, excessive goodwills ought to be abolished; licensees should be in a position to conduct their businesses upon more reliable lines; and the necessity of "tieing" public houses as understood by the public should disappear.

211. The first of these quoted paragraphs implies that the abolition of "a restricted monopoly" would be a reform. It also implies that without this reform it would be impracticable to give effect to the other reforms desired by the public. The second of the quoted paragraphs states some of those other reforms, viz.:—

(1) The removal of competition for hotels which had resulted in the payment of goodwills "far in excess of their intrinsic values."

(2) The enabling of licensees to conduct their business on more reliable lines, meaning thereby, presumably, on a less speculative basis and, therefore, with less inducement to break the law by after-hour trading for the purpose of assisting their financial position.

(3) Removing the necessity of tieing public houses as understood by the public, meaning thereby, presumably, that, as each vendor company had parted with its brewery, it would no longer require a secured outlet for beer and that the amalgamated company would not need to "tie" because most hotels would require one or more of its products.

212. All these reforms were to follow from an amalgamation of interests. The meaning of the prospectus was that the substitution of an extensive or even a universal monopoly in place of a restricted one would cure some major mischiefs. There would be no need to compete for hotels because the interest of each individual brewer would no longer be only that of securing outlets for the sale of his own beer. His interest would lie in sharing in the profits from the sale of all the principal brands of beer in all hotels in which those brands were sold upon a basis, at the outset, to which he had agreed—viz., that his share should be proportionate to the value of his asset in relation to the total value of the assets transferred to the amalgamated company. This private amalgamation of brewery assets was therefore in line with the proposals for corporate control in that both would remove the desire of any individual to secure outlets for the sale of beer.

213. The private amalgamation was not, however, in line with the object of corporate control in two other respects—viz., (1) the private amalgamation would naturally seek to promote the sales of all the brands manufactured in order to increase the profits of the amalgamated company, whereas corporate control, in which the State had the deciding voice, might be thought to have regard to the public interest by refraining from a strong sales policy designed to encourage the consumption of beer; and (2) the private amalgamation did not cover the whole field and did not exclude the possibility of competition by a new brewery or breweries which might result in another brewers' competition for hotels, whereas corporate control was intended to cover the whole field and to exclude all competition for hotels, both in the present and for the future.

214. As we shall see, the amalgamation of New Zealand Breweries was carried through and the company carried on business. Corporate control did not survive as an issue for any period of time. In 1930, after seven years of prosperous trading, New Zealand Breweries had to face the competition of a new company, Dominion Breweries, Ltd. From 1933 onwards very large amounts were paid by New Zealand Breweries and Dominion Breweries for hotels. To these we shall later refer. Thus in 1933 New

Zealand Breweries entered on a course of dealing which it had recognized in its prospectus was contrary to the public interest and which it had been professedly incorporated to prevent.

215. The public apparently thought that there was a substantial risk in the investment offered by New Zealand Breweries in 1923. They took up only £414,390 of the debenture stock and exercised their option to acquire shares to the extent only of £41,946. The vendor companies took up the balance required.

216. New Zealand Breweries took over the breweries of the amalgamating companies and paid for them out of the proceeds of the debenture issue. Five hundred thousand ordinary shares were allotted to the vendor companies in payment for the goodwill of their businesses.

217. Following upon the amalgamation, the amalgamating companies continued to carry on their remaining business, and those which controlled hotels dealt with New Zealand Breweries for their beer. The English company of Hancock and Co. (N.Z.), Ltd., was wound up and transferred its hotels and other assets, other than its brewery interests, to a new company, Hancock and Co., Ltd., registered in New Zealand with a capital of £250,000, the shares being held mainly by members of the Davis family. (The only vendor companies continuing in business to-day as separate entities are Hancock and Co. and D. J. Barry, Ltd. (R. 6889).)

218. It was natural that the amalgamated company should have power to protect its trading interests. Much money had already been spent on the prohibition polls, both by the trade and by the New Zealand Alliance, and the issue had been in doubt. Clause 3 (2) of the memorandum of association of New Zealand Breweries enabled the company "to contribute funds to or otherwise assist or encourage or carry out any propaganda or take other steps to further the interests of the company or to prevent the company's interest being prejudiced or affected." This provision enabled the company to contribute to a Trade Defence Fund.

219. There is nothing unusual about a Trade Defence Fund. Many businesses in various classes of industry contribute to a fund in defence of their industry. As a background to an understanding of the facts, however, it is necessary to remember that the licensing trade has maintained for many years an extensive Trade Defence Fund.

220. It appears that contributions are made by hotelkeepers and brewery companies to Provincial Councils of the trade and also, directly or indirectly, to the National Council of the Licensed Trade. The basis of contribution is 1d. in the £1 paid by hotelkeepers on all beer purchased by them and either 1d. or ½d. in the £1 paid by the breweries by way of subsidy. The funds so contributed are available for expenditure either in the district or nationally.

221. Counsel assisting the Commission, Mr. Willis, has made certain calculations upon the evidence before us as to the annual income from the fund in 1945, and from these calculations some idea may be gained of the extent of that income in 1924. For the year ended 31st March, 1945, it appears that the hotels purchased from the breweries some 22,500,000 gallons of beer for approximately £6,400,000. At 2d. in the £1 the annual income of the Trade Defence Fund would be about £54,000; at 1½d. in the £1 about £40,000. We have not the figures for the purchases of hotels from breweries in 1924, but the retail sales of that year, as given in a book on statistics put in evidence by the New Zealand Alliance at page 6, were £8,310,000. Assuming the publicans paid the breweries only one-third of that amount—viz., £2,770,113—the amount at 2d. in the pound would be £23,084; at 1½d. in the pound, £17,313. Counsel for the trade were asked by us to notify us if they had any objection to make to these estimates, but they made no objection. Official accounts have not been submitted to us to enable us to check these estimates.

222. A distinguishing feature of this Trade Defence Fund is that no explanation of its disbursement is rendered to those who contribute to it. According to the evidence of the Honourable Eliot Davis, no accounts are issued. The money is spent as the officials in control of it determine, and those who contribute must have confidence that affairs are administered in such a way as to protect their licenses (R. 4685).

223. The existence of this increasing annual fund available for expenditure in protection of trade interests must be kept in mind in considering the course of events after the launching of the corporate control proposals.

224. There must also be kept in mind the expenditure on the other side of the New Zealand Alliance. This body relies for its general funds on voluntary subscriptions, but makes special appeals for funds to enable it to contest the licensing polls. The funds of the Alliance seem to have been much less than those of the trade.

225. The business of selling alcoholic liquors, and of providing accommodation for the public which has been associated with the sale of these liquors, has thus been conducted over a long period of years under the stress and strain of a triennial contest for and against the extinction of the business. For many years the issue was in doubt though recent polls have been heavily in favour of the continuance of the sale of alcoholic liquor. This situation must have tended, at least while the issue was in doubt, to induce a policy on the part of the brewers and hotelkeepers of seeking quick profits with as little capital expenditure as possible.

226. From 1924 onwards new companies began to be formed, particularly in Auckland, for carrying on some branch of the trade in alcoholic liquors. Many of these companies had interlocking directorates. We refer to most of those mentioned in the evidence, to the changes in their capital structures, and to some of the transactions in hotels from 1924 to 1939 in order to present a picture of trends in the trade organization. We refer also to the vote in the national prohibition polls in order to show the conditions under which the trade had to be conducted and the degree to which, as the years went by, the threat of extinction diminished. We refer also to the expenditure on the national polls by the trade and the New Zealand Alliance respectively.

227. In July, 1924, the Pilling Pty., Ltd., was incorporated with a capital of £6,000, to purchase the Palace Hotel property at Te Aroha. The shareholders included the Campbell and Ehrenfried Co., Ltd., and New Zealand Breweries.

228. In July, 1925, Davis Consolidated, Ltd., was incorporated, with these objects, among others :—

(*a*) To purchase or otherwise acquire real or personal property ;
(*b*) To establish companies and associations ; and
(*c*) To aid any Government, State, municipal or other body.

The capital of the company was £150,000, divided into 150,000 shares of £1 each. Included in the purchases were 5,000 New Zealand Breweries' debentures. The directors were Sir Ernest Davis, Mr. Eliot Davis, and Mr. Oliver Nicholson.

229. At the national poll held on 4th November, 1925, the vote for continuance was 299,590, or 44·37 per cent. of the total votes ; for State purchase and control, 56,037, or 8·3 per cent. ; and for prohibition, 319,450, or 47·32 per cent.

230. At our request the trade and the New Zealand Alliance made available their expenditure upon the national licensing polls from and including the poll of 1925. The expenditure of the trade upon the poll of the 4th November, 1925, was £111,000 ; of the New Zealand Alliance, £17,600.

231. In 1926 a company called Ohinemuri Hotels, Ltd., was formed for the purpose of acquiring hotel properties in the Ohinemuri Licensing District. The capital was £50,000 divided into 50,000 shares of £1 each. The shareholders included New Zealand Breweries, the Campbell and Ehrenfried Co., Ltd., and persons prominent in the brewery and hotel companies of Auckland. 7,750 fully paid £1 shares were issued to L. D. Nathan and Co., and 6,750 to Hancock and Co., in each case in consideration of the transfer of certain properties, together with the preferential rights to acquire publicans' licenses in respect of such properties. New Zealand Breweries subscribed for 10,500 shares for cash, Campbell, Ehrenfried and Co. for 2,293 ; Hancock and Co. and L. D. Nathan and Co. also subscribed for a further 2,000 and 1,000 shares respectively for cash.

232. In 1926 also the Dunedin Brewery and Wilson's Malt Extract Co., Ltd., was incorporated with a capital of £50,000.

233. In 1927 Northern Properties, Ltd., was promoted and formed as a private company by the Great Northern Brewery Co., Ltd., for the purpose of enabling the Great Northern Brewery Co. (*a*) to transfer some of its assets to Northern Properties, Ltd., in consideration of 75,000 fully-paid shares; and (*b*) to go into liquidation and distribute portion of its assets. Under this transaction Northern Properties acquired seven hotels, including the Esplanade at Devonport, and the Newmarket at Newmarket, and a half-share in another hotel. Northern Properties, Ltd., subsequently acquired other properties and rights from the Great Northern Brewery Co. (These transactions are set out in the Court papers on the application of Northern Properties, Ltd., to reduce its capital in November, 1938 (*infra*, para. 269)).

234. In 1928 the late Right Honourable J. G. Coates, when Prime Minister, introduced, on his own account, and not as a Government measure, a Licensing Bill which was more extensive than one he had introduced in 1927, which had not been proceeded with. The Bill of 1928 contained, *inter alia*, the following proposals:—

(1) An extension of the period between licensing polls to every alternate general election of members of Parliament;

(2) If national prohibition were carried, then provision for a vote for national restoration;

(3) If national prohibition were carried, provision for a poll for local restoration;

(4) If licensed premises were, by reason of a change in boundaries, included in a no-license district and thereafter, by subsequent change in boundaries, included in a license district, provision for a special poll authorizing the issue of a new license in respect of such premises, the poll to be decided by a bare majority;

(5) A provision defining private bars.

(6) Provision enabling objection to be taken to the grant or renewal of a publican's license on the ground that there was no proper hot-water service in connection with any bar or that sufficient sanitary or other accommodation for the comfort or convenience of guests or employees had not been provided;

(7) That there should be no premium in addition to rent;

(8) A provision enabling a Licensing Committee, in considering an application for a transfer, to take into account the terms of the transfer and refuse consent if they were excessive;

(9) A provision that the holder of a publican's license should not be entitled to receive any payment in addition to the reasonable value of his interest;

(10) A provision that Licensing Committees should have power to require such additions, alterations, or repairs for the reasonable needs of the travelling public and all other persons resorting to the premises and of the locality. The license might be suspended until compliance;

(11) Power to transfer wholesale licenses;

(12) Provision applying section 8 of the Act of 1914 (relating to the delivery of liquor into no-license districts) to the King-country.

(13) Provision rendering Polynesians subject to the same restrictions as Natives;

(14) Provision enabling the Superintendent of Police to extend the hours for dinner in an hotel or chartered club to any time not later than 10 p.m.;

(15) Provision requiring a book for the registration of lodgers to be kept by inn-keepers;

(16) Provision requiring barmen to be registered; and

(17) Certain provisions concerning the wine industry.

This Bill was reported from the Committee of the Whole, but was not proceeded with.

235. At the national poll on the 14th November, 1928, the vote for continuance was 374,502, or 51·07 per cent. of the total votes; for State purchase and control, 64,276, or 8·77 per cent.; and for prohibition, 294,453, or 40·16 per cent. The expenditure of the trade on this poll was £87,000, and of the New Zealand Alliance £11,000.

236. On 17th December, 1928, United Investments, Ltd., was formed with a capital of £8,000 for the purpose of purchasing leasehold interests and premises, and carrying on the business of hotelkeepers and licensed victuallers. This company purchased the Britomart Hotel in December, 1928, for £22,500. We shall refer later to the position of this hotel (para. 327 (3)).

237. In January, 1929, Hotel Auckland, Ltd., was incorporated, with a capital of £60,000, divided into 60,000 shares of £1 each. An agreement for the formation of this company had been made on the 15th October, 1928, for the purpose of acquiring the Hotel Auckland from the Endean Estate for a consideration of £81,000. The agreement was dependent in certain ways upon the question whether national prohibition would be carried. Hancock and Co. held most of the shares, and the other shareholders included Sir Ernest Davis, Hon. E. R. Davis, and Mr. Oliver Nicholson. These three were the directors of the company.

238. In July of 1929 New Zealand Breweries increased its capital to £2,000,000 by the creation of 1,500,000 shares of £1 each.

239. In October, 1929, the Campbell and Ehrenfried Co. issued 85,602 bonus shares of £1 each fully paid, which brought their capital to 300,000 shares of £1 each fully paid. In November, 1929, the company reduced its capital from £300,000, divided into 300,000 shares of £1 each, to £150,000, divided into 300,000 shares of 10s. each, and the company effected the reduction by returning to its shareholders the sum of £150,000. The papers filed on the application to the Court show that the reduction was made on the ground that the company had been, and remained, over-capitalized and that half the capital might be prudently returned to the shareholders as it could not be profitably employed in the business of the company. The assets shown in the balance-sheet of the company as at the 31st October, 1929, stood at £473,180 14s. 7d. The affidavit of Sir Alfred S. Bankart, the chairman of directors, stated that, if these assets were sold at that time (November, 1929), they would realize £845,238 16s. 2d., or thereabouts, and that, on that basis, after the reduction was carried into effect, the company's assets and liabilities (including its share capital) would be as follows:—

	£	s.	d.
Assets	695,238	16	2
Liabilities	312,190	10	0
Surplus of assets over liabilities..	£383,048	6	2

240. In April, 1930, New Zealand Breweries, having, as already stated, increased its capital to £2,000,000 in July, 1929, capitalized the sum of £250,000, representing undivided profits, standing to the credit of the company's reserve funds, and gave its shareholders a bonus issue of one fully-paid £1 share for every two £1 shares held by them. In addition, shares of a nominal value of £342,271 were issued to debenture-holders of the company in return for the surrender of debentures of twice that nominal amount—viz., £684,542. This left a sum of £65,371 owing on debentures. It is obvious that, within six years from its formation, New Zealand Breweries, trading throughout New Zealand, had made very large profits for the benefit of its shareholders.

241. In April, 1930, a new company, Dominion Breweries, Ltd., was incorporated in Auckland, with a capital of £75,000, to take over:—

(1) The business of the Waitemata Brewery and its brewery license; and
(2) The wholesale wine and spirit business of Levers and Co., Ltd.

Out of a total consideration of £39,200 paid for these two businesses as going concerns the total amount paid for goodwill was £19,100. This company was independent of New Zealand Breweries and entered into competition with that company.

242. By June, 1930, Dominion Breweries, Ltd., had allotted a total of 74,000 shares, including 19,000 issued to the vendors of the two businesses in part payment for their assets.

243. Dominion Breweries forthwith proceeded to acquire control over hotels, so that, as its chairman of directors said, "its marketing policy could be co-ordinated with consumption at the retail end," and by March, 1931, the company had control of four hotels. Its policy at this time was to lease an hotel and then sublet it to a tenant.

244. In July, 1931, Dominion Breweries increased its capital to £250,000, divided into 250,000 shares of £1 each, but the paid-up capital of the company was £73,274.

In 1931 Hancock and Co. built the Station Hotel on Beach Road, Auckland, at a cost of over £70,000.

245. During the next two or three years there was a severe economic depression. On this account, no national poll was held in 1931.

246. Dominion Breweries pursued its policy of acquiring control over hotels. In 1932–33 the number had increased to eight, but was reduced to seven in 1933–34. During 1934–35 the number increased to twelve.

247. It is of interest to note that while the new company, Dominion Breweries, was extending its control of hotels, Ballin Bros., Ltd., a Christchurch wholesale firm, purchased the Muriwai Hotel, near Gisborne, in August, 1932. (This hotel is now leased to a tenant and tied to Ballins Breweries, Ltd.)

248. On 1st July, 1933, New Zealand Breweries repaid in cash the balance of £65,371 owing to its debenture-holders. In the same month the company purchased its first hotel—viz., an hotel in Thames for £3,000, the Government valuation being £1,700. The reason given for the extension of the company's activities beyond manufacturing is thus stated by the company :—

(*Answer to Question 18 :*) Originally it was the intention of the directors to confine the activities of the company to manufacturing. This policy was continued for a number of years, when it was found that the policy of other companies in competition with New Zealand Breweries of acquiring hotels either by lease or purchase and using their own draught beer exclusively in those hotels forced the company, in self-protection, to acquire hotels in which its own draught beer was exclusively sold.

Thus began what was termed in the evidence "a brewer's war" for the control of hotels.

249. In 1934, New Zealand Breweries purchased four hotels.

250. In September, 1935, the year of the licensing poll, Ohinemuri Hotels, Ltd., reduced its capital from £50,000, divided into 50,000 shares of £1 each, of which 47,000 had been issued, to £31,250, divided into 50,000 shares of 12s. 6d. each. The reduction was effected by making cash payments of 7s. 6d. per share to the holders of 47,000 issued shares and by reducing the nominal value of the shares from £1 to 12s. 6d. per share. The Court papers filed on this reduction show that the company was the owner of four licensed hotels situated in the Townships of Paeroa, Waihi, Kerepeehi, and Waikino respectively, and that the reduction was made on the ground that the capital was in excess of the wants of the company and that it was unable to find a satisfactory outlet for using this surplus capital.

251. At the national poll, held on the 27th November, 1935, the vote for continuance was 521,167, or 63·42 per cent. of the total votes ; for State purchase and control, 57,499, or 7 per cent.; and for prohibition, 243,091, or 29·58 per cent. At the no-license poll, Ohinemuri remained a licensed district.

252. The trade spent on the poll of 1935, £79,000 ; the New Zealand Alliance, £1,330.

At the end of 1935 there was a change of Government. The depression was over, and money was spent freely.

253. On the 27th April, 1936, the following advertisement was inserted by Dominion Breweries in the Wellington newspapers, from which the following is an extract :—

To the Public of Wellington.

Certain brewers who own or hold the leases of certain hotels in the Wellington District have warned their tenants that their leases will not be renewed, or will only be renewed at an increased rental, if they sell any bottled beer other than that of their own manufacture.

Are these brewers to be permitted to dictate to the public as to what it shall drink ? Hotels obtain their licenses on condition that they meet the requirements of the people, and such an act of intimidation is repugnant to the British sense of freedom and fair play.

A list of hotels which refuse to be dictated to, and are free to supply the public with any brands of bottled beer they demand, more especially Dominion Bitter and Vita-Stout (products of the Waitemata Model Brewery) will be published at an early date should this objectionable practice continue. (R. 6726 ; Ex. C. 23.)

254. The reasonable inference from this advertisement is that some opposition brewery had decided to enforce the tie in respect of bottled beer in the licensed houses controlled by it. It appears, however, from the evidence, that, after a reply from McCarthy's Brewery on the 28th April, 1936 (R. 6890), the threat of publicity by Dominion Breweries was sufficient to prevent the tie from being enforced. New Zealand Breweries was not at this time financially interested in Macarthy's Brewery, though it became so subsequently.

255. In June, 1936, Ballins Breweries (N.Z.), Ltd., was formed in Christchurch, with a capital of £250,000 to take over Hickmott's Victoria Brewery and the wine and spirit business of Ballin Bros., Ltd. The prospectus made these statements :—

Ballin Bros., Ltd., possess valuable financial and trade interests in 81 hotels in New Zealand, and its trading organization regularly contacts 774 hotels out of approximately the 1,200 in the Dominion.

The purchase-price was stated to be £57,607, of which £20,000 was for goodwill, payable to Ballin Bros., covered by the allotment of 20,000 ordinary £1 shares fully paid up.

256. During 1936 New Zealand Breweries continued its policy of purchasing hotels. It also purchased a brewery, the Timaru Brewery, for £73,000.

257. During 1936 Dominion Breweries purchased from one owner his hotels at Huntly and Taihape for a total cost of £45,000. The chairman of directors considered the amount reasonable.

258. The legislative provision contained in section 19 of the Law Reform Act, 1936 (passed on the 18th September, 1936), then exercised an influence on the mode of letting hotels. This section provided that in all leases, containing a covenant or agreement against the assigning or underletting of demised premises without license or consent, the covenant or agreement should be deemed to be subject to a proviso to the effect that such license or consent is not to be unreasonably withheld, subject to the right of the landlord to any expenses incurred in connection with such license or consent. New Zealand Breweries had had a personal lease form under which it could refuse its consent where excessive goodwills were asked. The company found it could no longer refuse consent on this ground, so it allowed existing leases to run out and then continue on a monthly basis (R. 6804).

259. In 1936 the directors of Dominion Breweries came to the conclusion that the policy of subleasing hotels was not as sound a policy as managing with a licensed manager The chairman of directors informed us that the company became involved in losses in nearly every case with assignments from the original subtenants, by reason of the high goodwill payments which had been made.

The amount invested by Dominion Breweries in hotel premises, furniture and fittings, hotel advances, and securities rose from £28,458 in 1936 to £153,094 in 1937.

260. In February, 1937, Ballins Breweries made an advance on a mortgage for six years on the Commercial Hotel, Pahiatua. This is an example of the extension of the company's trade to the North Island.

261. In 1937 New Zealand Breweries purchased twenty-five hotel properties, comprising twenty-three freeholds and two leaseholds, from the Wellington company of J. Staples and Co. for £496,000. To finance this the company offered its shareholders

one share for every two shares held, at a price of 25s. per share. In response to applications, 543,108 shares were allotted, bringing the company's paid-up capital to £1,635,379, at which it now stands.

262. In 1937 New Zealand Breweries erected in Wellington the Hotel Waterloo at a cost for the building of £126,000, and for building and fittings of approximately £155,000.

263. In 1937 J. Staples and Co., Ltd., went into liquidation. This company had been incorporated in 1889 with a share capital of £60,500, which was later increased to £350,000. On its liquidation in 1937 it distributed 116,391 shares in New Zealand Breweries valued at £2 10s. each. Taking that into account, the company's shareholders received by way of capital distribution the sum of £925,352.

264. In 1937 the Dunedin company of James Speight and Co., Ltd., also went into voluntary liquidation. It had been incorporated in 1897 with a capital of £60,000. On liquidation the shareholders received by way of capital distribution the sum of £869,625.

265. In September, 1937, Hancock and Co., Ltd., increased its capital from £250,000 to £400,000. It allotted this increase of 150,000 shares to its members as fully paid, the cash payment of £150,000 coming from the company's Fixed Assets Appreciation Reserve Account. In October, 1937, Hancock and Co. increased its capital from £400,000 to £650,000 by the issue of 250,000 preference shares of £1 each to be allotted for cash. New Zealand Breweries agreed to take these 250,000 preference shares, and then sold 60,000 of them to the New Zealand Insurance Co. at par. These preference shares are now paid up to 10s. each. The nominal capital of Hancock and Co., Ltd., is therefore £650,000, but the paid-up capital is £525,000.

266. In April, 1938, Dominion Breweries purchased the Market Hotel, in Grey's Avenue, Auckland, for £31,000. This hotel had been leased to Dominion Breweries in 1934 for five years at £1,560 per annum. The Government capital valuation made subsequently in 1940 was £9,105, of which the unimproved value was £4,420 and the value of the improvements £4,685 (Ex. A. 61).

267. In June, 1938, the Dunedin Brewery and Wilson Malt Extract Co. increased its capital to £75,000.

In June, 1938, also, Ballins Breweries took a lease of the Taita Hotel, Lower Hutt, for a term of ten years.

268. In July, 1938, Dominion Breweries increased its nominal capital to £500,000 by the creation of 250,000 ordinary shares of £1 each. In August, 1938, 50,000 of these new shares were offered to shareholders at a premium of 5s. per share in the proportion of one new share for every five shares held. The issue was fully subscribed, and at the 31st March, 1939, the issued and paid-up capital of the company was £300,000.

269. In November, 1938, the year of the licensing poll, Northern Properties, Ltd., reduced its capital from £75,000, divided into 75,000 shares of £1 each, to £37,500, divided into 75,000 shares of 10s. each. The reduction was effected by returning the shareholders' capital to the extent of 10s. per share and constituting the nominal value of each share at 10s. The reduction was made, as the Court papers show, on the ground that it was unnecessary to retain in the company, as capital, any larger sum than £37,500; and that, if any additional funds were required, they could readily be obtained by borrowing.

270. At the national poll held on the 15th October, 1938, the vote for continuance was 546,995, or 60·35 per cent. of the total votes; for State purchase and control, 96,131, or 10·61 per cent.; and for prohibition, 263,208, or 29·04 per cent.

The trade spent on this poll £66,200, and the New Zealand Alliance £1,650.

271. In November, 1939, Dominion Breweries offered 50,000 shares to its shareholders at a premium of 2s. 6d. per share, and this issue was fully subscribed. The issued and paid-up capital of this company at 31st March, 1940, was £350,000, and it has remained at that amount. The premiums paid by shareholders for their shares produced £57,924 2s. 6d., a sum which forms about half the company's reserve account.

272. Dominion Breweries had continued its policy of purchasing hotels and making advances upon them. In 1939 its investments on these purchases and advances stood at £495,766.

CHAPTER 12.—CONTROL OF PRICES, STRENGTH OF BEER, USE OF SUGAR, HOURS OF SALE, ETC., SINCE 1939

273. After war began in September, 1939, exceptional conditions arose in New Zealand. Particularly after June, 1942, there were many visiting servicemen, there was much overcrowding, and much unusual excitement. We think that our judgment of the normal conduct of the trade and of the people in relation to the trade should not be influenced by these exceptional conditions. Nevertheless, apart from these matters of conduct, the war brought certain restrictions upon the trade with consequences which still continue, and the present situation cannot be gauged without reference to them. We refer to—

(1) The increases in the excise duties and the sales tax, and the bringing of the trade for the first time under a system of price control;

(2) The reduction in the alcoholic strength of beer and the regulation of the amount of sugar to be used in brewing: and

(3) The reduction in the hours of trading, the increase in the powers of regulation, and the relief from repairs.

Increases in Duty and Control of Prices

274. We state first the facts concerning the increases in duty and the control of prices. At a later stage we shall consider a submission by the New Zealand Alliance that price control was exercised in subservience to the interests of the trade.

275. We are informed by the Price Tribunal that, prior to the year 1939, a 14 oz. glass was available in most hotels in Auckland for 6d., and that 10 oz., 12 oz., and 14 oz. glasses were available in different hotels in Dunedin each for 6d.

276. On the 1st August, 1939, just before the commencement of the war, the excise duty on beer was increased by 6d. a gallon. We are informed by the Price Tribunal that at that time the prices for draught beer in the four main centres were as follows:—

In Auckland	6d. for a 12 oz. glass;
In Wellington	5d. for a 10 oz. glass;
In Christchurch	6d. for a 10 oz. glass; and
In Dunedin	6d. for a 12 oz. glass.

In a few hotels a container known as a "half handle" was used for the purpose of serving draught beer at a charge of 3d. or 4d. (R. 6945).

277. When the excise duty was increased on the 1st August, 1939, some hotelkeepers passed on this increase in duty to the public by way of increased prices. Others curtailed or eliminated the house shout, which was a free beer on the purchase of every three or four. This increase gave rise to many complaints and general dissatisfaction.

278. On the 5th August, 1939, the Price Investigation Tribunal, then acting under the Board of Trade (Price Investigation) Regulations 1939 (1939/62), had a conference with the president of the New Zealand Licensed Victuallers' Association, the president and the secretary of the Wellington Licensed Victuallers' Association, the secretary of the National Council of the Licensed Trade, the secretary of the Auckland Provincial Council, another representative of trade interests in Auckland (Mr. Usmar), and the national secretary of the Hotel Workers' Federation. No balance-sheets or profit and loss accounts of any breweries or hotelkeepers were available at this meeting. War was imminent at the time and it may be that there was some difficulty in obtaining them. A representative of the Price Tribunal (Mr. H. L. Wise) informed us that it

appeared there was a shortage of 12 oz. glasses and that it would have been impracticable to order that all hotels in the country should provide a 12 oz. handle if asked for, but that such a course was practicable in the four main cities (R. 2124). He also said :—

The trade itself took all responsibility in the matter of introducing the 12 oz. handle for 6d. in the four main centres (R. 2123).

279. The Price Stabilization Emergency Regulations 1939 (1939/122) were made on the 1st September, 1939. They fixed the basic prices as the prices on the 1st September, 1939, but Regulation 11 provided that the Minister of Industries and Commerce might, by notice made and published as he thought fit, authorize the sale of any goods or the performance of any services for a price exceeding the price on the 1st September, 1939, by such amount as the Minister thought fit to specify. In exercising these powers the Minister might be advised by persons who made inquiries under the Board of Trade Act, 1919, and its amendments, among whom was the Price Investigation Tribunal.

280. Following the conference of the 5th August, 1939, and with the approval of the Government (R. 6158), the Minister authorized the passing-on of the increased tax to consumers with effect from 5th September, 1939, on the following basis (R. 2122 and 6132) :—

Handles.—12 oz. handles were to be made available in the four main cities of Auckland, Wellington, Christchurch, and Dunedin for the price of 6d. if asked for (R. 6138/9 and 6186).

Elsewhere the price of beer was not to be increased beyond the maximum of 6d. for 12 oz., but licensees were permitted to charge the full price for any less quantity according to the custom of the trade in New Zealand. Thus 6d. could be charged for a 10 oz., 8 oz., or 5 oz. glass—that is, for the 10 oz. handle, the medium, or the small.

Pint Bottles.—The Minister authorized an increase of ½d. per pint bottle when sold in bottle stores in the Auckland area, but no increase when the contents were consumed on the premises.

Quart Bottles.—1d. increase in all areas.

Riggers.—1d. increase in all areas.

Gallons.—An increase of 6d., but in no case to exceed 5s. 6d. per gallon.

281. On the 26th September, 1939, there was a further increase of 3d. per gallon in the excise duty on beer (R. 6131). The total duty was then 2s. per gallon, plus $\frac{1}{16}$d. for every unit of specific gravity above 1047. The Minister then, on the advice of the Price Investigation Tribunal, authorized the following increases with effect as from the 1st November, 1939 (R. 2123) :—

Gallons.—An increase of 3d. per gallon.

Handles, &c.—No increase in the price of beer measures. This left the trade to charge as it had been charging—viz., a maximum price of 6d. for any quantity asked for, even a pony.

Riggers (Large).—An increase of ½d. each.

Riggers (Small).—An increase of ½d. each at Auckland only.

Large Bottles.—An increase of ½d. each.

Small Bottles.—An increase of 1d. each on all small bottles sold for consumption on the premises at Auckland only, but no increase anywhere else in small bottles sold for consumption off the premises (R. 2123).

282. These authorizations were, in general, conveyed by letter from the Price Tribunal to a representative of the brewers and bottlers, a representative of the wholesale merchants, and a representative of the licensed victuallers. Each representative had the duty of communicating the amount of the authorized increase to the class which he represented.

283. The Control of Prices Emergency Regulations 1939 (1939/275) were made on the 20th December, 1939. These regulations set up the Price Tribunal, which had power to investigate complaints concerning prices, to issue Price Orders, to survey prices, to institute proceedings for offences in relation to prices, and generally to take steps to prevent profiteering or the exploitation of the public. Regulation 13 (3) provided that the power conferred by Regulation 11 of the regulations of 1939/122 might thereafter be exercised by the Minister or by the Tribunal.

By the 20th December, 1939, therefore, the Price Tribunal had been constituted with power:—

(1) To authorize increases in prices beyond the prices of 1st September, 1939, by a notice made and published in such manner as it thought fit; and

(2) To make Price Orders fixing the wholesale or retail prices of goods in any locality and fixing margins within which goods might be sold. The Tribunal was required to give notice of every Price Order in such manner as in each case it thought fit. Commencing in February, 1940, the Price Tribunal proceeded to give notice of its price orders in the *N.Z. Gazette*.

284. In July, 1940, the sales tax was increased from 5 per cent. to 10 per cent. (R. 6870). We understand that about this time the Price Tribunal obtained the balance-sheets and accounts of New Zealand Breweries and of Dominion Breweries and subsequently the accounts of smaller breweries. The Tribunal authorized the following increases as from 19th July, 1940:—

(1) No change in the charges and measures in the bar.

(2) The price of quarts in the bottle stores was increased by a maximum of ½d. each quart. The price for pint bottles in the bottle store remained unchanged.

285. By Regulation 8 of the Price Stabilization Emergency Regulations 1939, Amendment No. 1, made on the 5th March, 1941 (1941/36), the Price Tribunal was given power to give notice in the newspapers, or otherwise require the retailers of goods of any class specified, to keep at at all times prominently displayed in the shop notices showing particulars of former selling prices and new selling prices and also containing a certificate that any increased prices had been duly authorized.

286. By Regulation 2 of the Control of Prices Emergency Regulations 1939, Amendment No. 2, made on the 27th November, 1941 (1942/12), a duty was imposed on every retailer of goods of which the retail price was fixed by a Price Order either:—

(1) To keep a copy of the Price Order or a statement of the prices prominently displayed in his shop; or

(2) To display a prominent notice that the relevant Orders were available in the shop for inspection by any customer who wanted to inspect them.

287. The foregoing regulations were in force when the increases in the prices of alcoholic liquors were authorized during 1942. With regard to the display of notices in a shop, the Tribunal informs us that it was advised that a bar was not a shop (see letter of 1st November, 1945, p. 2, Exhibit A. 163).

288. On the 30th April, 1942, the excise duty on beer was increased to 3s. per gallon on worts of a specific gravity of 1036, increased by 1d. for every unit of specific gravity above 1036, and decreased by 1d. for every unit of specific gravity below 1036, but not less in any case than 2s. 3d. per gallon (section 6 of the Customs Acts Amendment Act, 1942). This amendment was designed not merely to increase the duty, but to bring about a reduction in the alcoholic content of beer. On 11th May, 1942, the sales tax was increased from 10 per cent. to 20 per cent. (R. 6870 and section 3 of the Customs Acts Amendment Act, 1942).

289. In May, 1942, the Tribunal considered the question of increases in price. It did not, however, for this purpose investigate the balance-sheets of the hotel-owning companies. The reason given by Mr. Wise, of the Price Tribunal, was that the Tribunal already had on its own files a large amount of information concerning the position of hotels. The Price Tribunal authorized the following increases:—

(1) An increase of 1d. per measure for the retail price of beer sold other than in the form of bottled beer or riggers.

(2) In respect of bottled beer and riggers, a maximum increase of 4d. per reputed quart bottle and 2d. per reputed pint bottle: Provided that riggers holding an imperial quart might bear a maximum increase of 4½d.

290. The Price Tribunal did not incorporate any of these increases in a Price Order. They made the increase by an authorization communicated by letter of the 11th May, 1942, to the managing director of New Zealand Breweries, Ltd., Wellington, of which copies were sent to the representatives of the wholesalers and of the retailers. Part of this letter may be quoted to show how an authorization was made, viz.—

The Tribunal would refer to its several consultations last week with representatives of the brewery and licensed victualler industries, Mr. Good, Comptroller of Customs, and Mr. Ashwin, Secretary of the Treasury, as to beer prices following the recent adjustment in sales tax and excise duty.

Authority has been given in terms of the Price Regulations for brewers to pass on the excise-duty increase, less savings in cost of materials as a result of the new brewing formula, plus full sales tax on the new selling prices, in respect of draught beer in casks. It is understood by the Tribunal that the resulting net additional cost to resellers will be approximately 1s. 5d. per gallon. The correlated net increase in cost to the reseller of bottled beer bought by way of wholesale to be at the rate of 3s. 6d. per dozen for quarts and 1s. 9d. per dozen for pints . . . Similarly as from and including to-day the Tribunal has given authority for retail prices to be increased up to a maximum of 1d. per measure on all beer sold other than in the form of bottled beer or riggers. In respect of bottled beer and ordinary riggers the maximum increase allowed is 4d. per reputed quart bottle and 2d. per reputed pint bottle. Riggers holding an imperial quart will bear a maximum increase of 4½d.

It is understood that you will communicate the terms of this decision to all brewers throughout the Dominion.

A copy of this communication has been sent to Mr. Suisted on behalf of the licensed victuallers and to Mr. Talbot on behalf of wholesale merchants.

291. The reasons given to us by Mr. Wise, of the Price Tribunal, for controlling prices in this way, and particularly for controlling the price of draught beer by fixing the price of a 12 oz. handle in the main cities, if requested, at a maximum price first of 6d. and then of 7d., were these:—

(1) Before September, 1939, there was considerable variation in the bottle store and bar prices charged hotel by hotel, place by place, and even bar by bar. In some instances, hotels with more than one bar had different prices in each bar for similar lines. Also, the sizes of measures and glasses varied, in some instances, bar by bar (R. 2125), (paras. 275 and 276, *supra*).

(2) It has been the custom in the trade in New Zealand to charge the same price in hotel bars for measures of beer of whatever size (R. 2123/4).

(3) Additional costs due to freight and breakages inevitably result in different prices outside the metropolitan areas (R. 6164/5).

(4) The general practice of the Tribunal has been not to interfere with established commercial practices.

(5) If the Tribunal had insisted on different prices for different containers, the prices of the 10 oz. and 12 oz. handles would necessarily have been higher than they are; and the main object was to ensure that the working-man in the cities could be perfectly certain of obtaining a 12 oz. handle for the maximum charge of 6d. and then of 7d. (R. 6167).

(6) The tax on beer is a consumer tax and it was desirable to fix a price that would ensure that part of it was passed on to the public. That was done by fixing a price which would maintain the volume of sales and so maintain the revenue from this source during the war.

(7) At the same time, the Tribunal considered that part of the increases in costs due to increased taxation should be absorbed by the trade. Accordingly, the trade was required to bear part of that cost and also of increases in costs of materials, including cooperage materials, and in other costs such as wages and freights.

292. In the view of the Tribunal and of representatives of the trade, the result of the price control of beer ensured that the price since 1939 had increased less than the actual amount of increased taxation, the difference having been absorbed by the brewers and hotelkeepers (R. 2124 and 6861).

293. We note here that there is evidence which we accept, that 12 oz. handles speedily disappeared for the most part from the hotel bars in the main cities. One exception was the Britomart, in Customs Street, Auckland, which dealt only in 12 oz. handles for the maximum price and made large profits. If the 12 oz. handles substantially disappeared from city bars, then the basis of the fixation of price also disappeared at an early stage in the control. At no time did the Tribunal make any attempt to fix the prices on the basis, say, of a 10 oz. handle.

294. Prior to May, 1942, the Tribunal had authorized increases in the bottle prices for whisky, rum, and gin (R. 6152), and also 1d. per nip on the 1939 prices for brandy (R. 2126).

295. In May, 1942, the Price Tribunal authorized an increase in the bar prices for whisky, rum, and gin from 9d. to 10d. per nip. The Tribunal states that this increase provided only for the recovery of the additional taxation and did not take into account any previous increases in taxation or overseas costs and shipping charges (R. 2125). The wholesale price of a case of whisky to the retailer had increased between 1939 and 1942 by approximately 60 per cent., so that the price per bottle bought in case was to the retailer 16s. 1½d. (R. 6163).

296. The Tribunal did not include this increase in the price of spirits in May, 1942, in any Price Order. It left the matter to an authorization privately communicated to the wholesalers and retailers. It is important to note that the authorization did not specify the number of nips to the bottle. This left the hotelkeeper free to extract as many nips as he could from the bottle, charging 10d. for each.

297. The Control of Prices Emergency Regulations 1939, Amendment No. 3 (1942/336), were made on the 15th December, 1942. Regulation 15 of these regulations provided—

(1) That in any Price Order the Tribunal might include such provisions, not inconsistent with the regulations, as it thought necessary or desirable for the proper administration of the Price Order or to ensure compliance with the terms thereof; and

(2) That any authority given by the Minister or the Tribunal under clause 11 of the regulations of 1939 (1939/122) might be given subject to such conditions as the Minister or the Tribunal thought fit.

Regulation 16 of these regulations of the 15th December, 1942 (1942/336), then repealed Regulation 2 of the regulations 1942/12, and provided that every retailer selling any goods of which the retail price had been fixed by a Price Order was required to keep a copy of the Price Order, or a statement of the prices fixed thereby, prominently displayed in his shop so that customers could freely consult the Price Order or statement without having to obtain permission to do so.

298. As already stated, the Tribunal states that it was advised that a bar was not a shop. If that was correct, the regulation was not amended to include a bar and to enable any conditions to be inserted in the authorizations for the purpose of making them effective. No Price Order was made at that time. The Tribunal informs us that it was satisfied that the trade was co-operating fully with it in observing the prices fixed.

299. The Control of Prices Emergency Regulations, 1939, Amendment No. 4 (1944/3), were made on the 12th January, 1944. Regulation 4 of these regulations provided that the approval of prices under Regulation 13 (3) of the regulations of 1939 (1939/275), which comprised the approval of prices under Regulation 11 of the regulations of 1939/122, should operate as though the approval were a Price Order fixing the approved prices or charges as the maximum prices or charges for the goods or services to which it related.

300. Regulation 6 of these regulations (1944/3) provided that any notice or approval given by the Tribunal under either the Price Stabilization Emergency Regulations 1939 (1939/122) or the Control of Prices Emergency Regulations 1939 (1939/275), whether

given before or after the commencement of the regulations (1944/3), should, unless otherwise expressly provided in the regulations, be deemed to have been sufficiently given if given in writing signed by a member of the Tribunal or by any one by direction of the Tribunal and delivered or posted to the person or persons primarily concerned therewith or to any person or organization deemed by the Tribunal to represent the person or persons primarily concerned.

This regulation had the retrospective effect of rendering the publication or the display of authorizations increasing prices unnecessary at any time since 1939, but it gave the authorizations, nevertheless, the effect of a Price Order. Having regard to the numbers of price authorizations, this was, no doubt, a necessary provision to be administered according to the discretion of the Price Tribunal.

301. The Control of Prices Emergency Regulations 1939, Amendment No. 5 (1944/174), was made on the 20th December, 1944. They provided for the method of approval of increases in prices by the Minister or the Tribunal. The approval might be given absolutely or conditionally in respect of specified goods or services or of sales or services by specified persons, or might be limited in locality. The approval operated as if it were a Price Order fixing the approved prices as the maximum prices of the goods or services to which they related. Previous approvals were validated as though given under the new regulation.

302. The first Price Order made in respect of alcoholic liquors was made on the 26th April, 1945, more than six weeks after we commenced our sittings. Mr. Wise said that the Price Order was prepared on the 13th April, 1945, in consequence of complaints that the price authorizations was not being observed. Furthermore, early in 1945, a plaintiff, who was an hotelkeeper claiming damages from a brewery company for an alleged breach of contract in respect of the supply of spirits, was reported to have said in the Supreme Court at Napier that it was the universal practice in Hawke's Bay for licensees to charge 1s. per nip for spirits. The Tribunal arranged, through the secretary of the New Zealand Licensed Victuallers' Association, that a circular should be sent to every licensed victualler in New Zealand on the subject of the price for spirits. The Tribunal also arranged for its Inspectors to make an investigation. They reported that in Napier the correct charge of 10d. was being made for nips of whisky, but that in Hastings some licensees were charging 1s. where they supplied aerated water (R. 2126).

303. Mr. Wise explained to us the making of a Price Order at this stage in this way :—

> To place the enforcement of the authorization in respect of whisky, gin, and rum in the strongest possible position, the Tribunal caused a price Order to be prepared setting out the maximum price to be charged for nips of these liquors at 10d. and the maximum number of nips to the bottle to be 42 (R. 2126).

This Price Order was, as we have said, gazetted on the 26th April, 1945. Brandy was not included in it, but an increase of 1d. per nip of that spirit had previously been authorized.

304. On the 5th July, 1945, the Price Order of the 26th April, 1945, was revoked and a new Price Order was gazetted comprising brandy as well as whisky, rum, and gin. The new Order provided for the same maximum price and the same maximum number of nips as the revoked Order.

305. The Price Tribunal informs us that though, as we have said, it had been advised that a bar was not a shop within the regulations, the Price Order is exhibited almost universally in hotel bars. It is difficult to understand why, if it ought to be exhibited, the regulation has not been amended to provide that a bar is a shop for the purposes of the regulations and so to ensure the universal exhibition of the Price Order covering spirits.

306. We have had various complaints as to the non-enforcement of the authorizations covering the price of draught beer and of the Price Order affecting spirits. We shall deal with these matters when we consider the submissions made as to the subservience of the Price Tribunal to the interests of the trade.

307. The position with regard to the prices of wine is that the wholesale and retail prices of the wine made by the principal manufacturers have been fixed by price authorizations during the war period, but owing to the considerable variation in the quality of the wines on the market the Tribunal has not regarded it as possible to control all prices (R. 2126 and 6187). That could only be done by relating prices to a specified standard of quality, and, so far, a way has not been found to fix standards for wine (R. 6188).

Strength of Beer and Use of Sugar

308. We refer now to the reduction in the alcoholic strength of beer and the regulation of the use of sugar.

Following the increase in duty in April, 1942, which was designed to bring about a reduction in the alcoholic content of beer, it was found that the majority of brewers were brewing beer with an original specific gravity of 1036 or under, although this was not so in the case of stout. In the majority of cases the spirit content of beer brewed to this gravity lay between the limits of 6·5 per cent. and 7·1 per cent. of proof spirit. This constituted a reduction of approximately 25 per cent. in the average strength of beer prior to 1942 (R. 319). With a view to ensuring uniformity, the brewing of beer with an original specific gravity exceeding 1036 was prohibited by the Manufacture of Liquor Emergency Regulations 1942, which came into force on the 15th August, 1942 (1942/251), except with the consent of the Minister of Customs. General authority was given under these regulations as from the 15th August, 1942, for the brewing of stout in excess of 1036 specific gravity, with a restriction on the quantity to the average quantity brewed during the period January to June, 1942 (R. 319). Brewers were also permitted to blend beer of which the specific gravity of the worts was higher than 1036 with brews of lower gravity, provided that the original specific gravity of the worts which would be required to produce beer of the spirit strength of the blend did not exceed 1036. This concession was granted to enable brewers to maintain the quality of their yeast.

309. No alteration of prices by the Price Tribunal followed upon these alterations in strength.

310. We refer now to the control of the use of sugar. Although the majority of brewers continued to comply with the Manufacture of Liquor Regulations of 1942 and did not brew beer with an original specific gravity exceeding 1036, some brewers were using a considerably greater quantity of sugar proportionately to the amount of malt ordinarily used (R. 320). This practice resulted in a higher spirit content of the beer. According to the Customs Department (R. 321), in at least one case the brewer had added considerable quantities of sugar to the beer after primary fermentation—*i.e.*, after the time when the quantity and the specific gravity had been recorded for duty purposes. This process resulted in a secondary fermentation, whereby both the apparent original specific gravity and the spirit content were increased without any corresponding increase in the duty being paid. Furthermore, Mr. K. M. Griffin, the Government Analyst at Auckland (R. 2948), stated that the practice of adding sugar when beer was being bottled was also being carried out extensively by the licensees of hotels in 1943 and prior thereto.

311. Accordingly, by the amendment of the 19th May, 1943, to the Manufacture of Liquor Emergency Regulations 1942 (1943/81), the following provisions were made :—

> Except with the consent of the Minister and under such conditions as he may prescribe—
>
> (1) No brewer shall use in the manufacture of beer more than 3 lb of sugar to 40 lb. of malt ;
>
> (2) No brewer shall add any sugar to any worts or to any beer at any time after entry in the brewer's book of the quantity and specific gravity of the worts ; and
>
> (3) No person shall add any sugar to beer intended for sale after such beer has been delivered from the brewery.

The purposes of this amendment were—

(1) The conservation of the supplies of sugar;

(2) The control of the alcoholic content of beer; and

(3) The protection of the revenue.

312. Until these regulations were brought into force there was nothing to prevent any person from using as much sugar as he liked in the brewing of beer, to the limit of his ration, quite apart from using it for priming or conditioning the beer when bottling it.

313. The Minister of Customs allowed two exceptions to these regulations. It appears that the quality of the malt made from the barley of the 1944 season was generally poor, and the Minister permitted, from the 8th December, 1944, to the 31st March 1945, the use of sugar in the production of worts in an amount not exceeding 4½ lb. of sugar to every 40 lb. of malt. This concession was granted on the basis that the additional sugar was within the brewer's existing quota under sugar rationing.

314. The second exception was made by the Minister when on the 26th day of June, 1943, he gave permission to brewers and bottlers to use up to 3 lb. of sugar per hogshead of beer for priming purposes (R. 321 and 2949). It appears that some bottlers—for example, those in Hawke's Bay—who were bottling beer brewed in Dunedin had difficulty in making the beer keep after it had been carried a long distance. A general authority was, however, given in respect of all beer. Administratively it may have been difficult to do anything else.

315. The Customs Department presented the following statement of the quantity of beer and stout brewed in excess of a specific gravity of 1036 during the years 1943 and 1944:—

	1943. Gallons.	1944. Gallons.
Stout brewed over 1036 S.G.	63,676	64,379
Beer brewed over 1036 S.G.	1,236,993	1,298,223
Total brewed over 1036 S.G.	1,300,669	1,362,602
Percentage of all beer and stout brewed ..	5·417%	5·384%

(R. 1225.)

HOURS OF SALE, SERVICE CONTRACTS, ADVERTISING, REPAIRS, AND OTHER MATTERS

316. We refer now to the reduction in the hours of trading and to some of the provisions for the increase in the powers of regulating the trade and to the provisions for relief from repairs.

317. The Licensing Act Emergency Regulations 1942 (No. 2), (1942/186), made on the 22nd June, 1942, imposed certain restrictions upon the trade. By Regulation 2 all licensed premises were to be closed on Saturday from 2 p.m. to 4 p.m. and from 6 p.m. until 10 a.m. of the following Monday, and on the nights of other days from 6 p.m. until 10 a.m. of the following day.

318. By Regulation 8, provision was made for the cancellation of a publican's license for a breach of the Licensing Act or of the regulations, or of the conditions of the license, or for permitting the licensed premises to be frequented by disorderly or disreputable persons, or for permitting drunkenness, or the illegal sale of liquor, or if the licensee were not a fit and proper person.

319. By Regulation 15 it was provided that the failure to maintain the licensed premises at the standard required by the Licensing Act, 1908, should not prevent a renewal of a license or the grant of a new license if the Licensing Committee was satisfied that the failure was due to the war.

320. By Regulation 17, contracts for the management of licensed premises in respect of which a publican's license had been granted were made unlawful if the contract provided for the payment of remuneration at a rate determined or affected by reference,

directly or indirectly to the amount of intoxicating liquor sold or the profits of the business. Existing contracts of this kind were required to be adjusted so that the remuneration would not be so affected. In default of agreement, adjustment was by arbitration.

321. By Regulation 18, advertisements in newspapers, other than a trade newspaper, relating to intoxicating liquor were limited to 2½ in. in width by 2 in. in length. Advertisements relating to intoxicating liquor calculated to encourage the drinking of liquor by women were prohibited; so also were posters, other than those on trade premises, and advertisements in picture-theatres or by means of wireless broadcasts.

By Regulation 20, additional powers were given to constables to enter without warrant on unlicensed premises where the constable reasonably suspected any offence against the Licensing Act relating to the sale of liquor by unlicensed persons.

By Regulation 23, every innkeeper was required to keep a register of his guests.

By Regulation 24, every holder of a brewer's license, or a wholesale license, or a winemaker's license was required to keep a record of every sale of liquor made by him.

322. By the Licensing Act Emergency Regulations 1942 (No. 2), Amendment No. 3 (1944/86), made on the 31st May, 1944, a fresh provision was made protecting licensees from a failure to keep premises up to the required standard. It was provided that the provisions of the Licensing Act in this matter should not apply to prevent the granting of a renewal of a license or a new license in respect of any premises or any land on which premises were formerly erected in any case where the Licensing Committee is satisfied "that from any cause whatsoever, whether due to war conditions or not, the premises have been destroyed or damaged or otherwise are not of the required standard or do not contain the required accommodation and that the failure to re-erect or repair the premises, maintain them at the required standard, restore them to that standard, or provide the required accommodation is due to the present war or to conditions directly or indirectly caused thereby."

CHAPTER 13.—SOME TRANSACTIONS IN HOTELS DURING THE WAR

323. To complete this account of the war years we refer now to some of the many transactions in hotels during this period, which indicate—

(1) The value placed upon an hotel with a good bar trade:

(2) The low value of land and buildings compared with a license:

(3) The lack of any fear that prohibition would be carried; and

(4) The continued existence of competition between the large brewery companies for hotels.

324. (1) In June, 1940, Ballins Breweries acquired the Burwood Hotel in Canterbury for £18,198, the Government valuation at the time being £2,505. This hotel is leased to a tenant for £108 6s. 8d. per month, so that each yearly rental is 51 per cent. of the Government valuation.

(2) In October, 1940, Ballins Breweries took a lease of the Dominion Hotel, Wellington, for a term of ten years at a rental of £975 per annum. The Government capital valuation, made in March, 1935, was £9,000, of which the unimproved value was £4,000 and the value of improvements £5,000.

325. (1) In April, 1941, the Star Hotel at Kihikihi, bordering on the large no-license district of the King-country, was leased for a term of three years at the lower rental of £20 per week, or £1,040 per annum. The Government valuation, made in 1936, showed the capital value at £1,240, of which the unimproved value was £100 and the value of improvements £1,140. The lower yearly rental was thus 83·8 per cent. of the capital value.

(2) In July, 1941, Dominion Breweries purchased the Rising Sun Hotel, in Karangahape Road, Auckland, for £45,000. This hotel is one of the few hotels bordering on the no-license districts of Eden and Grey Lynn. According to the Government valuation made in 1940, the capital value was £8,580, of which the unimproved value was £4,620 and the value of improvements £3,960.

(3) In October, 1941, Dominion Breweries was in competition with the Campbell and Ehrenfried Co. (which is linked through its shareholding and directorate with New Zealand Breweries) for the Edinburgh Castle Hotel, in Symonds Street, Auckland, which is another of the few hotels bordering on the large no-license districts of Eden and Grey Lynn. The hotel was purchased by the Campbell and Ehrenfried Co. for £64,000. The Government valuation, made in March, 1940, showed the capital value at £10,630, of which the unimproved value was £8,470 and the value of the improvements £2,160.

(4) In 1941 the Albion Hotel, Courtenay Place, Wellington, was leased to New Zealand Breweries at a lower rental of £292 10s. per month, the sum of £5,000 being also paid for goodwill. (This hotel had been leased in 1938 for three years at a lower rental of £67 10s. per week and a premium for goodwill of £3,000. In 1939 the residue of the term of this lease was assigned to New Zealand Breweries for a consideration of £7,216 11s. 6d.) The Government valuation, made in May, 1940, showed the capital value of the property to be £17,500, of which the unimproved value was £14,000 and the improvements £3,500.

(5) Transactions in the Victoria Hotel at Petone and the Bellevue Hotel in the Hutt at this time also showed the very high value placed upon the bar trade. (R. 6615.)

(6) In June, 1941, Ballins Breweries acquired a lease of the Waitara Hotel, in Taranaki, which expired in January, 1945, and is being carried on under a monthly tenancy. This lease seems to be a renewal of one granted in 1937.

326. (1) In March, 1942, Ballins Breweries, Ltd., took a lease of the Tavistock Hotel, Waipukurau, Hawke's Bay, for a term of five years at a rental of £1,430 per annum for the first three years and £1,690 per annum for the last two years.

(2) In August, 1942, Ballins Breweries purchased the Albion Hotel at Lyttelton for £8,500, the Government capital valuation at the time being £2,895.

(3) In October, 1942, Ballins Breweries obtained a lease for five years of Barrett's Hotel and shops, Wellington, at a rental of £3,788 5s. per annum.

(4) In November, 1942 (R. 972), the Duke of Edinburgh Hotel at Porangahau was sold for £6,500. The land was worth £450 and the buildings £1,500. The hotel was resold in October, 1943, for £7,700.

327. (1) In April, 1943, Ballins Breweries purchased the Junction Hotel at Rangiora for £19,500, the Government capital valuation at that time being £4,675.

(2) During 1943 the Caledonian Hotel, near the Basin Reserve at Wellington, was sold for £25,000 (R. 6617). The Government capital valuation was £6,580, of which the unimproved value was £1,925 and the value of the improvements £4,655. Very high rentals had been paid under leases of this hotel.

(3) In April, 1943, the Britomart Hotel, in Customs Street East, Auckland, was leased by United Investments, Ltd. (the shares in which are held in trust for Hancock and Co., Ltd.), to a tenant at a lower rental of £66 16s. 6d. per week, or £3,475 per annum. (This hotel had previously been leased to the same tenant in November, 1939, for two years and six months at a lower rental of £50 per week and a premium of £2,500, and again in April, 1942, for one year at a lower rental of £50 per week and a premium of £833 6s. 8d.) The Government capital valuation of the hotel made in 1940 was £9,300, of which the unimproved value was £7,500 and the value of the improvements £1,800.

(4) In 1943, Ballins Breweries made advances on chattel securities in respect of the Club Hotel, Martinborough, Wellington Province, and guaranteed the bank overdraft. They took a chattel security and also a second mortgage.

(5) During 1943 a lease of the Eltham Hotel was granted to Ballin Bros., Ltd., for four years at the lower rental of £457 12s. per annum (R. 7710). The Government valuation is £1,200, although the hotel was purchased for £7,800. Each yearly rental is thus 38 per cent. of the Government capital valuation, and, in addition, the lessee pays, as in most instances, rates and insurance and is obliged to paint and paper.

328. (1) In January, 1944, the Oriental Hotel in Dunedin was sold for £22,000, of which £2,750 was paid for the land and buildings and £19,250 for goodwill. £2,750 was a fair value for the land and buildings. This was not a company transaction.

(2) In February, 1944, the Exchange Hotel at Havelock North was sold for £10,600. The maximum value of the land and buildings is stated to have been £3,000 (R. 973).

(3) In April, 1944, the Grosvenor Hotel in Christchurch was leased to Ballins Breweries for two years and eleven months at £104 a month, with a premium of £1,125. The Government capital value is £3,960. Each yearly rental, including a share of the premium, is 40 per cent. of the Government valuation (R. 7710).

329. In January, 1945, the Alpha Hotel at Kihikihi, which is on the boundary of the large no-license district of the King-country, was sold for £14,000, of which £4,000 was apportioned to land and buildings and £10,000 to goodwill. According to the Government valuation made in 1939–40, the capital value was £1,700, of which the unimproved value was £300 and the value of the improvements £1,400.

330. We refer now to instances of competition between New Zealand Breweries and Dominion Breweries during the war years. We have referred to the purchase of the Rising Sun Hotel by Dominion Breweries in 1941 and the purchase of the Edinburgh Castle Hotel by the Campbell and Ehrenfried Co. four months later, each hotel bordering on the large no-license districts of Eden and Grey Lynn. (Incidentally, it may be noted that the excess of revenue over charges on the Edinburgh Castle Hotel was, in 1944, £8,675.)

331. In the course of his evidence Mr. L. J. Stevens, the chairman of directors of Dominion Breweries, was asked (R. 6745) whether his company might take a lease of an hotel from an individual for a period, and whether, at the end of the term, the lease might be taken up by some one else. He replied: "Not if we can make reasonable terms for renewal." Further questioned (R. 6746), Mr. Stevens said that variations in the leaseholds were not at the present time of any concern whatever to his company. The statement attached to the evidence of Mr. Stevens shows that the number of hotels owned or leased by the company was 45 in 1940 and 40 in 1945, with some variation between those figures in the intervening years.

332. The evidence shows competition between New Zealand Breweries and Dominion Breweries during or about the war years in the following respects:—

(1) A lease of the Royal George Hotel at Newmarket, Auckland, became available in 1939 on the death of the proprietor-licensee. Up to that time, New Zealand breweries and the other hotel companies with which it is associated held control of the other three hotels in Newmarket. It is stated in the evidence of Mr. Tuck, the Assistant Commissioner of Stamp Duties at Auckland, that in order to keep Dominion Breweries out of the locality New Zealand Breweries took a lease of the Royal George at £80 per week and that this has been renewed for a further term at the same rent. The rent of the other two Newmarket hotels controlled by New Zealand Breweries or its associated companies is £30 10s. per week for the Captain Cook and £48 per week for the Carlton Club.

(2) The evidence shows (see Schedule B of New Zealand Breweries' replies to our questionnaire, and p. 20 of Dominion Breweries' replies to our questionnaire) these facts: the Astor Hotel at Auckland, which had been leased and was later

under the management of Dominion Breweries, was leased to New Zealand Breweries in December, 1939, for seven years at a rental of £110 per week and a premium of £7,000, the Government capital valuation at the time being £34,740. In respect of this hotel, Mr. Stevens gave evidence (R. 6694) that New Zealand Breweries had outbid Dominion Breweries for the lease of this hotel.

(3) The Delta Hotel at Ngaruawahia, which had previously been under the management of Dominion Breweries, was leased in July, 1933, to New Zealand Breweries for five years at a weekly rental of £35, the Government capital valuation being £3,380.

(4) The Masonic Hotel, Napier, which had previously been under the management of Dominion Breweries, was leased to New Zealand Breweries in March, 1945, at a weekly rental of £65, with a right of renewal for six years, the Government capital valuation being £49,000.

(5) The Morrinsville Hotel at Morrinsville, which had previously been under the management of Dominion Breweries, was leased to New Zealand Breweries in January, 1945, for three years at a weekly rental of £17, the Government capital valuation being £4,000.

333. Some inferences which might be drawn from the transactions in the Auckland Provincial District during the war were suggested by Mr. L. G. Tuck, the Assistant Commissioner of Stamp Duties at Auckland.

In general, we agree with the inferences drawn by Mr. Tuck and we think they apply throughout New Zealand. Some inferences may be added. The inferences which we draw are as follows :—

(1) On the whole of the transactions the prices paid for freeholds or leaseholds have been high, but have been relatively stable. There have been some reductions and some sharp increases.

(2) The prices paid are generally much higher than can be obtained for land and buildings required for businesses without a publican's license. The license is frequently worth much more than the land and buildings.

(3) Rents are usually fixed by reference to the bar turnover ; the higher the bar turnover, the higher the rent. This may be exemplified by contrasting the rental for the Britomart Hotel in Customs Street, Auckland, with that of the City Club in Shortland Street, Auckland. The rental of the Britomart is £3,475, the Government capital valuation of the land and buildings being £9,300. The rental of the City Club is £1,964, the Government capital value of the land and buildings being £10,400.

(4) The values for the buildings, as shown by the Government valuations, are frequently low, indicating that the buildings are old.

(5) Prices and rents have soared above the ordinary high level when there has been competition between the brewery companies for hotels or when an hotel is situated near the border of a no-license district.

(6) In general, the breweries and hotel companies own the hotels commanding the highest rentals and, therefore, those which are most desirable from the point of view of the trade. The private individual has little chance of obtaining an hotel in competition with a brewery or hotel company.

(7) Among the hotels which give the best and most modern accommodation are those owned and managed by a brewery or hotel company. Under existing conditions it would be impracticable for most individuals to build or acquire a modern hotel.

PART V.—GENERAL REVIEW OF PRESENT POSITION OF THE TRADE (EXCLUDING THE WINE INDUSTRY)

CHAPTER 14.—BREWERY PRODUCTION AND THE CONTROL OF HOTELS BY BREWERS AND WHOLESALE MERCHANTS

334. We proceed now to a general review of the present position of the licensed trade in New Zealand, excluding the wine industry, which we shall deal with separately.

SECTION 1.—BREWERY PRODUCTION, AND GENERAL

335. As at the 31st March, 1946, there were in operation 42 brewery licenses, 140 wholesale licenses, 948 publicans' licenses, and 150 accommodation licenses. Two of the brewery licenses are in the Invercargill Licensing District, but no other licenses are required in that district. The Invercargill Licensing Trust acts under its own statutory authority. At present it sells liquor in two Trust hotels, with accommodation; in three saloons, without accommodation; and in one restaurant, without accommodation.

336. The following table shows, in detail, the number and the situation of the brewery, wholesale, publicans', and accommodation licenses, according to licensing districts:—

Licensing District.	Brewery.	Wholesale.	Publicans'.	Accommodation.	Total of Licensed Hotels.
NORTH ISLAND					
Bay of Islands	..	..	10	10	20
Marsden	..	1	4	7	11
Kaipara	..	..	9	3	12
Auckland	2	16	61	..	61
Remuera	..	..	1	..	1
Otahuhu	2	..	4	..	4
Waitemata	..	..	9	..	9
Onehunga	..	..	6	..	6
Franklin	..	..	6	..	6
Thames	1	..	35	3	38
Hauraki	..	..	4	2	6
Hamilton	1	..	5	..	5
Raglan	..	..	6	2	8
Tauranga	..	1	5	3	8
Waikato	..	..	7	1	8
Bay of Plenty	..	..	18	6	24
Rotorua	..	1	10	4	14
Waitomo	..	..	2	..	2
Gisborne	1	5	13	3	16
Napier	..	9	20	..	20
Hawke's Bay	1	6	10	5	15
Waipawa	..	2	13	..	13
New Plymouth	1	2	11	..	11
Stratford	..	1	12	..	12
Egmont	..	1	14	3	17
Waimarino	1	..	2	..	2
Patea	1	3	14	3	17
Wanganui	1	7	14	..	14
Rangitikei	..	..	19	1	20
Manawatu	..	1	12	..	12
Palmerston North	2	4	15	..	15
Pahiatua	2	2	24	..	24
Masterton (no license)	1	..	..	..	..
Otaki	..	1	15	..	15
Wairarapa	..	1	20	1	21
Hutt	1	1	7	..	7
Wellington	3	20	46	..	46
Wellington Suburbs	..	..	2	..	2
North Island totals	21	85	485	57	542

Licensing District.	Brewery.	Wholesale.	Publicans'.	Accommodation.	Total of Licensed Hotels.
SOUTH ISLAND					
Marlborough	1	3	25	3	28
Nelson	2	4	26	1	27
Motueka	1	3	23	12	35
Buller	1	2	48	11	59
Westland	3	6	59	14	73
Hurunui	..	..	21	3	24
Kaiapoi	..	..	12	1	13
Christchurch	3	10	48	..	48
Riccarton	..	..	10	..	10
Avon	..	..	1	..	1
Lyttelton	..	1	19	2	21
Mid-Canterbury	..	..	10	..	10
Temuka	..	..	7	1	8
Timaru	1	6	15	..	15
Waitaki	..	1	14	8	22
Dunedin	4	15	43	..	43
Dunedin South	1	..	10	..	10
Central Otago	..	..	34	22	56
Mataura (no license)	1	..	..	..	..
Wallace	..	..	22	10	32
Invercargill (see also below)	2	..	..	..	..
Awarua	1	4	16	3	19
Chatham Islands (special licensing district)	..	..	..	2	2
South Island totals	21	55	463	93	556
New Zealand totals	42	140	948	150	1,098

In addition, the Invercargill Licensing Trust (no Licensing Committee) operates 6 premises for the retail sale of intoxicating liquor (2 hotels with accommodation, 3 saloons without accommodation, and 1 restaurant) and, under its statute, is also able to purchase liquor anywhere either wholesale or retail. If the Trust is treated as being the holder of 1 wholesale license and 6 publicans' licenses, the totals for the South Island and for New Zealand are :—

	Brewery.	Wholesale.	Publicans'.	Accommodation.	Total of Licensed Hotels.
South Island (including Invercargill) ..	21	56	469	93	562
New Zealand (including Invercargill) ..	42	141	954	150	1,104

337. The following matters should be noted with respect to the foregoing list of licensed hotels :—

1. *Auckland.*—Hotel Cargen ; license suspended 15th July, 1940, under the provisions of the Licensing Act Emergency Regulations 1940 (*N.Z. Gazette*, 1940, p. 1755).

2. *Thames.*—Kauaeranga Hotel (accommodation license) ; closed 5th September, 1944, under the provisions of the Sale of Liquor Restriction Act, 1917. Building was destroyed by fire.

3. *Hamilton.*—Waikato Hotel has been partly demolished and is awaiting rebuilding.

4. *Rotorua.*—Wairakei Hotel was taken by the Mental Hospitals Department, the license (accommodation license) being suspended, but has now been returned to the company. Tokaanu Hotel (accommodation license) operated by the Tourist and Publicity Department.

5. *Pahiatua.*—Herbertville Hotel (publican's license) was destroyed by fire and has not yet been rebuilt.

6. *Westland.*—All Nations Hotel (publican's license) at Rimu was closed in 1942 under the provisions of the Sale of Liquor Restriction Act, 1917.

The Empire Hotel (publican's license) at Kumara was closed under the same Act, 1943-44, but reopened in 1945.

7. *Waitaki.*—The Hermitage Hotel, Mount Cook (accommodation license) is operated by the Tourist and Publicity Department.

8. *Wallace.*—The Te Anau Hotel (accommodation license) is operated by the Tourist and Publicity Department.

338. The following table, compiled from the Record (R. 1226), shows the various holders of brewery licenses, their breweries, locality, and output in 1944, arranged according to volume of output:—

Licensee.	Brewery.	Address.	1944.	Total Output of Licensee.
			Gallons.	
New Zealand Breweries, Ltd.	Captain Cook	Auckland	2,570,850	14,982,728
,,	Lion	,,	3,114,292	
,,	Gisborne	Gisborne	458,347	
,,	Thorndon	Wellington	1,739,048	
,,	Crown	Christchurch	826,922	
,,	Ward's	,,	910,430	
,,	Timaru	Timaru	600,612	
,,	Union (McGavin's)	Dunedin	346,318	
,,	City (Speights)	,,	4,026,254	
,,	Victoria (Strachans)	,,	389,655	
Dominion Breweries, Ltd.	Waitemata	Otahuhu	4,657,403	4,657,403
Ballins Breweries (N.Z.), Ltd.	Ballins	Christchurch	1,453,605	1,453,605
Tui Brewery, Ltd.	Tui	Mangatainoka	517,744	517,744
Westland Breweries, Ltd.	Phœnix	Reefton	313,329	463,801
,,	Westland	Hokitika	150,472	
Macarthy's Brewery, Ltd.	City and Phoenix	Wellington	423,776	423,776
Cascade Brewery, Ltd.	Cascade	Taihape	419,502	419,502
C. L. Innes and Co., Ltd.	Waikato	Hamilton	384,623	384,623
J. R. Dodson and Son, Ltd.	Nelson	Nelson	87,864	237,694
J. A. Harley and Sons (amalgamated as Nelson Breweries, Ltd.; incorporated 23/2/45)	Raglan	,,	149,830	
Dunedin Brewery and Wilson Malt Extract Co., Ltd.	Dunedin	Dunedin	228,827	228,827
Kauri Brewery, Ltd.	Kauri	Woodville	188,729	188,729
Taranaki Brewery and Cordials, Ltd.	Taranaki	New Plymouth	184,332	184,332
Standard Brewery Co., Ltd.	Standard	Palmerston North	180,462	180,462
Simons Pty., Ltd.	Paeroa	Paeroa	153,476	153,476
Marlborough Brewery Co., Ltd.	Marlborough	Blenheim	124,810	124,810
Morley and Co.	Union	Westport	108,622	108,622
R. Ford and Co., Ltd.	Ford's	Hokitika	103,207	103,207
W. Burridge and Son	Eagle	Masterton	100,631	100,631
Burton Brewery Co., Ltd.	Burton	Palmerston North	88,734	88,734
Wanganui Brewery Co., Ltd.	Wanganui	Wanganui	79,672	79,672
Whittingham and Co., Ltd.	Waikiwi	Invercargill	52,700	52,700
T. P. O'Halloran and Co.	O'Halloran's	Wellington	44,888	44,888
Hawera Brewery Co., Ltd.	Hawera	Hawera	44,052	44,052
I. E. Grant (now Heeney and O'Neill)	Gore	Gore	26,608	26,608
Southland Breweries, Ltd.	Southland	Invercargill	24,912	24,912
,,	Awarua	,,		
D. H. Newbigin	Leopard	Hastings	16,164	16,164
Wellington Breweries, Ltd.	Wellington	Wellington	13,237	13,237
A. A. Stewart	Stewarts	Greymouth	676	676
M. Simich and Co., Ltd.	Lager	Auckland	..	..
Duncan and Co.	Otago	Dunedin	..	..
			25,305,615	25,305,615

339. Since war commenced in 1939 the brewery of Simich and Co., of Auckland, and the brewery of Duncan and Co., of Dunedin, have not been brewing. In 1930 Southland Breweries, Ltd., acquired the Southland Brewery from Roope and Co. and stopped production. In 1943, after restoration was carried in Invercargill, this brewery resumed production, but the Awarua Brewery, which is also owned by Southland Breweries, Ltd., is not yet operating.

340. Of the total gallonage of 25,305,615 gallons of beer produced during 1944, the breweries of New Zealand Breweries, Ltd., produced 14,982,728 gallons, while all the other breweries combined produced during that year only 10,322,887 gallons. We were informed by the secretary of New Zealand Breweries, that one-third of the company's business to-day consists of bottled-beer trade, and that, from present indications, in a few years' time, this may equal a half of the company's total business (R. 6881/2). Of the other breweries, the largest is Dominion Breweries, of Otahuhu, which produced in 1944, 4,657,403 gallons. The next is Ballin's Breweries, of Christchurch, which produced 1,453,605 gallons.

341. There are only six other companies which produced more than 200,000 gallons during 1944, viz. :—

(1) The Tui Brewery, Ltd., of Mangatainoka, 517,744 gallons ;

(2) Westland Breweries, Ltd., with two breweries, one at Hokitika and one at Reefton, 463,801 gallons ;

(3) McCarthy's Brewery, Ltd., of Wellington, 423,776 gallons ;

(4) Cascade Brewery, of Taihape, 419,502 gallons ;

(5) Innes's Waikato Brewery of Hamilton, 384,623 gallons ; and

(6) The Dunedin Brewery and Wilson Malt Extract Co., Ltd., 228,827 gallons.

342. The following is a table showing how the beer produced has been disposed of as between hotels and private individuals (Exhibit A, 103, set out in Record 6155 and 6155A) :—

Brewery Company and Location.	Quantity of Liquor sold by Brewery, Year ended 31st March, 1945.		Total Quantity sold.
	To Hotels.	To Individuals and Agencies.	
	Gallons.	Gallons.	Gallons.
Whangarei Police District	..	..	..
Auckland Police District—			
New Zealand Breweries Ltd. (Auckland Branch)	5,477,790	206,676	5,684,466
Dominion Breweries Ltd., Auckland	4,258,593	377,257	4,635,850
Hamilton Police District—			
C. L. Innes and Co., Ltd., Hamilton	39,846	349,752	389,598
The Simons Proprietary, Ltd., Paeroa	7,204	61,788	68,992
Gisborne Police District—			
New Zealand Breweries, Ltd., Gisborne	356,994	104,022	461,016
Napier Police District—			
D. H. Newbigin, Hastings	18,302	8,018	26,320
New Plymouth Police District—			
The Taranaki Brewery and Cordials Ltd., New Plymouth ..	189,000	21,000	210,000
The Hawera Brewery Co., Ltd., Hawera	24,921	13,116	38,037
Wanganui Police District—			
The Wanganui Brewery Co., Ltd., Wanganui	46,857	37,448	84,305
The Cascade Brewery Co., Ltd., Taihape	259,583	205,942	465,525

Brewery Company and Location.	Quantity of Liquor sold by Brewery, Year ended 31st March, 1945.		Total Quantity sold.
	To Hotels.	To Individuals and Agencies.	
Palmerston North Police District—	Gallons.	Gallons.	Gallons.
Burton Brewery Co., Ltd., Palmerston North	83,214	6,356	89,570
Standard Brewery Co., Ltd., Palmerston North	154,267	25,960	180,227
Tui Brewery Co., Ltd., Mangatainoka	23,600	495,970	519,570
Kauri Brewery Co., Ltd., Woodville	15,143	184,476	199,619
Wellington Police District—			
W. Burridge and Son, Wellington	55,032	51,003	106,035
O'Halloran's Brewery, Wellington	20,895	20,177	41,072
Thorndon Brewery (New Zealand Breweries, Ltd.), Wellington	1,458,683	354,475	1,813,158
Macarthy's Brewery, Wellington	468,598	7,926	476,524
Wellington Breweries, Ltd., Petone	6,862	4,078	10,940
Nelson Police District—			
Nelson Breweries, Ltd., Nelson (Nelson and Raglan Breweries amalgamated 1st February, 1945)	173,524	171,834	345,358
Marlborough Brewery Co., Ltd., Blenheim	83,426	33,683	117,109
Greymouth Police District—			
Westland Breweries, Ltd., Greymouth	458,317	50,062	508,379
Stewart's Brewery, Greymouth	Nil	752	752
Morley and Co., Westport	111,674	3,022	114,696
Robt. Ford and Co., Ltd., Hokitika	111,988	2,677	114,665
Christchurch Police District—			
Ballins Breweries (N.Z.), Ltd., Christchurch	1,354,406	108,400	1,462,806
New Zealand Breweries, Ltd. (Christchurch Branch), Christchurch	1,774,008	149,364	1,923,372
Timaru Police District—			
New Zealand Breweries, Ltd. (Timaru Branch), Timaru	324,920	296,542	621,462
Dunedin Police District—			
New Zealand Breweries, Ltd. (Speight Branch), Dunedin	4,245,533	32,077	4,277,610
New Zealand Breweries, Ltd. (McGavin-Strachan Branch), Dunedin	741,096	27,791	768,887
Dunedin Brewery Co., Dunedin	200,500	11,500	212,000
Caversham Brewery, Dunedin	Has not functioned during past five years		
Invercargill Police District—			
Southland Breweries, Ltd., Invercargill	2,616	36,887	39,503
Waikiwi Brewery (Whittingham and Co., Ltd.), Waikiwi	108	42,984	43,092
Gore Brewery, Gore	Nil	23,900	23,900

343. It will be noted that the large breweries supplied nearly all their products to hotels. The small breweries carry on what is in effect a large retail trade direct with the public. The Gore Brewery, for example, at Gore sold nothing to hotels, but supplied 23,900 gallons to private individuals. Mr. L. J. Stevens, the chairman of directors of Dominion Breweries, expressed this view of the small breweries:—

> My experience of the small breweries is that they cater for a particular type of trade, and they could not, as small breweries, compete under any circumstances with the bulk trade required by the main hotels. The profits in beer are very, very small and are secured only by substantial turnovers. Small breweries sell in small quantities to the outside public at higher prices, at a semi-wholesale price, and thereby get a higher mark-up on their goods.

Again (R. 6747), Mr. Stevens described the small brewery as doing "a pot and jug business." He said that his company, as a major company, had no desire to cripple the small concerns.

SECTION 2.—CONTROL OF HOTELS BY BREWERS AND WHOLESALE MERCHANTS

344. We have prepared a table showing in detail the control by the breweries and the wholesale wine and spirit merchants over hotels which is set out in Appendix A. The compilation of this return has been made possible by the answers to a questionnaire which we circulated to all breweries and wholesale merchants in New Zealand. It appears from this return that, out of a total of 1,098 hotels and accommodation houses in New Zealand, a total of 631 are under the control of the breweries and the wholesale trade. In general, most of the hotels in the cities and in the towns are under this control. In Auckland City, particularly, nearly all the hotels are under the control of one or other of the brewery or hotel companies.

345. We refer in more detail to the control over hotels exercised by the principal brewery and hotel companies according to the figures obtained by us in 1945.

346. New Zealand Breweries, Ltd., owns 59 (6 jointly) has a lease of 51 (9 jointly), and is financially interested in 92 hotels, a total of 202. These hotels are located in the various provinces as follows:—

Province.	Own.	Lease.	Financially interested.	Total.
Auckland	15	35	9	59
Hawke's Bay	4	2	5	11
Taranaki	..	..	2	2
Wellington	24	6	11	41
Nelson	..	..	3	3
Marlborough	..	..	1	1
Westland	1	..	..	1
Canterbury	13	8	50	71
Otago	2	..	10	12
Southland	..	..	1	1

347. Dominion Breweries, Ltd., owns 17 (1 jointly), leases 27, and is financially interested in 6 hotels. These hotels are distributed among the provinces as follows:—

Province.	Own.	Lease.	Financially interested.	Total.
Auckland	13	21	1	35
Hawke's Bay	2	5	..	7
Taranaki	1	..	1	2
Wellington	1	1	..	2

348. Ballins Breweries (N.Z.), Ltd., owned 11 hotels, leased 15 hotels, and was financially interested in 35 hotels. These hotels are distributed among the provinces as follows:—

Province.	Own.	Lease.	Financially interested.	Total.
Auckland	..	..	1	1
Hawke's Bay	..	1	..	1
Taranaki	..	1	2	3
Wellington	..	3	2	5
Nelson	..	..	2	2
Marlborough	..	1	1	2
Westland	..	..	1	1
Canterbury	11	7	23	41
Otago	..	1	1	2
Southland	..	1	2	3

349. Ballin Bros., Ltd., owns 13 hotels and is financially interested in 7 hotels. These hotels are distributed among the provinces as follows :—

Province.	Own.	Lease.	Financially interested.	Total.
Auckland	3	..	..	3
Hawke's Bay	1	..	..	1
Taranaki	1	..	..	1
Wellington	..	..	2	2
Marlborough	3	..	..	3
Canterbury	5	..	5	10

350. The Tui Brewery, Ltd., owns a part share in one hotel in the Wellington Province.

351. Westland Breweries, Ltd., in Westland owns 6 hotels, leases 4, and is financially interested in 23, and, in the Nelson Province, owns 2, leases 1, and is financially interested in 3, a total of 39.

352. Macarthy's Brewery, Ltd., does not own or lease any hotels, but is financially interested in 2 in the Wellington Province.

353. C. L. Innes and Co., Ltd., neither owns, leases, nor is financially interested in any hotels.

354. The Dunedin Brewery and Wilson Malt Extract Co., Ltd., owned 6 hotels as at 31st March, 1945 (3 in Otago and 3 in Southland), but has sold the freehold of 3 of these hotels since that date (2 in Otago and 1 in Southland).

355. The number and locality of the hotels of the Hotel Companies are as follows :—

356. Hancock and Co., Ltd., owns 43 (12 jointly), leases 30 (9 jointly), and is financially interested in 10 hotels (7 jointly), all situated in the Auckland Province.

357. The Campbell and Ehrenfried Co., Ltd., owns 32 (3 jointly), leases 4, and is financially interested in 2 (both jointly) hotels, all situated in the Auckland Province.

358. L. D. Nathan and Co., Ltd., owns 15 (5 jointly), and is financially interested in 2 hotels, all situated in the Auckland Province.

359. Northern Properties, Ltd., owns 7 (1 jointly), and is financially interested in 3 hotels, all situated in the Auckland Province.

CHAPTER 15.—THE INTERLOCKING OF BREWERY AND WHOLESALE COMPANIES

360. New Zealand Breweries is linked through its directorate with the principal hotel-owning companies in the Auckland district, *e.g.*—

(1) Mr. H. C. McCoy is a director of the following companies : New Zealand Breweries, Ltd., the Campbell and Ehrenfried Co., Ltd., Ohinemuri Hotels, Ltd., and Pilling Pty., Ltd.

(2) The Hon. Eliot R. Davis is a director of New Zealand Breweries, Ltd., Hancock and Co., Ltd., United Investments, Ltd., Davis Consolidated, Ltd., Ohinemuri Hotels, Ltd., and Hotel Auckland, Ltd.

(3) Mr. A. E. Bollard is a director of Ohinemuri Hotels, Ltd., Campbell and Ehrenfreid Co., Ltd., and Pilling Pty., Ltd.

(4) Sir Ernest Davis is a director of Hancock and Co., Ltd., Hotel Auckland, Ltd., United Investments, Ltd., and Davis Consolidated Ltd.

(5) Mr. Oliver Nicholson is a director of Hancock and Co., Ltd., Hotel Auckland, Ltd., United Investments, Ltd., and Davis Consolidated, Ltd.

(6) Mr. W. W. Warnock is a director of L. D. Nathan and Co., Ltd., and Ohinemuri Hotels, Ltd.

361. Many of these companies have been and still are interested in each other through the shareholdings. The latest returns show the following position :—

(1) New Zealand Breweries, Ltd., holds 190,000 preference shares in Hancock and Co., Ltd., 10,500 shares in Ohinemuri Hotels, Ltd., and 1,000 shares in Pilling Pty., Ltd.

(2) Davis Consolidated, Ltd., has 18,050 shares in New Zealand Breweries, Ltd., and 9,500 shares in Hancock and Co., Ltd.

(3) The Campbell and Ehrenfried Co., Ltd., hold 42,907 shares in New Zealand Breweries, Ltd., 2,793 shares in Ohinemuri Hotels, Ltd., and 1,000 shares in Pilling Pty., Ltd.

(4) Hancock and Co. hold 11,500 shares in Ohinemuri Hotels, Ltd., and 59,843 shares in Hotel Auckland, Ltd.

(5) The Northern Properties, Ltd., hold 1,668 shares in New Zealand Breweries, Ltd.

(6) L. D. Nathan and Co., Ltd. hold 12,550 shares in Ohinemuri Hotels, Ltd.

(7) D. L. Nathan, of L. D. Nathan and Co., Ltd., is a holder of 4,925 shares in Dominion Breweries, Ltd., but this, although a financial interest, does not indicate any financial control.

362. It may be that through New Zealand Breweries and by means of the extensive business of New Zealand Breweries outside the Auckland Provincial District the directors of the important hotel companies in Auckland have the opportunity of influencing the conduct of the trade throughout New Zealand.

363. Dominion Breweries, Ltd., does not appear to be connected with any other companies which are interested in the sale of alcoholic liquors.

364. Ballins Breweries (N.Z.), Ltd., is connected with other companies interested in the sale of alcoholic liquor to the following extent: Ballins Breweries (N.Z.), Ltd., have 4,800 shares in Canterbury Freeholds, Ltd. (R. 5511), which owns the Methven Hotel at Methven (R. 5502). Ballin Bros., Ltd., hold 50,320 shares in Ballins Breweries (N.Z.), Ltd. (R. 5510). Ballin Bros., Ltd., and members of the Ballin family are shareholders in the New City Hotel Co., Ltd. Messrs. H. I. Ballin and P. Quartermain, a shareholder in Ballins Brewery (N.Z.), Ltd., are shareholders in and directors of the Empire Hotel, Ltd., Dunedin (Exhibit A. 144). Both are directors of Ballins Breweries (N.Z.), Ltd., and the former is a director of Ballin Bros., Ltd. The Late O. L. Ballin held 1,500 £1 shares out of a total of £3,000 share capital in the Capitol Trust Co., Ltd. (R. 5512), which owns the Excelsior Hotel, Christchurch.

365. The six companies which produced more than 200,000 gallons in 1944 are connected with other companies interested in the sale of alcoholic liquor as follows :—

The Tui Brewery, Ltd., has 2,758 fully paid £1 shares in New Zealand Breweries, Ltd., and 2,760 shares paid to 10s. in the Tui Bottling Co., Ltd. Messrs. T. and W. Young, Ltd., Hardwicke and Robertson, Ltd., and Levin and Co., Ltd., all of Wellington, Wine and Spirit Merchants, have a financial interest in the control of the Tui Bottling Co., Ltd.

Westland Breweries, Ltd., owns three hotels jointly and leases three hotels jointly with Griffen and Smith, Ltd., of Greymouth, Wine and Spirit Merchants. Mr. Allan Smith, of Greymouth, Merchant, is a director of both these companies. Robt. Ford and Co., Ltd., of Hokitika, Brewer, holds 70 £1 shares in Westland Breweries, Ltd.

Nelson Breweries, Ltd., is an amalgamation of the brewery businesses of Harley and Sons and J. R. Dodson and Son, Ltd., both of Nelson.

Two of the three directors of Macarthy's Brewery, Ltd. (D. W. Madden and W. Perry), are directors of New Zealand Breweries, Ltd., which company also holds 42,000 of the 66,000 shares of Macarthy's Brewery, Ltd.

The Cascade Brewery, Ltd., C. L. Innes and Co., Ltd., and the Dunedin Brewery and Wilson Malt Extract Co., Ltd., do not appear to be connected with any other companies which are interested in the sale of alcoholic liquor, except that the last-named firm operates its wholesale license through a subsidiary company under the name of F. Meenan and Co., Moray Place, Dunedin.

CHAPTER 16.—THE FINANCIAL POSITION OF THE LEADING COMPANIES IN THE TRADE

366. We refer now to the financial position of the leading companies in the trade. The financial strength of each is relevant to a consideration of the extent to which it has discharged its duties to the public under its license or licenses.

367. We have had frequent expressions of opinion in the evidence that the brewers and hotel companies make excessive profits from their businesses. Mr. Bernard Thomas O'Connell, the assistant general manager of New Zealand Breweries, who is a chartered accountant of England and Wales, went to considerable trouble to show that at the present time his company did not make excessive profits. Mr. O'Connell said (R. 6861) that if the excise duty and sales tax were removed the price of a 12 oz. handle of beer would be reduced from 7d. to 3½d. For his purpose he took the year 1943, though we have, in general, not sought details of trading during the war years because we have recognized that they were abnormal.

368. Mr. O'Connell showed the total income for 1943 of New Zealand Breweries (from breweries, hotels, rents, dividends, interest, &c.) as £4,799,593. Of this amount, he showed that £2,073,369 was paid to the Government for beer duty, sales tax, Customs duties, land and income tax, and social security charges, &c.; that £1,034,304 was paid for materials; that £414,280 was paid or set aside for manufacturing and other expenses; that £89,483 was paid or set aside for repairs, maintenance, and depreciation; that £418,474 was paid to employees, including £15,095 to employees on active service and £4,719 as a subsidy to the employees' provident fund; and that £10,000 was set aside for reserves. This left £102,067, of which £98,120 was paid in an interim and final dividend, totalling 6 per cent., and the balance of £3,947 was brought forward in the profit and loss account.

369. Of the £102,067, only £70,067 was attributable to the sale of beer. This represented a net profit of just over 1¼d. per gallon on the 13,303,386 gallons of bulk and bottled beer which the company sold during 1943. The balance of £32,000-odd represented the net profits from hotels and other non-manufacturing sources.

370. Mr. O'Connell also explained (R. 7312) that the net profits, after taxation, of the Hotel Waterloo decreased during the war. He said that in 1939 the net profit, after taxation of £7,591, represented a return of only 4·9 per cent. on the investment, and that the profit of £3,657 in 1945 represented a return of only 2·36 per cent. on the investment. He also pointed out that the net profit, after taxation of £6,546, for 1943 represented what was left of a profit of £21,820 after paying a tax of 14s. in the pound.

371. Mr. O'Connell also stated the trading position in 1943 by reference to the distribution of every £1 the company received during the year as follows (R. 6867):—

	s.	d.
The Government received	11	4·35
Materials were purchased	4	3·95
Expenses were paid	2	1·15
Employees received	1	8·95
Shareholders received	0	4·90
There was placed to a reserve for capital depreciation	0	0·50
The company retained as an increased carry forward	0	0·20
	20	0·00

372. Mr. O'Connell also informed us that the company's average rate of dividend for the five years ended 31st March, 1943, was 7·3 per cent. per annum and that the average amount set aside for reserves during that period was £7,000 (R. 6867). We think, however, that this last statement as to reserves may require to be qualified by reference to the amount set aside for repairs, maintenance, and depreciation. Large secret reserves can be built up through depreciation. For example, in the 1945 balance-sheet the sum of £56,615 is shown as being depreciation in excess of that allowed for taxation purposes (R. 7700).

373. Mr. O'Connell also explained that the company's average price for draught beer per gallon for the six years 1938 to 1943 inclusive was as follows (R. 6869) :—

——	Net Selling Price.	Beer Duty and Sales Tax.	Total Selling Price.
	s. d.	s. d.	s. d.
1938	1 6	1 4·6	2 10·6
1939 (average)	1 6	1 7·8	3 1·8
1940 (average)	1 6	2 3·2	3 9·2
1941	1 6	2 4·2	3 10·2
1942 (average)	1 5·3	3 4·5	4 9·8
1943	1 5	3 10·6	5 3·6

The decrease in the net selling price in 1942 and 1943 represents the reduction made by brewers when the gravity of beer was reduced in May, 1942.

374. Mr. O'Connell explained that this stabilization in net selling price had been possible in spite of the increased cost of materials, including cooperage material, and of other expenses such as wages and freights, because, in the main, the increasing public demand had checked the effect of rising costs on final trading profits. The attitude of the company was that, with costs and overhead at their present level, any recession in public demand, unless countered by a decrease in taxation, must result in increased prices if the company was to maintain its normal trading profits (R. 6876).

375. While we accept this evidence concerning the trading of New Zealand Breweries during the war years, we must note that the company's profits during the pre-war years placed it in an extremely strong financial position. From 1924 to 1928 inclusive it paid to its shareholders dividends of 10 per cent. : in 1929 and 1930, dividends of 15 per cent. Mr. O'Connell informed us that the dividend then dropped to 12½ per cent., to 10 per cent., and then varied round 8½ per cent. (R. 6897). During the period 1924 to 1930 some other companies—*e.g.*, some banks, insurance companies, and stock and station agents—paid even higher dividends than did New Zealand Breweries (R. 6899/6900).

376. But New Zealand Breweries also had available substantial profits which it did not distribute in dividends. It used them, very properly, to strengthen the company's position (R. 7698). For example, New Zealand Breweries commenced with a capital of £500,000, represented by the goodwill of the breweries purchased by it. This item has been entirely written out of the balance-sheet. £400,000 came from the capital profit obtained on the exchange of £2 worth of debentures for one £1 share. The other £100,000 came from profits. The company also issued 250,000 bonus shares of £1 each fully paid out of profits. The company also has in its reserve fund an item of £115,000 and in its appropriation account £98,000, both being undivided profits (R. 6898). We are not, of course, suggesting that these reserve funds should not have been set aside.

377. New Zealand Breweries has also large "secret" reserves in the form of assets written down below their true value. There is nothing wrong in this. (The company pays taxation to the Government only after such depreciation has been deducted as the Commissioner of Taxes allows.) Counsel for the Commission has given his reasons for estimating the secret reserves in land and buildings as, at least, £500,000 (R. 7699), and in other assets, such as shares, at £100,000 (R. 7699/7700). Furthermore, the profits of New Zealand Breweries before taxation were very high. The net income shown for the year 1945 is £125,972. If the depreciation of £56,615 in excess of that allowed for taxation purposes is added, the total net profit after payment of income-tax, was £182,587 (R. 7700). To have that profit left after payment of tax at the rate of 14s. in the pound the company must have earned a net income of not less than £608,000 before taxation, or 37 per cent. of its capital (R. 7701).

378. We make some observations also upon the other leading companies.

379. Hancock and Co., Ltd., of Auckland was formed in 1923 to take over the hotels and the wine and spirit business of Hancock and Co. (N.Z.), Ltd., after that English company had sold its brewery business in New Zealand to New Zealand Breweries. Hancock and Co., Ltd., had a capital of £250,000. In 1937, bonus shares of £150,000 were issued to members fully paid out of profits (R. 7708), and in the same year the company issued 250,000 preference shares which were called up to 10s. per share. In 1937 the company earned, before taxation, £75,000. The company also earned the following profits before taxation in succeeding years: in 1938 a profit of £77,000, in 1939 a profit of £79,096, and in 1944 a profit of £118,634. The difference between the profits earned and the amounts paid in dividends, less the tax, was, of course, used to increase the reserves.

380. The profit and loss accounts of the principal managed hotels of Hancock and Co.—the Grand Hotel, Auckland, and Hotel Cargen, Auckland—for the period of ten years from 1931 to 1940 showed that there was a total loss during that period on the Grand Hotel of £14,498 and on Hotel Cargen of £26,587 (R. 3788). On the other hand, the total profit on all the company's managed hotels after setting off the losses was, for the years for which the accounts were presented, as follows:—

	£
For 1937	34,085
For 1938	35,456
For 1939	19,504
For 1944	78,281

381. Of Hancock and Co.'s remaining hotels, some provided large accommodation. The six largest net profits for the year ended 30th September, 1944, were as follows:—

	£
Waverley Hotel, Auckland	41,366
Grand Hotel, Rotorua	8,974
Palace Hotel, Rotorua	8,150
Whangarei Hotel	4,695
Star Hotel, Newton	4,490
Station Hotel, Auckland	3,992

(R. 3792.)

(This statement omits the Hotel Auckland, which is carried on by a separate company controlled by Hancock and Co., Ltd.)

Taking its business all over, Hancock and Co. made very large profits.

382. Hancock and Co. have ample reserves, and the extent to which they were increased even during the war years may be seen by a comparison of the balance-sheets for 30th September, 1937, and 30th September, 1944. In September, 1937, the company distributed to its shareholders bonus shares of £150,000 fully paid. In October, 1937, the company issued 250,000 preference shares of £1 each to New Zealand Breweries, on which 10s. per share was called up (Exhibit A. 64). This payment increased the cash capital by £125,000. The shareholders' funds in 1937, including "reserve and investment fluctation account," amounted to £596,251. By 1944 these had increased to £755,261, an increase of £159,010, which included the £125,000 paid up on the 250,000 preference shares issued to New Zealand Breweries. The accumulated profits at 1944, including "reserve and investment fluctation account" (£181,797), amounted to £230,261. The company's balance-sheet for 1944 shows the following reserve funds, omitting shillings and pence:—

	£
Reserve for contingent liabilities to subsidiary companies ..	47,879
Hotel renovations reserve	815
Hotel pre-paid bonuses reserve	3,419
Reserve and investment fluctation account	181,797
Deferred maintenance reserve	23,488
Leasehold redemption reserve	30,200
Taxation reserve fund	93,333

Of these, the reserve and investment fluctation account, representing undivided profits, stood at £152,039 in 1937. The increase by 1944 was therefore £29,758. The undivided profits in the balance of the profit and loss appropriation account increased from £44,212 in 1937 to £48,464 in 1944. In addition, the company's assets have been heavily written down in the company's books (R. 4066ff., 4077, and 7302).

383. The Campbell and Ehrenfried Co., Ltd., presented a statement of their position from which we take the following: since 1937 the company has paid the following dividends: 1937, 15 per cent.; 1938, 17½ per cent.; 1939 to 1944, 10 per cent. each year.

The company also submitted the following statement for the years 1935 to 1939 and the year 1944, showing (*a*) its net profit; (*b*) its taxation; and (*c*) the balance available after payment of taxation:—

Year.	Net Profit.	Land, Income, Social Security, and National Security Tax.	Balance.
	£	£	£
1935..	26,997	5,055	21,942
1936..	34,585	6,086	28,499
1937..	42,547	14,979	27,568
1938..	51,935	19,753	32,182
1939..	43,411	21,169	22,242
1944..	105,994	84,788	21,206

384. The Campbell and Ehrenfried Co. also presented a statement in respect of its managed hotels for the years 1937, 1938, 1939, and 1944 which showed very substantial profits, except in respect of one hotel, the Star at Auckland, which showed a loss for the year 1939 of £2,370, but a profit for the year 1944 of £19,097, though, for income-tax purposes, there had been a loss of £400 for the year ended 30th April, 1939, and of £1,300 for the year ended 30th April, 1940. For the purposes of the company's books there was a loss of £2,370 on the Star in 1939.

It should be noted that in 1939 the Campbell and Ehrenfried Co., through the Commercial Hotel (Hamilton), Ltd., built the new Commercial Hotel at Hamilton at a cost of approximately £100,000.

385. The Campbell and Ehrenfried Co., has been a very profitable company. The net profit for 1938 before payment of tax was £51,935, which represented approximately 80 per cent. of the cash actually invested by the shareholders in the company. The net profit before tax for 1944 was £105,994, which was 164 per cent. of the cash capital of £64,398 left in the business after the company in 1929 returned to its shareholders the sum of £150,000 (Ex. A. 64, p. 16). The difference between profits and dividends, less the tax, was, of course, used to increase reserves.

386. This company has extremely large reserves in its assets. It values its freehold properties at £105,105. It owns nineteen hotels. Included in these are the six hotels purchased since 1935, plus one in which the company has a half share. The cost of these six hotels and the half share is given as £128,000. This amount is more than the value which the company places on all its nineteen hotels.

This company also values its 50,407 shares in New Zealand Breweries at £18,712, though on the present market quotation the value of those shares exceeds £2. They are thus valued at £18,712, as against their market value of (say) £100,000.

387. We refer also to Dominion Breweries. Formed in April, 1930, this company commenced to pay dividends in 1936, when it paid 6½ per cent. The dividends were then as follows:—

	Per Cent.		Per Cent.
1937	9	1942	7
1938	10	1943	8
1939 and 1940	12	1944	9
1941	8½	1945	9½

The goodwill of £19,100 was written out of the balance-sheet after 1939. The total assets and balances of the company in 1945 stood at £1,209,095, of which reserves and shareholders' funds stood at £192,612. Its net profit for the year 1945, after payment of income-tax, was £44,291. The income-tax was £154,444, making a total of £198,735, which represents a net profit before payment of income-tax of 44 per cent. on the paid-up capital of £350,000 (R. 7701 and the statement attached to the evidence of Mr. L. J. Stevens).

388. Ballins Breweries (N.Z.), Ltd., began operations only some three years before the war. The period of low taxation for this company has been short. Its profits in the past have not been high. It has paid dividends of 5 per cent. The goodwill of £20,000 has not yet been written out of the balance-sheet, though the preliminary expenses have been reduced. The company has no disclosed substantial reserves and it does not appear that any substantial secret reserves have been created by excessive depreciation. In 1944, however, the company's net profit, before payment of taxation, was £60,341, which was over £40,000 more than the net profit of £19,773 for the year 1939.

Ballins Breweries carries on hotels and acts in co-operation with Ballin Bros., Ltd., a wine and spirit company, which also owns hotels. Each company makes provision in respect of its leases, mortgages, and guarantees for a trade option in favour of Ballins Breweries (N.Z.), Ltd. The balance-sheet of Ballin Bros., Ltd., shows capital reserves of over £47,000 plus more than £9,000 carried forward into the profit and loss account, a total of £56,000. The capital of Ballin Bros., Ltd., is £30,000. This company has therefore 37s. in reserve for every £1 of capital.

If taxation were reduced without a reduction in prices, Ballins Breweries would be earning high profits.

389. The reasons for the prosperity of these companies are not far to seek.

The legal minimum strength of spirits (whisky, brandy, rum, or gin) in New Zealand is specified by Regulation 83 of the regulations under the Sale of Food and Drugs Act, 1908 (*N.Z. Gazette*, 1924, p. 1543) to be not more than 35 degrees underproof. The strength of whisky, brandy, and rum was reduced to this figure from 25 degrees underproof, partly in 1918 and partly in 1922, and has never been reinstated. (The provison of Regulation 83 is inconsistent with the provision of Regulation 5 of the regulations as to special Inspectors made under section 239 of the Licensing Act, 1908.) Regulation 5 provides that the standard strength to which spirituous liquors may be reduced by an admixture of pure water without being deemed to be adulterated is 25 degrees underproof for brandy, whisky, or rum and 35 degrees underproof for gin (*N.Z. Gazette*, 1897, p. 884). Spirits are imported in bulk, mostly at a small percentage underproof, or in case, mostly at 25 per cent. underproof. Once duty has been paid, the importer can lawfully take the bulk whisky or the case whisky after it has been poured from its bottles and dilute the whisky to 35 per cent. underproof. The importer cannot lawfully sell any of the case whisky so diluted in any of the bottles with the original labels. That would be an offence against section 12 (2) of the Sale of Food and Drugs Act, 1908. On the other hand, any whisky so diluted may be bottled and sold as draught whisky under another label which does not misrepresent the contents. As the Government Analyst at Auckland pointed out, whisky so diluted and bottled represents a lowered cost to the vendor (R. 2873).

390. The great and pervasive source of prosperity lies, however, in beer. Beer, as sold in New Zealand at a maximum price for any measure, whether handle, medium, or " pony," is a very profitable article of commerce. New Zealand Breweries has stated the total selling price in 1945 as 5s. 3·6d. per gallon (R. 7701). In Auckland the price was 5s. 2d. per gallon, and the figures of New Zealand Breweries may be the figures for the whole Dominion, including freight charges. The following figures are the result of

a calculation. Counsel for the trade were invited to criticize them if they were wrong, but counsel have not done so. Taking the Auckland price of 5s. 2d. per gallon (there being 160 oz. to the gallon), we get the following results (R. 7702) :—

Size of Glass.	Number per Gallon.	Total Price at 7d.	Gross Profit to Hotel.	Percentage on Cost.
Oz.		s. d.	s. d.	
12	13⅓	7 9	2 7	50
10	16	9 4	4 2	80
8	20	11 8	6 6	125
7	22	12 10	7 8	148
5	32	18 8	13 6	261

391. We have had little detailed evidence as to the measures used in hotels throughout the country, but the indications in the evidence are that the 10 oz. handle is largely used in the bars in the cities, while, in the country districts, an 8 oz. measure may be used. In lounges in the cities and elsewhere a 7 oz. or perhaps an 8 oz. glass is, we understand, frequently used (R. 7702), while a 5 oz. may be called for in any bar or lounge at any time. If an 8 oz. glass of beer is sold in a lounge for 1s., the percentage of profit on cost is 287 per cent. There is no price control of beer, apart from the sales in the bars of the main cities, except to the extent that prices are not to be increased beyond what they were on the 1st September, 1939, without authorization.

392. These calculations as to profit are arithmetical and some allowance may have to be made one way or the other for such factors as the exact filling of the glasses, an overflow, or an under-filling (R. 7702).

393. With respect to bottled beer, the Auckland custom is to sell the quart bottle in the bars at 2s. a bottle (R. 7702). The evidence shows (R. 2284) that the bottles cost the Auckland hotelkeeper 1s. 3½d., less 1d. refund on the bottle, 1s. 2½d. The profit on the sale of a bottle costing 1s. 2½d. is 9½d., or 65 per cent. on cost.

394. Outside Auckland, bottled beer is sold in glasses only. If the hotelkeeper uses 5 oz. glasses and sells five glasses to the bottle, he takes 2s. 11d. His gross profit is therefore 1s. 8½d., or 140 per cent. on cost.

395. As to riggers, the position appears to be as follows: six riggers per gallon may be sold at 1s. 6d. each, or 9s. This gives a profit on a gallon of beer of 3s. 10d., or 74 per cent. on cost (R. 2307 and 7702).

396. We obtained evidence in Auckland as to the percentage of gross profit on costs in a number of hotels in Auckland under the control of hotel companies. An analysis showed the average gross profit on cost of beer as follows (R. 7705 and Ex. C. 3, C. 4, C. 5, and C. 6) :—

	Per Cent.
Hancock and Co., Ltd., on five hotels	69
Dominion Breweries, Ltd., on eleven hotels	56
New Zealand Breweries, Ltd., on eight hotels	54·1
Campbell and Ehrenfried, Ltd., on fifteen hotels ..	52·5

An analysis of the returns for the lounge bar in the Hotel Auckland of Hancock and Co. showed percentages of gross profit on cost each week as follows : 169·4 per cent., 172·5 per cent., 168·2 per cent., and 170·3 per cent.

397. These percentages, of course, are not net profits, and it is difficult to translate them into net profits. The extent to which they were translated into net profits before the war is shown by the very large profits which the companies made. We may note, however, that beer is a line which turns over very rapidly, that it is sold for cash, and that no large stocks are required. Compared with these returns, the margin on grocers' lines varies from between 8 per cent. and 10 per cent. on a line which turns over rapidly to from 25 per cent. to 30 per cent. on lines which remain on the shelves for a longer

time. Furthermore, the factors of perishability, credit sales, and the holding of wide ranges of stock which apply to grocers and which are usually held to justify a high margin of gross profit scarcely apply to beer (R. 7703).

398. The very profitable nature of the trade done under a fixed number of licenses and a sense of security due to a practical view that prohibition is not likely to be carried in New Zealand within the measurable future must be the basic reasons for the very high prices paid for hotels, even during the war period.

399. From 1933 to 1945 New Zealand Breweries spent in all the sum of £1,062,450 in the acquisition of hotels (R. 6775, 6776, and 7693). This amount includes the sum of £126,000 spent on building the Hotel Waterloo. In addition, New Zealand Breweries has paid £29,000 in premiums for leasehold hotels. According to the company's balance-sheet at the 31st March, 1945, the company's investments and advances to the trade were £405,118, shares in subsidiary companies were valued at £35,001, and amounts due on current accounts were shown at £463,797. The total investments of New Zealand Breweries in hotel premises, furniture, fittings, hotel advances, and securities are therefore, on the company's figures, £1,995,366. It should be noted, however, that the two items of (*a*) investments and advances, and (*b*) shares, together totalling £440,119, are worth, on a very conservative estimate, £612,390 (R. 7699). The difference of £172,271 should be added to the above total to obtain a market value. If the amounts due on current account have also been conservatively written down, a further amount should be added. It may safely be said that New Zealand Breweries has more than £2,000,000 invested in hotels in one form or another, although the primary purpose of the company's formation was to deal only with the manufacture of beer.

400. The investments of Dominion Breweries in hotel premises, furniture and fittings, in hotel advances, and securities rose from £6,321 in 1931 to £724,884 in 1945.

401. Ballins Breweries (N.Z.), Ltd., has so far expended £189,696 on the purchase of freehold hotels, paid £1,625 as premiums for leasehold hotels and advances on mortgage, and otherwise to the trade £77,322, a total of £268,645.

Ballin Bros., Ltd., a much older company than Ballins Breweries (N.Z.), Ltd., has paid £83,653 on the purchase of freehold hotels. It has other hotel assets worth £4,349, has advanced on mortgage of hotels £11,339, and made other investments on hotels amounting to £48,834, and is owed by sundry debtors in respect of hotels £31,632, a total of £179,807. Ballins Breweries (N.Z.), Ltd., and Ballin Bros., Ltd., have altogether a total investment in hotels of £448,452.

402. For the purpose of comparing the investment of the three big companies in hotels and in respect of hotels, it may be said that New Zealand Breweries has invested, approximately, £2,250,000; Dominion Breweries, £750,000; and Ballins Breweries (N.Z.), Ltd., and Ballin Bros., Ltd., together, £475,000.

CHAPTER 17.—COMPETITION OR MONOPOLY?

403. Counsel for the licensed trade submitted to us that the businesses of the licensed trade carried on under licenses issued under the Finance Act, 1915, or the Licensing Act, 1908, are a monopoly to the same extent as those businesses which are licensed under the Industrial Efficiency Act, 1936, are a monopoly. We take the view that there is one common feature to the two systems of licensing, but that there are some essential differences. We express no opinion upon the merits or otherwise of the control under the Industrial Efficiency Act. We merely point out here the common feature and the differences.

404. The common feature is that only licensees may engage in the industry or trade to which the licenses apply. As a group these licensees enjoy a monopoly of the industry or the trade which is licensed. They may compete or may come to trade arrangements among themselves. To the extent to which competition is reduced, the extent of monopolistic control of the whole industry or trade is increased.

405. The differences are these :—

(1) The licenses under the Industrial Efficiency Act (including separate licenses for any branch of an industry) are all granted by one authority—viz., the Bureau of Industry, which is charged with the duty of taking a general view of the economic welfare of New Zealand in order to secure a greater measure of industrial efficiency. The Bureau must also consider all matters relevant to any particular application in the light of that general duty. The Bureau comprises experts in the particular industry which is dealt with. It also acts judicially in making inquiry into all relevant matters and in giving to those interested an opportunity to state their case (section 15 (2)). The decisions of the Bureau are subject to appeal (section 21 of the Act of 1936 and sections 9 to 13 of the Statutes Amendment Act, 1942).

Licenses granted to those in the liquor trade are granted by separate authorities under separate statutes (see Chapter III, *supra*). None of these authorities is charged with the duty of taking a general view of the whole position in the liquor trade.

406. (2) Under the Industrial Efficiency Act, the Bureau is also charged with the duty under Part I of the Act of maintaining a continuous survey of industries (section 7 (2) (*d*) of the Act of 1936). The Bureau may advise the Minister of Industries and Commerce concerning the co-ordination of related or inter-dependent industries. Having the duty and the opportunity of obtaining knowledge in this way, the Bureau is expected to be qualified to impose such conditions as are proper upon the grant of a license (section 18 of the Act of 1936). Subject to appeal, any of these conditions may be varied from time to time. Pursuant to this procedure, undesirable or monopolistic arrangements between licensees under the Industrial Efficiency Act could be brought under control during the currency of licenses.

The various authorities governing the licensed liquor trade have no such powers.

407. (3) By reason of the knowledge which it acquires pursuant to its duties, the Bureau is expected to be qualified to exercise its power under section 19 of the Act of 1936 to revoke a license if the licensee is failing in his duties.

The various authorities who grant licenses for the trade are not required to maintain a direct, continuous, expert survey of the conduct of licensees, and have no such general powers of revoking licenses if the licensee should fail in his duties.

408. In answer to our questionnaire, all brewers and wholesalers informed us that they traded in competition with one another. The facts set out in Chapter XV show, however, an interlocking of the directorates of certain companies with one another, and also with New Zealand Breweries, which operates throughout New Zealand. This interlocking would, in the ordinary course, result in the regulation of competition between them and in joint action to protect their common interests. For example, it is difficult to think that New Zealand Breweries, Hancock and Co., and the Campbell and Ehrenfried Co. would pursue conflicting policies. These powerful companies hold, apparently, a dominant position in the trade. If so minded, New Zealand Breweries, or the companies associated with it, could probably outbid any other brewery company in a competition for trade outlets. An outstanding example is the purchase of the Edinburgh Castle Hotel by the Campbell and Ehrenfried Co. in competition with Dominion Breweries in October, 1941 (para. 325 (3), *supra*).

409. The attitude of New Zealand Breweries, as expressed by its director, Mr. Wanklyn, was that it wanted open competition and the removal of wartime restrictions. The attitude of Dominion Breweries, as expressed by the chairman of directors, Mr. L. J. Stevens, was the same, except for two very important matters which affected the acquisition of licensed premises. He submitted on behalf of his company (1) that the amount received for goodwill should be taxed as income in the hands of the vendor and not be deemed a capital profit; and (2) that the goodwill paid by the incoming tenant should be made deductible by him for income-tax purposes as an expense (R. 6688).

410. Mr. Stevens also submitted, on behalf of his company that, on a redistribution of licenses, an upset amount for goodwill should be fixed, and that, if there were more than one applicant, the decision should be by ballot. He said that any proposal that

allowed the sale of a license by auction would accentuate the evils, already experienced in the Licensed Trade, which were consequent upon the payment of high or excessive goodwills (R. 6686). These views represent a divergence of deep significance from the plan of public auctions for licenses on a redistribution put forward by the National Council of the licensed trade, of which Dominion Breweries is a member.

411. Mr. Stevens also stressed, as an important element in competition within the trade, the quality of a product. He thought that, if any company could advertise freely any product of quality, a change in public demand might be created, with the result that hotels of competing companies would be obliged to stock it (R. 6725, 6729, and 6746).

412. Ballins Breweries (N.Z.), Ltd., the third largest brewery company, was not represented before us by counsel for the National Council of the Licensed Trade. They appeared before us at Christchurch by separate counsel in connection with Chatham Island matters. The company replied to our questionnaire, but did not attend before us at Wellington, and we did not find occasion at that time to call them separately before us. Ballins Breweries (N.Z.), Ltd., formed in 1936, has been acquiring hotels in the North Island as well as in the South. Its directorate, like that of Dominion Breweries, is independent of New Zealand Breweries and of other brewery companies. Ballins Breweries, Ltd., appears to be in active competition with the two larger companies.

413. The effect of the competition of the big brewery companies upon a smaller company may be gauged from the answer of the Marlborough Brewery Co. to a question in a questionnaire which we issued to the brewery and wholesale companies. The question (No. 18) asked what was the policy of the company in acquiring hotels. The answer of the Marlborough Brewery Co. was :—

(R. 7695.) The company has been forced to endeavour to obtain the control of local hotels in order to provide an outlet for its products, as the policy of the big combines is to buy up all possible hotels or leases in order to expand and secure all the business. The policy still continues in self-defence.

The position in the Marlborough Licensing District is that the brewery or wholesale companies either own or are financially interested in hotels as follows : New Zealand Breweries, 1 ; Ballins Breweries (N.Z.), Ltd., 2 ; Ballin Bros., Ltd., 3 ; Quill Morris (1936), 1 ; Marlborough Brewery Ltd., 4. The total number of hotels in the Marlborough Licensing District is 28.

414. The demand for beer at the present time is sufficient to keep all the breweries adequately employed. If the demand should slacken, the three major companies may be driven to engage in even more active competition than in the past, or else to come to mutual agreements. If they were to take the latter course, and if no new brewery license were issued to a competing company, the control of the trade in relation to the rest of the community would be practically a monopoly in private hands.

PART VI.—THE MISCHIEFS OR DEFICIENCIES OF THE TRADE : GENERAL STATEMENT AND MISCHIEFS RELATING TO CONSUMPTION AND MANUFACTURE

CHAPTER 18.—GENERAL STATEMENT OF THE MISCHIEFS AND DEFICIENCIES

415. We proceed now to consider the principal mischiefs or deficiencies which, it is alleged, attend the consumption and also the manufacture, sale, and control of alcoholic liquor, other than wine. We deal separately with the wine industry.

416. The grave mischiefs which rank as evils, and which are the most prominent of all the mischiefs in the public mind, are those associated with the *consumption* of alcoholic liquor. In the past the most prominent of these have been drunkenness, crime, ill health, misery, squalor, and inefficiency. These mischiefs are still alleged, but it is clear that they have substantially decreased in New Zealand during the past twenty-five years. Another evil associated with the consumption of liquor is sexual immorality, but we have little evidence to show whether that evil has increased or decreased in normal times, in relation to the consumption of alcoholic liquor.

417. Mischiefs alleged in connection with the *manufacture* of alcoholic liquor include the following :—

(1) Lack of sufficient sanitary precautions in manufacture ; and

(2) Improper or inadequate labelling of bottles.

418. Mischiefs alleged in connection with the *sale* of alcoholic liquor include the following :—

(1) After-hours trading ;

(2) Excessive goodwills, rents, and premiums ;

(3) Managed houses—*i.e.*, public houses of which the brewers and wholesale merchants are the owners or proprietors and which are conducted by a manager who holds a license on behalf of and at the discretion of the brewer or wholesale merchant ;

(4) " Tied " houses ;

(5) Unfair discrimination in the distribution of supplies ;

(6) Failure to provide suitable bars for customers, involving vertical (standing) drinking to the practical exclusion of seated drinking ;

(7) The sale of dregs and other insanitary practices ;

(8) The employment of barmen who do not discharge their responsibilities to the public ;

(9) Charging the same price for different measures ;

(10) Failure to provide suitable accommodation for the travelling public ;

(11) Failure to provide meals for travellers ;

(12) " Agencies " for the delivery of beer which are sometimes unregulated and illegal businesses for the sale of liquor ;

(13) Failure to install proper systems of account, distinguishing between the bar and the accommodation side of an hotel ;

(14) Improper advertising of liquors for sale ; and

(15) Sly-grog selling.

419. Mischiefs are also alleged in relation to *the control of the trade by public authorities.*

420. Mischiefs are also alleged to arise from the *legislative provisions of control.* For example :

(1) The number of authorities for the control of the trade and the lack of any over-riding or co-ordinating authority ;

(2) The distribution of licenses as now fixed by law ;

(3) The national licensing poll, on the ground that, if prohibition were carried, the remedy would be worse than the disease ;

(4) The existence of no-license districts or proclaimed areas on the ground that the sale of liquor would be better controlled if it were openly permitted under license ; and the effect of no-license on the tourist traffic ;

(5) Triennial polls because they expose the licensee to the temptation to take all he can out of the trade in three years by legal or illegal trading and to refrain from spending money on the improvement of his hotel for the convenience of the public ;

(6) The forms of ballot-paper on the ground that they are not designed to ascertain the real views of the people ;

(7) The denial of a referendum in the King-country ;

(8) The placing of Maoris at a disadvantage in respect of the purchase and consumption of liquor compared with Europeans and Islanders ; and

(9) The inadequacy of penalties.

421. Mischiefs are also alleged in connection with Government policy. For example, the refusal of charters to clubs and the maintenance of certain wartime controls.

422. A mischief of a basic character is also alleged—viz., the sale of alcoholic liquor as an ordinary article of commerce for private profit. It is alleged that, if the demand were not stimulated, or permitted to be stimulated, and that if alcoholic liquor were available only to meet such demand as exists, or would exist, without stimulation, most of the mischief or evils would disappear. It is also alleged that this result can only be brought about if the incentive to trade in alcoholic liquor for private profit is removed and if, to that end, the manufacture and sale of liquor is placed in the hands of the State or of some public corporation or corporations acting on behalf of the State.

CHAPTER 19.—MISCHIEFS RELATING TO CONSUMPTION OF ALCOHOLIC LIQUOR

423. The total consumption of beer and the total quantity entered at the Customs for consumption of spirits and of wine and in each case the quantity per head are set out below for the years 1900, 1910, 1920, 1930, for the depression years of 1931, 1932, 1933, and 1934, and for the year 1940 (R. 34).

Beer, Spirits, and Wine entered at Customs for Consumption, 1900 to 1940

Year.	Beer.		Spirits.		Wine.	
	Total for Consumption.	Quantity per Head.	Quantity entered for Consumption at Customs.	Quantity per Head.	Quantity entered for Consumption at Customs.	Quantity per Head.
	Gallons.	Gallons.	Gallons.	Gallons.	Gallons.	Gallons.
1900	6,986,900	8·696	549,932	0·684	116,188	0·145
1910	9,671,030	9·294	767,620	0·737	153,430	0·147
1920	15,106,653	12·288	947·660	0·771	239,880	0·195
1930	12,312,823	8·251	569·656	0·283	198,377	0·133
1931	10,124,849	6·687	378,874	0·250	134,160	0·089
1932	8,868,316	5·807	323,308	0·212	105,725	0·069
1933	8,622,690	5·601	316,755	0·206	116,390	0·076
1934	9,605,721	6·191	324,794	0·209	135,908	0·088
1940	18,369,952	11·220	402,046	0·246	107,355	0·066

424. It is thus apparent that, while the quantity of beer consumed in 1940 has approached three times the quantity consumed in 1900, the consumption of spirits and of wine has steadily declined. It is also apparent that, when money was in short supply during the depression, the consumption of alcoholic liquors decreased rapidly.

425. The convictions for drunkenness and related offences rose from 103·4 per 10,000 of population in 1902 to 120·6 per 10,000 in 1914. During the war of 1914–18, the convictions for these offences declined as follows (in each case per 10,000): In 1915, 117·9; in 1916, 97·3; in 1917 (the year 6 o'clock closing began), 78·3; in 1918, 63·5. It should be noted that a fall of nearly 20 per 10,000 had occurred between 1915 and 1916, before 6 o'clock closing began to operate.

From 1919 to 1921 (inclusive) the figures per 10,000 were as follows: 67·6; 71·6; and 69. There was a big fall to 43·4 in the depression year of 1922. The figures rose to 58·6 in 1925 and then, for the most part, fell gradually to 21·6 per 10,000 in 1935. The figure in the boom year of 1929 was 46·3. The figures during the depression years of 1931–35 (inclusive and in each case, as before, per 10,000) were as follows: For 1931, 32·1; for 1932, 26·7; for 1933, 23·3; for 1934, 22·3; and for 1935, 21·6.

Since 1935 the figures rose to 39·6 in 1939, and then fell to 31·3 in 1941. (These statistics were then discontinued during the war.)

The foregoing figures are all for convictions for drunkenness and related offences. We have been able to obtain the figures for the presecutions (not convictions) for drunkenness alone from the year 1935 to the end of 1945, and they are as follows: 1935, 2,995; 1936, 3,980; 1937, 4,360; 1938, 5,202; 1939, 5,683; 1940 5,243; 1941, 4,695; 1942, 2,842; 1943, 2,135; 1944, 1,996; 1945, 1,762.

426. The statistics of convictions for being drunk in charge of a motor-vehicle are available from 1924 (R. 33). In that year there were convictions against 175 men and 2 women. They then rose, and in 1930 there were convictions against 434 men and 1 woman. The convictions then fell till in 1934 there were 248 against men and 5 against women. They then increased, till in 1938 there were convictions against 682 men and 3 women. The convictions have since fallen as follows:—

1939	666 men and 4 women;
1940	528 men and 5 women; and
1941	412 men and 7 women.

427. The deaths from alcoholism in New Zealand are also down. They have decreased from 15 per 10,000 in 1927 to 8 per 10,000 in 1942 (R. 965).

428. The New Zealand statistics for convictions for drunkenness and related offences may be compared with those of the Australian States. The figures are given per 10,000 of population:—

Convictions for Drunkenness and Related Offences per 10,000 of Population (R. 20)

Place.	Closing Hour.	1935.	1936.	1937.	1938.	1939.
New Zealand	6 p.m. ..	21·6	28·8	31·6	35·9	39·6
New South Wales	6 p.m. ..	105·2	113·6	102·6	100·0	117·9
Victoria	6 p.m. ..	50·1	55·5	55·5	59·6	60·7
Queensland	8 p.m. ..	86·0	105·8	102·3	111·1	109·2
South Australia	6 p.m. ..	46·8	44·7	42·8	44·8	43·6
Western Australia	9 & 11 p.m.	60·0	63·3	58·9	53·9	57·2
Tasmania	6 p.m. ..	17·9	16·6	15·6	14·2	17·2
				(10 p.m.)		
Australian Capital territory ..	6 p.m. ..	58·6	64·5	89·3	119·6	95·1

It will be noted that closing at 10 p.m. came into force in Tasmania in 1937. It is still in force, but from 1942 until early in 1946, restricted times of trading during the day were observed as follows: open from 12 noon to 2 p.m. and from 3 p.m. to 10 p.m.

Since the foregoing table was supplied we have been informed by the Deputy Commonwealth Statistician in Tasmania that the convictions per 10,000 of the population from 1940 to 1945 inclusive were—

(1) For drunkenness alone as follows: 1940, 5·02; 1941, 3·47; 1942, 4·00; 1943, 3·72; 1944, 2·28; 1945, 1·85; and

(2) For drunkenness and disorderly conduct as follows: 1940, 8·91; 1941, 6·97; 1942, 6·41; 1943, 10·87; 1944, 9·58; 1945, 6·86.

These figures appear impressively low, though we have not had the advantage of any critical comment upon them.

429. The general effect of the evidence of police officers is that alcoholic liquor is not a contributing factor in most cases of deliberate or serious crime, but that it may be so when the passions are aroused. The evidence of the Under-Secretary of Justice is, however, that in one-third of the cases recommended for release by the Prisons Board,

the taking-out of a prohibition order is required. This means that, in the judgment of the Prisons Board, in one-third of the cases of serious crime in the Dominion, the person convicted is addicted to drink to a degree affecting his behaviour and sense of responsibility (R. 21 and 966). The crimes of which these persons have been convicted are rarely forgery, false pretences, or breaking and entering. They are usually crimes in which the passions have been aroused, and include murder, assault, rape, and other sexual offences (R. 967).

430. The evidence of social workers shows that drink is still a cause of domestic misery, though the extent of it appears to vary with the locality. Mr. James Robert McClune, the Superintendent of the Child Welfare Branch of the Education Department, gave evidence that in his view and in the view of the District Child Welfare Officers, there had been a gradual reduction in the number of parents who, by reason of drunkenness, neglected the home or family and whose children had therefore been committed to the care of the State (R. 381 and 810). Mr. McClune also supplied the following table :—

Year.	Number of Children committed.	Number of Families.	Mother addicted to Drink.	Father addicted.	Both addicted.
1927	540	41	7	25	9
1936	440	16	1	8	7
1937	432	13	3	9	1
1938	503	17	1	16	..
1939	501	13	..	13	..
1940	509	11	2	8	1

On the other hand, the impression of the Superintendent and his officers was that, though drunkenness had been decreasing among parents, drinking was more widespread.

431. The view expressed by Mr. McClune was not accepted, in so far as it applied to the City of Auckland, by Mrs. R. M. Metcalfe, the Inspector of the Auckland Branch for the Society for the Protection of Women and Children. She thought the position had remained much the same. During the last four or five years of war, more trouble had been caused by women drinking. Statistics were kept in Auckland of the work of conciliators under the Domestic Proceedings Act, 1938. In the year 1939–40, out of 109 cases referred to conciliation, 33 (or about one-third) were attributed to drink (R. 966). Again, during 1944 the Auckland Branch of the New Zealand Society for the Protection of Women and Children found that, out of 267 fresh complaints of domestic unhappiness, 86 (or about one-third) were directly attributable to liquor (R. 2344). Of these 86 cases, in only 11 did the wife or mother drink to excess (R. 2345). In most cases infidelity had been associated with drink (R. 2342). Evidence was also given by Dr. Richards, medical practitioner, of Auckland, of his experience in the ordinary course of his practice during the previous fortnight. He gave details of fourteen cases he had met with in that period in which alcoholic liquor had caused domestic misery, destitution, or ill health (R. 3452 ff.).

432. In Wellington the Rev. Harry Squires, the Missioner in charge of the Wellington City Mission in Taranaki Street, gave evidence of his experience as a conciliator under the Domestic Proceedings Act. He said he had gone through his papers for the last six or seven months and was of opinion that, in at least 60 per cent. of the cases, the complaint had been habitual drunkenness (R. 1377). The Wellington Public Opinion Group of the National Council of Women, represented by Mrs. May, said they had reports through social workers of fathers drinking to excess and then returning to their homes (R. 1691).

433. Other information with regard to Wellington was given by Miss Annie Constance Tocker, the Senior Officer of the Child Welfare Department at Wellington. She agreed with Mr. McClune that there had been a decrease in the number of committals of children of drunken parents (R. 6425), and she supplied the following table for the years 1937 to 1944 inclusive (R. 6430 and 6431) :—

	Committals due to Drink.		Total Committals.
	Number of Families involved.	Total Number of Children committed.	
1937	3	8	76
1938	1	2	109
1939	4	9	55
1940	1	3	71
1941	6	15	82
1942	5	8	88
1943	3	11	79
1944	1	3	73
	24	59	633

The number of children committed on account of the drunkenness of the parents is therefore 9·3 per cent. of the total number of children committed.

434. Miss Tocker gave the following reasons for the general reduction (R. 6426) :—

(1) The compulsory employment of men for full time under war conditions ;

(2) The payment of the family benefit to the mother, which gave her a better economic position and enabled her to provide for the children and, where both parents were not reliable through drink, the payment and disbursement of the benefit through an agent or trustee ; and

(3) The decreased alcoholic content of beer and the dearth of spirits.

435. Miss Tocker stated there had been a definite increase in drinking by young girls during the war period, and that that drinking was associated with the increase in illegitimacy (R. 6427).

436. We have no particulars for Christchurch, but in Dunedin the position is different from that in Auckland or Wellington. Miss Coe-Smith, the secretary of the Dunedin Branch of the Society for the Protection of Women and Children, said they had to deal with between 2,000 and 3,000 cases every year (R. 5984). During 1944 there were 2,150 cases which required action. These included old cases in which default in a maintenance order had to be dealt with during the year. In only 25 of the cases during the years 1936 to 1944 inclusive did the Society consider that drink had been the chief factor in causing domestic unhappiness or ill treatment. There were other cases in which drink had been a factor, though not the prime factor. In most cases in Dunedin the cause of unhappiness had not been drink, but ill temper and selfishness. The secretary said there was a drink problem in Dunedin, but she had lived in Auckland and other places, and liquor in Dunedin represented only a minor problem compared with Auckland (R. 5983).

437. Licensing Committees, Magistrates, and social workers have all expressed concern about the increased drinking by young men and young women. Complaint is made of surreptitious drinking of the quantity taken to dances. The chief secretary of the Salvation Army states that drinking by girls is very prevalent and seems to be increasing. These complaints have some reference to the period of the war, but they indicate also a general increase in the consumption of liquor by young people irrespective of the influences of the war period.

438. We have also had evidence of the effect of alcoholic liquor upon the Maoris. At a later stage we shall discuss their particular problems. We say here only that we think that the Maori people, in general, are not yet as able as the Europeans to withstand the temptations of alcoholic liquor and the ill effects that flow from over indulgence.

439. On the question of the loss of efficiency due to the consumption of alcohol, we have referred to the physical effects in Chapter 1 above. We refer here only to the question of industrial efficiency.

440. The Department of Labour states that sometimes the sailing of a ship has been delayed because intoxicated members of the crew have not returned to the ship, but that these occurrences are less now when boilers are oil-fired than when they were coal-fired. The Department states that there is no recorded case where industrial disputes have arisen out of the consumption of alcohol. The Department reports that it has no evidence that industrial efficiency has been impaired through the consumption of alcohol (R. 379), but the Secretary of the Department, Mr. Moston, stated that a former custom for an apprentice to carry drink into a factory does not exist in New Zealand to-day (R. 760).

441. A member of the Hutt Licensing Committee states that the effect of drink on industrial efficiency is particularly noticeable in the Hutt Valley. On the other hand, the Licensing Committees for Motueka, Buller, and Westland state that the effect of the consumption of liquor on industrial efficiency is not marked (R. 207 and 232).

442. The evidence does not establish that the drinking of alcohol materially affects industrial efficiency in New Zealand to-day, and we conclude that it does not. The increasing tendency over a long period of years to consume beer instead of spirits has probably contributed substantially to this result. Likewise, since June, 1942, the reduction in the alcoholic strength of beer has probably been a contributing factor.

443. There has been a general improvement in the drinking habits of the people of New Zealand. This has been so in other countries—*e.g.*, in Great Britain. Various causes have contributed, such as a better and a more widespread education, which has tended to raise an individual's standard of self-respect; better economic conditions; better opportunities for the use of leisure, as in attendance at the cinema, or in the use of libraries; lighter beer and a steady tendency to drink more beer and to reduce the consumption of spirits and of wine. Other suggested causes, such as the limitation of hours in New Zealand, require further consideration at a later stage in this report. All we need say here is that, while this improvement has taken place, there has been much drinking after hours.

444. On the whole, the consumption of alcoholic liquor causes substantially less drunkenness, ill health, domestic discord, ill treatment of children, or industrial inefficiency than it did twenty-five years ago and more. During the war of 1939–45 drinking was, as might have been expected, associated with an increase in sexual immorality, but that has now diminished. In this respect it should be noted that the licensed victuallers of Auckland, where there were many visiting servicemen, voluntarily accepted a scheme proposed by Canon Coates that all women should be required to leave hotel lounges (where liquor was supplied) at 5 p.m. This scheme was carried out during the war from March, 1942, onwards.

445. Notwithstanding this steady improvement, the nature of alcoholic liquor remains the same. Unless a standard of self-respect and of self-control is maintained, its use readily leads to abuse, and its abuse is always accompanied by evil effects. Its control is necessary in a form suited to the temperament, the intelligance, and the character of the people.

CHAPTER 20.—MISCHIEFS IN RESPECT OF THE MANUFACTURE OF ALCOHOLIC LIQUOR

446. We refer now to the principal mischiefs alleged in respect of the manufacture of alcoholic liquor.

447. We think that, in general, the industry of manufacturing alcoholic liquors is carried on in New Zealand with care and skill. Some breweries are more efficiently equipped than others and the more modern brewery is naturally the more efficient. It suffers less waste and is likely to produce a beer with better keeping qualities. Nevertheless, having regard to the quantity of beer produced, we have had very few complaints of bad quality in the beer as it is manufactured.

448. The first complaint concerns the lack of sufficient sanitary precautions in manufacture. Complaint was made to us of the label "Bottled in bond under supervision of H.M. Customs," on the ground that the bottle was dirty (R. 2864). This proved, however, to be an isolated case. Apparently the bottling had been done in bond at Auckland for a wholesale licensee in business at Eltham—a lawful procedure under section 80 of the Licensing Act, 1908.

449. Evidence was also given by the Government Analyst at Auckland that hop beer (which is not intended to be an intoxicating liquor) had been manufactured under a Customs license in Auckland which the Government Analyst had certified as unfit for human consumption. The point made by the Government Analyst was that the label "Bottled in bond under supervision of H.M. Customs" should not be used unless the Customs Department took responsibility not only for the revenue, but for sanitary precautions as well.

450. Evidence was also given by the Government Analyst at Auckland that one of the most serious sources of trouble in the sale of liquor lies in the washing and preparation of the bottles. He said that in recent years a number of instances of dirty bottles had come to his notice. The use of liquor bottles for poisonous materials such as weed-killer, sheep-dip, and sprays is not uncommon, and if these bottles are not thoroughly washed serious poisoning may result (R. 2869). Furthermore, the bottles are brown (to protect the beer from too much light and so aid its keeping qualities and condition) and the inspection of brown bottles is difficult.

451. The breweries which we saw in Auckland use expensive standard bottle-washing machines, though the machine in one brewery has the additional safeguard of washing the bottle out with a brush during the washing process. We understand that, when prices became normal, the large breweries would be willing to install the latest machines. Compared with the total number of bottles washed and used, the number of dirty bottles must be infinitesimal.

452. The second complaint concerns the failure to label accurately. Labelling is governed by the provisions of sections 209 and 210 of the Licensing Act, 1908, and by section 12 (2) of the Sale of Food and Drugs Act, 1908.

Under section 209 of the Licensing Act, labels intended for labelling bottles containing liquor must have imprinted thereon "in plain and legible characters" the words "Bottled in New Zealand" and the name of the bottler. Eight sample labels were produced in evidence by the Government Analyst at Auckland which showed that the words "Bottled in New Zealand" were not readily noticeable. In one case, hereinafter referred to in connection with the administration of the Customs Department, imported spirits of wine were compounded by an Auckland firm into liqueurs and gin. The labels gave the impression that the product was that of the Finsbury Distillery in England. There was, however, printed in small type at the foot of each label the words "Bottled in New Zealand by Hughes and Cossar, Ltd." On the liqueur label the print was in small black type on a blue ground and could be easily overlooked (R. 2884 and Exhibit A. 46).

453. Section 210 requires that the labels on any bottles must be destroyed before the bottles are used for the purpose of bottling liquor for sale. Evidence was given that in Auckland the illicit spirit trade flourished during the war by the use of spirit bottles with the original labels intact and that high premiums were paid for these bottles empty (R. 2864). In ordinary times, it seems that the statutory provision is usually observed. It was suggested to us, however, that the law should require that labels on bottles should be destroyed before the bottles are used for refilling for sale.

454. Section 12 (2) of the Sale of Food and Drugs Act, 1908, makes it an offence to sell any food (which includes drink and also flavouring matters or condiments) in any package which bears any false or misleading label purporting to indicate "the nature, quality, strength, purity, composition, weight, origin, age, or proportion of the article contained in the package or of any ingredient thereof." A package includes every means by which goods are enclosed or contained.

455. No complaint has been made on this head as to the labelling of beer. The evidence shows, however, that some manufacturers of hop beer have for some time past been inclined to give their product fancy names, though these have caused very little deception. But with the development of the night-club trade in the Auckland district two licensed manufacturers of hop beer commenced to bottle an imitation beer exclusively for the night-club trade. This hop beer was bottled in reputed quart bottles and labelled as "XXXX Draught Ale" or "Gold Band Lager," in close resemblance to standard liquors and sold for slightly more than similar liquors. In addition to any saving in cost of manufacture over beer, the manufacturer of this hop beer saved the duty of 6d. per bottle.

456. Evidence was given that Ballins Breweries described the contents of a liquid they sold as "Rhum Punch." According to the label, it "gave you that glowing feeling." The contents contained only 23·7 per cent. proof spirit, and the Analyst informed us that the glowing feeling was due to a peppery extract.

457. A recommendation was made by the Dominion Analyst, with the support of all his colleagues other than the Government Analyst at Auckland, that the labelling of alcoholic liquor sold to the public should be placed on a uniform and readily understandable basis (R. 511). He submitted that this result might be secured if the alcoholic content of liquors were stated on labels in parts per cent. by volume instead of by proof spirit. He submitted that the public at large had no appreciation of what "percentage by proof spirit" really meant.

458. Proof spirit is a mixture of alcohol and water. The standard mixture is termed "spirit at proof" or "100 per cent. proof spirit." It contains 49·28 per cent. by weight or 57·1 per cent. by volume of alcohol. Although this volume is not strictly correct at all temperatures of the standard mixture, the difference is ignored for Customs and excise purposes. The system of grading spirits by reference to the standard of 100 per cent. proof spirit, and so of determining the amount of Customs or excise duties payable, is well established. The measurement is made by a well-known instrument—Sykes' hydrometer. Spirits may be "overproof" or "underproof" according to their strength.

While the proof spirit standard is retained for Customs and excise purposes in Great Britain, the method of stating alcoholic content by volume is now adopted in the British Pharmacopœia and in the Canadian Food and Drugs Regulations (R. 299).

459. The Customs Department considered that every label for fermented and spirituous liquors should show the alcoholic content (R. 628). The Department had no objection to the use of percentage by volume in respect of beer, wine, medicinal preparations, hop beer, and the like, but it objected to the use of any measure of alcoholic content other than proof spirit in connection with strong spirits such as brandy, whisky, rum, and gin (R. 666). The Department considered that the long-established practice of using proof spirit to indicate the strength of spirits, for which the Department had suitable testing hydrometers, should be retained.

460. The Government Analyst at Auckland was opposed to any change from proof spirit in connection with any liquors. He considered that measurement of alcoholic content by volume was no better than measurement by proof spirit. He thought the significant strengths of proof spirit were well understood by the public.

461. We conclude that, as the percentage by volume is now used in the British Pharmacopœia, the percentage by volume should be shown on the labels of all beer bottled in New Zealand, and by proof spirit and by volume on the labels of all wines and spirits bottled in New Zealand.

We think inquiry should be made to ascertain whether it is practicable to require exporters overseas to specify on their labels the volume and the proof spirit of the contents of the bottles they export. After importation, the strength could scarcely be ascertained without opening the bottle. Even if that were authorized, the manufacturer or exporter might be unwilling to entrust the statement of the strength by volume or proof spirit

to the importer. Any incorrect description on the label would be a breach of the Sale of Food and Drugs Act. If it were practicable, we think that the statement of the strength both by volume and by proof spirit on the contents of the bottles imported would be advisable.

462. (*a*) Another complaint is that there is not sufficient liaison between the Health and the Police Departments in connection with labelling (R. 6650 and 6651). The position is that alcoholic liquor is a food under the Sale of Food and Drugs Act, 1908. The regulations under that Act (*N.Z. Gazette*, 1924, Vol. II, p. 1505) specify particulars to be placed on labels. Regulation (2) specifies the particulars generally and includes particulars of the name and address of the manufacturer or seller. Presumably the bottler is usually included by these words, but it is possible he may not be. Regulation 16 exempts the labels on the packages of certain foods, including alcoholic liquors which are subject to Customs duty, from the necessity of stating the weight, number, or volume of the contents. Regulations 76 to 80 inclusive make special provisions regarding wine, carbonated wine, medicated wine, quinine tonic wine, and quinine tonic waters and the labelling of these liquors.

The Health Department is charged with the administration of these regulations and must therefore make inspections in order to ascertain whether they are observed.

(*b*) Under section 209 of the Licensing Act, 1908, the police are concerned to see that any labels for labelling bottles containing liquor must have on them the words "Bottled in New Zealand" and the name of the bottler. Under section 210, the police are concerned to see that labels on bottles are destroyed before the bottles are used for bottling liquor for sale.

(*c*) Regulations have also been made under the Health Act, 1920, to prevent the contamination of food during manufacture and sale (*N.Z. Gazette*, 1924, Vol. II, p. 1710). These regulations deal with the preparation and storage of food and with the bottling of beverages. The Health Department is charged with the duty of enforcing these regulations and must therefore make inspection of premises in order to ascertain whether they are observed.

463. If practicable, it would be convenient if the supervision of all processes which went on at approximately the same time were under one control—*e.g.*, the bottling, with which the Health Department is concerned, may be followed immediately by the labelling, with which both the Health Department and the Police Department are at present concerned, in premises with the inspection of which the Health Department is concerned. The trade is in favour of all proper sanitary and police precautions.

PART VII.—MISCHIEFS RELATING TO THE SALE OF ALCOHOLIC LIQUOR

CHAPTER 21.—AFTER-HOURS TRADING

464. Section 190 of the Licensing Act, 1908, makes it an offence, *inter alia*, for any person who during the time at which licensed premises are required to be closed sells any liquor in such premises or allows any liquor, although purchased before the hours of closing, to be consumed in such premises. The penalty may not exceed £10 for a first offence or £20 for any subsequent offence.

Section 194 of the Act provides that any person found on licensed premises during closing-hours is liable to a fine not exceeding £2 "unless he satisfies the Court that he was an inmate, servant, or lodger on such premises or a *bona fide* traveller, or that otherwise his presence on such premises was not in breach of the provisions of this Act with respect to the closing of licensed premises."

465. Regulation 3 of the Licensing Act Emergency Regulations 1942 (No. 2) (1942/186), made on the 22nd June, 1942, creates the same offences, but goes further in these respects: (*a*) by including sale or supply in a chartered club: and (*b*) by imposing a penalty of not less than £2 nor more than £10 upon any person who at any time during closing-hours *purchases* or *consumes* any liquor in any licensed premises

or in any chartered club or removes liquor, whether purchased before or after the hours of closing, from any such premises or club. The regulation protects the sale and consumption of liquor at meals in the dining-room of an hotel or club between 6 p.m. and 8 p.m. and also the consumption of liquor by any lodger or his *bona fide* guest or by the licensee or any member of his family or any of his servants. The regulation does not permit the licensee to entertain his own guests after 6 p.m.: *Graham* v. *Sloan*, [1943] N.Z.L.R. 292.

466. The evidence which we took shows clearly that large numbers of people in New Zealand have no hesitation in breaking these laws. For various reasons they desire a drink after hours, and for various reasons the publican or his barman or his barman-porter supplies them.

467. The actual convictions against licensees for selling liquor after closing-hours and against persons found on licensed premises after closing-hours from 1935 to 1944 inclusive are as follows:—

	1935.	1936.	1937.	1938.	1939.	1940.	1941.	1942.	1943.	1944.
Against licensees for selling after hours	662	687	661	661	767	736	591	595	472	567
Against persons found on licensed premises after closing hours	1,821	1,957	2,048	1,863	2,268	2,165	1,688	1,429	960	910

The sharp drop in convictions in 1943 suggests that the introduction of the Emergency Regulations in June, 1942, had a beneficial effect. The rise in the convictions against licensees in 1944 should, however, be noted.

468. The Commissioner of Police stated in evidence that, in his opinion, after-hours trading was the main mischief in the liquor trade which required remedy to-day (R. 1181). Superintendent Edwards, of Wellington, stated that, in the whole of his thirty-nine years' service in the Police Force, after-hours trading had been a cause of great concern to the Police Department. The police had received numerous complaints, sometimes signed "Mother of Children" or "Wife," but convictions were difficult to obtain because of lack of sufficient evidence (R. 877 and 878). The evidence of other police witnesses shows that convictions are difficult to obtain because hotels have "spotters" on the watch and because bells are so arranged that adequate warning can be given and the licensed premises cleared before the police arrive. It is plain that many people who would regard, say, theft as a crime, have no scruple in demanding a drink after hours from a publican.

469. The evidence does show that some publicans do not indulge in after-hours trading, though how many we cannot say. The evidence also shows that there is none in the lock-up bars in Invercargill.

470. The evidence further shows that many consumers desire drinks after hours because they find it difficult to leave their work in time to obtain a drink in an hotel before 6 p.m., or, if they reach the hotel before 6 p.m., to have it in a leisurely fashion. Miners on the West Coast (R. 5386), shearers in the country (R. 1596), milkers in the country who may be milking from 4 to 7 p.m., and other workers in the country are in this position (R. 2545). The difficulties which these workers have in obtaining a drink make it difficult to obtain labour in some parts of the country (R. 2549). These country workers might, of course, purchase or arrange for the purchase of bottled beer during opening hours and drink it at home. Where 6 o'clock closing is rigidly observed, as in Invercargill, it is said that this practice is being adopted, but this practice does not provide the company and social enjoyment which many drinkers desire. For these reasons there is widespread after-hours trading in the country districts.

471. There is evidence that in the sparsely populated districts after-hours drinking is concentrated in the week-end. These hotels could not maintain themselves without after-hours trading (R. 266 and 1596). An ex-policeman (R. 1599) informed us quite frankly that, while he was on duty in a country district, he permitted after-hour trading on the grounds that it was impossible for the country workers to get a drink within lawful hours (R. 1595).

472. The evidence also shows that there is extensive after-hours trading in the cities. Some witnesses have frankly confessed that they have had no difficulty in obtaining a drink, though illegally, in an hotel (R. 1537). The practice appears to be extensive in the towns on the West Coast. One reason for after-hours trading in both city and country is the right of the lodger to supply his guests. The police say that persons found on the premises claim to be the guests of lodgers, and that it is difficult to distinguish between those on the premises who are really lodgers' guests and those who are not.

473. Another reason for after-hours trading is that the hotels are closed for the sale of liquor on Sundays. Superintendent D. Scott, who had served in the police in various parts of the Dominion, including Wellington, Murchison, Picton, Oamaru, Auckland, New Plymouth, and Dunedin, informed us that a considerable amount of Sunday trading went on all over New Zealand (R. 5863 and 5870).

474. Licensees could, of course, stop after-hours trading by refusing to supply, but many do not refuse for these reasons :—

(1) If one publican refuses, another would supply. The first publican would then lose not only the unlawful, but the lawful trade of the customer (R. 6751 and 7166).

(2) There is strong evidence that after-hours trading must be taken into account in fixing the prices and the rents of hotels, and that many licensees are under the economic necessity of supplying an after-hours trade. We deal with this matter in subsequent chapters.

475. We think that after-hours trading is very prevalent in New Zealand, both in the cities and in the country. It appears to be more prevalent in the country.

The provisions of Regulation 3 of the Licensing Emergency Regulations 1942/186 seem to have had a beneficial effect. Nevertheless, the number of convictions recorded for after-hours trading, either before or after the regulation, must be but negligible compared with the total number of those offences committed during the year. This means : (1) that the police force is substantially ineffective in stopping after-hours trade ; (2) that an attitude of contempt for the law is developed on the part of the large number of licensees and customers who participate in that form of trading ; and (3) that that contempt is bound to have an unhealthy effect upon the community in other directions.

CHAPTER 22.—EXCESSIVE GOODWILLS, RENTS, AND PREMIUMS

476. The goodwill which passes on the transfer of licensed premises is the goodwill which is attached to the premises. This is almost entirely dependent on the license. Without the license, the value of the custom would be non-existent. The site itself would probably be of value in respect of other businesses. Accordingly, practically the whole value of the goodwill of licensed premises which is transferable depends upon the license.

477. The question of goodwill may be viewed in two aspects—(1) the payment made for goodwill on the acquisition of the freehold or leasehold of licensed premises ; and (2) the payment required by the investor in those premises for the purpose of getting a return upon his investment.

478. On the purchase of the freehold or leasehold of licensed premises, the goodwill attaching to the license is sometimes separately apportioned, sometimes not. Where it is not, it can be estimated by deducting the value of the land and buildings, as such, from the total purchase-price. The numerous instances we have given of recent purchases show that the goodwills attaching to licenses are very high (see Chapter 13).

479. The usual method of estimating the value of the goodwill on a purchase is by reference to the profits of the business over a period—*e.g.*, five years (R. 4058). In estimating the profits, the value of the bar trade in draught beer is very important. In many cases the purchase of an hotel can be calculated on the number of hogsheads per week which it uses (R. 971 to 974, 2328, and 1089). The extensive use of this method shows that many hotels depend on their bar trade and pay little attention to the accommodation side of their business.

480. Calculation of the value of the goodwill by reference to the profits takes into account most of the legitimate factors, provided due allowance is made for any temporary increases in profits or for after-hours trading. A temporary increase may be due to temporary circumstances, such as the presence of public-works camps or military camps. After-hours trading is so extensive that inquiry into its effect upon profits would be a businesslike inquiry upon any proposed purchase.

481. Quite apart from the profits, another factor which affects the value of goodwill on the acquisition of premises is the competition for them. This competition may force the price up beyond any economic basis for lawful trading. We have given examples of very high goodwills due to competition for hotels.

482. When the purchaser has acquired the freehold or leasehold of an hotel and has paid an excessive amount for goodwill he has to decide what return he is going to require on his investment. He has to decide whether, if he leases the hotel, he is going to recoup himself for his outlay, or whether he is going to write off the excessive cost and himself make the loss. If he decides to recoup himself, he can ask a high premium or a high rent, or both. The premium may be looked upon as rent in advance, but, whether it is or not, it can still be a payment required by the lessor for the purpose of enabling him to recover part of his excessive payment for goodwill. On the other hand, if the lessor decides to write down his asset to its economic value, on the basis of lawful trading, he decides to bear the loss himself.

483. The assistant general manager of New Zealand Breweries informed us that no goodwill is charged by the company on the granting of a lease of a freehold hotel. The company states that, from July, 1938, to July, 1944, the total weekly rentals of thirty-four of the company's thirty-nine hotels which were leased to tenants showed a rise in the aggregate weekly rentals from £743 in 1938 to £753 in 1944 (R. 6880). The company's other five leased hotels had only been acquired during that period. It thus appears that the policy of New Zealand Breweries is not to pass on to the tenant the goodwill which it has paid in acquiring the freeholds of hotels. On the other hand, the company states that, if the company has paid a goodwill on acquiring a lease, the goodwill is charged to the sub-tenant and spread over the term of the sub-lease in the rental payable. It would follow from this that the payments of a sub-tenant would return the goodwill paid by the company. The company would not make a profit on it, but would get its return. The company states that it is not its usual practice to make a rental profit on sub-leasing hotels (R. 6880).

484. Mr. L. J. Stevens, the chairman of directors of Dominion Breweries, stated that the peddling of short tenancies in hotels at high goodwills had been a factor in the trade with evil results for many years. He thought the practice could be brought to an end if the goodwills became taxable in the way he had suggested (para. 409, *supra*, and R. 6688 and 6703).

485. Excepting the practice of New Zealand Breweries in respect of its freehold hotels, we think it is generally true to say :—

(1) That a rent is fixed by reference to the amount which has been paid for an hotel, that those amounts are fixed by reference to the trading of the hotel, that, if the trading has included substantial after-hours trading, the rentals fixed will tend to induce after-hours trading in order to make the hotel pay, and

(2) That, if a high goodwill has been paid by reason of competition, that payment is likely to be reflected in the rental required for an hotel and may be so high as to tend to after-hours trading.

486. We have evidence that a company adjusted rentals according to the state of the business of the hotel. Mr. Robinson, a director of Hancock and Co., Ltd., admitted that he had received complaints from licensees that the rent was too high. He then saw the licensees, went into the accounts, and recommended an adjustment to the directors, who would act upon it if they agreed. When, however, trade increased, the rentals were raised again. Thus the benefit of an increase in custom due to a public-works camp at Karapiro went to the company, not to the licensee of the National Hotel, Cambridge (R. 3847).

487. There is another aspect of the payments for goodwill which appears to be of minor importance to-day. It is the goodwill charged not by the owner or lessor, but by the lessee on an assignment of his lease for the purpose of making a profit out of his leasehold interest. The opportunity to do this occurs practically to-day only when a lessee has a term exceeding a weekly or monthly tenancy and either the hotel company with which he deals permits the transaction or is not in a position by any means, direct or indirect, to stop it.

488. The following examples of sales by a lessee of the balance of his lease carrying the license were given by Mr. Tuck, the Assistant Commissioner of Stamp Duties at Auckland (R. 3569) :—

Hotel.	Unexpired Term and Rent.	Unexpired Portion of Premium paid.	Payment received as Goodwill for Balance of Lease.
		£	£
Albion	6 months ; £16 per week ..	250	450
City Club	1 year 4 months ; £32 per week ..	444	1,750
Kings Arms	1 year 4 months ; £24 per week ..	556	1,600
Rob Roy..	2 years 4 months ; £26 per week..	777	2,500

These hotels were all owned by Hancock and Co., and "tied" under the leases. The return indicates that these lessees could obtain substantial goodwill payments for short-term balances of their leases, even where the rents were very substantial.

489. We think that many goodwills have been paid which are much too high, and that many rents and premiums are also much too high.

490. The views of certain Licensing Committees who have expressed their opinions upon the point without having the benefit of the evidence we have had confirm this conclusion. For example, the Licensing Committees of Stratford (R. 172), Rangitikei (R. 196), Hurunui (R. 237), Christchurch, Avon, Riccarton, and Lyttelton (R. 245), Kaiapoi (R. 252), and Dunedin (R. 263) all express the opinion that excessive rents or excessive goodwill payments, directly or indirectly, cause illicit after-hours trading. A majority of the New Plymouth Licensing Committee (R. 168) and some members of the Egmont Licensing Committee (R. 176) take the same view. Other committees expressed the views that no goodwill should be allowed, presumably on the ground that it had bad effects, the most likely of which is illicit trading—viz., the Licensing

Committees of Palmerston North (R. 180), Wairarapa (R. 183), Buller, Motueka, Westland (R. 233), Central Otago (R. 266). The Licensing Committees of Wallace (R. 269) and Awarua (R. 274) expressed the view that there should be a reasonable ceiling on goodwills.

CHAPTER 23.—MANAGED HOUSES

491. We are informed by Hancock and Co. that the system of appointing managers for hotels was begun in New Zealand when Hancock and Co., having rebuilt, in 1901, the Grand Hotel, Auckland, which had been destroyed by fire, found it impossible to obtain a tenant at any rental (R. 3779). We are also informed by the Campbell and Ehrenfried Co. that that company appointed its first manager in 1917, after 6 o'clock closing had been introduced by the Sale of Liquor Restriction Act of that year. At that time, lessees of licensed premises thought they would suffer a diminution of income, and section 4 of the Act gave the lessee the right to require the lessor to accept a reduced rent or, at the option of the lessor, a surrender of the lease. The Campbell and Ehrenfried Co. found that lessees offered very low rentals, and the company began the appointment of managers.

492. Counsel for the New Zealand Alliance submitted that the conduct of an hotel by a company through a manager who holds the publican's license is contrary to the Licensing Act or, at least, to the spirit of the Licensing Act. He submitted that the Act contemplates that the licensee shall be responsible for the sale of his own liquor in his own premises, and that a manager, though he holds a publican's license, is a mere servant of the hotel company, liable to be dismissed at the will of the company and to have his license transferred at any time by the company pursuant to a blank transfer signed by the manager before taking up his duties.

493. *Prima facie*, there is ground for this submission. Both the publican's license and the accommodation license are issued to a particular person in respect of particular premises (see forms in the Seventh Schedule to the Licensing Act, 1908). The sale by any person of liquor without being duly licensed to sell the same or at any place where he is not authorized by his license to sell the same is prohibited by section 195 of the Act. As the manager has no proprietary interest in the premises, it may be asked how the publican's license can be issued to the manager in respect of those premises.

494. Furthermore, under the ordinary law the company, by virtue of its ownership of the premises, has the right to conduct business in those premises by its agent. The manager is its agent. Under the ordinary law, every sale is a sale by the agent on behalf of his principal, the hotel company, and therefore a sale by the hotel company. Why, then, it may be asked, is not every sale, for the purposes of section 195 of the Licensing Act as well as for the purposes of the ordinary law, a sale by the company, not by the manager; and why, as the company does not hold the publican's license to sell, is not every sale an unlawful sale by the company?

495. The answer given to these questions by an English Court is that the prohibition under a section similar to section 195 exists only for the purposes of the Licensing Act and does not extend to all the transactions involved in a sale. For example, the barman is not licensed to sell, yet he takes the order, delivers the liquor, and takes the money. It follows that the ascertaining of the person who must hold the license, for the purposes of the Licensing Act, depends upon the object of section 195 of the Act. That object, as stated by Lord Reading, C. J., in *Mellor* v. *Lydiate* (1914) 3 K.B. 1154, is "to make the person who conducts and manages the business there transacted responsible to the Licensing Justices for its proper and orderly conduct and management in accordance with the requirements of the statute and of the Licensing Justices in pursuance thereof" (see Luxford, 149).

496. If, however, the licensee is a mere dummy, the position is different and the principal requires a license: *Dunning* v. *Owen*, (1907) 2 K.B. 237. A manager is not, however, a mere dummy when he is required to conduct a hotel according to the

instructions of the principal or because he is liable to dismissal and to the transfer of his license at the will of the company at any time. The guiding rule is that where the manager, while he is the manager, has real responsibility, as between himself and his principal, for the conduct of the hotel according to the instructions of the principal, he is the person who should hold the license for the purposes of the Licensing Act.

497. It follows from the foregoing considerations that the conduct of an hotel or accommodation-house by a company through its manager is not contrary to the Licensing Act. It can only be contrary to the spirit of the Act for those who maintain that the Act should mean something other than it does because, they say, (*a*) the Act imposes all responsibility on the licensee, and (*b*) the brewery or wholesale companies are limited, by the Acts which govern them respectively, to sales in quantities of not less than 2 gallons.

498. We have had evidence for and against managed hotels. The arguments in favour of them were these :—

(1) That an hotel company can supervise the administration of the hotel and can exercise proper house discipline.

(2) That the hotel company, having adequate financial resources, can and will make improvements to the premises more readily and effectively than a private licensee (R. 2850). Indeed, the hotel company might find it difficult to obtain a lessee with sufficient financial resources to carry on personally a modern hotel.

(3) That an hotel company, having adequate financial resources, is the only type of company which can undertake the building of an expensive modern hotel, and that, having built it, it is in the interests of the company to take the best care of its investment by giving the best service to the public by direct management.

499. The arguments against managed hotels are these :—

(1) That management is mainly an instrument for securing a profitable outlet for the company's beer or liquors.

(2) That inducements are given to managers to ensure that they do their best to secure large sales of liquor.

(3) That the company can put pressure on its servant, the manager, to keep up the volume of its sales, and that this is most likely where an excessive amount has been paid for the goodwill of licensed premises.

(4) That managers, who are often promoted barmen (R. 3997 and 4166), often give less personal service than a tenant for years with his own money invested in the business (R. 3050).

500. In considering these advantages and disadvantages, a very important question is whether the system of management subjects the manager to pressure or to a sense that he is under pressure to sell alcoholic liquor.

501. The system permits the inducement of large sales of alcoholic liquor. Under the system as generally adopted before the war managers receive a salary and also a percentage on profits. Salaries vary mostly from £7 per week to £14 or £15 per week for a manager and his wife. In some cases, 20 per cent. on the profits was paid (R. 4263). In other cases more was paid. The manager of Barrett's Hotel, Wellington, and his wife were engaged by Ballins Breweries, Ltd., as follows : £8 per week for the manager, £4 per week for wife, and $33\frac{1}{3}$ per cent. share of the profits. The manageress of the Taita Hotel, who is the widow of the former manager, was engaged—by the same company—at £5 per week and 50 per cent. of the profits.

502. Regulation 17 (1) of the Licensing Act Emergency Regulations of the 22nd June 1942 (1942/186), made it unlawful for any person to enter into a contract of management if the contract provided for the payment of remuneration to the manager at a rate or rates determined or affected by reference, directly or indirectly, to the amount of intoxicating liquor sold in the premises or to the profits of the business carried on therein. Regulation 17 (2) required that existing contracts should be adjusted so as to provide for the payment of remuneration at rates which were not determined by reference, directly

or indirectly, to the amount of intoxicating liquor sold in the premises or to the profits of the business carried on therein. Regulation 17 (3) required that if the parties to the contract could not agree upon the adjustment the matter was to be referred to arbitration.

503. The two agreements to which we have referred in paragraph 501 entered into by Ballins Breweries (N.Z.), Ltd., with the managers of Barrett's Hotel and the Taita Hotel respectively are stated by Ballins Breweries to have been determined, but that the company of its own volition does in fact pay a bonus estimated at the share of the actual net profits payable under the respective agreements.

504. Another example of the inducements held out to managers by some companies in order to keep up bar sales is the allowance known as the "hospitality" or "spending" allowance. This allowance is not referred to in the agreements for service between the manager and the company which were produced to us in evidence. The allowance is said to be intended to place the manager in the same position as a licensee on his own account would be when he is spending money in the bar to maintain custom. The difference is that the manager gets a fixed amount every week. The amount varies from £2 or £3 per week, but mostly from £4 or £5 per week to £12 per week.

505. No account of the allowance is required by the hotel company (R. 6758 9). In a small hotel like the Caledonia, in Symonds Street, Auckland, belonging to the Campbell and Ehrenfried Co., the manager receives a hospitality allowance of £12 per week (R. 4194 and 6927).

In the large Commercial Hotel at Hamilton the spending allowance is £10 per week and the licensee-manager is permitted to pay part of the allowance to the bar manager (R. 3993).

506. The primary object of the hospitality or spending allowance is obviously to maintain or increase the sales of liquor in the hotel. Mr. O'Connell, the assistant manager of New Zealand Breweries, said he supposed the allowance all came back in the form of sales (R. 6927). Mr. Wanklyn, of New Zealand Breweries, said the company had made a check at odd intervals which satisfied the company that the allowance had been used (R. 6805).

507. Another payment made by some companies, which must tend to operate as an inducement to keep up the bar sales, is the bonus at the end of the year. These hotel companies explain that the bonus is not calculated as a percentage on turnover or profits (R. 3873, 3966, 4719, and 6785). Mr. Ibbertson, of the Campbell and Ehrenfreid Co., stated that the bonus was "considered on the general conduct of the management" (R. 3966). This company, for example, has paid a bonus of £200 to the manager of a residential hotel, as against a bonus of £65 to the manager of a hotel relying on the beer trade. Nevertheless, without reflecting on any particular hotel, the payment of bonuses to managers, which are apt to be increased as liquor sales increase, is open to abuse and may be a breach, at least of the spirit, of regulations which prohibit a contract of remuneration at a rate or rates affected even indirectly by reference to the amount of liquor sold or to the profits of the business.

508. An illustration of the effect of the policy of developing the bar sales was given in the uncontradicted evidence of a witness who had booked in for three or four weeks in June, 1944, at one of the leading managed hotels in Auckland. He was a manufacturer's representative and in Auckland on business in the capacity of a traveller. He was also a teetotaller, but prepared to spend money in the lounge for his friends who drank. About the second day after his arrival he was told by the licensee-manager that he was not staying, as the company was not encouraging long bookings. On protesting, he was subsequently told by a director of the company that he had an impudence to expect to stay in the hotel, as the manager was turning away friends who were spending £2 or £3 in the hotel, meaning, apparently, the bar, but that he would be found accommodation at another hotel. He objected to that hotel. As a result of other representations to a member of the company, the witness was allowed to stay

the full period for which he had booked. The point is that, if the witness had himself been spending money on liquor, it does not appear that he would have been asked to leave (R. 1898).

509. On the question of the length of service of managers, it is difficult to reach any general conclusion. The service of the present managers of the Campbell and Ehrenfried Co. is shown as from 1½ to 12½ years with the company. The managers of Hancock and Co. have served for from about 1 year up to 30 years, the majority having from 3 to 5 years' service. In some hotels, such as the Waverley, Auckland, no manager has stayed long during the period under review. There have been nine changes in 10 years. The present managers of Dominion Breweries have served for from 1 year up to about 9 years, the majority having from 2 to 5 years' service. There were four changes at the Kawakawa Junction Hotel between 1940 and 1944. The managing director said the managers did not leave because the company was dissatisfied with the returns of the hotel (R. 4261/2). New Zealand Breweries inform us that their managers are, and always have been, engaged on a monthly term and at a weekly or monthly salary (R. 6785), but we have no record of the changes in the managers of this company. Nor have we for Ballins Breweries.

510. The companies maintain that managers are not dismissed because the returns are not sufficient. On the other hand, Mr. Paterson, S.M., said he had no reason to doubt informants who told him that managers had to show a certain percentage on bar returns, and that, if they did not show them, some one came with a peremptory demand for the keys (R. 6096). Mr. Paterson, in cross examination, modified certain statements in his evidence, but he did not modify this one. The evidence is hearsay and we take note of it because it was made by a Magistrate and becuase of the practice that existed, before the Emergency Regulations of June, 1942, came into operation, of rewarding managers by a percentage on bar returns or on profits and because of the continuing practices of paying a fixed weekly spending allowance throughout the year and of paying a bonus at the end of the year.

CHAPTER 24.—TIED HOUSES

511. Section 177 of the Licensing Act of 1908 renders an unqualified tie unlawful, but a tie in the form of an option to deal elsewhere by paying a higher rent is lawful.

512. Our examination of the conditions of the trade in connection with the Tied Houses Bill (Chapter 9), and the evidence we have had, show that a tie is also created, in practice, whenever a brewer or wholesale merchant advances money to a licensee, whether on mortgage, or chattel security, or by guaranteeing a bank overdraft. The mere right to withdraw the guarantee is an effective power to ensure that the licensee shall deal with the guarantor or his nominee.

513. The effect of a tie is also obtained by a short tenancy—*e.g.*, a weekly or monthly tenancy. Even a yearly tenancy seems to be sufficient.

514. A tie is created not only under leases and mortgages to which the brewer or wholesale merchant is a party, but under leases and mortgages to which he is not a party and in which his name may or may not appear. A tie of this kind exists in leases or mortgages between private individuals. It may arise because a private lessor or mortgagee desires that a new tenant or mortgagor shall follow the practice of his predecessor (R. 5401). The reduction in the rent or the interest may be expressed to depend upon the purchase by the licensee of his beer or his wines and spirits from a named brewer or wholesale merchant, or from the unnamed nominee of the private lessor or mortgagee (R. 5401, 5402, and 5516).

We do not know how many of these private ties there are. They came to our notice during the course of searches of the titles to hotels in the South Island.

Ties of this kind would not appear in the books of the brewer or wholesale merchant as a tie to which he was a party. It follows that the number of hotels shown in Appendix A as being hotels in which brewers or wholesale merchants are financially interested does not include those hotels subject to ties which are effective under private documents of the kind we have described.

515. In New Zealand the tie under the optional rent always extends to draught beer and, in form usually to bottled beer, wines, and spirits, and even, in some cases, to cigarettes and other supplies. In practice, however, at the present time the tie is not being generally enforced in New Zealand except in respect of draught beer. Owing partly to the shortage of supplies, most licensees have been permitted to obtain any brand of bottled beer or of wines and spirits.

516. Evidence was given as to the advantages and disadvantages of a tie. The advantages claimed were these :—

(1) That the brewer or wholesale merchant obtains the power to ensure that only good liquor is being supplied in the hotel ;

(2) That only one brand of draught beer can be satisfactorily provided in most hotels and that this is ensured by the tie ;

(3) That the tie ensures continuity of supply to the licensee (R. 3780) ;

(4) That the brewer or wholesale merchant, generally having more financial resources than the licensee, can improve the buildings and provide better accommodation than the licensee ;

(5) That only a brewer or wholesale merchant with large capital is able to build a large modern hotel, and that, in that event, it is reasonable that the hotel should stock only the liquor supplied by the brewer or wholesale merchant ;

(6) That the service in the tied house is at least as good as in the untied house ; and

(7) That the co-ordinating of the supply of liquor with the retail demand and with the power to stimulate the retail demand is a trend in modern business and that the greatest efficiency, both from the point of view of the trade and of the public, is secured by bringing the manufacturing, wholesale, and retail trade required for the conduct of a chain of hotels under one control. The evidence of Mr. Stevens, the chairman of directors of Dominion Breweries, suggests that in his view this is the logical extension of the tie under the conditions of modern business.

517. The arguments against the tied house are these :—

(1) That the brewery company or wholesale merchant exerts a pressure on the licensee to keep up an average of weekly or monthly purchases so that the licensee is obliged to push the sale of liquor in order to maintain the profits of the hotel and the dividends of the brewer or wholesale merchant ;

(2) That rentals are fixed on the volume of trade which often includes the after-hours trading and induces breaches of the law in order that the licensee may maintain his financial position or keep himself solvent ;

(3) That, when adjustments of rent are made by the brewer or wholesaler, either up or down, the brewer or wholesaler takes the maximum profit ;

(4) That the tied house is so prevalent in various parts of New Zealand, particularly in the Auckland Province, that a licensed victualler who desires to be "mine host" on his own account finds it impossible to obtain a satisfactory hotel for the purpose ;

(5) That the continuity of supplies to the tied house involves a partial distribution of liquor in which the untied houses suffer (we deal separately with this reason), (see, *infra*, Chapter 25) ; and

(6) That the tied house supplies only the draught beer of the brewer or wholesaler.

518. In considering these matters we regret that we have not had evidence from the Licensed Victuallers' Associations, other than two of them. The solicitor for the Auckland Provincial Licensed Victuallers' Association gave the following statement in evidence for the Association (R. 3570):—

The Auckland Provinicial Licensed Victuallers' Association, through its Executive, desires to make the following representations to the Commission. It should be stated that the Executive does not include any persons who are employed as managers of hotels, but is restricted to those holding leases in their own rights or owning freeholds of hotel property.

The association points out that in recent years a large and increasing number of hotels have been placed under management by the brewery and wholesale companies and have not consequently been available for leasing. The attached schedule of hotels sets out the position in the Auckland Provincial District.

If the present policy of the wholesale companies of acquiring hotels whenever possible and placing them under management is continued, it is only a matter of time before practically all the hotels which are worth while pass into the control and management of the wholesale companies.

Another matter which is giving the association some concern is whether there is a fair distribution of stocks amongst all the hotels or whether the wholesale companies which control nearly all supplies give preference to their own hotels which are being conducted for them by managers. If they do, this preference must operate to the detriment of the other hotels.

A further point is that where a brewery company controls the business of an hotel, it supplies only its own draught beer and usually restricts the other stocks to those which it controls. Customers are consequently limited in their choice to the restricted stocks carried at the particular hotel which is being patronized.

Hotels under Management in the Auckland Province

Campbell and Ehrenfried	26
New Zealand Breweries	26
Hancock and Co.	16
Dominion Breweries	22
Total	90

Hotels leased in the Auckland Province

Campbell and Ehrenfried	11
New Zealand Breweries	1
Hancock and Co.	40
Dominion Breweries	8
Northern properties	3
L. D. Nathan	3
Total	66
Hotels privately leased	14
Total	80

Hotels in the Auckland Province

Managed hotels	90
Freehold hotels	54
Leasehold hotels	80
Total	224

519. The president and two members of the executive of the Auckland Provincial Licensed Victuallers Association gave evidence in general support of these resolutions, though they did not complain of their own treatment by the brewery companies. They explained also that there was in fact a great shortage of spirits during the war.

520. The only other statement made by a Licensed Victuallers' Association was that made in Christchurch by Mr. Durham Dowell, representing the Reefton, Hokitika, Grey, Westland, Buller, and Motueka Licensed Victuallers' Association, on behalf of that association, and also on behalf of the Buller and Westland Provincial Councils of the Licensed Trade, an organization including the breweries of the districts (R. 5368).

Mr. Dowell, who was a licensee at the time in a free house (R. 5372), said the relations between the licensees and the brewery companies were very good (R. 5370). The view expressed by these bodies on the question of tied houses was as follows :—

Houses financed by the trade.—In our opinion this is not inimical to the public, as those who had the financing, in their own interests, take every care in selecting persons who will be successful as licensees. (R. 5368.)

521. The witness said (R. 5378) that there was one managed house in Hokitika and one in Westport. He thought that 30 per cent. of the houses on the West Coast were tied houses and that there were more free houses on the West Coast than in any other district in New Zealand.

522. As members of the executives of the Licensed Victuallers' Associations should have the most intimate knowledge of hotel conditions from the inside of the trade, we regret that we did not receive evidence from the New Zealand Licensed Victuallers' Association and other provincial associations.

523. In assessing the advantage or disadvantage of the tie, the most important question seems to concern the pressure upon a licensee to sell liquor because the brewery or the wholesale company has either (1) fixed the rent so high as to require the licensee to push the sales to keep himself solvent or to maintain his finances, or else (2) has a policy of requiring licensees to maintain a regular volume of weekly or monthly orders. The weight of the evidence is that the existence of the tie enables this pressure to be exercised.

524. Evidence was given by police officers of representations to them by licensees of this pressure. Inspector Lopdell said that he had had frequent complaints from licensees that the terms of their agreements were too onerous (R. 2974). He admitted that it was possible the licensees might not have been telling the truth (R. 2998). Evidence to the same effect was given by Constable W. A. Calwell (R. 1413 and 1419) and by an ex-policeman, Mr. H. H. Lowe (R. 1596).

525. Mr. Robinson, a director of Hancock and Co., Ltd., admitted (R. 3846) that, over a period of years, licensees of his company had complained from time to time that the rent was excessive. We have already referred to his method of dealing with these complaints (para. 486, *supra*).

526. Mr. J. B. Donald, a well-known merchant of Auckland, said that tied houses were an evil needing close investigation to ensure that those in charge of these hotels were not bound by their agreements with their principals to go at top speed. Cross-examined (R. 3028), Mr. Donald said :—

I do not see any necessity to break the tie because if breweries own twenty or fifty hotels they naturally would want to have their own liquor consumed on the premises. I had in mind that some means should be devised whereby they should not be driven at what I call extra top speed all the time to get as much as possible out of the hotel. Say, for argument's sake, an hotel is supposed to turn over £500 a week, and another man is put in in place of the one just gone out, and it may fall down to £450 Then there is trouble and they want to know what the trouble is, and he is spurred on to make it up to the £500 or a little better. That may lead to evils, and I think, personally, it does.

527. The following twenty-six Licensing Committees expressed themselves as against tied houses : Auckland, Otahuhu, Waitemata, Remuera, Onehunga, Thames, Hamilton, Waikato, Raglan, Rotorua, Waipawa, New Plymouth, Stratford, Wairarapa, Rangitikei, Buller, Westland, Motueka, Christchurch, Avon, Riccarton, Lyttelton, Timaru, Temuka, Waitaki, and Central Otago. The other Licensing Committees express no opinion upon the point. No Licensing Committee expressed itself as being in favour of tied houses.

CHAPTER 25.—ALLEGED UNFAIR DISTRIBUTION OF SUPPLIES

528. *As between Wholesale Merchant and Retailer.*—The Auckland Provincial Licensed Victuallers' Association in its statement to the Commission (quoted above, para. 518) said it was concerned with the question whether there was a fair distribution of stocks amongst all the hotels or whether the wholesale companies which control nearly all the

supplies were giving preference to their own hotels which were being conducted for them by managers. The witnesses who gave evidence in respect of this statement did not give any instances of unfair discrimination and said they had not experienced any themselves. They spoke only of a complaint by some other licensees. They pointed out also that spirits were in short supply owing to the war. In our opinion, no evidence was given on behalf of the Auckland Provincial Licensed Victuallers' Association which established unfair discrimination.

529. Since we sat in Auckland the proprietor of the New Wairoa Hotel at Wairoa has made a complaint. This hotel was held by New Zealand Breweries under lease for five years, expiring on the 31st May, 1945. During this period the company managed the hotel and kept it supplied with spirits. When the new proprietor took over in June, 1945, he applied to New Zealand Breweries for a supply of spirits. The company replied that it could not supply him as the house had not dealt with the company in 1938. This answer was in accordance with the ruling of the Minister of Customs—viz., that licenses granted for the import of spirits and wines were subject to the condition that the importer would ration supplies *pro rata* among other merchants, clubs, and hotels, as a minimum allocation, according to quantities supplied by him in 1938. As then the new Wairoa Hotel did not deal with New Zealand Breweries in 1938, the proprietor has no complaint against the company. Moreover, wholesale merchants are not likely to have any surplus beyond the needs of their 1938 customers. The merchant is allowed 50 per cent. of the 1938 imports, but, as the price of spirits has gone up, the merchants declare that they get approximately only 30 per cent. of the 1938 quantities.

530. *As between the Retailer and the Public.*—On behalf of the medical profession of Rotorua, Dr. Bertram said that some licensees in Rotorua, while selling whisky and brandy in their bars, refused brandy or whisky for urgent medical cases. He said that this occurred during the shortage of spirits which began after the war, but ceased after a protest which he made to the Hon. Eliot R. Davis in April, 1942. Accepting the facts stated by Dr. Bertram, we do not think that the complaint constitutes a mischief of the liquor trade. If these supplies should have been made available for medical purposes, then either the Health Department or the New Zealand Branch of the British Medical Association should have taken steps to see that brandy or whisky was made available. No such steps were taken, and, in fact, other and more suitable drugs are, we understand, available for the purposes for which brandy or whisky may be used.

CHAPTER 26.—INADEQUATE ACCOMMODATION IN BARS

531. The Licensing Act refers only to a public bar, which is defined by section 4 of the Act as meaning any room, passage, or lobby in any licensed premises open immediately to any street, highway, public place, or public thoroughfare wherein the public may enter and purchase liquors. Private bars became common in New Zealand (apparently from about the year 1903) owing to a decision of the Supreme Court that a licensee did not contravene the provisions of the Licensing Act, which prohibited the use of more than one bar, by opening a room in his licensed premises wherein the public might enter and purchase liquor, if such room did not open immediately on to a street, highway, public place, or public thoroughfare. Such rooms became known as "private bars" to distinguish them from the public bar as defined by the Licensing Act (per Sim, J., in *Mason* v. *Kelly*, (1913) 32 N.Z.L.R. 1048 at 1049).

532. The legality of the private bar was recognized by the Legislature when, by section 2 of the Barmaids Registration Act, 1912, it amended section 36 of the Licensing Amendment Act, 1910, and thereby prohibited the employment of unregistered barmaids in a private bar as well as in the public bar of any licensed premises.

Private bars have various names, as, for example, "lounge bar"—*i.e.*, a bar opening on to the lounge of the hotel; "house bar," meaning the same as lounge bar; "tavern bar"; "cocktail bar"; &c.

533. The bars in which working-men drink have been described to us as " gloomy, badly lit, ill ventilated " (R. 2736). Many of them lack a bright or cheerful appearance. Many of them have no chairs or tables. In some cases the private bar affords more amenities than the public bar. It is usually smaller and more secluded. It may be upstairs. In some cases there are tables and chairs.

534. On the other hand, there is evidence that some private bars do not differ from a public bar, save in these respects, that the private bar does not open directly to the street and that there is a description " Private Bar " over the door. Nevertheless, higher charges are made in these private bars than in the public bars. On this point the representative of the Otago Labour Representation Committee was asked whether there was any justification for a difference in the price in a private bar and a public bar where, in both cases, the customer stood at the bar and was served over the bar. He replied, " There is no justification at all, for the simple reason that the barmen are paid the same wages ; the liquor is bought at the same price ; it comes from the cellar in the same way ; it is served out in the glasses in the same way ; and in each bar you stand the same way—so I do not know why there should be any difference in prices."

535. The general distinction between the private bar and the public bar appears to be that the private bar is more frequented by the white-collar workers, while the public bars are more frequented by the manual workers who want the largest container sold (R. 1678).

536. In general, the bars afford enough room for those who wish to drink during the greater part of the day. During this period there would in most cases be room for some chairs and tables in the public bar. The position changes radically between 4 p.m. and 6 p.m. in the public bars and in some of the private bars. The public bars become very much overcrowded. Men stand four or five deep. Handles of beer are passed over heads to and from the rear ranks. Complaint is made that when refills are required, the barman fills several at one time and that the overflow from one glass may contaminate another.

537. The conditions during the period between 4 p.m. and 6 p.m. have been described to us in strong terms, of which we choose one of the least forcible and say that many customers consider the conditions to be " disgusting," particularly when compared with the conditions which exist abroad, where a customer may sit at a table to drink. The Health Department considers that these crowded conditions involve hazards to health from overcrowding, the excessively rapid consumption of liquor, and the lack of proper hygienic standards in the washing of drinking utensils (R. 345).

538. The removal of these conditions depends on two questions :—

(1) As to what kind of drinking is desirable ; and
(2) Whether the alterations required for that kind of drinking are practicable.

539. On the first question, the Commissioner of Police and other police witnesses prefer :—

(1) That all bars shall be public and open directly on to the street ;
(2) That there shall be no bars upstairs ; and
(3) That drinking in bars shall be vertical.

The police witnesses admit that they are influenced in these views by a consideration of what would make for the most effective enforcement of the law and for the detection of drunkenness by the police and the barmen. On the other hand, there is a large volume of evidence from social workers, representatives of the churches, returned soldiers, and ordinary customers who prefer that, if there is to be drinking, there should be provision for drinking in a leisurely manner, at tables, in accordance with the standards which would be observed in a man's home or club.

540. We do not consider that the rigidity advocated by the police is practicable or desirable. We think that the private bar serves a useful purpose in much the same way as the provision of first-class accommodation on trains and steamers. Those who are prepared to pay more should have more comfortable conditions. We think also that

there is no inherent objection to a private bar upstairs, provided that it is a defined place and provided that the number of private bars is specified in the license. What the police most need to know are the exact places in the hotel in which liquor can be sold. We think also that there should be provision for both standing and seated drinking, both in the public and in the private bars, but more particularly in the private bars.

541. On the second question, as to whether these alterations are practicable, we think that many brewery and hotel companies could easily have improved the conditions for drinking in their bars in times past, if they had been so minded. They have made very large profits, but have not chosen to attempt to improve the drinking habits of their customers by providing enough space for chairs and tables in the public bars.

542. To-day there is, we think, more demand for leisurely drinking, while seated, as a man would drink in his own home and as is provided in licensed premises both in Europe and in America. An example of what can be done in New Zealand to-day was given by Mr. Luxford, S.M., who instanced the case of the Newmarket Hotel (R. 6537), where there was a public bar for some five hundred or six hundred people with room for all, and where some customers were sitting down, drinking quietly, and talking.

To ensure, however, the improvement of all hotels in this manner would require an adequate form of control.

CHAPTER 27.—THE USE OF DREGS AND OTHER INSANITARY PRACTICES IN BARS

543. The word "dregs" refers to the drippings from the taps in a bar and to the overflow from the glasses as they are filled. These dregs are sometimes called "swill" (R. 2295) or "slops" (R. 3388). When they are mixed with beer for sale, the resultant liquid is colloquially known as "Wompo" (R. 3370). The term has been in use among barmen for as long as one experienced licensee could recollect—from twenty to thirty years (R. 3399 and 3411), and it is also known to the man in the street (R. 3400).

544. The drippings may contain some froth or fob from the keg and also some sedimentation which might have to be run off at the foot of the keg. For the most part, however, the dregs consist of the overflow from the glasses as they are filled.

545. Dr. F. S. Maclean, of the Health Department, said that dregs may be grossly contaminated (R. 563 and 747), and that they should not be used for human consumption. A glass may have been used by a man with tuberculosis or with some other disease which could contaminate the glass. When a customer asks for another drink in the same glass, the glass is not then washed. On the refilling, the drippings may carry the germs of contagious disease into the drip pan.

Dr. Maclean said that the Department had had complaints from time to time during the last five years, and also fairly recently, concerning the sale of dregs, but had not had the evidence on which to found a prosecution (R. 747).

546. Other evidence has been given to show that dregs are sold to the public and that complaints have been made by customers to barmen. It is a common practice in hotels which sell beer from kegs to have a tray without a waste-pipe underneath the tap. A tray may hold half a gallon (R.2559). If there is no reason for keeping the dregs, there is no need for a tray without a waste-pipe.

547. Where delivery is from a tank, there appears to be no need for the tray, and no complaint is alleged against that form of supply.

548. The daily quantity of dregs collected by means of the trays varies with the trade of the hotels. The licensee of one hotel at Newton, Auckland, indicated that the quantity of dregs at his hotel might be from 2½ to 3 gallons a day (R. 2295). Another witness estimated that at another hotel in Auckland there were from 5 to 8 gallons a day, and on Saturdays as much as 18 gallons (R. 3371). *Prima facie*, gallons of beer are worth saving by those who can sell them for profit. The evidence shows that the

companies allow the hotels a certain percentage for waste, and that waste or "dregs" slips are supplied so that returns may be made by the hotels to the companies. On the other hand, there is evidence that these waste slips may not always be used (R. 2582). Whether they are used or not, the main question is whether dregs are collected for sale and sold.

549. Evidence was given before us by three men who had been employed as barmen in Auckland hotels, but were employed in other occupations when they gave evidence. Each of them said that, in the bar in which he had worked, he had personally seen dregs saved and poured into barrels and resold to the public. Each witness spoke of different bars, save in one case where two witnesses spoke of the same bar, but of different occasions in that bar. The evidence of these three witnesses was denied by the licensees and by barmen in the hotels in question.

550. The first witness to give evidence had let it be known that he would give evidence, and he had been threatened with violence by a licensee if he did so. The other two witnesses came forward voluntarily because of the newspaper report of the evidence of the first witness and, one of them said, he came forward because of the denials of the first witnesses's evidence. In our view, it is only fair that these ex-barmen should have our opinion upon their credibility. Having seen all the witnesses and taken into account the cross-examination of all the witnesses and comment by counsel, we have no hesitation in saying that the evidence of these three men was reliable and should be accepted, and that the evidence of the licensees and of the barmen to the contrary was not reliable and should not be accepted.

551. The first witness, who gave most of the evidence, had not previously complained to the police or the Health Department. He had, on one occasion, tried to see the secretary of the Hotel Workers' Union, but had not succeeded. He had, however, written a letter to a Wellington newspaper, dated 13th January, 1945, concerning his complaints, which was not published in the newspaper, but which he had circulated to various unions and workers whom he knew.

The evidence of one complainant was properly criticized on the ground that he had been convicted in December, 1940, of selling liquor without a license (R. 3374) and that he had denied doing so. The explanation of his denial was that he had not sold the liquor, but had had a lottery or "tarpaulin muster" in order to pay for the drink. Taking the conviction into account, we, nevertheless, think that the evidence which he gave before us was reliable.

552. Evidence was given by a licensee-manager that his company had given him instructions that he was not to use slops (R. 3398). We do not assume that any company would have approved the practice, and we think that, as the complaints were not conveyed to the employers at the time, we should omit the name of any hotel in question in this formal report. Nevertheless, we think we should state the facts which were proved.

553. During a period of five months in 1941 (R. 3393) dregs were saved at a managed hotel in Auckland by being poured from the drip-trays into jugs, then into a bucket, and, after 6 p.m., poured by the barmen through a funnel, with a cloth over it, into two barrels which were standing in a corner behind a wooden screen, whence the contents were passed by gas pressure back to the taps on the counter (R. 3389 and 3394 and 2563). The object of the cloth or towel was to strain out foreign matter. This return of the dregs to the barrels for sale again to the public was done with the knowledge of the licensee and with the authority of the head barman. It was done every night of the week. Sales were made of these dregs by partly filling jars or riggers brought in by customers, who did not require to take them away immediately, and then by "topping off" the jar with new beer (R. 3389).

554. The same practice occurred at the same hotel during a period of three weeks from the 30th January, 1942, to the 20th February, 1942 (R. 2567). The witness explained that, for the purpose of putting the dregs into these barrels behind the wooden

screen, which were in a large private bar, the supply system was disconnected and the dregs poured in through a funnel with a towel over it. The licensee was often present and was fully aware of the practice.

555. At another managed hotel of the same company in Auckland, where the witness worked for about two and one-half weeks between 17th April, 1942, and 4th May, 1942, the barmen were instructed by the head barman that the slops were to be collected in buckets, including the dregs in the glasses (R. 3370). Every night the dregs were put into a barrel on the counter, and that barrel was turned on end so that the barmen in the morning would know which was the slop barrel. In the morning a keg of chilled beer was used to give life to the dregs. The resultant "Wompo" was then served to the public on the instructions of the head barman (R. 3370 and 3371). The witness had not seen the licensee present when this was done (R. 3371).

556. A similar practice was adopted at a hotel then leased by a company on a two years' lease, during the period of a month in 1942 when the witness was employed at that hotel. The drips from the pans under the taps were run into a bucket. After 6 p.m. the head barman knocked the top out of a barrel on the counter and put in a funnel with a towel over it and poured in the dregs. The witness stated that on several occasions when the barman had had a busy day, no towel had been placed over the funnel, with the result that he had seen a fly or several flies, or bits of tobacco coming through the tap in the barrel into the glass. If customers had complained to the witness, he had replenished the glass without charge. The pouring-in of the slops into the keg was done overnight. The licensee at the time was often present and was fully aware of the practice (R. 2582 and 2556).

557. The same witness gave evidence of a similar practice which was in operation during a period of one week in February, 1944, at another hotel, which was under lease from a company (R. 2651). The witness gave a week's notice as soon as he observed the practice (R. 2558). The pouring of the slops into the barrel, which was at that time placed on the counter of that hotel, was done after 6 p.m. on week-days and after 2 p.m. on Saturdays (R. 2583). The head barmen was a party to the practice, and the licensee was fully aware of it. The customary way of using the dregs at this hotel was to fill a glass two-thirds out of the dregs barrel and then top off with fresh beer (R. 2564). This witness explained how he had not sold any of the slops up till 12 o'clock, and the head barman, after he had disposed of his lot of slop beer, came down to the witness and said there was a fresh barrel on the keg, that the witness could go there, and it would be quite all right. The head barman then worked off the slop beer that witness was intended to work off (R. 2564).

558. The same witness gave evidence concerning another managed hotel near Auckland. The slops were here kept in two or three white jugs (R. 2568). On two occasions, each on a Saturday after 2 p.m., the witness saw the licensee-manager putting the dregs back into a barrel (R. 2583 and 2580).

559. The evidence given in Auckland was sufficient for our purposes, and we did not ask for evidence concerning dregs in any other centre.

560. One of the strange circumstances is that most of the barmen with whom the principal witness spoke appeared to accept the practice. The witness suggested to us that the reason for their failure to join him in exposing the practice was that, once a barman became a head barman, his aim was to become a licensee, and that he would not wish to damage his prospects (R. 2590). No evidence was produced to show that barmen made a pecuniary gain by selling the "Wompo" on their own account. If, however, the returns of waste asked for by the hotel company on dregs slips which it supplied were duly made by the hotel to the hotel company and the latter allowed for the waste in the hotel returns, the hotel would have some fund in hand which could be disbursed without the necessity for account to the hotel company. Another reason for the practice was given by Mr. Paterson, S.M., when he said (R. 122):—

> A common practice to help to keep up bar percentages is to empty the dregs of glasses into the buckets under the bar and later run them back into the casks—a most undesirable and insanitary practice.

561. Allegations were also made in evidence before us that the dregs were used for bottling beer, but the witness who made the allegations would not supply specific instances, and we did not pursue this matter (R. 2419, 2434, and 2435).

562. Strong allegations, which we think are well-founded, have also been made to us concerning the dirty water in the sink in the bars for washing glasses and the dirty towels for drying them (R. 2560 and 2736). It is apparent that at rush hours in some hotels it is difficult to get hot water. Between 4 and 6 p.m. it may be required by the chef. Some hotels have an independent hot-water system for the bars. Some hotels have no hot water at all for washing glasses.

563. It is a fair inference from the evidence as to the conditions in the bars that their inspection by the Health Department has not been satisfactory. To carry out an efficient inspection, an Inspector would need to be on the premises after closing-hours. The need for better control may also be inferred from the detailed suggestions for the improvement of hygiene in bars made by the Federated Hotel Workers' Union (R. 7147).

564. We conclude :—

(1) There is need for effective measures to prevent the use of dregs. If drip trays are permitted, it should be compulsory to have in them Condy's crystals. Alternatively, the drip tray might be so constructed that the dregs could run away as they fell, but the outlet pipe would need to be fashioned so that it could not be readily blocked.

(2) There is need for more effective supervision of bars by the Health Department. Visits should be sufficiently frequent and at irregular intervals and sometimes at and shortly after the closing-hour.

(3) There is need for proper hot water and sterilizing-plants in the bars just as in milk-bars ; need also for more clean towels. " Hot water," it should be noted is defined by the regulations to mean " water of such temperature that all grease and fat is at once liquified and removed from the surface of articles which are plunged therein " (Reg. 7 (8) of the Regulations under the Health Act 1920—*N.Z. Gazette*, 1924, p. 1712).

CHAPTER 28.—THE SAME PRICE FOR DIFFERENT MEASURES

565. There is widespread public dissatisfaction with the method of charging the same price for a 12 oz. handle and a glass of any lesser quantity. Practically all classes of workers, other than those directly connected with the trade, are opposed to a practice which would not be tolerated with other goods. On the face of it, it is absurd that the same price should be charged for a 12 oz. handle of beer as for a 5 oz. glass of beer. Another reason against the practice which was given by a witness with an apparent knowledge of drinking habits was that the present system tended to increase drunkenness, because the drinker tended to seek the best value he could get (R. 2424).

566. In 1935 the Labour Department considered the question whether the retail trade in alcoholic liquor could be regulated under the Weights and Measures Act, 1908. That Act applies only where goods are sold by standard weight and measure (R. 757). The Department ascertained at that time that it was not the custom in New Zealand for liquor to be sold by standard weight and measure. Beer was sold by the handle, which was reputed to contain 12 fluid ounces, or by a medium glass or a pony glass. Orders were sometimes given for " long beers " or " medium beers " or " small beers." None of these represented standard measure.

567. Spirits, the Department was apparently informed in 1935, were not sold by measure at all. It was said that when a customer asked for whisky, the bottle was placed in front of him and he poured out what he wanted. Subsequently an American type of measure, known as a " nip," was used. Though there were so-many nips to the bottle, the nip was not a standard measure (R. 757).

568. The Labour Department did not proceed with its proposal to fix standard measures.

569. The evidence against the proposal to fix standard measures and standard prices came mainly from representatives of the brewery and hotel companies. They thought that the obtaining of glasses of different sizes and the handling of them and of different amounts of cash would be difficult in practice. They also thought that freight charges and breakages during carriage must make for differential prices. On the other hand, Mr. Kelliher, of Dominion Breweries, although not in favour of a proposal for two standardized measures and prices, thought that that proposal could be carried out (R. 4269). One licensee was definitely in favour of standard measures and prices (R. 3949). Another licensee sold beer mostly in two sizes, a handle and a medium, and did not appear to experience any trouble in so doing (R. 2304). Mr. Wise, of the Price Tribunal, also said that it would have been possible for the Tribunal to have made a half handle of 6 oz. available for 4d. and that it might be practicable in post-war years to fix standard measures and prices, though he thought it had not been practicable during the war years (R. 6173 and 6174).

570. With regard to the actual handling of standard measures, we cannot think there is any real difficulty. The evidence of the Federated Hotel Workers' Union, which represents the barmen, is in favour of standard prices and containers, even containers of different design so long as they are of standard measurement (R. 7153). Furthermore, in Petone the Petone Working Men's Club seems to have had no difficulty in selling beer in three sizes at proportionate prices—viz., 12 oz. for 7d., 9 oz. for 5d., and 5 oz. for 3d. (R. 6232).

571. In England and Scotland a standard imperial pint and half-pint measures are compulsory. All beer glasses are officially stamped with the Royal Crown and marked to show the pint imperial and the half pint (R. 1539 and R. 5624). A retired English publican, Mr. H. G. Batchelor, gave this evidence as to Great Britain :—

> If you asked for a half pint they have to serve you in a measure stamped a half pint. The same with the pint. Also there, if you are having a pint of beer, you finish your beer and push the glass over and say " Just give me a half, George." He will take your pint measure and serve you in a half-pint measure.
>
> He is bound to do that by law ? . . . . Yes, it is illegal to serve a half pint of beer in a pint measure.
>
> Speaking as an ex-licensee in England, did you find any disadvantage or difficulty in conforming to the practice of selling liquor by standard measure ? None whatever (R. 5624).

Similar evidence was given by Mr. F. H. Greenaway, Public Accountant, of Lower Hutt (R. 1539).

572. Little attention was directed to the provision of a standard measure for spirits, but the principle is the same. Mr. Greenaway advocated the standard adopted in America, where whisky glasses are marked to show the 1 oz. or 2 oz. measure (R. 1539).

573. The Price Tribunal took the view during the war that if prices were differentiated according to the measures the profit on the sales of the small glasses at the same price as that of the large glass would have been lost, and that if the licensee were to carry on his business on a reasonably profitable basis the price of the 12 oz. handle would have had to be raised above 7d. Even if this were so, the principle would not be affected, but the question whether the Price Tribunal's view was correct is open to serious doubt. In this respect the following points may be noted :—

(1) The Britomart Hotel, in Customs Street, Auckland, in which the licensee has a large overhead, makes a large profit by selling only 12 oz. handles of beer for 7d.

(2) Mr. Wise, of the Price Tribunal, understood from the figures supplied to him that hotels during the war were returning substantially less than 50 per cent. on cost of their trade in liquor (R. 6179), whereas the gross profit on cost of the liquor trade made by four companies in Auckland whose trading accounts were reviewed by us was respectively 52·6 per cent., 54·1 per cent., 56 per cent., and 69 per cent.

(3) Mr. Wise declined to accept the figure of 50 per cent. on cost as being the gross profit on a 12 oz. handle, and said that he understood the figures had ranged from 20 per cent. to 25 per cent. He said the former figure could not be a weighted average (R. 6190). There is, however, a very big discrepancy.

(4) The Price Tribunal made no special survey of the financial position of hotels when it fixed the price of beer in May, 1942 (R. 6160).

(5) After this price was fixed, very large amounts were paid for the goodwills of hotels.

574. For these reasons, we are by no means satisfied that the view of the Price Tribunal that standard prices and measures would have resulted in an increase in the price of the 12 oz. handle beyond 7d. was correct.

We appreciate the fact, however, that the Price Tribunal was not charged during the war with the duty of altering existing business practices unless it was expedient to do so. The Tribunal acted with the knowledge of the Government, and it may be assumed, therefore, that the Government did not think that an alteration was advisable during the war with respect to beer. It is difficult to review decisions made by responsible authorities during a war, and we do not consider that we should express a view that standard measures and prices should have been introduced during the war. On the other hand, we think that the provision of a 12 oz. handle for 7d. *only if asked for* was not a satisfactory way of fixing the price. The price was first fixed on the basis that the trade would be responsible for introducing the 12 oz. handle in the four cities (para. 278, *supra*). If the 12 oz. handle was not available as the regular measure for 7d., the price should have been fixed in relation to a handle that was so available. There is, indeed, evidence which we accept to show that the 12 oz. handles disappeared very quickly from many hotels (R. 104 f and 1752).

575. We think that standard prices for standard measures of beer are practicable. We think the English practice of marking separate glasses for standard quantities of beer should be adopted, every glass to be officially stamped. We do not think the glasses need be all of the same type or design, so long as they are of standard measurement. We think that a separate maximum price should be fixed for each standard quantity and, if practicable, the same maximum price for each standard quantity throughout the Dominion.

576. We think, also, that standard prices for standard measures of spirits are practicable, as in the United States of America. Glasses for spirits should be officially stamped with the standard measures. In New South Wales under the Liquor Amendment Act, 1946, spirituous liquor must be contained in a glass or other container marked to indicate a full fluid 1 oz. measure.

577. It should be made illegal to sell any of the specified quantities except in the duly marked glasses.

CHAPTER 29.—THE EMPLOYMENT OF BARMEN WHO DO NOT DISCHARGE THEIR RESPONSIBILITIES TO THE PUBLIC

578. A barman is an employee with special duties. He has not only the duty of any ordinary servant of supplying the order of a customer at the proper price and of accounting faithfully to his employer for the payments he receives, but he has also some duties which he must perform, on behalf of the licensee, in the interests of the public. He has the duty of determining the state of sobriety of a customer and also whether he or she is under age or is a prohibited person. He has the duty of refusing customers, if they ask for drinks after hours; the duty, too, of refusing to put dregs into beer and of refusing to sell the mixture, if they are put in; the duty also of preventing betting on the licensed premises. The capacity of the licensee to perform these duties would be taken into account when a license was granted to him. Yet, when the licensee takes

over his hotel, these duties are for the most part discharged by his barmen, who, in the bar, become the eyes, the ears, and the will of the licensee. Clearly then, good character, a sound judgement, and tact are required for the proper discharge of the very real responsibility of a barman.

579. There is evidence from which it may be inferred that some barmen fail to discharge their duties. We have dealt with after-hours trading and shown that it is very prevalent. It is said in the statement of the Federated Hotel Workers' Union that 90 per cent. of the barmen finish work a few minutes after 6 p.m., and therefore that they are not the men who are engaged in after-hour trading (R. 7146). Even so the other 10 per cent do not finish at 6 p.m. and the shifts of barmen may vary. Furthermore, statistics supplied to us show that convictions are regularly obtained, though the convictions are not numerous, for supplying liquor to intoxicated persons, and to prohibited persons (R. 338). Convictions, considerably more numerous, are regularly obtained for the supply of liquor to persons under twenty-one years of age. These are as follows: for 1935, 12 convictions; 1936, 27; 1937, 54; 1938, 48; 1939, 73; 1940, 32; 1941, 76; 1942, 95; 1943, 54; 1944, 43; (R. 338). We have also dealt with the question of dregs and need say no more about the possibility of the participation of barmen in that practice. We have the evidence of the Federated Hotel Workers' Union that there is a little bookmaking done in bars, but that the employers do not countenance it (R. 7168). On the other hand, another witness said that on the West Coast every hotel is a bookmaker's agent on race days (R. 5427). We also have evidence from a barman of seven or eight years' standing that during his years of experience he had known of "quite a few" barmen who had been convicted in the Criminal Court, including six for theft (R. 5922). There have also been recent convictions of barmen for bookmaking in four separate hotels in Christchurch.

580. The weight of the evidence before the Commission is heavily in favour of the registration of barmen. The Commissioner of Police, three Superintendents of Police, and other police witnesses who gave evidence before us all advocated registration. One licensee was in favour of it with a provision for the employment of an unregistered barman, provided that he registered within a certain time (R. 4565). One Magistrate (Mr. Coleman) was in favour of it (R. 5996E). One Magistrate (Mr. Luxford) opposed it, on the ground that a good licensee should be able to handle a barman and make him do proper work (R. 6534). The Salvation Army supported it (R. 6599). Twenty-seven Licensing Committees support registration; twenty-nine expressed no opinion. No Licensing Committee expressed an opinion against registration.

581. The attitude of the trade towards the registration of barmen has been inconsistent. Among the immediate reforms proposed in the corporate control proposals which were supported by the trade was the following:—

> That no man shall act as a barman without a license granted by the Licensing Committee, or by the Chairman and any two members thereof. Provided that a man may be employed as a barman for any period not exceeding fourteen consecutive days without a license. That all convictions against a barman should be endorsed on his license; that his license should be cancelled after three endorsements. That every barmaid be required to make a statutory declaration before a Magistrate that she is entitled to hold a license under the existing provisions of the law. (Para. 204 (6), *supra*.)

No steps were taken to carry out this proposal.

582. In his opening address for the trade Mr. Cooke, K.C., said:—

> I wish to make it clear on behalf of the trade that we neither support nor oppose the registration of barmen. (R. 2203.)

This view appears to have been supported by one large firm in the trade, L. D. Nathan and Co., who said they had no views on the question (R. 4351), but other witnesses for the trade were generally opposed to registration on the grounds that they did not desire any more restrictions and because of practical difficulties in obtaining assistance when it was urgently needed. The statement presented on behalf of the Hotel Workers'

Federation was opposed to registration on the ground that no substantial case had been made for it and that the principal effect of licensing barmen would be to impose on them greater responsibility and so reduce the responsibility of the licensee (R. 7146). On further examination, the witness who presented the statement thought that the matter might be reconsidered and also that barmen might be trained for their work in accordance with the scheme for staff training which the union had advocated, but which had omitted barmen (R. 7151, 7167, and 7168).

In his closing address for the trade, Mr. O'Leary, K.C., said that the trade was opposed to the registration of barmen on the grounds taken by the Hotel Workers' Union and by the employers, who had claimed there were practical difficulties.

CHAPTER 30.—ACCOMMODATION IN HOTELS

583. The question of accommodation for the public in hotels is one of the most important with which we have to deal. We propose to refer in separate sections to the following matters:—

(1) The present state of hotel premises in New Zealand (paras. 584 to 590).

(2) The reasons given by the trade for the present condition of many premises and the increase in new buildings and in improvements since the fear of prohibition was removed (paras. 591 to 624).

(3) The state of hotel accommodation at Rotorua (paras. 625 to 634).

(4) The conduct of some licensees, in breach of their obligations as innkeepers, in not making existing accommodation available (paras. 635 to 638).

(5) The quality of service in hotels (paras. 639 to 645).

(6) The need for more good accommodation in the future (paras. 646 to 649).

(7) The need for training hotel staffs (paras. 650 to 658).

Section I.—The Present State of Hotel Premises

(See para. 583)

584. As we have already pointed out (paras. 87 and 90, *supra*), the power to require accommodation for the public is limited to six rooms in a borough and to what is reasonable (probably not exceeding six rooms) outside a borough. If, as is usually considered, two of these rooms may be a dining-room and the lounge, only four bedrooms at the most can be required. If hotelkeepers had hitherto provided only this legal minimum, it is safe to say there would have been a public outcry. On the other hand, it seems clear that if all the hotels provided suitable accommodation to the full amount of their present capacity there would be too much accommodation.

585. For various reasons, some hotels are not suitable for accommodating the public. Some are situated in localities in cities to which travellers are not attracted, such, for example, as in Freeman's Bay in Auckland. Others are unattractive because they are so old and so poorly equipped. At our request the Commissioner of Police obtained a return giving certain particulars of all the hotels in the police districts of New Zealand. These particulars comprised the date of the erection of the building, the date of any substantial addition to the building, with brief particulars thereof, the number of bedrooms available for guests, the number of bedrooms supplied with telephones and with hot and cold running water, and those to which a private bathroom was attached serving directly one or two rooms. The return comprised also particulars of the number of bathrooms and shower-rooms available for guests, other than the private bathrooms attached to bedrooms. The return showed that many of the hotels are very old and have had little done to improve them. Many are not intended to accommodate guests.

586. It is not practicable to give details at length, but we refer to the following, which were quoted by counsel for the Commission in his closing address (R. 7733):—

Hotel.	Date of Erection.	Improvements.	Accommodation for Guests.
Alexandra (Parnell)	1875	Nil	6
Captain Cook (Newmarket)	1870	Nil	6
Queens Ferry (Auckland)	1885	Nil	6
Thistle Inn (Wellington)	1866	Nil	7
Foresters Arms (Wellington)	1865	Nil	3
Cricketers Arms (Wellington)	Prior to 1880	Nil	3

587. A summary of the police return of the hotels was prepared by one of our members (Mr. E. C. N. Robinson) and checked by a witness and given in evidence. We set out the summary in Appendix B. The detailed police reports upon which this summary was based were subsequently checked by Mr. Stanley Ringer, the Hotel and Motor Camp Inspector of the Automobile Association (Auckland), who has a wide knowledge of the hotels in New Zealand. He stated that in many cases there had been interior improvements in the hotel which had been omitted from the report. He could recall, in at least a dozen cases, improvements so omitted, such as additional bathrooms, showers, and lavatories, hot and cold water in bedrooms, and enlargements of the lounge (R. 7116 and 7117).

588. Subject to this comment as to interior improvements, the following facts either appear in the summary or may be deduced from it: in the Auckland Police District there are 116 hotels of an average age of 49 years having in all, 1,604 bedrooms. Of these, there are 18 hotels having in all 568 bedrooms with hot and cold water, 4 hotels having in all 19 bedrooms to which a private bath is attached to one or two of these rooms, and 5 hotels having in all 285 bedrooms which have private telephones. In the Wellington Police District there are 77 hotels of an average age of 45 years having in all 1,146 bedrooms. Of these, there are 14 hotels having in all 609 bedrooms which have hot and cold water, 6 hotels having in all 242 bedrooms which have a private bath to one or two of these rooms, and 7 hotels having in all 427 bedrooms which have private telephones. In the Christchurch Police District there are 129 hotels of an average age of 54 years having in all 1,199 bedrooms. Of these there are 17 hotels having in all 402 bedrooms which have hot and cold water, 5 hotels having in all 41 bedrooms which have a private bath for one or two of these bedrooms, and 3 hotels having in all 129 bedrooms which have private telephones. In the Dunedin Police District there are 100 hotels of an average age of 54 years having in all 1,004 bedrooms. Of these there are 8 hotels having in all 242 bedrooms which have hot and cold water, 2 hotels having in all 12 bedrooms which have a private bath for one or two of these bedrooms, and 2 hotels having in all 48 bedrooms which have private telephones.

589. The following statistics refer to all the hotels covered by the police reports: the average age of hotels in New Zealand is 45·34 years; the average number of bedrooms per hotel is 11·80; the proportion of bedrooms to bathrooms is 5·7 to 1; the proportion of bedrooms to showers is 14·5 to 1; and the number of hotels which have less than 6 bedrooms is 282.

590. Commenting on hotels in Auckland, Mr. Luxford, S.M., a Magistrate with much experience in licensing matters, who was by no means unfavourable to the trade, said in evidence (R. 6458):—

If licensed premises throughout New Zealand are in the same condition as those in the area known as "Greater Auckland," at least half of them should either be demolished and reconstructed or reconditioned.

In our view, the returns we have obtained, though read subject to the qualification indicated by Mr. Ringer, indicate that most of the hotel premises in New Zealand are much too old and have far too few modern facilities to be regarded as adequate for the convenience of the public.

SECTION 2.—THE REASONS GIVEN BY THE TRADE FOR THE PRESENT CONDITION OF MANY PREMISES AND THE INCREASE IN NEW BUILDINGS AND IN IMPROVEMENTS SINCE THE FEAR OF PROHIBITION WAS REMOVED

(See para. 583)

591. In justification of the state of many hotel premises, the trade relies on the following matters:—

(*a*) The effect of the prohibition poll;

(*b*) The difficulties in carrying out building operations due to the recent war; and

(*c*) A submission that the provision of accommodation does not pay at the rates charged for accommodation in New Zealand.

592. *As to the Effect of the Prohibition Poll.*—We think that if a substantial part of the profitable business of a publican is reasonably likely to be extinguished every three years without compensation, it is unreasonable to expect him to spend large captial sums in improving or extending his business. If any one thinks otherwise, let him ask himself how much he would himself expend in capital improvements and extensions if a substantial part of the profit-earning capacity of his own business were reasonably likely to be extinguished every three years without compensation.

593. If prohibition were carried, a publican would lose his right to sell liquor, though he would retain his premises and the right to provide accommodation. In New Zealand, hitherto, the sale of liquor has constituted the more remunerative part of the business of even the publican who provides accommodation for the public. It has also represented the easier way to make substantial profits. The sale of liquor involves little capital expenditure compared with the provision of accommodation. While, therefore, prohibition remained a reasonable probability, we do not think that hotel-proprietors could very well be blamed if they developed the bar side of their business or did little more than comply with the very moderate requirements of the law concerning the maintenance of hotels at the required legal standard, unless, perhaps, they were the proprietors of the larger residential hotels which would be required for accommodation whether prohibition were carried or not. It is plain that the larger private hotels, even to-day, can be run at a substantial profit, as, for example, the large private hotel in Christchurch referred to in the evidence, where 75 per cent. of the bedrooms have hot and cold running water. These private hotels have provided a standard which the proprietors of the better licensed residential hotels have felt they should exceed, even when prohibition was a reasonable probability. But, even with these hotels, we do not think the tendency to spend money on capital improvements would be great until it became clear to business minds either that the sale of liquor was likely to continue in New Zealand for some considerable time to come or else that prohibition, if carried, was also likely to continue for some considerable time.

594. We think that the facts show that, after the licensing poll of 1928, the men of business in the trade could reasonably rely on the continuance of the sale of liquor for a time long enough to justify the building of new hotels and the making of substantial improvements appropriate both to residential hotels and to hotels which operated mainly as beer outlets. We collect here the total votes for all districts in respect of the

national licensing polls and show the percentage of each vote to the total vote. The figures are given in a book on New Zealand statistics put in evidence by the New Zealand Alliance and there stated to be extracted from the *N.Z. Gazette*.

Date of Poll.	Continuance.	Prohibition.	Valid Votes.
7th December, 1911	205,661 44·17%	259,943 55·82%	465,604 ..
10th December, 1914	257,442 51·01%	247,217 48·98%	504,659 ..

Date of Poll.	Continuance.	Prohibition with Compensation.	Valid Votes.
10th April, 1919—			
In New Zealand	232,208	246,104	478,312
Expeditionary Force	31,981	7,723	39,704
	264,189 51·00%	253,827 48·99%	518,016 ..

Date of Poll.	Continuance.	State Purchase and Control.	Prohibition.	Valid Votes.
17th December, 1919—				
In New Zealand	240,364	31,682	269,972	542,018
Expeditionary Force	887	579	278	1,744
	241,251 44·36%	32,261 5·93%	270,250 49·70%	543,762 ..
7th December, 1922..	282,669 45·65%	35,727 5·76%	300,791 48·57%	619,187 ..
4th November, 1925	299,590 44·37%	56,037 8·30%	319,450 47·32%	675,077 ..
14th November, 1928	374,502 51·07%	64,276 8·77%	294,453 40·16%	.. ..
27th November, 1935	521,167 63·42%	57,499 7·00%	243,091 29·58%	.. ..
15th October, 1938	546,995 60·35%	96,131 10·61%	263,208 29·04%	.. ..
25th September, 1943	529,386 57·36%	123,701 13·41%	269,800 29·23%	.. ..

596. As State purchase and control represents a vote for the continuance of the sale of liquor and also payment for assets, we think that, in estimating the probability of prohibition being carried, we may have regard only to the percentage of the prohibition vote. The table shows that this vote fell slowly from 49·70 per cent. in December, 1919, to 47·32 per cent. in November, 1925. There was then a drop to 40·16 per cent. in November, 1928. At the next poll, in November, 1935, there was a steep fall to 29·58 per cent., at which the vote has remained fairly constant.

597. The total vote for continuance and State purchase and control in November, 1928, was almost 60 per cent., while the vote for prohibition was about 40 per cent. We think it reasonably plain that after the poll of November, 1928, men of business in the

trade, looking at these figures, would have come to the conclusion that prohibition either with or without compensation was not a reasonable probability for a long time to come. This is shown by these facts—

(*a*) That immediately after that poll Hancock and Co. took over the Hotel Auckland (through a separate company, Hotel Auckland, Ltd.) (R. 3779);

(*b*) That Dominion Breweries was formed in April, 1930;

(*c*) That Hancock and Co. built the Station Hotel at Auckland during 1931; and

(*d*) That the big brewery companies began their purchasing of hotels in 1933.

All these expansions occurred before the poll of 1935.

598. In further proof of the fact that the brewery and hotel companies did not fear prohibition from 1929 onwards, and also in justice to the improvements which these companies made, we refer to the amounts expended by some of the largest companies on new buildings and on substantial improvements since 1929 so far as they are disclosed by the statements submitted to us.

599. Hancock and Co. submitted the following statement of capital expenditure for the period of fifteen years ending in 1944:—

—	—		New Buildings and Additions.	Hotels purchased.
			£ s. d.	£ s. d.
1929 ..	Ye Jolly Farmer Inn		7,185 1 5	..
1931–32 ..	The Station Hotel		63,069 18 11	..
	Waiotapu Hotel		396 12 9	675 0 0*
	Duke of Marlborough—	£ s. d.		
1932 ..	Building	7,753 13 1		
1941–42 ..	Additions	1,369 6 3		
			9,122 19 4	..
1933 ..	Albion Hotel		..	7,839 1 6
	City Hotel		..	6,083 1 6
	Gleeson's Hotel		..	3,339 1 9
	Windsor Castle Hotel		..	6,931 16 0
1939 ..	,, ...		145 0 0	..
1934 ..	Lake House Hotel		1,002 10 3	1,480 6 2
	Whangarei Hotel—	£ s. d.		
1935 ..	Additions	1,856 13 7		
1939 ..	Purchase—			
	Bedrooms	4,687 16 0		
	Additions	236 8 4		
			6,780 17 11	..
1935 ..	Empire Hotel		..	10,152 12 0
1937–38 ..	,, ...		402 2 11	..
1935–36 ..	Carlton Club Hotel		741 10 0	..
1938 ..	Commercial Hotel, Whangarei		245 0 0	45,627 4 0
1935–37–43	Kaitaia Hotel		4,973 10 0	..
1936 ..	Commercial Hotel, Te Awamutu		..	18,589 16 0
1937–39 ..	,, ...		40,354 13 7	..
1937 ..	Waverley Hotel		84,481 6 5	..
1937 ..	Kaikohe Hotel		..	25,369 17 0
1938 ..	,, ...		6,892 0 3	..
1937 ..	Hobson Hotel		..	6,661 2 6
1938 ..	Hotel Cargen		..	33,787 16 6
	Royal Mail Hotel, Paeroa		..	2,559 7 11†
	Whakatane Hotel		32,848 6 9	..
1940 ..	Grand Hotel, Rotorua		..	2,349 15 3‡
	Palace Hotel, Rotorua		..	1,436 5 0‡
1941 ..	Ambassadors Hotel		500 0 0	..
1943 ..	Rob Roy Hotel		552 17 11	..
			259,694 8 5	172,874 3 1

* Half purchase. † One-fifth interest. ‡ Freeholding.

600. The important column of this statement for present purposes is that relating to new buildings and additions. The amount expended is £259,694 8s. 5d. It will be noted that included in this amount are the amounts spent on erecting the following new substantial residential hotels :—

The Station Hotel in Auckland during 1931–32 at a cost of £63,069 ;

The Commercial Hotel at Te Awamutu during 1937–39 at a cost of £40,354 13s. 7d., the old building with the license having been acquired in 1936 at a cost of £18,589 ; and

The Whakatane Hotel in 1938 at a cost of £32,848.

These are, we think, substantial contributions to the provision of modern hotels.

601. (It should be noted that the purchase of Hotel Cargen during 1938 for £33,787 16s. 6d. represents only a transfer to Hancock and Co. from Cargen Proprietary, Ltd., a company in which the shares were held for Hancock and Co., and that the transfer was made in satisfaction of the losses incurred in running the hotel.)

602. The Campbell and Ehrenfried Co. has supplied the following return, showing its capital expenditure since the year 1930 :—

Hotel.	Situated.	Nature of Expenditure.	Amount.		
			£	s.	d.
Albert ..	Auckland ..	New hot-water service ; additional lounge space	950	0	0
Caledonia ..	,, ..	Modernizing and increasing bar accommodation	2,555	0	0
Edinburgh Castle	,, ..	Provision of staff accommodation	458	0	0
Metropolitan ..	,, ..	Additional toilets ; improved bar accommodation	498	0	0
Prince of Wales	,, ..	Bar alterations	281	0	0
Star ..	,, ..	Provision of hot and cold water in bedrooms ; increased bathroom accommodation	2,875	0	0
Suffolk ..	,, ..	Modernizing and increasing bar accommodation	1,600	0	0
Victoria ..	,, ..	Increased conveniences	109	0	0
Ellerslie ..	Ellerslie ..	Additions to building frontage ; improved bar accommodation	4,508	0	0
Manukau ..	Onehunga ..	New conveniences	89	0	0
Northcote ..	Northcote ..	Additional bar accommodation and toilet conveniences	454	0	0
Commercial ..	Hamilton ..	Complete new building	100,000	0	0
Helensville ..	Helensville ..	Modernizing bar accommodation ; additional bathroom	850	0	0
Imperial ..	Thames ..	Complete new building	17,000	0	0
Masonic ..	Cambridge ..	Additional bathroom	109	0	0
Settlers ..	Whangarei ..	Provision of hot and cold water in bedrooms ; improved bar accommodation ; increased lounge accommodation	4,041	0	0
Waipa ..	Ngaruawahia	Expenditure on bar accommodation ..	100	0	0
			136,477	0	0

603. Included in the total of £136,477 are the amounts paid for the erection of two new buildings—viz., £100,000 for the Commercial Hotel at Hamilton in the year 1939 and £17,000 for the Imperial Hotel at Thames in the year 1936. When these two amounts are deducted from the total there is left a balance of £19,477, which has been largely

spent on increasing the bar accommodation of hotels. Perhaps the Campbell and Ehrenfried Co. would have spent more on improvements if they had not spent a substantial amount in acquiring hotels. Since 1935 this company has acquired the following hotels :—

		£
July, 1935	Northcote Hotel	14,000
January, 1936	Helensville Hotel	4,500
July, 1936	Grand Hotel, Te Aroha	22,140
April, 1937	Marine Hotel, Howick	9,099
October, 1941	Edinburgh Castle Hotel	64,965
August, 1944	Edinburgh Castle Shops	7,375
November, 1944	Mon Desir, Takapuna (share only)	6,600
		£128,679

Of the total of £128,679, £64,965 was paid for the Edinburgh Castle Hotel.

604. The Campbell and Ehrenfried Co. has spent less than Hancock and Co. on purchasing hotels and has spent only about half as much as Hancock and Co. on new buildings and improvements during the same period. We think that the Campbell and Ehrenfried Co., which is a very wealthy company, could have done more in the direction of improving hotel accommodation than it has done during the ten years preceding the war.

605. New Zealand Breweries has shown the following capital expenditure on the erection of one new hotel and on items of main improvements in other hotels during a period of ten years ended 31st March, 1945 :—

Hotel and Location.	Nature of Improvements.	Amount.
		£
Waterloo, Wellington	New building	110,000
Canterbury, Methven	Alterations, bedrooms and bathrooms	1,017
Foresters, Greytown	Bedrooms, restoration after fire	758
Katikati, Katikati	Additional bedrooms	500
Old Bank, Timaru	Complete interior renovations and new bathrooms	7,583
Post Office, Onehunga	New bar, bathroom, and toilets	2,364
Pukekohe, Pukekohe	New bedrooms, bathrooms, and showers	11,418
Terminus, Wellington	New store room	526
Wellington, Christchurch	Complete interior renovations	9,380
Terminus, Napier	New bar and lounge and living-quarters	2,368
Tolaga Bay, Tolaga Bay	Proportion cost new bedrooms	307
Maungaturoto, Maungaturoto	Extra bedrooms, bathrooms, and water-supply	986
Royal, Featherston	Improvements, bedrooms	469
Masonic, Wellington	Extra bathrooms and renovations bedrooms	1,203
Mon Desir, Takapuna	Proportion cost new bathrooms, showers, hot and cold water in bedrooms	1,060
Masonic, Southbrook	Renovations, electrical and plumbing, bathroom and bar accommodation	1,110
		151,049

606. After allowing £110,000 for the Hotel Waterloo, there remains the sum of £41,049 which the company has spent on structural improvements to its hotels. The company explains that it is not responsible for capital improvements to hotels held under lease and also that during the last five years practically no major improvements have been carried out. New Zealand Breweries has spent over £1,062,000 in acquiring hotels since 1933. These moneys, no doubt, reduced the amount that could be spent on improving hotels.

607. Dominion Breweries in their return show a yearly lump sum for expenditure on renovations, improvements, and repairs to hotel properties. These sums amount in all from 1931 to 1945 inclusive to £220,590. Expenditure exceeding £10,000 was incurred in the following years : in 1938, £10,579 ; 1939, £29,833 ; 1940, £40,477 ; 1941, £31,504 ; 1942, £14,380 ; 1944, £25,651 ; and 1945, £45,931.

This company, like New Zealand Breweries, has also spent much money in acquiring hotels since 1933 and so has had less money available for improving existing hotels. One of this company's projects, a new building for the Waikato Hotel at Hamilton, has been held up owing to the war.

608. Since 1936, Ballins Breweries (N.Z.), Ltd., have expended the sum of £6,860 on improvements to six hotels owned by the company. These improvements were mainly extensions to lounges and bars and "modernizing" interiors. The company, as a tenant, also spent £6,508 on a leased hotel at Lyttelton, pursuant to the terms of the lease, in demolishing the condemned part of the building and rebuilding it in brick. The company may also have incurred expenditure in respect of hotels in which it is interested, as, for example, the New City and the Excelsior at Christchurch and the Methven Hotel, but we have no details.

609. Since 1930, Ballin Bros., Ltd., have spent only £4,509 in respect of improvements to five owned hotels. More than half this amount was spent on the Club Hotel at Kaikoura.

610. The amounts shown to be spent on improvements by these two related companies are comparatively small. Ballins Breweries has also been engaged since 1936 in acquiring hotels.

611. Improvements, we know, have also been made to other hotels by other proprietors. Some were able to continue their improvements even during the war. An outstanding example was the reconstruction of the Royal Oak Hotel at Wellington.

612. Some large companies have provided better accommodation either by building new hotels or by improving existing hotels, but we do not think enough has been done. The position has been complicated by the competition for hotels which has existed between the brewery companies; large amounts of capital have been expended in this way. But for the competition for hotels, more improvements would, no doubt, have been carried out. It is a striking fact that Auckland has been left without a modern hotel which would rank with any of the first four in Wellington.

613. *As to the Effect of the War on Building Operations.*—The effect of the war generally was to make private building operations very difficult. Though some hotel-proprietors were able to proceed, we do not think that any hotel-proprietor could be blamed if he did not try to undertake any substantial building operations or improvements during the war.

614. *As to the Submission that Hotel Accommodation for Guests does not pay.*—In further justification for the present state of many residential hotels, the trade submitted that the accommodation side of an hotel does not pay or does not make sufficient profit to justify the investment. In dealing with this matter we have endeavoured to exclude the influence of the war years, when residential hotels were mostly full. Evidence was given to show that prior to the war Hancock and Co. had suffered substantial losses on their large residential hotels, the Grand at Auckland and the Hotel Cargen at Auckland. In explanation of this, it was said by some witnesses that these hotels were in an unsuitable situation, both for tourists and for the bar trade. The Campbell and Ehrenfried Co. showed a loss for one year on the Star Hotel, Auckland, which is that company's principal residential hotel in Auckland.

615. We have not checked, by reference to any company's books, the company's statements of its returns on accommodation or its methods of calculation. To do this would have been impracticable without long and arduous work by cost accountants. The statements, however, show on the company's principles of book-keeping (which may be very conservative) that a few hotels to which the statements refer have involved the company in substantial losses. Any company which has shown a loss on one or two of its managed hotels has, however, made substantial profits on the others (paras. 380 and 384, *supra*).

616. Hancock and Co. and the Campbell and Ehrenfried Co. also submitted returns showing that the accommodation in certain of their hotels which might be used for residential purposes was by no means fully occupied during a year. The statement submitted by Hancock and Co. showed the percentage of accommodation occupied in these hotels each week in relation to the total accommodation available each week, and showed also a yearly average. In general, the rooms were much more occupied in the summer than in the winter. We think that the hotelkeeper should expect that state of affairs. But, as it is not practicable to set out all the weekly averages, we give the yearly average percentage of the following hotels :—

Hotel.	Maximum Number of Guests daily	Yearly Average Percentage of Maximum Number.		
		1936.	1937.	1938.
Grand Hotel (Auckland)	76	53·36	52·84	47·5
Hotel Cargen	108	41·89	41·5	32·4
Station Hotel	84	87·01	83·67	75·2
Hotel Auckland	210	40·24	41·35	41·4
Waverley Hotel	151	41·56	49·55	49·78
Star Hotel, Newton	9	26·59	26·71	26·25

617. The Campbell and Ehrenfried Co. gave particulars of the total number of beds in all their managed hotels for the years 1935 to 1939 inclusive and of the numbers occupied during that period. As this statement admittedly includes some thousands of beds in hotels that were not made use of for accommodation, the statement has no real value and we do not quote it.

618. New Zealand Breweries provided a return of the beds occupied in the Hotel Waterloo, which was opened in 1937. The maximum accommodation of the hotel for guests is 63 single bedrooms and 23 double, a total of 109 per night. The average number of guests per night accommodated over the years has been as follows :—

31st December,	Average per Night.	31st December,	Average per Night.
1937 ..	.. 51 (4 months)	1942 ..	.. 91
1938 ..	.. 68	1943 ..	.. 96
1939 ..	.. 72	1944 ..	.. 94
1940 ..	.. 80	1945 ..	.. 97 (6 months)
1941 ..	.. 77		

Yet the Hotel Waterloo cannot take all the guests offering at various periods of the year.

619. New Zealand Breweries has also submitted a statement concerning the Empire Hotel at Wellington, in which a distinction was made between the takings and the expenses for the house and the bar respectively for the years 1939 and 1945. We do not know how the allocation was made, but it is satisfactory to note that in this one case the trade did make a distinction between the returns for the house and the bar with an allocation of expenses, including therein insurances, rates, &c., laundry and lighting, repairs and renewals, wages, land-tax, sundry expenses, and depreciation at tax rates. The tariff of this hotel is 21s. per day, as it was in 1939. The figures showed a loss of £474 for the year 1939, made up of a loss on the house of £4,138 and a profit on the bars of £3,664. There was a profit of £2,724 for the year 1945, resulting from a profit on the bars of £8,657 and a loss on the house of £5,933. The statement showed that, after providing for taxation, the net return for 1945 was less than 1 per cent.

In this hotel there are 46 single rooms and 32 double rooms. Of these, 24 single and 4 double rooms are occupied by the staff, leaving 22 single and 28 double rooms available for guests. Although the guest capacity on this basis is 78, the high proportion of double rooms is said to make the practical limit about 70. There are 21 bathrooms available

for guests. During the year ended 31st March, 1945, the average number of guests per night over the whole year was 38, but during this period an average of 8 beds per night was not available through being closed for renovations and at times owing to staff shortages.

620. We give these figures, but we are not in a position to criticize them. It would have been impracticable for us to have checked the returns by cost investigations.

621. Upon these statements and upon the suggestion founded on them that the accommodation side of the hotel does not pay at present rates, we make the following comments :—

(1) Witnesses for the trade stated generally that either the accommodation side of an hotel did not pay or that an hotelkeeper was lucky if he " broke even " with the accommodation (R. 3950 and 3892), or that the bar carried the house. It was, however, a noticeable fact that the hotels did not keep separate accounts for the bar and the accommodation sides of the hotel. The trade witnesses said that this was not practicable. We think, however, that it is elementary in cost accounting that separate accounts could be kept. It was done, for example, with the Empire Hotel in Wellington. We have also obtained a statement from the licensee of the Grosvenor Hotel at Timaru which shows that he keeps separate accounts for the bar and the accommodation sides of his hotel and that he considers the analysis essential to enable him to maintain an efficient day-to-day control of the hotel (Exhibit A. 153). This statement explains in detail how the charges are allocated. We therefore consider that the evidence of the trade that the separation of the accounts is not practicable, is not satisfactory and should not be accepted. We have also not been able to judge from any of the accounts submitted whether independent cost accountants would have considered that the accommodation side of a large residential hotel in a suitable position had or had not made an adequate return on the investment.

622. (2) We think that a residential hotel should cater for the maximum number of guests which may reasonably be expected in the busy season. It should not, in that period, be placed in the position of having to turn away some of the total number of guests who may reasonably be expected. Accordingly, many of the hotels should have provided in times past more rooms than they have done. They should have been prepared, if necessary, to do what is done abroad and to close in the off season a number of bedrooms or a wing. Whether such extensions are practicable now, with costs at their present level, is another matter.

623. (3) We think also that if in times past more hotels suitable for accommodation with modern conveniences and equipment had been built, the public would have been ready to patronize them. This has been proved where new hotels have been erected, such as the Waterloo in Wellington and the new hotels at Huntly, Te Awamutu, and Whakatane (R. 7118, 7122, 7130, and 7135).

624. Mr. O'Connell, of New Zealand Breweries, stated that if the Hotel Waterloo were unlicensed and the present space used as bars were rented as shops, and if the hotel were to provide the same quality of food and service as it does to-day and pay a dividend of 5 per cent., it would be necessary to charge 40s. per day instead of the present 27s. 6d. This contrast does not, however, represent the real issue before us. We are not considering how hotels could be carried on unlicensed. Moreover, there is always the evidence that a private hotel which caters for a substantial number of people and is suitably situated can provide a reasonably good standard of accommodation and yet make a substantial profit, though the standard in New Zealand is generally well below that of the best licensed hotels. We think that until the emphasis is taken from the sale of liquor through the bars, the provision of accommodation in New Zealand licensed residential hotels will not be placed on a satisfactory basis, either in the first or any lesser grade of those hotels.

Section 3.—The State of Hotel Accommodation at Rotorua

(See para. 583)

625. We paid special attention to the condition of the hotels in Rotorua, which is the principal tourist resort of New Zealand. There are four licensed hotels. Three of them, the Grand, the Palace, and Lake House, are all owned by Hancock and Co., and L. D. Nathan, Ltd., in equal shares, but are leased to Hancock and Co. The Grand and the Palace are under management by Hancock and Co. The Lake House Hotel was leased in 1931 to a tenant for a term of years, but since 1941 has been let on a weekly tenancy (R. 4705). The fourth hotel, the Geyser, at Whakarewarewa, is owned by L. D. Nathan and Co. but leased to New Zealand Breweries, who employ a licensee-manager to conduct the hotel.

626. The Lake House Hotel was built in 1879, the Palace in 1882, the Geyser in 1884, and the present Grand Hotel in 1906. All the buildings at the present time are in a fair state of repair.

627. Since 1932 a new kitchen block has been added to the Grand Hotel and there have been extensions to the lounge, dining-room, house bar, bottle department, and bulk store of that hotel. In 1932, also, bathrooms, toilets, and shower rooms were built at the Geyser Hotel. Little was done to the Lake House Hotel or to the Palace Hotel prior to the year of 1938. In that year the buildings were in a very bad state. The reports of the Police and Health Departments on the Lake House Hotel were such that the Licensing Committee proposed to refuse a renewal of the license unless the hotel was rebuilt (R. 6073 f). The owners then proposed an expenditure of £6,000 on the Lake House Hotel, comprising at least £2,000 on maintenance and repairs and the balance on capital improvements. The Magistrate then advised the Licensing Committee that it could not insist on a rebuilding, and the repairs were carried out. This hotel, overlooking the lake, occupies the best site for a tourist hotel in Rotorua (R. 4689).

The Palace Hotel received strong adverse reports, and extensive repairs had to be carried out. The foundations were renewed in brick (R. 4759). Conveniences and kitchen equipment were added, and the lounge, store-room, public bar, and entrance enlarged. Since then the hotel has been painted and papered throughout (R. 4767). The Geyser Hotel seems generally to have been kept in a good state of repair.

628. The question was strongly raised before us as to whether these hotels were adequate for the principal tourist resort of New Zealand. The Mayor of Rotorua, on behalf of his Council, complained that there was no hotel in Rotorua built of fire-proof and sound-proof materials, and that, having regard to the profits which the companies had made out of the hotels, the accommodation provided was very inadequate for the needs of Rotorua.

629. In answer to these complaints, the architect of the companies stated that he did not know of a single concrete building in Rotorua that had not cracked, either through earthquake tremors or traffic vibration. He said that foundations were a problem. He was not in favour of too large or too high a concrete building for Rotorua.

630. It is a technical question whether a large building should be built in Rotorua in permanent fire-proof and sound-proof materials. It may be noted that the foundations of the Palace Hotel were renewed in brick in 1938. In the great Tokio earthquake of 1923 the building which survived intact was the large Imperial Hotel, built of concrete in an earthquake-proof manner. Nevertheless, the question of the materials in which modern hotels should be built in Rotorua is a technical one which we cannot decide.

631. In answer to the complaint that Hancock and Co. could have built better hotels out of the great profits from their trade, the Hon. Eliot Davis informed us that Hancock and Co. and L. D. Nathan and Co. were pioneers in developing hotels in Rotorua. They went there in the early "eighties" and had incurred many losses in trying to develop the tourist traffic. The Hon. Eliot Davis stated that the company continued to run the Grand Hotel for years at a total loss exceeding £28,000. He said

it first became profitable about the year 1920 (R. 4661). We think that credit should be given to Hancock and Co. and L. D. Nathan and Co. for their early enterprise at Rotorua. On the other hand, it is evident that these companies established their hotels at Rotorua at a time when the practical limitation of licenses had been brought about by legislation (paras. 137, 142, and 148, *supra*) and when it was probably apparent to keen business minds that the holders of all the licenses in any district would have a monopoly of the licensed trade in that area, a monopoly which would become more valuable as the population increased (see Chapter 9 and para. 164, *supra*).

632. The risk which the two firms took was that Rotorua might not ultimately develop into a tourist centre. That risk was successfully taken. The risk then arose that prohibition might be carried. If it were carried, the tourist traffic from abroad might diminish, but it was not likely, we think, that the internal tourist traffic of New Zealand would be affected. We think that there has been good ground for many years, even during the period when prohibition seemed a probability, for the assumption that Rotorua would require ample first-class accommodation for its tourists. For many years past the hotels and the boardinghouses have been pressed for accommodation at various times during the year, but particularly during the summer season. On the other hand while the probability of the loss of the bar trade remained, it must have acted as a deterrent to the provision of modern hotels. We have given our reasons for saying that since 1929 there has been no good reason why, if other more urgent building operations did not prevent it, the hotel companies at Rotorua should not have provided at least one modern hotel.

633. We have shown that Hancock and Co. have built three substantial new hotels in the last fifteen years and have made improvements to others at a total cost of £259,694. The company is a very wealthy company with ample resources and it has made substantial profits for many years from the Grand Hotel and the Palace Hotel at Rotorua. L. D. Nathan and Co. is a half-owner of the land of these hotels and also a wealthy company. Viewing the whole position, we do not doubt that if there had been competition at Rotorua a modern hotel would have been erected between 1929 and 1939. The fact is that the companies which conduct the hotels at Rotorua are so interlocked that they constitute a practical monopoly with respect to hotel licenses. We think it is regrettable that the Lake House Hotel, which occupies the best site in Rotorua with a view looking over the lake, should not have been rebuilt in 1938, instead of being repaired at a cost of £6,000. In that year the company chose to build a new hotel at Whakatane at a cost of £32,848. It is difficult to think that the provision of a modern hotel at Whakatane was more urgent than it was at Rotorua. If it was more urgent in 1938, there were earlier years. It is a reasonable inference that one of the reasons which has prevented the rebuilding of the Lake Hotel is that the Grand Hotel occupies a site in the town. If the tourist trade went to a modern hotel on the lakeside with a beautiful view, the Grand Hotel would suffer. We repeat that, in our opinion, if the licenses at Rotorua were not under the control of a monopoly, but had been held by real competitors, we have no doubt that some fine modern hotels would have been built in Rotorua before the present time.

634. We think, also, that close attention should be given to the question whether the hotels at Rotorua should be built so as to accommodate the traffic reasonably to be expected during the tourist season and that, if necessary, rooms or wings should be closed in the off season as is done abroad. It is a relevant consideration that if modern hotels were built, more tourists would probably be attracted for longer periods.

Section 4.—The Conduct of some Licensees in Breach of Their Obligations as Innkeepers in not making Existing Accommodation available

(See para. 583)

635. Apart from the unsuitability of many hotel premises to meet the standard of demand, the accommodation which might be available has been made less available by the attitude of some licensees.

636. The holders of both publicans' and accommodation licenses are innkeepers (see the definition of innkeeper in section 4 of the Licensing Act, 1908). Under section 165 of the Act, which virtually states the obligation of an innkeeper at common law, every innkeeper commits an offence if he fails, except for some valid reason, to supply lodging, meals, or accommodation to travellers. He is entitled to refuse for a valid reason. One valid reason exists when the house is full.

The innkeeper is under no legal obligation to supply accommodation to persons who are not travellers. It is a question of fact whether, in all the circumstances, the person staying at an hotel ceases to have the status of a traveller. On the other hand, the innkeeper may make a special contract for board and residence. The relationship of innkeeper and guest does not then exist. The rights of the parties are regulated by the contract.

637. In New Zealand, innkeepers often have permanent boarders. The number of permanent boarders reduces the accommodation for travellers. We accept the view that licensees are entitled to take in permanent boarders, even though the accommodation for travellers is thereby reduced. Some permanent boarders are relatives of the licensee (R. 897 and 907). But some licensees try to avoid their duty of taking in guests. They say that they are full when they are not (R. 233, 2817, 3014, and 7120). One instance was given of a licensee who had placed articles of clothing in a bedroom to give the appearance of having a boarder when he had not (R. 7121). The Commissioner of Police stated that when the police investigated complaints with reference to licensees not providing accommodation, the explanation very often was that the bell was not working or that the licensee did not hear the application. In some cases the police themselves had had to give travellers accommodation at their own houses (R. 543).

638. There are also hotels which could easily be made suitable guest-houses, but where the proprietor would not provide decent accommodation by a small expenditure on furnishings and appointments. There was one fairly large hotel in Auckland where this was the position (R. 7120).

Section 5.—The Quality of Service in Hotels

(See para. 583)

639. Another aspect of hotel accommodation is the quality of the service. An hotel should aim to provide the traveller with the comfort and convenience of a modern hotel. He should be made to feel that he is welcome. He should be efficiently and courteously served from the time he enters the hotel. He should have a warm, well-lighted, comfortable, and tastefully furnished room. He should be served with appetizing, wholesome, and properly cooked food. He should be able to entertain his friends in a comfortable and tastefully furnished lounge. He should have available suitable rooms and aids for business purposes. In using these amenities, he should have courteous and pleasant service from the hotel staff.

640. We think it is not likely that there will be adequate hotels for the travelling public until there is a widespread realization by proprietors of the true function of an hotel. If the proprietor regards the hotel primarily as a place in which to sell beer instead of to provide accommodation, the accommodation is likely to suffer. If he regards the hotel as primarily a place to provide accommodation and only secondarily as a place at which to supply the liquor that may be required by guests, the accommodation will improve. In New Zealand the percentage of profit attributed to the bar is much greater than to accommodation. In Canada the reverse is the case. We were informed by Mr. J. W. Collins, who was the New Zealand Trade and Tourist Commissioner in Canada and the United States of America between 1930 and 1938, that in Canada 60 per cent. of the revenue of hotels is derived from the accommodation and only 40 per cent. from liquor (R. 1789).

641. In New Zealand we think that the "mine host" element is largely absent from the service that might be expected in the hotel (see, for example, R. 2734). We think that there is room for a new conception on the part of the management of hotels of the standard of service to which an hotel may attain.

642. We infer from the evidence that before the war the hotel staffs, in general, gave cheerful and willing service, though there appears to have been persistent trouble in securing suitable and competent chefs. Since the war the conditions of labour have been very difficult, but we think that these conditions will probably pass with the effects of the war.

643. The evidence of the employers and of the Federated Hotel Workers' Union is that the relationship between employer and worker has, in general, been cordial. According to the union, (*a*) there have been occasions when there have been employers who refused to play the game, and these have been dealt with as the occasion arose; and (*b*) there have also been rare occasions on which there have been open breaches with a threat of job action by the staff, but these occasions have never reached any considerable dimension and have always been satisfactorily adjusted.

644. The union also stated (R. 7156):—

> . . . as an indication of the cordiality which exists between the parties concerned and their capacity to adjust their own differences, we would point out that during the past fourteen years we have made at least ten Dominion awards covering the industry, and in each case the award has been a complete agreement between the parties concerned and the Arbitration Court has not had the privilege of writing one line of it. This is unique in industrial history.

We are glad to know that the relationship is so cordial. On such a basis, there may be speedily built an excellent ideal of service to the public.

645. We refer here also to the question of suitable staff accommodation. We have not had any detailed evidence as t the way in which hotel staffs are at present accommodated. We are aware that many are accommodated in hotels. We think it desirable, as suggested by the Federated Hotel Workers' Union, that, wherever practicable, on a rebuilding or on the erection of a new hotel, the staff should be housed in a building detached from the hotel and not subject to the licensing laws. In this way the staff may entertain their guests as they would in their own homes.

Section 6.—The Need for Providing more Accommodation in the Future

(See para. 583)

646. We have hitherto been dealing with the conditions of the past. We have had, however, evidence as to the needs of the country for accommodation in the future from Mr. Stanley Ringer, the Hotel and Motor-camp Inspector of the Automobile Association (Auckland), and we think it desirable to state the conclusions which he formed on a recent tour of the hotels of the North Island, from the North Cape to Wellington. Mr. Ringer's duties, as Hotel and Motor-camp Inspector of the Automobile Association (Auckland), make him well qualified to give this evidence, and we accept it

647. Mr. Ringer stated that there was an insufficiency of accommodation in licensed premises reasonably sufficient to satisfy the demand over the whole year. He applied this, in particular, to the following places: Whangaroa, Opononi, Russell, Paihia (although there is no licensed hotel there), Whangarei, Parakai (near Hellensville—there is no license at Parakai, but that is where the hot springs are), Auckland, Hamilton, Whitianga, Tauranga, Mount Maunganui (there is no licensed accommodation at Mount Maunganui), Rotorua, Gisborne (which has sufficient licenses, but requires more rooms of a higher standard), Hastings, the King-country, Napier, Taupo, Tokaanu or Turangi, Taumarunui, Mount Egmont (there is no license there), Palmerston North, Wellington (where the accommodation is of a higher standard than anywhere else in New Zealand, but insufficient for the needs of the business men of New Zealand and of the ordinary New Zealand traveller), Taihape, Okoroire, Tirau, and Putaruru.

648. Mr. Ringer had not been in the South Island since 1940, but he had had reports from members of automobile associations at the main centres which bore out the opinion he formed in 1940. Accordingly, we quote Mr. Ringer's views on the South Island.

He said that accommodation there was insufficient in Picton, Christchurch (which is overcrowded for at least three months in the year), the Marlborough Sounds (where there are no licensed houses), Nelson, Westport, Hokitika, Ashburton, Timaru, Pukaki (on the road to Mount Cook), Queenstown, Dunedin, Manapouri, Te Anau, Stewart Island, Akaroa, and Arthur's Pass.

The exceptions in the South Island were Blenheim, Greymouth, and the Bluff. No comment was made on Invercargill as there has not been sufficient time for any rebuilding to be undertaken since the restoration of licenses was carried.

649. The basis of much of Mr. Ringer's criticism was that hotels should expect to provide sufficient accommodation during the seasons when accommodation is in special demand. They should, if necessary, be prepared to close down certain rooms or a wing in the off season. This procedure is adopted abroad, where the hotels seek to give adequate service to the travelling public. Unless it is adopted in New Zealand, there will never be adequate service from licensed hotels for the travelling public and there will never be adequate response from the public to the provision of good accommodation.

Section 7.—The Need for Training Hotel Staffs

(See para. 583)

650. In our view, hotel service should be regarded as a vocation for which adequate training is required. The better the training, the higher the status of the service.

651. Through the courtesy of the American Legation in Wellington we received some literature showing the great attention paid to the training of hotel staffs in the United States. These publications comprise the courses in hotel administration of a department of Cornell University, of the Lewis Hotel Training School at Washington, D.C., and of the Florida State Board for Vocational Education.

652. Many hotels in America are, of course, on a very much larger scale than any hotels in New Zealand. Nevertheless, the reason for the existence of an hotel is the same in any country. It should be essentially a home, although the characteristics which are developed in each hotel will depend upon whether the hotel is classified as a transient, commercial, residential, or resort hotel, and on whether the hotel is operated on the American plan, which makes one charge, including both room and meals, or on the European plan, which makes a separate and distinct charge for room and for meals.

653. Yet, whatever the particular character of the hotel, the hotel should be a domestic establishment, and we quote the following passage from an instructional book of the Florida State Board for Vocational Education :—

> Since a hotel is a domestic establishment run for profit, it follows that it will succeed in proportion to its ability to make money by providing domestic service and homelike conveniences with the greatest efficiency. Many of its patrons will demand better accommodation and service than they are accustomed to at home.

In the development of this function the sale of liquor in the American and Canadian hotels is subordinated to the provision of good accommodation.

654. The principles of training are broadly divided in America into "the front of the house," "the back of the house," and "management and executive." The courses of training comprise personnel methods; hotel operation and the management of the different departments; quantity food preparation; hotel menu planning; hotel cookery; hotel stewarding; hotel house-keeping; food and beverage control; hotel accounting. Trainees are given practical experience in model hotels or training schools. One course states that the seven basic principles of hotel service in every department are "service, cleanliness, efficiency, economy, courtesy, hospitality, and honesty."

655. A Tourist Development Committee has been set up by the Government under the Organization for National Development. This Committee comprises representatives of the Tourist Department, of transport services (both Government and private), and of the employers and employees in the hotel industry (R. 572).

This Committee has formulated certain general proposals for the training in an hotel of various classes of hotel employees under the control of a committee representing hotel proprietors, the New Zealand Hotel Workers' Federation, and the Tourist Department. The scheme is to commence in Auckland and, after experience has been gained, is to be instituted in Wellington, Christchurch, and Dunedin. Successful trainees are to receive a diploma. The Committee proposes that the finance shall be found by the Government and the hotel interests.

656. More detailed proposals have been made as the result of a discussion between representatives of the groups concerned. It is proposed that existing hotel staffs shall be first trained. The expenditure for the first year is estimated at not less than £4,000. This provides for a supervisor up to £1,000 a year.

657. It would appear that some definite body should become responsible for organizing an active local committee and for arranging for the financial requirements. Until these matters are arranged, no detailed progress can be made. We would suggest, also, that consideration be given to the training, equally with the present hotel staffs, of any young and willing volunteers for hotel employment, particularly if they show aptitude as chefs.

658. We trust that a practical scheme for training hotel staffs will be speedily established in the light of the principles and practice we have stated at the beginning of this section.

CHAPTER 31.—FAILURE TO SUPPLY MEALS FOR TRAVELLERS

659. The failure to supply meals is associated with the failure to provide accommodation, but we deal with the matter separately because the failure to supply meals is of frequent occurrence.

660. In his evidence, Mr. Luxford, S.M., said :—

> The provisions of section 165 of the Licensing Act, 1908, deal with one of the most important obligations devolving upon a publican, and probably no section of the Act is more frequently disregarded, so far as the providing of meals to travellers is concerned. (R. 6472.)

Evidence was also given by police witnesses and by Mr. Ringer, of the Automobile Association (Auckland), and by private citizens to show that the obligation is disregarded (R. 140, 896, 2399, and 3018).

661. Mr. Luxford expressed the view that the trouble has arisen from the publican's mistaken assumption that his obligation is merely to provide the customary meals at customary times (R. 6472). This may be the cause of the trouble in some cases, but we do not think it is in others. Not every licensed house is situated in a residential district, and it has not been equipped or staffed to provide pleasant accommodation or meals. Yet the license is granted on the basis that meals will be provided for travellers as well as accommodation for guests. Other licensees refuse because their staff is insufficient, and others simply because they have no desire or intention of catering for travellers. We have referred to cases of this kind in the chapter on accommodation.

662. We refer here to another reason for the failure of travellers to obtain meals, other than lunch or dinner. In his recent trip through the North Island Mr. Ringer came across several licensed hotels which catered only for bed and breakfast. In one case in Auckland the proprietor said that it was impossible to get lunch or dinner at his hotel. He found that he could cater in this way with a smaller staff, with no staff overtime problem, and with no food wastage, because he knew the exact number for which breakfast had to be prepared. Mr. Ringer found the same condition of affairs in two or three other hotels farther south.

An hotel which provides a bed and breakfast tariff is not excused from providing other meals. The best provision for these meals is made by a public restaurant, as in the Station Hotel at Auckland. If a licensee has insufficient staff, he must prepare the meals himself.

CHAPTER 32.—DEPOTS AND UNLICENSED STORES

663. Deliveries by brewers are regulated by section 46 (2) of the Finance Act, 1917, which provides that no beer shall be sold under a brewer's license unless delivery is made from a brewery or from a depot or bottling store approved for the purpose by a Collector of Customs. As we have already explained (para. 188), the apparent intention was to provide that deliveries should be made at the brewery or at an approved depot or bottling store. Yet, in reliance upon the legal interpretation of similar enactments, brewers may fulfil orders for not less than 2 gallons received from any part of New Zealand and deliver them either through a carrier or, as the law is at present administered, through an unlicensed "agency" established at any distance from the brewery (paras. 186 to 188, *supra*).

664. For some years after the passing of section 46 of the 1917 Act depots were approved by Collectors of Customs without restriction. In 1924, as appears from the case of *The Paeroa Brewery Co., Ltd.* v. *Ridings*, [1924] G.L.R. 207, a Collector approved a depot in Matamata from which the Paeroa Brewery Co. could deliver beer. Shortly afterwards the Collector purported to revoke the authority. It was held by the Supreme Court that there was no statutory authority for revoking the approval of the depot once it had been granted and acted upon.

665. When the Customs Department found that the unrestricted approval of depots was being used by brewers to obtain places in more than one licensing district from which beer might be delivered, the Department considered that it was granting, in effect, wholesale licenses for the delivery of beer, and that the granting of such licenses was really the function of the Licensing Committee of each district. Furthermore, the Department recognized that a wholesale license permits delivery from one place only, apart from a bonded warehouse; and that, if a brewer had a wholesale license and also an approved depot, he had, in effect, two places, apart from a bonded warehouse, from which he could deliver beer in quantities of not less than 2 gallons. Accordingly, the Department decided in 1930 not to approve further depots under section 46 (2) of the Finance Act, 1917, and to withdraw as quickly as possible the approval of existing depots unless they were reasonably required by a brewer to vend beer in his own district (R. 316).

666. The Department carried out this policy over a period of years by refusing to approve depots for the successors in business of various brewers. Finally, by section 5 of the Finance Act (No. 2), 1940, the Minister of Customs was empowered at any time to revoke any approval given by a Collector of Customs under section 46 (2) of the Finance Act, 1917, whether the approval was given before or after the passing of the Finance Act (No. 2), 1940.

667. The following are the existing depots approved by the Collectors of Customs under section 46 (2) of the Finance Act, 1917:—

(1) Manning's bottling store, 110 Ferry Road, Christchurch (New Zealand Breweries), approved in 1924.

(2) The Union Depot, 15 Bath Street, Christchurch (New Zealand Breweries), approved in 1924. (New Zealand Breweries has also a wholesale license for 15 Bath Street.)

(3) The depot at High Street, Carterton, for the Eagle Brewery at Masterton.

(4) The depot at Otamita for the Gore Brewery at Gore.

New Zealand Breweries has used Manning's bottling store to do all the bottling for its two Christchurch breweries, the Crown and Wards, and uses the Union Depot for the storage and delivery of beer in kegs.

668. It appeared to us that if the Department intended to withdraw the approval of depots as quickly as possible, the approval of New Zealand Breweries two depots at Christchurch should have been withdrawn since the Act of 1940 was passed. In other cases approval has been withdrawn on the ground that the depot was not reasonably necessary to enable the brewer to vend his beer because the brewery had ready access to the railway. Furthermore, as will be seen later (para. 675, *infra*), the company has also an unlicensed store for Speight's beer at the premises of W. Longdin in Christchurch.

669. We referred this matter to the Comptroller of Customs, who informs us, by letter of 9th April, 1946, that Manning's bottling store is considered reasonably necessary to enable the company to carry on its business, but that, as the company has a wholesale license in respect of the premises at 15 Bath Street, the question of the revocation of the approval of the premises as a depot will be placed before the Minister.

670. The depot at Carterton and the depot at Otamita are each a depot situated outside a no-license district, for a brewery situated within a no-license district. Each depot is necessary because a brewery situated in a no-license district may only sell beer from an approved depot outside a no-license district (section 43 of the Finance Act, 1915).

671. The Customs Department informs us that the approval of a depot situated five miles or more from the boundary of a no-license district for a brewery within a no-license district is the only case where a new depot would now be approved under section 46 (2) of the Finance Act, 1917.

672. The Customs Department points out that, though a depot for a brewery must be removed when a change in the boundaries of a no-license district brings the storage depot within five miles of the boundary of the district, the brewery itself, or an ordinary bottling warehouse established before the carrying of no-license, or an hotel, similarly brought within five miles of the no-license district, need not be removed. The Department considers that this provision constitutes an anomaly and that the anomaly should be removed. Since this proposal was made the difficulty has been avoided for the future by the fixing of the boundaries of the no-license districts by Act of Parliament.

Unlicensed Stores

673. In 1926 New Zealand Breweries was granted permission to hold stocks of Speight's beer in unlicensed stores at various towns throughout New Zealand and to deliver stocks from these stores in quantities of not less than 18 gallons. The reason for this arrangement was that Speight's beer was shipped to various parts of New Zealand and that it was convenient to have stores for distribution at or near the ports to which the shipment went. The Department was not prepared to approve of premises as depots under section 46 (2) of the Finance Act, 1917, because the Commissioner of Police thought it would be objectionable for the agent to have power to sell or deliver, from the premises, beer in quantities of 2 gallons and over (see File C. 31/71/2—letter of 28th September, 1925, from Commissioner of Police, Mr. Wright).

674. The Department then granted permission for the establishment of these unlicensed stores subject to the following provisions (R. 317):—

(1) That the beer is kept in a portion of the premises specially set apart for the purpose;

(2) That the beer is delivered only in vessels capable of containing 18 gallons or more;

(3) That the beer is delivered from the store in the vessels in which it is received—*i.e.*, that it is not there repacked into smaller vessels;

(4) That the premises are open at any time to the inspection of Customs or police officers; and

(5) That the concession is not to be regarded as approval of the premises as depots under section 46 (2) of the Finance Act, 1917. The Commissioner of Police had been consulted and he had no objection to these arrangements (see letter of 12th October, 1925, File C. 31/71/2).

675. In 1926 the following stores were approved:—

(1) The premises of New Zealand Breweries at Luke's Lane, Wellington.
(2) The premises of W. E. Anderson at Auckland;
(3) The premises of F. G. Smith and Co., Ltd., Port Ahuriri;
(4) The premises of S. Wright and Co., Ltd., at Wanganui;
(5) The premises of Hooker Bros. at New Plymouth;
(6) The premises of Nancarrow and Co. at Greymouth;
(7) The premises of Mockett and Sons at Westport; and
(8) The premises of W. Longdin at Christchurch.

676. In 1928 the premises of Gosling and Co. at Blenheim were approved. In February, 1940, these same premises, on the transfer of the business of Gosling and Co. to the Marlborough Transport Co., Ltd., were again approved.

In 1928, also, New Zealand Breweries ceased to store beer at Luke's Lane, Wellington, and began to store it in the Thorndon Brewery. The Department permitted this on the ground that a brewery company, licensed to carry on more than one brewery, may store the beer made at one of its breweries in the premises of another of its breweries. On this ground the Customs Department rejected a protest by the New Zealand Free Trade Brewers' Association.

677. In December, 1935, the Department approved the premises of Grant Bros. at Nelson as a store.

678. At Wanganui the premises are now owned by the New Zealand Express Co., but New Zealand Breweries occupy a store and "the agent" is an employee of New Zealand Breweries. New Zealand Breweries also hold a wholesale license in respect of the store.

679. Except for the wholesale license which New Zealand Breweries now has at Wanganui, none of the proprietors of these stores holds a wholesale or other liquor license in respect of the store, and none of the stores is a place from which a brewer may sell his beer under his brewer's license.

The beer in these stores may still be the property of the company, either because the property is not transferred until the cash is paid, or because the beer has not yet been sold. Every sale made from the stock in these stores, which is the property of the company at the time the sale is made, is illegal.

680. The arrangement with regard to these stores has been made possible because the Customs Department has, apparently, the sole power of prosecution in this matter (see para. 62, *supra*). The legal position appears to be that section 46 (2) of the Finance Act, 1917, may be regarded as an amendment of the provisions of section 43 of Part III of the Finance Act, 1915. Section 72 of Part III of the Act of 1915 provides that penalties imposed by Part III may be recovered in like manner as penalties imposed by the Customs Act, 1913, may be recovered, and the provisions of Part XV of that Act shall apply to all such penalties and to all offences against Part III. Section 240 of the Customs Act, 1913, provides that every information under the Justices of the Peace Act, 1908, for an offence against this Act shall be laid by a Collector.

These provisions presumably have the effect of excluding the right of the police or of any private informer to take action for any breach of the provisions of section 46 (2) of the Finance Act, 1917. If so, then the Customs Department may assume the power to sanction an arrangement which seems reasonable to the Department and to ensure its continuance contrary to law because no one else may prosecute.

681. We do not wish to be, or to appear to be, censorious, but we must say that we think the authorization of illegal arrangements by any Department for the convenience of private individuals is thoroughly bad in principle and should be obviated by giving some lawful discretion to a suitable authority.

682. The arrangement concerning the stores of New Zealand Breweries appears to have worked smoothly and without any abuse of its provisions. Yet, it is an arrangement in favour of only one company and partial in its operation. If the private ownership of breweries is retained, and if legislation is brought down to validate the arrangement, its form would require to be changed so as to permit of equal treatment of other brewers which desired to ship their beer.

CHAPTER 33.—AGENCIES (UNLICENSED)

683. Publicans' and accommodation licenses, brewers', wholesale, and winemakers' licenses, all contemplate in form that sales made pursuant to each of them will be made on the premises specified in the license and that delivery shall be "on" and "from" those premises. The apparent intention is to secure that the sales shall be closely related to the specified premises. Through the legal interpretation to which we have already referred (paras. 33, 35, 36, 39, and 40, *supra*), the holders of these various licenses may accept, on the licensed premises, orders from a distance, and there make up the order in a parcel addressed to the customer and hand it to a carrier for delivery to the customer. In these circumstances the sale is regarded in law as being made on the licensed premises, and delivery is regarded as being made "on," "at," or "from" the licensed premises.

684. An extension of this system has occurred with the establishment of what are called "agencies." The holder of a license to sell liquor deals with an agent, who establishes premises at a distance from the premises of the licensee. The agent receives orders and the cash required on the order from intending purchasers. He then sends the order with the cash to the licensee, who then, on the licensed premises, accepts the order, makes up a package of the goods, and, on the licensed premises, addresses it to the customer. The package is then sent, so addressed to the customer, to the agency where it awaits the call of the customer.

685. The agent appears to act as agent both for the customer and for the licensee. He is an agent of the customer to take the order and the money and hold the goods for the customer. He is a general agent for the brewery in the whole transaction, because only the brewery pays him for his services.

686. Where the agent has himself a wholesale license, or other license, there is no objection to delivery of the liquor from his premises. The difficulty arises when the agent is unlicensed. The question then is whether, when delivery from the brewery to the customer is halted at the unlicensed premises of an agent acting for both the licensee and the customer, delivery can be said to be made "on" or "from" the licensed premises of the licensee.

687. The Commissioner of Police has made inquiries for us, which show that some six breweries have set up "agencies," numbering thirty-five in all. Of these, twelve agents have wholesale licenses, twenty-three have not. Of the twenty-three, eighteen exist in the Hamilton Police District, fourteen of them being agencies of the Paeroa Brewery Co.

Furthermore, certain firms with wholesale licenses have appointed, among them, five agents in all who have no licenses.

Certain hotelkeepers have appointed, among them, seven agents in all, none of them with a license.

We are informed by the Police that these agents are of a varied type. In most cases they are shopkeepers, but there are taxi-drivers, storemen, and contractors so engaged.

These agents may spring up at any time anywhere, and may operate at any time of the day or night. The practice is clearly open to grave abuse. According to a report of the Inspector of Police for the Hamilton Police District of the 5th March, 1946, in recent months no less than three of these agents have been convicted and fined for sly-grog selling. The method used was to submit to the brewery faked orders and to receive liquor and sell it to customers. The Inspector states that the agents are in no way restricted and that they can be the means of supplying liquor to Maoris, both male and female, to prohibited persons and other unauthorized persons at any hour.

688. The system may be further explained by reference to the evidence with regard to particular places.

689. In Matamata there is no licensed hotel. Three breweries each have an unlicensed agent. They are C. L. Innes and Co., of Hamilton, Dominion Breweries, and the Paeroa Brewery Co. Each agent has premises in the town with a sign on the windows or elsewhere on the premises showing that he is an agent for a brewery company. The system adopted may be explained by reference to the operations of the agent of Innes and Co. This company has a brewery license at Hamilton and a wholesale license at Auckland. It used to send its traveller to Matamata to take orders, but when he could not get round during the war, the agency was opened (R. 4505).

690. The agency at Matamata is opposite the police-station and is open to inspection by the police (R. 4506). The system is worked with reference to the habits of the community. The farmers usually come in on sale day, which is a Wednesday, pick up the cartons sent down pursuant to the orders given on the previous Wednesday, and leave another order, with the cash, for delivery on the following Wednesday. The agent sends the orders to the brewery on the Friday. The goods are usually back by rail in time for the following Wednesday (R. 4505).

691. The liquor is supplied to customers through the agency in two ways—firstly, at the price of 20s. per dozen quarts, on which orders the agent receives a commission from the brewery at the rate of 4s. on every 20s.; and, secondly, at the price of 7s. 6d. per gallon in jars or kegs, on which orders the agent receives a commission at the rate of 1s. 3d. on every 7s. 6d. Out of his commission, the agent has to meet the cost of containers, rail freight, delivery charges, and loss by breakage, &c. (R. 5448). The agent is thus paid by the brewery, subject to certain deductions in respect of the transit from the brewery to the agency premises.

692. Evidence was given by the Mayor of Matamata, on behalf of the Borough Council, objecting to the agencies in the town. The Mayor pointed out that the agencies were required to sell in quantities of not less than 2-gallon lots, and that the value of the beer entering Matamata exceeded £12,000 a year. He said that the system was unsatisfactory for the following reasons (R. 4454):—

(*a*) It forces many persons to purchase more beer than they require at the time.
(*b*) It encourages the storing of beer in the homes.
(*c*) It encourages excessive drinking amongst the young people.
(*d*) No service is available to the travelling public.
(*e*) The public generally are denied the usual privileges and customs associated with a well-managed licensed hotel.

The Mayor indicated that the progress of the borough was retarded by the absence of licensed hotels.

693. At Waiuku there is a conflict between the licensed hotel, which belongs to New Zealand Breweries, and an unlicensed agency established by Dominion Breweries. The hotelkeeper sells beer at 21s. a dozen. The beer which has been purchased at the brewery and sent through the agency is sold at 18s. a dozen. A member of the Licensing Committee (Mr. F. A. Harcombe) had investigated the position, and he thought it was very unfair that the licensee, who rendered a public service by providing beds and meals, should be under-sold in this way.

694. The position at Ashburton was stated to us by the solicitor for the Ashburton Borough Council, who gave evidence on behalf of the Borough Council. He said that the following licensees outside Ashburton had established the following agencies within Ashburton (R. 5276): The licensee of the Chertsey Hotel (twelve miles north of Ashburton) had two agencies, one of which had recently been closed following a conviction for breaches of the law; the licensee of the Railway Hotel, Rakaia, had one agency: the licensee of the King George Hotel, Christchurch, one agency; Ballins Brewery, Christchurch, one agency; Maling and Co., Ltd., wine and spirit merchants, Christchurch, one agency; the Timaru branch of the National Mortgage and Agency Co. of New Zealand, holding a wine and spirit license, one agency (being the Ashburton branch of the same company). The solicitor also stated that one wine and spirit merchant (Bishop and Co., Ltd., of Christchurch) whose agent had died recently had announced its intention to reopen its agency after the war.

695. For the most part these agencies in Ashburton occupy small shops in the low-rental part of the town. They do not pay any license fees to the Borough Council and do not provide any accommodation for the travelling public. They pay low rates on their property, and most of the money which passes through their hands goes out of the town.

In the past there have been numerous convictions for sly-grog selling in connection with these agencies, though the Borough Council did not suggest that the present agents were not observing the law.

696. At Mount Somers, which is twenty-six miles from Ashburton, there are two agencies, one for each of the two licensed hotels at Methven, nineteen miles away. One of the Agencies at Mount Somers is the local boardinghouse, and the other a private house (R. 5253, 5309, 5317, and 5337). In respect of these agencies, Mr. R. A. Burnett (the managing director of the Blackburn Coal Co., Ltd., the Mount Somers Mines, Ltd., and the Burnett Transport Co., Ltd., and with interests in other mines), said that the agents for the Methven hotels at Mount Somers sold liquor in large quantities and that the sales were detrimental to the welfare of the men working in the district. He said the men stocked up at the week-end and sometimes there were not very many men working in the mines on Mondays.

697. If the method of sale through an agency, strictly carried out, is in accordance with the law, then it is also a method which is open to great abuse. The person conducting the agency can himself give orders to breweries, wholesale merchants, or publicans in any part of New Zealand and obtain 2-gallon lots addressed to himself. He can then engage in sly-grog selling. There have been recent convictions in Ashburton, where it was proved there was more liquor on the premises than could be accounted for by the orders held by the agency. On one occasion persons were found drinking on the premises (R. 5263). In respect of Mount Somers, the Anglican clergyman, the Rev. L. K. Collins, said: "The law is very greatly ignored" (R. 5338). One agent was recently fined £50 for selling liquor on a Sunday (R. 1176).

698. The Commissioner of Police informed us that he was strongly opposed to the agency system. He said it was too difficult to detect and was open to too much abuse (R. 1175 and 1176). His general understanding of the position was that the agencies sell to people whom they know, but not to strangers (R. 1176). It is obvious, too, that the agencies may spring up at any time, anywhere, and may keep open and do business at any hour of the day or night.

CHAPTER 34.—FAILURE TO INSTALL PROPER SYSTEMS OF ACCOUNT, DISTINGUISHING BETWEEN THE BAR AND THE ACCOMMODATION SIDE OF AN HOTEL

699. We have already referred to this matter (paras. 614-621, *supra*). The evidence generally for the trade was that it was impracticable to allocate the revenue and expenditure between the bar and the accommodation sides of an hotel. Actually an apportionment was made in respect of the Empire Hotel, Wellington (see paras. 619-621, *supra*), though we do not know on what basis.

700. Apportionment is also continuously made by the licensee of the Grosvenor Hotel, Timaru (Exhibit A, 153). This licensee in his statement to us described the system as follows :—

The system adopted is designed to give the fullest possible detail of all revenue and expenditure items as I keep an up-to-date record of these by means of charts and graphs, for comparison purposes, which I consider is very essential to-day to enable me to maintain an efficient control of the hotel.

With this basis and the analysis to work upon I can ascertain reasonably accurately the financial results of the two departments of the hotel—viz., accommodation and bar. Wages, for instance, are analysed in the weekly pay-sheet between kitchen, dining-room, housemaids, porters, and bar. Thus with all direct expenses I have the information to make the allocation to each department. As a further example, power is allocated between the house and the bar on a wattage basis, while due provision is made for bar-staff meals, bar counter-lunches, laundering of bar-towels, &c.

Direct expenses cover such items as wages, power, &c., already mentioned, and laundry, bar renewals, hospitality, house renewals, license, depreciation of furniture, house-expenses, &c.

With overhead expenses, certain of them, such as mortgage interest, land-tax, rates, &c., are allocated on the basis of the floor space used by each department, allowing for the fact that bar space, being on the ground floor, is of more value than upper-floor space. The bar is debited also with upper-floor space for bar-staff quarters. The remaining overhead expenses, such as general expenses, telephone, motor-running expenses, printing and stationery, &c., are allocated separately on what is considered a fair proportion to each department.

From my own experience I would say that it was impossible to lay down any hard-and-fast rule to cover the allocation of expenses for all hotels, but the essential factor is to have costs and expenses split up or analysed to a fairly fine degree to enable the allocation to be readily and accurately made, and to enable meals and other costs to be worked out, and to acquire an intimate knowledge of the hotel and the working of it.

A very important point that has a great bearing on the individual results of the two departments is the complementary effect of the guests, and the business they bring to the hotel on the lounge or private-bar trade. Thus due credit must be given to the accommodation department for a reasonable allocation of the profit from these bars. In my case it is fairly easy, as I consider the majority of my lounge-bar trade is from guests, directly or indirectly, but this would not be the position in hotels in the larger cities.

701. Some difficulty may arise, as indicated, with respect to the allocation of the revenue from the lounge-bar trade, but we think that any hotel could, with observation, arrive at a satisfactory apportionment of the amount of revenue due to guests and to strangers and make an allocation accordingly. We think, indeed, that it is elementary in cost accounting that an allocation could fairly be made.

702. The general lack of proper accounting between the two sides of the hotel is, we think, unsatisfactory. It tends to give rise to the suspicion that the accommodation side may pay better than is alleged, but that it is not desirable to show it. The fact that private hotels, sufficiently large to form an economic unit, make substantial profits on accommodation alone tends to support this view. The suspicion may, of course, be ill-founded. It is not likely to be removed until it is the general rule for separate accounts of both sides of a residential hotel to be kept on a proper cost accounting basis.

CHAPTER 35.—MISLEADING ADVERTISING AND RESTRICTIONS ON ADVERTISING

703. The advertising of alcoholic liquor raises these questions :—

(1) Whether some advertisements have been misleading ;

(2) Whether liquor advertising has unduly stimulated the demand for alcoholic liquor ;

(3) Whether liquor advertising should be restricted ; and

(4) Whether, as in the Invercargill Licensing District, it should be abolished.

704. Misleading advertisements have been published concerning the vitamin content of beer, particularly the riboflavin content. Compared with milk, beer is a relatively poor source of riboflavin (R. 299 and 738). Other advertisements have suggested, with the aid of attractive drawings, that beer is an effective aid in excelling in various forms of sport (Exhibit B. 2). Other advertisements have indicated that the worry and drudgery of housework and the strain and fag of office work are relieved by a particular

brand of stout. Another advertisement suggested that women were made beautiful at fifty by taking a particular brand of gin, the suggestion being accompanied by an appropriate picture (Exhibit B. 2). On the other hand, advertisements associating drink with motoring ceased some years ago as the result of the action taken by the Safety Council set up by the Minister of Transport. Indeed, one brewery in Dunedin advertised in May, 1938, " Drinking and driving do not mix."

705. There can be no doubt that some liquor advertising has in the past been misleading. The attitude of the trade is that it would support regulations preventing distorted or misleading statements from being published regarding the nutritive or other properties of alcoholic liquors (R. 7403), though the trade otherwise desires the abolition of the Emergency Regulations.

706. On the question whether liquor advertising has unduly stimulated the demand, we note that the advertising has not been limited to newspapers, but has extended to the screen. The General Superintendent of the New Zealand Alliance suggested that screen advertising had tended to associate, in the minds of young people in the audience, the consumption of liquor with sport and with entertainment (R. 2063). As screen advertising is visual and, therefore, more vivid than the written word, screen advertising may well have had this effect.

707. No action was taken to reduce liquor advertising before the war, or until June, 1942. By that time it had apparently become desirable to reduce the incentives to the consumption of alcoholic liquor. Regulation 18 of the Licensing Act Emergency Regulations 1942 (No. 2), (1942/186, made on the 22nd June, 1942) provided as follows :—

(1) No person shall publish or cause to be published in any newspaper (other than a newspaper circulating exclusively or principally among persons engaged in trade or commerce) any advertisement relating to any intoxicating liquor, if the advertisement exceeds 2½ in. in width and 2 in. in length.

(2) No person shall publish or cause to be published in any manner whatsoever any advertisement relating to intoxicating liquor which illustrates the drinking of liquor by women or which is calculated to, or which may in any manner whatsoever, encourage or increase the consumption of intoxicating liquor by women in particular.

(3) No person shall publish or display or cause to be published or displayed in any manner so that it shall be visible from any road, street, or public place any poster, placard, handbill, writing, picture, or device advertising any intoxicating liquor :

Provided that nothing in this subclause shall apply to the publication or display of any poster, placard, handbill, writing, picture, or device in or upon any premises where intoxicating liquor is manufactured or sold.

(4) No person shall display or cause to be displayed in any theatre, or publish or cause to be published by means of a broadcast from a wireless transmitting station, any advertisement relating to intoxicating liquor.

(5) Nothing in this regulation shall be deemed to prohibit the publication or display at any time before the 1st day of September, 1942, of any advertisement relating to intoxicating liquor if the advertisement is published or displayed in pursuance of a contract made before the commencement of these regulations.

(6) Any person who commits a breach of this regulation shall be liable on summary conviction to a fine not exceeding £100.

(7) For the purposes of this regulation the term " newspaper " includes every paper, pamphlet, magazine, or other document published at intervals.

(8) Any contract relating to the publication or display of advertisements relating to intoxicating liquor the performance of which is affected or prohibited by the provisions of this regulation shall, on the application of either party thereto, be varied in such manner as may be just and equitable in the circumstances. If any dispute arises as to whether any, and, if so, what, variation should be made in any contract as aforesaid, the dispute shall be referred to the arbitration of one arbitrator if the parties can agree upon one, otherwise to two arbitrators, one to be appointed by each party to the dispute, under the provisions of the Arbitration Act, 1908.

708. The question whether these restrictions should continue has been raised. The combined churches and the New Zealand Alliance are strongly in favour of continuance of the restrictions, and the combined churches go further and suggest that the Commission should consider whether liquor advertising should not be done away with altogether (R. 2451). On the other hand, the trade desire the removal of the restrictions, save with respect to regulations preventing distorted or misleading statements regarding the nutritive and other properties of alcoholic liquors (R. 6725, 6813, and 7403).

709. The screen advertising industry has represented to us that Regulation 18 (4), quoted above, prohibits the display in any theatre of any advertisement relating to intoxicating liquor, while Regulation 18 (1) permits newspaper advertisements relating to liquor, subject to certain provisions. The industry asks that screen advertising be placed on the same basis as newspaper publicity, and has no objection to restrictions which will secure that the nature of the publicity complies with the general purpose of the restrictions on liquor advertising (R. 6068).

710. The issue raised between those who wish to restrict or abolish liquor advertising and those who wish it to be free and unrestricted is of great importance. We have already pointed out (paras. 409 and 708, *supra*) how the large brewery companies are ready to encourage progressive sales policies. The question is whether alcoholic liquor is a commodity in respect of which the stimulation of demand should be freely permitted or restricted or abolished, as in the Invercargill Licensing District.

CHAPTER 36.—SLY-GROG SELLING

711. Sly-grog selling comprises not only the sale of liquor without a license, but the sale of liquor outside the terms of a license. The latter offence seems to be rare, but we have evidence that during the war a wholesale firm was fined for selling one bottle of liquor, and subsequently had its license suspended for six months (R. 710, 2811, and 2859).

The evidence of the police shows that they expect the sale of liquor without a license to occur at any time anywhere within the country (R. 900 and 1152).

712. The Commissioner of Police gave the following returns of convictions for the following offences (R. 338):—

—	1935.	1936.	1937.	1938.	1939.	1940.	1941.	1942.	1943.	1944.
(1) Selling or exposing liquor for sale without a license	63	134	167	107	158	175	100	225	403	242
(2) Supplying liquor to Natives in proclaimed districts	34	60	98	139	138	176	265	297	246	364

713. The figures for 1939 to 1944 inclusive are for the war years. There were fewer servicemen in the country in 1944. The convictions for selling or exposing liquor for sale without a license in 1944 were only three-fifths of the number in 1943, but the convictions for supplying liquor to Natives in proclaimed districts in 1944 were half as many again as in 1943.

714. The sly-grog seller has many and easy sources of supply (R. 1152). He may buy legitimately from brewers, wholesale merchants, or publicans. He may send an order to any of these vendors in any part of New Zealand and receive a parcel of liquor addressed to himself, either through a carrier or through an "agency" or through the C.O.D. system of the New Zealand Railways. He may give such an order in his own name or in a fictitious name. He may give one order in his own name and other orders in a fictitious name or names. In this way he may double or treble his supply at any one time (R. 854 and 857). The sly-grogger may also obtain his supplies from home brew. There is police evidence that a great deal of sly-grog comes from home brew.

715 During the war steps were taken by the Customs Department to prevent wine-stills at Henderson from being used for the supply of illegal spirit (R. 2916). Some spirits for unlawful sale came from illicit stills in Auckland and Wellington, and one was also found in Christchurch in 1944 (R. 1316).

716. Various classes of the community engage in sly-grog selling. Mostly they are Europeans, but Maoris, Hindus, and Dalmatians also operate.

717. The Europeans may include persons carrying on an "agency" (Chapter 33, *supra*, and R. 6578). In one case mentioned to us, youths obtained beer from an agency within half an hour of going in and giving their order (R. 6087). Europeans may also include "droppers" (R. 3620 and 6475), boot-leggers in hotel bars (R. 2807), barmen (R. 1566), carriers and taxi-drivers (R. 130 and 3620).

718. Maoris operate in the King-country. An example of their operations is given by Mr. Paterson, S.M., who said (R. 130):—

A Maori sends a written order with or without cash in a pakeha name to a brewery. The liquor is railed to Te Kuiti, and the Maori goes to a carrier with a written authority purporting to be signed by the pakeha and a letter directing the carrier to take delivery from the railway and leave it on a certain stand to be picked up by the writer. In one case at Te Kuiti it came out that a Maori woman had successfully worked this scheme five times in different pakeha names within three weeks, using order forms supplied by the brewery, and which appeared to indicate that the brewery had set itself out to do a cash mail-order business in the King-country. The carrier was prosecuted, but not the brewery nor the woman.

719. Hindus are alleged to obtain liquor for Maoris and sell it to them in the *pas* or elsewhere. The representative of the New Zealand Indian Central Association (Inc.), (which was formed in 1927) said that, so far as they could ascertain, there were not more than ten Indians resident in Native *pas* (R. 6529), and that during the last five years, fourteen Indians had been convicted of the offence of supplying liquor to Maoris. The offences had been confined to Rotorua, Frankton, Te Kuiti, Te Awamutu, Pukekohe, Hamilton, and Kawhia. There was no record of any conviction in Wellington, Taranaki, or Hawke's Bay Provinces or in the South Island.

There is evidence that Hindus were suspected at one time of supplying liquor to Maoris in Auckland (R. 5866).

720. Although the number of Hindus operating as sly-grog sellers to the Maoris may not be as great as is sometimes supposed, the evidence shows that those who do live in the *pas* are a grave danger to the Maoris [see, for example the evidence of Mr. Paterson, S.M. (R. 6083)].

721. The evidence shows that Dalmatians operate among Maori communities in the far North of New Zealand, where they sell wine and other liquors unlawfully to Natives (R. 3585). We have had a strong letter from the Mangonui Hospital Board on this subject. The Board says that locally-made wine forms a large proportion of such liquor.

722. Sly-grog sellers appear to be of two types. Retired Superintendent Lopdell distinguished between the "real sly-grogger" and the "mushroom sly-grogger." He said that the real sly-grogger was jealous of his clientele and very cautious. He would sell as he bought, without adulteration, but only to his customers whom he knew. The mushroom sly-grogger would come into the market only occasionally, when he would obtain a dozen bottles of liquor and, by dilution, turn them into two or three dozen of various concoctions.

723. We refer now to the position in the various districts. Superintendent Edwards said that sly-grogging was most likely to occur in the large towns and in the no-license districts. On the other hand, retired Superintendent Lopdell did not think that the no-license district specially favoured sly-grog selling unless the district had back areas with small settlements, as in the King-country, where there were, for example, sawmills and mines and no hotel (R. 2969 and 3000). This reasoning seems to be sound, and it must apply also to licensed areas where there are scattered communities of working-men without comparatively ready access to a licensed house.

724. With reference to the license districts, we had evidence mainly concerning the position in Auckland and Wellington during the war. Sergeant J. L. Adams explained the conditions in Auckland and how they were mastered (R. 2807). In one raid at Titirangi, in Auckland, £400 worth of liquor was seized (R. 3098). At first the American authorities in Auckland co-operated with the police in enforcing the law, but subsequently withdrew their support because they thought that their men, when

on liberty after 8 p.m., should be able to obtain a drink lawfully. The opinion of Sergeant Adams was that much of the sly-grog selling would have been avoided had the visiting servicemen been able to obtain a lawful drink in the evening.

725. Evidence as to the conditions in Wellington, and how they were brought under control, was given by Sergeant G. E. Callaghan (R. 1574). The demand was created largely by the visiting servicemen, who desired, not so much beer, as wine and spirits. On one occasion in one raid in Wellington over £1,200 worth of liquor was seized.

726. The conditions referred to were war conditions, but the record of convictions shows that before the war liquor was regularly sold unlawfully. We have evidence also that it continues in the centre of Wellington, where licensed hotels are easy of access. The Rev. Harry Squires, of the City Mission, Wellington, gave evidence of it within his parish (R. 1382 and 1383). Chief Secretary Charles Walls, of the Salvation Army, gave evidence that sly-grog selling was prevalent in the Te Aro Flat area.

727. In Invercargill the police know of no sly-grog selling to-day (R. 5585), though one witness indicated that he knew it had not disappeared (R. 5630).

728. With respect to the no-license areas, we refer first to the King-country. Large quantities can be obtained from the brewery at Hamilton through the C.O.D. system of the New Zealand Railways. Mr. Paterson, S.M., at Hamilton, said (R. 136) :—

> Time and time again I have had cases of sly-grog selling where the offenders have had orders supplied that would represent good orders for country hotels . . .

Supplies may also be obtained surreptitiously and brought in by road. We have had much evidence as to the difficulty of the police in preventing cars filled with liquor from coming into the King-country by back roads.

729. Sergeant Campagnolo, who was in charge of the Te Kuiti sub-district from October, 1937, to January, 1941, said that sly-grog selling was very prevalent in the district. Between 9th November, 1937, and the 13th June, 1939, before the war commenced, there were forty-five convictions for sly-grog selling at Te Kuiti. The fines amounted to £720, and four offenders were sentenced to terms of imprisonment. The sergeant said that he had no trouble with Hindus (R. 852).

730. Sergeant Gatehouse, who was stationed at Te Kuiti from January to August, 1944, and again since November, 1944, found that there was much difficulty with visiting servicemen, and that they had to be prevented from visiting the area. He said that there was little sly-grog selling in Te Kuiti at the present time. He knew of only one reputed sly-grog seller in the town (R. 5126). On the other hand, he regarded the C.O.D. system as wide open to abuse, and thought it should be abolished. A return which he supplied showed an increase in offences from 1935 to 1939 inclusive, and thereafter a reduction. We set out the return as follows (R. 5128) :—

——	1935.	1936.	1937.	1938.	1939.	1940.	1941.	1942.	1943.	1944.	1945 to 7th July, 1945.
Drunkenness	2	13	7	18	46	50	15	12	9	3	6
Selling liquor unlawfully ..	2	4	2	13	28	16	..	6	1	..	..
Supplying liquor to Natives	8	2	8	22	20	12	11	17	14	..	3

731. Although the convictions have fallen in this way at Te Kuiti, it appears from the evidence of the Maoris who gave evidence at Te Kuiti that there is a very considerable amount of sly-grog selling still going on. Witnesses who were in favour of licenses being granted in the King-country, and witnesses who were opposed to the grant, were both agreed on this point (R. 4814 and 4918).

732. The evidence indicates that the position is worse at Taumarunui with respect to sly-grog selling than it is at Te Kuiti, but that the position is better at Raetihi.

733. With respect to the Masterton electorate, the evidence shows that there is very little sly-grog selling at Masterton. This was the view of the Masterton No-license League, represented by Mr. George William Morice, the senior assistant at Wairarapa College (R. 6207). A similar view was expressed by Mr. Walton, the Mayor of Eketahuna, who gave evidence on behalf of the residents of the borough and the County of Eketahuna (R. 1711 and 1731). As the Mayor desired licenses and the No-license League did not, we think we may assume that there is little sly-grog selling in the Masterton electorate.

734. In Ashburton the position is peculiar. The police sub-district, in which the Town of Ashburton is, was "dry" from 1902 to 1927 (R. 5274 and 5275). The electoral boundaries were altered on five occasions—in 1907, 1911, 1917, 1921, and 1927. Under the last alteration the Ashburton electorate ceased to exist. Part, including the Borough of Ashburton, was joined with Ellesmere, a "wet" district, to make the Electoral District of Mid-Canterbury. The other part was joined to the Electorate of Temuka, another "wet" district. In each case the population of the part of the old Ashburton district was smaller than the population of the area to which it was joined, so that the districts of Mid-Canterbury and Temuka are regarded as "wet" districts. Yet under the law hotels cannot be reinstated in the Ashburton Police Sub-district (para. 1102, *infra*).

735. We have been supplied by Sergeant James Francis Cleary with a summary of the convictions for sly-grog selling in the Police Sub-district of Ashburton from the year 1923 onwards. They are as follows (R. 5254):—

1923–1927 (dry period): 28 convictions, average 5·6 per annum;
1928 (transition year): 1 conviction;
1929–1933 (wet period): 38 convictions, average 7·6 per annum;
1934–1938 (wet period): 29 convictions, average 5·8 per annum;
1939–1943 (wet period): 34 convictions, average 6·8 per annum; and
1944 (wet period): 5 convictions.

It would seem from this return that there was no great difference in the average between the "dry" period and the period during which Ashburton has been included in the "wet" electorate.

736. In Oamaru the evidence shows that at one time sly-grog selling was rampant, but that it began to disappear after no-license was carried. The evidence is that it has now almost entirely disappeared (R. 5969, 5970, and 5975). The reasons given by Mr. H. D. Grocott, on behalf of the Oamaru Temperance Council, were:—

(1) That it is much easier for the police to detect sly-grog selling in no-license than in wet areas;

(2) That the police have for the last ten or fifteen years been doing their best to eliminate sly-grog selling; and

(3) That the young people are being educated so that they do not grow up to drink as they used to do.

The reason given by Senior Sergeant McGregor, who was stationed in Oamaru from 1909 to 1915 and again from 1935 to 1945, when he retired, was that the practical elimination of sly-grog selling was due to Police supervision (R. 5975).

737. Upon a view of the whole of the evidence, we conclude that the existence of sly-grog selling does not materially depend on whether the district is license or no-license. It depends on whether there is a demand for sly grog, either (1) where there are no licensed hotels, as in no-license districts; or (2) where the hotels are not readily available as in scattered settlements of either license or no-license districts; or (3) during the hours when the licensed hotels are closed.

738. We think the extent to which the demand is supplied depends very largely upon the degree of police supervision which is given, or which it is practicable to give.

739. Special reference should be made to the powers which enabled the police to control sly-grog selling in the principal cities during the war. These powers were contained in Regulations 20 and 21 of the Licensing Act Emergency Regulations 1942 (1942/186) and Regulations 6, 7, and 8 of the amending regulations of July, 1943 (1943/122).

740. Regulation 20 of the Regulations 1942/186 provided that any constable might at any time enter without warrant upon any unlicensed premises "in which he reasonably suspects any offence against the provisions of the Licensing Act, 1908, relating to the sale, exposure, or keeping for sale of intoxicating liquor by unlicensed persons or in unlicensed premises has been or is about to be committed." The regulation authorized him to search the premises and seize any intoxicating liquor found therein. Regulation 21 provided as follows:—

> If in any prosecution for the sale, exposure, or keeping for sale of intoxicating liquor by an unlicensed person or in unlicensed premises, the evidence produced by the informant or the facts admitted by the defendant are sufficient to constitute a reasonable cause of suspicion that the defendant is guilty of the offence charged, the burden of proving that the offence was not committed shall be upon the defendant.

This regulation changed the burden of proof upon the establishment of "a reasonable cause of suspicion" that the defendant was guilty.

741. These regulations were strengthened by the regulations passed in July 1943 (1943/122). Regulation 20 (1) was repealed, and the following substituted:—

> Any constable may at all times by day or night and on any day of the week enter without warrant, and if need be by force, upon any place, whether a building or not, in which he reasonably suspects that any offence against the provisions of the Licensing Act, 1908, or against these regulations has been or is about to be committed, and may search the place and every part thereof and may seize any intoxicating liquor and the vessels containing the liquor found in any place so entered, not being licensed premises.

Furthermore, Regulation 8 of the regulations of 1943 added the following regulation to Regulation 20:—

> Any constable may arrest without warrant any person who is reasonably suspected of having committed an offence against the provisions of the Licensing Act, 1908, or these regulations relating to the sale, exposure, or keeping for sale of intoxicating liquor by unlicensed persons.

In addition, Regulation 6 (*b*) of the regulations of 1943 made it an offence for any person to keep for sale any intoxicating liquor without being authorized by law to sell the same.

Prior to the enactment of this regulation there was no offence unless a sale had been made. The police found, however, that this regulation was only helpful in cases where large quantities of liquor were seized. If a person was found with simply one bottle of whisky in his pocket, then, even though he was suspected of being a sly-grogger, the Court would not call upon him to discharge the onus of proof until the prosecution had established that the circumstances showed there was a keeping for sale.

742. Sly-grog selling went on also in night clubs. Eight convictions were obtained in Auckland in 1943, but the fines were regarded by the proprietors merely as license fees (R. 2809). The introduction of the Places of Entertainment Emergency Regulations 1944 (1944/72), which gave the Commissioner of Police the power to close the premises, subject to an appeal to a Magistrate, had a steadying effect upon the managements.

743. The police advocate the retention of the emergency regulations which enabled them to deal with sly-grog selling. In addition, further remedies have been suggested in the evidence as follows:—

(1) That the penalties should be more severe. Both the Magistrates and the police are agreed on the point that, if the penalties authorized by the legislation were made more severe, much could be done in controlling sly-grog selling (R. 3112, 4895, 5262, and 6475). The retention of the emergency regulations would ensure more severe penalties.

(2) That vehicles seized when bringing liquor illegally into a no-license district may be forfeited, just as a vessel bringing uncustomed goods into the country may be forfeited (R. 1871).

(3) That a limit should be placed on the quantity of beer supplied by a brewery to a private individual (R. 135/6).

(4) That once a person has been convicted of sly-grog selling, he should be prohibited from obtaining further liquor for a period (R. 855).

(5) That the hours of sale should be extended. Some witnesses doubt whether this would have any effect.

(6) That redundant licenses should be cancelled and new licenses issued where required (R. 1162).

PART VIII.—MISCHIEFS RELATING TO CONTROLLING AUTHORITIES

CHAPTER 37.—SUBMISSIONS AGAINST PUBLIC AUTHORITIES

744. Submissions have been made to us that some public authorities which have the duty of controlling the trade do not adequately discharge their duties, and that, in some cases, the trade has exercised a direct or indirect influence in its own favour upon some of these public authorities.

We proceed to consider such of these submissions as we think should be dealt with in this report—viz., those concerning the Customs Department, the police, Licensing Committees, and the Price Tribunal.

745. We refer first to the submissions made against the Customs Department in respect of—

(1) The 10 per cent. allowance for wastage brought into operation in 1915;

(2) The permission granted to New Zealand Breweries in 1926 and in subsequent years to have unlicensed distributing stores for Speight's beer in various towns throughout New Zealand;

(3) The Westland Brewery case in 1941;

(4) The war taxation of May, 1942, which, it is alleged, enabled the breweries to meet the increased duty by using additional water;

(5) The permission granted in September, 1942, to the wholesale firm of Hughes and Cossar, Ltd., to manufacture liqueurs; and

(6) The allowance in May, 1943, of sugar in the manufacture and priming of beer.

CHAPTER 38.—CUSTOMS DEPARTMENT: THE WASTAGE ALLOWANCE TO BREWERIES

746. Section 55 of the Finance Act, 1915, is as follows:—

When the whole of the worts for any brewing are in the fermenting-vessels the brewer shall immediately cause to be correctly entered in the brewer's book the quantity and specific gravity of such worts, and the duty shall be paid as upon beer in accordance with such quantity and gravity, less such allowance for wastage in manufacture and use on the brewery premises as may be prescribed:

Provided that it shall not be lawful to delay the running into any fermenting-vessel of any part of the worts to be fermented beyond six hours from the time at which yeast is first added to any of such worts.

747. This section introduced the English method of imposing duty upon beer. The section plainly contemplates that the duty is to be paid upon the worts for any brewing as though the worts were beer, in accordance with the quantity and gravity of those worts when the whole of them are in the fermenting-vessels. The duty is payable upon "any brewing" and is therefore payable in respect of each particular brew. The quantity of worts is to be reduced for the purposes of taxation by such allowance for wastage in manufacture as may be prescribed. The reason for this allowance is that the tax is imposed upon the worts as beer, and therefore any wastage involved in the process of manufacturing the worts into beer should be deducted from the quantity of worts.

748. The view is clearly open upon section 55 that the process of manufacturing beer from worts does not include the bottling or the casking of beer and therefore that the wastage in manufacture does not include wastage in bottling or casking. On the other hand, it may be claimed that section 55 does include wastage of these kinds. We referred the point as it affected wastage in bottling to counsel. Counsel for the trade have submitted a careful and extensive memorandum on the position with a view to showing that bottling losses are included in the section. Counsel for the Alliance have submitted a memorandum arguing briefly that clearly they are not included. *Prima facie*, it would appear that they are not included, but we are not required to decide the point. It is sufficient that an important question does arise under the section as to whether the allowance for wastage does or does not include bottling losses.

749. To the wastage allowed in manufacturing the worts of any brewing into beer is added an allowance for the use of beer upon the brewery premises. This is beer consumed by workers and customers. It is negligible in relation to the total wastage.

750. The allowance for wastage is prescribed by Regulation 6 of the regulations made under Part III of the Finance Act, 1915. The wastage allowed is 10 per cent. of the worts pitched for fermentation. As it is an allowance intended to cover the wastage incurred in manufacturing the worts into beer, the wastage may apparently be described as it is described in England (see section 13 (3) (*b*) of the Inland Revenue Act, 1880) as wastage "in respect of such accidental loss and waste as arises in the brewing of beer."

751. The New Zealand law provides no check upon the quantity of the worts which the brewer should obtain from the quantity of the materials which he uses "for any brewing." In England there is a materials' check, and the English system should be explained.

752. Beer duty in England is governed by section 13 of the Inland Revenue Act, 1880, and section 10 of the Finance Act, 1896 (see R. 6408, 7323; Highmore's Excise Laws, 3rd Ed., Vol. I, p. 262; and Halsbury's Laws of England, 2nd Ed., Vol. 28, pp. 334 and 335). The charge is imposed on the worts actually produced, calculated on the quantity and gravity of the worts as declared by the brewer in his brewer's book. The check by reference to the materials is fixed by the statutory provisions and is stated in 2 Halsbury, Vol. 28, p. 335, as follows:—

> A brewer of beer is deemed to have obtained 36 gallons of worts at the standard gravity (1057 degrees) when he has used in brewing either 84 lb. weight of malt or corn (other than rice, flaked maize, and corn similarly prepared or dressed), or 56 lb. weight of sugar.

From the quantity so deemed to have been obtained from the materials used, 4 per cent. is deducted. The net result is then compared with the quantity of worts shown in the brewer's book. The higher figure is selected and brought to charge. From the figure so brought to charge, 6 per cent. is deducted as representing the accidental wastage involved in brewing the beer from the worts, and the duty is imposed upon the balance.

753. If 6 per cent. is a fair allowance for the wastage involved in brewing beer from worts in England, it may be asked why 10 per cent. should be allowed for similar wastage in New Zealand when the Finance Act, 1915, was designed to adopt the English system.

754. It should first be explained that the matter of wastage did not assume importance until the beer duty was substantially raised. When the beer duty was low, the duty payable upon the amount by which the allowance for wastage exceeded the actual wastage was not important. When the beer duty was increased, it became important; and the Comptroller of Customs estimated that in 1941 the revenue lost duty on some 763,988 gallons (being the difference between the loss and the gain in gallons shown in the schedule at R. 1310). Calculated at the average of present rate, the duty on that amount would be £110,778. (For this calculation the average present rate has been taken at 2s. 10·8d., which is an average of the duty paid on the entire production of beer brewed in New Zealand in 1944.)

755. On the other hand, it was suggested that even this loss of beer duty was not important, because the greater the allowance for wastage, the less the amount of taxation deductible from profits and therefore the greater the income-tax. The trade, however, does not adopt this view, nor does the Customs Department. Counsel for the trade said that the retention of the 10 per cent. wastage allowance was a matter of outstanding importance to the trade (R. 7435). Again, Mr. R. Francis Joyce (who had been assistant brewer at Staples Brewery, Wellington, from 1910 to 1920 and was subsequently employed at Manning's Brewery, Christchurch, and was later manager of the brewery at Kaiapoi, but who has been for many years a radio electrician) gave evidence that an enormous revenue was lost through allowing 10 per cent. for wastage instead of 6 per cent., which he thought was more than generous (R. 5452). In any event, the allowance for wastage ought to be properly and fairly allowed as such.

756. In answer to questions, the Comptroller suggested that the reason why the wastage allowance was higher in New Zealand than in England was that the small New Zealand breweries were inefficient and therefore that an ample allowance for wastage for all breweries was necessary in order to meet the needs of the smaller breweries (R. 6415). When asked, however, whether he suggested that the small brewers in New Zealand had worse types of equipment than the English brewers had in 1880, he said he would not suggest that (R. 6384).

757. In evidence before us the Customs Department included bottling losses in the wastage allowance, provided that those losses were incurred by brewers. The Department did not go so far as to make any allowance to bottlers who did not themselves manufacture beer. This may have been because bottlers are not brewers. Yet the brewer would get a wastage allowance over all his beer before, say, selling to a bottler. If the allowance is simply on the beer before bottling or casking, then the basis is rational, and is also consistent with the fact that from three-fifths to two-thirds of the beer which is manufactured in New Zealand to-day is not bottled at all.

758. By the year 1942 it appeared that two of the largest breweries in New Zealand, Speight's and Dominion Breweries, had reduced their wastage much below the 10 per cent. The wastage at Dominion Breweries was down to 2·56 per cent., including wastage in bottling; and at Speight's where there was no bottling, to 5·78 per cent. In 1941 the total gross brewings of these two companies were 8,543,947 gallons, or 39·5 per cent. of the total of all breweries in New Zealand, for the year. Together, these two breweries were estimated to have sold about 400,000 more gallons of beer than the total quantity upon which together they paid duty. Thus, in 1941, on an increasing rate of beer duty, these brewers were receiving a decided advantage in their trading operations over the smaller companies, which had less efficient plant. So far as that result was the reward of the efficiency of these two breweries, they are fully entitled to the advantage. So far, however, as that result was due to an excessive allowance to all companies for wastage, they were not entitled to it, just as no other company was entitled to it.

759. In 1942, the Comptroller of Customs, at the request of the Acting Minister of Customs, instituted an inquiry to determine whether there was an excessive allowance for wastage. The wastage which the Comptroller thought should be allowed for this purpose was wastage which he stated occurred in certain ways which we summarize (see file 31/7/9; memo of 3rd June, 1942, pp. 2 and 3):—

(1) During fermentation, where there is evaporation and overflow and sludge;

(2) During runnage from the fermenting-vessels into butts, where there is overflow of froth;

(3) During "topping up," where there is further overflow from the butts;

(4) During filling into smaller containers for sale, where there is spillage;

(5) During bottling for sale, where there is sludge from the filter and spillage in filling; and

(6) By the consumption on the premises by employees and customers.

760. If the extent of the wastage authorized by section 55 of the Finance Act, 1915, is only the accidental wastage which occurs before bottling or filling into other containers, only the first three items of those mentioned by the Comptroller are permissible. Items (4) and (5) would refer to wastage in the handling of manufactured beer. Item (6) is, of course, specially allowed by the statute, but, as we have said, it is negligible in relation to the rest of the wastage.

761. The Comptroller referred also in his memorandum to the state of the efficiency of the brewing plant as having a very important influence on brewing losses. In our view, the efficiency of the brewing plant is not, in itself, a separate item of permissible accidental wastage in manufacture, though it affects the extent of that wastage.

762. The Comptroller proceeded to have the losses in manufacture estimated in respect of the first five items, which he set out by comparing the amount sold in the year 1941 by each brewery with the total quantity pitched for fermentation by the brewery. If bottling losses should have been excluded, this involved a check in favour of the breweries going far beyond the allowance for wastage permitted by section 55. Items (4) and (5) above should have been excluded.

763. In carrying out his inquiry the Comptroller found great difficulties. He says (R. 2081):—

> The principal difficulty is that we do not know and there is no means of knowing the precise quantity of beer which the brewery sells.

He explained that the book-keeping system of the companies was not designed to give this information. He explained, also, that much of the trade was now done in casks, described as "large," "medium," or "small," which may vary as much as 4 per cent. or 5 per cent.; also, that when beer is bottled it is difficult to tell what was the original quantity from which it was bottled (R. 2082). Nevertheless, with the assistance of the brewery companies the various Collectors of Customs arrived at a percentage of wastage for each brewery upon the lines laid down by the Comptroller. The results are set out in a table (R. 1309 and 1310).

764. The table showed one brewery with a wastage of exactly 10 per cent. It showed sixteen breweries with a wastage of more than 10 per cent., varying from 10·38 per cent. to 21·62 per cent. for the small brewery at Gore. The average wastage for these sixteen breweries was 13·16 per cent.

The table showed twenty-three breweries with a wastage of under 10 per cent., varying from 2·56 per cent. for the Waitemata Brewery to 9·83 per cent. The average for these twenty-three breweries was 6·60 per cent.

765. Counsel for the trade suggested that the wastage for the Waitemata Brewery for 1941 should have been about 4 per cent., because the Comptroller had made a statement in writing of the 18th September, 1945 which stated (1) that further inquiries had been made in respect of the Waitemata return for 1941, with the result that it appeared that the records for the year 1941–42 had not been preserved intact and that a conclusive check could not now be made; (2) that the officer who made the investigation (Mr. J. S. Higginson, now retired) was of opinion that the figures for the Waitemata Brewery in 1941 did include the bottling losses; but (3) that "one of the other officers in Auckland" had checked the figures and had taken into account the bottling losses and "all other legitimate losses at the brewery" and had found that "the total overall loss" at the brewery for 1941 represented 4·02 per cent. So far as the bottling losses are concerned, the report of this other officer conflicts with the contemporaneous memorandum of 20th May, 1942 (on the Comptroller's wastage file 31/7/9), in which the Collector at Auckland informed the Comptroller as follows:—

> . . . I have to point out that the loss reported at the Waitemata Brewery includes any wastage in the process of bottling.

What "all other legitimate losses at the brewery" are, we do not know. They are not stated. Once it is clear, as it is, that the bottling losses for 1941 were included in the 2·56 per cent. of wastage, the statement of this other officer in September, 1945,

has no value. We note also that Dominion Breweries itself has never claimed that its wastage, including bottling losses, exceeded 2·56 per cent.

766. It follows that in 1941 the Waitemata Brewery was selling, free of excise duty, the difference between 10 per cent. and 2·56 per cent.—*i.e.*, 7·44 per cent.—of the gross quantity brewed, ready for sale in bottles or casks. Speight's Brewery was selling 4·22 per cent. of its gross brewings in the same advantageous way.

767. Even allowing for all the heads of wastage which the Comptroller has allowed, the inquiry shows a net loss in gallons for revenue purposes of 763,988 gallons for the year 1941. The average excise duty for New Zealand for the year 1944 was 2s. 10·8d. (para. 754, *supra*). If the loss of gallons for revenue in 1944 were only what it was in 1941, the loss of revenue amounted to £110,788.

768. Another striking aspect of the Comptroller's inquiry is that the breweries with a wastage of over 10 per cent. pitched for fermentation in 1941 only 5,221,468 gallons of worts. This amount includes 3,303,605 gallons, being the total quantity pitched for fermentation by the Lion Brewery at Auckland. This quantity is included only because the Comptroller was allowing wastage in bottling as a source of wastage within section 55 and because this brewery's wastage is stated to rise from 7·98 per cent. to 11·68 per cent. solely because of wastage in bottling (R. 7438). If bottling is not included, the Lion Brewery's wastage was under 10 per cent.

769. The breweries with wastages of under 10 per cent., even including their bottling wastages, pitched for fermentation in 1941, 18,148,559 gallons of worts. This quantity excludes the total of the Lion Brewery; and of the Waikato Brewery, whose wastage was exactly 10 per cent.

770. Even on the Comptroller's basis for allowing wastage, it seems extraordinary that the allowance of 10 per cent. should be thought to be justified because there is an average wastage of 13·16 per cent. in the manufacture of 5,250,000 gallons of beer when there is an average wastage of only 6·60 per cent. in the manufacture of more than 18,000,000 gallons of beer.

The Comptroller recommended that no immediate action should be taken, but suggested that, if the Minister so desired, he (the Comptroller) might present another report in September, 1943. No further action has been taken.

771. It seems clear that the whole question of wastage in the breweries of New Zealand should be reviewed in the light of the true requirements of section 55 of the Finance Act, 1915.

772. We conclude:—

(1) The question of providing a materials' check in New Zealand as in England should be investigated. There seems no reason why a sound estimate should not be made of a minimum quantity which should be produced by a brewer of reasonable skill from the actual materials used in New Zealand with a plant kept up to a reasonable state of efficiency. This estimate might best be made by some independent person or persons of high qualifications. Once the quantity was determined, the English system might be adopted of allowing 4 per cent. from the theoretical quantity and comparing the net result with the amount shown to have been produced by the brewer at the brewing in which the materials (from which the theoretical quantity is derived) were used.

(2) As an important question arises on the meaning of section 55 of the Finance Act, 1915, it should be interpreted by the Court so that the meaning of the allowance for wastage may be authoritatively ascertained.

(3) If the allowance does not include bottling losses then, clearly, the 10 per cent. for wastage should be substantially reduced. Furthermore, manufacturers with inefficient bottling plants should be induced to make them efficient.

(4) In our view, the Customs Department should have ascertained the true meaning of section 55 before carrying out its inquiry into wastage in 1942. In failing to do this the Department may have carried out its inquiry on a basis much too favourable to some brewers. An inquiry so carried out was not satisfactory.

CHAPTER 39.—CUSTOMS DEPARTMENT: THE PERMISSION GRANTED TO NEW ZEALAND BREWERIES IN 1926 AND SUBSEQUENTLY TO HAVE UNLICENSED STORES FOR SPEIGHT'S BEER IN VARIOUS TOWNS IN NEW ZEALAND

773. We have stated the facts of this matter in Chapter 32 on depots and unlicensed stores. We deal here only with the question whether the facts showed subservience to the trade.

774. We think that the Comptroller of Customs in 1926 should have firmly stated that there was no power to do what was asked by New Zealand Breweries for Speight's Brewery instead of giving to Speight's Brewery a special privilege. Nevertheless, we think that the file shows that the Comptroller approached the matter from the point of view of doing what he thought was a reasonable thing for a shipping brewer after the Commissioner of Police had advised that he was opposed to the sanctioning of depots under section 46 (2) of the Finance Act, 1917, which would have permitted the sales of 2-gallon lots (or more) from the premises.

775. We think also that, once the permission was given, some amendment of the legislation which would have conferred a general power upon some suitable authority to authorize an arrangement in favour of any brewer who desired to ship should have been sought forthwith. If no legislative power was obtained, the arrangement in favour of Speight's Brewery should have been terminated.

776. We do not think that the permission actually given can properly be described as subservience to the interests of the trade. In our view, the general character of the permission was that it was an attempt to provide a reasonable shipping facility for a shipping brewer.

CHAPTER 40.—CUSTOMS DEPARTMENT: THE WESTLAND BREWERY CASE IN 1941

777. This case was raised by counsel for the New Zealand Alliance as an example of the subservience of the Customs Department to the power and pressure of the trade, whereas the trade should be subservient to the Department representing the Government and, therefore, to the people. When the case first came before the Commission, Mr. Cooke, K.C., said that counsel for the trade were not representing Westland Breweries. Throughout the proceedings counsel for the trade did not cross-examine witnesses on this matter, or themselves call any witnesses. However, at the end of the public sittings Mr. O'Leary, K.C., in his closing address, said that Mr. Cook had been mistaken and that counsel for the trade had been representing Westland Breweries throughout the proceedings, and he, accordingly, addressed us on the subject.

778. During our public sittings evidence was given by the Comptroller of Customs and his officers. In the course of preparing this report we found it necessary to make further inquiries of the Comptroller concerning the effect of the disclosure in October, 1941, of the brewery company's monthly manufacturing sheets. We also asked the Minister of Customs to state his view on this matter and also to express any other views he thought fit on the case. The letters of inquiry and of reply are included in Exhibit A, 160.

779. It is not our function to try any charge, but only to consider how the Customs Department dealt with a brewery company accused of defrauding the revenue of beer duty. For this purpose we must explain the knowledge and means of knowledge of the Customs Department in relation to the matter.

780. Westland Breweries, Ltd., own three breweries — Mandel's Brewery at Hokitika, the Phœnix Brewery at Reefton (at which George Murtha was the brewer), and Pearns Brewery at Kumara (at which Charles Murtha was the brewer). At each place the local Postmaster has acted as a Customs Officer in taking the dip of the brews for revenue purposes.

781. On 15th August, 1939, the Customs received a letter, hand-printed in ink and signed "Full Tax," which was in these words:—

The breweries in Westland are not paying their full duty. They hold a certain amount in copper and run it in after the local Collector has taken the dip. If you arrange a surprise visit say half an hour after the dip has been taken, you will find how much is not paid. The over-run is put into their bottling stores. The surprise visit would have to be arranged on the day all the breweries are operating.

Yours, &c.,

FULL TAX.

Customs Officers then paid visits to breweries in Westport, Hokitika, and Reefton. Before the visit was made to the Westland Brewery Co.'s breweries at Hokitika and at Reefton a call was made on the local Postmaster, and he was informed of the position. Nothing wrong was discovered at either brewery.

782. After a lapse of some eighteen months a second anonymous letter, dated at Reefton on 19th February, was received by the Customs on the 22nd February, 1941. This letter was typewritten and signed "A War Winner," and was in these terms:—

Comptroller of Customs,
Wellington.

DEAR SIR,—

You are going the wrong way in trying to catch the local brewery in the evasion of paying beer duty. Send a man from Wellington without contacting the local Post Office and let him measure the liquor an hour or more after the local man has done it. The visit would need to be a surprise one. You are losing at least £1,000 per year in revenue. If you inspect Kumara Brewery at the same time you will find conditions the same.

A WAR WINNER.

783. On the 25th March, 1941, two Customs Officers paid surprise visits to the brewery at Kumara and two other officers to the brewery at Reefton. At the Kumara Brewery the local Postmaster was found in the cellar having a glass of ale with the brewer and his wife. The local Postmaster said he had not always been able, on account of other work, to get to the brewery to check the dips and had been taking the entry made by the brewer to be correct. It was found that the brewer had already taken the dip and had entered it in the brewer's book. Another dip was taken and it was found that liquid had been added to the gyles after the brewer had taken the dip. At the Reefton Brewery the brewer was not present during the search, but the Postmaster, who had earlier that day taken the dip, attended. It was found that an intake hole near the top of the gyle had been plugged and extra liquid added after the dip had been taken. The total amount of duty avoided on these brews at Kumara and Reefton was about £30.

784. Subsequent investigations showed that false returns had been made at the Kumara Brewery from 1929 to 1941, a period of about twelve years, and at the Reefton Brewery from 1936 to 1941, a period of more than five years. The company's books were produced by the secretary-manager as they were required by the Customs Officers, but no search of the company's premises under a Customs warrant was made. Under such a warrant an officer could have the assistance of any officer of police and such other assistance as he thought necessary (section 176 of the Customs Act, 1913). Serious discrepancies in the returns between the breweries and head office were discovered which the secretary-manager could not explain. The deficiency in revenue was subsequently calculated to be £9,289, but was later reduced to £9,000. In evidence before us a Customs Officer said that the value of the liquor on which duty had not been paid was something like £50,000. Pursuant to section 208 of the Customs Act, 1913, the maximum penalty was three times this amount, or from £130,000 to £150,000.

785. On the 1st April, 1941, the Comptroller required the two brewers and the company to show cause why proceedings should not be taken against them.

786. On the 29th April, George Murtha, and, on the 30th April, Charles Murtha, wrote letters to Westland Breweries, Ltd., of which copies appear on the Customs file. Each brewer stated, in effect, to the company, his employer, that he had understated the

returns from his branch without the knowledge of the officials of the company for the purpose of keeping up the returns from his branch. George Murtha, who was at Reefton, stated that he wanted his figures to be better than those of the Kumara and Hokitika branches, and Charles Murtha stated that he wanted to show returns as good as the other branches. Each brewer said he had no shares in the company, and that his salary did not depend on the profits of his branch. The company's return shows that in 1940 George Murtha, at Reefton, received a salary of £480, a bonus of £35, and a free house; and that Charles Murtha, at Kumara, received in 1940 a salary of £360 and a bonus of £20.

787. On the 2nd May, 1941, a further typewritten letter, dated 23rd April, 1941, and again signed "War Winner," was received by the Customs. This letter was in these terms:—

Comptroller of Customs,
Wellington.

DEAR SIR,—

For your information re the local brewery's duty frauds. Despite the fact that you have caught them red-handed.

1. The usual quantities of materials are entered in the book, in order not to clash with the brew which was found fraudulent. However, a surplus is put aside and the old strength taken. This results in a piling up of materials and to use these up a brew without notification is put through. A whole brew was made on the 19th inst. and no duty paid.

2. There is collusion between the brewer and the manager at Greymouth for the overstock beer to be bottled. This arrangement receives the silent assent from the directors.

3. The amount of unpaid duty for Reefton and Kumara for past four or five years must amount to £15,000 to £20,000.

4. Why not put Customs Officers stationed at all three Breweries and the bottling factory, all the time for two or three weeks? This would uncover these gigantic frauds.

A WAR WINNER.

This letter purported to come from the same source as had previously proved correct. It contained charges of fraudulent conduct which was being continued during the war and alleged the loss of large amounts of revenue. Yet no search-warrant was at any time executed on the company's premises.

788. A letter dated 9th May, 1941, was then written by a solicitor, on behalf of Westland Breweries, Ltd. The solicitor was himself a director of the company. The letter contained an admission that the company had, by its agents the brewers, committed offences against the Customs Act, but said that the directors were in no manner consenting parties to or cognizant of the offences committed by the brewers. The letter did not refer to the state of knowledge of the secretary-manager. The letter asked the Minister of Customs to determine the liability of the company under the provisions of section 244 of the Customs Act, 1913, on the grounds (*a*) that the publicity of a public prosecution would have a detrimental effect on the company's business and further depreciate the value of the shares, which shares must necessarily be affected by reason of the extraordinary payments the company would now be called upon to make; (*b*) that the directors, the accredited agents of the shareholders were neither parties to nor cognizant of the illegal practices; and (*c*) that the income-tax had been overpaid on the sum representing additional income not earned by the company (this sum being the equivalent of the amount of duty under-paid which should have been deducted from the profits) so that only 8s. 2¼d. of each £1 of beer duty underpaid was not received by the Crown. The letter particularly urged that no action might be taken which would result in the cancellation or suspension of the company's brewer's license. A subsequent letter from counsel acting for the company represented that the directors had given an assurance that they were not cognizant of the evasions and that Court proceedings would injure their reputations, no matter how innocent they were.

789. Letters dated 10th May, 1941, were sent to the Customs by another firm of solicitors on behalf of the two brewers. These letters put forward the personal circumstances of these two men and asked that the matters should be dealt with under section 244 without recourse to the Courts.

790. Section 244 of the Customs Act, 1913, is as follows :—

(1) If any person admits in writing that he has committed an offence against the Customs Acts, the Minister may, at any time before judgment or conviction, whether proceedings have been commenced in respect of that offence or not, accept from that person in full satisfaction of the penalty or fine thereby incurred by him such sum as the Minister thinks fit.

(2) The sum so accepted by the Minister may be less than the penalty or fine provided for the offence.

(3) The Minister may cause to be published in the *Gazette* a notice of the particulars of any settlement made by him in pursuance of this section.

Counsel assisting the Commission explained that similar powers exist in Australia under sections 265 and 266 of the Australian Customs Act, 1901. In England there is a power given to the Commissioners of the Treasury or Customs to restore seizures and to mitigate penalties by section 209 of the Customs Consolidation Act, 1876. Counsel also explained the practice of the New Zealand Customs in applying section 244, in these words (R. 7772) :—

I am instructed that it is frequently found necessary by the Department to recommend action by the Minister under this section in cases : (1) involving urgency due to the early departure of vessels ; (2) where the minimum penalty provided under the law is considered unduly harsh and the imposition of a smaller penalty is fully warranted ; (3) where the Department is satisfied as to the guilt of the party concerned but is unable to furnish sufficient evidence to secure a conviction by the Court ; and (4) where publicity is considered to be undesirable. It is not, however, as I understand it, the practice of the Department to recommend action under section 244 in cases which involve deliberate defrauding of the revenue . . .

791. In his evidence before us the Comptroller based the application of section 244 to the case of Westland Breweries upon the ground that the evidence did not, in his view, disclose that the manager or the directors were parties to the offences, and that he considered the management of the company were only negligent. He thought the management should have known what was going on, but were merely negligent in not knowing.

792. On the 30th May, 1941, a Customs investigating officer made a long report on the case to the Comptroller. He had made inquiries at the company's head office and had asked for the production of books and documents, though he did not make a search under a Customs warrant. In his report he showed that the quantities which he estimated would be produced at each brewery, from the materials used, corresponded fairly closely, after making due allowance for wastage, with the quantities actually sold. From these figures he ascertained the amount of duty short-paid to be £9,289, and he considered that this amount could be substantiated. At a later date the Comptroller, in a memorandum to the Minister of the 18th August, 1941, gave as a reason for permitting time for the payment of a balance of duty amounting to £7,075, this statement—viz., " . . . remembering also that the amount of £9,000 is in excess of what we can definitely establish as short-payment of duty (possibly by some £500 . . :)." The conclusion to be drawn from the company's own books was therefore that it had short-paid duty by an amount of between £8,000 and £9,000.

793. The investigating officer then considered the question whether the case should be dealt with under section 244. He said that, for a large penalty, the case would be tried in the Supreme Court, and most likely on the West Coast, and that in the past the Crown had had difficulty in obtaining a conviction before a West Coast jury. He said that the company was a public one, consisting of 229 shareholders, the average holding being 240 shares. He said : " It has been claimed (and I have failed to establish anything to the contrary) that the frauds have been perpetrated in ignorance of the directors and management." He said that to penalize unduly the shareholders would hardly be reasonable, and that the brewers were the persons who should be penalized. The investigating officer said, further, that the Department felt that the only real value of Court action was the deterrent effect, but that publicity should be given to the matter per medium of the *Gazette*. On this point he continued : " This would at least bring the frauds before the notice of the business community. Further publicity could be given by the press should they care to publish the *Gazette* notice."

794. On the 11th June, 1941, the Comptroller wrote a long report for the Minister of Customs. He said that the Crown Law Office considered that an information against the company as well as the brewers would succeed. He stated that the directors explained that they were in no manner consenting parties to or cognizant of the offences committed by the brewers. He said that the manager of the company had stated that he was entirely unaware of the frauds and had not, prior to being made cognizant of them, taken out figures to show the actual losses for wastage at the breweries, nor was he aware of the difference between the quantities brewed and sold at the breweries. The Comptroller's comment on this explanation was: "This statement may be difficult at first to believe, but in the absence of proof otherwise it should, in my opinion, be accepted." The Comptroller then went on to explain the position by saying that he thought that gross mismanagement had prevailed in the company and that he felt that neither the directors nor the management had been a party to the frauds. He said, however, that the frauds had been spread over a long period and that publicity should be given to them as a deterrent to others who would design to defraud the Customs. He pointed out that the company was liable to a fine of three times the value of the goods, and said that the value of the beer in the brews in respect of which the offences were committed on the 25th March, 1941, was approximately £350, and the maximum penalty, therefore, £1,050. The Comptroller said these offences of the 25th March were the only offences with respect to which a conviction was sure.

795. The Comptroller then went into the reasons for and against a prosecution, and said that in Court there was only evidence to support the two instances in which the brewers were caught red-handed and with respect to which extra duty, amounting to some £30, was involved, though he pointed out that the Customs could allege that it had lost £9,500 in duty and put the onus on the company to disprove it. (This was a reference to the provisions in the Customs Act which place the onus on the accused and also presume fradulent intent unless the contrary is proved.) The Comptroller also said that, as the directors were the trusted agents of the shareholders, and assured him that they were not cognizant of the fraud, it would seem unreasonable to penalize unduly the shareholders for the acts of which the company had no knowledge. The Comptroller finally proposed that the Minister should deal with the company and the brewers under section 244, claim £9,500 for duty short-paid, impose a penalty of £1,000 on the company, a penalty of £50 on George Murtha, and a penalty of £25 on Charles Murtha. He proposed that the company's brewer's license should not be renewed for the year 1942 if the two brothers were in the employ of the company when application was made for renewal, and also that a notice should be published in the *Gazette* of the settlements made. The Comptroller concluded his report by saying that the Minister might wish to refer the whole matter to the Solicitor-General for his opinion respecting the Comptroller's recommendation.

796. The Minister sent the Comptroller's report to the Solicitor-General. On the 19th June, 1941, the Solicitor-General informed the Minister that he had considered the report and recommendation of the Comptroller of Customs and supported the recommendation that the Minister exercise his discretion under section 244. The Solicitor-General added that, although section 244 did not deal with the recovery of duty, he saw no reason why the recovery of duty short-paid should not be dealt with at the same time as the fixing of the penalties or fines. On the 20th June, 1941, the Minister approved the settlement under section 244 proposed by the Comptroller.

797. We realize the difficulty of making comment upon this decision to settle the matter under section 244, subject to the publication of the penalties in the *Gazette*, instead of prosecuting the company and the brewers in Court. We have not had the experience in dealing with these matters which the officers of the Department have had. We are not aware of the extent to which they have been accustomed to be satisfied that there is evidence of deliberate fraud before they decide against recommending settlement under section 244. We realize, too, that the decision was made during the war when

perhaps, part of the atmosphere was the need to maintain revenue-producing units in operation. We realize also that the Comptroller suggested a reference to the Solicitor-General, that the Minister very properly acted on the suggestion, and that the Solicitor-General supported the Comptroller's recommendation that the Minister should exercise his discretion under section 244. We think that both the Minister and the Comptroller are fully entitled to rely on the Solicitor-General's opinion.

798. The comment we feel justified in making at this stage is this: We think that a search warrant should have been executed on the company's premises before any decision about acting under section 244 was reached. At a subsequent stage monthly manufacturing statements were produced, which indicated, *prima facie*, that the secretary-manager knew that the revenue was being defrauded. If these sheets had been before the Solicitor-General, he might have made a different recommendation.

799. The decision having been made to effect a settlement under section 244, further investigations took place, and the amount of duty short-paid was determined at £9,500. This amount, with the penalties of £1,000, £50, and £25, made a total of £10,575. By letter of the 23rd June, 1941, the Comptroller informed the company's counsel that the Minister had decided under section 244 that he was prepared to accept in full satisfaction of all the penalties incurred by the company and by George and Charles Murtha the sum of £1,075, provided that deficient beer duty, amounting to £9,500, was first paid up. This amount of duty was subsequently reduced, after further discussion, to £9,000.

800. On the 14th August, 1941, the company wrote to the Comptroller, forwarding £3,000 in settlement of all the fines and on account of the duty. The letter asked for certain concessions, including a spreading of payments over three years, though the company stated it proposed to liquidate the debt as soon as its finances permitted. On the 18th August the Comptroller proposed to the Minister a settlement which involved a postponement of the payment of the balance of duty and fines amounting to £7,075, without interest, until October, 1943. On the 22nd August, 1941, the Minister approved this settlement, which was then communicated to the company's solicitors.

801. The company then proceeded to seek a refund of income-tax and obtained in all £1,915 13s. 5d. The company also made inquiries for two new brewers because the Murthas were to be dismissed.

802. The company proceeded with arrangements to enable it to pay the amount due in full. The request for postponement had been made because the manager of the Bank of New Zealand was not at first disposed to recommend increased accommodation. When, however, the bank was asked to join in a bond to secure the extended payments, the Head Office of the bank, after being urged, towards the end of September, 1941, by a director of the company to expedite the matter, agreed to increase the overdraft. Notice of this decision was received by the company's solicitors at Greymouth on the 2nd October, 1941, and, on the same day, they sent a cheque for the balance in one amount to the Customs Department. This letter was received by the Customs Department on Saturday, 4th October, 1941.

803. On the same day (4th October, 1941) George Murtha interviewed the Minister of Customs in Wellington. The Minister informs us that he has no record of the interview, but that he recollects advising Murtha that he would not alter his decision as to Murtha's dismissal, and that he then referred Murtha to the Comptroller and requested the Comptroller to interview Murtha with regard to any other matters which he wished to raise.

804. Murtha produced to the Comptroller copies of monthly manufacturing statements, prepared at the Reefton Brewery, and subsequently forwarded to the company's head office at Greymouth. These documents of the company were found by the Comptroller to constitute *prima facie* evidence that the secretary-manager of the company knew that the company was defrauding the Customs.

805. On the 6th October, 1941, the Comptroller acknowledged the company's letter of the 2nd October, and sent a receipt for the balance of duty and fines.

806. On the same day (6th October, 1941) the Comptroller, by memorandum, advised the Minister of the payment and of the monthly statements produced by Murtha, which had not been previously produced to the Department, and of the fact that they indicated that the secretary-manager should have known that the actual gross quantity brewed was not being returned for duty purposes. The Comptroller also said that the case had been finalized in so far as penalties against the company and the brewers and the amount of beer duty short-paid were concerned, but that, if, as the monthly statements seemed to indicate, the secretary-manager, or other officers of the company, were aware of the frauds, the question arose whether such persons should be permitted to act in the general or special management or control of the company's breweries. The Comptroller said (notwithstanding the fact that, having regard to Murtha's demeanour and past performances, one must be prepared to discount allegations by Murtha against other people) he (the Comptroller) was arranging for an investigation of the secretary-manager's integrity.

807. On the 10th October, 1941, the Minister approved the Comptroller's memorandum and thereby made effective the acceptance of the balance of the duty and fines subsequent to the disclosure of the monthly manufacturing statements.

808. On the 16th October, 1941, the notice of the settlement was gazetted in these terms :—

In accordance with the provisions of section 244 of the Customs Act, 1913, it is hereby notified for public information that the Westland Breweries, Ltd., George Murtha, and Charles Murtha, having on the 14th day of May, 1941, admitted in writing that they had from time to time prior to that date committed offences against the Customs Act, the Minister of Customs has accepted from the said company and persons in full settlement of the penalties thereby incurred the following sums : Westland Breweries, Ltd., £1,000 ; George Murtha, £50 ; Charles Murtha, £25.

E. D. Good,
Comptroller of Customs.

809. The settlement, of which this notice was gazetted, was completed on the basis that there was no evidence of deliberate fraud on the part of the company's directors, or its secretary-manager. Yet the question does arise whether the company's own monthly manufacturing statements did not provide sufficient evidence (especially when added to the other circumstances) of deliberate fraud, sufficient to justify the holding-up of the settlement pending, at least, an inquiry into the integrity of the secretary-manager or the taking of the opinion of the Solicitor-General. Indeed, the questions arise (*a*) whether the whole settlement should not have been repudiated on the ground that the monthly manufacturing statements had not been disclosed by the secretary-manager, and (*b*) whether the question of the company's guilt or innocence should not have been referred forthwith to the Court.

810. On these questions the Comptroller informs us that he considered that the Minister had, by his decision of the 22nd August, 1941, already committed himself to accepting from the company a settlement under section 244, and that £1,000 had already been appropriated to the satisfaction of the penalty incurred by the company. The Comptroller considered, therefore, that the only courses open to him were to investigate the integrity of the secretary-manager, and, if necessary, to prevent him from acting in the general or special management of the company's breweries, and also, if necessary, to cancel or suspend the brewer's license under section 48 (1) of the Finance Act, 1917.

811. The Minister of Customs informs us that his decision to proceed with the settlement was based on the statements of the opinions of the officers concerned, that they were excellent officers, and that the Minister's knowledge of them, gained previously, was such as to lead him to accept their statements of fact and regard highly their expressions of opinion.

812. While we appreciate these views, we think that the difficulty of concluding a settlement first and then investigating the integrity of the secretary-manager afterwards was not appreciated. If the investigating officers found against the integrity of the secretary-manager, then, presumably, the settlement based on his innocence would not have been completed. The investigating officers were, we think, placed in a somewhat difficult position.

813. On the 21st October, 1941, two Customs Officers had an interview with the secretary-manager. No search of the company's premises was made. The secretary-manager was told of the documentary evidence supplied by Charles Murtha to the Comptroller. The secretary-manager replied that he knew the nature of the documents and alleged that Murtha had said that, unless certain representations (which the secretary-manager regarded as improper) were made by the brewery company to assist Murtha with income-tax deductions in respect of his use of the company's house and car, he (Murtha) would hand the documents to the Customs Department. The secretary-manager stated that he had refused to advise the Income-tax Department improperly.

814. If this statement is correct, it would appear (*a*) that the secretary-manager knew that Murtha was coming to Wellington to see the Customs Department at the time that the full balance of duty was paid by the brewery company to the Customs Department without previous notice of a desire to forego the extension of time, and (*b*) that the secretary-manager had declined to mislead the Income-tax Department as the price of restraining Murtha, at least for the time being, from handing over to the Customs Department strong written evidence against the company and its secretary-manager.

815. The secretary-manager was also asked by the investigating officers to produce the monthly manufacturing statements in respect of past years, but he said that they had only recently been destroyed for the reason that, as the case had been finalized, he had considered that they were of no further use. The secretary-manager said he had never submitted them to any of the directors and had never compared the quantities shown on them with the beer-duty entries. He also said that, though the statements were compiled for each month, they were not sent to him regularly by the brewer. They were usually received over anything from three- to five-monthly intervals. The officers made other inquiries from a clerk at the brewery at Reefton. This clerk, apparently, had known the position for some time, but said he had not acquainted the manager or the department with the position because Murtha was a difficult man to work with and his position might be in jeopardy.

816. One Customs Officer expressed the opinion, as the result of his inquiries, that neither the secretary-manager nor the directors were aware of the frauds. The other officer said it was difficult for him to understand that the management of a manufacturing company would have elaborate monthly statements compiled and not use them to check up on their production costs. They might have been overpaying instead of underpaying duty. This officer, however, said that no evidence was forthcoming to show that the management was aware of illegal action by the brewer.

817. This report seems to us to take a very limited view of the extent to which a secretary-manager would acquire information from monthly manufacturing statements which continued to function as part of the company's book-keeping system, even though they were received over three- or five-monthly intervals instead of monthly.

818. On the 12th November, 1941, the Comptroller reported to the Minister upon the investigation. The Comptroller said that the documents handed to him by the brewer were of such a nature that, if utilized by the company, they established a *prima facie* case that the secretary-manager and the directors should have been aware of the frauds. The Comptroller expressed the opinion, however, that the inquiries showed that

the monthly statements were forwarded at such irregular periods as to be completely disregarded for adoption as to any use in the office system, and he repeated that the secretary-manager was emphatic that the documents were ignored.

819. The Comptroller here seems to us to take the same unduly limited view of the inferences to be drawn by a secretary-manager from the monthly manufacturing statements as the Customs Officers had done, and also to accept as true the word of the man who should have been suspect. The Comptroller relies on some estrangement between the brewers and the secretary-manager for the apparent disinclination of the secretary-manager to visit the breweries for supervision and checking purposes and, consequently, to account in this way for the secretary-manager's formal acceptance of the brewer's figures without question. The Comptroller recognized that the company's clerk in the Reefton Brewery had become aware of the corrupt practices.

820. The Comptroller concluded that, from the evidence available, he was unable to come to any other conclusion but that the secretary-manager and the directors were unaware of the frauds. The Comptroller concluded his letter by recommending the refusal of an application that Murtha should be permitted to retain his position as brewer at Reefton.

821. The Minister of Customs accepted the Comptroller's views and recommendations. The Minister informs us that the investigations carried out by competent and reliable officers established to his satisfaction that the secretary-manager did not know that the actual gross quantity brewed was not being returned for duty purposes. The Minister also said that, if these further investigations had established that the secretary-manager was implicated in defrauding the Customs, it would have been possible to take steps to prevent him from being permitted to act in the management or control of the company's breweries.

822. The Comptroller had taken action to have the Postmaster at Kumara removed, and this was done by December, 1941.

823. On the 16th December, 1941, the Collector at Greymouth reported that Murtha had again called and made a series of specific allegations and had offered to turn King's evidence if no further charge would be laid against him. On the 18th December, 1941, the Comptroller sent a copy of the Collector's report to the Minister and said that, though the case has been finalized as regards penalties and duty short-paid, if Murtha's statements could be proved, the question would arise whether the company's annual license should be renewed. He said, however, that the assurance desired by Murtha of non-prosecution, if he gave evidence, could not be given. On the same day the Minister approved this recommendation.

824. There are other letters on the file since 1941, but we need mention only the following matters. There was a further letter from "War Winner Again" on 13th January, 1942, concerning the Reefton Brewery, but a search on this occasion disclosed nothing suspicious. The Minister of Customs, in agreement with the advice of the Comptroller, has consistently refused applications by or on behalf of George Murtha to have him reinstated as a brewer with the company. George Murtha notified the Commission that he would give evidence at Christchurch, but, when the Commission sought to fix a time for his appearance, we were informed by Counsel for the Commission that Murtha had sent word that he would not appear; and he did not appear.

825. We have reached these conclusions :—

(1) We think a mistake was made by the Customs officials in not executing a search-warrant on the company's premises at an early stage in the proceedings and in not seeking the aid of the police in the investigation.

(2) We think that, when the decision was made, in June, 1941, to deal with the case at the discretion of the Minister under section 244 of the Customs Act, the Minister and the Comptroller were entitled to rely on the Solicitor-General's support of the Comptroller's recommendation that the settlement should be made under section 244, subject to the publication of the penalty in the *Gazette*.

(3) When the company's monthly manufacturing statements, which contradicted the brewer's book, were brought to the notice of the Comptroller on the 4th October, 1941, we think the Comptroller would then have been justified in advising the Minister not to recognize any settlement made without knowledge of those statements and to commence forthwith a prosecution of the company and any of its officers who appeared to be implicated. Alternatively, the advice of the Solicitor-General should again have been taken.

(4) The penalty on the company of £1,000 must have been fixed on the basis that the company's two brewers had been surreptitiously falsifying returns for the company's benefit, but without the knowledge of the management and that the company was only technically guilty. On this basis we do not think the amount of £1,000 is to be called in question, even though the company obtained a refund of income-tax of £1,915. The company was entitled to that refund. The real question is whether the company should have been dealt with on a different basis.

(5) There is no evidence whatever of any interference in this matter by any organization of the trade or by any official of the trade.

(6) Requests made by or on behalf of one of the brewers (George Murtha) for the Minister's consent to his re-employment by the brewery company have been consistently refused by the Minister, in agreement with the advice of the Comptroller.

826. The case is put forward as an instance of subservience by the Customs Department to the power and pressure of the trade. We do not think it shows that.

827. The question of the Department's administration in relation to a brewery company is also in issue.

Upon this matter our view is :—

(1) That, when the decision to act under section 244 was made in June, 1941, too much reliance appears to have been placed upon the assurances of good faith tendered to the Department in respect of a company whose books showed that it had been shortpaying duty for about twelve years, but, at this stage, the Department was fully entitled to rely upon the advice of the Solicitor-General.

(2) That, after the monthly manufacturing statements came into the possession of the Department in October, 1941, the Department need not have felt under any obligation to complete the settlement under section 244, and the Comptroller would have been fully justified in advising a prosecution of the company and any of its officers who appeared to be implicated instead of immediately accepting the balance of the money in completion of the settlement and in advising the Minister that the settlement had been completed.

(3) That the Minister had a discretion to act under section 244, conferred upon him by law : that in exercising that discretion, he was entitled to rely on the advice of his permanent officers ; and that it cannot be said that he should not have approved the completion of the settlement under section 244.

CHAPTER 41.—CUSTOMS DEPARTMENT: THE EFFECT OF WAR TAXATION OF MAY, 1942, WHICH IT IS ALLEGED ENABLED THE BREWERS TO MEET INCREASED DUTY BY USING ADDITIONAL WATER

828. Mr. Hardie Boys submitted that the brewers were enabled to meet the extra taxation for war purposes imposed in May, 1942, by the use of additional water and that this showed subservience on the part of the Customs Department to the trade (R. 7287).

829. The increase in taxation on beer to 3s. per gallon which was imposed on 30th April, 1942, with an increase of 1d. per unit of specific gravity above 1036 and a decrease of 1d. per unit of specific gravity below 1036 (para 288, *supra*), was designed to reduce the alcoholic content of beer. The New Zealand Alliance informed us (R. 2025 ff) that it pointed out to the Ministers of the Crown that the reduction in strength would be followed by an increase in the quantity brewed. That had been the experience in England. The Alliance therefore asked that the quantity of beer to be produced at the lower strength should be pegged at the average quantity produced during the five years before the war. The Ministers replied, so we were informed, that the Government was going to ration sugar and that the reduced sugar ration would peg the quantity of beer. On the 27th April, 1942, the sugar ration was reduced to 50 per cent. of the purchases for 1941 (R. 6905).

830. There did, in fact, follow a great increase in the production of beer (R. 1230). In 1945 there was an increase of more than 6,500,000 gallons over the production of 1942. The precise figures are these: in 1942, 20,279,828 gallons of beer were produced from 3,568,545 lb. of sugar and 747,680 bushels of malt. The beer duty and the war taxation paid on this quantity was £2,615,211. In 1944, 25,305,615 gallons were produced from 2,365,487 lb. of sugar and 905,106 bushels of malt. The total amount of beer duty and war tax paid on this quantity was £3,646,110 (see R. 1230). In 1945, 26,912,600 gallons were produced from 2,463,953 lb. of sugar and 963,606 bushels of malt. The beer duty and war taxation on this quantity was £3,866,891.

831. It was submitted for the New Zealand Alliance that this increase in quantity was made up of water, which cost the trade nothing. It was submitted for the trade that the only saving in every brew at specific gravity of 1036 was the saving in cost due to the reduction in materials, estimated to amount to 20 per cent. It was submitted that all other costs of brewing went on as before (R. 6905 and 6907).

832. The trade's view is correct as to each brew, but every 20 per cent. saved on each brew meant that after every four brews the brewer had enough materials in hand, out of his total supply of materials, for another brew at 1036. Accordingly, from the same quantity of materials, the brewer could make one hundred brews at a specific gravity of 1036 for every eighty brews he could make at a specific gravity of 1047.

833. A saving in materials would also be effected if the brewer brewed at a specific gravity below 1036. There would also be a saving in duty by reason of the provision for decreasing the duty by 1d. for every unit below 1036, subject to a limit of 2s. 3d. per gallon (para 288, *supra*). There is an indication in the evidence that Dominion Breweries was brewing below 1036 when the production costs were stated to include excise duty between 2s. 9d. and 3s. (R. 4281). When we asked the Customs Department to estimate the loss on the 10 per cent. wastage, as shown (R. 1309 and 1310), we found that the average excise duty for New Zealand in 1944 was 2s. 10·8d., and for 1945, 2s. 11·08d.

834. We then obtained a return showing the specific gravity of the beer brewed by the different breweries in 1944, which is as follows :—

Table showing Output of Breweries in New Zealand and Average Specific Gravity of Worts in 1945

Licensee.	Brewery.	Address.	1945. Gallons.		Average Specific Gravity of Worts.
New Zealand Breweries, Ltd.	Captain Cook	Auckland	2,873,448		1035·91
,,	Lion	,,	2,954,169		1035·81
,,	Gisborne	Gisborne	512,214		1034·54
,,	Thorndon	Wellington	1,861,447		1035·83
,,	Crown	Christchurch	871,583		1035·98
,,	Ward's	,,	1,120,103		1035·98
,,	Timaru	Timaru	644,078		1035·88
,,	Union (McGavin's)	Dunedin	408,814		1035·99
,,	City (Speight's)	,,	4,325,205		1035·99
,,	Victoria (Strachan's)	,,	494,409		1035·99
Total				16,065,470	
Dominion Breweries, Ltd.	Waitemata	Otahuhu		4,432,325	1033·67
Ballins Breweries (N.Z.), Ltd.	Ballins'	Christchurch		1,529,784	1035·96
Tui Brewery, Ltd.	Tui	Mangatainoka		525,049	1033·19
Westland Breweries, Ltd.	Phoenix	Reefton	360,545		1033·19
,,	Westland	Hokitika	200,754		1034·71
Total				561,299	
Macarthy's Brewery, Ltd.	City and Phoenix	Wellington		474,125	1035·01
Cascade Brewery, Ltd.	Cascade	Taihape		560,044	1034·35
C. L. Innes and Co., Ltd.	Waikato	Hamilton		370,252	1035·67
J. R. Dodson and Son, Ltd.	Nelson	Nelson	118,129		1034·46
J. A. Harley and Sons (now Nelson Breweries, Ltd.)	Raglan	,,	197,871		1033·98
Total				316,000	
Dunedin Brewery and Wilson Malt Extract Co., Ltd.	Dunedin	Dunedin		223,139	1035·99
Kauri Brewery, Ltd	Kauri	Woodville		276,007	1033·39
Taranaki Brewery and Cordials, Ltd.	Taranaki	New Plymouth		213,586	1033·94
Standard Brewery Co., Ltd.	Standard	Palmerston North		200,634	1034·72
Simons Pty., Ltd.	Paeroa	Paeroa		101,176	1034·35
Marlborough Brewery Co., Ltd.	Marlborough	Blenheim		82,379	1034·49
Morley and Co.	Union	Westport		126,221	1032·33
R. Ford and Co., Ltd.	Ford's	Hokitika		108,762	1034·85
W. Burridge and Son	Eagle	Masterton		136,345	1032·01
Burton Brewery Co., Ltd.	Burton	Palmerston North		102,219	1035·53
Wanganui Brewery Co., Ltd.	Wanganui	Wanganui		96,073	1033·45
Whittingham and Co., Ltd.	Waikiwi	Invercargill		37,366	1035·74
T. P. O'Halloran and Co.	O'Halloran's	Wellington		86,381	1031·23
Hawera Brewery Co., Ltd.	Hawera	Hawera		52,672	1032·67
I. E. Grant (now Heeney and O'Neill)	Gore	Gore		36,930	1034·50
Southland Breweries, Ltd.	Southland	Invercargill	132,287		1035·96
,,	Awarua	,,	..		
Total				132,287	
D. H. Newbigin	Leopard	Hastings		62,802	1034·36
Wellington Breweries, Ltd.	Wellington	Wellington		2,602	1029·15
A. A. Stewart	Stewart's	Greymouth		671	1032·55
M. Simich and Co., Ltd.	Lager	Auckland	..		..
Duncan and Co.	Otago	Dunedin	..		..
Dominion total				26,912,600	

835. This table shows that thirteen breweries, with a total output of 6,500,000 gallons, brewed at a specific gravity of less than 1034. Wellington Breweries brewed as low as 1029·15. Dominion Breweries had an average of 1033·67, including brews of lager and stout, which usually have a higher specific gravity than ale. On the other hand, fifteen breweries, including all the breweries of New Zealand Breweries except that at Gisborne, with an output of nearly 18,000,000 gallons, brewed close to 1036. On this account, the average specific gravity of New Zealand beer (including therein ale, lager, and stout) is about 1035. These facts must be taken into account when the evidence for the trade concerning the difficulty of brewing below a specific gravity of 1045 or 1047 is considered.

836. At present we note only that this practice results in a further saving of materials and therefore in the ability of the brewer to save more materials out of his total stock for more brews.

837. The additional substance in all the extra brews produced from the saved material is water, a commodity common to all brews. Nevertheless, each additional brew carries all the overhead costs and expenses of a brew, including its proportion of wages, power, &c. It is therefore not correct to say that the brewer had achieved a costless increase in the quantity of beer which he had for sale to the extent of the extra number of brews he had for sale. In so far as the brewer was able to make more brews by reason of the saving in materials, he increased his profits by reason of (*a*) the greater turnover; (*b*) the reduced cost of materials in each brew; and (*c*) the reduction in duty in those of the extra brews which were kept below the specific gravity of 1036 while the price remained the same for all brews.

838. We conclude:—

(1) Although the trade did increase its turnover and its profits, the increase was not a costless one. The extra brews were subject to the reduced overhead costs common to all brews, but more brews produced more profits.

(2) There is no evidence whatever that the Customs Department showed subservience in this matter to the interests of the trade.

CHAPTER 42.—CUSTOMS DEPARTMENT: THE PERMISSION TO HUGHES AND COSSAR

839. *The Allegations in respect of Hughs and Cossar.*—It is alleged that the Customs Department showed subservience to the trade in permitting Hughes and Cossar, Ltd. (a company carrying on business in Auckland as a wine and spirit merchant under a wholesale license), in September, 1942, to manufacture liqueurs from spirits of wine.

840. In 1938 this company required 36 gallons of spirits of wine and, in 1939, 45 gallons for the purposes of their business. In 1940 they required 230 gallons; in 1941, 1,194 gallons; and in 1942, 1,115 gallons. Some of these spirits of wine had been obtained from wholesale firms which had imported them for essential medical supplies. All duties upon them were properly paid by Hughes and Cossar, Ltd.

841. In 1942 the Government, having acquired a new still for its winery at Te Kauwhata, sold its old still to Hughes and Cossar. A member of the company acquired a vineyard and a winemaker's license and also a wine-still license (R. 606).

At this stage there was nothing to prevent any person compounding liqueurs in New Zealand from imported spirits of wine.

842. As it appeared, in 1942, that quantities of spirits of wine which were required for essential medical purposes were being used to manufacture liqueurs, Regulation 4 of the Manufacture of Liquor Emergency Regulations 1942 (1942/251), which came into force on the 15th August, 1942, provided as follows:—

> Except with the consent of the Minister and under such conditions as he may prescribe, no person shall use spirits of wine in the manufacture for sale of any intoxicating liquor within the meaning of the Licensing Act, 1908:
>
> Provided that nothing in this clause shall be deemed to prohibit the use of spirits made and used in accordance with the provisions of section 12 of the Distillation Act, 1908.

Section 12 enables the owner of a vineyard to distil spirits from his own wine for the purpose of fortifying his own wine (see para. 28, *supra*).

843. The Customs Department stated for us the purposes of Regulation 4 of 1942/251 as follows (R. 322):—

> The purpose of this regulation was to provide effective control over the use of spirits of wine. There was nothing in the law to prevent the use of spirits of wine in the manufacture in New Zealand of gin and cocktails and other beverages, but it was considered that the use of spirits of wine for such purposes would defeat the Government's policy in restricting imports of gin and other spirits. It was also considered that such use of spirits of wine was undesirable particularly under the existing conditions when the limited supplies of spirits of wine available were required for more essential purposes.

844. Regulation 4 enabled the Minister to consent to the manufacture of liqueurs and, on the 26th September, 1942, Hughes and Cossar applied for a permit under the regulations to manufacture alcholic liquors. It appears that the Customs Department understood that the firm had only 673 gallons remaining in bond on the 12th November, 1942. There were no other manufacturers of liqueurs in Auckland. On the 19th November, 1942, the Minister consented to the use of these 673 gallons in the manufacture of liqueurs.

845. On the 26th March, 1943, Hughes and Cossar stated that they had also in bond a further 1,432 gallons. They pressed for the use of this quantity, but the Minister, on the advice of the Department, refused to grant his consent to the use of this quantity in the manufacture of liqueurs.

846. We think that the consent to allow Hughes and Cossar to manufacture the 673 gallons was understandable because it was thought they had put their money into it and it was the only stock of spirits of wine they had left. When the further stock was disclosed, the Customs refused permission. We think there was no evidence in this matter of subservience, on the part of the Customs Department, to the trade.

CHAPTER 43.—CUSTOMS DEPARTMENT: ALLOWANCE OF SUGAR IN PRIMING BEER

847. *The Allowance of Sugar in manufacturing and priming Beer.*—It is alleged that the Customs Department showed subservience to the trade in allowing, during the war, the use of sugar in brewing and in priming beer.

848. The regulations controlling the use of sugar during the war are explained in paras. 311 to 315, *supra*.

Upon a view of all the evidence we think that sugar has a use both in the manufacture of beer, largely in controlling the proteins, and also in priming beer in order to improve its keeping qualities (R. 6966 and 6967). Sugar is also used in the manufacture of beer in England, but in less proportion than it is in New Zealand. In England more maize and rice starch products are used for the same purpose as sugar (R. 6970). The evidence shows that New Zealand barley is high in nitrogenous qualities. We see nothing exceptional in the use of a limited amount of sugar to control the proteins during the process of manufacture.

849. The object in priming is to provide the yeast with a little readily fermentable sugar and thereby keep the liquor thoroughly saturated with carbon-dioxide gas. In many breweries no sugar is used in draught beer, although in some a little sugar is used, especially when the beer has to be transported long distances. Priming sugar is mainly used in bottled beer, especially uncarbonated bottled beers. The sugar provides sufficient fermentation to produce carbon-dioxide gas, which saturates the liquor and fills the space about it (R. 6968).

850. Sugar has been used before the war in New Zealand, both in the manufacture and in the priming of beer. It has been used both by brewers and by bottlers (R. 6420). During the war brewers were limited to their ration of sugar. The sugar ration was reduced generally under the Sugar Rationing Order on 27th April, 1942, to 50 per cent. of the purchases for 1941. The regulations of May, 1943 (para. 311, *supra*), imposed a

further control. The brewer was permitted in May, 1943, to use the quantities used before the regulations came into force, not exceeding a maximum of 3 lb. of sugar to 40 lb. of malt, except with the consent of the Minister. For priming purposes sixteen brewers and sixteen bottlers were permitted to use amounts varying from 1 lb. to 3 lb. of sugar per hogshead (R. 1234).

The effect of adding 3 lb. of sugar to a hogshead is to increase the proof spirit by 1 per cent. (R. 7003).

851. The total quantites of sugar used in priming beer during 1944 were as follows (R. 1277) :—

	Quantity of Sugar. lb.	Beer primed. Gallons.
By breweries	90,581	2,173,000
By bottling concerns distinct from breweries ..	17,823	445,000
	108,404	2,618,000

852. In view of the use of sugar in assisting the keeping-qualities of beer of reduced specific gravity, we do not consider that in allowing the use of sugar to the extent permitted during the war, either in the manufacture or in the priming of beer, the Customs Department showed any subservience to the trade.

853. It was submitted also by the New Zealand Alliance that the Customs Department should have ensured that sugar used in priming should be taxed in New Zealand as it is in England. This was advocated by Mr. R. F. Joyce, who had had experience as a brewer both in England and New Zealand. In England the sugar is dissolved separately and the tax ascertained on the separate solution, just as the tax is ascertained on the malted solution (R. 5495).

854. In New Zealand the sugar used in priming has never been taxed. The Comptroller of Customs thought there was a difficulty in New Zealand because priming was carried on in bottling establishments as well as in breweries, and that the cost involved in administering the tax would not make it worth while. The Comptroller agreed that the question might be worth investigation. (R. 6420).

855. Liquor taxation is very high and, while we think that careful attention should be given to the question whether the sugar used in the manufacture and priming of beer should be taxed, we see no evidence of subservience on the part of the Department to the trade in this matter.

CHAPTER 44.—CUSTOMS DEPARTMENT: SUMMARY

856. In respect of the following matters, the continued permission to New Zealand Breweries, unauthorized by law, to have unlicensed stores for Speight's beer in various parts of New Zealand (para. 682), the wastage allowance to breweries (para. 772), and the Westland Brewery case (para. 825), the administration of the Customs Department has not, in our view, been as adequate or as effective as it should have been.

CHAPTER 45.—POLICE ADMINISTRATION AND THE TRADE

857. The conduct of the police in supervising hotels and in reporting upon them has been the subject of criticism before us.

858. The District Licensing Committees were asked to express their general views upon various matters, one of which was the supervision of hotels by the police (Exhibit A. 13). The Committees of the Licensing Districts of Auckland, Otahuhu, Waitemata, Remuera, and Onehunga, some of which contain many hotels, made no comment upon this inquiry. Most of the licensing committees informed us that the police supervision of hotels in their districts was satisfactory, though they did not enlarge upon this description.

859. Some Licensing Committees added qualifications:—

(1) The Committees of the Licensing Districts of Marsden, Bay of Islands, Wairarapa, and Central Otago (R. 82, 85, 182, and 265) stated, in effect, that supervision varied. If there were an hotel or hotels near the police-station, the supervision was constant or satisfactory. Otherwise, the supervision was intermittent or irregular.

(2) The Bay of Islands Licensing Committee stated that only eleven out of the twenty licensed premises in the district were under direct supervision.

(3) The Nelson Licensing Committee considered that there should be a new form of police report which would require the police to show the number of visits made to each hotel during closing hours (R. 216).

(4) The Kaiapoi Licensing Committee stated (R. 251) that the police could adopt stricter measures against after-hours trading.

(5) The Dunedin Licensing Committee stated (R. 262 and 263) that, having regard to the closing-hours, the high rents and goodwills, the police were discharging their duties as well as could be expected.

(6) The Licensing Committees of Timaru, Temuka, and Waitaki stated, negatively, that they had no reason to believe that the police were neglectful in their duties of supervision and prosecution, but had no information as to how frequently supervision and inspection were carried out, apart from what was done to furnish the quarterly returns (R. 255).

860. It is difficult to gauge the value of the expressions of satisfaction by the Licensing Committees concerning the supervision of the police. The Wanganui Licensing Committee said that the supervision was "extremely satisfactory and impartial." Yet it was proved by evidence in the Supreme Court in 1941 that at least one-third of the trade of one hotel was due to after-hours trading: *Jack* v. *Peters*, [1941] N.Z.L.R. 153 at 163. In that case the licensee had been convicted only twice of after-hours trading during a period of eighteen months. Again, the evidence concerning the after-hours and sly-grog trading in the central area of Wellington, referred to above (paras. 468 and 725), should be set against the report of the Wellington Licensing Committee that the police supervision is, within the existing law, consistent with the high standard expected of the New Zealand Police.

861. Likewise, against this Wellington description of police supervision, in which the Hutt Licensing Committee joined, should be set—

(1) The evidence as to the extensive after-hours (including Sunday) trading in two hotels in the district (the Bellevue and the Taita Hotels—R. 2034 and 2035);

(2) The view of Mr. E. F. Hollands, J.P., a member of the Hutt Licensing Committee, who said in a separate report (R. 210):—

The experience I have had over the years is that the person who has a license simply ignores the laws as they stand and heavier fines should be imposed; and

(3) The view of Mr. J. B. Young, another member of the Hutt Licensing Committee, who expressed his dissatisfaction with the way in which individual complaints to the police concerning the conduct of an hotel were dealt with. He said the police simply investigated and reported generally on whether the conduct of an hotel was satisfactory or not (R. 1356).

862. Mr. Paterson, S.M., of Hamilton, stated that police supervision was inadequate, partly because the licensing laws were difficult and the police, not being sure of their ground in some cases, preferred inaction, and partly because there was much that was winked at (R. 140, 6101, and 6102). Superintendent Edwards, who was stationed at Hamilton from April, 1940, to November, 1944, said that he had never received a complaint from Mr. Paterson (R. 857). The Commissioner of Police also said that he had never received a complaint from Mr. Paterson (R. 1166).

863. Mr. Coleman, S.M., whose headquarters are at Feilding, considered that the police could control after-hours trading in the towns with a population of from 2,000 to 6,000, if adequate police supervision were given. He said that in many towns after-hours trading was effectively controlled (R. 5996F, 6008, and 6009). At a later stage in his evidence Mr. Coleman expressed the view that, if there was any appreciable degree of after-hours trading, either in the bigger cities or in the towns, it could be, and should be, effectively controlled by the police (R. 6026).

864. We have dealt separately in Chapter 21 with the subject of after-hours trading, and we do not refer to further evidence here. There is little specific complaint concerning the failure of the police to enforce the licensing law in other matters, except in respect of the failure to provide accommodation and meals for travellers, with which we have also dealt separately (Chapters 30 and 31). Mr. Paterson, S.M., referred to a complaint by an Air Force officer that one night he had knocked loudly at all four hotels in Cambridge and knocked so loudly that those inside could not but hear, but that he had had no response. He complained to the local constable who, without bothering to investigate, forthwith accommodated the officer for the night. The officer then complained to the Cambridge Borough Council, which sent the complaint to the Licensing Committee, which referred the matter to the police. Mr. Paterson stated that the constable had made some perfuctory round of the hotels the following day and had taken at their word persons who said that they had not heard the officer. The Magistrate thought that the constable had failed in his duty (R. 6102).

865. Another ground for complaint against the police is the nature of their reports upon hotel premises.

866. The Licensing Committees for the Licensing Districts of Auckland, Otahuhu, Waitemata, Remuera, and Onehunga informed us that they had noticed that many licensees and owners habitually allowed the general state of repair of premises to depreciate and await attention until their notice was drawn to the position by the police and Health Inspectors on the occasion of the annual inspection (R. 86). The annual inspection is made for the purposes of the annual meeting of the Licensing Committees in June of each year.

867. Mr. J. B. Young, of the Hutt Licensing Committee, told us that he considered that the police reports upon hotels were not satisfactory (R. 1355). He said that he and another citizen had joined the Licensing Committee in the hope of bettering the conditions existing in the Lower Hutt hotels. They had found that the police simply reported that the hotels were satisfactory, and that, so long as order was maintained to a reasonable extent, the police seemed satisfied. They felt that, with the limited powers of Licensing Committees, they were wasting their time.

868. Superintendent Henry Scott, of Christchurch, informed us that the police did inspect the accommodation of hotels and report particularly with regard to fire-escapes, sanitary accommodation, conveniences, and the general cleanliness of the premises (R. 2548).

869. We have ourselves perused the detailed reports upon the hotels at Rotorua which were referred to in the evidence and also to other reports in the same district. These reports are mainly made on police form No. 38, which provide for answers in columns as follows:—

(1) The name of the licensee;
(2) The name and situation of the house;
(3) The number of sitting-rooms, bedrooms, closets and urinals, and the extent of stabling;
(4) The number, locality, and distance of licensed houses in the neighbourhood;
(5) The description and condition of the house, premises, and furniture;
(6) The manner in which the house has been conducted during the past twelve months;
(7) The character of persons frequenting the house; and
(8) Objections (if any).

870. In the reports we have perused the answers to columns 1 to 4 inclusive were short and statistical. The answers to columns 6, 7, and 8 were usually short—*e.g.*, the answer to column 6 was usually "well conducted"; to column 7, "the general public"; and to column 8, "Nil." If some special comment was required, a separate statement was made.

871. We are here mainly concerned with column 5. As an illustration of the standardized answer, we quote the following comments on the Grand Hotel, Rotorua, and on the Rangitaiki Accommodation House from the police reports for June, September, and December, 1938. For the Grand Hotel, "two-storey wood and iron building, in good repair, well furnished. Fire-escape satisfactory." For the Rangitaiki Accommodation House, "one-storey wooden building in good repair, clean and well furnished, and all arrangements satisfactory."

872. As an illustration of how far disrepair can go before action is taken, we quote the reports on the Lake House Hotel, Rotorua. In May, 1937, the police report was as follows:—

> The premises require extensive repairs in the kitchen and approaches. The building has now reached a stage that I consider it cannot be classed as a modern building. The kitchen chimney requires to be repaired. The public bar is badly ventilated, especially in narrow back passage running along the rear of the public bar.

This police report may be read with the report of the Medical Officer of Health of April, 1937, which was as follows:—

> The building has reached that stage where extensive renovations are required, modern fittings installed, and the whole brought up to date. For instance, the kitchen is frowsy; is badly lit; the walls and ceilings are shedding many coats of old kalsomine; the floor is undulating due to decayed foundations, and the chimney is badly cracked and in a dangerous condition.
>
> The bar is dingy, and the passage leading into the open air is dark and ill-ventilated.
>
> I recommend the Committee be asked to require the owners to have the building renovated and brought up to date.

873. It is surprising that under a system of inspection and report any hotel premises should ever have been allowed to reach such a stage of decay. The Licensing Committee took action, but not until December, 1938, was there a report from the police to the Licensing Committee that repairs were being carried out.

874. We refer now to the difficulties of the police in performing their duties:—

875. Prior to the making of Regulation 7 under the Licensing Act Emergency Regulations 1943 (1943/122) the right of the police to enter licensed premises was governed by section 226 of the Licensing Act, 1908, which is as follows:—

> Any Inspector or Constable may, for the purpose of preventing or detecting the violation of any of the provisions of this Act which it is his duty to enforce, at all times enter on any licensed premises or on any premises in respect of which a conditional or temporary license is in force.

In England a similar provision in section 16 of the English Licensing Act of 1874 was interpreted by one Judge of the High Court to mean that a constable had the right to enter a house in order to prevent or detect the violation of the provision of the Licensing Acts, even though he did not suspect the commission of an actual offence: *Reg.* v. *Dobbins*, (1883) 48 J.P. 182. Fourteen years later another High Court Judge interpreted the section to mean that, before exercising his power of entry, a constable must have reasonable ground for suspecting that circumstances exist, or are about to exist, constituting a violation of some provision of the Licensing Acts: *Duncan* v. *Dowding*, (1897) 1 Q.B. 575.

876. In New Zealand the second English view was adopted by Conolly, J., in *Hendry* v. *Rolleston*, 22 N.Z.L.R. 821, but it was questioned by Sim, J., in *Hammerly* v. *Harvey*, [1921] N.Z.L.R. 457, when he said (p. 459) that the statement of the law in *Duncan* v. *Dowding* might have to be considered in New Zealand by the Full Court. Sim, J., did not need to decide whether he would follow Conolly, J.'s, interpretation, because he held that the Magistrate was justified in finding that the constable had reasonable grounds for suspecting that some violation of the law had taken place or was taking place.

877. Prior to the regulations (1943/122), the only decision of the Supreme Court in New Zealand was that a constable had no right of entry upon licensed premises unless he had, in fact, reasonable ground for suspecting a violation of the Licensing Act. His belief that he had reasonable ground was not sufficient. The ground must be one which would subsequently be determined by a Court to be reasonable. Naturally, therefore, the police would be cautious before entering licensed premises for the purpose of detecting a violation of the Licensing Acts.

878. Regulation 7 of the regulations (1943/122) provides general powers of inspection of both licensed and unlicensed premises, in place of the powers over unlicensed premises only which were given by Regulation 20 (1) of the regulations (1942/186). Regulation 7 provides that any constable may at any time enter, without warrant, and, if need be, by force, upon any place, whether a building or not, in which he reasonably suspects that any offence against the provisions of the Licensing Act, 1908, or against the regulations has been or is about to be committed.

This regulation extends the power of the police. If a constable's conduct were subsequently called in question, the Court would be called upon to decide only whether the constable himself reasonably suspected the commission of an offence; not whether, in the subsequent view of the Court, reasonable grounds did, in fact, exist.

879. We have had no complaint that since the powers of entry were extended, they have been in any way abused by the police. The Salvation Army suggests, indeed, that the present right to inspect should be extended to any constable in plain clothes (R. 6600).

We conclude that the difficulty concerning the right of entry upon licensed premises for the purpose of detecting violations of the Licensing Act has been satisfactorily remedied by Regulation 7 of the regulations (1943/122).

880. A second difficulty in police supervision lies in the nature of the duty to be performed. Some persons drinking in an hotel may not be in their normal state of mind. They may be difficult to deal with. They may resent any apparent interference with their liberty. Consequently, the police practice is to entrust inspection to a sergeant, where one is available. The sergeant usually takes a constable with him. Where a sergeant is not available, the constable does not inspect an hotel on his own account unless he sees something which is obviously wrong.

881. The Commissioner of Police has supplied us with a statement of the disposition of the Police Force throughout New Zealand. It appears that sergeants are usually stationed in centres of population of 6,000 or more, but the character of a district is also taken into account. It thus appears that, to a large extent, the supervision of country hotels is in the hands of constables. The Commissioner informs us, however, that, for the purposes of the quarterly and annual reports, these hotels are inspected by non-commissioned officers, not by constables. Furthermore, the Commissioner states that a senior officer visits the hotels at frequent intervals. We think, nevertheless, that there must be many periods when country hotels are not under the supervision of the police. For this view we rely not only on the evidence we have already quoted, but also on the evidence as to the difficulty of the police due to shortage of staff for all the duties they are called upon to perform, a matter to which we now refer.

882. A third difficulty is the shortage of staff in relation to the duties of the police. The normal establishment before the war was 1,600 men (R. 1107). During the war the Force has been short by 144 men, and the work has increased by 25 per cent. (R. 897, 1107, and 3625).

883. Women police have been appointed. The maximum number employed was thirty-four. The present number is thirty, of whom thirteen are stationed at Auckland, nine at Wellington, four at Christchurch, and four at Dunedin. The Commissioner of Police informs us that the women police do not wear uniforms, as it is considered that they can render better service in civilian clothes. In other parts of the world women police in uniform have been subject to assaults and made the butt of insulting remarks because they were in uniform. By visiting hotels in civilian dress they can enter the lounges and see if any young girls are drinking there. If they were in uniform, the alarm

would be given. Frequently they have to deal with young non-delinquent children for whom a police uniform might have a frightening effect. In the main, the women police deal with women, girls and boys under sixteen years of age, and, in a few cases, with boys under sixteen years of age whose mental condition is suspected.

884. In New South Wales there are twenty-one women police and in the State of Victoria twelve. Like the policewomen in New Zealand, and for like reasons, the policewomen in those States do not wear uniforms.

885. We think due allowance must be made not only for the shortage of staff, but for the increased work of the Police Force. To-day the police are required to administer not only the ordinary criminal law, but to carry out many duties which are outside their ordinary work. We asked the Commissioner of Police to expand his evidence on this point, and he has supplied us with two schedules. Schedule A shows the statutes administered, either wholly or partly, by the police, and Schedule B the statutes under which the police are frequently called upon to collect evidence and prosecute. The schedules are as follows: -

Schedule A

Crimes.
Justices of the Peace.
Child Welfare.
Arms.
Chattels Transfer.
Gaming.
Fugitive Offenders.
Indecent Publications.
Immigration Restriction.
Undesirable Immigrants Exclusion.
Motor-vehicles Acts and Regulations.
Offenders Probation.
Police Offences.
Police Force.
Registration of Aliens.
Pawnbrokers Act.
Second-hand Dealers.
Licensing Act and Regulations.
Auctioneers.
Barmaids Registration.
By-laws.
Coroners.
Destitute Persons.
Mental Defectives.
Prevention of Crime
(Borstal Institutions).

Schedule B

Reformatory Institutions.
Animal Protection and Game Act.
Air Navigation.
Births and Deaths Registration.
British Nationality and Status of Aliens.
Broadcasting.
Census and Statistics.
Coal-mines.
Customs.
Dangerous Drugs.
Defence.
Dentists.
Discharged Soldiers Settlement.
Distillation.
Distress and Replevin.
Electoral.
Electric Wiremen Registration.
Explosives and Dangerous Goods.
Factories.
Fire Brigades.
Fisheries.
Forests.
Gold Duty.
Government Railways.
Health.
Hospital and Charitable Institutions.
Infants.
Juries.
Kauri-gum Industry.
Land and Income Tax.
Local Election and Polls.
Magistrates' Court.
Maintenance Orders
(Facilities for Enforcement).
Maori Councils.
Marriage.
Medical.
Military Decorations and Distinctive Badges.
Mining.
Money-lenders.
Motor-spirit Taxation.
Native Land.
Opticians.
Penalties Remission.
Pensions.
Poisons.
Post and Telegraph.
Prisons.
Public Service Superannuation.
Public Trust Office.
Public Works.
Quackery Prevention.
Race Meetings.
Sale of Liquor Restriction.
Sharebrokers.
Shipping and Seamen.
Social Hygiene.
Stock.
Tohunga Suppression.
Tramways.
Transport Department.
Weights and Measures.
Social Security.
Emergency Regulations.
Rehabilitation.
Pastoral and Agricultural Statistics.
War Pensions.
Air Force.
Navy.

886. In addition to his ordinary police duties, a police officer may act as the Clerk of Court in many towns; Bailiff; Inspector of Factories; Inspector of Fisheries; Probation Officer; Collector of Gold Revenue; Collector of Agricultural and Pastoral Statistics; Gaoler; Kauri-gum Ranger; Registrar of Births, Deaths, and Marriages; Superintendent of Marine; Maintenance Officer; Deputy Registrar of Births and Deaths; Health Inspector; Clerk of the Warden's Court; Clerk of the Mining Register; and Clerk of the Licensing Committee.

887. It is only fair to state that the Commissioner of Police has drawn attention in his annual reports in recent years to the increasing volume of work caused by the demands of other Departments for inquiries which these departments have not undertaken on their own account.

We think that all these matters should be taken into account in estimating the extent to which the police have been able to give supervision to licensed hotels.

888. A fourth difficulty of supervision lies in the precautions taken by licensees. We have already referred to the use of bells and of watchers (para. 468, *supra*). The distinction between the supervision known to be exercised by a sergeant and that by a constable led, at least in one hotel, to a difference in the warning conveyed to those within a bar. Superintendent Donald Scott was asked why a watcher should be active when a sergeant came along and not the constable on the beat, and he answered (R. 5870):—

> Before a man is made a sergeant, he has to qualify. He is an experienced man, and capable of dealing with the situation very effectively. Now that you mention it, I remember when I was stationed at Mount Cook, in Wellington, there was a certain hotel where you would always find them sitting on the window-sill outside. If the constable came down from Mount Cook Station, this is what happened. There was a Guinness bull dog head up in the bar with one green eye and one red eye. As soon as the constable came out of the police-station, the green eye shone. If it was a sergeant the red eye shone, and if they were both together both eyes went up . . . We could never understand why it was so effective until we discovered underneath the window-sill on which the man sat there was a button he pressed.

889. Precautions are also taken by the licensees in the country districts. The local constable is a well-known figure, and watchers communicate his movements to the licensees. If he sets out to visit a distant hotel, the licensee's wife may be waiting for him with a cup of tea (R. 887).

An illustration of the difficulties of a constable in a country district was given in respect of the hotel at Renwicktown, near Blenheim (R. 1147 and 2032). Local complaints of after-hours trading were made to the constable and to the Commissioner of Police. The local constable reported that the complaints were exaggerated. The Commissioner, at the request of the New Zealand Alliance, sent in a squad from Nelson, which forthwith secured convictions.

890. A fifth difficulty is the natural desire of a policeman in a country district to enjoy social life with his fellows. He may also sympathize with the desire of the country people to have a drink in the evening when they are unable to reach an hotel before closing-hours. The following is a description given in evidence by an ex-constable (R. 1596):—

> On numerous occasions a group of local farmers and I have spent very enjoyable evenings in the tap-room of this hotel, sitting in front of a nice fire, a glass of liquor if you wished, all taking part in a discussion of any interesting subject. The farmers themselves enjoyed a "get together"; no one had too much liquor, and, in all, very enjoyable evenings were spent at the hotel.

This example shows how a country constable may, in a human way, fall down on his job.

In another case a constable was reported to have been found drinking in the bar of a country hotel (R. 2350) and also in a bar in a town (R. 1390). It is also a fair inference, from the evidence before us, that in the small towns of the West Coast the police do not exert themselves to stop after-hours trading.

891. The difference between the enforcement of the law in districts where there are Maoris by a constable who desired to be reasonably popular with his fellows and enforcement by a constable who was prepared to carry out the law without fear or favour was noted by Sister Wharemaru, who has worked among the Maoris in North Auckland, in Waikato, and the North Western King-country (R. 4484).

892. A sixth difficulty in the way of the enforcement of the law by a country policeman is that he may find the licensing law difficult. If he is not sure of his ground, he may prefer to be inactive.

893. A seventh difficulty which the police have to face lies in the not infrequent failure of the Courts to impose adequate penalties for the purpose of stopping breaches of the law. The police apparently often feel that they are not supported when they should be. The Commissioner of Police went so far as to name Magistrates whose strength in the administration of the licensing laws was of the greatest value to the police. One can understand how, when the police have gone to great trouble to obtain the necessary evidence to obtain a fair conviction, they are discouraged and disheartened by the imposition of penalties which are no more than very moderate license fees for the continuation of the illegal practices. The Commissioner of Police is firmly of the opinion that the imposition of substantial penalties is the only way to bring offences against the Licensing Acts under control.

The failure to endorse licenses is also a great handicap to the police. The licensee may escape any penalty because it is proved that he did not know what his servant was doing, or else it is not proved that he did know. Yet the licensee's liquor has been taken by his servant and sold, and the licensee has received the proceeds. If the servant sold the liquor after hours without authority, the servant could be prosecuted for theft. The payment of the price into the till of the hotel is merely the making of restitution for a theft. It is therefore an extraordinary thing that the provisions for the endorsement of licenses are almost a dead letter, although the licensees have continuously received the full trading profits from the after-hours sales.

894. Another difficulty indicated in the evidence is the failure of the press to report sufficiently convictions for offences against the Licensing Acts. Publicity is part of the punishment. When the Lower Hutt Committee of the New Zealand Alliance put specific complaints before the Lower Hutt Police the sergeant complained that some three years ago the police had secured a number of convictions that had never appeared in the press. The reply of the newspaper-proprietors was that the reports had been excluded entirely as the result of the pressure of other reports. Yet, according to the superintendent of the New Zealand Alliance, although the police report for the Wellington and Hutt Valley districts for a year would record so many convictions, a perusal of the file of the newspapers over the same period would show that there had been some failure to report the proceedings of the Court cases (R. 2035).

895. Another difficulty is the difficulty of co-ordinating the activity of the police with other Departments. It appears that the co-operation between the police and the Health Department could be improved—*e.g.*, in the inspection of hotel bars and in making reports so as to prevent hotels falling into decay before action is taken (see para. 872). It seems also that co-operation between the police and the Railways Department in the King-country might be improved, though it is stated to be good at Otorohanga (R. 4900) and now to be good at Te Kuiti (R. 956 and 5131). It appears also to us that better use might have been made of the police by the Customs Department. The responsibility for requesting the help of the police has rested entirely with the Customs Department (R. 6948 and 7172).

896. There has been no allegation that the police are bribed. Superintendent Edwards said that he had not come across any cases of breach of section 183 of the Act, which makes it an offence for any person to bribe or attempt to bribe any constable

or to supply any liquor or refreshment, whether by way of gift or sale, to any constable on duty unless on the authority of some superior officer of such constable. Superintendent Edwards said that many years ago a bottle of beer was left outside licensed premises for the constable at night-time, but that the police to-day were much more sober, and this practice was not followed. Apart from this statement, there is no evidence of bribery.

897. We reach the following conclusions :—

(*a*) *With respect to Supervision :—*

(1) Having regard to all its duties, the Police Force is too small. Inquiry should be made as to the numbers of police required for the proper fulfilment of all their duties. In our view, the number needs to be substantially increased.

(2) The probability is that the supervision of many hotels in country districts is defective.

(3) The licensing laws concern the social habits of the people, and a policeman, particularly in the country districts, may fail in his duty through his sympathy with the views of the people of his district.

(4) In general, the police have not been as active as they would need to be to suppress after-hours trading. We think, however, that they require more assistance from the Courts in the imposition of penalties for the purpose of stopping offences against the licensing laws.

(*b*) *With regard to Police Reports :—*

(5) On the whole, we think that the reports of the police, in conjunction with those of the Health Department, enable the Licensing Committees to ensure, in the long run, that licensed premises conform to the very moderate requirements of the existing law.

(6) If these requirements are raised in standard, then those who report upon the structure of buildings and on suitable accommodation for travellers should have an adequate idea of what is required. We think that a police officer, even an Inspector, is not sufficiently trained to report on the construction, furnishing, suitable lighting, and lay-out of premises.

(*c*) *Generally :—*

(7) Having regard to the manifold duties and the inadequate numbers of the police, we think that, on the whole, and subject to the comments we have made, the police discharge their duties of supervising hotels and of making reports upon them as well as can reasonably be expected.

(8) The hands of the police should clearly be strengthened by the retention of Regulation 7 of the regulations (1943/122). We refer to other regulations which should be retained, at a later stage in this report.

(9) There is no evidence that the police are subject to bribery or to any direct or indirect pressure from the trade.

CHAPTER 46.—LICENSING COMMITTEES

898. The Licensing Committee is the licensing authority of an ordinary or city licensing district. Prior to the alterations in districts made by the Representation Commission in 1946 there were in New Zealand sixty-five ordinary licensing districts, which were identical with the electoral districts of the same name, and four city licensing districts which, pursuant to section 41 of the Licensing Amendment Act, 1910, comprised eleven electoral districts as follows :—

(1) The Auckland Licensing District, comprising the three electoral districts of Auckland East, Auckland West, and Auckland Central.

(2) The Wellington Licensing District, comprising (after the Representation Commissioners had eliminated Wellington East) the two electoral districts of Wellington North and Wellington Central.

(3) The Christchurch Licensing District, comprising the three electoral districts of Christchurch East, Christchurch North, and Christchurch South.

(4) The Dunedin Licensing District, comprising the three electoral districts of Dunedin North, Dunedin West, and Dunedin Central.

899. There is now only one special licensing district—namely, the Chatham Islands—which was proclaimed on the 16th March, 1882, under the provisions of section 6 of the Licensing Act, 1881. By section 2 of the Legislature Amendment Act, 1922, the Chatham Islands were brought within the Electoral District of Lyttelton, but the section provided that " for the purposes of the Licensing Act, 1908, the said Islands shall continue to be a special licensing district and shall not form part of the Lyttelton Licensing District." This provision is now included in section 14 of the Electoral Act, 1927.

By section 65 of the Licensing Act, 1908, the Governor-General appoints some person or persons to grant licenses within any special licensing district, and such person or persons have the powers of a Licensing Committee within an ordinary district.

900. The Invercargill Licensing District is an ordinary licensing district, although it has special features due to the constitution of the Invercargill Licensing Trust under its Act of 1944. One of these features is the absence of any Licensing Committee.

901. Special provisions are made for Native licensing districts (see paras. 114–117, *supra*).

902. The Licensing Committee has power to grant, renew, and control the following licenses: publican's, accommodation, New Zealand wine, packet, wholesale, and conditional (para. 48 (4), *supra*).

903. The Licensing Committee of a district consists of such Magistrate exercising jurisdiction in the licensing district as the Governor-General appoints, and five other persons, being residents within the district, to be elected by the electors in the district (section 42 of the Licensing Act, 1908). The following persons may not be members of a Licensing Committee:—

(*a*) Any person who is a brewer, wine or spirit merchant, maltster, distiller, importer or dealer in fermented or spirituous liquors, or the partner of any such persons;

(*b*) Any person who is an owner in fee or in any less estate of any licensed house; and

(*c*) Any person other than the Magistrate who holds a paid office under the Government or under the Council or Board of any borough, county, road district, or town district. This provision would exclude a borough Engineer or Building Inspector.

904. Elections for Licensing Committees are at present governed by section 51 of the Finance Act (No. 4), 1931, which provides for elections on the second Tuesday in March in every third year. The last election was held in March, 1944. Every elective member holds office for three years or until the election of his successor. Members retiring at the end of their term of office may be re-elected or reappointed. Casual vacancies are filled by the Governor-General.

905. Licensing Committees hold quarterly meetings in March, June, September, and December. At each meeting a quorum is three if the Magistrate is present, or four if he is not.

The June meeting is the annual meeting. The yearly licenses are then renewed or issued. Transfers may be dealt with both at the annual and quarterly meetings.

906. In each licensing district there is a controlling local authority. If there are more local authorities than one, the controlling authority is appointed by the Governor-General. This controlling authority conducts the elections of the Licensing Committee and does everything required for the general administration of the Act within the licensing district. It pays the costs of an election and of the meetings of the Committee. The local controlling authority receives the license fees paid in the licensing district.

907. The powers of a district Licensing Committee have already been explained (paras. 82–91, *supra*). The Committee depends almost entirely on the reports of the police and of the Health Inspectors. With the authority of the Chairman, the police have obtained the assistance, where required, of a Building Inspector or a plumber (R. 6465 and 6582). The Committee also receives reports from the Health Department (para. 89, *supra*). The Committee is required by section 38 of the Health Act, 1920, to take into consideration a report by an Inspector of Health as to the sanitary condition of licensed premises. There are occasions when the police officer and the Health Inspector have differed in their reports. The Health Department states that the Health Inspector attends the Licensing Committee only by courtesy, and that when a difference of opinion has arisen between the Health Inspector and the police officer the Health Inspector has been unable to stress his point of view (R. 345). The Health Department suggests that this position should be rectified.

908. As we have explained (para. 89, *supra*), the Licensing Committees have no power to require that hotels be improved for the convenience of the public, even though they are one hundred years old. Mr. Luxford, S.M., who has had much experience with Licensing Committees, states that he experiences a feeling of futility whenever he presides at a Licensing Committee meeting (R. 6460) and that no Committee has ever been able to increase the amount of accommodation or to improve the amenities. All that the Committees have been able to do is to keep a licensed house up to a certain standard of repair (R. 6552). Mr. Paterson, S.M., who has also had much experience, stated that he would be glad to be relieved of the licensing part of his work. He said, "I have felt frustrated, and I think other Magistrates have felt the same" (R. 6124). We have also quoted the opinions expressed by Mr. J. B. Young, as a member of the Hutt Licensing Committee (para. 867, *supra*).

909. Part, perhaps much, of the reason for futility lies in the necessity, under the present law, for a district Licensing Committee to act judicially throughout its proceedings. This difficulty may be explained from the decided cases.

910. First of all the fact must be grasped that, under the existing legislation, a Licensing Committee is a judicial body which is bound to exercise its functions with fairness and impartiality and that, in the exercise of its functions, each of the members is a member of a Court. This was held by the Court of Appeal in *Cock and Others* v. *Attorney-General*, (1909) 28 N.Z.L.R. 405. But long before 1909 the Courts held the same view.

911. In *Isitt and Others* v. *Quill*, (1893) 11 N.Z.L.R. 224, the Licensing Committee of Sydenham, the majority of which was composed of prohibitionists, refused renewals at its first annual meeting in 1891 to five out of eight licensed houses in the district on the ground that they were not required in the neighbourhood, and at its next annual meeting in 1892 refused renewals to the remaining three houses on the same ground, thus closing all the licensed houses in the district. Application was then made to the Supreme Court to quash a certificate of the Committee refusing a renewal of the license of one of the hotels on the ground that the majority of the members of the Committee had informed the ratepayers at the election that they would close the drinking bars in the borough. The Court held that the majority of the Committee were incapable, through bias, of exercising a judicial discretion and quashed the certificate which refused the renewal.

912. This decision was followed by section 11 of the Alcoholic Liquors Sale Control Act, 1893, which provided as follows :—

> The fact that a member of a Licensing Committee has, prior to his election or appointment, or at any time, expressed his views, or given any pledge, or expressed any opinion, as to the licensing law or liquor traffic, shall not disqualify such member from sitting and acting as a member of the Licensing Committee ; nor shall the fact of any member of a Licensing Committee or any number of members having so pledged or expressed themselves render any decision or act of such Committee liable to be questioned or set aside.

This section now appears as section 51 of the Licensing Act, 1908.

913. The existence of section 11 did not, however, protect a Magistrate in *Ex parte Frethey, In re O'Driscoll's Application*, (1902) 21 N.Z.L.R. 317. The Magistrate was acting alone as a Licensing Committee, no Committee having been elected. A licensee informed the Magistrate that he proposed to allow the license for his premises to lapse if he had the Magistrate's assurance that a license would be granted to a respectable applicant for a house of approved design on a suitable site in another neighbourhood. The Magistrate stated by letter, in advance of his sitting as a Licensing Committee, that he would be prepared to grant a license to such hotel at the next annual meeting on certain conditions being complied with, one of which was that not less then £3,000 should be expended on the building. This statement was acted on, and when the Magistrate sat at the annual meeting he granted the application for a new license. A ratepayer applied to the Supreme Court to have the certificate of the license quashed. The Court of Appeal held that it should be quashed on the ground that the Magistrate's letter went beyond any statement or expression of opinion which he was entitled to make as a Licensing Committee in reference to licensing matters, and that it showed predetermination of the particular matter and a real likelihood of bias sufficient to disqualify the Magistrate from adjudicating when he sat to deal with the application for the new license. Section 11 of the Alcoholic Liquors Sale Control Act, 1893, quoted above, was cited in the case, but did not protect the Magistrate.

914. A further example of the great difficulty of one body acting both administratively and judicially is the case of *English and Others* v. *Bay of Islands Licensing Committee*, [1921] N.Z.L.R. 127. Prior to the annual meeting of the Licensing Committee of the Bay of Islands in June, 1920, the Committee had indicated that it would require the hotel of the plaintiff, English, to be rebuilt in the event of continuance being carried at the licensing poll in December, 1919. Mr. Justice Salmond held that the view of the Licensing Committee went beyond a mere expression of opinion and amounted to a predetermination of the question whether the premises should be repaired or rebuilt. (The ground of lack of jurisdiction to require rebuilding does not appear to have been raised in the case (see para. 91, *supra*). The decision went solely on the ground of predetermination.)

915. The learned Judge pointed out that the expression of a premature opinion by a person acting in a judicial capacity would not of itself constitute bias, but if the views expressed by him amounted to a pledge of commitment, then, even though he held his views in all good faith, such a person would be held to be biased consciously or unconsciously because he had predetermined the issue, and his decision would be set aside if attacked.

916. These cases show how difficult it is for persons who act administratively to act also judicially. The system has only worked in New Zealand because of the very limited powers conferred upon Licensing Committees. A penetrating comment on the matter was made by Mr. Luxford, S.M., when he said (R. 6461) :—

> Under our system of jurisprudence, administrative direction and judicial determination are an ill-assorted pair which should never be placed in the hands of a tribunal of final determination. That, however, was what the Legislature did when it constituted Licensing Committees to control licensed premises in New Zealand. The limited powers conferred on Licensing Committees, amounting to little more than maintaining the *status in quo*, so to speak, and seeing that licensees are of good character and do not make too many breaches of the Licensing Act, leaves little room for either administrative action or judicial determination. Consequently, little if any harm from a judicial point of view has resulted.

917. This sense of futility and frustration felt by those engaged in the work of the Licensing Committees has been reflected in the lack of interest taken by the public in the elections for Licensing Committees. The following table was prepared at our request by the Electoral Office (R. 6584A) :—

Licensing Committees' Elections : Return of Votes and Costs

Year of Election.	Number of Districts uncontested.	Number of Districts contested.	Total Eligible Electors in Districts where Elections held.	Total Votes recorded.	Percentage of Votes recorded to Eligible Electors.	Percentage of Votes for all Electorates at Previous General Election.	Cost per Vote.	Cost of Licensing Committee Election.
							s. d.	£
1944	36	21	320,857	30,419	9·48	82·82	2 7	3,942
1939	41	16	240,396	20,201	8·4	92·85	2 8	2,727
1936	44	13	206,746	14,392	6·9	90·75	3 7	2,615
1929	44	13	165,760	19,324	11·65	88·05	3 5	3,285
1926	41	16	199,437	28,995	14·54	90·92	2 5	3,536
1923	41	15	193,108	24,985	12·93	88·65	2 7	2,246

918. The number of districts in which there was no contest has generally been from two to three times the number in which there was a contest. The percentage of votes recorded in the contested districts has been extremely small. The following are illustrations of the numbers who voted in the city electorates for the elections of 1944 :—

In the Auckland City Licensing District, out of 40,600 electors enrolled, only 6,573 voted.

In Wellington, out of 26,923 electors enrolled, only 1,581 voted.

In Dunedin, out of 41,496 electors enrolled, only 5,253 voted.

The last election in Christchurch was in 1936, when, out of 41,534 electors enrolled, only 995 voted.

These are startling figures and show the apathy of the public towards Licensing Committees.

919. On the other hand, two Magistrates who gave evidence expressed themselves as satisfied with the personnel of the Licensing Committees of which they were respectively Chairmen (R. 6010, 6102). When there was no contest at the election, there was apparently some understanding as to the nominees for the Committee between the trade and the Alliance.

920. Little evidence has been given on the question whether the trade exercises an undue influence on either the election of a Licensing Committee or upon its administration. Mr. Francis Thomas Innes, the managing director of C. L. Innes and Co. Ltd., Brewers, of Hamilton, gave evidence that he was opposed to district Licensing Committees on the ground that the trade had too much influence in their election (R. 4524).

921. Another witness, Mr. James Collins Gleeson, of Rotorua, an ex-hotelkeeper, said that he was opposed to Licensing Committees on the ground that the trade exercised too much influence over them. He stated that at one time certain members of Licensing Committees at Auckland, Onehunga, and Ohinemuri had not acted impartially in respect of the transfer of certain licenses (R. 4621 to 4626). He alleged that some members of the Committees had subsequently received employment in the way of their business in respect of the hotels to which the licenses had been transferred. We were unable to investigate these statements, however, as they amounted to charges of bribery and corruption, into which we had no power to inquire : *Cock* v. *The Attorney-General*, (1909) 28 N.Z.L.R. 405.

922. We conclude at this stage :—

(1) District Licensing Committees, as at present constituted arouse little public interest.

(2) They are not effective, under the existing law, in bringing about sufficient improvement in the condition of licensed premises.

(3) The questions whether they should be retained or abolished, or whether, if retained, they should be given further powers, require consideration in the light of other proposals in the administration of the licensing system with which we deal at a later stage.

(4) The evidence concerning the influence of the trade on the election or administration of district Licensing Committees is not such as to enable us to reach any conclusion that the trade has exercised any undue influence in these respects.

CHAPTER 47.—PRICE TRIBUNAL

923. Many complaints have been made to us against the efficiency of the control of the prices of alcoholic liquor by the Price Tribunal. Allegations have also been made that the Tribunal has exhibited an unduly favourable attitude towards the trade.

924. We do not consider that it is our function to review in detail the decisions of the Price Tribunal upon liquor prices. During the war the Tribunal had a difficult and thankless task. It had to deal with the prices of many different articles and to keep in mind the relation of prices to war taxation. We do not think we can do more than consider whether the prices of liquor were controlled with substantial fairness towards the trade and towards the public in the light of the requirements of war taxation (R. 6148).

925. Mr. H. L. Wise, a member of the Price Tribunal, informed us that the Tribunal acted in accordance with Government policy. Liquor taxation was partly consumer taxation. Prices had to be fixed so that a certain volume of sales would be maintained and so that part of the tax would be paid by the public. This policy was, we should judge, very sound, though many of the public do not appear to have realized that they were expected to pay heavily on liquor as part of the system of war taxation. The prices fixed by the Tribunal seem to us to have substantially achieved this part of their object.

926. We received many complaints that the Tribunal failed to introduce standard prices and measures. We have already expressed our view that we do not think the Tribunal was required to introduce standard prices and measures during the war (para. 574, *supra*).

927. On the other hand, we think that certain facts appear which give ground for criticism of the methods adopted by the Tribunal. These particular facts, with our comments, are as follows :—

(1) The Price Tribunal did not, in our opinion, obtain sufficient information concerning the profits of brewery and hotel companies before fixing prices in May, 1942 (paras. 289 and 573, *supra*).

Whether, if further information had been obtained, a different price would have been fixed, in the light of the requirements of war finance, we cannot say.

928. (2) The Tribunal fixed a price for the four main cities which was based on a 12 oz. handle without taking steps on its own account to ensure that a 12 oz. handle would actually be available in those areas if asked for (para. 293, *supra*). The Tribunal accepted the assurance of the trade that 12 oz. handles would be made available as a basis for the fixing of the price.

929. There are various statements in the evidence that 12 oz. handles rapidly disappeared. In the absence of evidence to the contrary, there is good ground for saying that the trade in the main cities was able generally to charge 7d. for a 10 oz. handle. We think, therefore, that the Tribunal failed to fix the price in the four main cities on the basis of a handle that was always available.

930. (3) The Tribunal did not incorporate the price for beer in the main cities in a Price Order which would have been gazetted and which would, if a bar were a shop, have been exhibited in the bars. On being advised that a bar was not a shop, the Tribunal did not take steps to have the regulations amended so as to define a shop to include a bar (paras. 297 and 298, *supra*). In our view, the Price Tribunal did not take the action it should have taken in these matters.

931. (4) The Price Tribunal did not control the price of spirits by a Price Order until the 26th April, 1945 (para. 302, *supra*). Correspondence produced to us by Mr. Alister Bevin (Exhibit A. 41) shows that the issue of a Price Order fixing a maximum price of 10d. for a nip and ensuring protection to the public as regards the size of the nip was under consideration in September, 1942. In our view, there was excessive delay in fixing the price of spirits. Furthermore, when the Order was made, the Tribunal did not take steps to have a shop defined so as to include a bar under the regulations for the purpose of compelling the exhibition of the Price Order in bars and so ensuring the success of a prosecution if the Order were not exhibited. We do not consider the Tribunal's statement that it was assured that the Price Order was exhibited almost universally in hotel bars to be a sufficient reason for not providing the legal sanction. We think there was a mistake in this matter.

932. The dissatisfaction which appears in our evidence was not confined to the fixing of prices. It extended to the methods of enforcement. We were not able to investigate this matter to any extent, but we took note of how one case referred to us was dealt with.

933. While we were sitting at Rotorua in June, 1945, we received a complaint, dated 28th June, 1945, that 7d. was being charged for small glasses of bottled ale in hotel bars in Rotorua, and also that the Grand Hotel at Rotorua was charging 1s. per nip of whisky, in breach of the Price Order of the 26th April, 1945, fixing the price of a nip of whisky, gin, or rum at 10d. (para. 303, *supra*). We referred these complaints, together with a further complaint concerning the Geyser Hotel, to the Price Tribunal. We have no comment to make on the report concerning the Geyser Hotel.

934. The Tribunal's Inspector found that the Grand Hotel did charge the Inspector 1s. for a nip of whisky. The nip was stated to be slightly greater than the standard measure. When the overcharge was pointed out to the proprietor, he stated that he would immediately reduce his price to 10d. For these reasons, the Tribunal decided not to prosecute. With all respect to the Price Tribunal, this decision does not seem to us to have been satisfactory. When the leading hotel had a price of 1s. for a nip of whisky, contrary to a Price Order issued more than two months before the Inspector's visit, we think the proprietor should have been prosecuted.

935. With respect to the complaint concerning the price of beer, the Tribunal informed us that the price could only be checked by reference to the prices charged for beer in the various hotels in Rotorua in 1939 and that the Inspector stated that it was practically impossible to ascertain these prices. The Tribunal therefore informed us there was no evidence upon which to found a prosecution. As it seemed surprising that the prices charged in 1939 could not be ascertained, we inquired of the Tribunal whether it accepted this view. We were then informed that further information had been obtained and that in no case was more than the authorized price being charged for beer. Our only comment on this is that we were surprised that a statement that it was practically impossible to ascertain the prices for beer charged in the hotels in 1939 should ever have been made by an Inspector or apparently accepted in the first place by the Tribunal.

936. We conclude that the main object of the fixation of the price of liquor during the war (the maintenance of a volume of sales which meant extensive taxation of the public as well as of the trade) was substantially achieved by the Price Tribunal, but that there is room for criticism of the Tribunal in the matters to which we have referred.

We think that by failing to take the steps to which we have referred the trade probably reaped an undue financial benefit at the expense of the public. If the control of prices had been more effective, we do not think the goodwills of hotel properties would have soared as they did during the war period.

We do not entertain for a moment any suggestion that the Tribunal was consciously favouring the trade.

PART IX.—MISCHIEFS RELATING TO THE LEGISLATIVE PROVISIONS FOR CONTROL

CHAPTER 48.—PUBLICANS' LICENSES

937. The holders of all publicans' licenses must provide the accommodation required by statute (paras. 87 and 90, *supra*). Yet some hotels with a large bar trade have had few, if any, guests for years. For example, the schedule of accommodation supplied by the Campbell and Ehrenfried Co., of Auckland (R. 3982), shows that during the period 1935 to 1939 (inclusive) two hotels, the Robert Burns in Union Street and the Suffolk at College Hill, supplied no accommodation for guests at all. The same schedule shows that over the same period (1935–39) the averages in some of the company's other hotels of (*a*) beds supplied, compared with (*b*) beds available, were as follows: the Caledonia in Symonds Street, 1·3 per cent.; the Exchange, at Onehunga, 1·7 per cent.; the Edinburgh Castle, in Symonds Street, 2·2 per cent.; the Club in Wakefield Street, 2·2 per cent.; the Manukau, at Onehunga, 2·6 per cent.; the Prince of Wales, in Hobson Street, 3·9 per cent.; the Waikino, at Waikino, 4·8 per cent.; and the Helensville, at Helensville, 4·9 per cent. One of the company's leased hotels, the Ellerslie, at Ellerslie, supplied only 5·3 per cent. of the available accommodation during the same period.

938. The fact is that hotels which supply only the amount of the accommodation required by the Act are not likely to be economic units for the provision of accommodation. They are not even if they supply something more than that accommodation. For practical purposes, hotels of this type supply a need by providing only facilities for the purchase and consumption of alcoholic liquor. They supply this need, for the most part, in commercial or industrial localities, or in localities where the need to provide for the supply of alcoholic liquor is greater than can be met by hotels which provide substantial accommodation.

939. In our view, therefore, there are sites throughout the country where a lock-up bar or a lounge bar (or tavern) which provides for the service of drink either at the bar or at tables in a lounge is all that is required, though it may well be that snacks of food should also be available for purchase. In these cases it is a waste to require residential accommodation as well as suitable provision for the sale of liquor.

940. It follows that a publican's license should be abolished and that it should be superseded by:—

(1) Licenses which provide for hotels which are economic units for the provision of accommodation and which may be divided into—

(*a*) An hotel license which will carry the same right to sell liquor as the present publican's license does; and

(*b*) A house license which will confer the right to sell liquor to guests only.

(2) A bar license which will confer the right to sell liquor (with or without snacks of food) in lock-up bars or in lounges which provide seating accommodation.

CHAPTER 49.—WHOLESALE LICENSES

941. Mischiefs are alleged to arise from the legislative provisions concerning wholesale licenses. We have already partially described these licenses (para 34, *supra*), but more detailed reference is now required.

942. Wholesale licenses were not included in the provisions for the abolition and the reduction of licenses under the local-option provisions of the Alcoholic Liquors Sale Control Act of 1893: *McKenzie* v. *Hogg*, (1895) 13 N.Z.L.R. 158; and the extended language of the Act of 1895 was held not to include them: *In re W. and G. Turnbull and Co.'s Application*, (1904) 23 N.Z.L.R. 489. The result was that, from 1881 until the year 1920, wholesale licenses could be granted without restriction as to number.

In 1920, section 3 of the Licensing Amendment Act, 1920, brought a wholesale license (as well as an accommodation license and a New Zealand wine license) within section 30 of the Act of 1910. The result thereafter was that no new wholesale license could be granted, except in a district in which restoration had been carried, or for the purpose of replacing a wholesale license that had been forfeited or had not been renewed or had otherwise ceased to exist. The reason for bringing a wholesale license within the restriction upon the number of licenses imposed by section 30 of the Act of 1910 is not clear. Mr. Luxford, S.M., informed us that section 3 of the Act of 1920 was passed shortly after an unsuccessful attempt had been made to obtain an accommodation license for premises in Maketu. Whatever the reason for the restriction, the immediate effect was to create a monopoly value in the existing wholesale licenses.

943. Ever since the Licensing Amendment Act of 1904 a wholesale licensee has been entitled to sell any kind of alcoholic liquor in quantities of not less than 2 gallons to any one person at any one time (such liquor not to be consumed on the licensee's premises) not only from the one place specified in the license, but also from any bonded warehouse anywhere in New Zealand. Under this provision a wholesale licensee with a place of business, say, at Eltham can have his liquor bottled by his agent in a bonded warehouse in Auckland and sold and delivered from there. It appears that in these circumstances there has been inadequate supervision of the hygienic conditions.

944. We refer now to the way in which these wholesale licenses are granted. Both before and after the Act of 1920 a wholesale license could be granted by the Chairman and any two members of the Licensing Committee, as well as by the Licensing Committee (section 100 of the Act of 1908). Though application for the license must be made in the form provided, no formal inquiry is necessary, and no person has a legal right to lodge objections. The Chairman and any two members should make inquiries and take note of any actual objections, even though there is no legal right to make them. It seems that the decision of the Chairman and the two members, if made in good faith, is final and cannot be reviewed in the Courts (*Luxford's Liquor Laws*, pp. 116 and 117).

945. If restoration were carried in a no-license district, wholesale licenses could then be freely granted in that district, subject to the restrictions that a wholesale license may not be granted in a borough or a town district in which a publican's license does not exist or in respect of disqualified persons or premises (section 80 (2) and section 105 of the Act of 1908).

946. The legislation makes no provision for the *removal* of a wholesale license. Prior to the Amendment Act of 1920 this did not matter, because a new license could be granted. It seems that, when the numbers were stabilized in 1920, provisions for removal were overlooked. To-day, if a wholesale licensee desires to carry on his business in new premises, he is forced to allow his license to lapse. This enables application for a new license in respect of the new premises to be made under section 30 of the Act of 1910. This position is not satisfactory, because any other person may apply for a new license in respect of his premises in place of the lapsed license. It seems reasonable to grant a power of removal.

947. The legislation contains no express provisions for the *renewal* of a wholesale license. The practice adopted is for the licensee to file an application prior to the annual meeting for a new license and the certificate is issued as of course unless the license is liable to be forfeited (*Luxford's Liquor Laws*, p. 140).

948. The legislation contains no provisions for the *transfer* of a wholesale license to a purchaser of the licensee's business, although there is provision for transfer by operation of law on the death, bankruptcy, lunacy, or marriage of the licensee (sections 130 to 136 of the Licensing Act, 1908, *Luxford's Liquor Laws*, p. 118, note (*j*), and R. 6687).

949. A list showing the number and distribution of wholesale licenses throughout New Zealand as at 3rd October, 1945, is set out in Appendix D. This list represents the result of our inquiries and is as complete as we have been able to make it. The total number of licenses in force is 140, with 1 dormant in the Christchurch Licensing District.

950. The mischiefs alleged to arise in respect of wholesale licenses may now be considered.

951. Complaint is made by the New Zealand Alliance that there is no provision requiring the advertising of any application for the grant or renewal of a wholesale license and that the public ought to have the opportunity of knowing of these applications, as it has with publicans' licenses (R. 2130).

952. It is claimed by Mr. Luxford, S.M., that the restriction on the number of wholesale licenses creates an unnecessary monopoly (R. 6467). This view is supported by the Public Opinion Committee of the Church of England (R. 5525).

953. It is claimed by Mr. F. T. Innes, Brewer, of Hamilton, that there is an unequal and uneven distribution of wholesale licenses (R. 4510, 4513, and 4545). The brewing company of C. L. Innes and Co., Ltd., has its brewery at Hamilton and a wholesale license at its Auckland branch. If an order for a bottle of whisky or a bottle of brandy is received by the Auckland branch, the quantity has to be made up to 2 gallons. The Auckland branch has therefore to obtain ten bottles of beer from Hamilton to complete the 2 gallons of liquor (R. 4513). This is claimed to be an unnecessary disadvantage imposed upon wholesale trading.

954. The Government Analyst at Auckland explained that the provision enabling a wholesaler to have liquor bottled for him in a bonded warehouse in a town which was distant from the wholesaler's own place of business led to a failure in supervision of the bottling. He said (R. 2864) that in January, 1944, a sample of gin was submitted by the United States Command which had previously been bottled in a dirty bottle. The label read, "Bottled in bond under the supervision of H.M. Customs." Inquiry showed that the Customs officers supervised the bottling for revenue purposes only and had no control over the sanitary nature of the operation, since the gin was bottled after importation. The evidence before us showed that the label had been sent over from Australia, where it is the usual practice to bottle in the presence of the Customs (R. 6651). The incident appears to have been an isolated one (R. 6652), but all concerned are agreed that steps should be taken to ensure the sanitary bottling of liquor (R. 7595). One suggestion is that whenever a wholesale licensee intends to bottle liquor at a place other than his own place of business he should notify the local authority of his intention so that due inspection may be made of the bottling process. This involves further notice to the Health Department.

955. The Customs Department is concerned only with the collection of duty before the liquor is dealt with. Otherwise it is not concerned with the time or place of bottling.

956. Some method needs to be devised for ensuring the satisfactory inspection of all bottling.

957. It is submitted by the New Zealand Alliance that the procedure for granting wholesale licenses is not satisfactory. It is submitted that the procedure should be the same as with publican's licenses, and therefore that application should be made to the Licensing Committee, that it should be advertised, reported on by all proper authorities, that there should be a right in the public to lodge objections, and that, finally, there should be a judicial decision by the whole Licensing Committee. The Nelson Licensing Committee recommends that the grounds of objection to the granting of a wholesale license should be defined (R. 215).

Wholesale Licenses held by Brewers

958. Complaint has been made that brewers who are limited to the sale of their own beer wholesale under the brewer's license do also obtain wholesale licenses under which they can acquire and sell any class of liquor, and it is submitted that this is a mischief (Church of England Committee, R. 5530).

959. The legal position has developed in this way :—

Section 128 of the Distillation Act, 1868, made it unlawful for a brewer to deal in spirits, either wholesale or retail, upon any premises registered or licensed for carrying on the business of brewing or on any premises situated within 100 yards of the same. The word " brewer " was defined by the Act of 1868 to mean any maker of beer, ale, or porter, or any maker of wine, for sale, and to include every vendor of fermented liquors or wine made in New Zealand in quantities of not less than 2 gallons.

Section 129 of the Distillation Act, 1868, provided that all spirits found on the premises of any brewer beyond 6 imperial gallons could be seized and forfeited.

960. In 1880 the Beer Duty Act of that year defined a brewer to mean the person who carried on a brewery, including certain agents. A brewery was defined to mean any place where beer is made. Various specified places, including warehouses and store rooms in which " any of the products of brewing or fermentation are stored or kept," were included in and formed part of the brewery with which they were used. By this definition the winemaker or vendor of wine was excluded.

961. This legislation was consolidated in sections 8 and 9 of the Beer Duty Act, 1908.

The position at this stage was that a brewer could carry on the business of a brewer under his brewer's license under the Act of 1880 and a business under a wholesale license, provided they were carried on in separate premises at least 100 yards apart, but the products of the brewery could not be stored or kept on the premises used under the wholesale license.

962. When Part III of the Finance Act, 1915, was passed, the definition of " brewer " was not altered, but " brewery " was defined to mean any place where beer is made, together with such adjoining land as is specified in any application for a license in accordance with section 38 hereof, and includes all buildings thereon. Section 38 provides for the application for the yearly brewer's license.

963. Section 38 (7) provided that the brewer could sell, in quantities of not less than 2 gallons, beer brewed at his brewery " without taking out a wholesale or other license under any other Act." This provision contemplated that a brewer could take out a wholesale license.

964. The effect of the definition of " brewery " in Part III of the Act of 1915 was to get rid of the separation of premises by 100 yards. The brewer could exclude from his application an area of land (on which there were premises suitable for a business carried on under a wholesale license) adjoining or adjacent to the land specified in his application as the land of his brewery. The two sets of premises might therefore be contiguous.

965. The object of the legislation prior to 1915 may have been to prevent persons occupied in the brewery from having ready access to spirits. If that object could be achieved otherwise, a separation of 100 yards probably only added to the expense and inconvenience of carrying on the two businesses.

966. As already explained (para. 186, *supra*), some brewers took advantage of the new legislation to sell and deliver beer indiscriminately from carts or vans. Section 46 (2) of the Finance Act, 1917, then provided that no beer should be sold under the authority of a brewer's license unless delivery of the beer was to be made from a brewery or from a depot or bottling store approved for the purpose by the Collector, and that no beer should be delivered by the brewer from any place other than such brewery, depot, or bottling store. Section 46 (4) of the Act of 1917 provided that if the brewer sold or delivered any beer contrary to the provisions of section 46 he should be liable to a penalty.

967. Although the language of section 46 (2) is general and might appear to prevent a brewer from delivering beer from any place other than the brewery, depot, or bottling store authorized under the Finance Act of 1917, it has not been so construed by the Customs Department. The prohibition has been limited, and it seems to us correctly, to the sale of beer under a brewer's license. In our view, therefore, a brewer is entitled to hold a wholesale license, provided the premises subject to the license are not included in the premises subject to a brewer's license.

968. The following breweries hold wholesale licenses as follows:—

New Zealand Breweries—
(1) Mountain Road, Epsom, Auckland.
(2) 59–69 Taupo Quay, Wanganui.
(3) 142 Molesworth Street, Wellington.
(4) 15 Bath Street, Christchurch.
(5) Corner Victoria and Browne Streets, Timaru.
(6) 49 Dowling Street, Dunedin.

Dominion Breweries—
(1) Waitemata Depot, 5 Gore Street, Auckland.
(2) Wellesley Road, Napier.
(3) 111 Lambton Quay, Wellington.

C. L. Innes and Co., Brewers, Hamilton—
(1) Khyber Pass, Newmarket, Auckland.

Union Brewery Co. of Waipawa—
(1) Ruataniwha Street, Waipawa.

Taranaki Brewery and Cordials, Ltd.—
(1) New Plymouth.

McCarthy's Breweries, Ltd.—
(1) 46 Tory Street, Wellington.

Ballins Breweries (N.Z.), Ltd.—
(1) 9 Bryon Street, Christchurch.

Westland Breweries, Greymouth—
(1) Turumaha Street, Greymouth.

969. There is no evidence of any mischief resulting from these wholesale licenses. Mischiefs do, however, result from "agencies" appointed by brewers or hotelkeepers. These "agencies" are unlicensed and may spring up at any time anywhere (paras. 683–698, *supra*).

Wholesale Licenses held by Retailers

970. Complaint is made that wholesale licenses have been granted to some retail grocers and retailers (R. 4542, 4515, and 7599). The New Zealand Alliance and Mr. F. T. Innes, Brewer, of Hamilton, suggest that these licenses should be stopped and that wholesale licenses should be granted to genuine wholesalers only (R. 4515).

Sales to Private Individuals by Wholesalers

971. Complaint is made that wholesale licensees sell to private persons and that they should be permitted to sell only to other licensed vendors—*e.g.* to publicans, to a trust, or to some other public body (R. 134, 4363, and 6106).

972. Submission is also made that, even if wholesale merchants can sell to private individuals, they should be limited to selling 2 gallons on any one day to any one person unless the purchaser obtains a permit from the Licensing Committee or other authority for a purchase for a special occasion, such as a social gathering. This view was taken by the Commissioner of Police (R. 337) and by Mr. Paterson, S.M. (R. 135). It was strongly opposed by Mr. F. T. Innes, Brewer, of Hamilton (R. 4542).

973. The Commissioner evidently considers that the restrictions would reduce the number of keg parties and the amount of sly-grog selling which goes on, though it should be made clear that it is not alleged that the wholesaler knows the purpose of the large purchases from him.

Regulation 24 of the Emergency Regulations 1942, 186 requires the holder of a wholesale license (or a brewer's license or a winemaker's license) to keep a record of every sale of liquor made by him unless the sale is to a person lawfully entitled to sell liquor, or the sale is for delivery at any building, vessel, or place at or upon which liquor may lawfully be sold. This record of sales of liquor enables a check to be made by a constable. The difficulty, no doubt, is that the inspection occurs after the purchase and after any damage has been done through the action of the purchaser.

CHAPTER 50.—CONDITIONAL LICENSES

974. Under section 82 of the Licensing Act, 1908, a conditional license may be issued to the holder of a publican's license, subject to such restrictions and conditions as the persons granting the license think fit.

Under section 102 of the Act a conditional license may be granted at any time without notice or any formal application at a licensing meeting by the Chairman and any two members of the Licensing Committee.

975. It appears that sometimes conditional licenses have been granted without conditions and that various abuses have resulted. Sales have been made for off consumption outside the booths at racecourses, and, when a public demonstration has occurred, bottles have been thrown. Difficulty has also occurred through the sale of liquor after the last race has been run and when the public are leaving the course. Again, hygienic conditions have not been all they should have been. In some cases only a tin of cold water has been available for washing the glasses (R. 533). The legal position is also said to be vague in relation to Maoris, prohibited persons, and youths.

976. Mr. Luxford, S.M., the Commissioner of Police, and several senior police officers urge that the conditions and restrictions to be inserted in a conditional license should be prescribed by statute.

977. Conditions framed by Mr. J. L. Stout, S.M., Mr. Luxford, S.M., and by the Wairarapa Licensing Committee have been submitted to us as suitable conditions. The following are the conditions lately prescribed by the Wairarapa Licensing Committee:—

(1) No liquor shall be sold for consumption outside the booth.

(2) The bars shall be under the control of thoroughly reliable and steady men to whose notice shall be brought before they commence duty these special conditions.

(3) The licensee shall personally supervise all the booths in which liquor is sold; and the licensee shall be held responsible for any misconduct on the part of his servants.

(4) No liquor of any kind shall be sold or supplied to any person apparently under the influence of liquor, or to any person apparently under the age of twenty-one years, or otherwise in breach of the Licensing Act, or any other Act or any regulations relating to the sale of intoxicating liquor.

(5) No liquor shall be supplied to any female Maori under any circumstances whatsoever, or to any male Maori for consumption off the premises—*i.e.*, outside the booth.

(6) None but the best standard brands of liquor shall be sold. All liquor shall be sold at reasonable prices to be approved by the committee of the club, but in no case shall prices exceed those fixed by any competent authority.

(7) In so far as race and trotting meetings are concerned, the booths in which liquor is lawfully sold may be kept open only between the hours of 10 a.m. and the time coinciding with the closing of the totalizator for the last race. In all other cases the hour of closing shall not be later than 6 p.m.

(8) The sale of liquor shall cease and all booths shall be instantly closed if and when the person in charge is requested so to do at any time by an Inspector of Police or other police officer of a rank not less than Sergeant:

Provided that such request shall not be made arbitrarily, but shall be made only if it appears necessary or desirable in the opinion of such officer, by reason of the existence of intoxication, or that conditions in the booths or in any of them, appear to be beyond the control of the licensee or person in charge, or for any other grave and sufficient reason whatsoever.

978. In addition to these conditions, those imposed by the Remuera Licensing Committee for the Ellerslie Racecourse (R. 6485) draw the attention of the licensee to the provisions of section 201 (2) of the Licensing Act, 1908, which apply certain provisions of the Licensing Act to a person holding a conditional license. Mr. Luxford, S.M., urges, however, that legislation should require that the booth or booths should be defined or described in the conditional license and that each place so described shall be deemed to be a public bar in premises subject to a publican's license, except in so far as the conditions of sale in a public bar are modified by the conditions imposed under the conditional license (R. 6467). We recommend this proposal to the authorities for detailed consideration.

979. The conditions imposed by the Remuera Licensing Committee also draw the attention of the licensee to the sanitary and hygienic conditions required by Regulation 7 (8) of the regulations under the Health Act, 1920, published in *New Zealand Gazette*, 1924, p. 1712. These regulations require cleanliness and the washing of all vessels and appliances in hot water.

We think it would be desirable to refer in the conditional license to these requirements.

CHAPTER 51.—RETAIL LICENSE FEES AND BREWERY SUPERVISION FEES

980. Submissions were made to us that retail license fees and brewery supervision fees should be increased. We refer to each class separately.

Fees for Publicans' and Accommodation Licenses

981. The principal retail licenses are the publican's license and the accommodation license. By section 108 of the Licensing Act, 1881, the fee for a publican's license within a borough was fixed at £40; outside a borough, £25. The fee for an accommodation license was fixed at such sum not exceeding £20 as the Licensing Committee should fix. These fees, along with the other license fees fixed in 1881, are now specified by section 139 of the Licensing Act, 1908. The amount of each fee has therefore remained unchanged for a period of sixty-five years, though the value of the individual licenses has risen very greatly.

982. One submission, strongly supported in the evidence, was that the fees for a publican's license and an accommodation license should vary according to the gallonage of the hotel. Some considered the gallonage should be judged by the wholesale purchases, and others by the retail turnover. Fees on a gallonage basis were supported by the following Licensing Committees: the Licensing Committees of Marsden and Kaipara (which limited their recommendation to cities and populous areas); the Bay of Islands; Auckland; Otahuhu; Waitemata, Remuera, and Onehunga; New Plymouth; Egmont; Motueka, Buller, and Westland; Hurunui; Christchurch, Avon, Riccarton, and Lyttelton; Wallace and Awarua.

983. The Stratford Licensing Committee suggested fixing the fees on a population or gallonage basis. The Pahiatua Licensing Committee thought there should be extra fees for each private bar.

984. The only other Licensing Committees which dealt with the question, the Waimarino, and the Timaru, Temuka, and Waitaki Committees, were of opinion that the present fees should remain.

985. The Stipendiary Magistrates who dealt with the matter—Mr. Luxford, Mr. Paterson, and Mr. Miller—were all of the opinion that the fee should vary with the turnover. Various private individuals expressed a similar view.

986. The reasons given for increasing the fees by reference to the gallonage of the hotel may be illustrated. For example, Mr. Luxford, S.M., said (R. 6532 and 6533) :—

I cannot see a fairer way of paying for the privilege than by tax on turnover. I do not think any one would suggest that it is fair and reasonable that an hotel, say, in Queen Street, Auckland, or in a certain place in Lambton Quay, should pay £40 a year, exactly the same as an hotel in the Borough of Thames, or something of the sort. This, to my mind, is a fair way of apportioning or spreading the tax that should be paid for the privilege of a monopoly.

987. A similar view was expressed by a witness, Mr. A. S. Bevin, who was much opposed to the views of Prohibitionists. He said (R. 2416) :—

I have been in small country hotels doing £40 or £50 or £60 a week turnover, and they have had to pay the £40 a year license the same as big hotels in the city doing £1,000 and £2,000 a week. I do not think that is fair. I think a man with a small business should only pay *pro rata*. For instance, if you want to start a business to get a heavy traffic license, you pay for one truck, you don't pay as much as Winstone's with two hundred or three hundred trucks.

988. Mr. Luxford, S.M., thought that the fees on the issue of retail licenses should be subject to a minimum and a maximum amount, and he made this proposal (R. 6483) :—

There should be a minimum annual license fee of £20 for all retail licenses payable on issue. On renewal the fee should be £20 or a sum calculated on the gallonage and bottle turnover for the preceding twelve months (whichever is the greater) as follows :—

¼d. a quart bottle of beer
¾d. a gallon of draught
3d. a bottle of wine } Tentative figures only. Maximum £500 a year.
1s. a bottle of spirits
Other license fees to remain as at present

All license fees should be paid to the appropriate local authorities less the expense of administration, and be applied by the local authorities in providing, improving, and maintaining recreational or cultural facilities.

989. The Wellington Branch of the New Zealand Council of Women were in favour of a graduated scale payable to local authorities as a means of returning to the local people some of the money which at present was represented by goodwill (R. 1631 and 1636).

990. The arguments for the trade against increasing the retail license fees were these :—

(1) Many fixed license fees are paid for the right to use various chattels—*e.g.* radios, motor-cars, &c.—and there is no differentiation on account of the size of the article (R. 6531).

(2) Other traders are not required to pay fees on turnover—*e.g.*, sellers of petrol (R. 2203).

(3) A licensee who had paid less for goodwill on his hotel than another licensee might make a larger profit (R. 6532).

(4) Hotel values have been based for many years on a purely nominal license fee, and it would now be unfair to change the basis (R. 6711).

991. One trade witness thought that the small hotels should have a concession on the fees charged according to the gallonage of the hotel, provided that the present maximum fee was not increased (R. 4566).

992. Another question raised in respect of these retail fees is their destination. Section 140 of the Licensing Act provides that all license fees are to be paid to the local authority within whose district the premises in respect of which the license is issued are situate, and that the fees shall form part of the local authority's ordinary fund. Provided that, if there is no local authority, the fees shall be paid into the Public Account and form part of the Consolidated Fund.

993. The reason usually given for the payment to the local authority is that the local authority is responsible for the costs and expenses incidental to the election of the Licensing Committee and of the meetings of the Licensing Committee. The effect of sections 13 (9), 53, and 109 of the Licensing Act, 1881, was that the costs of the elections

and of the meetings of the Committees were payable out of the fees. In essence, these provisions have been retained. By section 17 of the Alcoholic Liquors Sale Control Act Amendment Act, 1895, it was provided that, if a local authority suffered a loss of revenue from license fees in consequence of the reduction or prohibition of licenses in the district, the local authority could make good the loss by levying an increase in the general rates. This provision is now contained in section 41 of the Licensing Act, 1908.

994. Another reason for the payment of the license fees to the local authority may well be that, for the most part, the value of the license is due to the purchases of the people within the district of the local authority and, therefore, that the people of that district should receive some return by way of relief from rates, while the General Government takes the revenue in excise duty, income-tax, and other taxes.

995. We refer now to the position in England and in certain Australian States, to whose legislation we have been referred, and also to the recommendation of the Hockly Committee in 1922.

996. In England only a nominal fee of 6s. 6d. is charged on the grant, transfer, removal, or renewal of a Justice's license (section 45 of the Licensing Consolidation Act, 1910 (England), and *Paterson's Licensing Acts*, 53rd Ed., p. 628). These fees are paid to the Exchequer (R. 41) and not to the local authorities. There are no elected Licensing Committees in England. Although this license fee is small, the average English excise duty is stated to be much heavier than the average New Zealand excise duty—*e.g.*, something like 5s. 3½d. is paid per gallon in England as excise duty, and in New Zealand something less than 3s. (R. 2054).

997. We refer now to the Australian States. In Victoria the rate is 6 per cent. on wholesale purchases. Section 19 of the Licensing Act, 1928 (Victoria), imposing the fee is as follows :—

> For any of such licenses, other than those for which special provision is made in this section, the fee shall be equal to the sum of six per centum of the gross amount (including any duties thereon) paid or payable for all liquor which during the twelve months ended on the last day of June preceding the date of the application for the grant or renewal of the license was purchased for the premises . . .

998. In New South Wales the fee for a new publican's license is such sum not exceeding £500 as the Licensing Court may fix, and the fee for a renewal is a sum equal to 5 per cent. on the gross amount paid for liquor for the premises during the year. In Queensland a similar provision is contained in section 18 of the principal Act (as enacted by section 10 of the Liquor Acts Amendment Act, 1935), but the percentage there is 2½ per cent. with a maximum fee of £300.

999. The Hockly Committee report of 1922 made the following recommendation (R. 7751) :—

> That the system of a flat-rate licensing fee should be abolished, and that licensing fees should be based on the percentage of liquor sold in the licensed premises. That local authorities should receive the amount of license fees as at present, but that all increased fees should be paid into the Consolidated Fund.

This recommendation does not provide for a maximum fee, but proposes that the increased fee should go to the Consolidated Fund instead of to the local authorities, thereby, presumably, removing to some extent the inducement to the local inhabitants to drink more liquor in relief of their rates.

1000. In considering the question of fees, we think that, as the fee is merely an annual license fee, there is not sufficient ground for the argument that the fee should not be changed because persons dealing in hotels and paying goodwills for them have chosen to regard the fee as a merely nominal fee.

1001. In our view, the fee should be fixed in the light of the function of the fee as a license fee, and we deal with this matter in our report in Book II on the remedies.

Brewery Supervision Fees

1002. Under section 38 (5) of the Finance Act, 1915, a brewer is required to pay certain supervision fees before he obtains his annual brewer's license under section 38 (6). Subsection (5), as enacted in 1915, was as follows :—

Supervision fees in accordance with the scale set out in the Fifth Schedule hereto shall be payable annually in respect of every brewery, computed on the basis of the average number of days per week on which an officer will, in the opinion of the Collector, be required during the year to visit the brewery :

Provided that where the services of an officer are found to be required on a greater average number of days per week during any year than that for which the fee was computed the brewer shall be liable for the proper fee for such greater average number :

Provided also that where the license is for part of a year a proportionate part only of the supervision fee shall be payable.

1003. In 1931, by section 20 of the Customs Acts Amendment Act of that year, the following addition was made to the first proviso, after the words " average number," viz. :—

and that where the services of an officer are found to have been required on a less average number of days per week during any year than that for which the fee was computed the Collector may refund the difference between the supervision fee paid for that year and the supervision fee which would have been payable if calculated on the basis of the average number of days per week on which an officer was actually required to visit the brewery during the year.

1004. The effect of the first proviso to subsection (5) of section 38 of the Act of 1915, and of section 20 of the amendment of 1931 is to make provision for the payment of the appropriate additional fee where it is found at the end of the calendar year that the supervision fee has been underestimated, and for a refund of any fee overpaid when the fee has been overestimated (R. 311).

1005. The fees set out in the Fifth Schedule are as follows :—

Scale of Annual Supervision Fees

Where an officer is required to visit the brewery—	£
On an average of five days per week or more	75
On an average of four days and less than five days per week	60
On an average of three days and less than four days per week	45
On an average of two days and less than three days per week	30
On an average of one day and less than two days per week	15
On an average of less than one day per week	10

These fees have not been altered since 1915, save for the provision for reduction made in 1931. Costs to-day are much higher than they were in 1915.

1006. These annual supervision fees operate as brewery license fees because the issue of the brewer's license is dependent upon their payment.

1007. The total amount paid as brewery supervision fees for the year ended 31st March, 1944, was £1,690 10s. for forty-two breweries (R. 311). Owing to the time for pitching, the Customs officers usually visit the breweries after their ordinary hours of work, and are therefore paid overtime. The amount paid in overtime for the year ended 31st March, 1944, was £2,061. This amount does not cover such supervising work as is done in ordinary hours, or the cost of surprise visits by the district officers and the Department's Inspectors, or the costs of officers' time in the district office and in head office in carrying out the " materials check."

1008. The form of the legislation imposing the brewery supervision fees (which operate as brewery license fees) shows that the fees are intended to recoup the Department for the cost of brewery supervision. It is established in fact that they do not do so.

CHAPTER 52.—RESTAURANTS, DANCE-HALLS, OR CABARETS, AND NIGHT CLUBS

1009. It is convenient to deal with these premises together, because the supply of food at premises where dancing is carried on will usually make them restaurants in the eye of the law.

1010. A restaurant is defined in section 2 of the Sale of Liquor Restriction Act, 1917, to mean "any premises (other than premises in respect of which a publican's license or an accommodation license is granted under the Licensing Act, 1908) in which food or refreshments of any kind are provided and sold to the general public for consumption on the premises."

1011. A dance-hall on the one hand and a night club on the other were distinguished by Sergeant J. L. Adams, of Auckland. He said (R. 2809) :—

> There is a vast difference between night clubs and dance-halls. The former is usually comprised of a set of rooms or lounges with a small dance-floor and orchestra. dancing is only incidental to drinking. Young girls have been found in these places under the influence of liquor. Some of the club-proprietors have been prosecuted for sly-grogging. Eight convictions were obtained for this offence in 1943. There is a different atmosphere in a dance-hall and the premises consist of a dance-floor surrounded by suitable alcoves and seating accommodation.

And again he said (R. 2859) :—

> The dance-halls cater for the general public. They are constructed in such a manner as a dance-floor surrounded by alcoves. They are easy to supervise, the charges are moderate, and they attract a decent type of citizen.

The sergeant said that dance-halls are now more popular with the public than night clubs.

From this description we think that a reputable cabaret should be regarded as a dance-hall.

1012. We refer now to the way in which the law affecting the supply or use of liquor in these various premises has developed.

1013. Section 32 of the Police Offences Act, 1908 (now section 45 of the Police Offences Act, 1927), makes it an offence for the keeper of any refreshment house in which provisions or liquors of any kind are sold or consumed, to permit prostitutes or persons of notoriously bad character to meet together or remain therein.

Section 11 of the Sale of Liquor Restriction Act, 1917, prohibits consumption of liquor in a restaurant while licensed premises are required to be closed, and makes it an offence for any person to permit that consumption.

1014. In *Brett* v. *Till*, [1921] N.Z.L.R. 788, and in *Lake* v. *Harvey*, [1935] N.Z.L.R. section 136, the Supreme Court held that, even though the premises of a restaurant are hired to a private person or association for use during the hours when licensed premises are required to be closed (and even though they are thereby closed to the public during those hours) the premises, nevertheless, remain the premises of a restaurant as defined in the Sale of Liquor Restriction Act, 1917. Consequently, the consumption of a person's own liquor in a restaurant (including a cabaret or a night club which provides suppers) is prohibited during the closed hours for licensed premises, whether that person does or does not hire the premises.

This prohibition does not apply to any dance-hall which is used only for dancing without the provision of supper.

1015. The next legislation affected dancing in a hall. Section 59 of the Statutes Amendment Act, 1939 (passed on the 7th October, 1939), prohibited the supply of intoxicating liquor to any person in a hall or the drinking of intoxicating liquor in a hall or in the vicinity of a hall while a dance is being held. A hall was defined to mean "any building where any public dance is held or where any dance is held to which admission is obtained upon payment of subscriptions, either in money or by way of supplying refreshments, and whether upon general or individual invitation, or otherwise."

This prohibition does not apply in relation to any liquor in any licensed premises or in any dwellinghouse.

1016. Section 59 does not appear to apply where the hall is completely let to a private person who is solely responsible for the provision of all that is required for the dance which he gives. But, if the premises which are privately let also constitute "a restaurant" within the meaning of the term in the Sale of Liquor Restriction Act, 1917, the restriction of that Act applies, and liquor may not be consumed during the closed hours for licensed premises, even though the liquor is supplied solely by the host.

1017. During the war the prohibition upon the use of premises for the consumption of intoxicating liquor was extended. By Regulation 6 of the Emergency Regulations 1943/122, the words " In any no-license district " were deleted from section 37 of the Licensing Amendment Act, 1910, but the consumption of intoxicating liquor upon premises licensed under the Licensing Act was exempted from the operation of section 37. The total effect of section 37, as so altered, was to prohibit throughout New Zealand the keeping or using of any building, room, or other premises as a place of resort for the consumption of intoxicating liquor upon those premises, except for the consumption of liquor by any person (1) in any place where he dwells or resides (in which he may consume liquor and supply it to his guests) ; or (2) in any premises licensed under a publican's license, accommodation license, conditional license, New Zealand wine license, or club charter.

1018. If unlicensed premises which are not a restaurant were let sufficiently frequently to various persons and each provided his own liquor for himself and his guests, those premises could be regarded as " a place of resort for the consumption of intoxicating liquor." In that event, even though those premises were hired only once by each individual hirer, the using of the premises would be an offence.

1019. In May, 1944, the Places of Entertainment Emergency Regulations (1944/72) were made. They did not apply to licensed premises or the premises of a chartered club. These regulations defined a " place of entertainment " as meaning any premises where (*a*) persons are permitted to be at any time for the purpose of eating or drinking or dancing or being entertained ; and (*b*) payment is made by any person (other than the occupier) for admission to or use of the premises for food or drink (whether alcoholic or not) for dancing, for a dancing partner, or for entertainment (whether the payment is demanded as a charge or is made voluntarily).

The regulations then provided that, if the Commissioner of Police was satisfied there was reasonable cause to believe (1) that, while these premises were being used as a place of entertainment, persons were allowed to possess alcoholic liquor or that drunkenness or disorderly conduct or any entertainment of a demoralizing character took place on the premises ; or (2) that persons convicted of certain offences or of bad character were permitted on the premises ; or (3) had any part in the management of them ; and (4) that it was expedient in the public interest to make an order in respect of the premises, the Commissioner of Police could make an order prohibiting the use of the premises as a place of entertainment, either absolutely or during such hours as he specified in the order.

These regulations provided an appeal to a Magistrate.

These regulations also permitted a constable, when authorized by a commissioned officer of Police, who had reasonable grounds for suspecting that grounds existed for the making of an order, to search the premises, without warrant, at any time.

1020. We refer now to the requests for concessions in respect of the sale of liquor in restaurants and dance-halls (including reputable cabarets as dance halls) :—

1021. *As to Restaurants.*—There is no suggestion that there is any public disorder or any improper conduct in restaurants at the present time.

1022. Two main requests have been made. The first is for the right to sell light wines, or beer and light wines, at substantial meals, with menus either table d'hôte or *à la carte*, in restaurants between the hours of, say, noon and 2.30 p.m., and between 5 p.m. and 8 or 9 p.m. (R. 1453).

The second request is for the right to let a restaurant either during the day or in the evening to a private person—*e.g.*, for a wedding breakfast or a birthday celebration—the hirer to have the right to supply his own liquor to his own guests as he would in his own home.

1023. Opposition was expressed to the proposals by Mr. Paterson, S.M., the Commissioner of Police, and most police officers, by the trade, the Alliance, and the Churches, other than the Church of England. Fifteen Licensing Committees expressed opposition, but the remaining fifty-one expressed no opinion.

The trade objects, no doubt, because the sale of liquor in restaurants would represent competition for licensed premises. The other objectors did not consider that the supply would promote public order.

1024. On the other hand, these proposals were supported by Mr. Luxford, S.M. (R. 6466), by the winemakers, by the Wellington Branch of the Council of Women (R. 1632), by the Auckland Trades Council (R. 2737), and by several private witnesses.

Two Police Superintendents—Superintendent Edwards of Wellington (R. 907) and Superintendent Scott of Christchurch (R. 5228)—said they would permit special functions, such as wedding breakfasts.

The Church of England Committee thought that the question whether licenses authorizing the sale of wine and beers with meals should not be issued to approved restaurant-keepers (R. 5532) should be carefully considered. The Church of England representatives thought that the sale of liquor in restaurants might lessen the spirit of bravado which they thought was behind the indulgence of some young people to-day. They apparently thought that some restaurant licenses might replace some publicans' licenses.

1025. We think that drinking may tend to occupy a less-important place in the mind of the public if light liquors can be served in restaurants, of adequate size and sufficient staff, which provide a substantial meal, the liquor being served as an accompaniment of the meal. We think the legislation recently passed in New South Wales should be adapted for the purpose.

1026. We think also that there is a demand for the use of restaurants of a good type for wedding breakfasts, receptions to visitors, and for other special functions. In some towns in New Zealand there is no suitable building, other than a large tea-room, for the purpose of such receptions (R. 5229).

1027. We refer now to dance-halls (including therein reputable cabarets). We set on one side night clubs, as described by Sergeant Adams (para. 1011, *supra*), because we think they should be discouraged.

It is difficult to ascertain the extent of surreptitious drinking in dance-halls and reputable cabarets. It was not to be expected that we would get sworn evidence of conduct infringing the law in these places.

1028. The Wellington Branch of the Council of Women did, however, make extensive inquiries about mischiefs of this sort, and they produced some statements which, though anonymous, were placed in evidence and could have been investigated if their accuracy had been challenged. We quote an extract from a voluntary statement written by a young woman, about twenty-five years of age, which the branch regarded as illustrating the opinion of most people interested in the question of liquor in cabarets. The writer says :—

> With few exceptions, the cabarets and places where people may dance in Auckland and Wellington are unlicensed. A great majority of people going to these dances would not care to go if they knew there was going to be nothing whatever to drink. The people of whom I speak are not boys and girls, but the very best type of men and women with responsible positions, and I believe they would prefer not to break the law.
>
> The guests themselves supply the liquor, which is usually smuggled into the cabaret under the coats of some of the party and placed under the table. As a general rule cabarets are not brilliantly lit. Ginger ale is on sale and glasses and crushed ice are available. Empty wine and whisky bottles are left in the cabaret. Most people will not go to the trouble of smuggling the liquor out again and conveying it home in an overcrowded taxi ; consequently, whatever they take they drink, and a generous host and some members of the party not turning up usually make this too much. Obviously, this is not a good method, but I know from personal experience it is the usual one.

1029. The manager of the Peter Pan Cabaret in Auckland, who gave evidence on behalf of the four main cabarets in Auckland City (the Peter Pan, Civic Winter Garden, Trocadero, and Metropole), said (R. 2491) :—

> It is my experience and the experience of the other cabaret-managers associated with me in this submission that the majority of cabaret patrons seem to regard the consumption of liquor as a necessary concommitant to the pleasure of dancing.

1030. The inference from these statements is that liquor is consumed in the cabarets and that, if the police visit them, they do not in general discover what has been going on.

1031. The cabaret-proprietors, however, do not ask for any relaxation of the restrictions against this mischief. They ask only that liquor should be permitted when the cabaret is hired for a private party. The manager of the Peter Pan cabaret said (R. 2491) :—

> Promiscuous and indiscriminate drinking in dance-halls is admittedly objectionable, and all managers welcome the repressive legislation which prevents it, but it is submitted that on the occasions of private parties the prohibition should not apply.

1032. The argument is that, if a private person can entertain his guests at a dance in his own home and supply them there with alcoholic refreshment, he should be able to do so when he has hired a dance-hall or cabaret exclusively for his own use ; and that, similarly, associations of people should be able to do likewise. An impressive list of associations which had hired the Peter Pan Cabaret during the year 1939 (including old boys' associations and the social clubs of various important institutions) was submitted in evidence.

1033. The cabaret-proprietors proposed that notice should be given to the police of the hiring for the private party, and that all arrangements for the control of the liquor should be subject to police approval. The cabaret-proprietors suggested that a suitable arrangement would be for the hirer to supply the liquor, but to surrender it to the management, who would label it and then serve it from a bar on the personal request of a guest in the presence of the host or of the cabaret-proprietor (R. 2491).

If surreptitious drinking goes on during an open night at a cabaret, this proposal will not remedy the position. On the other hand, proper inspection of a cabaret might do so.

1034. Another suggestion is that, if the District Licensing Committee approves, a public Liquor Board might supply and control the supply of light wine and beer at the cabaret in a bar provided by the cabaret-proprietor either at any party or on any night.

CHAPTER 53.—THE DISTRIBUTION OF LICENSES

1035. There was general agreement before us that in some localities to-day there were too many licenses and in other localities too few.

The Cancellation of Redundant Licenses and the Issue of New Licenses

1036. As we have pointed out, the effect of the Licensing Act, 1881, was to bring about a practical limitation upon the increase of licenses (paras. 136 and 137, *supra*). At the present time the position is governed by section 30 of the Licensing Act, 1910, which prohibits the grant of any new publican's, accommodation, New Zealand wine, or wholesale license except where there is a sudden increase in population in a county or road district or where restoration is carried in a no-license district. Licenses may, of course, be granted in substitution for forfeited or lapsed licenses and may be removed not more than half a mile in a borough or one mile in a county (para. 54, *supra*).

1037. The result of the New Zealand legislative control is that the distribution of licenses to-day is very much what it was in the year 1881, even though (*a*) the total population has increased more than threefold ; (*b*) in 1881, 39·26 per cent. lived in the North Island and 60·74 per cent. in the South Island, whereas in 1945, 67·3 per cent. lived in the North Island and 32·7 per cent. in the South Island ; and (*c*) areas which were closely populated in 1881 have ceased to be so.

1038. The following table shows the number of licenses in each licensing district, the population of the district as at September, 1945, and the number of residents per hotel :—

Table showing in respect of each Licensing District the Number of Licensed Hotels, the Population as at 25th September, 1945, and the Number of Residents per Hotel

Licensing District (as at 25th September, 1945).	Licensed Hotels.	Population (as at 25th September, 1945).	Population per Hotel.
Bay of Islands	20	31,678	1,584
Marsden	11	22,796	2,072
Kaipara	12	19,323	1,610
Auckland (East, West, and Central)	61	70,716	1,159
Remuera	1	33,896	33,896
Otahuhu	4	25,922	6,480
Onehunga	6	29,061	4,843
Waitemata	9	27,109	3,012
Franklin	6	22,651	3,775
Thames	38	20,499	542
Hauraki	6	20,004	3,334
Hamilton	5	27,441	5,488
Raglan	8	22,196	2,774
Tauranga	8	26,717	3,339
Waikato	8	24,090	3,011
Bay of Plenty	24	28,557	1,190
Rotorua	14	28,647	2,046
Waitomo (largely King-country)	2	21,591	10,795
Gisborne	16	24,577	1,536
Napier	20	21,517	1,076
Hawke's Bay	15	24,285	1,619
Waipawa	13	18,525	1,425
New Plymouth	11	24,173	2,198
Stratford	12	16,694	1,391
Egmont	17	17,630	1,037
Waimarino (largely King-country)	2	20,223	10,111
Patea	17	18,985	1,117
Wanganui	14	22,759	1,626
Rangitikei	20	19,120	956
Manawatu	12	20,859	1,738
Palmerston North	15	25,277	1,685
Pahiatua	24	17,778	741
Otaki	15	23,658	1,577
Wairarapa	21	20,334	968
Hutt	7	25,183	3,597
Wellington (North and Central)	46	43,447	945
Wellington Suburbs	2	38,670	19,335
Marlborough	28	20,737	741
Nelson	27	22,024	816
Motueka	35	14,314	409
Buller	59	16,169	274
Westland	73	18,134	248
Hurunui	24	16,465	684
Kaiapoi	13	22,631	1,741
Christchurch (North, East, and South)	48	70,389	1,487
Riccarton	10	27,181	2,718
Avon	1	24,360	24,360
Lyttelton (including Chatham Islands)	23*	23,470	1,020
Mid-Canterbury	10	17,894	1,789
Temuka	8	15,235	1,904
Timaru	15	21,137	1,409
Waitaki	22	15,071	685
Dunedin (North, West, and Central)	43	67,222	1,563
Dunedin South	10	21,743	2,174
Central Otago	56	14,882	266
Wallace	32	15,293	478
Invercargill	6	24,018	4,003
Awarua	19	17,429	917
	1,104	1,452,386	1,316

* Including 2 at Chatham Islands.

No-license Districts	Population (as at 25th September, 1945).	No-license Districts.	Population (as at 25th September, 1945).
Auckland Suburbs	27,991	Wellington West	24,183
Grey Lynn	28,956	Oamaru	18,816
Eden	23,194	Clutha	14,440
Roskill	30,577	Mataura	16,952
Masterton	18,003		
Wellington East	25,383		249,912
Wellington South	21,467		

——	Hotels.	Population (as at 25th September, 1945).	Population per Hotel.
Licensed districts of New Zealand (excluding Invercargill)	1,098	1,428,368	1,301
Licensed districts of New Zealand (including Invercargill)	1,104	1,452,386	1,316
North Island (all districts)	542	1,146,292	2,115
South Island (excluding Chatham Islands)	560	555,501	992
Chatham Islands	2	505	253
New Zealand (all districts, including Chatham Islands) ..	1,104	1,702,298	1,542

1039. Great disparities appear when the present population of various towns is compared. For example, Greymouth, with a population of 8,375, has 21 publicans' licenses; Hokitika, with a population of 2,742, has 14; Nelson, with a population of 13,030, has 18; while Whangarei, with a population of 9,289, has 3; Hastings, with a population of 14,623, has 6; and Hamilton, with a population of 21,982, has 5.

1040. The proportion of licensed premises to the general population in 1905 was 1 licensed house to every 583 of the whole population, and in 1945, 1 licensed house to every 1,542 of the total population.

1041. On a population basis, therefore, there is clear evidence that some licenses are redundant in certain areas and that new licenses should be granted in others. The witnesses for the trade, the New Zealand Alliance, the Churches, and many others were all agreed on this point. The only witness who did not agree was the representative of the Reefton, Hokitika, Grey, Westland, Buller, and Motueka Licensed Victuallers' Associations and of the Buller and Westland Provincial Councils of the Licensed Trade (R. 5367). He stated that these various bodies were of opinion that the hotel licenses on the west coast should remain as they are, and that if licenses were necessary in other parts of the country they should be created (R. 5377).

1042. The trade and the Alliance and the Churches and witnesses generally were also agreed that on any scheme of fresh distribution the holder of a redundant license should not be entitled to sell his license in a populous district and so obtain a high price for a license worth much less in its own district. The view held by the witnesses generally was that redundant licenses should be cancelled with compensation according to their value in their own district and that new licenses should be granted on suitable terms in the districts where they were required.

1043. The question of what constitutes redundancy requires some consideration. Section 91 of the Licensing Act, 1908, permits an objection to the grant of a license on the ground that the premises are not required in the neighbourhood. Section 103 provides that a Licensing Committee may exercise its discretion in granting a license and shall not be obliged to grant a license merely because the requirements of the law as to accommodation or the personal fitness of the applicant are fulfilled "unless in its opinion there is a necessity for the publichouse or other establishment for the sale of intoxicating liquors for which application is made."

The inference from these statutory provisions is that every publichouse or other establishment for the sale of intoxicating liquor is redundant unless there is a necessity for the licensed premises in the neighbourhood.

1044. "Necessity" permits of qualification by reference to its purpose. Necessity for what? For the travelling public? For the accommodation of residents? Or for the sale of liquor only?

1045. A statutory measure of what constitutes the limits of necessity seems to be provided by section 11 (2) of the Licensing Act, 1910, which provides that on restoration being carried in a no-license district the number of publicans' licenses granted shall not exceed 1 to every complete 500 electors of the district and shall not be less than 1 for every complete 1,000 electors of the district (para. 54 (iii), *supra*).

On this statutory basis, licenses would be redundant if they were serving less than 500 electors.

1046. The population basis as a test of redundancy is approved by the Commissioner of Police (R. 335) and also by Inspector J. B. Young (R. 5585). Superintendent Henry Scott, of Christchurch, and Superintendent Donald Scott, of Dunedin, approve of the population basis, but with adequate safeguards for the accommodation of travellers in country districts (R. 5230 and 5863).

1047. The Marsden Licensing Committee thought that the test should depend on whether there was in any district "an abnormal number of licenses per 1,000 of the population," and that if there was, the less satisfactory of the surplus licenses should be determined (R. 76).

1048. The trade dealt with the question of redundancy in a more general way. It proposed that the Minister in charge should require district Licensing Committees to survey all existing hotel licenses in their districts and report to the Minister on the following matters:—

(*a*) The adequacy of the number of licenses;
(*b*) Whether any licenses were redundant; and
(*c*) Generally on the requirements of the district in the matter of licenses.

The trade proposed that in making their reports the district Licensing Committees should have regard to the following matters:—

(*a*) The number and suitability of existing licensed premises;
(*b*) The existing and potential requirements of the district in regard to licensed premises;
(*c*) The possibility of development of tourist or other non-local trade;
(*d*) The possible displacement of workers and their chance of re-engagement in the district; and
(*e*) Any other matter that may be relevant to the subject under consideration (R. 7592 and 7593).

The trade also proposed that the Licensing Committee, in arriving at its decision, could hear such evidence, whether strictly legal or not, as it wished, and that in making its report the Committee should indicate the priority in which it considered licenses should be cancelled or new licenses granted.

1049. The New Zealand Alliance submits that, in general, the redundant license will be the license which does not serve any real need for accommodation in its district and which may therefore be described as a beer house (R. 7214).

The Alliance is against the creation of new retail beer premises, though, if they are created, it submits that if additional licenses are granted to clubs, those additional licenses should be taken into account in considering the number of new retail licenses for the sale of liquor only (R. 7214 and 7216). The Alliance therefore submits that the need for new licenses should be based only on the need for adequate accommodation in certain areas and that this need should not be overestimated (R. 7219). The Alliance submits also that this need for accommodation should be met only by hotels providing accommodation to an extent sufficient to make the hotel an economic unit and that the license should be house or guest license only. On the need for providing only hotels of an economic size which can pay their way, the Alliance adopts the views of the Federated Hotel Workers' Union (R. 7153 and 7219).

1050. A different view on the question of redundancy was expressed by the Town-planning Officer, Mr. J. W. Mawson. He classified hotels in urban areas as :—

(1) Those required for the travelling public, which should be located in the central area in close proximity to the main transport facilities ; and

(2) Those which serve as an amenity for the resident population, which should be located at suitable points in local commercial centres (R. 6839).

Mr. Mawson expressed his own view that this second kind of hotel was capable of extension at the will of residents of "neighbourhood units" of from 8,000 to 10,000 people. He said that in order to promote the social welfare of the community the tendency to-day was to organize communities in neighbourhood groups, each group being complete with its own shopping centres, its schools, and means for cultural and physical recreation (R. 6839). He suggested that in each of these neighbourhood groups there might be one license, either as part of a community centre, or as a social club, or as an ordinary licensed hotel, subject, however, to the consent of the local residents.

1051. Mr. Mawson stated that the town-planning practice was to exclude licensed hotels from residential zones and noxious industrial zones. He thought they should also be excluded from heavy industrial districts unless they were permitted there upon approved conditions at the discretion of the local town-planning authority. He said the town-planning practice had been to permit licensed hotels as of right in commercial and light industrial zones (R. 6825). On these town-planning views, licenses would not be redundant in commercial or light industrial districts, but would be redundant in noxious industrial districts under all circumstances and in residential districts without the consent of the inhabitants of the neighbourhood.

1052. On a basis suggested by Mr. Luxford, S.M., licenses would be redundant which did not either serve the needs of the travelling public (local and overseas) in respect of accommodation or the needs of the general public in respect of retail purchases of liquor (R. 6462).

1053. Various statutory provisions afford a guide as to how reduction should be brought about and, in so doing, provide tests of redundancy.

1054. When there was a vote for reduction in New Zealand under the Alcoholic Liquors Sale Control Act, 1893, section 20 provided for reduction as follows :—

In the case of publicans' licenses, those licenses which after the passing of this Act have been endorsed for breaches of the law in respect of selling liquors to children or to drunken persons, or of selling liquors on Sundays, shall be the first to be reduced, and next those held in respect of premises which comprise little or no accommodation for travellers and lodgers beyond the bar :

Provided that in making any reduction of licenses the Committee shall make such reductions to extend over the whole district in such manner as they shall think equitable, having regard to the convenience of the public and of the particular requirements of the several localities within such district.

1055. In Queensland the Licensing Commission has power to accept the surrender of a license or to cancel a license upon payment of compensation. For the purpose of deciding whether any license should be determined, section 38 of the principal Act (as amended by section 20 of the Liquor Acts Amendment Act of 1935) provides that the Commission may—

(*a*) Consider whether the premises the subject-matter of such license comply in full with all or any of the prescribed requirements relating to licensed premises ; and

(*b*) Consider the convenience of the public and the requirements of the locality in which the licensed premises are situated ; and

subject to the above considerations have regard to—

(1) The nature and standard of the accommodation and essential services afforded by such licensed premises ; and

(2) The distance between such licensed premises and the licensed premises nearest thereto ; and

subject also to the above considerations and having regard to the above matters consider all such circumstances as it shall in its absolute discretion deem relevant, including the nature and standard of the accommodation and essential services afforded by the licensed premises in comparison with the average nature and standard of the accommodation and essential services afforded by other licensed premises in the same locality and which comply in full with all of the prescribed requirements.

1056. In New South Wales, Victoria, and South Australia, similar provisions have been made (section 16 of the Liquor (Amendment) Act, 1919, New South Wales; section 293 of the Licensing Act, 1928, Victoria; and section 242 of the Licensing Act, 1932–36, South Australia). We think it sufficient to quote the Victorian provisions, viz.:—

293. (1) In carrying out any reduction in the number of licenses under this Act the Court in determining what licenses shall cease to be in force shall—

(*a*) Consider the convenience of the public and the requirements of the several localities in the district;

(*b*) Subject to the above consideration have regard to convictions for offences under this Act or any corresponding previous enactment within three years against any person who at the time of the offence was licensee of the premises; and

(*c*) Subject to the above provisions consider the character of and accommodation afforded by any licensed premises, the manner in which the business has been conducted, and the distance between any such premises and the nearest licensed premises thereto.

1057. These various statutory provisions were enacted before the principles of town-planning had been developed in this country. The tests of the convenience of the public and of the requirements of the several localities lead, however, to the town-planning classifications of urban and rural populations and of the division of districts into residential, commercial, light industrial, heavy industrial, noxious industrial, and agricultural districts. The redundancy of licenses should, we think, be considered in the light of these detailed classifications.

1058. The next inquiry concerns the kind of authority to be set up to cancel redundant licenses and issue new licenses.

1059. This question must be viewed in the light of the fact that the authority is set up to cancel some licenses and grant others, and that it will operate upon the basis that licenses are to continue. It is not like a tribunal set up to award compensation for the loss of licenses when all licenses have been abolished pursuant to a prohibition poll.

On this view, is it desirable that the authority shall comprise assessors who represent interested parties? For example, it is to the financial interest of the trade to keep down the number of licenses. The more licenses, the less trade for each licensed house. Likewise, it is the expressed view of the New Zealand Alliance that the number of liquor licenses should be kept down because experience proves that the more the licenses, the more the consumption of drink.

1060. Under section 20 of our Alcoholic Liquors Sale Control Act, 1893, reduction was left to the district Licensing Committee. What is proposed to-day is a distribution over the whole country; and, it seems, a national authority is required. The practice in those Australian States which provide for the reduction of licenses, while leaving the great majority of the licenses in operation, may afford assistance in determining the character of the authority required:—

(1) In Queensland a Licensing Commission of three, of whom the President is a Judge of the Supreme Court or Industrial Court, is appointed by the Governor in Council. The two other members are, in fact, drawn from the Government Service. This Commission has the power both of initial inquiry and of final decision.

(2) In New South Wales, under section 8 of the Liquor (Amendment) Act, 1919, the Licenses Reduction Board comprises three Licensing Magistrates. Any two members form a quorum, save that all the members of the Board must be present when any determination is made having the effect of closing any licensed premises. This Board operates to bring licenses within a statutory standard. Under section 20 of the Act of 1919, the Board assesses compensation separately in respect of land and of the license.

(3) In New South Wales the Licenses Reduction Board has the power of initiating and controlling inquiries, and its determination is final on the question of what licenses shall be cancelled, though there is an appeal from the Board to the Land and Valuation Court on the question of the amount of compensation (sections 18 and 24 of the Act of 1919).

(4) In the State of Victoria the Licenses Reduction Board comprises three Licensing Magistrates, of whom two form a quorum. This Board may accept the surrender of licenses. When licenses are to be reduced pursuant to a local-option poll, a Licensing Court, which may comprise three Magistrates, carries out the reduction. Both the Licenses Reduction Board and the Licensing Court may summon persons to appear before them. Their decisions are final (sections 277 and 293 (4)), but the Licenses Reduction Board, which awards compensation, may at any time rehear a case (section 276).

(5) In South Australia a special Court of three members appointed by the Governor, of whom a special Magistrate is President (section 238 of the Act), decides upon a reduction pursuant to a local-option poll. The decision of this special Court is final (section 242,(7)).

In our view, a national and independent authority is required in New Zealand to cancel redundant licenses and to issue new licenses where required.

1061. The next inquiry is as to the method to be adopted in determining what licenses are to be cancelled and what new licenses are to be issued.

1062. The scheme which the trade (R. 7593) proposes is as follows :—

(1) The Licensing Committee of each district is to classify licenses in its district for cancellation and place them in order of priority ; and also to indicate what new licenses should be granted, and the approximate situation of each new license. The Licensing Committee is then to send its reports to the Minister, who will send them to a Licensing Redistribution Board, comprising a Judge of the Supreme Court, a member nominated by the Council of the Licensed Trade, and another member nominated by the Minister.

(2) This Board is then to consider all the reports as a whole and serve notices on persons interested in the licenses which it considers should be cancelled. Unless these persons show reason to the contrary, say, within three months, the license is "suspended" and may be cancelled at a month's notice. Persons interested in that license will then be entitled to compensation.

(3) The Board is then to notify the district Licensing Committee of the number of new licenses to be granted to its district and the place where each is to be granted. The district Licensing Committee is then to determine the type and "approximate situation" of the premises and then to call for applications from persons who are willing to provide the premises required and submit plans for the same.

(4) The district Licensing Committee is then to make inquiries as to the suitability of the applicants and select those who satisfy the Committee. Each person so selected is to be "an approved person."

(5) The District Licensing Committee is then to fix an upset price for each new license and the time for completion of the new premises. The new license is then to be sold for cash at a public auction, at which the bidding is to be limited to the persons approved by the district Licensing Committee in respect of each license. The highest bidder is to be the purchaser.

1063. No worked-out scheme was suggested by the New Zealand Alliance or by the combined Churches (a group comprising the Presbyterian, Methodist, and Congregational Churches, the Society of Friends, and the Salvation Army) (R. 2441). In general, the Alliance favoured a determination by district Licensing Committees, with the advice of a national Liquor Commission, but, failing suitable action by the district Licensing Committee, action was to be taken by the national Liquor Control Commission.

1064. The combined Churches were in favour of the retention of district Licensing Committees and in favour of advice by a national Liquor Control Commission (R. 2445; but see R. 2464). This proposal applied, presumably, to the cancellation of licenses as well as to the grant of new licenses, but the combined Churches favoured the grant of each new license to a Trust (R. 2449).

1065. A very important question is the locality in which each new license is to be placed. The New Zealand Alliance desires the location of a license to be subject to a vote of the residents of any particular locality that would be affected by the situation of the licensed premises. The scheme of the trade makes no provision for consulting the views of the residents. Yet it is in accord with town-planning principles and with views which were widely expressed to us that licenses should not be located in the residential districts of urban areas without the consent of the residents affected.

1066. The next inquiry is as to the disposition of the new licenses and the creation of a fund from which compensation is to be paid where there is loss in respect of the licenses which are cancelled. The scheme put forward by counsel for the licensed trade proposes a public auction of the new licenses, limited, however, to "approved applicants." The "approved applicants" are to be selected by the district Licensing Committees. This scheme is opposed by Dominion Breweries, which is itself a member of the National Council of the Licensed Trade (see para. 410 and R. 6686). Mr. Stevens, the chairman of Dominion Breweries, considered that a fair price for the license should be fixed, and that if there were more than one applicant the decision should be by ballot. This view is based on the danger of excessive goodwills being created by a public auction.

1067. The criticism of the trade's proposal by the Alliance is that it would result in either—

(1) Arrangements between the large brewery companies, whether they comprised all the "approved applicants" or not, whereby they would arrange zones for themselves and decide not to bid against each other in those zones, but to outbid every one else; or

(2) No such arrangements, with consequent competition which would raise goodwills to excessive heights, with very detrimental effects.

1068. The proposal of the combined Churches is that the new licenses should be granted to local Trusts, on the grounds that disposal by ballot would merely result in the presentation of thousands of pounds to the licensee (R. 2449).

1069. The New Zealand Alliance adopts the proposal of the Federated Hotel Workers' Union—viz., that a rental should be charged for the new licenses (R. 7149 and 7218). This proposal is made on the ground that the goodwill of the hotel license is the property of the State and that the rent should go to the community and not to a private individual. While this may be so, there would be nothing to prevent the purchaser of a license from paying a premium for the license just as he would pay a premium for a leasehold. The State could, however, obtain an increased rent on a revaluation of the license over a period of years (R. 7149 and 7150). The period suggested by the Federated Hotel Workers' Union is ten years.

The New Zealand Alliance also submits that all new licenses should be house licenses only. If this were enacted, the value of the hotel licenses would be reduced.

1070. The combined Churches considered, apparently, that district Licensing Committees should make recommendations regarding the cancellation of redundant licenses to a central licensing authority or national Liquor Control Board, which should make levies on the trade for the purpose of compensating those interested in the cancelled licenses, on the ground that the trade would benefit from the cancelled licenses. But the combined Churches had not considered closely the question of whether the levy should be general or only on the trade in a locality which would directly benefit (R. 2445 and 2464). The combined Churches also considered that new licenses should be issued to local trusts, but that the site should be subject to the veto of the residents of the neighbourhood (R. 2445).

1071. Another suggestion made was that the cost of the reorganization might be made by a levy on the liquor sold, as with the milk control scheme (see question of Mr. Hutchison to Mr. Luxford (R. 6539)).

1072. Once the compensation fund has been provided for, the next inquiry is as to the basis upon which compensation is to be assessed in respect of the licenses which have been cancelled.

The trade suggests that compensation shall be awarded as under the Public Works Act, but the actual basis of compensation was not argued before us. We refer to this matter in our report on remedies.

1073. The next inquiry is as to the use of any surplus in the compensation fund.

The trade suggests that loans should be made from capital for the improvement of licensed premises and that the interest should be used for national charities. The trade suggests that when all loans are repaid, or when the Minister decides that the fund is no longer necessary, the capital should also go to national charities.

1074. The Presbyterian Church submits that charities should not be subsidized with these funds and that the surplus should go towards the cost of the Police and Health Departments (R. 3139). The Church holds the view that this would reduce the incentive to push the sale of liquor and prevent charities from having a vested interest in the sale.

CHAPTER 54.—THE NATIONAL LICENSING POLL

1075. The trade submits that a mischief of the present legislation is the continuance of the triennial national licensing poll on the grounds that, if prohibition were carried, the remedy would be worse than the disease, and that the poll creates an undesirable insecurity of tenure. Alternatively, the trade submits that, if the poll is retained, the period between the polls should be greatly extended.

1076. The abolition of the national licensing poll is supported by seven Licensing Committees—viz., the Committees of Hamilton, Rotorua, Raglan, Waikato, Motueka, Buller, and Westland.

1077. The New Zealand Alliance and the combined Churches oppose the elimination of the poll. The Church of England Committee, which represented the point of view of the Church of England, did not specifically consider the elimination of the poll (R. 5558), but its view is apparently that a poll should be retained unless corporate control is adopted.

1078. For all those who hold that the remedy of prohibition would be worse than the disease, there is no logical ground for the retention of the prohibition poll. The fact is, however, that about 30 per cent. of the people vote for prohibition, and presumably consider that it would be a satisfactory remedy. That fact makes it practically desirable to retain the referendum unless the vote for prohibition is no longer a live issue with a substantial section of the people.

1079. We think, too, that this view must be maintained, notwithstanding the fact that, even if the period between the polls is extended, there will still be some insecurity of tenure. The licensee must tend to be driven to realize his profit as far as possible within the limited period. No doubt the pressure is reduced if (*a*) the public attitude is substantially against prohibition, as has been the case since 1929 (paras. 595–597, *supra*), and (*b*) the period between the polls is lengthened.

1080. The other matters for consideration are :—

(1) The questions submitted by the referendum ;
(2) The method of voting ;
(3) The majority required ; and
(4) The time or times at which a referendum should be held.

1081. As to the questions submitted, the Alliance, the combined Churches, and the Church of England Committee all assert that State control has no chance of being accepted and should be eliminated as an issue. These bodies seek a straight-out vote between continuance and prohibition. They seek also a further and separate vote on the question

whether, if continuance is carried, liquor shall continue in the country under a system of private enterprise or under a system of corporate control. They have not allowed for a retail system permitting both private enterprise and Trust or corporate control.

1082. The trade opposes the elimination of the State control issue, pointing to the fact that the vote has grown over the years, though slowly.

1083. As to the method of voting, if there are only two issues put, as is suggested, the vote will be by majority in numbers. There will be no need for preferences. The Presbyterian Church prefers the stability of a majority of 55 per cent. (R. 3136). The others prefer a bare majority.

1084. If three issues are retained, whether the third issue be State control or corporate control, the New Zealand Alliance, the combined Churches, and the Church of England Committee all support preferential voting. They submit that, as any issue to be carried must have a majority over the other two issues, the continuance of private enterprise would be assured, even if only one vote were cast in favour of it, provided that the votes for the other two issues were equal.

1085. As to the time at which a poll should be held, two alternative suggestions have been made—namely, (1) that the poll should be taken over an extended period, or (2) that a referendum should be held only on the requisition of a certain percentage of the voters, say, 20 per cent.

1086. The weight of the trade's evidence was directed not so much to the elimination of the referendum as to the extension of the period between the polls, from three to nine, ten, or twelve years. The trade claims that security of tenure is of the greatest importance to the proper conduct of the trade. On the other hand, the New Zealand Alliance and the combined Churches claim that the experience of the past has shown that the triennial poll brings about an improvement in the conduct of hotels towards the end of every three-yearly period.

1087. In our view, the new accommodation that was provided from 1929 onwards (paras. 597–607, *supra*), though it fell considerably short of what could have been provided, shows that a sense of security of tenure makes a material difference to the amount of capital expended on the building of new hotels and the making of improvements. There is, therefore, a case for extending the period, provided the control of hotels is such as to secure their good conduct over the longer period.

1088. The issues which emerge are these :—

(1) Whether the poll shall be held regularly at the end of an extended period or held only upon the requisition of a percentage of voters ; and

(2) Whether a strong liquor control is necessary during the extended period.

1089. There was not much support for the proposal that a poll should be taken upon the requisition of a percentage of electors. A requisition which may be made at any time introduces, we think, an undesirable uncertainty, and we do not support it.

1090. On the question of the length of an extended period between polls, witnesses for the trade advocated nine, ten, or twelve years. A period of not less than nine years was supported by the five licensing Committees of Auckland, Otahuhu, Waitemata, Remuera, and Onehunga. A period of six years was supported by the seven Licensing Committees of New Plymouth, Wairarapa, Christchurch, Avon, Riccarton, Lyttelton, and Awarua.

Opposition to any extension of the period was expressed by the seven Licensing Committees of Stratford, Pahiatua, Waimarino, Timaru, Temuka, Waitaki, and Wallace.

No opinion upon whether the period should be extended or not was expressed by the remaining thirty Licensing Committees who communicated with us.

1091. The length of the period of extension, if any, depends, we think, on the effectiveness of the control which will be exercised between the polls. The suggestions made to us on the question of control comprise :—

(1) The operation of some or all of hotel premises on behalf of the public by corporate control ;

(2) The establishment of a national Liquor Control Commission ; or

(3) A combination of these methods.

CHAPTER 55.—NO-LICENSE DISTRICTS, ANOMALIES AT ASHBURTON AND ELSEWHERE CAUSED BY CHANGED ELECTORAL BOUNDARIES AND PROPOSED REMEDIES

1092. Various objections have been raised regarding no-license districts. The trade desires to see them abolished, on the ground that drinking would be better controlled under license, that better accommodation would be provided, and that anomalies created by the alteration of electoral districts would be removed.

1093. The present legislation makes no provision for a poll which would result in the creation of further no-license districts, and the boundaries of the existing no-license districts have been fixed for licensing purposes by section 10 of the Electoral Amendment Act, 1945. Consequently, no further anomalies can be created under the existing legislation by the alteration of electoral boundaries. Section 10 of the Electoral Amendment Act of 1945 makes provision for a separate roll and a separate Returning Officer for the purpose of the poll on restoration.

1094. The view that no-license districts would be better abolished is supported by the Commissioner of Police and by various Police officers, although some Police officers consider that the law is more easily enforced in no-license districts.

Also in favour of the abolition of no-license districts are the Licensing Committees of Hamilton, Rotorua, Raglan, Waikato, Stratford, Egmont, Wanganui, Buller, Westland, Timaru, Temuka, and Waitaki. The Christchurch, Avon, Riccarton, and Lyttelton Licensing Committees support the abolition of "dry" areas, but approve of local option if there is a change to Trust control. The Palmerston North Committee recommends that consideration be given to the abolition of no-license districts.

Mr. Paterson, S.M., also supported the abolition of no-license districts. Mr. Luxford, S.M., thought that the no-license city electorates should be under the same system as the cities of which they were parts, and therefore under license (R. 6460).

1095. On the other hand, the New Zealand Alliance desires, as do the combined Churches, to see the principle of local option extended throughout New Zealand. This proposal leads to the further proposal of the Alliance for the creation of small areas of close common interest, such as the "wards" or "precincts" of a city, which should become small fixed no-license areas with their own rolls (R. 2133 and 2134). Mr. Milner, the Superintendent of the New Zealand Alliance, instanced Oamaru as a case in which it was not appropriate that Chalmers, although in the Oamaru Electorate, should be under the same licensing law as Oamaru itself (R. 2134). (Residents of Palmerston South hold a similar view: Ex. A. 99.) Mr. Milner referred also to Wellington Suburbs, another no-license electorate which, before the recent alteration of boundaries, included a number of residential areas, such, for example, as Wadestown, and also part of the Petone area occupied by employees of the Petone Railway Workshops. He said the Alliance thought that the residents of Wadestown had a sufficient community of local interest to be a ward independent of the Petone area. The argument applies also the other way. The Petone area had a sufficient separate interest to be independent of the Wadestown area (R. 2135).

1096. Several witnesses who held, in general, opposing views were agreed upon fixed boundaries for licensing electorates which would be considerably smaller in area than the present electoral districts. For example, the Mayor of Eketahuna, who desired license, argued that the Eketahuna district should be a separate fixed area which would enable the will of the people of the Eketahuna district to have effect (R. 1719). On the other hand, Mr. G. W. Morice, representing the Masterton No-license League, held that, though local-option polls for no-license or restoration should be re-introduced in New Zealand, these polls should not be on the present electoral basis, but should be held in districts where there is a definite community of interest—*e.g.*, in boroughs and counties or in some new system of wards (R. 6210). Also, Mr. Herbert

Grocott, on behalf of the Oamaru Temperance Council, said that the change in electoral boundaries had been against no-license sentiments, because people who were brought within the boundaries without voting themselves in had felt resentment. Consequently, the no-license advocates in Oamaru had felt that the sentiment in the electorate from Maheno downwards had been a handicap.

1097. This tendency on the part of advocates of license and of no-license to seek some smaller area of community of interest in which there shall be either license or no-license appears in a solution proposed for the anomalies which have been created by the change in boundaries in the Ashburton district, and it will be convenient to state here the facts concerning that district.

1098. In November, 1902, no-license was carried in the Ashburton licensing district. Licenses for hotels and accommodation-houses ceased to exist. The charter of the Ashburton Club, which, like other charters, did not require annual renewal, was, by virtue of the legislation relating to clubs, only "suspended" so long as the result of the poll continued.

1099. From time to time alterations were made to the Ashburton Electoral District and therefore to the licensing district. (It was the law from 1893 to 1945 that licensing districts were conterminous with electoral districts and were subject to alteration with the electoral districts. In 1918 the local-option vote was reduced to a vote for restoration in the existing no-license districts (para. 192, *infra*), and in 1945 the boundaries of the existing no-license districts were fixed) (para. 1093, *supra*).

1100. In 1907 the Borough of Geraldine and the adjacent area were added to the Ashburton Licensing District on its southern side. At the licensing poll held in 1908, restoration was not carried in the newly defined Ashburton Licensing District. The effect of the statutory provisions was to extend the state of no-license throughout the whole of the licensing district and to cause the six licensed hotels in the added Geraldine area to lose their licenses: *Mulhern* v. *Day*, (1910) 29 N.Z.L.R. 291.

1101. By alterations to the boundaries made in 1927, the Ashburton Electorate ceased to exist. Part of it, including the Borough of Ashburton, was added to the Ellesmere Licensing District to make the new Electoral District of Mid-Canterbury. The remaining part of the Ashburton Licensing District, including the Geraldine area, was added to the Electoral District of Temuka.

1102. In both the Mid-Canterbury and the Temuka Electorates the majority of the people resided in license areas, and therefore the whole district was, pursuant to section 12 (*c*) of the Licensing Amendment Act, 1910, regarded as a license district. In that event there was no provision for a vote on restoration and therefore no power to restore licenses in either of the areas, which had formerly been included in the Ashburton No-license District, even though the voters in Ashburton and in Geraldine respectively were in favour of licenses in their own areas: *Scales* v. *Young*, [1929] N.Z.L.R. 855 and [1931] A.C. 685, in which the Privy Council approved the decision of the New Zealand Court of Appeal.

1103. The licensing legislation did not, however, prevent the revival of the charter of the Ashburton Club. That charter had only been suspended for so long as the result of the poll continued. That poll was the poll at which no-license was carried. The Full Court held that the Legislature had treated the charter of a club differently from a license under the Licensing Act, and that once a club was included in a district in which there were licenses the condition upon which the suspension of the charter depended had automatically come to an end: *Loftus* v. *Martin*, [1932] N.Z.L.R. 693. The Ashburton Club was thus able to resume the sale of liquor under its charter, although the hotels in the Ashburton area were unable to regain their licenses.

1104. Two different views based on two different areas of alleged community of interest have been placed before us for the solution of the difficulty in Ashburton.

1105. The Ashburton Borough Council submits that the whole area which constituted the Ashburton Licensing District when no-license was carried in 1902 should not now be dealt with as an entity for the purpose of determining whether there should be a restoration of licenses in the Borough of Ashburton. That whole area in 1902 was the area bounded generally to the north by the Rakaia River, to the south by the Rangitata River, to the east by the sea, and to the west by the mountains. This is a compact area and the Town of Ashburton is its natural economic and geographical centre. On the other hand, there are considerable differences of view within this area on the licensing question. The Borough Council submits, for example, that at the national licensing poll in 1943 the votes for the Borough of Ashburton before the postal, absentee, or servicemen's votes were added were as follows: for continuance, 2,353; for State control, 269; and for prohibition, 1,408. The Borough Council also illustrates the strength of the views of the people of Ashburton in favour of licenses in the borough by reference to the long waiting-list for membership of the Ashburton Club. The borough therefore submits that, whatever else may be done in the district, the Borough of Ashburton should be treated as a separate unit for determining whether licenses shall or shall not be granted within the borough. It submits that the same argument would apply to Geraldine and similar centres, though it does not actually put forward any case but its own. The borough adds that electoral rolls for licensing purposes could easily be prepared for boroughs from local-body rolls.

1106. The Ashburton No-license Council takes a different view of what constitutes community of interest. It submits that the area of the Ashburton Electorate of 1902 retains a natural community of interest which centres on Ashburton and that the whole area which voted no-license in 1902 should now be given the opportunity of deciding whether licenses should be restored or not. The No-license Council submits that the voting figures from 1902 to 1925 show that, on the average, nearly 50 per cent. of the voters in this area have been in favour of no-license (R. 5365). The No-license Council submits, however, that the vote should be taken separately in the two parts of the area which have been included in the Mid-Canterbury and Temuka Licensing Districts respectively. This, presumably, is because the electoral rolls for those areas could be used. This proposal may require reconsideration in the light of the recent alteration in boundaries.

1107. We have already referred to the view of the Mayor of Eketahuna. The difficulty which has occurred at Ashburton was feared at Eketahuna—namely, that it was possible that the Eketahuna area of the present "dry" Masterton Electorate might be included at some time in an electorate with licenses and in which the greater part of the population would be in the area which had licenses. In that event, by reason of the effect of section 12 (*c*) of the Licensing Amendment Act, 1910, the Eketahuna area could never have a poll on the question of restoration and would forever remain dry. This result has been avoided by the Electoral Amendment Act, 1945, which fixes the boundaries of the no-license districts. For licensing purposes the Eketahuna area remains part of the Masterton No-license District.

1108. The difficulties to which we have referred raise the whole question of the real object of the no-license poll and of the means of giving effect to that object.

What is the object which the no-license voters hope to achieve? If no-license were extended throughout New Zealand, liquor would not be on sale anywhere in New Zealand. Do all the no-license voters want that? Apparently a substantial section do not.

It may first be noted that the average vote for national prohibition in the no-license districts has fallen over the period 1922–43 from 52·1 per cent. to 33·2 per cent.

The following is a return of the votes cast in each no-license district in the polls from 1922 onwards on both the local and the national issues :—

Results of Licensing Polls, 1922 to 1943

Year of Poll.	National Poll.				Local-option Poll.					
	National Continuance.		State Purchase and Control.		National Prohibition.		Against Restoration.		For Restoration.	
		%		%		%		%		%
Ashburton District										
1922	3,540	(50·6)	436	(6·2)	3,025	(43·2)	3,121	(44·7)	3,857	(55·3)
1925	3,558	(48·8)	628	(8·6)	3,111	(42·6)	3,391	(46·3)	3,920	(53·7)
Auckland Suburbs District										
1928	5,119	(52·9)	831	(8·5)	3,749	(38·6)	4,781	(50·8)	4,627	(49·2)
1935	6,839	(61·1)	847	(7·5)	3,529	(31·4)	5,317	(48·0)	5,746	(52·0)
1938	6,054	(52·7)	1,965	(17·0)	3,491	(30·3)	5,925	(51·6)	5,537	(48·4)
1943	6,484	(49·6)	2,620	(20·0)	3,991	(30·4)	6,448	(50·5)	6,315	(49·5)
Clutha District										
1922	3,356	(45·6)	270	(3·6)	3,748	(50·8)	4,060	(55·8)	3,213	(44·2)
1925	3,090	(40·9)	577	(7·6)	3,895	(51·5)	4,283	(57·6)	3,143	(42·4)
1928	3,813	(47·7)	484	(6·0)	3,711	(46·3)	4,320	(54·8)	3,556	(45·2)
1935	4,775	(54·1)	438	(4·9)	3,631	(41·0)	4,370	(49·0)	4,416	(51·0)
1938	5,317	(55·2)	444	(4·5)	3,895	(40·3)	4,545	(47·1)	5,091	(52·9)
1943	4,575	(52·3)	641	(7·3)	3,549	(40·4)	4,143	(47·5)	4,574	(52·5)
Eden District										
1922	3,142	(37·2)	525	(6·1)	4,817	(56·7)	5,118	(62·6)	3,056	(37·4)
1925	4,392	(36·7)	1,092	(9·0)	6,534	(54·3)	7,368	(63·4)	4,245	(36·6)
1928	4,904	(41·6)	1,032	(8·7)	5,886	(49·7)	7,282	(63·2)	4,222	(36·8)
1935	7,153	(55·4)	845	(6·5)	4,930	(38·1)	7,509	(59·4)	5,131	(40·6)
1938	7,630	(49·1)	2,419	(15·5)	5,518	(35·4)	9,311	(61·1)	5,905	(38·9)
1943	7,239	(46·6)	2,714	(17·4)	5,611	(36·0)	9,266	(61·2)	5,861	(38·8)
Grey Lynn District										
1922	3,870	(39·4)	487	(4·9)	5,491	(55·7)	5,795	(60·3)	3,815	(39·7)
1925	4,400	(39·2)	920	(8·1)	5,951	(52·7)	6,573	(60·0)	4,379	(40·0)
1928	6,095	(52·6)	866	(7·4)	4,654	(40·0)	5,929	(52·3)	5,401	(47·7)
1935	8,367	(63·2)	873	(6·5)	4,033	(30·3)	6,404	(48·8)	6,714	(51·2)
1938	7,340	(51·0)	3,244	(22·5)	3,817	(26·5)	7,351	(51·4)	6,941	(48·6)
1943	8,413	(50·5)	3,917	(23·4)	4,373	(26·1)	8,357	(51·7)	7,779	(48·3)
Invercargill District										
1922	3,745	(40·8)	580	(6·3)	4,860	(52·9)	5,030	(55·3)	4,057	(44·7)
1925	4,072	(39·3)	876	(8·4)	5,432	(52·3)	5,543	(53·9)	4,723	(46·1)
1928	4,899	(43·6)	1,022	(9·0)	5,345	(47·4)	4,957	(43·5)	6,429	(56·5)
1935	6,823	(51·8)	1,072	(8·1)	5,303	(40·1)	6,006	(44·9)	7,351	(55·1)
1938	7,673	(55·2)	1,002	(7·1)	5,257	(37·7)	5,929	(42·1)	8,146	(57·9)
1943	8,015	(57·3)	1,250	(8·9)	4,749	(33·8)	5,649	(39·6)	8,588	(60·4)
Masterton District										
1922	3,617	(48·5)	283	(3·7)	3,579	(47·8)	3,894	(52·2)	3,564	(47·8)
1925	3,655	(47·2)	561	(7·2)	3,544	(45·6)	4,058	(52·5)	3,671	(47·5)
1928	4,250	(49·9)	582	(6·8)	3,704	(43·3)	4,047	(47·2)	4,523	(52·8)
1935	5,514	(59·8)	747	(8·0)	2,975	(32·2)	4,089	(43·8)	5,238	(56·2)
1938	6,095	(58·9)	544	(5·2)	3,727	(35·9)	4,823	(45·9)	5,668	(54·1)
1943	5,752	(56·1)	1,087	(10·5)	3,431	(33·4)	4,997	(48·4)	5,308	(51·6)

Results of Licensing Polls, 1922 to 1943—continued

Year of Poll.	National Poll.				Local-option Poll.					
	National Continuance.		State Purchase and Control.		National Prohibition.		Against Restoration.		For Restoration.	
		%		%		%		%		%
Mataura District										
1922	3,222	(46·0)	229	(3·2)	3,576	(50·8)	3,600	(52·4)	3,264	(47·6)
1925	2,880	(39·5)	649	(8·9)	3,762	(51·6)	3,794	(52·9)	3,366	(47·1)
1928	3,866	(47·5)	481	(5·8)	3,820	(46·7)	3,946	(48·6)	4,158	(51·4)
1935	5,077	(55·4)	430	(4·6)	3,682	(40·0)	4,025	(43·9)	5,135	(56·1)
1938	5,675	(56·5)	481	(4·7)	3,918	(38·8)	4,216	(41·6)	5,899	(58·4)
1943	4,208	(56·0)	391	(5·1)	2,936	(38·9)	3,234	(42·7)	4,336	(57·3)
Oamaru District										
1922	3,530	(44·2)	342	(4·2)	4,129	(51·6)	4,346	(55·0)	3,553	(45·0)
1925	3,297	(39·9)	619	(7·4)	4,373	(52·7)	4,743	(57·5)	3,495	(42·5)
1928	4,370	(45·8)	640	(6·6)	4,555	(47·6)	5,171	(55·1)	4,213	(44·9)
1935	5,216	(50·6)	630	(6·1)	4,466	(43·3)	5,501	(53·3)	4,805	(46·7)
1938	5,710	(52·0)	616	(5·5)	4,678	(42·5)	5,640	(51·4)	5,325	(48·6)
1943	5,131	(49·1)	853	(8·1)	4,481	(42·8)	5,475	(52·7)	4,911	(47·3)
Ohinemuri District										
1922	2,974	(44·5)	466	(6·9)	3,254	(48·6)	3,044	(45·7)	3,610	(54·3)
1925	3,148	(46·4)	648	(9·5)	3,000	(44·1)	2,663	(39·2)	4,114	(60·8)
Roskill District										
1922	3,125	(29·1)	627	(5·8)	7,026	(65·1)	7,396	(71·4)	2,949	(28·6)
1925	4,069	(31·4)	1,046	(8·0)	7,876	(60·6)	8,721	(69·5)	3,818	(30·5)
1928	5,108	(41·4)	1,020	(8·2)	6,246	(50·4)	7,670	(63·8)	4,344	(36·2)
1935	7,919	(54·2)	987	(6·7)	5,727	(39·1)	9,014	(62·8)	5,321	(37·2)
1938	6,684	(47·2)	2,268	(15·9)	5,239	(36·9)	9,088	(64·8)	4,916	(35·2)
1943	7,919	(44·3)	3,418	(19·1)	6,545	(36·6)	10,710	(61·8)	6,615	(38·2)
Wellington East District										
1928	5,504	(43·4)	1,733	(13·6)	5,465	(43·0)	7,231	(58·5)	5,129	(41·5)
1935	9,285	(60·9)	1,391	(9·0)	4,612	(30·1)	8,756	(58·4)	6,228	(41·6)
1938	8,503	(59·7)	1,767	(12·3)	4,000	(28·0)	7,934	(56·4)	6,123	(43·6)
1943	8,990	(57·6)	2,368	(15·1)	4,281	(27·3)	8,554	(55·6)	6,804	(44·4)
Wellington South District										
1922	4,004	(41·9)	833	(8·6)	4,746	(49·5)	5,078	(54·5)	4,227	(45·5)
1925	4,497	(43·8)	945	(9·1)	4,855	(47·1)	5,460	(54·5)	4,552	(45·5)
1928	5,695	(49·3)	1,296	(11·2)	4,575	(39·5)	6,104	(54·0)	5,186	(46·0)
1935	7,599	(64·7)	1,019	(8·5)	3,329	(27·8)	5,887	(49·7)	5,938	(50·3)
1938	8,115	(60·1)	1,804	(13·3)	3,608	(26·6)	6,387	(47·5)	7,040	(52·5)
1943	7,926	(60·4)	2,026	(15·3)	3,212	(24·3)	5,951	(45·9)	6,991	(54·1)
Wellington Suburbs District										
1922	3,694	(38·3)	958	(9·8)	5,031	(51·9)	5,572	(59·4)	3,796	(40·6)
1925	4,906	(40·2)	1,270	(10·3)	6,055	(49·5)	7,261	(61·4)	4,552	(38·6)
1928	5,323	(41·8)	1,931	(15·1)	5,509	(43·1)	7,317	(59·2)	5,037	(40·8)
1935	9,391	(59·4)	1,486	(9·3)	4,959	(31·3)	9,061	(58·1)	6,509	(41·9)
Wellington West District										
1938	8,669	(58·0)	1,813	(12·1)	4,475	(29·9)	7,927	(53·8)	6,804	(46·2)
1943	8,987	(57·1)	2,238	(14·2)	4,535	(28·7)	8,325	(54·0)	7,068	(46·0)

1109. The percentages quoted are the percentages of the total numbers of valid votes recorded at the respective polls. If the percentage for national prohibition is compared with the percentage against restoration in the no-license districts, it appears that a large number of voters do not want liquor sold in their own no-license district, but do not wish to see it prohibited throughout the country. This is very clear in the seven city no-license districts. For example, at the last poll in 1943 the percentage of the votes against local restoration (when compared with the total valid votes) exceeded the percentage of the votes for prohibition (when compared with the total valid votes), as follows: Auckland Suburbs, 20·1 per cent.; Eden, 25·2 per cent.; Grey Lynn, 25·6 per cent.; Roskill, 25·2 per cent.; Wellington East, 28·3 per cent.; Wellington South, 21·6 per cent.; Wellington Suburbs, 26·8 per cent.; and Wellington West, 25·3 per cent.

From these figures it may be inferred that in the city no-license electorates from one-fifth to one-quarter of all the electors who voted against local restoration did not wish to see the sale of liquor prohibited in New Zealand.

1110. In the four country no-license districts the similar excess in percentage was as follows: Clutha, 7·1 per cent.; Masterton, 3·8 per cent.; Oamaru, 9·9 per cent.; and Mataura, 3·8 per cent.

1111. We may note also here that the explanation of the strength of the section of city no-license electors who are against national prohibition is probably that many desire themselves a drink in the city area, but have no desire to have liquor sold in their residential area. This is the explanation given by Mr. Andrew Morrison, who gave evidence on behalf of a cross-section of the voters of Wellington East, a no-license electorate. He said (R. 1701):—

I would say to the Commission that of the 8,554 people who voted in favour of local no-license in Wellington East, exactly half that number, plus 4, voted national prohibition, indicating thereby that, while the electors of Wellington East desired local no-license, they were still in favour of going to the town zone or area for their alcoholic beverage. They do not want it in their residential district, and that is what we feel and have submitted for our people.

1112. We infer that many of the voters in city no-license areas would have no objection to licensed premises in the commercial areas of their city. In the view of these voters, the general welfare of the community in the commercial area where they work and where are the shops, the hotels, and the travellers is not the same as the general welfare of the community in the residential area in which these voters live at home. They would therefore permit hotels in the commercial area, but not in the residential area near their home. If both the commercial and the residential area are included in the one electorate, these voters have to decide whether their view of the best interests of the commercial community or their view of the best interests of the residential community is paramount, and then record their vote accordingly; either for license, which might bring an hotel near their place of residence, or for no-license, which would keep an hotel out of the commercial area, where they desire it.

1113. From these considerations it follows that, while a district may be suitable, in its area and in its community of interest, for the expression of one view by each voter upon the representation of the district in Parliament, the same district may be too extensive for the expression of one view by each voter on the question whether liquor shall or shall not be sold in any part of that district. He might think it should be sold in one part, but not in another.

1114. These considerations lead straight to the town-planning principles we have already mentioned (paras. 1051 and 1057, *supra*) as they affect the grant of licenses among urban populations. This again was realized by Mr. Andrew Morrison, who represented the electors of Wellington East. He said (R. 1697):—

We submit also that the principle of "town-planning" has come to be adopted as desirable in modern community life. No "residential" area where people are producing and educating young children is a fit and proper place for the sale of spirituous and intoxicating liquors. Many Wellington East electors feel that if and when they desire to partake of these they are quite willing to travel to the "city zone," which they maintain is the natural and logical place for hotels providing both board and lodging and alcoholic beverages to those who desire same.

What applies to Wellington East should, in our opinion, apply equally to all residential areas throughout the Dominion. The Government of the land has adopted a housing policy whereby thousands of people will in post-war years cover vast areas of hitherto unoccupied land such as the Naenae and Taita districts in the Hutt Valley, Tawa Flat, and Porirua, and we believe that parents taking up residence in these areas should, in common with residents of Wellington East and other no-license areas, have the privilege of saying by plebiscite whether or not hotels should be allowed in their midst.

1115. As we have already explained (para. 1051, *supra*), the principles of town-planning permit licensed premises, at the discretion of the responsible local authority, in any commercial or light industrial district, but not in any residential district of an urban area without the consent of the electors of that area. Town-planning principles also do not permit licensed premises—

(*a*) In any noxious industrial district; or

(*b*) In any heavy industrial district, except on approved conditions and with the consent of the local authority and the Town-planning Board.

These town-planning views would, we think, probably be approved by those voters in no-license districts who voted for no-license but against national prohibition, and whose votes are in some cases necessary to ensure the retention of no-license in their district.

We shall give our solution for the problems raised in this Chapter in our report on remedies.

CHAPTER 56.—THE LICENSING LAWS AND THE MAORI PEOPLE

1116. A claim that the legislation imposing special restrictions on the Maoris with respect to alcoholic liquor constitutes a mischief from which they suffer, was presented to us at Rotorua by Major Henry Ray Vercoe and other witnesses on behalf of a conference organized by the Maori War Effort Organization and held at Rotorua on the 23rd March, 1945. This conference was attended by 400 delegates from the fifteen zones of the organization throughout New Zealand (R. 4406 and Exhibit A. 71). With the addition of the local people who attended, there were from six hundred to seven hundred persons present (R. 4431). The conference was attended by two Maori members of Parliament and also by some representatives of the Churches. Some Maori women also attended and made contribution to the debate. Two women were members of the sub-committee which was authorized to prepare a report expressing the views of the conference (Exhibit A. 71).

1117. This report (R. 4404) states that, though evils had ensued to the Maori race through the introduction of alcoholic beverages, and though the liquor traffic still confronted the race with problems in its efforts for economic and social reconstruction, the maintenance of the legislative restrictions in relation to the consumption and purchase of alcoholic liquor had now come to create in the race a sense of race discrimination and inferiority which was unfair to their record of citizenship and harmful in its repressive effects. The report then claimed:—

(1) The franchise on the liquor question;

(2) The removal of the restrictions regarding the supply of liquor for consumption off licensed premises; and

(3) Direct representation of the Maori race on licensing committees.

The report also claimed that, if the principle of equality were recognized, the authorities should rigidly enforce the licensing laws and carry on a campaign of temperance education with a view to strengthening Maori self-control and personal discipline; that *marae* committees be enjoined to enforce the regulations regarding drinking in the settlements; and that, in view of the serious effects following the use of methylated spirits as a beverage in some areas, there should be stricter control of its sale.

1118. The general claim for equality of treatment with Europeans in licensing matters received support from the representations made on behalf of Maori returned soldiers, both at Rotorua and at Te Kuiti.

1119. The feeling behind the views of the Rotorua conference in March, 1945, appears to be due to several causes :—

(1) During the war the Maori soldier was treated overseas in the same way as his European brother in arms in respect of the consumption of alcoholic liquors. He does not appear to have abused his rights any more than the European. When he returned to his own country he found again that he could not consume liquor off licensed premises or purchase liquor for consumption off licensed premises. He felt this as an indignity to his standing as a citizen as well as a soldier.

(2) Pacific Islanders—*e.g.*, Cook Islanders and Samoans (R. 2408)—though prohibited from obtaining alcoholic liquor in their own country, can purchase liquor in New Zealand as though they were Europeans. This right of the Pacific Islanders in New Zealand is resented by all Maoris, including clergymen (R. 3897, 3604, 3606, 3612, and 4135).

(3) Indians, Chinese, and Negroes may also purchase and consume liquor as though they were Europeans (R. 2408 and 4138). Most, but not all, of the Maori witnesses objected to this situation. The difference in view was due to the fact that these persons are not under like restrictions in their own country.

(4) The Maori of to-day has developed a sense that insufficient attention has been paid to his housing, his education, and his health as a citizen of New Zealand. The leaders of the Rotorua conference considered that the liquor question was part of the general question of enabling the Maori to reach full maturity as a citizen. They thought that, when maturity had been reached, the liquor question would sink into insignificance.

1120. Some of these leaders, represented by Major Vercoe, thought that, if Maori men and women were given immediate responsibility for their personal use of alcoholic liquor, they would respond and show themselves in general capable of that responsibility. They thought that this reaction would, of itself, be an educative factor in relation to other matters involved in full citizenship, such as the desire for better houses, better health, and better education.

1121. Other leaders, particularly the church representatives who gave evidence before us, took a different view. They affirmed the principle of full citizenship and of sufficient expenditure on housing, health, and education to that end, but thought that attention should first be given to improving the housing, the health, and the education of the people while the liquor restrictions were maintained. They thought that when Maori men and women had become responsive to the improved conditions of housing, health, and education the liquor question would then sink into insignificance. They therefore thought it was wise to hasten slowly in removing the restrictions on the use of alcoholic liquor.

1122. The Maori leaders are not, therefore, agreed among themselves as to when the restrictions should be lifted.

1123. The main question we have to decide is whether the Maori has really reached the stage when, in respect of the consumption of alcoholic liquor, the restrictions should be removed. The restrictions have been set out in Chapter 7, *supra*. Summarized, they are as follows :—

In the South Island, where there are only 3,436 Maoris, Maori men may drink and purchase liquor to the same extent as a European for consumption, both on and off the premises ; but a female Maori, unless she is the wife of a person other than a Maori, may not be supplied with liquor, except for medicinal purposes on the authority of a registered medical practitioner (para. 108, *supra*).

In the North Island, where the Maori population is 95,308, a female Maori is subject to the same restrictions as in the South Island, but a male Maori may not be supplied with liquor unless the supply is for consumption on licensed premises or for medical purposes on the authority of a medical practitioner (para. 109, *supra*).

1124. A general view of the existing differences between the European and the Maori which affect the question of the removal of the restrictions was given by Mr. A. Coleman, S.M., of Feilding, and we quote some extracts which conveniently summarize much of the evidence we accept. Mr. Coleman said (R. 5996D) :—

The question raised is, Why should the Maori be treated differently to the pakeha in such matters ? The answer is, because the Maori is different. The Maori has no history, traditions, or ingrained customs, or generally accepted rules of conduct, regarding many commonplaces of European ways of life and habits, including the use of fermented and spirituous liquors.

There are also other potent factors which strongly tend to the much greater abuse of liquor by him than by Europeans. In the first place, the Maoris form a very small proportion of the population of the Dominion, and they live almost entirely in the country districts, in communities composed almost exclusively of their own race ; outside working-hours they do not mix or associate with the white race to any extent. Their lives, ways of living, and habits of thought still have a strong communal basis, and this persists to a remarkable degree. In the cases of half-castes, the predominant way of life and the choice of associates is Maori, not European, and this feature also obtains even in the case of quarter-castes. The " pull of the *pa* " is too strong to be resisted.

When the Maori drinks, therefore, the strong and irresistible tendency is that he should drink in his *pa*, or community, that all the other members of the *pa* should drink with him, and that whatever liquor one or two may procure is regarded as the property of all. Also, living by themselves and to themselves, the restraints or inhibitions which operate amongst decent Europeans, and to a degree amongst those associating with decent Europeans, as standards of conduct—*i.e.*, in relation to the consumption of alcoholic liquor—are absent, and the Maori falls a victim to his lack of traditional standards of conduct.

Further, apart from earning his livelihood, the Maori has no outside interests or preoccupations with which to engage his leisure-time. He is not interested in literature, science, art, or general knowledge, and, except in relatively few individual cases, does not take any interest or participate in organized sports, or games, or other hobbies. There are not many opportunities for him to learn any trade or to acquire technical education. The Maori is clever with his hands and is intelligent, but for the most part he lives in the country, and the technical schools are in the cities. The result of all this is that he does not know what to do with his leisure-time ; in fact, there is nothing for him to do in his spare time. A Maori lad on leaving the primary school very rarely has any definite aim or ambition in life. To have any aim or ambition does not occur to him. His childhood training and environment effectively stop that. This leaves the way open for misuse of his spare time in the ways I have indicated.

On the other hand, most European lads have some interest in sport or study, or some hobby with which to fill in their leisure-hours, and in most cases have some definite object in life as regards their future. So that, for the reasons I have given, I say that the Maori in many ways is different from the European and requires different treatment. This is recognized by a mass of special legislation upon other matters.

1125. The present inability of the Maori youth to make adequate use of his leisure was also explained by the Under-Secretary for Native Affairs, who said (R. 842) that the Maori boy or girl who left the Sixth Standard would occasionally engage in talks, but not in useful discussions unless there was some one to lead him. The Maori youth about the country either went to the pictures, when pictures were available, or wandered or sat about aimlessly until it was dark, and then went to bed. He did not read or occupy his leisure-time in the way the pakeha boy or girl did.

1126. When once it is realized that the Maori who drinks desires to drink in company and that the Maori generally has as yet no adequate use for his leisure-time in a European civilization, it is apparent that when money is freely available he may readily fail in his control of the consumption of liquor without the continuance and the enforcement of the present restrictions. For some years past money has been freely available from high wages and from social security payments. While social security has been a benefit to many Maoris (R. 4127), it has also been gravely abused by others. Major Vercoe himself admitted that, during the last five years, Maori control of liquor had been of the worst. " Parties " had been occurring " all round the place " (R. 4443), and the Maori Councils, whose duty it was to control the conduct of Maoris, had fallen into decay.

1127. The following is a summary of the situation as shown by the evidence which we accept.

1128. The general distribution of the Maori population appears to be as follows: 10 per cent. live in the cities; 20 per cent. in the *pas*; and 70 per cent. in homes of their own scattered throughout the country (R. 4486, 4500, and 4502).

1129. Most of the Maoris who live in the cities live in Auckland. Here they are away from any tribal influence, and drink presents the greatest problem to the Maori social workers. Mr. K. T. Harawira, the Maori Vocational Guidance Officer at Auckland, said (R. 3590) that absenteeism among the Maori people who worked in Auckland is a big problem, and that if one traced the reason for it one generally found that drink was the cause. It appears, too, that liquor may readily appeal to the Maori, and particularly to the Maori youth in the city.

1130. The general effect of the evidence of Magistrates, Judges of the Native Land Court, social workers among the Maoris, and the leading Maoris themselves is that in the Maori *pas* alcoholic liquor is frequently consumed on the occasion of *tangis*, weddings, and other celebrations. The liquor is sometimes obtained from the sly-grog seller. On other occasions it has been bought by the Maoris themselves from hotels (R. 4136 and 4137). There is also evidence that Maoris occasionally consume liquor in their own homes. Many of these are but one- or two-roomed dwellings, and unsuitable, where there is a family, for the consumption of liquor.

1131. The following is a more detailed description of conditions as they exist at various places in the North Island.

1132. All through the license districts in Northland, at Kaipara, Northern Wairoa, Kawakawa, Bay of Islands, and Hokianga liquor has been freely consumed off licensed premises. In some places Maori men hang about hotels (R. 4128). The liquor consumed off licensed premises has either been purchased from hotels or has been made by home brew (R. 4136 and 4137).

A report from the Mangonui Hospital Board contains this passage:—

> Members of the Board have long experience of the liquor question as it specially affects the Native race, and, owing principally to the large increase in the amount of money the Natives are now receiving, the harm to their families through the consumption of liquor is becoming graver.
>
> It is well known that at any gathering of Maoris, or at dances where they attend, there is invariably a quantity of liquor, and it must be admitted that locally-made wine forms a large proportion of such liquor, which naturally leads to the younger members of the families taking drink, and in some cases losing their ordinary sense of control. One member also states that on days when pensions and allowances are payable a queue of women may be seen at the post-office in the morning and a queue of men at the hotel in the afternoon, the result of this being that money which should be used for food and clothing for the families is spent on drink. This state is entirely antagonistic to the national scheme for improving the feeding, clothing, and housing conditions of the Maoris, as a preliminary step to the prevention and cure of T.B. and other complaints.

1133. Farther south, at Tuakau, we had evidence that beer was dished out publicly from buckets. At a wedding at Kawhia, which is in the King-country, beer had been dished out to men, women, and children. There was, however, no evidence of drunkenness on these occasions.

1134. At Rotorua conditions were very bad in the hotel bars in 1937. A conference was called in December, 1937, between the Mayor, representatives of the licensed trade, and of the Maoris. It was agreed that the responsibility for maintaining order among the Maoris in the hotels and of permitting excessive drinking should be placed upon the Maori Council, which, at Rotorua, was the Arawa Trust Board, by enabling that body to appoint wardens (R. 3604).

Rules were drawn up (Ex. C. 20), responsible Maoris were appointed as wardens, and a great improvement was effected. The wardens are paid by the trade through the Arawa Trust Board.

1135. The power to appoint wardens is now conferred upon the Native Minister by section 11 of the Maori Social and Economic Advancement Act, 1945. The remuneration of the warden may come from the funds of the tribal executive. The warden has power to prevent excessive drinking and to control Maoris in hotels (sections 39 to 45 of the same Act).

1136. Mr. Harawira found conditions good in his parish some eight miles out of Gisborne, which is a license district. The comparative statistics to which we refer later when making a comparison between the King-country and certain license areas show that conditions are not good in the Gisborne Police District (paras. 1207–1210, *infra*).

1137. The King-country compares favourably, in respect of convictions for drunkenness against Maoris, with license areas (paras. 1207–1210, *infra*). On the other hand, there is evidence of drinking by the Maoris at *tangis*, weddings, and other celebrations in the *pas* and in some homes. This goes on with little public disturbance. We refer to these matters in the next chapter.

1138. The general effect of the evidence is that, under present conditions, in various parts of the North Island large quantities of liquor may be obtained and consumed by Maori men and women alike at "parties," which frequently extend over a couple of days. The results are debasing and demoralizing not only to the participants, but also to the Native children. The failure of the control is due largely to weakness in administration, to insufficient policing of Maori populated areas, and the inadequacy of the penalties imposed when convictions are secured (R. 365 and 5996c). Nevertheless, there is not a great deal of public disturbance at the present time. This may be ascribed to the low alcoholic strength of beer and to the scarcity of spirits for some years past.

1139. We have reached these conclusions:—

(1) The Maori to-day is freely able to obtain liquor for consumption off licensed premises if he has the money to purchase it; and he frequently has the money.

(2) As a result, Maori men, women, and children are suffering in various ways, children in particular.

(3) It is plain that the Maori people in general have not yet attained to a stage of equality with the European with regard to the consumption of alcoholic liquor.

1140. Even those who claim equality with the European in respect of the consumption of alcoholic liquor are not willing to give up the other privileges of the Maori race, such as the privilege of separate representation in Parliament, the protection afforded by the Native land legislation, and the provision of special Native schools. The difference in treatment represented by these different provisions is due to the difference in response between the European and the Maori to the prevailing European civilization. The response is easy for the European; more difficult for the Maori. If a European had been made a member of a Maori tribe one hundred years ago and had been expected to live in the traditional way, he would have required special provisions for his assistance until he absorbed, if he could, the traditional Maori ways of thinking and acting. Some Europeans so placed would have acquired those ways more quickly than others. So to-day some Maoris have acquired the capacity to deal with the stresses and strains of European civilization more rapidly than others. It is difficult, however, to legislate for particular cases. In general, legislation must be adapted to the general level of conduct and ability. To some extent provision may be made for particular cases.

1141. Some Maoris may be so developed that they do not require any special protection, either in respect of representation in Parliament, education, or alcoholic liquors. These could be Europeanized and take their place completely with the European community. Provisions for Europeanization were made by section 17 of the Native Land Amendment Act, 1912, but were repealed and not re-enacted by the consolidating Native Land Act of 1931. During this period of nineteen years less than one hundred Natives became Europeanized. If it were in accord with the Government's policy in Native affairs, these or similar provisions could be re-enacted. The number of Maoris who desired to claim equality in fact and the number adjudged by judicial inquiry no longer to need the protection of any special provisions would then become apparent. Any Maori Europeanized would have the same right to purchase and consume liquor as any European.

1142. Without Europeanization, a half-caste may have himself placed on the European electoral roll. He will then cease to vote as a Maori and vote as a European (section 28 (2) and section 181 of the Electoral Act, 1927). The half-caste may then vote for the Licensing Committee of the licensing district in which he resides. He is also eligible to become a member of that Committee (sections 43 and 44 of the Licensing Act, 1908). The right to vote as a European or to become a member of a Licensing Committee would not, however, give him the right to purchase liquor for consumption off licensed premises or to consume it off licensed premises.

1143. Apart from Europeanization, special provision should be made to enable Maori returned servicemen to have the same right as European servicemen to consume liquor at social gatherings organized by returned servicemen's clubs off licensed premises. All witnesses, including Ministers of religion and social workers, both men and women, who gave evidence, were agreed that the Maori returned serviceman was fully entitled to this provision. We entirely agree.

1144. If charters are granted to returned servicemen's clubs, the premises would be licensed, and the Maori returned serviceman would be able, under the present law, to consume liquor therein. So long, however, as the general restrictions must be maintained in the interests of the Maori people as a whole we do not consider that the Maori returned servicemen should be able to purchase liquor on the club premises for consumption off those premises. If the returned serviceman is one who is able at all times to consume alcoholic liquors with self-control and self-respect, we sympathize with him. We sympathize also with all other members of the Maori people who can do likewise. Unless the European places himself in the position of these Maoris and considers what he would feel if he were unable to consume liquor off licensed premises or to purchase it for consumption off licensed premises he is unable to appreciate the sense of limitation felt by the Maori who can exercise complete control. The remedy for the Maori lies in the thought that what may be a deprivation for him is at present a needed protection for the weaker members of his race. Acquiesence in a law which has that object may even confer upon him a higher sense of personal dignity.

1145. For the greater enforcement of the law in protection of the Maori people the Commissioner of Police has suggested that it should be made an offence for a Maori to receive, or have in his possession, alcoholic liquor off licensed premises. At the present time, where a European has been convicted of unlawfully supplying liquor to a Maori, the Maori may be convicted of aiding and abetting the European in the supply. This charge depends, however, upon proof of a supply by the European, and the evidence for this may not always be available.

1146. Suggestion has been made that the restrictions should be eased in respect of sacramental wine. We think that no doubt provision could be made for this.

1147. Although some leaders of the Conference at Rotorua in March, 1945, stated that they thought Maori women should be entitled to the same privileges as Europeans, we think this is not the general view of the Maori leaders or of the Maori people. In our judgment, it would be disastrous to permit Maori women throughout the country to purchase and consume liquor both on and off licensed premises. Like the European woman, the Maori woman is the homemaker on whom the happiness of the home so largely depends.

PART X.—THE KING-COUNTRY

CHAPTER 57.—THE KING-COUNTRY: GENERAL STATEMENT

1148. The territory known as the King-country may be described in very general terms from the map supplied to us. The northern boundary makes east from Kawhia. It runs to the south of, but near, Pirongia and Kihikihi till it meets the Waikato River, and then runs along the river in a south-easterly direction to a point near Atiamuri. On the east the boundary runs south from near Atiamuri through the middle of Lake

Taupo, and then between Waiouru and Mount Ruapehu to the Wangaehu River, where it stops at a point some twenty-six miles above the sea. On the west the boundary follows the coast from Kawhia to a point near Pukearuhe, then runs east to a point south of, but near, Ohura, and then roughly south again to a point about eighteen miles north of Waverley. On the south the boundary joins the southern point of the eastern and western boundaries, with a bulge to the south to a point about nine miles northwards of the post-office in Wanganui.

1149. The area of the King-country is not coincident with the electoral districts which affect it. The area comprises—

(*a*) The Electoral Districts of Waitomo (with the exception of a small area about Kihikihi) and of Waimarino (with the exception of an area about Waiouru and Taihape); and

(*b*) Small areas of the Electoral Districts of Rotorua, Stratford, Patea, and Rangitikei.

1150. No licenses for the sale of liquor may be granted in the King-country. The history of the Proclamations forbidding the issue of the licenses and of their relation to the construction of the Main Trunk Railway is set out in the Chairman's report, contained in Appendix C.

1151. We state briefly some of the main events in the history of the area which affect licensing matters.

1152. When the first Proclamation was issued on the 3rd December, 1884, under section 25 of the Licensing Act, 1881, prohibiting the issue of publicans' licenses within the territory proclaimed, there was practically no European settlement within that territory, which then comprised the northern portion of what is now the King-country. By the time the second Proclamation was issued on the 26th March, 1887, affecting the southern King-country, there had been an increase in settlement. The railway had advanced thirty miles from the north. Some Natives and Europeans were already selling drink illegally (Appendix C, para. 48).

1153. After 1887 the surveying went on, the railway was pushed south, and settlement proceeded. In the early "nineties" the Waitomo Caves were attracting travellers, who stayed at the private hotel at Otorohanga.

1154. In 1891 Wahanui and Taonui and thirty other Natives who had petitioned for the Proclamation in 1884 sought a license for an hotel at Otorohanga. Wahanui and another Native also sought a license for a publichouse at Kawhia. The history of these matters is set out in the Chairman's report (Appendix C, paras. 60 ff). The license at Otorohanga was at first granted, and then, following a public agitation against it, was cancelled. The license at Kawhia was refused.

1155. In 1894 some 590 acres at Tokaanu, which included the licensed premises of one Blake, were excluded from the proclaimed area. Blake's license, granted in 1882 or earlier, had been previously overlooked.

1156. In 1897, 106 Europeans presented a petition to the House of Representatives asking that publicans' licenses be granted as a solution for the sly-grog traffic, but nothing was done.

1157. In 1904 the debates on the Licensing Amendment Act of that year (*Hansard*, Vol. 130, p. 262 ff) show that both the advocates of license and of no-license considered the state of affairs in the King-country to be very unsatisfactory. Section 18 of the Act imposed restrictions on supply within the territory.

1158. In 1905 the Railways Department issued a by-law under the Government Railways Act, 1900, forbidding the conveyance of liquor into the King-country (*N.Z. Gazette*, 1905, p. 1550). About the same time, licenses for the sale of liquor at railway-stations in New Zealand were abolished (R. 952).

1159. When the King-country Licenses Bill was before the House of Representatives in 1909, the debate showed that at some time prior thereto the then existing Taumarunui Licensing Committee had issued some wholesale licenses in the King-country in areas which were said to have become Crown land before the issue of the Proclamations of 1884 and 1885, on the ground that the Proclamations could not apply to land which was not Native land when the Proclamation was issued. The facts as we have ascertained them from the Taranaki newspapers of April and June, 1909, are that in April, 1909, the Taumarunui Licensing Committee granted two wholesale licenses within the King-country—viz., one at Mokau and one at Awakino. In June of the same year the same Licensing Committee had before it eleven applications for licenses within the King-country. Of these, it renewed the two licenses at Awakino and Mokau, and granted three more—viz., one each at Raetihi, Ohakune, and Rangataua respectively. Strong opposition was raised. The King-country Licenses Act, 1909, validated the Proclamations in respect of all land they purported to cover and provided for the determination of all these wholesale licenses upon the expiry of their current year.

1160. At this time the Railways Department considered the reissue of the by-law forbidding the conveyance of liquor in the King-country, but it was advised that the proposed by-law would be *ultra vires* and void because, under the legislation, there was no power to make such a by-law, and because the public had a right, subject only to the provisions of the Government Railways Act, to have their goods carried over the New Zealand Railways (R. 384).

1161. Licensing legislation was again before Parliament in 1910 (*Hansard*, Vol. 153, pp. 319 and 602). Section 45 of the Licensing Amendment Act, 1910, applied the provisions of section 147 of the principal Act to the King-country. Section 147 permits orders for liquor sent from a no-license district to vendors outside that district to be fulfilled after notice to the Clerk of the Magistrates' Court (para. 103, *supra*). Subsection (*f*) of section 147 also permits any resident of a no-license district, when outside the district, to obtain for his own personal use and take into the no-license district not more than 1 gallon of beer in any one day or more than 1 quart of spirits or wine.

The effect of this legislation was to convert the King-country into a no-license district, save for the fact that there is no poll for local restoration.

1162. In 1914, section 9 of the Licensing Amendment Act of that year required that parcels of liquor sent to the King-country on the Government railways or through the Post Office should have securely attached to the outside a statement of the nature and quantity of the liquor and of the name and address of the consignee (para. 104, *supra*).

1163. The next event after the war of 1914–18 was the fifth recommendation of the Hockly Committee of 1922 that, if prohibition were not carried at the next licensing poll, the people of the King-country should be given the opportunity of voting as to whether they desired license or not (para. 200, *supra*). This recommendation was followed by petition and counter-petition. During the agitation of 1923 the issue of the original Proclamations was for the first time described in the literature on the Native Department's files as "a sacred pact" (see Appendix C).

1164. After the war of 1914–18, European settlement in the King-country proceeded apace. At the census of 1936 the population of the territory was as follows: European, 32,444; Maori, 7,616 (R. 4982). In 1936 there was a strong agitation for the grant of licenses in the King-country, but no action was taken.

1165. Apparently by June, 1939, sly-grog selling was rampant. At its meeting on the 1st June, 1939, the Waitomo Licensing Committee, presided over by the Stipendiary Magistrate (Mr. W. H. Freeman) passed the following resolution:—

That this Licensing Committee is seriously concerned with the state of affairs concerning licensing laws in the King-country and that "sly-grogging" is demoralizing a section of the young people in this district, particularly the Maori. It feels that the time has arrived when complete overhaul of the laws relating to the sale of liquor in the King-country should be made to bring them into line with the laws in license districts.

1166. It appears that at this period a wave of home-brewing and illicit sale had swept over the King-country. The convictions rose and fell between the years 1935 and 1945 as follows (R. 5128) :—

——	1935.	1936.	1937.	1938.	1939.	1940.	1941.	1942.	1943.	1944.	1945.
Drunkenness ..	2	13	7	18	46	50	15	12	9	3	7
Selling liquor ..	2	4	2	13	28	17	..	6	1	..	..
Supplying liquor to Natives	8	2	8	22	20	12	11	17	14	..	8

1167. The following figures were supplied to us by the Under-Secretary for Justice, who obtained them from the Magistrates' Courts. They show the quantity of liquor, in gallons, which lawfully entered the King-country for the years ended 31st March, 1936, and 31st December, 1944, respectively (R. 964) :—

——	Beer.	Whisky.	Brandy.	Gin.	Rum.	Wine.	Other Alcoholic Beverages.
1936	76,042	1,397	69	152	106	2,583	98
1944	223,275	568	67	188	43	3,564	434

The quantities for 1944 represent a *per capita* consumption of the population of the King-country, according to the 1945 census, of 5·87 gallons of alcoholic liquor.

At the census of 1945 the population of the King-country was as follows: European, 30,195 ; Maori, 8,660.

1168. To ascertain the full quantity of liquor consumed in the King-country, the quantities lawfully brought in by individuals, limited to 1 gallon of beer and 1 quart of spirits or wine per day, would need to be added. So also would the quantities which are brought in illegally without notification, which are said by Mr. Paterson, S.M., a Magistrate with great experience in the district, to be large (R. 133).

1169. The principal point of supply for the liquor so obtained is the brewery of Innes and Co., Ltd., at Hamilton, but liquor also comes from the breweries at Auckland, Otahuhu, and Taihape. Of the total quantity supplied by the breweries, about five-eighths comes from the Hamilton brewery.

1170. In addition, supplies are obtained from licensed hotels and accommodation-houses near the boundaries of the King-country : from those at Pirongia, Kihikihi, and Te Awamutu in the north ; from those at Tokaanu (on an area which is exempted from the King-country) and at Taihape in the east ; from those at Urenui and Whangamomona in the west ; and from those at any of the towns in the south on the railway from Wanganui to Stratford.

1171. The special restrictions upon Maoris which operate in license districts apply also in the King-country. There was no request from any large body of Maoris in the King-country for the removal of these restrictions, and there was no request for their removal from the Europeans in that area. We have dealt with the question of removal in the previous chapter and have given our reasons for saying that the time is not yet ripe for their removal. We do not consider that the Maori people should regard these restrictions as a mischief towards them at the present time.

1172. We proceed now to consider the mischiefs which are said to exist in relation to liquor in the King-country. The area is, in effect, a no-license territory in which the

residents, either European or Maori, have no right to vote whether liquor shall be sold in the territory under license or not. In considering these alleged mischiefs it is desirable to keep in mind that there are separate areas of settlement throughout the territory, viz.—

(1) The northern area from the northern boundary near Kihikihi to Waimiha, comprising Otorohanga, Te Kuiti, and the surrounding country, including Kawhia ;
(2) The area round Awakino and Mokau ;
(3) The Taumarunui area from Ongarue to National Park, including Taumaranui and Raurimu and also Ohura to the west of Taumarunui ;
(4) The area comprising Raetihi and Ohakune and the surrounding district ; and
(5) The area round Tokaanu.

1173. It is desirable also to understand how the Maori population is distributed, and the Census and Statistics Department has supplied us with information concerning the distribution of the Maori population in the King-country : the northern portion of the King-country, known as the Kawhia Licensing District, has a Maori population of 7,237, and the southern portion, the Upper Wanganui Licensing District, a Maori population of 1,423, making a total of 8,660. The great bulk of these Maori people live in the country areas.

1174. In the Kawhia Licensing District about 4,000 Maoris live in the area lying to the north of a line drawn roughly east and west just below Te Kuiti. Of these, 371 live in the Borough of Te Kuiti. Some 1,500 Maoris live in the segment to the east of Taumarunui, embracing the shores of Lake Taupo. In the Borough of Taumarunui there live 154 Maoris. Some 350 Maoris live in the coastal area east of Awakino. The balance of the Maori population of the Kawhia Licensing District lives in the central areas, mainly to the north-east of Piopio and to the east of Ongarue.

1175. In the Upper Wanganui Licensing District some 600 Maoris live in the area east of Ohakune and some 600 to the south of Raetihi. In the Borough of Ohakune there live 148 Maoris, and in the Borough of Raetihi, 173.

1176. The mischiefs which are alleged to exist in the King-country may be divided into those concerning :—

(1) The entry of liquor ;
(2) The consumption of liquor ;
(3) The lack of good accommodation ; and
(4) The lack of the vote on the liquor question.

CHAPTER 58.—THE MISCHIEFS CONCERNING THE ENTRY OF LIQUOR INTO THE KING-COUNTRY

1177. With regard to the entry of liquor, the evidence shows that there is :—

(1) Illegal entry by road ; and
(2) Abuse of the C.O.D. system on the railways.

1178. As to illegal entry by road, evidence was given by police officers of their vigils on back-country roads in order to catch sly-grog dealers. We are satisfied from the whole of the evidence that, without the use of greatly increased police forces and the imposition of heavy penalties, it is not practicable to prevent the continued illegal entry of liquor by means of motor-cars using back country roads.

1179. As to the misuse of the C.O.D. system, the evidence shows that the method adopted is the use of a European name on the order for liquor. The liquor comes parcelled and addressed with the name which was on the order. A European appears at the railway-station to take delivery with an order authorizing him to do so, signed in the European name used on the order. In this way the person who has used the European name and supplied the money gets the liquor (R. 4899).

1180. Either Maoris or European minors, as well as European adults, may use this system with success. Adult Europeans who desire to obtain stocks of liquor can obtain it by sending orders in different names addressed to different points of supply. Delivery can be obtained from the railway-stations at any time the station is open, but at Te Kuiti the time for delivery has in recent years been restricted to the hours between 8 a.m. and 8.30 p.m. (R. 5131). The hours are apparently not so limited at Otorohanga. Delivery may be had, and payment may be made, at any time of the day or night, including Sunday, when the railway-station is open.

1181. These transactions are only lawful, pursuant to the vendor's license, provided that the order is completed in such a way on the licensed premises that the property there passes to the purchaser. Pursuant to the legal interpretation which we have already explained (paras. 33–39, *supra*), delivery may then be regarded as having been made "on" or "from" the licensed premises.

1182. The following is the comment on the C.O.D. system by the Rev. G. M. Yule, who gave evidence not only for himself, but for the Presbyterian Church of Te Kuiti (R. 5067) :—

> There are many extravagances and anomalies in the control of liquor entering the King-country. These are mainly due to the use or abuse of the C.O.D. (cash-on-delivery) system by unscrupulous and lawless men and women over which nobody seems to have effective control; not even the police, whose efforts are so often ineffective through faulty and weak legislation. Here there is no 6 p.m. closing or time-limit in regard to handling liquor. Here men can and do use other men's names and rights unknown to them and get away with it. Here, too, is the means by which liquor has access to our young people, Maori and pakeha alike, because there is no effective check as to who and where and how large quantities of liquor will be consumed. There is great need for a thorough investigation here, and adjustment in these regulations would greatly increase control and aid the police to serve the community more effectively.

1183. The Otorohanga Presbyterian Church takes a similar view and says that the C.O.D. system enables the sly-grogger to obtain any quantity of liquor easily and regularly (R. 4899).

1184. Sergeant Gatehouse, of the police at Te Kuiti, considers the C.O.D. system is widely open to abuse and should be abolished (R. 5127).

1185. Evidence that the C.O.D. system was abused in the Taumarunui area was given by Mrs. Romola Murray, who is a member of the Women's Section of the Returned Services' Association; of the Women's War Service Auxiliary; and of the Parent Teachers' Association, who said (R. 5019 and 5020) :—

> I know that young people—people who are too young to send away for liquor legally—do send away for it. All you have to do is to fill in a form and say you are over a certain age. Who is to know? And I definitely know that young men send away for liquor and get it, and they are under age.

1186. On the other hand, the view of the Railways Department clerk at Te Kuiti was that, if the C.O.D. system were abolished, the quantity of liquor carried by rail would not be reduced. The only result would be that the purchaser would make other arrangements for payment, and that the Department would be limited to the collection of freight.

1187. We think the C.O.D. system is being abused in that :—

(1) Maoris are obtaining liquor in bulk by using European names and authorizing a European to take delivery from the railway-station.

(2) European minors are obtaining liquor in a similar manner.

(3) European adults are probably using more names than one in order to obtain greater supplies.

(4) The railway-station delivers parcels of liquor outside the lawful hours of opening for the trade.

(5) Although the supply through the C.O.D. system has reduced the sly-grog selling and home-brewing, we think that these evils are likely to increase when whisky and other spirits are again in free supply and when the petrol and tire restrictions have been removed.

CHAPTER 59.—THE KING-COUNTRY: THE MISCHIEFS CONCERNING THE CONSUMPTION OF LIQUOR

1188. We refer now to the mischiefs relating to the consumption of liquor in the King-country. We have already dealt with this matter to some extent in Chapter 36 on sly-grog selling (paras. 728–732, *supra*).

1189. At Te Kuiti it appeared at first that there would be no evidence from the citizens generally. We asked counsel assisting the Commission to arrange for the attendance of some representative persons. The Mayor of Te Kuiti and the Chairman of the Waitomo County Council subsequently attended. They explained that they now considered that there was no demand from the European section of the community for representations to be made to the Commission, and that neither the Borough Council nor the County Council considered it had any authority or duty to deal with the liquor question. The Mayor and the Chairman did, however, express some personal views.

1190. The principal reason for the change of attitude of the Europeans in the Te Kuiti area appears to be that responsible members of the community have been driven to a solution of the liquor question which they prefer to keep if they can. The Mayor, when questioned, indicated that the existence of seven clubs in Te Kuiti was a contributing factor to the lack of public demand for action.

1191. The Rev. G. M. Yule, speaking for the Presbyterian Church, gave a fuller explanation. After stating that it was a rare thing to see drunkenness in the streets of Te Kuiti, he said (R. 5066):—

> Now, sir, this does not mean that men are not drinking in Te Kuiti; they are, but they are drinking under control, and I submit that in my opinion a more effective control than exists in licensed districts. The credit for this control is largely due to the private-club system, which evolved through the exigencies of the situation here in the King-country. The wild Sire of the Maniapoto is broken in and under control, and is now serving the community. I would say, sir, that the evolution of this club system has been largely responsible for—and I am not unmindful of the diligent and faithful work of our police—purging and cleansing our district and borough of the illicit distiller and sly-grogger. I am quite aware that this club system may be illegal and offside with the law; that, I take it, may be the reason why these clubs are not giving evidence before this Tribunal; nor am I standing in their place. I am an ardent prohibitionist and, above all, a Christian, but I could not remain honest if I were not prepared to admit what is patent to my observation and judgment as a citizen of this King-country Borough. These clubs are exercising a certain control that many thinking and responsible people have been forced to acknowledge is better than any form of open license. There are a number of such clubs in this place. Most of them have a small membership. The four larger ones would approximate nine hundred to one thousand men (some men are members of more than one club), and I am sure by my contact with executive officers and members that they do not favour the introduction of open license here in Te Kuiti. If there is such a thing as control of the liquor traffic, then we must have the best method of control, even if it is without the law, honestly acknowledged.

1192. We should be surprised if this club system were found to be carried on within the law. We think it unlikely that from nine hundred to one thousand men keep sending away their individual orders for liquor, making separate and independent payment for each supply, and each keeping the liquor separately in a private locker in his club. Yet the consumption of liquor under the conditions which have been set up in the clubs has obviously appealed to responsible citizens in Te Kuiti as better than the consumption of liquor in hotels. What is envisaged, no doubt, is that in these clubs there is leisured drinking, while the club member is seated or may be seated, accompanied by conservation in an atmosphere where standards of conduct must be observed and where control is easy and effective. Few members of the clubs would risk the displeasure of their fellow-members.

1193. No proposals for the establishment of any other system were made to us at Te Kuiti. On the other hand, we do not think that the members of the clubs can be satisfied with a system which is likely to be without the law. If it is unlawful but better than any other system, it should be made lawful.

1194. "Keg parties" do occur in the Te Kuiti area, at which all the liquor is consumed at a sitting, but not, it would appear, to the same extent as they do at Taumarunui.

The Chairman of the Waitomo County Council (Mr. W. A. Lee) gave his personal opinion that the present system of bulk purchase was bad and led to "keg parties" for youths and to sly-grogging (R. 5088).

1195. At Taumarunui these parties occur over the week-end. Mr. M. H. Wilks, public accountant, of Taumarunui, who gave the principal evidence for the Taumarunui area, said it was common knowledge that parties of young men, perhaps in their fourteens, would get in 5 to 10 gallons of beer and sit on a Saturday night until it was consumed (R. 5001).

1196. Mrs. Romola Murray, who has experience of young people's clubs, said that, at the age of eighteen or nineteen, girls and boys were no longer interested in the clubs run for them where there was no alcoholic liquor, and that they drifted away to the keg parties (R. 5021). She said she thought the majority of women in Taumarunui considered the present system of keg parties, where young people were concerned, was very bad (R. 5019).

1197. Evidence was also given that on Monday morning the bottles, demijohns, and kegs were regularly picked up by a man with a cart and returned by railway for refilling.

1198. On the other hand, it does not appear there is any public disturbance in Taumarunui; also that the use and abuse of the C.O.D. system has diminished sly-grog selling.

1199. Evidence as to keg parties in the Ohura area was given by Mr. Charles Edward Stewart, who is the Chairman of the Ohura County Council, the Ohura North Rabbit Board, the Ohura Valley Dairy Co., Ltd., and a member of the Taumarunui Hospital Board, and also of the Primary Production Council (R. 5023). He said (R. 5024):—

> The present system is particularly demoralizing to the younger generation. Bulk drinking is rife. At the so-called "keg parties" a limited number of persons congregate around a large supply of liquor and indulge until the whole available supply is consumed.

1200. It is clear that the Maoris themselves consume liquor freely at weddings, *tangis*, and feasts, and at gatherings to welcome returned soldiers. The elders permit this, although it is contrary to their view of "the pact" which they maintain. In the big *pa* near Te Kuiti the elders have on occasions permitted liquor, even though the Pa Committee has been opposed to it (R. 4870 and 4871).

1201. In addition to the gatherings at the meetinghouse at which liquor is supplied, some of the wealthier Natives within a radius of about thirty miles of Te Kuiti have gatherings at which liquor is supplied. In all, we are informed, there would be about twelve of these private gatherings per year (R. 4868).

1202. There is evidence also that the Natives drink in their private homes, with the result that there is malnutrition of the children (R. 4976). The Rev. R. I. Hall, Presbyterian Minister at Taumarunui, said that he had received constant complaints from Natives about the effect of drink upon the Natives who consumed it. The Mayor of Te Kuiti, who has been in practice on his own account there for the last twenty years, said that the access of the Native to liquor had apparently been determined by only one factor—his ability to pay for it. In the Mayor's experience, the Native could always procure liquor if he wanted it. Sister Nichols, of the Methodist Church, and Nurse Murphy, of the Health Department, have observed liquor in the private homes of the Maoris (R. 4890 and 4935).

1203. In the Tokaanu area there is a small European population, but there is a Maori settlement at Waahi, which is in the King-country. Although the hotel is placed in an area cut out of the King-country, the hotel functions as though it were included in the territory. Some years ago the Tokaanu Hotel was very badly conducted by a half-caste (R. 6078). There were numerous convictions for supplying liquor to Maoris, for consumption off licensed premises, for supplying liquor to youths under twenty-one, and for supplying liquor to young Maori girls in one of the hotel bedrooms. The Licensing Committee proposed to cancel the license, but finally permitted the head lessor to take over. This hotel is now owned by the Government.

1204. The evidence of Father van Beck shows what can occur at a Maori meeting near this hotel. Father van Beck has lived in the King-country on several occasions. He has been living at Waahi since 1936, and from Waahi he regularly visits other parts of the country. He says (R. 5027 and 5133) that there is to-day bulk drinking among the Natives. At weddings and funerals they have beer by the barrels. In places where beer in bottles can be procured, they buy beer by the carton. At one *tangi*, the average number of persons present, including children, was between two hundred and two hundred and fifty. On this occasion most of the liquor was consumed during the day of the burial and the preceding evening. Seventeen hundred empty bottles were taken away by lorry (R. 5027 and 5133).

1205. There is a good deal of evidence that the Natives in the King-country drink less than the Natives in license areas. All the Church and social workers maintain this.

We asked the Commissioner of Police if he could supply us with the records of convictions of both pakeha and Maori for drunkenness and for unlawful supply of liquor to Natives in the King-country and in certain police districts in license areas where there is a considerable Maori population. We are much indebted to the Commissioner and his officers for their trouble in supplying the information. Our Secretary has, at our direction, carefully analysed the records and has prepared tables which enable a comparison to be made between the convictions for drunkenness, for sly-grog selling, and for illegal supply to Natives and other offences in respect of intoxicating liquor (1) against Maoris who live in the King-country, and (2) against Maoris who live in the police districts (or parts of the police districts) of Wanganui, New Plymouth, Hamilton, Gisborne, and Whangarei, which are outside the King-country, but in which there live considerable numbers of Maoris.

1206. The Maori population of the police districts, as shown by the 1945 census, is as follows: —

District.	Maori Population.
King-country (comprising portions of the Police Districts of Wanganui, New Plymouth, and Hamilton)	8,660
Wanganui Police District (excluding King-country)	2,733
New Plymouth Police District (excluding King-country)	3,691
Hamilton Police District (excluding King-country)	15,619
Gisborne Police District	17,307
Whangarei Police District	20,247

1207. The tables of convictions are as follows: —

Convictions against Maoris for Drunkenness per 1,000 of Maori Population in King-country and Five Police Districts, excluding King-country

Year.	King-country.	Wanganui.	New Plymouth.	Hamilton.	Gisborne.	Whangarei.
1935	0·23	1·60	0·54	1·47	1·65	1·42
1936	1·38	1·60	1·08	3·77	2·22	2·74
1937	0·35	2·01	2·16	4·16	2·28	3·23
1938	1·03	2·41	1·62	5·69	3·36	3·67
1939	2·76	1·21	2·70	8·32	4·04	2·69
1940	1·84	2·81	0·81	9·66	5·01	3·32
1941	2·30	3·22	1·35	7·16	3·99	3·41
1942	0·92	1·60	1·35	3·07	2·91	2·11
1943	0·46	0·80	Nil	2·81	1·60	1·81
1944	0·12	0·80	Nil	2·87	1·25	1·76
Average ..	1·139	1·806	1·161	4·898	2·831	2·616

1208. *Convictions against Maoris and Pakehas for Sly-grog Selling* (in each case per 1,000 of Maori population in King-country, and five police districts excluding King-country) :—

(M. = Maori; P. = Pakeha)

Year.	King-country.		Wanganui.		New Plymouth.		Hamilton.		Gisborne.		Whangarei.	
	M.	P.	M.	P.	M.	P.	M.	P.	M.	P.	M.	P.
1935 ..	..	3·22	..	0·40	..	..	..	0·19	..	0·17	..	..
1936 ..	..	2·30	..	..	..	..	..	..	..	0·17	..	0·49
1937 ..	..	1·72	..	..	..	..	..	0·51	..	0·22	..	0·29
1938 ..	..	6·67	..	0·40	..	..	..	0·06	..	0·17	..	..
1939 ..	..	7·59	..	..	..	..	..	0·32	0·11	0·51	0·05	0·19
1940 ..	0·45	3·33	..	..	..	..	..	0·38	..	..	..	0·14
1941 ..	0·11	5·29	..	..	..	..	..	..	..	0·34	..	0·19
1942 ..	0·11	2·87	..	0·40	..	..	..	0·25	..	0·06	..	0·05
1943 ..	..	2·19	..	..	..	..	..	0·06	0·06	..	..	0·05
1944 ..	..	0·23	..	0·40	..	..	..	0·25	..	..	..	0·19
Average ..	0·067	3·541	..	0·16	..	..	..	0·202	0·017	0·164	0·005	0·159

1209. *Convictions against Maoris and Pakehas for illegal supply to Natives* (in each case per 1,000 of Maori population in King-country, and five police districts excluding King-country) :—

(M. = Maori; P. = Pakeha)

Year.	King-country.		Wanganui.		New Plymouth.		Hamilton.		Gisborne.		Whangarei.	
	M.	P.	M.	P.	M.	P.	M.	P.	M.	P.	M.	P.
1935 ..	0·23	1·72	..	..	..	0·54	0·06	0·06	0·11	0·57	0·39	0·99
1936 ..	0·57	..	0·80	..	0·27	0·54	1·09	0·64	0·28	0·84	0·99	0·85
1937 ..	1·15	3·91	..	0·80	..	0·54	2·24	2·30	1·37	0·34	0·39	1·13
1938 ..	0·23	1·03	..	6·03	1·08	0·54	0·32	0·38	1·01	0·63	0·74	1·33
1939 ..	1·26	3·22	0·40	4·02	0·27	0·54	..	..	4·20	2·30	0·99	0·94
1940 ..	1·26	1·37	..	1·21	..	0·81	0·89	0·64	1·43	0·34	0·99	1·98
1941 ..	1·60	0·57	1·61	0·80	..	..	1·09	0·45	2·24	1·72	1·23	2·26
1942 ..	3·56	1·26	1·21	..	..	0·27	2·94	1·79	2·24	0·75	1·98	0·85
1943 ..	1·26	1·37	0·40	1·21	..	..	1·91	1·41	1·37	0·28	1·57	0·39
1944 ..	0·11	..	0·40	1·21	..	..	2·30	1·67	1·32	0·46	2·99	0·85
Average ..	1·123	1·145	0·482	1·528	0·162	0·378	1·284	0·934	1·557	0·823	1·226	1·157

1210. *Convictions against Maoris for other Offences in respect of Intoxicating Liquor* (per 1,000 of Maori Population in King-country, and five police districts excluding King-country) :—

Year.	King-country.	Wanganui.	New Plymouth.	Hamilton.	Gisborne.	Whangarei.
1935	0·69	0·80	..	0·25	2·74	0·25
1936	0·23	8·04	1·08	2·11	5·01	1·23
1937	1·38	2·41	1·35	2·05	4·84	1·91
1938	0·46	3·61	..	1·67	4·37	1·28
1939	0·57	1·21	1·08	1·92	6·11	2·31
1940	1·61	2·01	0·81	1·60	4·96	1·82
1941	0·80	2·81	..	1·41	3·98	2·46
1942	0·91	1·21	0·27	0·77	2·31	2·61
1943	0·46	0·40	0·54	0·45	2·53	1·23
1944	0·34	7·64	0·54	1·22	0·58	0·93
Average ..	0·745	3·014	0·567	1·345	3·743	1·603

1211. Upon these tables we make these comments:—

(1) *As to Drunkenness.*—The comparison is made according to convictions. In the King-country there is little open drinking, and the consumer who has had too much may, quite probably, sleep off the effects of a "keg party" at the premises where the party has been held, or be transported to his own home. He may not be seen by the police. In license districts most of the drinking is likely to take place in bars, and a consumer who has drunk too much is more likely to come under the eye of the police when he enters the street.

The high average of drunkenness for the Hamilton Police District may be due to the fact that the district borders the King-country as far south as Mount Ruapehu.

(2) *As to Sly-grog Selling.*—The convictions against pakehas for this offence in the King-country greatly exceed those for any other districts. The King-country average is 3·541, as compared with the nearest of the other districts, Hamilton, with 0·202.

The convictions of Maoris for this offence are negligible in all districts, though four Maoris were convicted in the King-country in 1940.

(3) *As to Illegal Supply to Natives.*—The breaches by Maoris exceed those by pakehas, except in the Wanganui and the New Plymouth districts.

The comparatively high average of pakeha offenders in the Wanganui district (1·528) is due to the convictions recorded in the years 1938–39 (6·03 and 4·02 respectively).

If the figures for breaches by Maoris and by pakehas in each district are added together, the district totals thus given range as follows: New Plymouth, 0·58; Wanganui, 2·01; Hamilton, 2·218; King-country, 2·268; Gisborne, 2·38; and Whangarei, 2·383. With the exception of New Plymouth, the averages for the districts are remarkably close, only 0·37 separating the highest from the lowest.

(4) *As to other Offences in respect of Intoxicating Liquor.*—These offences include "found on licensed premises after hours" and "breach of prohibition order" which must increase the numbers in the five licensed districts.

The averages are as follows: New Plymouth, 0·567; King-country, 0·745; Hamilton, 1·345; Whangarei, 1·603; Wanganui, 3·014; and Gisborne, 3·743.

In the Gisborne district, which tops the averages in this group, the offence of breach of prohibition order appears to be particularly prevalent.

CHAPTER 60.—THE KING-COUNTRY: THE MISCHIEFS OF INADEQUATE ACCOMMODATION AND OF THE LACK OF THE VOTE

1212. *As to the Mischief of the Lack of Adequate Accommodation.*—We think this complaint is justified. We have no doubt that, if licensed hotels were available in the area, accommodation for the travelling public would greatly improve.

1213. *As to the Mischief of the Lack of the Vote.*—The absence of the vote on the liquor question is contrary to the principles generally maintained by the New Zealand Alliance and by Church organizations with respect to the liquor question. They desire that throughout the rest of New Zealand the control of the trade shall be exercised through the triennial vote of the people. The vote on the national poll indicates that the great majority of the European residents of the territory desire licenses in the territory.

1214. The following abstract of votes from the parliamentary papers (made by our Secretary at our direction) shows the totals of the votes for the national polls of 1935, 1938, and 1943—(1) at main booths in the northern and western areas of the

King-country (viz., at Aria, Awakino, Kawhia, Mangapehi, Otorohanga, Piopio, Te Kuiti, and Te Mawhai); and (2) at main booths in the central and southern areas (viz., at Kakahi, Manunui, Ohakune, Ohura, Owhango, Raetihi, Raurimu, and Taumarunui):—

(1) *Northern and Western King-country Booths*

Year.	Continuance.		State Purchase and Control.		Prohibition.	
		Per Cent.		Per Cent.		Per Cent.
1935	2,366	(69·5)	289	(8·5)	749	(22·0)
1938	2,571	(65·1)	478	(12·1)	900	(22·8)
1943	1,799	(55·4)	583	(17·9)	867	(26·7)

(2) *Central and Southern King-country Booths*

1935	2,975	(72·9)	386	(9·4)	722	(17·7)
1938	3,210	(69·6)	549	(11·9)	851	(16·5)
1943	2,395	(64·3)	523	(14·0)	810	(21·7)

The combined totals are:—

Year.	Continuance.		State Purchase and Control.		Prohibition.	
		Per Cent.		Per Cent.		Per Cent.
1935	5,341	(71·2)	675	(9·0)	1,471	(19·8)
1938	5,781	(67·3)	1,027	(12·0)	1,751	(20·7)
1943	4,194	(59·8)	1,106	(16·0)	1,677	(24·2)

As by far the greater part of the Waitomo and Waimarino Electoral Districts are comprised in the King-country, we give the figures for those districts also:—

Year.	Continuance.		State Purchase and Control.		Prohibition.	
Waitomo						
		Per Cent.		Per Cent.		Per Cent.
1935	6,732	(68·9)	908	(9·3)	2,136	(21·8)
1938	6,039	(65·4)	990	(10·7)	2,219	(23·9)
1943	5,078	(59·1)	1,302	(15·2)	2,204	(25·7)
Waimarino						
1935	6,158	(75·2)	737	(8·9)	1,310	(15·9)
1938	7,225	(71·2)	1,159	(11·5)	1,752	(17·3)
1943	6,332	(66·4)	1,340	(14·0)	1,874	(19·6)

1215. The Maoris do not vote at the national poll, but our evidence indicates that a large number of the younger Maoris do desire a vote on the question whether or not there shall be licenses in the King-country. Most of the elders are opposed to a vote, many of them on the ground that, if the Maoris were granted a secret ballot, the younger Maoris would carry a proposal in favour of the sale of liquor under some form of license.

1216. The reason which is given for the denial of the vote to the residents of the King-country is that the Europeans made "a sacred pact" with the leading Maori Chiefs in return for a gift of the lands for the Main Trunk Railway line. This ground is put forward by most of the elders of the King-country Maoris of to-day and by various church and temperance organizations. The ground so taken has not hitherto, so far as we know, been subjected to critical analysis. Our Chairman has undertaken an examination of all the documents available, and his report is contained in Appendix C.

1217. We have examined his report, and we accept its conclusions. We think, therefore, that the weight of the evidence is heavily against the view that the arrangement made by the leading Maori chiefs was of a kind which could not be altered if the Maori tribes concerned desired its alteration. The acceptance of this view renders irrelevant the evidence given by the Maori elders and the Europeans, who thought the arrangement was intended to be an unalterable pact.

1218. The Chairman's report shows (Appendix C, para. 19) that the Natives, in their petition of 1884, asked only that no *publican's license* should become legal throughout the territory which they described in their petition. The Government, in December, 1884, issued a Proclamation under section 25 of the Licensing Act, 1881, forbidding the issue of any license in the territory. Some months later, at the turning of the first sod of the Main Trunk Railway, the Natives asked that liquor should not cross the Puniu River (Appendix C, paras. 40 and 41), but the Proclamation, which had already been issued, did not mean that. It meant only that no license would be issued.

In March, 1887, the second part of the King-country, the Upper Whanganui area, was proclaimed (Appendix C, para. 49).

1219. Neither of these Proclamations appears to have debarred the grant of a club charter in the King-country. The reasons for saying this are these :—

(1) Section 29 of the Licensing Act of 1881 listed the licenses under that Act as follows : publicans' licenses ; New Zealand wine licenses ; accommodation licenses ; bottle licenses ; packet licenses ; wholesale licenses ; and conditional licenses.

(2) Section 229 of the same act of 1881 said :—

> Nothing in this Act shall apply to clubs, except the provisions hereinafter contained.

None of the subsequent provisions deemed a club charter to be a license for any purpose.

(3) It was not until section 27 of the Alcoholic Liquors Sale Control Act of 1893 was passed that it was enacted that, in the event of proceedings being taken, the secretary of a chartered club was deemed to be the holder of a license under the Licensing Act, 1881.

Under the Act of 1893 a charter was held to be equivalent to a license and a sale in a club without a charter to be an offence : *Plank* v. *McIlveney*, 21 N.Z.L.R. 508, 510.

(4) By certain provisions of the Licensing Acts Amendment Act of 1904 (provisions now included in sections 262 to 264 of the Licensing Act, 1908), a club charter was deemed to be a publican's license for the purpose of closing-hours and of certain provisions relating to unlawful games.

(5) The King-country Licenses Act of 1909 only validated the Proclamations.

(6) Under none of the statutory provisions has the charter of a club, under which sales are made only to members of the club and not to members of the public, been treated for all purposes as of the same nature as a publican's license.

1220. We conclude that there is good ground for saying that the Proclamations affecting the King-country did not, when they were issued, prohibit the issue of club charters. This view is supported in practice to-day by the attitude adopted by the Presbyterian Church of Te Kuiti, which appears to be that it is the open license, not the club charter, which would constitute a breach of the Proclamations affecting the King-country (para. 1191 *supra*).

1221. In substance, then, the basic mischief in the liquor situation in the King-country is the denial of a referendum to the Maori people of the King-country on the question whether there should be open—*i.e.*, public—licenses in that territory, in particular, the publican's license. It should be assumed, we think, for the reasons we have given, that Parliament would be justified, if it thinks fit, in authorizing the grant of club charters, at least for " on " sales only, in the King-country, whether the Maori people do or do not approve of the grant of open licenses.

1222. If the Maori people decide against open licenses, the Europeans cannot complain if they are not permitted to vote on the question whether there should be open licenses. The Europeans came into the King-country, knowing the nature of the present restrictions, and they must await the decision of the Maori residents on the question of open licenses.

1223. If the Maori people vote by a sufficient majority for the removal of the restrictions against open licenses, it would be a mischief if the Europeans were not then entitled to a referendum to determine whether they also, by a satisfactory majority, desire open licenses. We do not think that the Maori residents can require the introduction of liquor in the King-country under open licenses unless the European residents also desire that introduction. If both desire the removal of those restrictions, by a satisfactory majority, then these open or public licenses should be granted.

1224. If, however, these licenses are not granted, Parliament would not, we think, infringe the intention of the Proclamations of 1884 or 1887 if it authorized the granting of club charters for " on " sales only to properly conducted clubs within the King-country.

CHAPTER 61.—THE KING-COUNTRY: THE REMEDIES PROPOSED

1225. We proceed now to consider the various remedies proposed for the present situation. The question whether the Maoris will desire to alter the existing laws may depend upon the form of licensing which is offered to them. The taking of a referendum by the Maoris involves, therefore, a prior determination of the type of licensing in respect of which they would vote. This involves a consideration of the form of license which would also be acceptable to the Europeans.

1226. There appear, at this stage, to be two lines of thought among the Europeans. The Presbyterian Churches at Te Kuiti and Otorohanga appear, as we have noted, to have no objection to a license for Europeans which is not an open license for the sale of liquor. The Presbyterian Church at Te Kuiti based this view on the way in which the seven clubs at Te Kuiti had been formed and were conducting themselves. It would seem, therefore, that while that church regards " the pact " as preventing an open license, like a publican's license, it would look differently on a club charter. On this view there could be a club charter which did not involve open sale without a breach of the general understanding of " the pact."

1227. At Taumarunui the Ministers' Association (comprising two Church of England clergymen, two Presbyterian Ministers, one Methodist Minister, and one Salvation Army Officer) advocate a secret referendum of the ordinary Maori residents and, if license is carried, control by a community Trust. A large number of business men and local bodies support the control of liquor by a community Trust. Some of them think there should be a referendum first; others, not. The local bodies comprise the following: (*a*) at Taumarunui, the Taumarunui Borough Council, the Taumarunui and District Chambers of Commerce, the Returned Services' Association, the Womens' Institute, the Women's Section of the Taumarunui and District Returned Services' Association; (*b*) at Ohura, the Ohura County Council; (*c*) at Manunui, the Manunui Town Board; (*d*) at Raurimu, the Kaitieke County Council.

1228. We refer now to the evidence from the Raetihi and Ohakune zone. The evidence presented by Mr. Wilks, of Taumarunui, was supported by the following bodies with their headquarters at Raetihi and Ohakune:—

(1) At Raetihi: (*a*) the Raetihi Borough Council; (*b*) the Waimarino Chamber of Commerce; (*c*) the Waimarino County Council; (*d*) the New Zealand Farmers' Union (Waimarino Branch); (*e*) the Waimarino Returned Services' Association; (*f*) the Women's Section of the Waimarino Returned Services' Association, and (*g*) the Women's Division of the New Zealand Farmers' Union (Raetihi Branch).

(2) at Ohakune: the Ohakune Borough Council.

1229. On the other hand, this evidence was opposed by the following church organizations at Raetihi: the Methodist Church, the Salvation Army, the Presbyterian Church, the Women's Christian Temperence Union, and by the Presbyterian Church at Ohakune.

The grounds of their opposition were that "the pact" should be observed. Other reasons given were that open bars are a temptation to pensioners, especially Maoris, and that the children suffered; that open bars are also a temptation to motorists and truck-drivers in a country district; that they lead to disorderliness in the streets; and that they cause juvenile delinquency in a Maori district, especially among young Maoris, and that they lead to crimes of violence among the Maori people. There appears to be here the same distinction made as the Presbyterian Church at Te Kuiti made between the open bar and the sale of liquor which is not open or public.

The remedy suggested by these church organizations was stricter enforcement of the existing law (Exhibit B. 15 and R. 5058).

1230. The evidence on the Maori side in this area was conflicting. Certain Natives, represented by Mr. S. P. Arahanga, who said he gave evidence on behalf of himself and from eighty to one hundred Natives (R. 4879), said that their chiefs of Waimarino had never given consent to the Proclamation against liquor over their lands. They asked that Waimarino be excluded from the King-country.

1231. On the other hand, Mrs. Rumatiki Wright, who is an honorary Maori Child Welfare Officer under the Education Department, presented the views of the Rangatira of the Waimarino-Wanganui Natives and of the Maori Church of England, the Maori Council, and the Maori Women's Institute of the district, and supported those views with a petition signed by some 421 Natives. Mrs. Wright claimed that the "pact" should be observed. She was against a referendum because she thought the younger Maoris might carry the referendum in support of the introduction of liquor. She thought the Maoris were better off in the King-country than in license districts where she had noticed the children were neglected when the family took liquor (R. 5054 and 5056).

1232. A representative from Awakino asked for a publican's or accommodation license for the hotel there for the benefit of travellers.

1233. Father van Beck, of Tokaanu, supported the community trust proposals of the Taumarunui organization.

1234. If open licenses are authorized in the King-country, there appears to be general agreement in the King-country that they should come under some form of community control.

1235. Another question which may be preliminary to any referendum is the question whether the Maori should be paid for his railway lands. This may depend upon whether the Maori has paid the Government survey fees for the work of defining the boundaries of his lands in or about 1891 (Appendix C).

1236. Assuming the Maori referendum would relate to the issue of licenses to a community or other public trust, what Maoris should vote? Mr. A. W. Gordon, the chairman of the Rotorua Committee in March, 1945, said that elders considered that the age at which a Maori should vote was important. They thought a Maori of twenty-one of either sex was not ripe enough to give serious consideration to a very important issue. Mr. Gordon suggested that the right to vote on the referendum should be limited to those who had attained the age of thirty years (R. 4645). The other Maori witnesses who dealt with this question were in favour of adult voting—*i.e.*, at twenty-one—as for the Parliamentary election (see the evidence of J. Z. Mitchell, R. 4738; of T. M. Hetet, R. 4872; and S. P. Arahanga, R. 4878).

1237. Of the European witnesses, Father van Beck thought the right to vote on this question should be limited to those who had attained twenty-five or twenty-six year of age (R. 5031). All the other European witnesses who considered the matter, including the Under-Secretary for Native Affairs, contemplated adult suffrage (R. 361, 4958, 5014, 5039, and 5084).

1238. On the whole, we do not think it would be satisfactory to adopt any basis other than that for the election of a Maori member of Parliament. This is adopted in section 46 of the Licensing Amendment Act, 1910, which enables the Maori electors in a specially proclaimed area to vote against the supply of liquor to Natives in that area. On this voting qualification the prohibition of supply was imposed and then revoked in the Horouta District (paras 112 and 113, *supra*).

1239. The next question is as to the majority required to carry an alteration. Stability is required, particularly if all Maoris of twenty-one years are to have a vote (R. 361). Also, the Europeans have entered the territory, knowing of the existing prohibitions. They are in the same position in this respect as Europeans who have entered other no-license districts. We think, therefore, that the majority required on a Maori referendum should be 60 per cent., as in a no-license district. This view is supported by the Under-Secretary for Native Affairs (R. 361); by Mr. M. H. Wilks, who presented the Community Trust Scheme on behalf of the Taumarunui organizations (R. 5014); by the Rev. R. I. Hall, who represented the Taumarunui Ministers' Association (R. 4971).

1240. We think the same majority of 60 per cent. is required on a European referendum taken if the Maori referendum is in favour of licenses.

PART XI.—MISCHIEFS ALLEGED TO ARISE FROM GOVERNMENT POLICY

CHAPTER 62.—CLUBS, CHARTERED AND UNCHARTERED

1241. The statutory provisions governing chartered and unchartered clubs are contained in Part IX of the Licensing Act, 1908.

By section 259 a club is defined to mean "a voluntary association of persons combined for promoting the common object of private social intercourse, convenience, and comfort, and providing its own liquors and not for purposes of gain."

1242. A chartered club is defined to mean "a club to which a charter has been granted under any former licensing Act or is hereafter granted under this Act."

1243. There are in existence to-day forty-seven chartered clubs, but no new charter has been granted since October, 1908. We are informed by the Under-Secretary for Internal Affairs that this has been due to Government policy. Our inquiries show that the position cannot be properly understood without reference to the history of the matter.

1244. Under section 229 of the Licensing Act, 1881, each existing club was required to apply for a charter "authorizing its existence" (section 229 (*c*))—*i.e.*, as a club with a charter subject to specified conditions. These were of a general nature. They did not require the provision of accommodation. One condition was that the club should consist of not less than twenty members. A new club comprising any ten persons could apply for a provisional charter, in force for one year, but a permanent charter was dependent upon the club complying with the conditions of existing clubs, including a membership of twenty.

The permanent charter continued, without annual renewal, so long as the club paid the annual fee and fulfilled all the conditions on which the charter was granted.

1245. The Alcoholic Liquors Sale Control Act, 1893, which constituted the electoral districts as ordinary licensing districts and made the renewal of licenses and the reduction of licenses subject to the vote of the electors, also enacted certain provisions concerning clubs. Section 27 of the Act provided—

(1) That every chartered club should be subject to inspection by an Inspector appointed by the Colonial Secretary;

(2) That every chartered club should be subject to certain provisions of the Act of 1881 relating to—

(*a*) Keeping a house in a disorderly manner, or permitting drunkenness therein;

(*b*) Harbouring a constable when he should be on duty or supplying a constable with liquor or bribing him; and

(*c*) Playing unlawful games;

(3) That no proceedings should be taken against any club for breaches of the law except by the direction of the Colonial Secretary;

(4) That, in the event of proceedings being taken, the secretary of the chartered club should then be deemed to be the holder of a license under the Licensing Act, 1881;

(5) That, in the event of a conviction, the Colonial Secretary could revoke the charter;

(6) That, for the future, no new charter should be issued except upon the application of fifty persons; and

(7) That, in the event of a determination of no-license in a licensing district upon a poll of electors, it should be at the discretion of the Colonial Secretary whether he should or should not grant any new charter for a club in that district.

1246. This last provision made a clear distinction between (*a*) licenses under the Licensing Act, which provided for the sale of liquor to the public and which would be determined upon a vote for no-license; and (*b*) the charter of a club, which authorized the sale of liquor only to members or their guests and which would not be determined upon a vote for no-license.

1247. The first local-option poll (authorized by the Act of 1893 in respect only of publican's, accommodation, and bottle licenses) was held on the 21st March, 1894. At this poll, the no-license vote in respect of publicans' licenses for all districts exceeded the vote for continuance by more than 5 per cent. (*N.Z. Statistics*, p. 24). At this poll the Electorate of Clutha carried by a majority of about 3 to 1 the prohibition of publican's, accommodation, and bottle licenses (I.A. 94/1511).

Immediately after the poll in Clutha, an application was made to the Colonial Secretary for a provisional Charter for the Clutha Farmers' Club in premises then occupied as a licensed house in Clutha (I.A. File 94/1511). This application and other similar applications were opposed by no-license organizations.

1248. On the 5th June, 1894, there is a Cabinet minute noted on a relevant file as follows: "All club charters to be refused until will of Parliament is known" (I.A. 94/1279).

1249. As a result of this decision, applications for charters for the Clutha Farmers' Club and certain other clubs were, according to a Cabinet minute of the 2nd November, 1894, "Refused for the present."

1250. In 1895 the Alcoholic Liquors Sale Control Act Amendment Act of that year authorized a vote in each district to determine whether there should be—

(1) Continuance without reduction; or
(2) Continuance with reduction; or
(3) No-license.

In respect of clubs, this Act provided only—

(1) That no charter should be granted for premises in respect of which a club charter had been revoked or a publican's license taken away or forfeited; and

(2) That, if no-license was carried in a district, the provisions of section 33 of the Act, restricting sales and purchases within the district, should not apply to clubs.

1251. Under this legislation, if no-license was carried in a district, the club charters in that district would continue: *Upton* v. *Colonial Secretary*, [1904] N.Z.L.R. 82.

Subsequent to this legislation, no further charters were granted until after the Act of 1904. From indications on certain files (I.A. 1906 441 and 1907/1783), it appears that between 1895 and 1904 some clubs had been selling liquor at late hours and on Sundays.

Prior to 1904 there was no statutory limitation upon the hours or days of sale by clubs.

1252. In 1904 the Licensing Acts Amendment Act of that year made further provisions in respect of clubs. Section 50, now sections 262–264 of the Licensing Act, 1908, provided—

(1) That every chartered club should be closed during the same hours and should be subject to the provisions of the Licensing Acts relating to gambling or the playing of any unlawful game in the same manner as if the club were licensed premises, the club charter a publican's license, and the secretary of the club the licensee.

(2) That where any club was situate in a no-license district the charter of the club, in so far as it conferred the right to sell liquor, should be suspended for so long as the result of the poll continued.

1253. Section 51 provided that the supply of liquor in unchartered clubs by means of subscriptions, levies, voluntary contributions, and the like was unlawful, but section 52 exempted the supply of liquor as part of the refreshments supplied at the meetings of any association, society, or club *bona fide* formed for and engaged in carrying out literary or musical entertainments, or friendly society, charitable or Masonic purposes, or outdoor games or exercise, and as part of the refreshments supplied at the shows of agricultural and pastoral associations, provided that all such refreshments were supplied at the expense of the association, society, or club and were supplied only to members and their guests. The exemption provided by section 52 does not apply if liquor the property of the association, society, or club is supplied to persons who have paid for admission to the entertainment or gathering: *Harvey* v. *Barling*, [1930] G.L.R. 87.

1254. Following this legislation of 1904, various applications were made for club charters. In January, 1905, Cabinet authorized the grant of several.

1255. Licensing polls were held on the 6th December, 1905, at which 47·18 per cent. of all votes were cast for continuance, 40·44 per cent. for reduction, and 51·27 per cent. for no-license (*N.Z. Statistics*, p. 24).

1256. In Janaury, 1906, three provisional charters were granted—namely, one each at Feilding, Masterton, and Hastings. In each of the electorates in which Feilding and Masterton were situate there was at the poll of 1905 a large majority for no-license. In the electorate in which Hastings was situate there was a majority for no-license. The granting of these provisional charters produced in February, 1906, a strong protest to the Colonial Secretary from the New Zealand Alliance.

1257. After this protest and prior to the 2nd September, 1907, charters were granted to clubs at Napier, Hastings, Feilding, Hawera, and to the Wellington Civil Service Club at Wellington.

1258. On the 2nd September, 1907, after a provisional charter had been approved for the Ruahine Club at Dannevirke, the following Cabinet minute was made: "Any new applications in future for club charters to be declined unless the vote at previous triennial election showed a majority for continuance in that electoral district" (I.A. 1907/1378 and 1907/1783).

1259. After the making of this minute, a provisional charter was granted to the Cosmopolitan Club at Gisborne on the 7th October, 1907, on the ground that, notwithstanding the large majority for no-license in the Waiapu Electorate in 1905, the club's application for a charter had been made some eighteen months before and that the club had been led to believe that if it erected a building costing £3,000 a charter would follow (I.A. 07/2103).

1260. Permanent charters were subsequently granted to the Ruahine Club at Dannevirke on the 2nd September, 1908, and to the Cosmopolitan Club at Gisborne on the 6th October, 1908 (I.A. 1908/2554). This latter charter was the last granted.

1261. At the licensing polls on the 17th November, 1908, 45·41 per cent. of the total votes for all districts were for continuance, 39·23 per cent. for reduction, and 55·45 per cent. for no-license. After this poll the applications for club charters ceased for some years.

1262. At the first national licensing poll on prohibition and continuance, held on the 7th December, 1911, the vote for continuance was 44·17 per cent. of the total votes, and for prohibition 55·82 per cent. of the total votes.

Applications for charters having been made in 1912 for a club at Auckland and a club at Eltham, the following Cabinet minute was made on the 27th May, 1912: "Refused. No further charters to be granted" (I.A. 2/21/11).

1263. Pursuant to this minute, applications for nineteen charters were declined prior to the poll of the 14th November, 1928. At that poll, 51·07 per cent. of the total votes were for continuance, 8·77 per cent. for State purchase and control, and only 40·16 per cent. for prohibition.

We have already stated our view that, after this poll, persons engaged in the trade did not consider there was any reasonable likelihood of prohibition for a long time to come (para. 597, *supra*).

1264. In May of 1929, a deputation from the associated clubs sought further charters and made a special request for a charter for the Christchurch branch of the United Commercial Travellers' Association. The deputation relied strongly upon the result of the last licensing poll and the comparatively small number of charters in operation. The Prime Minister (the Right Hon. Sir Joseph Ward) acknowledged the change in sentiment of the people, but said he would have to ascertain whether members of Parliament would be favourably disposed towards the grant of more charters. In October, 1929, Cabinet decided on no action and certain applications for charters about this time were also refused.

1265. In November, 1933, the associated chartered clubs and the unchartered clubs, including working-men's clubs, sought by a joint deputation to the Prime Minister legislation removing clubs from the sphere of ordinary licensing legislation and an extension of the hours of sale in clubs. The Prime Minister (the Right Hon. G. W. Forbes) said the legislation on the subject was a compromise because of two very strong opposing parties, and that the representations would be placed before Cabinet. The Cabinet decision was that matters must stand for the present.

1266. In April, 1936, the United Commercial Travellers' Association again made application for a charter for its Canterbury branch to the Prime Minister of the new Government (the Right Hon. M. J. Savage). The Cabinet's decision upon this application was that the question of increasing the number of chartered clubs must be deferred for the present.

Since this application, further applications have been declined on the same ground.

1267. We summarize the attitude of the authorities concerning the granting of charters to clubs as follows:—

(1) The strength of the voting against continuance at the first local-option poll in March, 1894, brought about a policy of refusing charters until, by the legislation of 1904, clubs were made subject to the Licensing Acts in respect of certain matters and, particularly, in respect of hours of sale.

(2) After 1904, several charters were granted, the last being in 1908.

(3) The strength of the prohibition vote at the national poll in December, 1911, apparently led to the decision by the Cabinet in May, 1912, to refuse all further applications for charters.

(4) The ground for this decision appears to have continued in operation until the national poll of November, 1928, when there was a vote for the continuance of the sale of liquor (including both the votes for continuance and for State purchase and control) of practically 60 per cent. of the total votes. The percentage on this basis has since risen to approximately 70 per cent. Yet applications for nineteen charters have been refused since 1929 without any investigation of the merits of any of them.

1268. There is to-day an association of forty-six chartered clubs with a membership of 33,200, including 4,598 members of five non-chartered clubs which were admitted years ago as foundation members when the original association was formed. Counsel for this association of clubs appeared also on behalf of thirty other non-chartered clubs with objects similar to those of the chartered clubs. In addition to these clubs, there are many non-chartered clubs. Representatives of some of these clubs appeared separately before us—*e.g.*, representatives of returned servicemen's clubs, officers' clubs, working-men's clubs, and golf clubs. The unchartered clubs are so numerous that it is desirable we should explain their working.

1269. An unchartered club (which is not a proprietary club) may operate lawfully in two ways :—

(1) The club may operate in a very limited way, pursuant to section 268 of the Licensing Act, 1908, which re-enacts section 52 of the Act of 1904 (para. 1253, *supra*). Under this section the association, society, or club may supply at its meetings to its members and their guests refreshments which include liquor, provided these refreshments are supplied at the expense of the association, society, or club. This procedure is not applicable to the supply of liquor to individual members or their guests, apart from meetings of the association, society, or club.

1270. (2) An unchartered club may also operate upon the legal principle that, subject to the rules of the club, every member of the club may use the club-house and the club's property as he would his own home and his own property, subject to the right of other members to exercise the same right in relation to the club-house and its property.

In *Watford* v. *Miller*, [1920] N.Z.L.R. 837, Sim, J., at p. 865, gave this explanation of the position :—

> Every member of the club has the right, in common with other members, to use the club-house for the purposes for which such a club-house is ordinarily used. That right must be exercised subject to the express provision of the rules as to such user, and subject also to the unwritten rules of good sense and gentlemanly feeling. When a member, in the exercise of his right, uses the club-house, the relation between himself and the club is not that of guest and host or licensor and licensee. For the purposes of such user the club-house is to be regarded as if it were his own house. When a member deposits his overcoat in the hall of a club-house he does not place it in the custody of the club, and the fact that a servant of the club may hang the coat up for him does not make any difference. The position is the same, I think, with regard to any other chattels which a member may bring into the club-house or may have deposited there for him. They are not in the custody of the club, and the club is not the bailee thereof.

1271. It was held in *Watford* v. *Miller* (*supra*) that the incorporation of the club did not change these rights. It follows that, by virtue of these legal rights, the member of a club may keep his own liquor in the club-house as he would in his own house. The club usually provides lockers for the purpose. When that is done, the club is said to operate on "the locker system." The member may then, at his own expense, supply himself or his guests in the club-house as he would in his own home.

Under this system there is no limit of day or hour upon the time at which a member may supply himself or his guests with liquor.

1272. The disadvantages of the locker system to the individual member are—

(1) The continual trouble of obtaining a supply of liquor and of transporting it to the club-house ;

(2) The lack of variety in the liquor which the member is likely to keep : and

(3) The lack of service by the club's servants in providing the liquor in the club-house.

1273. The disadvantages of the locker system to the club are—

(1) The loss of revenue which the club could make by purchasing liquor at wholesale rates and selling it to the members at retail rates ; and

(2) The loss of control over the supply.

In some large clubs it might be important for the clubs to maintain control, though in most clubs the self-respect of each member, and his regard for the feelings of his fellow-members and for the maintenance of the standard of conduct expected in the club ensure the continuous maintenance of self-control in the use of alcoholic liquor.

1274. The disadvantages involved in the locker system have led to illegal arrangements. Individual orders given by members to the club secretary, accompanied by cash for payment at retail rates, do not save the legality of the transaction if the secretary buys the liquor at wholesale rates and then provides the members with what they have ordered at retail rates. In that event there are two contracts of sale—a purchase by the secretary of all the liquor, whether in bulk or in separate parcels, and then a sale by the secretary, an unlicensed person, to each member who has ordered: *Opie* v. *Petersen*, [1943] N.Z.L.R. 246.

Other cases have been decided in the Magistrate's Court where, notwithstanding an appearance of individual orders separately carried out by an officer of the club as the agent of individual members, it is clear from the quantities ordered, or the disposition of the moneys which have been ostensibly received in settlement of individual orders, or the multiplication of orders by one person, or the state of the accounts, or any combination of these factors or others, that the club or an officer of the club has actually been selling liquor to members (see *Police* v. *Corinthian Sports Club*, (1943–44) 3 M.C.D. 353).

1275. The membership of some of these unchartered clubs is very large. For example, the membership of the Rugby League Football Association, concerned in the case of *Opie* v. *Petersen*, [1943] N.Z.L.R. 246, had increased by July, 1945, to over 3,000 (R. 6494). The membership of R.S.A. clubs and working-men's clubs is often large. The membership of some golf clubs is substantial. The membership of the professional and businessmen's clubs, usually called gentlemen's clubs, is generally small compared with the membership of these other clubs.

1276. We refer now to the question of granting charters to the several kinds of unchartered clubs. With the exception of a complaint against the Wellington Working Men's Club, we have had no complaint against the conduct of chartered clubs. We think that the chartered clubs generally and those unchartered clubs which correspond in their membership and management with the chartered clubs represent, as the English Licensing Commission said in its report (p. 103, para. 495), "a most valuable element in the structure of our society." *Prima facie*, there is no reason why unchartered clubs of this type should not be granted some form of charter suitable to their type and management.

1277. The Commissioner of Police took the view that all clubs should be regulated or else prevented from selling alcoholic liquor. He said (R. 552):—

> Section 267 deals with sale of liquor by unchartered clubs. There should not be any of them. They have the locker system and the police have no control over that unless it is established that a sale has taken place. We do have complaints from time to time with reference to people going to various clubs and getting rather much liquor, or coming home drunk, and they may be found in charge of motor-vehicles drunk, and it is found they got their liquor at some club-house. We recommend that there should be no unchartered clubs. They should be chartered or out altogether.

1278. The two Magistrates who dealt with the question of clubs, Mr. Luxford, S.M. (R. 6481), and Mr. Paterson, S.M., were both in favour of licensing the unchartered clubs and so of regulating and controlling them.

1279. The New Zealand Alliance and other temperance organizations have in the past been generally opposed to the issue of further charters or licenses for clubs. At the present time the Alliance favours the grant of charters to clubs which have been genuinely established for proper objects (R. 3163 and 6257).

1280. We have already noted the attitude of the Presbyterian Church at Te Kuiti towards the Te Kuiti clubs (para. 1191, *supra*).

1281. The attitude of the trade towards the chartering or licensing of further clubs appears to be governed by the fact that any substantial increase in charters would bring the clubs into competition with the holders of publicans' and accommodation licenses.

This competition exists in England, where clubs have been freely registered in the past. In its report, issued in 1932, the Royal Commission on Licensing for England and Wales said (p. 105, para. 508) :—

The club, in many instances, has become a formidable competitor to licensed premises. We recognize, of course, that an association of persons which occupies premises and supplies its members only with intoxicants is not, even if it exists for no other purpose, quite the same kind of establishment as premises licensed to serve the public in general. But the ease with which registration can be effected under present law offers a strong temptation, and we are satisfied that there are many clubs in all parts of the country which have been brought into existence solely for the purpose of supplying intoxicants. In our view, such a club, for all practical purposes, fulfils substantially the same functions as a publichouse. The evidence shows that the competition of such clubs is felt keenly and greatly resented by the licensed victuallers.

1282. The English Commission then went on to point out that some sections of the brewing industry had lent financial and other assistance towards the formation of clubs in which their wares might find an outlet.

1283. Mr. D. E. Wanklyn, a director of New Zealand Breweries, was asked what reasons there were for opposing the extension of charters to clubs. He replied (R. 6818):—

The reason is naturally that the grant of charters extensively all over the place to clubs would affect a brewery company's hotel interests ; it would not affect its brewing interests a bit. That would be unfair to the hotel-owner, who has to bear income-tax, and it would be difficult to force a club, even if clubs' profits were made liable to income-tax, to charge such prices as would make profits for it. Clubs such as I know of usually operate on a bare minimum to cover their expenses. Social clubs usually have an annual subscription, and that is sufficient for a good many of their purposes, and they do and are able to sell liquor to their members at a price which is below that which hotels can sell at, and unless you force all clubs, which I think would be undesirable, to raise their prices to exactly the same as hotels and make profits on a similar basis, it would be grossly unfair to hotels, which are bound to provide a lot of services for the public generally. Clubs do not ; they provide for their members exclusively.

1284. Mr. Wanklyn admitted that if the grant of charters to clubs were restricted on these grounds, another way of looking at the restriction was that large numbers of men were being deprived of the opportunity of consuming liquor under the best conditions of social intercourse (R. 6818).

1285. Mr. L. J. Stevens, chairman of directors of Dominion Breweries, was asked similar questions (R. 6757 and 6758). He admitted that the consumption of alcoholic liquor for social purposes in a properly conducted club had substantial advantages. When asked whether he was opposed to the wide extension of clubs with charters, Mr. Stevens said he had considered this matter when outlining a case for the trade. His answers and his examination (R. 6758) then continued as follows :—

Under my outline (this was not adopted or even submitted) at that stage I indicated that my attitude was that club charters should not be granted in areas adequately served by hotels, but in areas not adequately served by hotels they should be granted. My point was this : that the hotel is the club for everybody. A club *per se* must be selective and limited to a few only. Take a place like Matamata, which is not served by an hotel. I should say it would be ideal in which to have a charter for a club, if there were people there desirous of having one. But if an hotel license should be made available in Matamata, I do not see the necessity for the club.

Chairman : Then you would have to close the club down ?—No ; if the club is already there, it stays.

Chairman : Is this a possible explanation of the reason why club charters have not been granted, that if they were granted extensively they would damage the hotels ?—My experience is that if they were granted they would be nothing more or less than a license to sell, and as such they should not be indiscriminately brought into competition with the hotelkeepers, because clubs do not pay taxation. There are other factors.

Chairman : But the Commission is receiving applications from numbers of people who want to form clubs, and it seems to meet the needs of large numbers of men. We had an application the other day from Taihape, with over 260 members, and they want a charter. It occurs to me that they might conduct their club extremely well, men might drink there under social conditions of great advantage, far better than they could drink in an hotel, yet if the charter is granted the hotel profits will suffer ?—That, I think, is the position ; but I think the general principle that I outlined is a fairly sound one, that where an hotel is available it is a club for every one.

1286. In our view, the conditions for consuming alcoholic liquor in a properly conducted club are inherently better than those in a licensed hotel or a licensed bar, for the following reasons:—

(1) Clubs exist, as the definition in the statute indicates, for private social intercourse, convenience, and comfort. Incidental to these purposes they provide comfortable rooms, sometimes including dining-rooms for meals and bedrooms for the accommodation of members. They provide also for lawful games. The members of these clubs are interested in social enjoyment as well as in the consumption of alcoholic liquor. There is no reason for the club to push the sale of alcoholic liquor, because the club is not run to make profits.

(2) All properly conducted clubs restrict their membership to those persons who have maintained and are likely to maintain a certain standard of reputable conduct. Members expect that other members will maintain this standard The sense of self-respect and of the need of self-control is strongly supported by the corporate feeling. No member of a good club would willingly lower the standard expected of him. Hotel bars, on the contrary, are open to the public. Entry therein is not subject to any test of good reputation. There is no standard supported by corporate feeling to which the individual feels he must conform.

(3) In properly conducted clubs there is provision for drinking in a leisurely and comfortable manner while the member is seated. There is comparatively little provision for this class of drinking in hotel bars.

1287. Our conclusion is that a charter should not be refused merely because a club would or might compete with an hotel.

1288. One difficulty in determining whether a charter should be granted is the difficulty of determining whether the club is of the kind which is likely to be properly conducted. On this subject the New Zealand legislation, while more ample than the English legislation, remains in the sketchy form it had in the Licensing Act of 1881. Much more detailed provisions are contained in the Licensing laws of those Australian States we have considered on this subject—viz., those of New South Wales, Victoria, and South Australia. The provisions in these States are similar in plan and in structure. The most recent reconsideration of them was by the Victorian Royal Commission on Licensing, which reported in 1944.

1289. We set out in Appendix E the principal provisions of the Victorian legislation on the qualifications of a club for registration, and we refer also to the amendments suggested by the Victorian Licensing Commission of 1944.

1290. Legislation similar to the Victorian may be found in sections 134, 135, and 140 of the Liquor Act of 1912 of New South Wales, and sections 93, 94, and 102 of the Licensing Act, 1932–1936, of South Australia.

1291. All these Australian statutes contemplate primarily that a club will provide accommodation maintained from the joint funds of the club for the members and guests of the club. The Governor in Council is, however, enabled by Proclamation to exempt clubs primarily devoted to some athletic purpose from compliance with the requirements for accommodation (see section 135 of the Liquor Act, 1912, New South Wales; section 252 (2) of the Licensing Act, 1928, Victoria; and section 94 (2) of the Licensing Act, 1932–1936, South Australia).

1292. The objections which may be made in Victoria to the grant or renewal of the registration of a club may also be made in New South Wales and South Australia.

1293. In England, after the war broke out, objections to registration were authorized by the Defence (General) Regulations of 1939, para. 55c (4). The principal grounds of objection were:—

(*a*) That, having regard to existing facilities for social amenities, recreation, and refreshment and to the objects of the club, the club is not required to meet a genuine and substantial need; and

(*b*) That the premises of the club are, or their situation is, unsuitable for the purposes thereof.

1294. With the aid of provisions such as we have set out, we think that a suitable authority would have no great difficulty in determining whether a club had been established to meet a genuine and substantial need and was of such a character as to be entrusted with a charter.

1295. The first distribution of new charters should be made by the same body as distributes hotel licenses. That national authority could take into account the publican's licenses proposed; but the mere fact that a publican's license would compete with a club license should not be allowed to prevent the grant of a club charter wherever that appeared upon a consideration of all the circumstances to be reasonably required.

1296. The next question is as to *the kinds of charter* which should be granted. In New Zealand the law provides for a provisional charter, which continues for one year, and then for the grant of a permanent charter, which does not come up for yearly renewal but continues subject to the payment of the annual fee and the observance of the conditions upon which the charter was granted.

In the Australian legislation we have considered the procedure is different. In New South Wales, Victoria, and South Australia every club must be registered under a certificate of registration which continues for one year only and then requires yearly renewal by the Licensing Court after the hearing of any objections which may be made (see sections 144 and 148 of the New South Wales Act of 1912; sections 253, 260, and 264 of the Victorian Act of 1928; and sections 95 and 104 of the South Australian Act of 1932–1936). Under the Australian legislation, also, club premises may be changed under the authority of a certificate of removal obtained from the Licensing Court after the consideration of any objections (section 145 of the New South Wales Act—section 261 of the Victorian Act, and section 111 of the South Australian Act). The question arises whether yearly renewals should be adopted in New Zealand either generally on in respect of certain types of charter. (We deal with this matter in our report on remedies.)

Owing to the growth of clubs with large memberships of young men founded on an interest in war service or in sport, the question arises whether it would be wise to entrust these clubs with charters authorizing the sale of spirits as well as of beer. Two Magistrates—Mr. Paterson, S.M., and Mr. Luxford, S.M.—have each separately recommended more than one kind of license for clubs. Mr. Paterson said (R. 139):—

> I would sugggest that two or more forms of charter should be provided for in the case of *bona fide* clubs: (1) general charters as now; (2) limited charters—*i.e.*, limited to sale (*a*) by glass only, (*b*) of specified liquor (*e.g.*, beer only); (3) limited as to times or occasions, similar to conditional licenses.

Mr. Luxford, S.M., suggested (R. 6481 and 6548) the continuance of the full charter in appropriate cases, but the issue in other cases of a club locker license which would permit a member, if he desired it, to have in a locker provided for him by the club a limited supply of beer and light wine each week. (We shall state our conclusions on these matters in our recommendations as to remedies.)

1297. The question of a special type of license for cricket matches was raised by the management committee of the New Zealand Cricket Council (R. 5218). It was suggested that the licensing laws should be amended to make provision for the sale of alcoholic beverages at the major cricket matches in the four main centres—viz., at Eden Park, Auckland; the Basin Reserve, Wellington; Lancaster Park, Christchurch; and Carisbrook, Dunedin. The matches on these grounds usually continue over several days from 11 a.m. to 6 p.m.

It was suggested that licenses should be granted to the authority in charge of each ground or be attached to the ground and that the profit should be devoted to the maintenance and improvement of the ground. In support of this suggestion it was stated that similar facilities were granted in England and in Australia without any objectionable results (R. 5219).

1298. Under the present law the holder of a publican's license may obtain a conditional license under section 82 of the Licensing Act, 1908, entitling him to sell liquor at any cricket-ground as well as at any fair, military encampment, races, regatta, rowing match, or other place of public amusement, or at any cattle-sale yards. No authority controlling a cricket-ground appears to have made arrangements for a conditional license. The objections seem to have been—

(1) The temporary nature of the arrangement and the risk of having to arrange for and deal with a different licensee on each occasion ;

(2) The absence of control by the authority controlling the ground ; and

(3) The lack, probably, of adequate financial return for the authority controlling the ground.

1299. If the proposal of the New Zealand Cricket Association were given effect, the authorities controlling major football and tennis matches would appear also to be entitled to a similar license.

1300. Some anomalies in the existing law have been brought to our notice (R. 6262 and 6263). They are as follows :—

1301. Section 260 (2) provides that the Minister may issue a provisional charter, which is in force for one year.

Section 260 (3) then provides, *inter alia*, for the forwarding, before the expiration of the year, of the last balance-sheet of the club. A newly formed club might not be able to fulfil this provision unless, perhaps, the granting of the provisional charter were delayed for two or three months after the formation of the club. The Australian legislation we have examined does not require the production of any balance-sheet to the licensing authority. We think, nevertheless, that the production of the balance-sheet is useful and that the provision should be retained. Some suitable amendment might be made to overcome the technical difficulty. Either the first balance-sheet might not be required, or it might be provided that no provisional charter should be granted until after the lapse of two or three months from the incorporation of the club.

1302. Section 261 (*g*) provides as follows :—

No person shall have any share or interest in the real or personal property of the club (save as mortgagee), except as a trustee or member.

The object of this clause is the reasonable one of prohibiting what is known in England as "a proprietary club," where an individual, company, or syndicate owns the club, draws the profit from the club, but lets the club actually run it. In these cases the members of the club are only licensees and not joint owners of the property of the club. To-day, however, various clubs which are not proprietary find it desirable to lease some portions of their buildings—*e.g.*, as offices. This practice should not be discouraged, especially when buildings are in short supply. Accordingly, we think that, after the words "save as mortgagee," some further exception should be added, such as "or save as tenant of any part of the property of the club not used for the time being for the purposes of the club." Careful legal advice should be taken upon the drafting of the exception.

1303. Section 262 (6) provides for the compulsory cancellation of a club charter where it is proved that liquor has been unlawfully sold or supplied or consumed in circumstances which would have justified the endorsement of a license. This section stands in contrast with the liberality of the protection afforded to publicans' licenses against forfeiture (paras. 76–78, *supra*). Under this provision a club might lose its license automatically through one wrongful act of a servant.

We think the law should be amended and a discretion given to the authority controlling the club.

PART XII.—THE INVERCARGILL LICENSING TRUST

CHAPTER 63.—STATEMENT OF POSITION

1304. Restoration was carried at the licensing poll in Invercargill in September, 1943. So far as we are aware, the electors had no reason to expect anything but the restoration of the system of licenses to private individuals authorized by sections 10 and 11 of the Licensing Amendment Act, 1910. The method of that restoration was as follows :—

1305. Under section 10, a Licensing Committee was to be elected and, under section 11, this Licensing Committee, at its first annual meeting, was to grant licenses of the description authorized by the Licensing Act, 1908. The number of licenses, other than publicans', was not restricted. The number of publicans' licenses was not to exceed one to every complete 500 electors, or to be less than one to every complete 1,000 electors.

1306. In determining applications for these licenses the owners of premises, in respect of which a publican's license was in existence at the time when local no-license came into force, were to be given preference over applications by other persons, unless some objection, within the meaning of section 109 of the Licensing Act, 1908, was established.

1307. Having regard to the population of Invercargill in 1943, therefore, it could be claimed that not less than, say, twenty-five, nor more than, say, fifty publicans' licenses were to be granted, with preference to previous holders of licenses or their representatives, and that as many wholesale licenses as the Licensing Committee thought fit could be granted.

1308. There arose in Invercargill a division of opinion as to whether these statutory provisions should be carried out. The Government finally decided to establish a Trust, and the legislation enacted had the effect of displacing any claims to preferential rights.

1309. We have already given a general account of the legal constitution of the Invercargill Licensing Trust (paras. 127–134, *supra*).

1310. The Trust comprises six members, all appointed by the Governor-General, of whom three are nominated by the Minister of Justice, two by the Invercargill Borough Council, and one by the South Invercargill Borough Council. One of the members is appointed Chairman by the Governor-General in Council. The present Chairman is a nominee of the Minister, and is, by occupation, secretary and a director of the Southland Building and Investment Co. He is also interested in other businesses in Southland. During the war of 1914–18 he had charge of a Brigade Canteen in Cairo. None of the members can be said to have had any experience in the management of hotels prior to their appointment.

1311. The Invercargill Licensing Trust Act was passed on the 4th April, 1944, and the Trust was expected to open premises for the sale of liquor by the 1st July, 1944.

1312. The Trust provided its finance by arranging for an overdraft with the Bank of New Zealand on current account, secured by a first mortgage and debenture over the Trust's undertaking, and also by borrowing £50,000 from the Government on second mortgage at 4 per cent., subject to a table repayment by March 1954 (R. 5812).

1313. To assist the Trust in choosing sites for hotels, the Town-planning Officer, Mr. Mawson, in company with the Building Controller and the Secretary of the Department of Industries and Commerce, visited Invercargill and suggested sites for hotels (R. 6837)—viz., a site in the centre of the city, where the Kelvin Hotel now is, the Grand Hotel, and the Railway Hotel. They also selected two sites, one at Herbert Street, near Avenal, in North Invercargill, and one near Rugby Park, not far distant from the girls' high school, which, it was suggested, might be used as social clubs (R. 6838) at which liquor might be sold.

1314. The Trust had the various buildings examined by two architects (R. 5777), and it rejected the Railway Hotel site because of the necessity for very extensive alterations to the building. The Trust also found that the owners of other buildings were refusing to sell or were asking what the Trust considered to be exorbitant prices (R. 5576).

1315. The Trust also proposed to erect hotels, restaurants, or other places for the sale of liquor in the suburbs. The municipal poll was fixed for the 27th May, 1944. At the expense of certain residents, a vote of the electors for the Invercargill City Council was taken on the question whether " hotels or other places for the sale of liquor are considered to be required in the suburbs of this city " (R. 5723). To inform the electors of the sites, the exact sites proposed at North Invercargill, Avenal, and Rugby Park were advertised in the press on the 17th May (R. 5833). The valid votes *for* the proposal were 5,294 and *against* the proposal 4,233, a majority of 1,061. Evidence was given to show that the votes at booths in the vicinity of the sites in North Invercargill, if taken by themselves, showed a majority against the proposal (R. 5826 and 5827), but the Chairman considered that, if other booths to the south as well as to the north of the proposed sites were taken into account, the figures would have been about evenly balanced (R. 5832 and 5833). The objectors to hotels or other places for the sale of liquor in the suburbs then applied to the Supreme Court under section 19 (3) of the Invercargill Licensing Trust Act, 1944, but the Court did not sustain the objections. It appears that there is still considerable feeling in Invercargill on the part of some people over the placing of hotels in the suburbs.

1316. For the purpose of carrying on its practical operations, the Trust engaged as its Secretary-Manager an employee of the Campbell and Ehrenfried Co., Auckland, who had supervised that company's hotels.

1317. The Trust first arranged for the construction of two buildings with bars and lounges, known as the Kelvin and the Clyde Hotels. These were erected by the Public Works Department at a cost of £6,000 each. Notwithstanding the overtime worked, the Trust considers that it could have erected these premises at considerably less cost, if it had been granted man-power and materials (R. 5811).

The Trust also arranged for the reconstruction by private contract of the Appleby Hotel, originally a small hotel, so that it provided a public and a private bar.

1318. These three places for the sale of liquor were ready for use by the 1st July. The Kelvin serves the commercial area in the city and has much the largest trade. The other two places serve more the industrial district.

1319. The Trust also arranged for the acquisition of the Brown Owl, a leading tea-room in Dee Street, and installed a liquor bar. Since 1st July, 1944, alcoholic liquors, including spirits, have been available in this restaurant, as well as teas and meals. The alcoholic liquors are served only by male stewards, while the meals, light refreshments, tea, coffee, &c., are served by the female staff.

1320. The Trust purchased the freehold of Newburgh's Buildings in Dee Street, in which the Brown Owl was situated, for £43,000. The primary object of the purchase appears to have been to acquire complete control of the tea-rooms without the restrictions contained in a lease which prevented the sale of alcoholic liquor (R. 5776). The Trust has since moved its offices into the building, and it proposes to use other parts of the building for its own purposes. Though the purchase of Newburgh's Buildings was criticized as being unnecessary for the purpose of establishing a restaurant, and as being expenditure upon an investment rather than on the provision of hotels, it is difficult for us to criticize the decision. Building permits were not available at the time, some central position was required, and the purchase does appear to have provided the Trust with premises which it was free to alter for the purpose of its experiment and also to use for its offices and for other objects connected with the Trust. The purchase also appears to

be very good as an investment. In saying this we are not approving of expenditure by the Trust for the purposes of investment as distinct from carrying out the business of the Trust.

1321. The Trust subsequently proceeded to acquire other sites and premises. It acquired the Grand Hotel and took possession on the 1st March, 1945 (R. 5789). It acquired also Deschler's Hotel and the Milford Hotel, now named the Cecil Hotel (R. 5720). By Easter, 1945, the Trust had also acquired a residence at Avenal and opened it as the Avenal Hotel, and also the adjoining reception rooms and gardens, known as the Elmwood Gardens. The latter is suitable for weddings, receptions, and the like, at which liquor is served (R. 5675). In the Grand Hotel and in the Avenal Hotel lounge bars have been opened.

1322. The Trust also proceeded to build an hotel in South Invercargill near the hospital on the ground that persons from the country visiting their relatives in hospital would like to stay near them. This building has been held up for lack of supplies.

The Trust has also acquired other land for the purposes of a bulk store.

1323. We refer now to the arrangements made for the sale of liquor.

The management of the hotels is not judged by the quantity of liquor sold. Liquor is not advertised by the Trust, though the milk-bar is.

1324. The engagement of from forty to fifty barmen and assistants caused some difficulty, but the staff, mostly returned servicemen, has proved satisfactory (R. 5811). The barmen are forbidden to drink or smoke while on duty (R. 5727) or to "shout," or to serve any one who appears to be intoxicated, or to be under the age of twenty-one years. Bookmaking is prohibited, and the staff is forbidden to allow it.

1325. Cleanliness is emphasized. The staff are equipped with white coats while on duty (R. 5727). In the Kelvin, Clyde, and Appleby Hotels glasses are washed with hot water, but this service had not been provided at the Grand Hotel lounge bar in August, 1945, when we visited Invercargill. The explanation was that the Trust was waiting for a permit to commence alterations. The permit arrived only when we were at Invercargill.

1326. The managers have instructions to put out any one who shows signs of being quarrelsome, and the Chairman of the Trust states that this has had a good effect on conduct in the bars (R. 5790). One barman at the Kelvin Hotel was convicted and fined for serving drink to an intoxicated person, and was dismissed. The Manager was also fined, though there was no evidence that he had any knowledge of the offence (R. 5585).

1327. All the evidence shows that the Brown Owl is well conducted. The police have had no complaints. The Trust claims that the effects of alcohol are much more easily controlled when there is drinking in mixed company (R. 5811).

1328. The Trust encourages drinking while the customer is seated. Observations at the Kelvin, the busiest hotel, show that, during a period of seven weeks from the 3rd June to the 21st July, 1945, 26·2 per cent. of the customers were seated while drinking (R. 5724A). The Chairman said, however, that there was only limited seating accommodation. Once the seats were filled, another two hundred could stand. He said that these circumstances brought the average back very considerably (R. 5772).

Having regard to the fact that drinkers must have been used to standing at the hotels outside Invercargill, we think that, apart from the considerations mentioned by the Chairman of the Trust, the percentage shown as seated is to be regarded as good for a beginning (R. 5772).

1329. We made careful inquiry into the cases of drunkenness which had occurred since the Trust commenced operations. During the first month of July, 1944, when the Trust was new and there was excitement and the barmen were not experienced, there were twelve cases of drunkenness. It is not fair to rely on this month. During the period of six months from the 1st January, 1945, to the 30th June, 1945, there were eighteen cases of drunkenness. At our request, Police Inspector J. B. Young made a detailed

examination of each case and gave the results in evidence. It appeared that only four of these eighteen cases were likely to have got their drink at any Trust Hotel. A fifth case was doubtful. Inspector Young considered that this result indicated good supervision on the part of the barmen, especially in the busy hour between 5 p.m. and 6 p.m. (R. 5642, 5707, 5711, and 5712).

1330. The Trust has also gone to the expense of putting men on the door of the Kelvin Hotel, which does the largest business, to check the entry of those under twenty-one, and any person showing signs of having had sufficient liquor (R. 5727).

1331. The bars close sharply at 6 o'clock, and no after-hour trading is permitted.

1332. We refer now to the prices charged in Invercargill and to the profits made.

In the public bars the prices charged for beer are 7d. for a 12 oz. handle, and 6d. for all other measures, including the 10 oz. handle (R. 5789). Beer is also sold in larger quantities over the counter (R. 5753)—viz., at 2s. per bottle (quart). Certain brands are at 21s. a dozen, or 1s. 9d. per bottle. The local brand is 24s. a dozen. The Southland Brewery, which makes this beer, is underselling the Trust at 18s. 6d. per dozen, plus 1s. 6d. for delivery (R. 5753).

In the public bars spirits are 10d. per nip (R. 5789).

1333. In the lounges of the hotels only bottled beer is sold at 6d. for 5 oz. and 1s. for 9 or 10 oz. In the lounges spirits are 1s. and cocktails 1s. 3d. (R. 5734). The Chairman of the Trust considered that the lounge prices for the measures supplied were 50 per cent. better than in other hotels he knew of in New Zealand (R. 5794).

1334. For the period of nine months ended on 31st March, 1945, the turnover was £146,231, and the net profit was £22,359 19s. 11d., on which £16,082 7s. 4d. was paid in taxation, leaving a balance of £6,277 12s. 7d.

1335. The advantages claimed for the Trust by its supporters are these:—

(1) The Trust, being under a management which is not financially interested in the profits and which is directed to carry on the Trust in the public interest, is able to sell alcoholic liquor as a liquor with dangerous possibilities should be sold—viz., in response to a demand for its use as incidental to social life. In pursuance of this policy the Trust does not advertise its liquor.

(2) The Trust may use its profits in providing good hotels and also good and hygienic conditions in bars for leisured seated drinking.

(3) The Trust sells alcoholic liquor as part of the service of food and drink in a restaurant, thereby assisting to create a better public opinion in respect of alcoholic liquor.

(4) The Trust eliminates competition for hotels and thereby does away with high goodwills.

(5) The Trust eliminates competitive selling of liquors among hotels.

(6) The Trust eliminates after-hour trading.

1336. The disadvantages alleged against the Trust by its critics, most of whom are sympathetic with its aims, are these:—

(1) Even though the Government has provided finance, the final control of the personnel of the Trust should not lie with the Government. The Trust should render an account of its stewardship direct to the people of Invercargill, as well as to the Government. The Trust should be more closely related to the people, either by being largely elected by the people of Invercargill or by being subject to a Licensing Committee (R. 5823 and 5829).

(2) Though the administration of the licensing law under the Invercargill Licensing Trust Act, 1944, is in the hands of the police, the Trust premises are not liable to the quarterly and annual inspections by the police or to periodical control by a Licensing Committee.

(3) The Trust has shown a tendency to act too rapidly and without sufficient consideration in purchasing property.

(4) The Trust has not shown sufficient regard for the wishes of suburban residents in fixing the sites of hotels.

(5) The Trust lacks control of all supplies of liquor in its area and can be undersold in quantities of not less than 2 gallons by the breweries in Invercargill or near Invercargill, and by the wholesale merchants with licenses at the Bluff and "agencies" in Invercargill. It is claimed that the Trust should have control of all supplies of all liquors within its area.

(6) By making drinking attractive in a restaurant the Trust may induce young people of both sexes to learn to drink, even though the Trust does not advertise its liquor.

(7) Though the members of the Trust are not subject to the profit motive, they may become subject to the motive of prestige or success and so acquire a desire to push the Trust's sales of liquor (R. 5850).

(8) The Government audit is not continuous, and is too cumbersome.

1337. The view of the New Zealand Alliance was that the Trust was successful in certain respects, but that it was labouring under certain disadvantages; in particular in respect of the competition of the brewery and wholesale merchants, and in respect of the lack of popular control. The Alliance thought that these disadvantages could be remedied and that the remedies, if speedily applied, might go far to ensure the success of the experiment (R. 5824).

1338. With respect to the Brown Owl, the Alliance said:—

> The Brown Owl experiment is viewed by us with great concern because of the facilities for drinking afforded to young people and to women, who might not otherwise develop drinking habits. The public reactions to it cannot yet be fully measured, although already many people who formerly patronized it as a restautant of high standard will no longer go there.

1339. The attitude of the Presbytery of Southland was expressed as follows (5849):—

> On the one hand, the general control, conduct, and conditions seem to be favourable as compared with the old licensing system. The Presbytery is not in love with the sale of liquor under any condition, but in the *existing* circumstances some find little at which to cavil.
>
> On the other hand, there is a deep-rooted fear in the minds of many regarding this experiment. It is that young people of both sexes may in this way be subtly initiated into their first experiences of drinking, and thus the Brown Owl may become a strong agent in recruiting for the drink habit.

The representative of the Presbytery who gave evidence, the Rev. R. F. Belmer, stated that the view of the Presbytery was expressed in this form because there was not sufficient unanimity to enable a view to be expressed otherwise (R. 5840).

1340. In reply to these comments the Chairman of the Trust stated that he knew of many church people who were supporting the experiment of the Brown Owl.

1341. The opinion of the witnesses generally appeared to be that a proper judgment upon the success or failure of the Trust under its existing legislation could not be made until after the lapse of some four or five years after the return of the country to normal conditions. The Chairman of the Trust was confident of success, and thought that provincial Trusts should be created throughout New Zealand.

1342. In our view, the Trust, as it is at present constituted, has certain advantages and suffers from certain disadvantages. The advantages are these:—

(1) The monopoly of the retail sale of alcoholic liquor in the Invercargill Licensing District is in the hands of a public authority.

(2) The Trust was not obliged to purchase the goodwills of licensed hotels, although the prospect of licenses no doubt increased the values of the premises purchased.

(3) The Trust has a right to sell liquor in such manner, with or without accommodation, as it thinks best in the public interest.

(4) There is no after-hours trading in the lock-up bars.

The disadvantages are these :—

(1) The Trust commenced operations during the war, subject to grave restrictions in building and in the supply of man-power.

(2) There is a lack of suitable hotel buildings available for purchase.

(3) No member of the Trust had experience of the conduct of hotels before his appointment.

(4) There is a lack of staff trained in licensed hotels.

(5) There is a lack of independent inspection.

(6) There is a lack of control of all liquor supplies.

In our view, the question whether this particular Trust (if it continues without independent inspection and without control by a Licensing Committee) will provide a thoroughly satisfactory form of liquor control cannot yet be determined. We agree with local opinion that this Trust would need to run for four or five years after the return to normal conditions before a proper judgment on that question could be formed.

The recommendations concerning Invercargill will be found in the majority and minority reports.

PART XIII.—TOURIST HOTELS AND THE TOURIST TRADE

CHAPTER 64.—STATEMENT OF POSITION

1343. The main tourist resorts of New Zealand include the Bay of Islands, Rotorua, Waitomo, National Park, Lake Taupo, Lake Waikaremoana, the Marlborough Sounds, the Franz Josef and the Fox Glaciers, Mount Cook, the South Island lakes, Milford Sound, and Stewart Island. To reach these resorts most tourists from overseas arrive at Auckland or Wellington.

1344. At the present time hotels which are adequately equipped for overseas tourists exist at Wellington, Waitomo, and National Park, and, probably, with recent improvements, at Mount Cook. In most of the other places mentioned, and particularly at Auckland and Rotorua, the accommodation, when judged by overseas standards, is inadequate.

1345. The State owns hotels or accommodation houses for tourists at the following places :—

In the North Island.—Waitomo Caves, Lake Waikaremoana, Tokaanu (at the southern end of Lake Taupo), and National Park (the Chateau Tongariro).

In the South Island.—Mount Cook (the Hermitage), Lake Te Anau, Lake Pukaki, and Milford Sound.

1346. Save for the accommodation house at Lake Pukaki, which has been leased to a sheep-farmer for many years, the Tourist Department at the present time manages all these hotels. Some of them have been taken over from private persons, who found they did not pay; for example, the Chateau Tongariro at National Park, and the Hermitage at Mount Cook. The hotel at Lake Te Anau was leased, but the lessee made no sufficient profit, and the Department took it over.

The hotel at Tokaanu was making a profit, but the raising of the level of Lake Taupo in the course of hydro-electric development interfered with the drainage of the hotel, and the State purchased the property.

1347. The daily inclusive tariff which the Tourist Department charges at its several hotels appears to be moderate, having regard to the standard of accommodation and the remoteness of the hotel. For example, the tariff at Waitomo and at Lake Waikaremoana is £1 1s. per day; at Tokaanu, 18s. per day; at the Chateau Tongariro, 16s. to £1 10s. per day (R. 6045); at the Hermitage, Mount Cook, £1 to £1 5s. per day; at Te Anau, £1 per day from November to April, and 16s. per day from May to October; at Milford Sound, £1 per day.

1348. The following hotels have either publicans' or accommodation licenses: Tokaanu; the Hermitage, Mount Cook; Te Anau; and Lake Pukaki (this hotel being leased).

The remainder have no liquor licenses—viz., Waitomo and the Chateau Tongariro, which are both in the King-country; Lake House at Lake Waikaremoana and the Milford Sound Hotel, which are both in license districts.

1349. For the year ended 31st March, 1939, the financial results as shown by the working accounts of the hotels then managed by the Tourist Department were as follows:—

(1) Hotel Waitomo, a net profit (omitting shillings and pence) of £1,428. (This hotel, although it has no liquor license, has a special revenue from Caves' fees which, for the year in question, amounted to £7,846.)

(2) Lake House, Waikaremoana, a net loss of £2,200.

(3) Chateau Tongariro, a net loss of £4,501.

(4) The Milford Sound Hotel also made a loss, but the amount cannot be stated as the expenditure and revenue figures were included in the combined operations for the Milford Track.

1350. Since 1939 the Department has taken over the management of the following hotels: The Hermitage, Mount Cook; the Te Anau Hotel (R. 6048); and the Tokaanu Hotel.

1351. For the year ended 31st March, 1945, all the hotels managed by the Tourist Department during the year, except the hotel at Tokaanu, made net losses, as shown by the working accounts, as follows:—

	£
Waitomo	3,686
Lake House, Waikaremoana	3,094
The Hermitage, Mount Cook	2,728
Lake Te Anau	3,558

The Tokaanu Hotel made a net profit of £1,083.

During this year ended 31st March, 1945, the Chateau Tongariro was in the occupation of the Mental Hospitals Department, and the Milford Sound Hotel was closed.

1352. We do not think it surprising that the tourist hotels made heavier losses than usual during the latter part of the war.

The view of the Tourist Department is that these losses are incurred for the larger gain of the community. By way of illustration, the Department explained its view of the tourist trade in 1939. For the year ended 31st March, 1939, the Department brought to New Zealand 8,708 cruise passengers. Allowing, on a moderate estimate, that each spent £10 in the country, the total amount expended was some £87,000. In addition, during that year the Department estimated there were 14,000 independent tourists (those who came in twos and threes). According to a check of pre-war tours made by the Department, tourists of this kind from the United Kingdom spent in New Zealand on travelling and accommodation about £72 per head, tourists from the United States about £45 per head, and tourists from Australia about £36 per head. On the whole, the Department estimated that tourists, whether conducted by the Department or not, were spending in the country before 1939 more than £1,000,000 per annum on all their items of expenditure.

1353. The Department takes the view that the losses on tourist hotels are well incurred when they contribute so materially to the economic advantage of the country as a whole.

In our view, the Department's reasoning is sound, as also is the Department's conclusion that, as first-class accommodation for tourists is not likely to pay on its own account, whether in the hands of private enterprise or of the State, it is the duty

of the State to undertake the construction of suitable modern hotels at the tourist resorts. On the other hand, the Department considers that in a city like Auckland it should not be necessary for the State to provide a modern hotel (R. 6047). On this point, however, consideration should be given to the suggestion of Mr. J. W. Collins (R. 6294) that New Zealand should have an hotel comparable with the best hotels overseas which would be suitable for housing an Imperial Conference or an International Conference. An hotel of this kind might have to be built by the State. Even though the hotel itself were run at a loss, it would be regarded as a building of national consequence, and would, of course, be available for overseas tourists as well as for residents of this country.

1354. The State has not hotels at the important tourist resorts of Rotorua or the West Coast glaciers. As we have indicated (para. 633, *supra*), some first-class fireproof hotel (preferably with a view overlooking the lake) is required at Rotorua. In due course a first-class hotel will be required at one of the West Coast glaciers.

1355. We recommend that careful consideration should be given by the Tourist Department to the question whether, if private enterprise does not undertake the building in due course of new modern tourist hotels to required standards, the State should do so.

1356. In order to ensure the provision of suitable hotels at tourist resorts generally, the Tourist Department suggests that a national authority should specify standards of accommodation and that hotels should be graded according to these standards (R. 377). The Department suggests also that minimum standards should be laid down governing the conditions under which the hotel staff is required to work, with particular reference to the kitchen and living-quarters.

1357. The Department suggests that the best of the hotels should be specially selected for certain privileges, viz. :—

(1) The grant of a house license, which would permit the supply of liquor to guests only :

(2) Provision for dancing in the hotel in the evening.

1358. On the question whether some form of license should be granted to specially approved hotels at tourist resorts, we note that all Licensing Committees who dealt with the matter were in favour of the proposal—viz., the Licensing Committees of Hamilton, Rotorua, Raglan, Waikato, Franklin, New Plymouth, Stratford, Egmont, Palmerston North, Pahiatua, Patea, Wanganui, Rangitikei, Waimarino, Buller, Westland, Hurunui, Christchurch, Avon, Riccarton, Lyttelton, Wallace, and Awarua.

The Licensing Committees of Patea and Wanganui agreed with this view, but thought that the interests of the Natives should be safeguarded.

Mr. Paterson, S.M., thought that licenses should be granted at tourist resorts. The Commissioner of Police saw no objection, neither did Inspector Scott, of Dunedin, nor Inspector Young, of Invercargill. The proposal was also supported by the North and South Island Motor Unions, the South Island Local Bodies' Association, the Otago Labour Representation Committee, the Rotorua Borough Council, and the Hotel Workers' Federation. Indeed, only one witness, who was opposed to the tourist trade generally, and the representative of the Methodist Church, which was opposed to the grant of licenses for tourist resorts in no-license districts, were the only witnesses who expressed objections to the grant of licenses at tourist resorts.

1359. The argument in favour of granting licenses is threefold, viz. :—

(1) Many guests take their own liquor to these resorts ;

(2) Overseas visitors complain that they cannot get liquor at these resorts ; and

(3) The management has no control over the consumption.

1360. The Department suggests that the license should take the form of a "house license." This license would permit the service of liquor by the glass to guests at meals, and also, from a slide, in the lounge or in a part of the lounge shut off from the rest. Guests would be able to consume the liquor while seated. The house license would not permit of sales of bottles for removal, and so would not permit purchases for consumption in bedrooms (R. 787).

1361. This type of license, being a license to serve guests only, would permit of extended hours of sale, but it would probably be advisable to fix a closing-time.

1362. The Department proposes that the house license should be granted only to the specially selected hotels, the selection to be made by a national authority. These hotels would be those graded for the purpose.

1363. We state our conclusions on these matters in our report on remedies.

1364. *Hanmer Springs.*—The Directors of The Lodge, which is a large private hotel situated at Hanmer Springs, desired us to recommend the issue to The Lodge of a guest or house license, along with other guest or other house licenses for tourist hotels.

1365. The circumstances at Hanmer are peculiar. Under section 5 of the Tourist and Health Resorts Control Act, 1906 (re-enacted in 1908), the control of the Hanmer Thermal Springs Reserve, together with other reserves, was vested in the Minister of Tourist and Health Resorts, but by section 130 of the Reserves and other Lands Disposal and Public Bodies' Empowering Act, 1921, the control of the Hanmer Thermal Springs Reserve was vested in the Minister of Health (R. 5357). This statutory change of control was in keeping with the purpose for which Hanmer has been used. There are springs in the bathhouse area, and a hospital has been established with special facilities for the treatment of patients suffering from various forms of neurosis. Both soldier and civilian patients are treated. These buildings are, however, in separate grounds from The Lodge.

1366. Opposition to the grant of any license was expressed by the Presbytery of Christchurch, and we referred the matter to the Department of Health. The Director-General of Health and the Medical Superintendent at Hanmer have both expressed the view that the granting of a publican's license to The Lodge at Hanmer Springs would not be in the best interests of the patients (R. 6063 and 6441). Professor D'Ath, Professor of Pathology at Otago University, agreed with this view (R. 5928). We subsequently asked these authorities whether they would object to the grant of a house license to The Lodge under which only *bona fide* guests and their friends were supplied with liquor for consumption on the premises. The Department of Health and Professor D'Ath have informed us by letters of the 7th and 13th June, 1946, that they would not object to such a license.

1367. We see no reason, therefore, why the authority which distributes new licenses should not, if it thinks fit, grant a house license to The Lodge at Hanmer Springs.

CHAPTER 65.—THE TOURIST AGENCIES AND THE NEW ZEALAND HOTEL-KEEPERS

1368. The Tourist Department endeavours to induce the leading travel agencies throughout the world to sell tours to New Zealand. The Department pays a commission of 10 per cent. to these agencies on the value of these tours, and it expects to receive a commission by way of reimbursement from the hotels and transport agencies in New Zealand which benefit from the tours. The New Zealand hotel-proprietors are usually willing to bear this commission, but a few have insisted on increasing their tariff for these tourist bookings by an amount equal approximately to the commission which they pay.

1369. In view of the great benefit which the hotels derive from these bookings the Department considers that it should be a condition of an hotel license that the licensee must accept accommodation coupons at standard rates issued by the Government Tourist Bureaux or recognized New Zealand travel agencies, and must allow the issuing organization a commission of 10 per cent. on the value thereof.

1370. In view of the value of the tourist traffic to New Zealand and to the hotel-proprietors themselves, as is recognized by the general practice of allowing the commissions, we think the Tourist Department's proposal is reasonable and we recommend it. We recommend that the Liquor Trade Inspection and Advisory Board, which we propose be the authority to decide which agencies, in addition to the Government Tourist Bureaux, shall have the right to issue the tourist coupons.

Central Travellers' Bureaux

1371. We think also that the Government Tourist Bureaux and these agencies should combine to operate in the main centres of the Dominion a Central Travellers' Bureau for advising any travellers of accommodation which is available. This practice is adopted in continental countries. If the Bureau were established, the hotels could keep the Bureau advised from day to day and, if necessary, from hour to hour, of rooms which became vacant. The Bureau would need to be kept open sufficiently long to enable travellers arriving by late trains to obtain advice as to accommodation.

1372. We think the cost, or the main cost, of each Bureau should be met by the Government Tourist Department.

PART XIV.—CHATHAM ISLANDS

CHAPTER 66.—STATEMENT OF POSITION

1373. The Licensing Committee of the Chatham Islands sent us a report referring to the isolation of the Islands, the lack of social amenities, the lack of religious or moral teaching, the drinking-habits of the Maoris, and the conduct of the two hotels at Waitangi, each owned by the same person.

1374. The views expressed by the Licensing Committee were opposed in written statements from the licensee and from certain Maori and European residents of the Islands. We have also had oral evidence from Mr. Seton Henderson, a member of the Licensing Committee; from certain police officers who had been on duty in the Islands; from the Rev. L. K. Collins, who had been a vicar of the Church of England in the Islands from 1939 to April, 1944; and from Mr. A. J. Lambert, who had been a school-teacher in the Islands from November, 1940, until August, 1945. We propose to express the views we have formed after a careful consideration of all the evidence.

1375. The Chatham Islands was constituted a special licensing district in 1882. It now continues as such under section 14 of the Electoral Act, 1927. The Licensing Committee is appointed by the Governor-General in Council. It comprises the Magistrate (a retired police officer) who is Chairman, and two nominees.

1376. In 1913 the Islands were proclaimed a district under section 43 of the Licensing Amendment Act, 1910 (*N.Z. Gazette*, 1913, p. 675). Thereafter it became illegal to supply liquor to a Maori woman, except for medicinal purposes, or unless she was the wife of a European. It also became illegal to serve male Maoris, except on licensed premises, or for medicinal purposes. The Proclamation was due to the fact that liquor had been finding its way into the Maori pas and to the Maori women. After the Proclamation, the police officers were able generally to control the liquor trade until after the outbreak of the war in 1939 and the more or less concurrent distribution of family allowances to the Maori families under the Social Security Act.

1377. In considering the position, we think the general state of development in the Islands should be taken into account. The population is, for the most part, scattered. The settlers and the Natives usually come to Waitangi only for stores or when the steamer arrives. In 1937 the population was 701, which is the highest number reached. To-day the population numbers about 500 people, of whom 350 are regarded as Maoris. It is sometimes difficult to tell whether a person is a half-caste

quarter-caste, or three-quarter caste. Illegitimacy is common. The birth register is sometimes insufficient to determine the degree of caste. Sometimes births are not registered at all.

1378. This scattered population has to-day some of the organization and equipment of a developed community. There is a Magistrate, a policeman, a post-office, a hospital, and a doctor. There are five primary schools with qualified teachers. There are usually stationed on the Islands a clergyman of the Church of England and a priest of the Roman Catholic Church. There is usually also a minister of the Maori Ratana Church.

There is a County Council. Some culverts and bridges have been built, but only a short length of formed road. Most of the settlers are now connected by telephone. Recently two public halls have been built. Most families have wireless sets. There are a few motor-vehicles on the Islands.

The war brought about a reduction in the number of teachers. Two schools were closed. After April, 1944, there was no European clergyman on the Islands. This was due, we understand, to war conditions.

Since the war, communication with New Zealand has been only at long and irregular intervals. Freights have been high.

1379. It is in this general setting that two hotels have been conducted at Waitangi, each with an accommodation license. The owner of them during the period which is material to our discussion, one Boyd, acquired them as follows: He purchased the Traveller's Rest Hotel in April, 1935, for £2,350, subject to two mortgages on the property totalling £1,600. He obtained also an advance of £750 on bank overdraft, guaranteed by Ballin Bros., Ltd. On this purchase the buyer found no cash himself. The same person purchased the Hotel Mongoutu in December, 1936, for £4,000, subject to a mortgage on the property of £2,500. He obtained also an advance of £1,250, secured by guarantee from Ballin Bros., Ltd. On this purchase the owner found £250. Of the price payable on the purchase of the two hotels, totalling £6,350, therefore, the owner found personally only £250. The owner held the license of the Travellers' Rest Hotel, while a manager held the license of the other. Boyd remained the owner of both hotels until February, 1946, when he transferred them to a purchaser.

1380. Each hotel is only about 100 yards distant from the other. This may possibly be in breach of section 78 (3) of the Licensing Act, 1908, but we do not know whether the two licenses were granted simultaneously. This should be investigated.

1381. Neither hotel can be seen from the other. Each hotel has a store and a bar separated by a partition. (We understand that at one time there was no partition, but that the Licensing Committee objected, and the partition was erected.) When the settlers visit Waitangi they do so for stores, and drink is thus readily available. The evidence shows that the Europeans are temperate. The trouble lies with the younger Maoris, estimated to number some 200.

1382. Conditions seem to have become bad after a new policeman went to the Islands in 1941. He is said to have been lax in his duties. The younger Maoris got out of hand. Their main source of income is the family allowance under the Social Security Act. There appears to be little parental control.

1383. The Rev. Mr. Collins informed us that he had seen Maoris with bullock wagons carrying away jars, barrels, and anything that would contain beer and spirits from the hotels (R. 5335); that beer was not the only drink sold; that gin was a favourite drink of the Maoris; and that another was Manhattan Cocktail (R. 5337); and that he had seen mere boys riding horses drinking from bottles, and that he had seen girls drinking also (R. 5342).

Mr. Seton Henderson informed us (R. 1402) that tuberculosis is fairly prevalent on the Islands, and also that one will at times see boys of thirteen and upwards drunk.

Mr. A. J. Lambert, the school-teacher, who said he was neither a total abstainer nor a drinker to any great extent, stated that an insidious and increasing growth of adolescent drinking was taking place whenever opportunity arose.

1384. Mr. Lambert also gave a description of the "parties" which the Maoris have. He said that weddings, *tangis*, christenings, birthdays, farewells, and shearing were made the occasion of illegal "off" drinking; and that these "parties" last as long as the liquor lasts, and that, as "reinforcements" are easily obtained, these celebrations can be continued into the second morning with serious effects upon the drinkers and their children and their home and family life (R. 6280). Mr. Lambert said that the Maoris may have three rooms housing a family of thirteen children and two adults, and that the visitors would be present in addition (R. 6309).

1385. For the years 1943 and 1944 the liquor takings from both hotels were as follows: for 1943, £3,994; for 1944, £4,714.

The price of beer is 6d. for a small glass, estimated by Mr. A. J. Lambert as either 5 oz. or 7 oz. The retail price of bottled ale is 33s. a dozen (R. 6314, 6268, and 6271). According to the statement supplied to us on behalf of the owner, the average net profit for the three years ended 31st March, 1944, for both stores and hotels combined was £602 per annum (R. 6268). The moneys advanced by the bank were, however, satisfied several years ago by the owner's banking account coming into credit.

1386. Reference was made by some witnesses, including Superintendent Scott, of Christchurch, who was in the Islands in January, 1945, to the numerous bottles and heaps of bottles to be seen just off the tracks all over the Islands. An explanation was given by the owner that he did not now collect the bottles because the high freight on empties did not justify their return to New Zealand. The point, however, seems to be that bottles in such quantity would not be likely to be seen so far away from the hotels unless there had been many illegal sales for "off" consumption.

1387. We accept the evidence as indicating that the law concerning the sale of liquor to Maoris has not been observed in the Islands for some years past, and also that the law has not been enforced as it should have been. The explanation as to the lack of enforcement is that one hotel could not be seen from the other and that, while the constable was at one hotel, he could not be at the other. We think, however, that, from 1941 to 1945, the constable then in charge must have been lax in the performance of his duties. In 1943 representations were made by the Licensing Committee to the Commissioner of Police to have the constable transferred, but no transfer was effected until the latter half of 1945. This may well have been due to the difficulties which the Commissioner faced during the war.

1388. The deeper reasons underlying the attitude of the younger Maori towards his environment were suggested by the school-teacher, Mr. A. J. Lambert. He considered that the balance between the younger Maori's community and his environment had been upset and that his social responses did not conform to any accepted pattern. He thought that the Maori community was of a particular type which had no parallel in New Zealand. The development and health of these people were retarded by numerous factors. The only Maori social forms persisting—the *tangi* and the *hui*—had been allowed to degenerate into mere excuses for excesses in drunkenness and other evils, of which the children were interested spectators. Mr. Lambert thought that the Maori home life on the Islands lacked integration, and that the Maori was without spiritual or religious guidance and instruction in the accepted meaning of those terms.

1389. On the evidence submitted to us, we conclude that many Maoris on the Islands have at the present time too much leisure, too much money, and do not know how to use either of them. It appears, too, that many feel an antagonism towards their European environment. According to Mr. Lambert, this has been assisted by the

trading methods at the stores. Though there are pennies at the post-office, pennies are not required at the stores for any goods, because all goods are priced in silver coins (R. 6305 and 6313). Matches cost 6d., not 4d. Mr. Lambert gave evidence of overcharging, and said that the law concerning prices and the orders of the Price Tribunal had never been observed in the Islands. He gave an instance of exorbitant charges against a Maori woman.

1390. It seems obvious that if the younger Maoris are not helped there will be a community in the Chathams which is sick in more ways than one.

1391. Both a long-term policy and a short-term policy leading to the fulfilment of the long-term policy appear to be required. It is not for us to deal with the long-term policy. We content ourselves with saying that we think there is scope for the co-operation of several Government Departments—*e.g.* Native, Health, Education, and Agriculture—such as occurred when the Te Kao settlement in Northland was succoured more than ten years ago. At that time the Te Kao settlement was among the most backward of the Maori communities. To-day, we are informed, it is among the most forward.

1392. In Mr. Lambert's view, the short-term policy involves dealing with such matters as :—

(1) Insobriety ;
(2) Immorality ;
(3) Mischief ; and
(4) Profiteering and loose business methods.

1393. We limit ourselves to recommendations concerning insobriety. They are these :—

(1) At the present time there are two licenses for 500 people. One license is enough. One license should therefore be cancelled.

(2) The store should be removed from the remaining licensed premises to another building at some distance from it. This would provide more accommodation on the licensed premises. The delicensed hotel could be used to extend the store or, it was suggested to us, be used for a restaurant and perhaps for the provision of more accommodation. According to Mr. Lambert, visitors to Waitangi do not get food unless they are present on "the tick of time," and, on many occasions, a Maori would be unable to obtain accommodation at one of the hotels.

(3) The law should be strictly enforced and the Police Force should be adequate.

(4) The appointment of a Government Administrator might assist the control. He might also assist in the development of the Islands and so provide more work and more interests for the Maoris.

(5) Owing to the difficulty of ascertaining what persons of any Maori caste are entitled to purchase liquor for "off" consumption, all those so entitled, whether European or three-quarter caste Maori, should be ascertained by inquiry before the Licensing Authority and registered. On registration, each person should be required to supply a specimen signature. When purchasing drink, otherwise than by the glass, such persons should be required to sign for the liquor.

PART XV.—THE NEW ZEALAND WINE INDUSTRY

CHAPTER 67.—INTRODUCTORY

1394. In 1943, according to the evidence of the Department of Agriculture, 309,000 gallons of wine, practically all of the sweet fortified type, were produced in New Zealand from 404 acres of grapes, a production representing an average of 764 gallons of wine per acre (R. 398). Accepting this figure, the average was high compared with the Australian average for similar wine of approximately 250 gallons per acre (R. 6638). The New Zealand average was made possible by the liberal use of cane-sugar (R. 6637).

Since this evidence was given we have been informed by the Department of Agriculture that in 1944, 348,000 gallons of wine were produced from 480 acres of grapes, and that in 1945, 357,000 gallons of wine were produced from 502 acres of grapes. We are also informed by the Department that the number of winemakers increased from 135 in 1944 to 170 in 1945.

1395. The figures supplied to us by the Census and Statistics Department show a much lower New Zealand production for 1943 and 1944—viz., in 1943, 225,293 gallons, and in 1944, 188,232 gallons.

1396. Apparently the Census and Statistics Department obtains its figures from the Labour Department, which is entitled to receive returns from factories which employ at least two hands or use motive power and which should, consequently, be registered under the Factories Act with the Labour Department. This provision does not apply, we understand, to Government Departments. The Labour Department, therefore, does not recieve a return from the Government Experimental Station at Te Kauwhata, which had a wine production in 1944 of 17,480 gallons and in 1945 of 14,125 gallons.

The Department of Agriculture obtains its figures from voluntary replies to a questionnaire which it sends out annually to all licensed winemakers.

1397. The discrepancy between the returns submitted by the two Departments is so great that some inquiry should be made with a view to establishing a method of ascertaining correctly the annual wine production of New Zealand.

1398. Most of this New Zealand wine, whatever its exact quantity, has been far inferior to that which could be imported (R. 392). The Department of Agriculture states that more than 60 per cent. of the wine made by the smaller winemakers is infected with bacterial disorders of one form or another (R. 394). The Vine and Wine Instructor of the Department, Mr. B. W. Lindeman, said that over 50 per cent. of the product was poor and markedly inferior (R. 1030). The Department also said that at the present time a considerable quantity of wine made in New Zealand would be classified as unfit for human consumption in other wine-producing countries, and that this was due mainly to the lack of knowledge on the part of the winemakers (R. 391).

1399. Clearly there is a strong case for the reorganization of the New Zealand wine industry. Much evidence on the subject was given, revealing, unfortunately, great conflict of opinion.

1400. The Department of Agriculture submitted new proposals, embodied in new regulations. These were supported by members of the New Zealand Wine Council, a group of the larger manufacturers of wine in New Zealand. Many of these proposals were opposed by the New Zealand Viticultural Association, an association comprising the smaller wine-manufacturers, who said that they would be put out of business if the Department's proposals were adopted. The Department's reply to this argument was that many of the small winemakers did not depend upon winemaking for a living, and that, if they could not comply with the improved standards proposed, they should go out of business.

1401. On the other hand, one of the basic proposals of the Department of Agriculture, supported both by the New Zealand Wine Council and by the New Zealand Viticultural Association, was the continued use of cane-sugar on a liberal scale. This proposal was adversely criticized by the Dominion Analyst at Wellington and by the Government Analyst at Auckland, and also by the representative of the large Australian company, McWilliam's Wines Proprietary, Ltd., who stated that his company was prepared to make wine in New Zealand without the addition of cane-sugar. The burden of this criticism was that the wine which was being made in New Zealand was not really wine, the produce of grapes, but a spirituous liquor the produce of grapes and, to a much larger extent, of cane-sugar, and that, if the product were permitted to be manufactured at all, it should be labelled "grape and sugar wine." The reply of the Department of Agriculture and its supporters to this criticism was that, if sugar were not permitted,

the industry would come to an end, as practically the whole demand in New Zealand was for a fortified sweet wine, which, in their view, could not be made commercially in New Zealand without the use of cane-sugar.

1402. The very fact that almost the whole demand in New Zealand is for a fortified sweet wine is curious when it is realized that the climate of New Zealand is not suited to the production of this type of wine. Our climate is not sufficiently warm and sunny. On the other hand, the climate of certain areas, and, in particular, of Hawke's Bay, is well suited to the production of a light beverage wine. The representative of the McWilliam's Company said that there was a demand for this type of wine, that his company had been unable to get enough Australian unfortified wine to New Zealand to suit the better-class hotels and also private buyers (R. 6653), and that the company assumed that the demand would be created if the supply were available, just as it had been in Europe, where 95 per cent. of the consumption of the major wine-consuming countries, such as France and Italy, comprised light dry wines (R. 6638).

1403. The Department of Agriculture endorsed the view that the climate of New Zealand was much better adapted to the production of light natural beverage wines than of sweet fortified wines (R. 404), but the evidence of the Department's Vine and Wine Instructor seemed to us to be much more directed to the maintenance and development of a fortified-sweet-wine industry than to the development of a light-wine industry, for which the country is better suited. We can understand that this attitude would be due to the desire of the Instructor to assist the existing winemakers to supply the existing demand. For example, the present Government Station at Te Kauwhata is adapted to the production of sweet fortified wine. New capital has also been invested by the larger winemakers in improving their vines and their equipment for producing this kind of wine. The development of a demand for the light type of wine which would be desirable in the public interest was left by the Inspector to the gradual creation of demand by winemakers as they were prepared to produce good wine of this type and to offer it to the public.

1404. The question is whether, if the production of sweet fortified wine is encouraged and assisted, any demand will ever be created for the lighter type of wine.

1405. We think that the best way of dealing with the problem of the wine industry is to give, in one chapter, a short history of it in New Zealand and then to consider in subsequent chapters the difficulties which occur at various stages in the industry, from production to sale, and some of the remedies proposed.

CHAPTER 68.—HISTORY OF THE WINE INDUSTRY IN NEW ZEALAND

1406. Vines appear to have been first planted in New Zealand by James Busby in 1832. From this stock, cuttings were taken by settlers and the vines were spread. Wine was made commercially at the Bay of Islands in 1856, but the venture was abandoned in 1866.

1407. In 1865 and in 1870 vineyards were established at Greenmeadows, in Hawke's Bay, one of these being the Mission Vineyard of the Roman Catholic Church. About 1875 a vineyard was established near Auckland.

1408. In 1881 section 3 (3) of the Licensing Act of that year provided that the Act should not apply to any person selling wine, cider, or perry in quantities of not less than 2 gallons at any one time the produce of grapes, apples, pears, or other fruits respectively of his own growth and not to be consumed on the premises. Section 29 of the Act provided for the grant of a New Zealand wine license; and section 31 provided that a New Zealand wine license should authorize the licensee to sell and dispose of, on the premises therein specified, between the hours of 6 a.m. and 10 p.m., any wine, cider, and perry the produce of fruit grown in New Zealand, of a strength not exceeding 20 per cent. of proof spirit, in any quantity not exceeding 2 gallons at any one time to any one person: Provided that such licenses be granted in boroughs only.

1409. As the Licensing Act did not apply to any person selling New Zealand wine in quantities of not less than 2 gallons for consumption off the premises, the New Zealand wine license was apparently intended to enable either the grower, who made the wine, or a purchaser from him, to sell the wine retail in a borough. It seems to have been assumed at the time that the wine which was made would not be made beyond the strength of 20 per cent. of proof spirit.

1410. In 1886 and in 1890 vineyards were established at Havelock North. One of these is the largest in New Zealand (Vidals).

1411. In 1891 the Distillation Amendment Act of that year provided for the issue of a wine-still license by the Minister of Customs to the owner or occupier of any vineyard containing not less than 5 acres planted with grape vines and in actual cultivation. The license permitted the licensee to keep and use a still of not less than 25 gallons nor more than 50 gallons capacity, to distill spirit from wine or the lees of wine being the produce of his own vineyard, such spirits to be used only for fortifying the wine produced or manufactured on the vineyard of the licensee and so that the wines when so fortified would not contain more than 40 per cent. of proof spirit. (These provisions are now contained in section 12 of the Distillation Act, 1908.)

These provisions indicate that the fortification of wines was being undertaken by 1891 and that the proof spirit of the wines was rising.

1412. (The Department of Agriculture states that, under these provisions, licenses for stills have been granted in numerous cases where the actual area in production has been less than 5 acres. It may have been only, say, 3 acres, the remaining 2 acres being roughly cultivated and a number of cuttings planted in them. The Department states that the quality of the spirit produced has been very poor and that much of it has caused deterioration of the quality of the wine. It appears that spirit of a strength below 40 per cent. overproof produced by these stills should be retained in store in wooden casks for at least three years prior to being used for fortification, in order that its impurities may be eliminated.)

1413. In 1896 the Orchard and Garden Pests Act of that year enabled the Government to appoint Inspectors for the purpose of keeping down pests. The eradication of Phylloxera, the vine louse which eats the roots of the vine plants, was particularly mentioned. This Act gave the Department of Agriculture a power of inspection over vineyards. (The Act was extended in 1903 and consolidated in 1908 and in 1928.)

1414. In 1898 the Government set aside a small area at Te Kauwhata as an experimental nursery and planted it with vines and fruit-trees. The purpose of the station was to show what could be done with the type of land. The growing of grapes was successful and a winery was erected to utilize the grapes. In recent years the fruit-farm has been discontinued, but the vineyard has been much developed. We refer at a later stage to this development (paras. 1510–1514, *infra*).

1415. In 1902 a vineyard was established at Henderson, near Auckland, which is now the largest producer of wine in the Auckland Province (Corban's).

1416. After the establishment of the vineyard at Te Kauwhata, the Department of Agriculture appointed an Inspector, under the Orchard and Garden Pests Act, who also acted as a Vine and Wine Instructor to assist the growers. The advice and instruction is not given under statutory authority. It is a free service given in accordance with the departmental policy to supply an instructional service to all phases of the horticultural industry.

The first Inspector appears to have encouraged the planting of the Albany Surprise grape in the Auckland and the Waikato districts. This grape is a poor grape for wine-making purposes, but it is resistant to disease, grows well in a moist climate, and may be sold for the table.

1417. At this early stage in the development of the industry there was no restriction (of which we are aware) upon the quantity of sugar which could be used or any regulation of the way in which wine could be made. It appears from the evidence that for forty years past at least 3 lb. of cane-sugar to the gallon have been used in the *must* prior to fermentation (R. 704). It appears, too, that for the last forty-five years water has been added to the *must* to reduce acidity and to permit of fermentation with the addition of so much sugar (R. 3264). It appears also that for the last forty years fortifying spirit has been made out of spent marc and that further sugar has been added to the marc in order to enable the spirit to be produced (R. 700). It is clear also that most of the wine made in New Zealand for forty years past has exceeded 20 per cent. of proof spirit (R. 3268 and 3358).

1418. The next stage in the development of the industry occurred in 1914. It then appeared necessary to authorize the fortification of New Zealand wine up to 40 per cent. of proof spirit in order to ensure that it would keep (*Auckland Star* of 9th December, 1927; Department of Agriculture file 74/14/5). It appeared necessary also to control some winemakers, because of the harmful effect of a so-called "Austrian Wine" on the gumfields (*Hansard*, Vol. 168, p. 830).

1419. Accordingly, section 11 of the Licensing Amendment Act, 1914, provided that wine should not be manufactured, except under the authority of a winemaker's license. "Wine" was defined by section 11 (3) to include for the purposes of the section "any liquor being the produce of fruit (other than apples or pears) grown in New Zealand and of a strength not exceeding 40 per cent. of proof spirit." The section provided that a license should not be granted unless a Magistrate was satisfied, after a report from a senior officer of police, that the applicant was a fit person to be the holder of such a license.

The licensee was authorized to manufacture only the quantity which he stated in his application he intended to manufacture during the year of the currency of his license—viz., a quantity not exceeding 500 gallons, or a quantity not exceeding 1,000 gallons, or a quantity exceeding 1,000 gallons.

The license authorized the licensee to sell his wine and to deliver it from the place specified in his license in quantities of not less than 2 gallons to any one person at any one time for consumption only off the premises. The premises specified for delivery on sale were made licensed premises for the purposes of those provisions of the Licensing Act which related to the closing-hours for licensed premises, prohibition orders, the inspection of licensed premises, and the adulteration of liquor.

1420. This section 11 of the Act of 1914 was limited in its operation in several ways, viz.—

(1) The section required only that the Magistrate should be satisfied that the applicant was "a fit person" to be the holder of a license. This has been held to mean only that the applicant must be a person of good character, whether he knows anything about wine-manufacture or not, and whether his manufacture would create a nuisance in the locality or not: *In the Matter of Luke Lunevich's Application*, (1929) 24 M.C.R. 59.

(2) The definition of wine permitted the making of wine from any fruits, other than apples or pears, grown in New Zealand. This provision permitted persons who had no vineyard of their own to purchase fruits grown in New Zealand, such as oranges or lemons, and to make wine from them anywhere—*e.g.*, in the basements of their premises (R. 414). The provision excluded fruits that were not grown in New Zealand, such as raisins and currants.

(3) The definition of wine also permitted persons who grew grapes mainly for the market to make wine from the thinnings and clippings which are removed from the grapes in order to make them attractive to the retail shops and the public. These trimmings included damaged berries or excess shoulder bunches and the like. Wine is stated to have been made from these trimmings of a very inferior quality under unhygienic conditions and sold on the roadside to travellers over the week-end (R. 415).

1421. After the passing of section 11 of the Act of 1914 the sale of New Zealand wine by a person other than the manufacturer in quantities of not less than 2 gallons and not to be consumed on the premises was still outside the provisions of the Licensing Act and required no license (section 3 (*c*) of the Licensing Act, 1908).

1422. The licensing of winemakers in 1914 made of them a recognized class. A Viticultural Association was founded about 1916 (R. 3260 and 3443). Other vineyards were established, particularly near Henderson. One established there about thirty years ago is now the second largest producer of wine in the Auckland Province (Averill Bros.).

Other producers were mostly Yugoslavs, who planted vines at Henderson. For the most part the Yugoslav winemakers do not depend entirely upon their winemaking for a living, though many do depend very largely upon it.

1423. In 1920 (following the national licensing poll in December, 1919, para. 595, *supra*), section 3 of the Licensing Amendment Act of that year brought the New Zealand wine license within section 30 of the Licensing Amendment Act of 1910 and so prevented the issue of any further New Zealand wine license, except when a license of that description had ceased to exist.

1424. In 1924 the first regulations for the control of winemaking in New Zealand were issued under the Sale of Food and Drugs Act, 1908. We have ascertained from the Department of Agriculture that the regulations were prepared after a study of the Australian and other legislation and regulations. Regulation 76 deals with wine generally; Regulation 77 with carbonated wine; Regulation 78 with medicated wine; Regulation 79 with quinine tonic wine; Regulation 80 with quinine tonic waters; Regulation 81 with ale, beer, porter, and stout; and Regulation 82 with cider.

1425. For present purposes we refer only to Regulation 76 and quote the following extracts:—

WINE

76. (1) Wine shall be the product solely of the alcoholic fermentation of the juice or must of fresh grapes.

DRY WINE

(2) Dry wine shall be wine produced by complete fermentation of the sugar contained in the juice or must of the grapes from which it is made.

SWEET WINE

(3) Sweet wine shall be wine containing sugar derived solely from the juice or must of the grapes from which it is made or added as hereinafter provided.

SPARKLING WINE

(4) Sparkling wine shall be wine which, by fermentation of portion of the sugar contents, has become surcharged with carbon dioxide, and to which sugar and pure wine spirit may or may not have been added. It includes champagne.

PURE WINE SPIRIT

(5) Pure wine spirit shall be the rectified distillate resulting from the distillation solely of wine.

LABELLING

(6) There shall be written in the label attached to every package containing wine the name of the wine in letters of not less than eighteen points face-measurement.

(7) The word "wine" shall not be used in the name, trade name, or description written on or attached to any package which contains a beverage made wholly or in part from fruits or sources other than fresh grapes unless the name of such fruit or other source immediately precedes the word "wine," and unless such name and such word are uniformly written in bold-faced sans-serif capital letters of not less than twelve points face-measurement.

PERMITTED ADDITIONS

(8) To wines made in New Zealand the following substances may be added:—
(i) To grape juice or must—
(*a*) Yeast or ferments:
(*b*) Pure cane-sugar or beet-sugar in such quantity that the proportion of such added sugar does not exceed twenty parts per centum by weight of the juice of the grapes;
(*c*) Sulphur dioxide as the result of the combustion of arsenic-free sulphur or the addition of sulphites:
(*d*) Phosphates of ammonium and of calcium:
(*e*) Tannin.
(ii) To wine or partly fermented grape-juice or must—
(*a*) Pure wine spirit for the purpose of increasing the alcoholic strength to a degree not exceeding sixteen parts per centum of absolute alcohol by volume in dry wine, or twenty parts per centum of absolute alcohol by volume in ports, sherries, and sweet wines.
(iii) To wine—
(*a*) Sulphur dioxide and preparations of sulphur dioxide:
(*b*) Isinglass, gelatine, egg-albumen, casein, Spanish clay, kaolin, and tannin:
(*c*) Concentrated grape-juice or caramel (one but not both).

1426. Upon this regulation we make the following comments:—

(1) Paragraph 1 of Regulation 76 provides that wine shall be the product solely of the alcoholic fermentation of the juice or must of fresh grapes, but paragraph 8 provides for certain permitted additions. Paragraph 8 does not include water. Presumably, therefore, the addition of water for reducing the acidity, which had been a common practice, was prohibited. Nevertheless, from the evidence we have, water has been continuously added since the regulation was made.

(2) Paragraph 1 of Regulation 76 provides for the making of wine only from fresh grapes. Yet, as we have already pointed out (para. 1420 (2), *supra*), section 11 of the Licensing Amendment Act, 1914, expressly enables wine to be made from any fruits, other than apples or pears, grown in New Zealand. Actually, wine has been made continuously from fruits other than grapes. One well-known product in Auckland is made from New Zealand grapefruit and lemons. Paragraph 7 of Regulation 76 contemplates these other sources.

(3) Paragraph 8 (ii) of Regulation 76 enables the alcoholic content of dry wine to be increased to 16 parts by volume—*i.e.*, to approximately 28 per cent. of proof spirit—or of sweet wine to be fortified to 20 parts by volume—*i.e.*, to approximately 35 per cent. of proof spirit—but in both cases only by the addition of pure wine spirit. "Pure wine spirit" is defined by Regulation 76 (5) as "the rectified distillate resulting from the distillation solely of wine." This regulation also has been continuously broken.

1427. The responsibility for enforcing these regulations, under the Sale of Food and Drugs Act, lay with the Health Department. That they did not enforce them may have been due partly to the fact that the winemakers were few, and partly to the fact that some of them would probably have been forced out of business if the regulations had been enforced.

1428. At this stage the following Departments of Government were concerned with the wine industry:—

(1) The Agriculture Department, which was concerned with the inspection of diseases in the vineyard.

(2) The Health Department, which was concerned with the sanitary state of the premises and the administration of the regulations.

(3) The police, who were concerned to see that a winemaker was "a fit person" to be the holder of a winemaker's license. This function was limited to an inquiry as to the winemaker's character and had no relevance to his technical efficiency or the efficiency of his plant. The police were also concerned in the ordinary way with the enforcement of the law generally and in relation to the matters specified by section 11 (15) of the Licensing Amendment Act, 1914 (para. 1419, *supra*).

(4) The Customs Department, which granted the wine-still licenses under section 12 of the Distillation Act, 1908, and which controlled the importation of spirit for fortifying New Zealand wine.

1429. In 1927, various test cases were brought in Auckland by the police (*Auckland Star* of 9th December, 1927, and *New Zealand Herald* of 10th December, 1927). These prosecutions made manifest the following facts:—

(1) Any one in New Zealand could sell wine, exclusively the product of fruit grown in New Zealand, in quantities of not less than 2 gallons at any one time without being licensed.

(2) The holder of a New Zealand wine license was, in fact, selling New Zealand wine containing more than 20 per cent. of proof spirit and was, in fact, blending New Zealand wine with imported wine. Convictions were entered upon these charges, but the defendant was only ordered to pay costs.

(3) New Zealand winemakers could add foreign brandy to their wine, but could not add foreign wine. There was no direct legislative authority for this practice, but a Schedule to the Customs Act allowed a reduced duty in respect of spirits to be used in fortifying New Zealand wines. The Magistrate said that one Government Department was prosecuting the winemakers for what another Government Department approved, and he declined to enter a conviction.

(4) The Magistrate held that the taking of wine by an Inspector under the Licensing Act was not a sale, because the consent of one party was lacking.

1430. In 1928 an Order in Council was gazetted in reliance upon section 137 (2) of the Distillation Act, 1908, suspending the operation of that part of section 12 (1) of the Distillation Act, 1908, which required a still to be of not less than 25 gallons nor more than 50 gallons capacity (*N.Z. Gazette*, 1928, Vol. II, p. 2241). (The words in question were deleted from section 12 (1) by section 30 of the Customs Acts Amendment Act, 1934.)

The inference which may reasonably be drawn from this Order in Council is that larger stills than those permitted by section 12 (1) were being used by New Zealand winemakers or were contemplated for use.

1431. It appears that in 1932 there were about one hundred licensed winemakers. The number had increased by sixty within the preceding six or seven years (Agriculture Department's file 74/14/5 and the memorandum of 12th January, 1942). Some of these winemakers were alleged to be making wine from raisins.

1432. Under the Sales Tax Act of 1932–33 a sales tax of 5 per cent. was imposed on wine manufactured in New Zealand and sold by licensed wholesalers and manufacturing retailers.

1433. In March, 1938, the Government, at the request of the winemakers, increased the protection to New Zealand wines by raising the duty on still wines imported from Australia and South Africa. This protection resulted in an increased sale of New Zealand wine. It enabled, for example, New Zealand port to compete with Australian on a price basis (R. 6667). Some of the larger winemakers then found themselves able to sell their wines to the wholesale trade. Prior to this, New Zealand wines had been generally sold by taking them round in vans and selling them to farmers, or by sending out circulars through the post, or by canvassing from door to door. (The small winemakers are still limited to these methods.)

1434. Since 1938, under the Import Control Regulations, import licenses have been limited to 50 per cent. of the value of importations during the corresponding period in 1938.

From 1938, also, after the appointment of the present Vine and Wine Instructor, Mr. B. W. Lindeman, a policy of more vigorous development of the New Zealand wine industry was pursued. By 1942, new and improved plant and machinery had been installed at the Government Winery at Te Kauwhata.

1435. In 1939, approximately 200,000 gallons of consumable New Zealand wines were available. The New Zealand winemakers asked the Bureau of Industry to require the merchants to purchase 4 gallons of New Zealand wine for every 1 gallon imported. The merchants proposed the converse. We are informed by one of our members, Mr. Coyle, that the merchants take the view that the result was a decision by the Department of Industries and Commerce that the issue of an import license to a merchant depends upon his purchasing 2 gallons of New Zealand wine for every gallon he imports. The Secretary of the Department states he has found no reference to any definite arrangement of this kind. Nevertheless, this quota system is in force (see R. 3195 and Exhibit A. 162).

1436. After the outbreak of war, overseas supplies were restricted and greatly reduced. Especially after the arrival of visiting servicemen there was a big demand for wine manufactured in New Zealand. Wholesalers and hotelkeepers who had not previously purchased New Zealand wine stocked it. The demand was so great and the prices so high that stocks were drawn upon and much immature wine of poor quality was sold. The winemaking and wine-selling practices engaged in at this time created a division among the winemakers. Some stills, it appears, were also being used for the illegal distillation of spirits.

1437. In June, 1940, the sales tax on wine manufactured in New Zealand was increased to 10 per cent. In 1942 the sales tax on all goods was increased to 20 per cent., but it was also increased by an additional 20 per cent. on New Zealand wine. The total increase in the sales tax on New Zealand wine in 1942 was therefore of 30 per cent., making a total of 40 per cent. (sections 10 to 12 of the Customs Acts Amendment Act, 1942).

1438. In July, 1942, the Price Tribunal approved increased selling prices for New Zealand winemakers (Exhibit A. 49).

1439. In July, 1943, Regulation 3 of the Emergency Regulations 1943/122 prohibited the sale of New Zealand wine, cider, or perry in quantities of 2 gallons or more to any one person at any one time for consumption off the premises, except pursuant to a publican's license, accommodation license, wholesale license, conditional license club charter, or a winemaker's license issued under the Licensing Act, 1908, or to a permit, expiring on the 30th September in each year, issued under Regulation 3 by a Magistrate after a report from a senior officer of police. This permit could be issued to the holder of a winemaker's license or a New Zealand wine license. The regulation provided also that no permit should be issued in respect of premises situated in any no-license district or in respect of premises which, in the opinion of the Magistrate, were not suitable for the storage and sale of wine, cider, and perry. This provision extended the requirements of inspection beyond that necessary for a winemaker's license. The police were required to inspect the premises as well as to report upon the character of the applicant.

1440. During the war years the Department of Agriculture came to the conclusion that much of the wine produced, particularly by the small growers, was not such as should be sold. The Department considered that the hygienic conditions of the wineries and the methods of manufacture should be radically improved. For the conditions which existed the Department and the other inspecting authorities do not appear to be free from blame. The visits of inspection seem to have been very infrequent. The president of the New Zealand Viticultural Association said that, in twenty-three years of winemaking, he had had only two or three visits from any inspector (R. 3480). The secretary of the same association said that in twenty years as a winemaker the only visit of inspection he had ever had was from the local constable in connection with the renewal of his winemaker's license (R. 3499).

1441. The regulations which the Department of Agriculture drew up caused much resentment on the part of the small winemakers. They represented (Exhibit A. 52) that the enforcement of the regulations would involve the small growers in large structural alterations; would prevent them from using water and certain colouring, flavouring, and sweetening substances which they had always used; would prevent them from using a still unless they had 25 acres of fully bearing grapes, and, if they

had that area, would involve them in the cost of obtaining a large still, if they could obtain one. The small winemakers, who comprise the great majority of the members of the New Zealand Viticultural Association, complained that the regulations were designed only in the interests of the large growers and were intended to put the small growers out of business. They complained also that they had not been assisted with advice by the new Vine and Wine Instructor.

1442. The small winemakers complained also of the distribution of sugar during the 1942–43 season, which had been made on the advice of the Vine and Wine Instructor. They said the distribution had been inequitable and unsatisfactory. It does appear that more sugar was distributed in 1943 than was necessary for the making of the wine stated to have been produced in New Zealand for that year (R. 3354 and 3358). It appears also to be proved by the detailed statement produced by the secretary of the New Zealand Viticultural Association (Exhibit A. 57) that the distribution was defective. Apparently it had been made by reference to acreage without reference to the yield from an acre. The distribution was subsequently remedied on the representations of the small winemakers. It was admitted by the Department's representative that a better system for the allocation of sugar should be adopted (R. 3358).

1443. The rift between the larger and the smaller growers continued, and after September, 1943, the larger growers broke away from the New Zealand Viticultural Association and formed the New Zealand Wine Council (R. 3441 to 3446). The New Zealand Viticultural Association is now composed almost entirely of Yugoslavs, who are for the most part small growers not wholly dependent on their winemaking for their living. The New Zealand Wine Council is composed of the larger growers and makers who depend entirely upon the industry.

1444. In January, 1944, an attempt was made by the New Zealand Standards Institute to fix some specification for wine which would enable prices to be fixed in pursuance of the Government's stabilization policy. The two associations of winemakers were represented, but no specification resulted.

1445. During the last ten years the larger growers have expended considerable sums of money in improving their premises. They state, also, that they have plans in hand for further extension, if conditions are made suitable.

1446. We conclude this historical summary by including the following return supplied by the Census and Statistics Department showing the imports of wine entered at the Customs for consumption, the New Zealand production, and the total quantity available for consumption per head of population.

In view of the great discrepancies between the figures shown in this return for New Zealand production for the years 1943 and 1944 and the figures for the same years supplied by the Department of Agriculture (para. 1394, *supra*), the New Zealand production is probably much higher than is here shown.

New Zealand: Wine available for Consumption

Year.	Mean Population (including Maoris).	Imports entered at Customs for Consumption.		Local Production (March Year previous).	Quantity exported.	Available for Consumption.	
		Total Quantity.	Quantity per Head of Population.			Total Quantity.	Quantity per Head of Population.
		Gallons.	Gallons.	Gallons.	Gallons.	Gallons.	Gallons.
1936	1,575,231	186,999	0·12	91,473	603	277,869	0·18
1937	1,589,972	200,169	0·13	89,342	898	288,613	0·18
1938	1,606,763	196,764	0·12	110,609	758	306,615	0·19
1939	1,628,512	127,160	0·08	153,920	427	280,653	0·17
1940	1,637,305	107,355	0·07	148,720	187	255,888	0·16
1941	1,630,948	137,697	0·08	162,850	138	300,409	0·18
1942	1,639,572	134,036	0·08	210,361	211	344,186	0·21
1943	1,635,635	220,339*	0·13	225,293	352	445,280*	0·27
1944	1,655,795	126,769*	0·08	188,232	586	314,415*	0·19

* Provisional figures.

CHAPTER 69. NEW ZEALAND VINEYARDS AND THE VINEYARD PREMISES

1447. We refer first to the location and climate of the vineyards.

We accept the evidence that the Auckland and the Waikato areas are not suitable for the production of grapes for making quality wines. The climate is too moist, the sky may often be too overcast during the summer, phylloxera and other pests are prevalent, the climate is also favourable to various diseases which attack the vines, much cultivation and spraying are consequently required, and the costs of production are high.

1448. On the other hand, in certain areas in Hawke's Bay and near Tauranga, where the climate is warmer and drier and the soil is suitable, vines may be grown for the production of a high-quality light wine. The cost of development and of production tend to be less in these areas than in Auckland or the Waikato.

1449. Our view is that no area in New Zealand is suited for the production of grapes for the making of sweet fortified wines because the climate is not sufficiently warm to produce grapes of a sufficiently high sugar content. On the other hand, certain areas in Hawke's Bay and near Tauranga are suited to the production of a fine-quality light wine. At the most, the areas in Auckland and Waikato may only be used for the production of bulk wines, but, in the view of the Department of Agriculture this production is only commercially possible provided large quantities of sugar are used.

1450. We refer now to the variety of the vines to be grown.

The Albany Surprise grape, which has been extensively grown north of Auckland and in the Waikato, is unsuitable for wine-making, though it is resistant to disease and suitable for the table.

1451. The considerations which should govern the planting of vines are set out by Herstein and Gregory in *Wines and Liquors* (an authority much cited to us) in a passage which they quote from a book, *The Best Wine Grapes of California*, by Bioletti. They say that this passage states principles of general validity. The following are extracts from it (see *Wines and Liquors*, p. 39):

> For the good of the industry at large it is desirable that varieties should be planted which will produce as large a crop as is compatible with such quality as will maintain and extend the markets for our wine. These markets are varied in character. For some, cheapness is the essential factor; for others, quality. Cheap wines can be produced with profit only from heavy-bearing varieties grown in rich soil; wines of the highest quality only from fine varieties grown on hillsides or other locations where the crops are necessarily less. It is therefore unwise to plant poor-bearing varieties in the rich valleys, where no variety can produce a fine wine. It is equally unwise to plant common varieties on the hill slopes of the coast ranges, where no variety will produce heavy crops.
>
> . . . If the cheap wines of the valleys are uniformly good and sound, the market for the high-priced fine wines of the hills will increase, and large quantities of the coast-range wines will be used for blending with the valley wines to give them acidity, flavour, and freshness, which they lack. In order to obtain these results it is necessary that varieties suited to each region and to the kind of wine should be planted. No variety which is not capable of yielding from five to eight tons per acre in the rich valley soils or from one and a half to three tons on the hill slopes should be considered. On the other hand, no variety which will not give a clean-tasting, agreeable wine in the valley, or a wine of high quality on the hills, should be planted, however heavily it may bear.

1452. We think these recommendations should be applied to the respective wine-growing districts of New Zealand. A policy should be developed for replanting with suitable vines, over a reasonable period of time, all the vineyards where there are unsuitable types of vines. At the end of this period the wine growers and makers who have changed over their vineyards should be able to obtain a market by the quality of their product, while the other wine growers and makers who have not done so should tend to lose their market and go out of business.

1453. *As to Premises.*—The evidence indicates to us that the premises used by many winemakers are either inadequate, insufficiently clean, or inadequately equipped.

The only remedy is to ensure that adequate premises are provided. If the winemaker cannot provide them, he should not get a license.

CHAPTER 70.—THE USE OF CANE-SUGAR

1454. The methods of manufacture depend upon the type of grape and its condition at the vintage. An average grape content in Europe comprised a water content of 74·49 per cent. and a grape-sugar content of 19·71 per cent. (Herstein and Gregory, p. 162). Upon fermentation the grape-sugar produces ethyl alcohol and carbon-dioxide gas, but the distinctive quality of wine is not due to this transformation. It is due to the remaining small content of the grape—*e.g.*, 5·8 per cent. in the above European average—which comprises the organic acids, the tannin, and the proteins, which, among them, produce the flavour of the wine and also the esters which give bouquet and aroma to the finished wine (Herstein and Gregory, pp. 23, 161, and 163). Dilution of the grape-juice, which also involves dilution of these small but special contents of the grape, must detrimentally affect the quality of the finished wine.

1455. A proper grape-sugar content for making various types of wine lies between 18 per cent. and 28 per cent. (Herstein and Gregory, p. 162). The average grape-sugar content in Australia lies between 17 per cent. and 29 per cent. (Mr. Lindeman's letter of 19th June, 1945, Exhibit A, 161). The average grape-sugar content of certain New Zealand grapes tested by the Dominion Analyst was about 15 per cent. (R. 1216). On the other hand, the Analyst stated that he had analysed some grapes in which the sugar content was down to 8 per cent. (R. 1217). Mr. Lindeman states (A, 161) that, generally, grapes can be grown in New Zealand with a sugar content of 18 per cent. if the correct varieties are planted in the most suitable areas, although adverse seasons would lower this average. Actually, in some seasons, especially in the Waikato and the Henderson areas, a large proportion of the grapes will show a low sugar test of, say, 12·25 per cent. Some may show less.

1456. When wine is made in New Zealand from grapes with a low sugar test, much cane-sugar must be added in order to bring the grapes up to the required sugar content, particularly if a sweet wine is to be made. This has involved, for many years, the addition of up to 3 lb. of cane-sugar to the gallon—*i.e.*, up to 30 per cent. of the weight of the grape-juice—for the making of sweet wines. According to the strength of the wine, this means that the sugar content of the must is comprised of from six-sevenths down to two-thirds of cane-sugar and only from one-seventh to one-third of grape-sugar (R. 1200 and 1201).

In addition, cane-sugar, up to 1 lb. for every gallon of wine, is required to make a distillation wash to produce the spirit for fortifying the wine.

1457. In Europe only a small addition of cane or beet sugar is recognized as permissible in order to counter the effect of a bad season upon the sugar content of suitable grapes (see the reply of Mr. Kealy to Mr. Hardie Boys's address—Exhibit A, 164).

1458. In Australia and in South Africa the use of additional sugar is either not permitted or heavily discouraged.

1459. The report of the Tariff Board of the Australian Commonwealth of the 20th December, 1944 (p. 10), states that the pure food legislation of the various States requires that wine shall contain only spirit and sugar produced from grapes, except that cane-sugar may be used in the manufacture of sparkling and of a few other wines. The Australian excise tariff also imposes prohibitive duties on wines (other than the exceptions mentioned) in the manufacture of which other than grape products have been used. Submissions were made to us on behalf of the New Zealand Wine Council that this prohibition was due largely to the fact that, after the war of 1914–18, returned soldiers were encouraged to grow doradilla grapes for the purpose of producing fortifying spirit, and that, because the industry languished during an economic depression, it became necessary to specify that all wines should be fortified with grape-spirit instead of with

sugar. The evidence does not show, however, that this was the real object of the restriction. Its object was to ensure that wine shall be made from the grape, and grape-spirit is a product of the grape. When, owing to a fear of a shortage of fortifying spirit in 1945, it was proposed that spirit produced from sugar might be used, the Tariff Board considered that this was undesirable, though it said that the proposal might be reconsidered if the other measures which the Board suggested for meeting the shortage were found not to be sufficient.

1460. The report of the Imperial Economic Committee on Wine, published in 1932 (p. 47, para. 80), states that only pure grape-spirit may be used in South Africa for the fortification of wine.

1461. In the United States of America, where the climate of various eastern States more nearly corresponds with the climate of New Zealand, provision is made by Act of Congress of 1891, as amended by statutes to 1919, for perfecting sweet wine by adding cane or beet sugar or pure dextrose sugar not in excess of 11 per cent. of the weight of the wine to be made. Provision is also made for adding sugar to sweet wine for "mechanical purposes," but what these are is not explained (Herstein and Gregory, pp. 236 and 237).

In California, however, which is the largest wine-producing State, the State law permits only the addition of grape concentrate.

The following passage occurs in an extract supplied to us by the counsel for the New Zealand Wine Council from the book, *The Principles and Practice of Wine Making*, by Professor Cruess, of the University of California :—

> Occasionally, as in the present situation, sweet wines are much more in demand than dry wines. (It is said that the demand at present is for about five gallons of sweet wine to each one gallon of dry). Therefore, winemakers convert much of their dry wines at such a time into sweet wines by the addition of grape concentrate and high proof brandy or by addition of cane-sugar and brandy. Either method is permissible under the internal revenue laws provided the amount of cane-sugar added is kept below a certain minimum (about 10 per cent.).

1462. This allowance of sugar in the United States for perfecting sweet wine, as distinct from its use for "mechanical purposes," is only about one-half of the quantity of cane-sugar permitted by the New Zealand regulations of 1924, and only a little more than one-third of that proposed in the new regulations, which are said to embody the practice followed in New Zealand for the last forty years.

1463. It is not clear from the literature with which we have been supplied how far cane-sugar is permitted in the United States of America in making dry wines.

1464. The new proposed regulations of the Department of Agriculture, with reference to the allowance of sugar, are, as we have indicated, supported by both the New Zealand Wine Council and by the New Zealand Viticultural Association. They are opposed by the Government Analysts and also by the representative of McWilliam's Wines Proprietary, Ltd., one of the largest Australian wine producers and makers, to which we refer as "the McWilliam's Company."

The Dominion Analyst contends that sugar should only be allowed to bring the average sugar content of a New Zealand grape up to the Australian standard of sweetness. For this purpose the Dominion Analyst contends that an addition of 10 per cent. of cane-sugar would be amply sufficient.

The representative of the McWilliam's Company contends that no addition of sugar at all is required to suitable grapes grown in New Zealand. That company does, however, suggest that sugar should be permitted over a period up to, say, five years to enable growers to change over their vineyards to suitable types of vines.

1465. Mr. Lindeman, of the Department of Agriculture, agrees theoretically with these views, and says he would be the first to condemn the use of sugar in winemaking in New Zealand if New Zealand were as climatically blessed as Australia for the production of sweet-wine grapes (A. 161). He says, however, that if the New Zealand

winemaker is allowed to add 3 lb. of sugar per gallon—*i.e.*, 30 per cent.—to the low-sugar grapes, he can produce, by fermentation, 28 per cent. of proof spirit and still retain in the wine some 7 per cent. of sugar which is necessary to give the sweetness characteristic of the sweet wines, such as port or sweet sherry. He says that in order to fortify this wine to 32 per cent. proof spirit, which is the minimum strength for these sweet wines (if they are to remain in good condition notwithstanding the exposure of their sugar content to the moulds and bacteria of the air), it is necessary to add only 6 gallons of fortifying spirit to every 100 gallons of wine. He says that this fortifying spirit may be cheaply made by using a further quantity of sugar with the spent marc from the grapes to make up a distillation wash. This further quantity of sugar he specifies as 13 oz. for every gallon of wine made. The marc itself, being spent, might produce only about 1½ per cent. of proof spirit. The distillation wash made with this extra sugar provides the necessary fortifying spirit to bring the finished wine up to 32 per cent. of proof spirit.

1466. If the winemaker were allowed to add only 10 per cent. of sugar to the grape-juice, he would have, at the stage when he stopped fermentation in order to secure the retention of sufficient sugar to make the wine sweet, a much lower percentage of proof spirit in the wine. Mr. Lindeman says that to fortify this wine up to 32 per cent. of proof spirit the winemaker would need to add as much as 18 gallons of fortifying spirit (instead of 6 gallons) to every 100 gallons of wine. Mr. Lindeman maintains that, as this fortifying spirit would have to be made from sugar, no saving in sugar would result, and the wine would be more costly without any benefit to the consuming public. He claims that the cost of fortifying spirit made from grapes is at least 5s. a proof gallon higher than that made from sugar, and that the winemakers should not be required to carry on with such a penalty.

1467. Mr. Lindeman points out that if the grapes showed a sugar content of between 17 per cent. and 19 per cent. only about 33 oz. of sugar per gallon of must would be required to produce a similar type of wine, plus, of course, the 13 oz. required for the production of the fortifying spirit.

1468. The attitude of the McWilliam's Company is that the poor wine made from grapes could be economically distilled and that wines could be made in New Zealand on a commercial basis purely from grapes of sufficient quality and from grape spirit distilled from inferior wine made only from grapes.

1469. We have discussed the addition of cane-sugar at length because the question of the extent, if any, to which it is to be permitted in the manufacture of wine in New Zealand goes to the root of the question whether the industry is to be maintained and developed on its present basis of providing a spirituous liquor made largely from cane-sugar, or whether it is to be converted to an industry producing a light wine which the country is suited to produce. The difference of opinion between Mr. Lindeman, of the Department of Agriculture, on the one hand, and the Government Analyst and the representative of the McWilliam's Company, on the other hand, is such that we think it desirable that the Government should obtain the advice of a competent expert of high standing from overseas who is independent of any local interests and who is asked to advise how best an industry, producing fortified sweet wine which the country is not suited to produce, can best be converted to an industry producing high-quality light wine which the country is suited to produce.

1470. The only observation we feel called upon to make here is that it seems to us desirable to reduce the quantity of cane-sugar which is used. The more dilution there is with cane-sugar, the less the flavour and the quality of the wine, as wine. This is a matter upon which an independent expert of high standing could give authoritative advice. Having regard to similarities in climate, perhaps the expert should come from one of the universities of the North Eastern part of the United States.

CHAPTER 71.—THE ADDITION OF WATER, AND OTHER MATTERS RELATING TO MANUFACTURE

1471. Even though a long-term policy of converting the industry to a light-wine industry were adopted, attention should be given to certain matters in the meantime, and we proceed to deal with them.

1472. As to the addition of water in order to reduce the acidity of the grape; there are recognized methods of reducing acidity, termed "gallizing" and "chaptalizing." These are explained by Herstein and Gregory in *Wines and Liquors*, at page 176, as follows:—

> Gallizing consists in diluting the must with water and adding either grape or cane sugar to correct the deficiency in sugar which results. Within narrow limits it is a harmless practice, but, naturally, the other essentials of the wine are equally diluted and a more watery wine results. Chaptalizing consists in partly neutralizing the acid with chalk and adding sugar. This is usually done with grapes that are insufficiently mature. Like gallizing, it is not objectionable if practised in great moderation.

1473. The important point is that these practices for reducing acidity must be used only within narrow limits and in great moderation. We think that, if they were so used in New Zealand, there would be a considerable reduction in the quantity of wine produced.

1474. Other matters were mentioned in connection with fermentation, such as the sterilization of the must and the use of a pure yeast, but these are matters for expert attention.

1475. *As to Fortifying Spirit.*—As far as possible, we think fortifying spirit should be made from wine or the lees of wine, not from cane-sugar. Whether stills capable of producing sufficient refined spirit should be limited to those winemakers who have 25 acres under grapes requires further investigation. So also does the question whether spent marc and cane-sugar should be used to produce fortifying spirit instead of its being distilled from poor wine.

1476. *As to the Strength of the Wines to be made.*—A light natural wine can be made in New Zealand without any fortification, but it appears that it is not likely to keep for any length of time. Mr. Lindeman recommended a light beverage wine of from 15 per cent. to 24·5 per cent. of proof spirit (R. 418 and 3363). He also said that from 17·5 per cent. to 26 per cent. would be ideal (R. 691). He thought that wines of 14 per cent., 15 per cent., and 16 per cent. were dangerous wines from the manufacturing and selling point of view, because they were so open to bacterial infection, even if kept under the best of cellar conditions. They had to be consumed soon after manufacture (R. 3363).

1477. Koenig's table of the composition of European wines (Exhibit A, 47) shows the following averages of proof spirit for European wines:—

Red dry wines	From 17·72 per cent. to 22·25 per cent.
White dry wines	From 14 per cent. to 20·50 per cent.
Spanish Sherry	34·53 per cent.
Portuguese Port	34·72 per cent.

1478. On the evidence it would seem that an excellent light wine that would keep could be made in New Zealand from suitable grapes by competent winemakers which would not exceed 20 per cent. of proof spirit. Sweet wines which are fortified to 32 per cent. and more will keep.

1479. Mr. Lindeman recommended that there should be both maximum and minimum standards for the strength of wine. He thought the minimum was necessary in order to ensure the keeping-quality of the wine and to protect the market for those wines. On the other hand, Mr. W. N. S. Simpson, representing the McWilliam's Company, considered that no minimum should be fixed. This again is a matter for expert consideration.

1480. *As to Blending.*—On the evidence, the blending of New Zealand wine with the fuller-bodied wines which may be imported from Australia and South Africa is desirable, but again we think this a matter for independent expert advice.

1481. At the present time the winemaker is not allowed to blend his wine. The blending is done, so we were informed, by the representative of the McWilliam's Company (R. 6643), by a few merchants, but mainly by the hotelkeepers, who mix Australian and New Zealand wine without any idea of the acid content or of the other technical matters which are involved in suitable blending. The McWilliam's Company suggested a distributor's license which would be freely granted and which would enable blending to be done. This matter was not developed before us. We think it requires close consideration in all its aspects, and is again a matter for independent expert advice.

1482. *As to Bottling.*—We have evidence that the bottling may take place under unhygienic conditions. Bottling is also involved with blending and with labelling. As there is no excise tax on New Zealand wine, there is no Customs supervision of the bottling. (The only Customs supervision is in respect of the withdrawal of spirit from a wine-still for the purpose of fortifying the wine.) The Health Department is, however, responsible under Regulation 76 of the Regulations of 1924 for the hygienic conditions and for the labelling. Here, again, independent expert advice is required as to the way in which the bottling, the blending, and the labelling may all be satisfactorily carried out where all these operations are carried on much at the same time.

1483. *As to Labelling.*—Regulation 76 (6) of the Regulations under the Sale of Food and Drugs Act requires that the name of the wine shall be written in the label. Regulation 76 (7) provides that the word "wine" shall not be used in the description of any beverage made wholly or in part from fruits or sources other than fresh grapes, unless the name of such fruit or other source immediately precedes the word "wine." Having regard to the extent to which cane-sugar is used in the production of sweet fortified wines in New Zealand, one would think that this regulation would require the New Zealand fortified sweet wine to be described as "grape and sugar wine" instead of as "wine." That it should be so described is strongly recommended by the Dominion Analyst. On the other hand, Mr. Lindeman, representing the Department of Agriculture, and the representatives of the winemakers, considered that this description would hamper the industry.

1484. If the Legislature permits an addition of sugar to the extent of 30 per cent. by weight of the grape-juice, and the making of fortification spirit by the use of additional sugar with the marc, the product must be presumed to be the kind of wine New Zealand permits to be made. In the United States of America wine made from cane-sugar up to 11 per cent. of the wine by weight must be assumed to be the kind of wine which the United States of America permits to be made. We think that, so long as the label shows where the wine was made, it is not necessary to provide positively that the wine shall be described as "grape and sugar wine." On the other hand, we think that the Legislature should prohibit the description of New Zealand wine made with cane-sugar as "grape wine." It should be described as "New Zealand Wine."

1485. The Department's proposed regulation (R. 430) requires that every person who sells any package containing New Zealand wine shall attach thereto a label on which are the words "Produce of New Zealand." We agree with this requirement. So long as the package shows that it contains wine made in New Zealand, we see no objection to the use of such names as "hock," "port," or "sherry," which indicate types of wine. We do not think that place-names, such as "Bordeaux," should be used. The New Zealand wine industry should develop its own place-names, which indicate the place of origin of the wine, as the American wine industry has done.

1486. We agree that all wines made from fruits other than grapes or apples or pears should show the fruit of which they are made—*e.g.*, grapefruit and lemons. This is covered by Regulation 76 (7) of the Regulations (*N.Z. Gazette*, 1924, p. 1541). Wine made from apples or pears is sufficiently dealt with as cider or perry under the existing regulations.

CHAPTER 72.—AS TO THE TARIFF PROTECTION AND TAXATION OF NEW ZEALAND WINE

1487. New Zealand wine sells in competition with imported wine, but it enjoys certain advantages. It is protected by the tariff on imported wines, which includes both the British Preferential Tariff and the general tariff, and also a tariff at special rates upon wines imported from Australia and South Africa (R. 304).

1488. New Zealand wine is also protected by the ruling, under the Import Control Regulations of 1938, that importers are limited to 50 per cent. of their importations of wine during the corresponding period in 1938 (see Exhibit A. 162—letter from the Department of Industries and Commerce of 23rd April, 1946).

1489. In addition to protection from these sources, there seems also to be a quota system in operation, although there is no formal record of it. The merchants understand that the issue of an import license depends upon their purchasing 2 gallons of New Zealand wine for every gallon they import (para. 1435, *supra*; see question asked by Mr. Coyle at R. 3195).

1490. *As to Taxation.*—New Zealand wine does not pay excise duty, but pays the double sales tax of 40 per cent. The winemakers strongly urge a reduction in the sales tax.

1491. We think that, in the public interest, the taxation on New Zealand wine should be graded, if practicable, in such a way as to discourage the production of wine of a high proof spirit. This is in accordance with the long-term policy we recommend of changing over the industry to the production of wines that the country is suited to produce instead of encouraging the production of a spirituous liquor which does not constitute a wine, in the ordinary sense, which the country is suited to produce.

1492. We think that New Zealand wine should not have such protection as will prevent the competition of imported wine from wine-producing countries such as Australia and South Africa. Each of these countries has a climate more suited to the production of good-quality wine than New Zealand. In 1943–44 the total Australian production was 18,837,209 gallons, of which the home consumption was only 7,788,746 gallons. In 1944–45 the total production had fallen to 12,775,000 gallons. South Africa has also a substantial production and a surplus for export, though we have not the latest figures. France has, of course, the largest production in the world, and has also a surplus of fine wine for export. The importation of wines from these overseas countries and others is desirable in order (*a*) to enable consumers in New Zealand to have wines of fine quality, (*b*) to improve the blending of New Zealand wines, if blending is found desirable, and (*c*) to provide healthy competition which would tend to improve New Zealand manufacture.

1493. The New Zealand tariff, taxation, and quota system (if any) should all be adjusted to permit the importation of sufficient quantities of wines from well-known wind-producing countries.

We do not think that the New Zealand wine industry can ask for more legal protection than it has at the present time. If import control is removed, the industry should depend on a protective tariff and on the quality of its products. If it were protected also by a quota, it would probably not have sufficient incentive to improve the quality of the wine.

CHAPTER 73.—THE SELLING AND ADVERTISING OF NEW ZEALAND WINE

1494. *As to New Zealand Wine Licenses.*—These licenses permit the retail sale of New Zealand wines not exceeding 20 per cent. of proof spirit. The wine-manufacturer's license permits him to manufacture wine of a strength not exceeding 40 per cent. of proof spirit and to sell it in quantities of not less than 2 gallons. Even though it is decided to direct the development of the wine industry towards the production of light

wines for which the country is suited, it will no doubt still be lawful for the manufacturer to make wines up to 40 per cent. of proof spirit. We think the retailer should have the right to sell wines of the strength the manufacturer may make, and the law should be altered accordingly. Graded taxation should tend to make the stronger wine more expensive, and so reduce its sale. The extension of the New Zealand wine license would obviate the breaking of the law, which, we understand, is frequent to-day.

1495. *As to Sales of New Zealand Wine to Merchants and Hotelkeepers.*—Though the New Zealand wine industry has been able to sell its products during the war to the wholesale trade and hotelkeepers, and although a quota is now operating (para. 1435, *supra*), we have had complaints from winemakers generally that the wholesale trade and the hotelkeepers have not in the past made any practice of purchasing New Zealand wine for the reason that they have agencies from, or trade connections with, overseas wine and spirit firms. We think that these business relationships would tend to have the effect of which complaint is made. On the other hand, much New Zealand wine has been of inferior quality, and the merchants and hotelkeepers are not to be blamed for failing to purchase it. We think that a protective tariff should be sufficient to enable the New Zealand wine industry to make its way by reason of the quality and the price of its product.

1496. *As to Sales by Winemakers in the Henderson District* (R. 432 and 7788).—These winemakers are in much the same position as brewers who find themselves within a no-license district. The question has been raised whether these brewers should be permitted to retain their depots within the district (para. 672, *supra*).

If a brewery is entitled to retain its depot within a no-license district, then a winemaker should also be entitled to a depot within the no-license district from which to make delivery of wine.

1497. *As to whether, if Prohibition were carried, it should apply to Unfortifie Wine.*—As all wine exceeds beer in alcoholic strength, we think it clear that wine must be prohibited if beer is prohibited.

1498. *As to the Licenses to Grocers.*—The New Zealand Wine Council suggests that licensed grocers should be permitted to sell New Zealand unfortified wines freely in quantities of not less than one reputed pint bottle for consumption off the premises. These wines would be of a proof spirit not exceeding 24·5 per cent. This is nearly four times the strength of beer.

The New Zealand Wine Council also suggests that a bottle license should be granted for the sale of fortified wines by the bottle for consumption off the premises.

Counsel assisting the Commission suggested that licensed grocers might be permitted to sell light New Zealand wines containing not more than 24·5 per cent. of proof spirit by the bottle.

1499. The bottle license has been done away with in New Zealand for many years. We see no occasion to create it again.

1500. *As to Sales of New Zealand Wine by Restaurants.*—The New Zealand Wine Council suggests that all specially licensed restaurants and private hotels should be permitted to sell beverage wines freely. Counsel assisting the Commission suggests that licensed restaurants and private hotels should be permitted to sell beverage wines not exceeding 24·5 per cent. of proof spirit for consumption on the premises with meals.

Unless restaurants can sell beer, which is only one-quarter of this strength, restaurants should not be permitted to sell these light wines.

1501. *As to Advertising.*—We think that the advertising of New Zealand wine should be subject to the same restrictions, if any, as the advertising of other alcoholic liquors in New Zealand.

CHAPTER 74.—BRANDY, MEDICATED WINES, CIDER, WINES FROM FRUITS OTHER THAN GRAPES, UNFERMENTED GRAPE-JUICE, AND COCKTAILS AND LIQUEURS

1502. *As to the Production of Brandy in New Zealand.*—On this matter the evidence is conflicting. The McWilliam's Company thinks a good brandy can be produced in New Zealand on a commercial basis. The Department of Industries and Commerce does not think so. The final view of the Department of Agriculture was stated by the Director-General of Agriculture in a letter of the 13th September, 1945 (R. 6946). He there said that the establishment of a brandy industry could be successful only if the production of grapes were "controlled by the distillery at absolute cost." He said the distillery at the Department's Te Kauwhata Station could not produce brandy at a competitive price to distil brandy from the grapes supplied by grape-producers within reasonable distance of the Station, the main reason being that the settlers would require to receive £15 per ton for grapes ex their farms in order to maintain a satisfactory standard of living, whereas in Australia the average cost of grapes for private distillation is in the vicinity of only £3 per ton. The Director's proposal was that the most promising scheme for the manufacture of brandy in New Zealand would be to give licenses to a number of accredited wine-manufacturers to manufacture brandy under the control of the Customs Department and the Department of Agriculture. In this way he thought that the industry might develop quietly on a competitive basis (R. 6946).

1503. We think that some of the estimates of cost made by the Department of Industries and Commerce were excessive, and it is a material factor that a large company like the McWilliam's Company thinks that good brandy can be economically produced in New Zealand. On the other hand, questions of policy are involved. The question arises whether brandy for consumption should be manufactured at all in New Zealand. No brandy manufactured here is likely to exclude the importation of the best French brandies. On the other hand, if a good brandy can be made in New Zealand, it may be said that the economy of the country would be assisted if it manufactured part of the supplies which it would otherwise import from Australia or South Africa, or even from France.

1504. *As to Medicated Wines.*—The evidence for the Department of Agriculture contains the statement that tonic and medicated wines now made in New Zealand compare favourably with the imported article as regards both price and quality, and that a reasonable degree of tariff protection, such as exists at present, is necessary (R. 409). On the other hand, the Health Department takes the view that there is no justification for the manufacture and sale of medicated wines (R. 345). This Department states that they are unduly expensive and that their indiscriminate use may involve a danger of alcoholism. The Health Department also state that, on medical grounds, they cannot be justified and that all medicated wines have been omitted from the latest edition of the British Pharmacopœia.

1505. On the evidence, we conclude that the importation and manufacture of medicated wines should be prohibited.

1506. *As to Cider.*—We have had no complaint concerning the cider made in New Zealand. The Sale of Food and Drugs Amending Regulations 1940 (1940/104) control cider and apple wine (the latter being the product when it contains more than 15 per cent. of proof spirit).

1507. *As to Wines from Fruits other than Grapes.*—We see no reason why wines should not be made from fruits other than grapes, as is now permitted under the winemakers' license. The wine made from grapefruit and lemons appears to be an acceptable one, although one witness did criticize its strength (R. 2348). The ability to make wine from fruit of this type enables surplus crops to be used up. It is important that the label should state the fruit from which the wine is made.

1508. *As to Unfermented Grape-juices.*—We think the manufacture of these should be encouraged. There is evidence that the Albany Surprise grape would be suitable for this purpose.

1509. *As to Cocktails and Liqueurs.*—The position is set out above in Chapter 42. We think that a control should be continued.

CHAPTER 75.—THE GOVERNMENT WINERY AT TE KAUWHATA

1510. *As to the Government Winery at Te Kauwhata.*—The following is a statement showing the yearly sale of wine, in gallons, by the Government Station made up of bulk and case sales for the years from 1930–31 to 1943–44 inclusive (Ex. A, 79) :—

Year.	Total.	Bulk.	Case.
	Gallons.	Gallons.	Gallons.
1930–31	8,904	6,525	2,379
1931–32	5,696	3,967	1,729
1932–33	8,555	5,325	3,230
1933–34	15,839	12,070	3,769
1934–35	15,304	11,673	3,631
1935–36	12,625	8,545	4,080
1936–37	15,125	9,147	5,978
1937–38	10,428	1,845	8,583
1938–39	12,512	1,370	11,142
1939–40	14,155	1,145	13,010
1940–41	18,308	1,040	17,268
1941–42	22,697	1,133	21,564
1942–43	16,010	1,236	14,774
1943–44	22,068	1,308	20,760

1511. The Government Station paid sales tax as from 1st May, 1942. In 1942 and 1943 the selling-price of wine was two guineas per case, being the usual 30s. per case selling-price, plus 40 per cent. sales tax, 12s. The price of wine was raised as from the 8th May, 1944, to three guineas per case, being 45s. selling-price, plus 40 per cent. sales tax, 18s.

No income-tax is paid by the Te Kauwhata Horticultural Station.

1512. Accounts of the Te Kauwhata Horticultural Station were submitted for the years ended 31st March, 1938, to 1944, inclusive. The wine sales for these years were as under : —

Year.	Gallons sold.	Bulk.	Case.	Total.
		£ s. d.	£ s. d.	£ s. d.
1938	10,428	914 16 6	6,409 3 9	7,323 0 3
1939	12,512	685 0 0	8,352 14 6	9,037 14 6
1940	14,155	572 12 6	9,753 13 11	10,326 6 5
1941	18,308	520 0 0	12,951 7 6	13,471 7 6
1942	22,697	566 15 0	16,173 10 0	16,740 5 0
1943	16,010	845 7 0	15,070 15 6	15,916 2 6
1944	22,068	918 1 0	21,837 3 0	22,755 4 0
	116,178	5,021 12 0	90,548 8 2	95,570 0 2

The net result of the Station's operations for these seven years was a profit of £3,705 0s. 11d.

The accounts are not kept on a system designed to make clear the respective results of the vineyard and wine-cellar departments. We consider that the grapes produced should be charged by the vineyard to the wine-cellar department at ruling market prices for the particular types of grapes produced. The accounts would then lead to an investigation if vineyard costs appeared too high. For instance, in the year 1941–42 the Station produced 36½ tons of grapes at a cost of £3,001, while in the same year 38½ tons were purchased for £1,423. Even allowing for much lower quality of the grapes purchased, the difference seems abnormal. In 1942–43 the comparative figures were 28½ tons produced at a cost of £3,599, and 26¾ tons purchased for £1,125. In the 1943–44 year 34½ tons were produced at a cost of £4,873, while 41½ tons were purchased for £2,078.

1513. As this Government Station is at present competing commercially with the wine-growers, we thing that the accounts should be published every year after audit by the Government Auditor.

1514. If it is decided to encourage the production of the present type of fortified sweet wine, the winery is well situated. If, however, it is decided to encourage the type of light wine for which the country is suited, a new Government winery should be established in Hawke's Bay, devoted to the production of acceptable light wines and to training winemakers how to produce them.

CHAPTER 76.—THE ORGANIZATION OF THE NEW ZEALAND WINE INDUSTRY

1515. *As to the Licensing of Winemakers.*—At the present time, if the Vine and Wine Instructor of the Department of Agriculture finds that something is being done which he considers should not be done, he can only advise upon the correct method. The Department does not think that advice, which need not be taken, is sufficient. The Department proposes that a license to manufacture wine should only be issued to applicants who are not only of good character and have clean and suitable premises, but who can also show that they are competent to make wine. If this requirement were desirable, existing licenses or permits might be renewed for one year upon notice that before the license or permit is renewed at the end of that year, the applicant must show, to the satisfaction of a Magistrate, that he is competent to make good wine at his vineyard. The Department of Agriculture, as well as the police, might be given the right to oppose the granting of the license on the ground of the winemaker's incompetence, as well as on the grounds of character and suitability of premises. In considering whether this restriction is desirable, it should be noted that no certificate of competence is required of a brewer or a farmer, though some tradesmen, like plumbers and electrical wiremen, must be qualified and registered. The winemaker's products are subject to check under the Sale of Food and Drugs Regulations. On the other hand, the conditions of manufacture in the small wineries are, we think, not satisfactory.

1516. The regulations as to the character and the suitability of the premises should be strictly enforced. The proviso to clause 5 of the regulations of the 28th July, 1943 (1943/122), governing the issue of the wine-sellers' permits, should, we think, be included in section 11 of the Licensing Amendment Act, 1914, which governs the issue of winemakers' licenses. The permits would then become licenses. A power to inspect premises to enable a report to be made to a Magistrate or the Licensing Committee should also be inserted. A winemaker's license could then be refused unless the premises were in a satisfactory condition.

If these steps should not prove to be sufficient, we think that winemakers should be required to satisfy a Magistrate of their competence to make wine. If practicable, the right of any licensed winemaker to make wine according to his own method and skill should be retained.

1517. *As to Inspection.*—We think there is great need for improvement in the inspection of vineyards and of the manufacturing processes. There is also great need for the enforcement of the law relating to the wine industry, if the law is to be held in respect.

We think there are too many separate authorities dealing with the wine industry—viz., the Department of Agriculture, the Department of Health, the police, the Customs Department, and the Magistrate who grants the winemaker's license or the permit. We think that the whole of the wine industry should be regulated under a special Act or Acts.

1518. *As to Co-operative Societies of Winemakers.*—Small growers who are unable, for economic reasons, to install efficient plant to produce the type of wine which it is decided to encourage, should, we think, form themselves into some suitable form of co-operative society. For this purpose consideration should be given to the form of co-operation adopted in the dairying industry in New Zealand and to that adopted by the vineyardists of South Australia and South Africa (R. 3218). The New Zealand

Viticultural Association submitted also for consideration a system of co-operation adopted in the fruit industries of California (R. 3422), in which the wine is made by each particular winemaker and then taken over by the co-operative society for blending and sale (R. 3423). As we consider that expensive equipment may be necessary for the making of sound wine, we doubt whether this American form of organization would be suitable for the small growers in New Zealand.

1519. *As to a Wine Advisory Board.*—The New Zealand Viticultural Association has suggested that a Wine Advisory Board should be set up, composed of members of the wine industry and also of representatives of the different Government Departments concerned, for the purpose of formulating policy and of directing the industry (R. 3423). The New Zealand Wine Council, on the other hand, approves the proposals of the Department of Agriculture for the reorganization of the industry under that Department, and opposes the establishment of any special Board.

1520. We are recommending the appointment of a Liquor Trade Inspection and Advisory Board to cover all branches of the Trade. Whether a Wine Advisory Board is required should await the report which we have recommended should be obtained from an independent and highly qualified expert.

CHAPTER 77—WINE INDUSTRY: SUMMARY

1521. (1) Certain areas in New Zealand are suited to the production of good-quality light wines, but no area is suited to the production of the fortified sweet wines, which comprise almost the whole of the New Zealand production.

(2) The reason for the production of the fortified sweet wines is stated by the winemakers to be the public demand. What led to the public demand is not so clear. When the first legislation governing the New Zealand wine license was passed in 1881 it seems probable that the wine produced for sale did not then exceed 20 per cent. of proof spirit. We think that the production of fortified sweet wines for offer to the public was influenced by the following facts—viz., that unsuitable vines were planted, that the grapes did not ripen sufficiently, and that it was found desirable to add sugar, even to the extent of 3 lb. to the gallon, to make the product more palatable, and to ensure adequate fermentation; further, that, owing to the liability of the sugar content to infection from the various moulds and bacteria which flourish in a moist climate, the wine had to be fortified to improve its keeping-qualities. Thus an alcoholic liquor was produced which owed its attraction mainly to its sweetness and its alcoholic content instead of to the natural flavour and aroma of the grape. The public demand may have been created in this way.

(3) A main question of policy is whether the industry shall be encouraged to develop the manufacture of this fortified sweet product, for which the country is not naturally suited, or the manufacture of light wines, for which the country is suited. We think the second course should be taken. Difficulties are involved because existing businesses depend upon the demand for the fortified sweet product. Nevertheless, we think, a long-term view should be taken, and the tariff and taxation should be adjusted so as to encourage the production of a good-quality light wine.

(4) We think that an independent expert of high qualification should be brought to New Zealand from overseas in order to advise the Government upon the true inwardness of the differences between the expert of the Department of Agriculture, on the one hand, and the Government Analysts and the experts of the McWilliam's Company, on the other hand. These differences concern very largely the need for the use of large quantities of cane-sugar, both for the fermenting of the wine and for the making of the spirit for fortification. As the climate in some of the eastern States of the United States of America is similar to that of New Zealand, and as the maximum addition of sugar allowed in any part of the United States of America is limited, we think that it might be advisable to bring the expert from one of these American States. Such an expert could also advise the Government generally upon the practicability of a long-term policy favouring the development of a light-wine industry, for which the country is naturally suited.

(5) We state our other recommendations in our report on remedies.

BOOK II.—REPORT ON REMEDIES
(MAJORITY REPORT)

PART XVI.—GENERAL

CHAPTER 78.—THE PRESENT-DAY CRITICS OF THE TRADE: WHAT IS PRACTICABLE LEGISLATION

1522. In considering the remedies for the mischiefs of the liquor trade it should be recognized that the best form of control is self-control. Self-control arises from the sense of personal self-respect which springs mainly from all those agencies in the community, whether religious or secular, voluntary or governmental, which contribute to the formation of character and the improvement of manners. The sense of self-respect is aided by the provision of suitable employment, of a sufficient standard of living, and of adequate opportunities for the use of leisure in a healthy and happy way. On these matters we refer to the chapter on education, with which we close this report on remedies. There is profound truth in this broad view of the liquor problem. Probably the great increase in sobriety which has taken place in the last twenty-five years and more, in many countries, has been due to the general improvement in the standards and conditions of human life.

1523. This advance in sobriety has brought about new standards of criticism of the liquor trade. There are, as there always have been, large numbers of people who look with an intolerant eye upon the trade, but who extend a generous sympathy to those of their fellows who are unable to control their desires for alcholic liquor and who bring misery upon themselves and their dependants. There is also a newer class, born of the better conditions of life and of education, who consume alcoholic liquor in moderation, but who find the conditions in hotel bars to be much below the standards which their sense of self-respect requires.

1524. There are other critics, comprised both of drinkers and of non-drinkers, who are dissatisfied with the standard of accommodation generally supplied by the trade.

1525. These critics are opposed by the representatives of the trade, who maintain for the most part that there is no problem in relation to the trade in New Zealand to-day and that what is most required is an alteration in the hours of sale to obviate after-hours drinking.

1526. Among these different classes of people it is natural that wide differences of opinion should exist as to how far the liberty of the strong should be curtailed in the interests of the weak and their dependants. In this conflict the aim of the legislator must be to enact legislation which will not only provide a remedy for the ills which exist or threaten, but which will also secure a sufficient backing of public opinion to ensure the enforcement of the law. Restrictive legislation which is too much out of touch with the mass of public opinion will result in sly-grog selling, surreptitious drinking, and other evasions. The result will then be that the community's respect for the binding obligation of the laws will diminish and that its last state will be worse than its first.

The main object of the legislation should be, we think, the provision of an adequate but reasonable framework of law for the manufacture, sale, and consumption of alcoholic liquor in which one part shall support another for these purposes:—

(1) The prevention of abuses, but, if they do arise, the check and cure of them;

(2) The provision for those who drink, of conditions which are consistent with the standard or standards of self-respect which may reasonably be expected in the community; and

(3) The provision of conditions which will secure that the main feature of all hotels will be the provision of good accommodation, not the sale of liquor.

The public should be as interested in the enforcement of the laws for these purposes as they are in the enforcement of the laws against theft.

CHAPTER 79.—THE NATURE OF THE COMMODITY TO BE CONTROLLED AND THE PRESENT EXTENT OF CONSUMPTION

1527. Keeping the considerations mentioned in the last chapter in mind, we approach the question of how best to remedy the mischiefs disclosed in Book I by referring briefly to the nature of alcoholic liquor. It is an article of human consumption which has a legitimate use accompanied by dangerous possibilities. As is stated at page 246 of the book *Liquor Control* by G. E. C. Catlin (published in 1931 in the Home University Library Series) :—

> Liquor, because it is capable of abuse to the damage of society, is no more an article of commerce than explosives, and it has the peculiarity, in common with narcotics, that its use does noticeably tend in the case of many people to end in its abuse. The traditional principle of private trade has always been that the larger the trade the better for both producer and consumer. Liquor is one of the few cases where this principle is entirely misleading and where maximum consumption may mean maximum profits, but is inimical to the general good.

1528. On the other hand, as we have already stated, if the requirements of moderate drinkers are not reasonably met, the law will be evaded and surreptitious drinking will occur.

1529. The extent to which damage can be done by the consumption of alcoholic liquor depends, to a material extent, upon its strength. If all liquor were but harmlessly coloured water, no mischiefs would arise.

1530. In New Zealand the principal drink is beer. In 1945 the production of beer in New Zealand was 26,912,600 gallons, the population, 1,702,298, and the estimated consumption over the total population, 15·81 gallons per head.

In the same year the figures supplied by the Customs Department for imports of wine, and by the Department of Agriculture for wine made in New Zealand, show a total of 564,279 gallons, or an estimated consumption of 0·33 gallons per head.

In 1938, the last year in which the import of spirits was not restricted, the total imports were 537,666 gallons, giving an estimated allowance of spirits per head, before any breaking down, of 0·33 gallons per head.

1531. Beer at the present standard of 1,036 units of specific gravity contains only from 6 per cent. to 7 per cent. of proof spirit. Nevertheless, consumed in excess, as determined by the capacity of the individual, it causes drunkenness. If the standard of specific gravity were increased to 1,040 units, the beer would contain about 1 per cent. more of proof spirit.

Sweet fortified wine, which comprises almost the whole of the New Zealand production, contains from 32 per cent. to 40 per cent. of proof spirit.

Whisky and other spirits may lawfully be sold at 35 per cent. underproof—*i.e.*, at 65 per cent. of proof spirit. Probably, in normal times, whisky when diluted is not generally consumed at a lower strength of proof spirit than that of sweet fortified wine.

PART XVII.—SUMMARY OF MISCHIEFS AND DEFICIENCIES

CHAPTER 80.—SUMMARY OF THE PRINCIPAL MISCHIEFS AND DEFICIENCIES RELATING TO THE LIQUOR TRADE

1532. We now refer briefly to the principal mischiefs and deficiencies of the liquor trade which are disclosed by the statement of facts in Book I and for which remedies are required.

For the proof of our statements we rely upon the analysis in Book I and upon the detailed facts set out in the record of proceedings.

We refer, firstly, to the mischiefs associated with the consumption of alcoholic liquor.

1533. Although there has been a steady improvement over the last twenty-five years and more in the drinking habits of the people, there is still too much drunkenness and too much misery associated with the excessive consumption of liquor. There is also a considerable increase in its consumption by young women and young men. The trade itself accepts the view that one drunkard is one too many.

1534. We refer now to the mischiefs associated with the sale of alcoholic liquor. During the busy hours of the day many of the public bars and of the principal private bars are overcrowded. Men stand four to five deep. Glasses are passed to and fro from front to rear. Supervision by the barmen must be difficult and often ineffective. Dregs may be served. Glasses may be washed in dirty water or cold water or dried with dirty towels. There is little in the conditions in many bars that suggests they are places for the consumption of alcoholic liquor by persons who value their sense of self respect.

1535. The trade is a lawfully licensed trade, and the publican is entitled to maintain the sale of beer as far as he reasonably can. He is not entitled to sell to persons who appear to be intoxicated or to minors or to prohibited persons. Within those limits, he lawfully stimulates demand. He provides "hospitality shouts." If the licensee is a paid manager, he may receive a substantial commission on profits, even as much as one-third or one-half. Notwithstanding the regulations intended to prevent this practice, one brewery company appears to attain the same effect by making what it states is a purely voluntary payment of the same amount as the manager would be entitled to receive under a binding agreement (paras. 501 and 503, *supra*). On a like voluntary basis, a bonus is paid by many employers to hotel-managers at the end of the year. There is no doubt that the sale of liquor is pushed.

1536. Much after-hours trading goes on. It is idle to blame the barman or the porter alone. Any resolute licensee could stop after-hours trading, but he is afraid he will lose his custom if he refuses customers, or else he wants to make the sales to increase his profits, or he may be influenced by both these motives.

1537. In all bars, for many years, the same price has been charged for widely different measures. This practice is unfair.

1538. Barmen hold a very responsible position, but some of them do not discharge their public responsibility as they should.

1539. Unlicensed agencies may be created by brewers, wholesale merchants, or hotelkeepers at any time, anywhere. Though these agents may be technically within the law, some of them have been a fruitful source of the evasion of the law and of the conduct of sly-grog selling.

1540. While these abuses in relation to the sale of alcoholic liquor continue it is clear that the law is insufficient in certain respects; also that, where the law is sufficient, inspection has been inadequate or ineffective; and also that there has been a failure in law enforcement.

1541. We refer now to the mischiefs relating to accommodation, both in the bars and in the house. In the bars little has been done over a long period of years to provide seating accommodation. The trade claims that most of its customers want to stand at the bar. This is probably true to-day, but the customers have not been given much opportunity to adopt the method of seated drinking which these customers adopt in their own homes or clubs, and which they appreciate in bars and cafes when they go abroad.

1542. In some cases the residential accommodation provided in hotels is not in a locality where guests wish to stay. The house then becomes a beer-house, and the provision of residential accommodation is a waste. Again, many hotel buildings are old and badly equipped by modern standards. Not enough has been done since 1928, when the fear of prohibition ceased to be of practical importance, in the way of improving the accommodation in hotels for the public. In some cases hotels have been allowed to fall into a bad state of repair before the inspecting authorities and the Licensing

Committees have been able to bring about any substantial improvement. According to Mr. Luxford, S.M. (a Magistrate with much experience in licensing matters, who was by no means unfavourable to the trade), about half the licensed premises in the area known as "greater Auckland" should either be demolished and reconstructed, or reconditioned (para. 590, *supra*). The review of residential accommodation contained in Chapter 30 in Book I shows that there is a large field for the substantial improvement of hotel residential accommodation throughout New Zealand.

1543. One mischief relating to the management of hotels is that, apparently, many licensees do not keep books which show the financial position of each side of the hotel—the bar and the house. For some reason various witnesses for the trade maintained in evidence before us that the separation could not be made. We ourselves think that it is elementary that it can be made, and that it should be done.

1544. An important mischief relating to both the sale of liquor and the provision of accommodation is that there is a serious maldistribution of licenses. This is dealt with in Chapter 53 of Book I.

1545. A review of the state of residential accommodation in hotels indicates that the law is inadequate in certain respects, and that where it is adequate there has been insufficient inspection and enforcement of the law.

1546. Mischiefs exist also in the present organization of the trade, whether it concerns manufacturing, wholesaleing, or retailing. New Zealand Breweries, Ltd., was formed to acquire the principal breweries of New Zealand, and so to eliminate the evils arising from the competition of breweries for hotels in order to secure outlets for their beer. The policy was successful for a time. Since the rise of Dominion Breweries, Ltd., in 1930 and of Ballins Breweries (N.Z.), Ltd., in 1936, the mischief which the formation of New Zealand Breweries was designed to prevent has recurred. Each brewery has been purchasing, or otherwise acquiring hotels at very high prices. The excessive goodwills paid must produce the same result as they have always done—viz., emphasis on the sale of beer at the expense of the provision of good accommodation and of good service. New Zealand Breweries, Dominion Breweries, and Ballins Breweries all state that they are engaged in active competition. The directors of New Zealand Breweries and of Dominion Breweries who gave evidence before us stated they were ready to continue in active competition, and that they wished the war regulations, including those restricting advertising, removed. The consequences are not likely to be in the public interest. If the three breweries mentioned were to come to mutual arrangements, the production of beer in New Zealand would be practically a monopoly in private hands, and, in our opinion, that also would not be likely to be in the public interest.

1547. Other mischiefs or deficiencies relate to the authorities controlling the trade. We have examined at length the various submissions made to us on these matters and have stated our conclusions in Part VIII of Book I. In respect of the three matters mentioned in Chapter 44 and discussed in preceding chapters, the administration of the Customs Department has not, in our view, been as adequate or as effective as it should have been. The police are overburdened and, in any event, not qualified by their training or experience to inspect hotels for the purpose of improving the structure, sanitary arrangements, fittings, furnishings, lighting, &c. The Health Department does not seem to have been as effective as it might have been in controlling the conditions in bars or, as would appear from the evidence of the Hotel Workers' Federation, in kitchens. The Licensing Committees receive inadequate assistance from the reports made to them, and find themselves hampered by their lack of power. The Price Tribunal, in our view, did not take sufficient steps to fix the price of beer in the four main cities on the basis of the measure which was mainly used after the fixing of the price—viz., the 10 oz. measure, which, forthwith after the price had been fixed on the 12 oz. measure, was generally substituted in the public bars for the 12 oz. measure.

1548. Other mischiefs arise out of the legislative provisions for control. The publican's license involves a waste in requiring accommodation in localities where there is a demand for the supply of liquor only, but not for accommodation. The

publican's license also gives rights beyond those which are required when the licensee, say, of a tourist hotel, desires only that he shall have the right to serve his guests. Accommodation licenses do not appear to be necessary. Wholesale licenses are defective in that there are no provisions for renewing, removing, or transferring them. Wine-makers' licenses should be made subject to a condition for the inspection of the premises. A new type of club charter, subject to annual renewal, needs to be created.

1549. The national licensing poll occurs too frequently, though the length of the period may depend upon the nature of the arrangements for the control of the trade in the interval.

1550. In no-license districts anomalies have been created by the inclusion of portions of license districts by the Representation Commissioners who were altering the electoral boundaries for the purpose of the parliamentary elections. Inclusion of this type though prevented for the future, has given no satisfaction either to those who believe in license or to those who believe in no license.

1551. Again, voters in no-license districts do not know whether, if they vote for restoration, hotels would or would not be kept out of urban residential areas. If they knew that hotels would be kept out of those areas, a substantial number of the voters might desire licensed premises in the commercial or light industrial areas of the no-license district.

1552. Other mischiefs or deficiencies exist in respect of special areas, such as the King-country and the Chatham Islands; in respect of the wine industry; and in respect of special matters, such as social functions for returned servicemen. We think also that further legislative provision is required in respect of the Invercargill Licensing District. The important facts concerning all these matters and others have been set out in Book I.

PART XVIII.—OUTLINE OF PRINCIPAL RECOMMENDATIONS

CHAPTER 81.—OUTLINE OF PRINCIPAL RECOMMENDATIONS

1553. The remedies which we propose for these mischiefs and deficiencies affect the structure of control to such an extent that, if our proposals prove acceptable, a new statute will require to be drafted.

1554. We recommend, indeed, at the outset of this report that the whole of the legislation regarding the licensing of liquor, its manufacture, importation, distribution, sale, and consumption shall, as far as possible, be gathered together into as few statutes as possible, and that these be printed and made available to the public at a moderate cost. It is remarkable how many separate statutes there are and how far back in the legislation one has to go in order to ascertain the present position of the licensing legislation.

1555. We have set out our proposals in the form of a statement of recommendations. We have incorporated a number of the detailed amendments which were proposed in the Bill introduced by the late Right Hon. J. G. Coates in the year 1928, and we refer to that Bill as "the Bill of 1928."

1556. Before setting out our proposals in detail, it seems desirable to give a broad outline of our main proposals, and we sketch them here. They are these:—

1557. *Licensing Committees.*—Increased powers to be granted to Licensing Committees with a right of appeal to the Supreme Court in respect of certain important matters, such as the grant or refusal of a license or a club charter or its renewal, or an order for rebuilding. These powers would include power to improve the accommodation in licensed premises and to review agreements relating to any tie or to the employment of any licensee-manager of an hotel.

The Chairman of a Licensing Committee to be a specially appointed Licensing Magistrate, who will be required to give priority in his duties to licensing work.

1558. *A New Licensee: The Local Trust.*—The creation by statute of a standard form of constitution for a new type of licensee—namely, a local Trust for a licensing district; but the Trust would not function without a prior decision by the electors of the Licensing District that they, by a bare majority, desired the Trust to operate. We contemplate that if the electors desired a Trust, all additional licenses authorized for disposal in a licensing district would be first offered to a Trust.

1559. *Alterations in Licenses and in the Club Charter.*—The abolition of the publican's and accommodation license and their replacement by an hotel license, a bar license, and a house license; the creation of a new charter for clubs, annually renewable; and the improvement of other licenses in various respects.

1560. *Better Personal Control under Licenses.*—Improvements in the control of licensed premises and in the sale of liquor by improving the check on the qualifications of licensees and also by requiring the registration of barmen upon the tests of good character and adequate health.

1561. *Manufacture of Liquor and Bottling and Labelling.*—Improvements in respect of the manufacture, the bottling, and the labelling of liquor.

1562. *The Delivery of Liquor.*—Improvements in respect of the delivery of liquor—*e.g.*, in respect of unlicensed stores, "agencies," and orders from the King-country.

1563. *The Retail Sale of Liquor.*—(1) Improvements in the methods of selling liquor—*e.g.*, by the use of standard measures and the prevention of the use of "dregs"—and the provision of better checks on after-hours trading.

(2) *Hours of Sale.*—Having regard to the improvements in control which we propose, we shall recommend evening hours of sale for "on" consumption only, without extending the total hours of sale.

1564. *The Acquisition of all Breweries by a Public Corporation.*—The acquisition of all the breweries in New Zealand and their licenses by a public Corporation to be called "the Liquor Manufacture and Sale Board" or, more shortly, "the L.M.S. Board," the amount of compensation to be assessed by tribunals appointed for the purpose and to be advanced by the State.

1565. *The Formation of a Central Liquor Fund for providing Advances for Hotel Improvement and Building and for Cultural, Philanthropic, and Recreational Purposes.*—Such proportion of the profits of the breweries as shall be required by the terms of repayment of the advances made for the acquisition of the breweries shall first be paid out of the profits of the breweries (annual repayments could probably be arranged). Such further proportion of the profits as is not required in the opinion of the L.M.S. Board for a reserve fund and for the proper conduct of the breweries shall be paid annually to a Cental Liquor Fund to be held and invested by the Public Trustee.

The Public Trustee shall hold this Central Liquor Fund upon trust:—

(1) To pay to the State Advances Corporation for an Hotel Advances Account such amounts annually as shall be recommended by the Liquor Trade Inspection and Advisory Board (which we shall propose). The State Advances Corporation to make advances at interest from this Fund to any hotel licensee, whether a local Trust or not, for the improvement or rebuilding of an hotel or hotels, or for the building of new hotels.

(2) To apply, after the foregoing payments to the Hotel Advances Account have been annually made, such proportion of the balance of the Central Liquor Fund for such cultural, philanthropic, and recreational purposes within New Zealand as shall be specified by the Governor-General in Council after taking into account the recommendations of the Public Trustee.

1566. *The Distribution of Licenses and Club Charters.*—(1) The review of existing licenses in each licensing district by a Liquor Licenses Distribution Commission (hereinafter called "the Distribution Commission") in order to determine:—

(*a*) What existing licenses are redundant and should be cancelled.

(*b*) What publicans' and accommodation licenses are held in respect of existing premises which, in the judgment of the Distribution Commission, do provide accommodation which is required in the locality. These licenses should be replaced by an hotel license or a house license.

(*c*) What publicans' or accommodation licenses are held in respect of existing premises which, in the judgment of the Distribution Commission, do not provide accommodation which is required in the locality, but which serve a need in the supply of liquor. These publicans' and accommodation licenses should be replaced by bar licenses, held by a local Trust or by the L.M.S. Board, authorizing lock-up bars or lounges for the supply of liquor, with or without snacks of food.

(*d*) What additional licenses (hotel, house, or bar licenses) will be reasonably required in the licensing district during the next ten years.

(2) The review of club charters in order to determine what additional club charters are required in each licensing district. (It is proposed that, if a club does not hold a charter, the keeping, supply, sale, or consumption of liquor in the club should be prohibited.)

(3) The holders of publicans' or accommodation licenses, whose premises are adjudged to be providing accommodation which is required in the locality, will be entitled to receive in exchange an hotel license or, if the premises constitute a tourist hotel, either an hotel license or a house license as the circumstances require.

(4) Before reaching its decisions on these matters, the Distribution Commission should make inquiries and hear such evidence as it thinks proper. We recommend that the Distribution Commission should sit in public, unless it considers that it is proper on occasions that it should sit in Chambers.

(5) No compensation would be payable upon the issue of an hotel license in place of a publican's license. The rights would be the same.

(6) On the other hand, compensation would be payable, if loss had been suffered, in respect of licenses:—

(*a*) Adjudged to be redundant;

(*b*) Changed from a publican's or accommodation license to a house license (because the legal rights would be less and there might be actual loss); and

(*c*) Changed from a publican's or accommodation license to a bar license, with a consequent change in ownership because we shall recommend that (apart from a club charter) the sale of liquor, with or without snacks of food, but without substantial meals or the provision of accommodation, shall be entrusted only to a local Trust or, if no Trust is desired by the electors, to the L.M.S. Board.

(7) The Distribution Commission to fix a fair price for all the additional licenses—*i.e.*, hotel or house licenses not issued to holders of existing publican's or accommodation licenses—and all bar licenses.

No fair price is to be fixed for club quarters; only the annual fee will be payable in respect of a club charter.

(8) Although the Distribution Commission will authorize the issue of licenses and charters the actual issue of any license or charter in respect of a particular site should be by the Licensing Committee, subject to certain safeguards—viz., the rights which are recognized on town planning principles:—

(*a*) Of the residents of an urban residential district to prevent by vote the proposal to place a license or club charter in their district; and

(*b*) Of the residents of other districts (such as the commercial or the light industrial districts of urban areas, or the districts of rural areas) who reside in the neighbourhood of the proposed licensed premises to object to the site and to have their objections heard by the Licensing Committee.

1567. *First Offer of Licenses available for Disposal in each Licensing District to a Local Trust.*—Most licenses dealt with by the Distribution Commission will, no doubt, be authorized for issue to existing licensees. The hotelkeeper who provides accommodation which is required in his locality will receive an hotel license in lieu of his publican's license. House licenses may be authorized for specific Government or other tourist hotels. Some licenses, comprising bar licenses, additional hotel licenses, and perhaps some house licenses, will not be so authorized, but will be available for disposal. These are hereinafter called "licenses for disposal."

The first offer of all licenses for disposal in any licensing district is to be made to a local Trust, provided that the electors of the district first decide by a bare majority vote that they desire these licenses to be issued to a local Trust. The poll for this purpose to be taken by the local authority of the district which meets the expenses of the Licensing Committee of the district.

1568. *Provisions if Electors favour Trust.*—If the vote of the electors of the licensing district is in favour of the establishment of the local Trust, the boundaries of the licensing district are to be fixed and a licensing roll prepared. The Trust is to be appointed and to take up the licenses for disposal at the fair prices within six calendar months of the poll. Finance to be arranged by the Trust under the powers conferred by its constitution.

1569. *The Destination of the Profits of the Local Trust to be defined by its Constitution.*—We recommend they should be applied :—

(1) In paying off the cost of the licenses and licensed premises ;

(2) In making improvements to the premises or rebuilding them :

(3) In making the contribution of a fixed proportion of the profits, say 10 per cent., to the Central Liquor Fund : and

(4) In applying the balance of available profits in promoting such cultural, recreational, or philanthropic purposes within the licensing district as may be approved by the Governor-General in Council.

1570. *Provisions if Electors against Trust.*—If the vote of the electors in a license district is against the issue to a local Trust of the licenses for disposal, or if the Trust has not applied to the Licensing Committee for these licenses within a period of six calendar months from the date of the poll which decided in favour of the establishment of the Trust (unless in exceptional circumstances the period was extended by the Governor-General in Council) the following provisions should have effect :—

(1) *As to each Hotel License available for Disposal.*—The Licensing Committee to call for applications, each application to be accompanied by a sketch-plan of the premises the applicant would be prepared to erect. The Licensing Committee then to choose a list of applicants whom the Committee approves, hereinafter called "approved applicants." The hotel license then to be disposed of at its fair price by ballot among the approved applicants, unless one of them is a Borough Council or City Council previously approved as an applicant by the Governor-General in Council. In that event the District Licensing Committee to have the right to offer the license to the City Council or Borough Council in priority to any other applicant. If the Licensing Committee does not give preference to the City Council or Borough Council, that Council may participate in the ballot with the other applicants.

(2) *As to any House License available for Disposal.*—If there are more applicants than one for the license, the Licensing Committee to call for the proposals of the applicants with sketch-plans, approve the suitable applicants, and dispose of the license by ballot among the approved applicants at the fair price, as with an hotel license available for disposal.

(3) *All Bar Licenses* (there being no local Trust) are to be issued to the L.M.S. Board at the fair price.

1571. *Formation of the Compensation Fund for Redundant and Replaced Licenses :—*

(1) All payments of the fair price are to be made to the Licensing Committee which issues the license. After deducting a fixed percentage to be paid to the local authority which meets the expenses of the Licensing Committee, the balance is to be paid to the Distribution Commission for the constitution of a fund, to be called "the Licenses Disposal Fund," for the payment of compensation to any licensee who has suffered loss (*a*) by the cancellation of his license on the ground of redundancy or (*b*) by its replacement by a bar license (and the acquisition of that license by a local Trust, or, if there is no Trust, by the L.M.S. Board, or (*c*) by the replacement of a publican's or accommodation license by a house license.

(This provision as to the balance would not apply to payments of the fair price in the King-country if licenses were there authorized, for reasons which we give at a later stage.)

(2) Any surplus in the Licenses Disposal Fund to be divided, a proportion, as fixed by statute, to be paid to the Consolidated Fund as a set-off against the expenses of the Distribution Commission, and the balance to be paid to the Central Liquor Fund.

1572. *The Profits of Bar Licenses held by the L.M.S. Board.*—The profits of bar licenses, if any, are issued to the L.M.S. Board, to be applied in the same way as if the bar licenses were held by a local Trust, viz. :—

(1) In paying the cost of the bar licenses and licensed premises ;

(2) In making improvements to the licensed premises or rebuilding them ;

(3) In making the contribution of a fixed proportion of the profits, say, 10 per cent. to the Central Liquor Fund ; and

(4) In applying the balance of available profits in promoting such cultural, recreational, or philanthropic purposes within the licensing district as may be approved by the Governor-General in Council.

1573. *New Club Charters.*—Club charters to be authorized for specific clubs, including R.S.A. clubs, by the Distribution Commission, without payment of a fair price or ballot, but the actual issue of the charter to be by the Licensing Committee of the district and to be subject to the right of veto of the residents in an urban residential district, and the right of objection to the particular site by the residents of other districts, as already explained.

1574. *Wholesale Licenses.*—We recommend also a review of wholesale licenses by the Distribution Commission ; the cancellation of redundant wholesale licenses, with compensation, if loss is involved ; and the issue of new wholesale licenses, at a fair price, where required ; and, if there are more applicants than one, by ballot.

1575. *No-license Districts : Terms of Vote for Restoration with or without Trust Control.*—(1) The legislation should provide—

(*a*) That if restoration is carried in a no-license district, the Licensing Committee shall not grant a license or a club charter for premises situated in any urban residential district (as defined in area by the Licensing Committee upon the petition of, say, not less than twenty electors residing within a radius of one-quarter mile from the front door of the proposed premises), unless the granting of the license or club charter for such premises is approved by a vote of a majority of the residents in the district so defined ; and

(*b*) That if any person loses his claim to a license under section 11 (3) of the Licensing Amendment Act, 1910, by reason of such a vote, and suffers loss thereby, the Distribution Commission will assess the compensation and such compensation shall be paid out of the Licenses Disposal Fund.

(2) The present right of objection in favour of persons residing in the Licensing district or in the neighbourhood of the proposed premises shall be maintained in districts other than urban residential districts (see sections 86–95 of the Licensing Act, 1908).

1576. The electors in a no-license district to have the right to decide, upon a vote for restoration, whether, if restoration is carried, they desire the licenses to be granted by the Distribution Commission to be controlled by a local Trust subject to a Licensing Committee. The majority to carry restoration to be 60 per cent. of the total of the valid votes. If restoration is carried, the majority required to carry local trust control to be a bare majority.

1577. *Distribution of Licenses after Vote for Restoration.*—(1) If the electors in a no-license district vote for restoration, the Distribution Commission to allocate (*a*) the licenses and (*b*) the club charters estimated to be required in that district for the next subsequent period of ten years or more.

(2) In distributing licenses and club charters regard is to be had to the number and situation of each proposed to be authorized for issue.

(3) The Distribution Commission is to fix the fair price for each license, but no fair price is required for a club charter.

1578. *Issue of Licenses after Vote for Restoration.*—(1) The Licensing Committee, when elected, to issue these licenses in the manner already explained for the issue of licenses for a disposal in a license district (paras. 1567 to 1570), and subject, with regard to the site, to the rights of veto and of objection already explained.

(2) The Licensing Committee, when elected, to issue the club charters to specific clubs determined by the Distribution Commission, but subject, again with regard to the site, to the rights of veto and of objection already explained.

1579. *No-license Districts: Whether Restoration is carried or not.*—Whether restoration is carried or not, the Distribution Commission to authorize, in its discretion and to the extent it thinks reasonable, charters for such clubs as use the locker system and for such clubs as propose to use the locker system. (The reason is that it is proposed to regulate all clubs where liquor is kept and to make illegal the keeping, supply, or consumption of liquor in clubs without a charter.)

If any State tourist hotel were acquired in a no-license district, the Distribution Commission to authorize a house license, if it thinks fit, and to fix the fair price.

Where any charter or house license is so authorized in a no-license district, a Licensing Committee to be appointed by the Governor-General in Council as though the no-license district were a special licensing district under section 65 of the Licensing Act, 1908. Alternatively, a Licensing Committee could be elected.

Any charter or house license so authorized to be issued by the Licensing Committee and to be subject to its control. Any charter or house license to be subject to inspection as though it were in a license district.

The fair price received from the State for any house license to be remitted by the Licensing Committee to the Licenses Disposal Fund (after deduction of the authorized percentage for reimbursing the local authority which meets the expenses of the Licensing Committee).

1580. *The King-country.*—Having regard to the history of the Proclamations of 1884 and 1887 set out in the Chairman's report in Appendix C of Book II, and to the views we express in Chapter 61 of Book I, we are making these recommendations:—

(1) A referendum to be authorized for the Maoris in the King-country upon the question whether they desire open—*i.e.*, hotel or bar—licenses in the King-country, such licenses to be controlled by a local Trust. The proposal to be carried only if there is a 60 per cent. majority.

The legislation to provide that a license for the purpose of the referendum does not include a club charter or a house license for a State tourist hotel.

(2) If the Maori vote is in the affirmative, a like referendum to be taken of the Europeans, the majority to carry the proposal again to be 60 per cent.

(3) If both the foregoing votes are in the affirmative, the Distribution Commission to allocate hotel and bar licenses and also club charters, having regard to the number and situation of each of them. The Commission to fix the fair price for each hotel and bar license. A Licensing Committee to be elected to issue the licenses to the Trust in respect of the specific sites selected, subject to the right of veto by residents in an urban residential district, or the right to object to the particular site by the residents in other districts, as already explained (para. 1566 (8)).

(4) If licenses are not authorized by both referenda—(*a*) the Distribution Commission to allocate such house licenses as it thinks proper to State tourist hotels in the King-country—*e.g.*, the Hotel Waitomo and the Chateau Tongariro—and such charters to clubs in the King-country as it thinks proper, having regard to the needs of the next ten years, and (*b*) a Licensing Committee to be appointed by the Governor-General in Council as though the King-country were a special licensing district under section 65 of the Licensing Act, 1908. Alternatively, this Committee could be elected as in a license district. This Licensing Committee to issue these house licenses and club charters and to exercise in relation to them the functions of a Licensing Committee in a license district. These house licenses and club charters to be subject to inspection as though they were house licenses and club charters in a license district.

1581. We make recommendations also in relation to :—

(1) Special areas in the Ashburton Licensing District : the Oamaru Licensing District, and the Masterton Licensing District :

(2) The Chatham Islands ;

(3) The Invercargill Licensing Trust ;

(4) The licensing laws affecting Natives ;

(5) Permits for various purposes, including permits for the supply of liquor with substantial meals in restaurants and permits for liquor at the functions of returned servicemen, and for light wines and malted liquors at private parties in cabarets ;

(6) The Tourist trade ;

(7) The wine industry ;

(8) Certain Government Departments ;

(9) Education in relation to the use and abuse of alcoholic liquor ;

(10) Other particular matters, including in Appendix G a list of recommendations —(*a*) for certain amendments to the legislation (subject to our main recommendations and to a general recommendation that all the legislation be consolidated and enacted afresh in as few statutes as possible), and (*b*) for the retention of certain Emergency Regulations.

1582. *Review of Licenses and Club Charters every Ten Years.*—We recommend that the Distribution Commission shall undertake a review of all licenses and club charters every ten years. In the meantime, rights of removal of licenses within a licensing district and from one district to another to be exercised with the consent of the Licensing Committee or Committees concerned.

1583. *Liquor Trade Inspection and Advisory Board.* (1) An Independent Inspection and Advisory Board of high status to be created to deal particularly with the work of inspection for which the police are not adapted. This Board to test all liquors ; to inspect all kinds of licensed premises, including breweries, wineries, hotels, bars, and clubs ; to act in a helpful manner in making proposals for the improvement or rebuilding of licensed premises and, in particular, of hotels ; to advise licensees, at their request, upon these matters ; to give evidence before Licensing Committees ; and to have the right of appeal to the Supreme Court from the decision of the Licensing Committee on certain specific matters, such as the grant or refusal of any license or of its renewal or of an order for rebuilding.

The work of this Board before all Licensing Committees should very materially assist a correspondence in the standard of observance of the licensing laws in each district.

(2) This Board to have administrative officers, a small expert staff, and the assistance, as required, of the Medical Inspectors of Health.

(3) The Inspection and Advisory Board to make an annual report to Parliament on the state of the liquor trade, a report as independent as that of the Auditor-General.

(4) Although this Board would have a separate function from that of the Liquor Licenses Distribution Commission, it may well be that a member or members of the one body could, with advantage, serve on the other.

(5) We do not contemplate that the work of this Board would occupy the full time of the members. They could meet regularly and as required to consider reports and give directions. They could also make personal inspections when advisable.

1584. *National and Local Option Polls.*—We make recommendations also in respect of the forms of control by national and local option polls :—

(1) *Corporate Control of Whole Trade :* The enactment in legislation of a constitution for the control of the whole of the licensed trade in New Zealand by a public Corporation and for the assessment of compensation for the assets acquired, subject to the approval of this form of control by a national poll.

(2) *The Ballot-paper for a National Poll :* The present ballot-paper for the national poll to be abolished and a new ballot-paper to be provided as follows. The ballot-paper to be divided into two parts, viz. :

(*a*) Prohibition or continuance ; and

(*b*) If continuance is carried, whether the whole of the licensed trade should be controlled by a public Corporation formed according to the constitution provided in the legislation.

The majority required to carry a change from continuance to prohibition should be 60 per cent., but the majority required to carry a change from the present system of continuance to a system of continuance of the whole trade under corporate control should be 55 per cent.

(3) *Ballot-paper for the Local Poll :* In respect of the no-license districts, the present ballot-paper to be abolished and a new ballot-paper to be divided into two parts as follows, viz.—

(*a*) No-license or restoration ; and

(*b*) If restoration is carried, whether a local Trust is to control all the licenses in the district.

The majority required for a change from no-license to restoration should be 60 per cent., but the majority required for a system of Trust control following on no-license should be a bare majority.

(4) *Term of National and Local Polls :* The national licensing poll, upon the form of ballot-paper which we recommend for that poll, and the local poll on restoration in the no-license districts, upon the form of ballot-paper which we recommend for that poll, to be held in 1946. If this is not practicable, the present ballot-paper will, no doubt, be used.

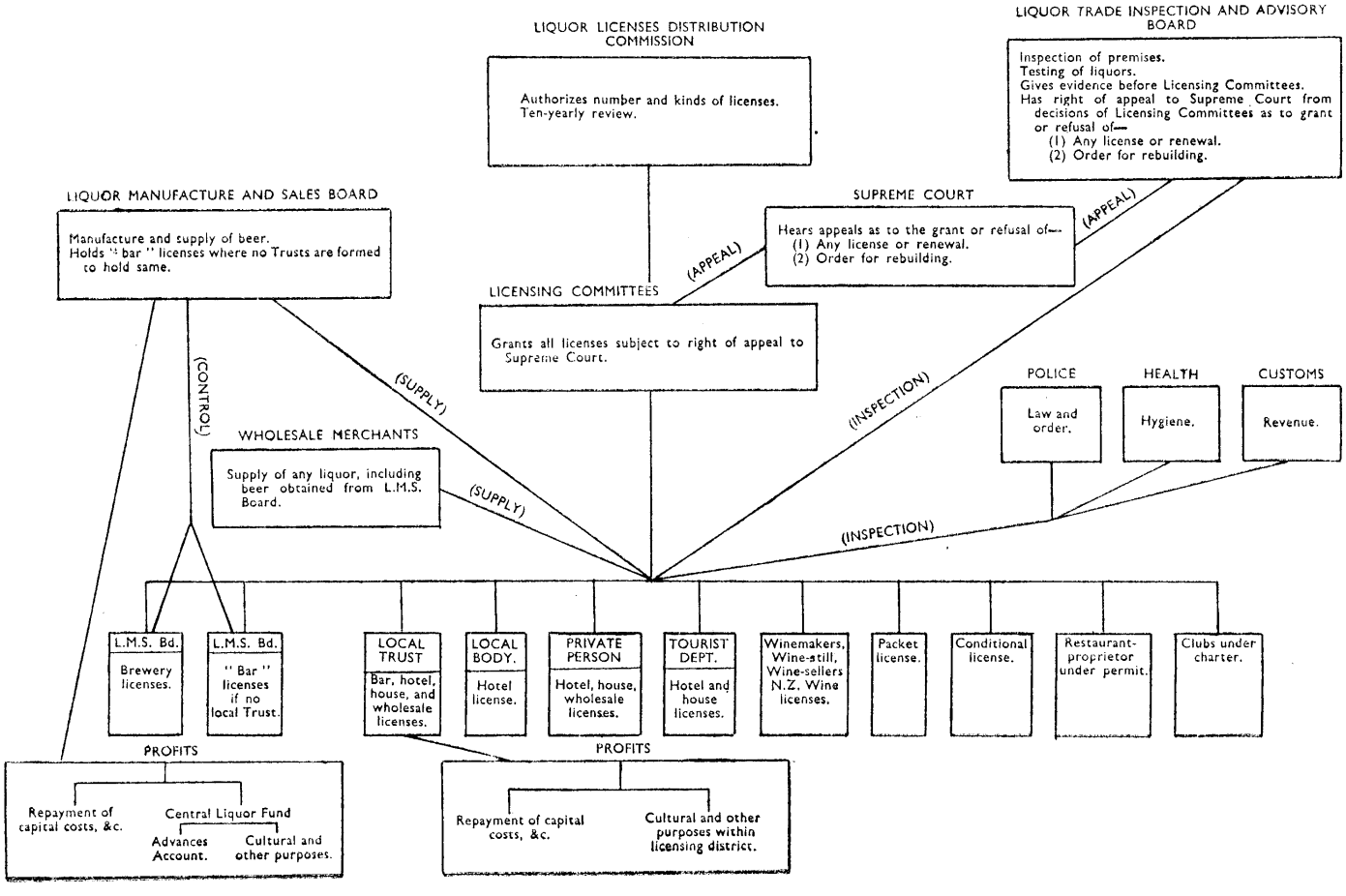
If continuance is carried on this national poll, and if our proposals, or our main proposals, are enacted before 1949, then—

(*a*) No further national poll after 1946 until 1955, and thereafter a national poll only every nine years ; but

(*b*) The local poll on restoration to be held in 1949, and thereafter only when the national licensing poll is held.

1585. The subjoined table shows the main powers of the controlling and the administrative authorities under the scheme which we recommend.

A diagram, which shows the framework of the control we recommend, is shown on page 288.


LIQUOR LICENSES DISTRIBUTION COMMISSION
Authorizes number and kinds of licenses.
Ten-yearly review.
LIQUOR TRADE INSPECTION AND ADVISORY BOARD
Inspection of premises.
Testing of liquors.
Gives evidence before Licensing Committees.
Has right of appeal to Supreme Court from decisions of Licensing Committees as to grant or refusal of—
(1) Any license or renewal.
(2) Order for rebuilding.
LIQUOR MANUFACTURE AND SALES BOARD
Manufacture and supply of beer.
Holds "Bar" licenses where no Trusts are formed to hold same.
SUPREME COURT
Hears appeals as to the grant or refusal of—
(1) Any license or renewal.
(2) Order for rebuilding.
(APPEAL)
(APPEAL)
LICENSING COMMITTEES
Grants all licenses subject to right of appeal to Supreme Court.
(CONTROL)
(SUPPLY)
(SUPPLY)
(INSPECTION)
(INSPECTION)
WHOLESALE MERCHANTS
Supply of any liquor, including beer obtained from L.M.S. Board.
POLICE
Law and order.
HEALTH
Hygiene.
CUSTOMS
Revenue.
L.M.S. Bd.
Brewery licenses.
L.M.S. Bd.
"Bar" licenses if no local Trust.
LOCAL TRUST
Bar, hotel, house, and wholesale licenses.
LOCAL BODY.
Hotel license.
PRIVATE PERSON
Hotel, house, wholesale licenses.
TOURIST DEPT.
Hotel and house licenses.
Winemakers, Wine-still, Wine-sellers N.Z. Wine licenses.
Packet license.
Conditional license.
Restaurant-proprietor under permit.
Clubs under charter.
PROFITS
Repayment of capital costs, &c.
Central Liquor Fund
Advances Account.
Cultural and other purposes.
PROFITS
Repayment of capital costs, &c.
Cultural and other purposes within licensing district.

PART XIX.—DETAILED RECOMMENDATIONS

CHAPTER 82.—THE POWERS OF DISTRICT LICENSING COMMITTEES

1586. We proceed now to expand the outline we have given and to state our detailed recommendations.

1587. It is sometimes said that the initial reform lies in a new distribution of licenses. But, before new licenses can properly be issued, it is desirable to know what kinds of licenses are to be issued and to what forms of control they will be subject. Indeed, a new distribution of licenses, though important, is only one contribution to reform. It should be applied when the future framework of control for all licenses has been laid down. We propose, therefore, to commence our detailed report on the remedies, not with the distribution of licenses, but with the important reforms which we think should be made in the legal framework for the control of the liquor trade. Whether the trade is operated by private enterprise or by some form of public management, or partly by the one method and partly by the other, it should be operated within a legal framework which provides for an effective but helpful control.

1588. We deal first with our recommendations to strengthen the District Licensing Committee.

1589. Although our report in Book I on the work of Licensing Committees shows that they have not been very effective bodies in the past and that they are subject to the difficulties which affect judicial bodies when they are authorized to exercise administrative functions, we have come to the conclusion that the sentiment in favour of the locally-elected Licensing Committee is so strong that it cannot be set aside, at least for the present, in favour of the creation of a tribunal of, say, three specially appointed Licensing Magistrates for each licensing district, or of some national authority of high standing, which would settle all licensing matters in any district after hearing representations from the local authorities and other interested persons in that district. The police, the liquor trade, the New Zealand Alliance, the Churches, and most witnesses are in favour of the District Licensing Committee. The view of these witnesses was that, if further statutory powers were granted to the District Licensing Committee, it would form the most acceptable body for the control of the trade in any locality. We think, therefore, that the District Licensing Committee should remain, but that it should be equipped with increased powers.

1590. We are conscious that the exercise of all the duties which we specify may be burdensome to a Licensing Committee of six, of whom five members perform unpaid duties. We contemplate, therefore, that it may be found advisable to authorize the Chairman, who is a Magistrate, or the Chairman and any two members of the Committee, to undertake various duties on behalf of the whole Committee. In stating our recommendations we do not make general allowance for this. We think that a power of delegation might be given to the Licensing Committee in respect of certain matters, which could be specified, provided that the Chairman was always the delegate or one of the delegates. It could than be left to the Licensing Committee itself to decide whether these matters should be delegated to the Chairman and two members or to the Chairman alone.

1591. We make these recommendations :—

> The Governor-General should appoint as the Chairman of each Licensing Committee a Stipendiary Magistrate, who shall be known as a "Licensing Magistrate." He should be considered suitable for the work. He should be required to give priority among his duties to the work of the Licensing Committee. He might be Chairman of several Licensing Committees. For this purpose some latitude in fixing the dates for the meetings of Licensing Committees would be necessary.

(NOTE.—In the Licensing Act passed this year in New South Wales, the Licensing Courts were reconstituted. The Chairman is to be a District Court Judge, and the other two members of the Court are to be Magistrates.)

1592. Consideration should be given to the question whether the disqualification upon the membership of a Licensing Committee, imposed by section 43 (2) (*c*) of the Licensing Act, 1908, could be reduced in certain respects. This subsection prevents any one (other than a Magistrate) who holds a paid office under the Government or under the Council or Board of any Borough, County, Road, or Town District from acting as a member of the Licensing Committee. We realize that there are difficulties in the way of a paid servant of any of these bodies being on a Committee which has to deal with the efficiency of the services rendered by the Police Department, the Health Department, the Customs Department, or other Government Departments, or rendered by the Departments of a local authority concerned, say, with sanitary and engineering services. We have not sufficient information to enable us to make any specific recommendation in this matter, but, as it is desirable to increase the interest in Licensing Committees, and as some useful members of such a Committee may be debarred from taking office by section 43 (2) (*c*), we recommend further study of the matter by the Government.

1593. The District Licensing Committee should be enabled to meet as often as the Chairman or the Committee determines, subject to due notice to the public by advertisement in the public press, but the Committee should be required to meet at least quarterly. The quarterly meeting held in June should also be the annual meeting, as at present. The time for giving various notices could be simply fixed as a period of time, without reference to the date of the meeting of the Committee. Whenever the period had expired, an application would be ready for hearing, though, we presume, it would be dealt with usually only at a quarterly or an annual meeting.

1594. The Licensing Committee should issue all licenses and charters in respect of premises situate within its licensing district. This involves placing the brewer's license, the winemaker's license, wine-seller's permit, and club charters under the control of the Licensing Committee as well as the licenses which are at present under that control. The object of this provision is to ensure that all sources of liquor supply within the one licensing district shall come under the control and review of one body representing the people of that district.

1595. The brewer's license is at present granted by the Minister of Customs. We are informed by the Customs Department (R. 315) that the view has been strongly expressed in the past that the issue of brewers' licenses should be under the control of the Licensing Committees. The Customs Department suggests as possible solutions—

(i) That the Licensing Committee might have power to control the sale of beer while the Minister of Customs controlled the brewing of beer; or

(ii) That both the Licensing Committee and the Minister of Customs should have power to grant licenses for the brewing of beer, the issue of the license by the Minister being conditional upon the production of a license by the Licensing Committee.

1596. We recommend, however, that control over the brewer's license should be left in the hands of the Licensing Committee, subject, however, as with all other licenses, to an appeal to the Supreme Court in respect of either the grant or the refusal of the license or its renewal. The brewer's license, like other licenses, whether they are important to the revenue or not, would then be subject, at each stage, to judicial decision. (In New South Wales the issue of the brewer's license is authorized by the Licensing Court.)

1597. A wine-maker's license under section 11 of the Licensing Amendment Act, 1914, and a wine-seller's permit under Regulation 3 of the Emergency Regulations 1943/122 are at present granted by a Magistrate. Club charters are at present granted by the Minister of Internal Affairs. All these should be brought under the Licensing Committee, subject to appeal to the Supreme Court in respect of the grant or refusal of the license or charter.

1598. For the purpose of determining whether (*a*) any rent, premium, or other payment for the acquisition of licensed premises (other than upon a sale which should be left to the Land Sales Committee and the Land Sales Court), or (*b*) any "tie," or (*c*) any agreement for the employment of a licensee-manager is fair and reasonable, the Licensing Committee should have power to review the terms of all documents concerning these matters, and also to ascertain whether there are any oral or implied agreements to the like effect and to review them.

1599. We shall propose the abolition of the tie in beer by the acquisition of the breweries by a public corporation.

1600. With respect to licensee-managers, certain provisions are now contained in Regulation 17 of the Regulations 1942/186, but these do not appear to be sufficiently effective (see para. 503 of Book I). It would seem necessary to provide that any payments, which would have an effect similar to payments made under any binding agreement, are also prohibited.

1601. The Licensing Committee should have specific power to make the grant or renewal of any publican's license dependent—

(*a*) On the installation of a proper hot-water service in connection with any public bar or private bar, or any bedrooms or other places in licensed premises;

(*b*) On the provision of sufficient sanitary accommodation, baths, and showers for the comfort or convenience of guests or of the persons employed in the licensed premises;

(*c*) On the making of other additions, alterations, or repairs of whatever kind in respect of the licensed premises or the furnishings thereof, or the lighting of any rooms or other parts thereof; and

(*d*) On a rebuilding.

It should be expressly provided that the Licensing Committee is not to be limited by the requirements of the present Licensing Act, but should have power to make such conditions as it thinks proper, having regard to the reasonable convenience of the travelling public and of other persons resorting to the premises, and to the locality in which the premises are situated.

Some of the matters we have in mind under subparagraphs (*c*) and (*d*) above would have to await a reconstruction, such as building in fireproof materials; others a partial reconstruction, such as central heating or the sound-proofing of the hollow wooden walls which form interior partitions; others would require less alteration, such as provision in bedrooms of adequate lighting, properly placed, or of sufficient ventilation (*e.g.*, by providing an adjustable window above the bedroom door); others, which mean a good deal to the comfort of a guest and cost little, could be provided in bedrooms without any structural alteration (*e.g.*, a towel-rail; waste-paper basket; luggage-stand; a rug, if not a carpet; a hook for a strop; a wardrobe with sufficient hooks for clothes; clothes-hangers (affixed to rail if these tend to disappear)).

1602. The Licensing Committee should have power to suspend the license pending completion of any works which it orders (see clause 25 of the Bill of 1928).

1603. We recommend that, where the Licensing Committee considers there is good ground for making an order that licensed premises should be improved, altered, or rebuilt, the Committee should have power to call upon the licensee to submit his own proposals, including sketch-plans, for improving, altering, or rebuilding the premises. We think that no final order by the Licensing Committee should be made until the licensee has had this opportunity. If an order for rebuilding is made, the licensee should then have the right of appeal to the Supreme Court from that order. If an order for rebuilding is not made, the Inspection and Advisory Board, which we shall recommend, should have the right of appeal.

1604. (1) The Licensing Committee should have power to prescribe a minimum standard of sleeping-accommodation and a minimum standard of quality and variety of meals on the premises of a licensed hotel, and the charges for the same.

(2) The Licensing Committee should also have power, if it thinks fit, in relation to any particular premises, to prescribe a higher standard of quality and variety for the meals in these premises, and a higher standard of sleeping-accommodation in these premises, and to prescribe charges accordingly.

(3) Any holder of an hotel license who fails to observe the standards and charges so imposed, should be liable to a penalty not exceeding £50.

1605. The Licensing Committee should have power to authorize the removal, as often as may be reasonably required, of any license or club charter from the existing premises (*a*) to other premises within the same licensing district, or (*b*) to other premises within another licensing district, with the consent of both Licensing Committees concerned, provided that no removal shall be permitted (i) to any premises previously disqualified, or (ii) into any urban residential locality without the consent of the vote of a bare majority of the electors of that locality, or (iii) into any other locality without the usual right of the residents in the neighbourhood to object to the particular site and to have their objections heard by the Licensing Committee concerned.

1606. We shall later explain in connection with the scheme for the cancellation of redundant licenses and the issue of fresh licenses which we propose (hereinafter called "the distribution of licenses") the distinction between the urban residential locality and other localities. It is sufficient to say here that the area of the urban residential locality in which a vote is to be taken upon the removal of a license should be defined by the District Licensing Committee concerned, after hearing the evidence of the local authority, of the town-planning authorities, and of residents concerned. We are informed by the Chief Electoral Officer that there would be no difficulty in supplying a roll of electors for the purpose of such a vote.

With respect to the right of objection, we refer to the provisions at present contained in sections 86 to 93 of the Licensing Act, 1908.

1607. We recommend that the District Licensing Committee should have power to permit the establishment of shops in the main foyer or hall of an hotel, provided that the bars are not directly accessible from the foyer or hall. These shops are at present prohibited by section 60 (i) of the Licensing Act, 1908. Shops are a distinctive feature of good hotels overseas. They may include branches of the big stores in a city. They may also comprise a booking-office, flower, book, and tobacco stalls, and, if required, a grill-room.

The number of shops so authorized should be stated in the hotel license.

1608. We do not recommend that the Licensing Committee should have power to grant permission for theatres, concert-rooms, or dancing-rooms in hotels, at present prohibited by section 60 of the Act of 1908, except that we think the Committee should have power to permit dancing at tourist hotels which hold the type of license we recommend for that hotel—viz., a house license.

CHAPTER 83.—THE LOCAL TRUST: A NEW TYPE OF LICENSEE

1609. We recommend the enactment of a standard form of constitution for a new type of licensee—viz., a local Trust for a licensing district.

If the electors of a licensing district so decide by their vote, a local Trust would be entitled to priority in taking up any new or additional license or licenses allowed to the district, whether only one or some in a license district, or all the licenses in a no-license district which had voted for restoration, or all the licenses in the King-country, if the conditions were fulfilled under which open licenses were granted in that territory.

1610. The Chairman of the Invercargill Licensing Trust, Mr. Hugh Ritchie, advocated provincial Trusts. We think that many licensing districts are sufficiently large for the establishment of a Trust and for obtaining experience in its working. If the electors of adjacent licensing districts desire one Trust for larger areas, we think that legislation authorizing such control should be favourably considered.

1611. We recommend that the constitution should be modelled upon the constitution of the Invercargill Trust, subject to certain important alterations which we recommend, as follows: -

(1) The six members of the Trust shall be appointed from time to time by the Governor-General in Council as follows: -

(*a*) Three persons shall be appointed directly by the Governor-General in Council; and

(*b*) Three persons shall be appointed by the Governor-General in Council from a list of persons nominated by any City Council, Borough Council, or County Council the area of which, or any part of the area of which, is comprised within the licensing district, and in default of such nominations, or to the extent to which they are not sufficient, such three persons as the Governor-General shall determine.

One of the members shall be appointed Chairman of the Trust by the Governor-General in Council.

1612. The remuneration of the members of the Board to be a sum fixed by statute, and not to depend in any way upon the profits of the Trust.

1613. The local Trust should apply for all its licenses to the Licensing Committee in the usual way and be subject to inspection and control in the same way as if it were a private licensee.

1614. Its profits should be subject to taxation as if the Trust were a private individual.

1615. The control of the sites for licensed premises to be in the hands of the local Licensing Committee, subject to the right, on town-planning principles, of the residents of an urban residential district to veto the placing of licensed premises in their district, and subject to the right of the residents of other districts who reside in the neighbourhood of the proposed licensed premises to object to the particular site, and to have their objections heard by the Licensing Committee.

1616. If our proposals regarding the control of the breweries by a public Corporation are given effect, the Trust will secure its supply of beer upon the same terms as any other purchaser at wholesale rates.

1617. The Trust should also be entitled to apply to the Distribution Commission for a wholesale license. If granted, the license would thereafter be subject to the control of the Licensing Committee.

1618. If the Trust is formed to acquire only a new or additional license or licenses in its district, it cannot reasonably ask for the sole control of all sales of liquor in its district. There will be many other licensees dealing with wholesale merchants. In those circumstances it would not be fair to vest in a local Trust, formed to control only one or a few licenses in competition with many other licensees, the right to take over the sale of all the liquor in the licensing district.

A local Trust may, however, be formed in a district in which it is entitled to the control of all the licenses—*e.g.*, in a no-license district which votes for restoration or in the King-country if open licenses were there established. Again, if a Trust were formed to acquire, say, only one or two licenses and were subsequently able to purchase all the other retail licenses in the district, the Trust would then be in much the same position as a Trust formed to take over all the licenses after a vote for restoration in a no-license district. In these cases we think that the Trust should be entitled to hold all the licenses for the sale of liquor, wholesale or retail, within the district. This conclusion applies to Invercargill, where the Trust controls the whole retail sale.

Holders of brewers' licenses, wholesale licenses, and wine-makers' licenses outside the licensing district would, in these cases, be required to sell only to the Trust. It would follow that all persons within the district would require to purchase their supplies from the Trust, but individual purchasers could ask the Trust to indent supplies of wines and spirits for them.

1619. At a later stage, when dealing with the effect of taking over the breweries, we deal with the extent to which the business of a wholesale wine and spirit merchant should be subject to the control of the Licensing Committee.

1620. *Combined Licensing Trust District.*—It may be that the electors of one licensing district will have a community of interest with the electors of an adjacent licensing district or districts in the control of liquor licenses available for disposal in their respective districts.

We recommend, accordingly, that legislative provision should be made whereby two or more licensing districts could be constituted a "combined licensing trust district" for the purpose of local Trust control throughout the whole area. The creation of a combined licensing trust district might make for economy of control.

There would seem to be no need to create the combined licensing trust district for any purpose other than the operation of the Trust in the area of the licensing districts comprised therein. The Licensing Committees in each separate licensing district could continue to control the licenses not held by the Trust, and also the licenses of the Trust situate within each separate licensing district, in the same way as a number of Licensing Committees would control in their separate districts the bar licenses held by the L.M.S. Board.

The profits of the Trust would be divisible over the whole Trust area.

In order to set up such a combined licensing trust district, a vote should be taken of the electors on the licensing roll of each licensing district affected, on the question whether that district should be combined with the other specified district or districts to constitute a combined trust district. If the votes were in the affirmative, the constitution of the local Trust for a licensing district would apply, *mutatis mutandis*, to the Trust for the combined district.

As the vote would need to be taken on the licensing roll, it should be taken in the same manner as the vote for the Licensing Committee, after each local body has been jointly requested to take the vote by the Licensing Committees of the two or more districts affected.

CHAPTER 84.—ALTERATIONS IN LICENSES, NEW LICENSES, AND A NEW CLUB CHARTER

1621. We refer now to the alterations we recommend in the licenses and club charters.

1622. *The Brewer's License.*—We have already referred to the alteration in the authority to issue this license (para. 1594). The power to sell 2 gallons direct to the public should continue.

A brewery situated in a no-license district should be entitled to a depot within that district from which to fulfil orders received from outside that district.

1623. *The Publican's License: replaced by Hotel, House, or Bar License.*—The publican's license is used for three purposes, viz.:—

(*a*) To license the sale of liquor in an hotel which provides accommodation on a scale sufficient to make the hotel an economic unit for the provision of accommodation with the assistance reasonably to be expected from a lawfully conducted bar trade;

(*b*) To license the sale of liquor in an hotel which is required to provide accommodation, but which does not provide it on an economic scale, and which is, for the most part, run as a beer-house; and

(*c*) To license the sale of liquor in hotels at tourist resorts where all that is sometimes required is a license to serve guests in the house.

1624. We recommend, therefore, that the publican's license be replaced by—

(1) An hotel license to be issued only to hotels which, by reason of their size, can provide accommodation on an economic basis, with the assistance reasonably to be expected from a lawfully conducted bar trade;

(2) A bar license which will authorize the sale of liquor in a lock-up bar or lounge, preferably with seating-accommodation, and make provision also for the sale of snacks of food. (This bar license would be issued only in respect of premises where there was need to provide for the supply of liquor but not accommodation. We shall recommend that all these licenses should be administered by a local Trust or, if no local Trust is formed, by a Liquor Manufacture and Sale Board which acquires the breweries and which we term shortly "the L.M.S. Board");

(3) A house license, which would be issued in a license district to any approved hotel as a tourist resort, whether the hotel is owned by the State or not, for the sale of liquor to guests only from, say, 10 a.m. until 11 p.m. Under a house license, we recommend that the sale may be only by the glass or by sealed bottle opened for the guest at a table in the dining-room or lounge, the bottle not to be removed by the guest. (In a no-license district a house license should be issued only to a State tourist hotel.)

1625. Provision should be made to enable a transferred publican's license (or the licenses we recommend in lieu thereof) to be renewed. At present the last proviso to section 119 of the Licensing Act, 1908, requires that a new, clean license shall be issued at the next annual licensing meeting after the transfer. Properly, we think, the license, with its endorsements, if any, should remain in force to show the true position in relation to the licensed premises. This license should be renewed in the ordinary way like an untransferred publican's license. On the other hand, section 249 should be retained. Under it, the endorsements lapse if a further endorsement is not made within the next two years (R. 6468).

1626. *The Accommodation License.*—So far as we can see, there is no need to-day for the accommodation license: a publican's license would serve as well. The replacement, as may be appropriate, of the publican's license by one or another of the three licenses we have suggested would involve the replacement of an accommodation license by one or another of these three new licenses.

1627. *The Wholesale License.*—(1) We recommend the removal of the present restrictions upon any increase of wholesale licenses. These licenses should be reviewed by the Liquor Licenses Distribution Commission. Redundant wholesale licenses should be cancelled and new wholesale licenses issued where required (paras. 1846 and 1882, *infra*).

(2) We recommend that provision should be made for the renewal, removal, and transfer of wholesale licenses, provided—

(*a*) That the removal is subject to the vote of the inhabitants in urban residential districts and to the right of objection to the particular site in other districts (para. 1605, *supra*); and

(*b*) That, in all cases, the transferee is approved as a fit and proper person by the Licensing Committee.

We recommend that all applications for the grant, renewal, removal, or transfer of a wholesale license should be advertised as in the case of publican's licenses, and that all applications should be dealt with, either in open Court or in Chambers, as the District Licensing Committee shall think fit.

(3) Regulation 24 of the Regulations 1942/186, requiring a record of sales to be kept, should be retained.

(4) Some large retail grocers may render a service with a wholesale license. We do not recommend that these licenses be withdrawn.

1628. *The Conditional License.*—(1) We recommend the insertion in this license by statute of the conditions set out in para. 977, provided that the District Licensing Committee shall have power to vary these conditions if, in special circumstances, it thinks fit so to do. Unless the variation is made, the conditions are to be inserted.

(2) We recommend also that seven days' notice in writing of a person's intention to apply for a conditional license should be given to the Clerk of the Licensing Committee (clause 21 of the Bill of 1928).

1629. *Packet License.*—We do not recommend any alteration in this license.

1630. *The New Zealand Wine License.*—(1) This is a retail license, of which there are only four in New Zealand. These licenses authorize sales of New Zealand wine up to 20 per cent. of proof spirit. New Zealand wine can, however, be made and sold wholesale up to 40 per cent. of proof spirit. It seems necessary, in order to render the retail trade lawful, to authorize the sale of New Zealand wine under the New Zealand wine license up to 40 per cent. of proof spirit. We recommend accordingly.

(2) The obligation to prevent drunkenness and maintain sobriety imposed upon an innkeeper by section 181 of the Licensing Act should be imposed upon the holder of a New Zealand wine license as if he were an innkeeper (see clause 17 of Bill of 1928).

1631. Wine-makers' licenses under section 11 of the Licensing Amendment Act, 1914, should be issued by the district Licensing Committee. These licenses are yearly licenses, but no provision has been made for their renewal, removal, or transfer. Consideration should be given to these matters. We recommend that public notice of applications for these licenses should be given, and that provision should be made for the inspection of the wine-maker's premises and for a report to the district Licensing Committee before the grant of the license.

1632. *Wine-sellers' Permits.*—We recommend that Regulation 3 of the Regulations 1943/122 should be made permanent by being embodied in the statute, but that permits should be converted into licenses and made subject to the Licensing Committee.

1633. *Club Charters.*—(1) We recommend that a club charter which has the effect of an annual license be established for the sale of liquor for "on" consumption on the club premises only.

Existing charters give the right to sell or supply liquor for both "on" and "off" consumption. We do not think this right can be permitted under the new charters, for these reasons:—

(*a*) We contemplate that the supply of liquor in clubs shall be brought under control by making it illegal to keep, sell, or supply liquor in any club which is not chartered. This method of regulation will involve a very considerable increase in the number of clubs. We contemplate, for example, that all clubs of a suitable character, now properly conducted under the locker system, which desire a charter, will receive a charter; also that new clubs which could use the locker system and which are of a suitable character will receive a charter where the charter is reasonably required.

(*b*) We contemplate also that these new charters will be issued to clubs of the type mentioned above in no-license districts and in the King-country. A right to make "off" sales would be contrary to the idea that there shall be no open license in an area such as the King-country (unless open licenses are authorized pursuant to referenda).

(*c*) It would not be in the public interest if all these different types of clubs (R.S.A. clubs, officers' clubs, golf clubs, working-men's clubs, &c.) had the right to sell liquor for "off" consumption.

(*d*) Furthermore, such extended right would create too much competition with hotels providing accommodation.

(*e*) The existence of the right to make "off" sales is not necessary in view of the ability of purchasers to obtain liquor from a retailer, a wholesaler, and a brewer.

(*f*) We also think that sales for "off" consumption are not in accord with the idea that a club is a man's home, where he may consume liquor and entertain his guests. The club is not, in essence, a wholesale or retail place of business.

(2) It may be impracticable to interfere with the right to make "off" sales under existing charters, but, if practicable, we recommend that all charters be limited to sales for "on" consumption only.

(3) Again we recognize the distinction between the existing club charters which are not subject to an annual review and renewal and the new charters which we propose. We recognize that it may be difficult to interfere with existing rights, but, if it is practicable, we think that all existing club charters should be placed on the same basis of annual review and renewal as the new charters. No more charters of the existing type should be issued.

(4) Special provisions, such as those enacted in the Australian legislation (Appendix E) should be enacted in New Zealand to ensure that only clubs suitable to control the the sale of wines and spirits as well as malted liquors are licensed, and to ensure the suspension or cancellation of the license according to the degree of failure to observe the conditions of the license.

(5) R.S.A. clubs should not have special concessions for a charter, but should conform to the standard required of other clubs.

(6) We think that clubs should be subject to inspection only by senior inspecting officers as they are at present. This would include inspection by a senior inspector of the Liquor Trade Inspection and Advisory Board, the establishment of which we recommend.

(7) We recommend the amendments in the existing legislation regarding (*a*) the provisional charter, (*b*) the interest of a lessee or other person in club property, and (*c*) the discretionary power of cancellation, all of which are set out in paras. 1301 to 1303 of Book I.

(8) The sale or supply of liquor in clubs without charters should be prohibited.

1634. We recommend at a later stage in this report (1) that the shipping of beer to distant ports be lawfully regulated (para. 1680, *infra*), and also (2) that unlicensed agents used in the delivery of beer should be prohibited and their place taken, where they are found to be useful, by licensed agents. It may be found that, in both these cases, the wholesale license will not be suitable and that a special form of license will require to be authorized by legislation. In that event we recommend that the Licensing Committee shall have power to issue any such license.

1635. We do not recommend the creation of a special license for cricket-grounds. The conditional license is available and appears to satisfy racing clubs. If the sale of liquor at cricket-grounds is thought desirable, the conditional license should first be tried. If a special license were granted for cricket clubs, it would be difficult to select between the claims of other sporting associations for a special license.

CHAPTER 85.—PERMITS FOR THE SALE OR CONSUMPTION OF LIQUOR

1636. We refer now to certain permits for the sale of liquor which we think should be granted or withdrawn at the discretion of the district Licensing Committee or, in certain cases, of its Chairman. The strength of the control over these permits is partly dependent on the adoption of our recommendations for improving the conditions for obtaining the Magistrate's certificate of fitness in respect of a licensee, for the registration of barmen, for the taking-over of the breweries by a public Corporation, and for the establishment of a Liquor Trade Inspection and Advisory Board.

We do not recommend any appeal to the Supreme Court in respect of the grant or refusal of a permit.

1637. *Permits for Sale with Meals in certain Public Restaurants.*—We recommend that a trial should be given to the sale of light liquors in restaurants in which meals are regularly supplied on sale to the public for consumption on the premises. We think that the sale of these liquors in these restaurants would probably tend to regulate the consumption of liquor to an incidental place in social life.

The Church of England Committee whose representative gave evidence before us consider that greater freedom in obtaining such liquors in public places under proper control would tend to conteract the spirit of bravado which is behind the indulgence of some young people to-day (R. 5532).

In the article on "The Causation, Treatment and Control of the Alcohol Habit" in the *British Journal of Inebriety*, Vol. XXX, No. 2, for October, 1932 (put in evidence by the Under-Secretary for Justice—Exhibit A, 9), the author, Dr. Alexander Baldie, suggests certain rules as a basis for popular education. He then adds this statement:—

> As a corollary to the foregoing, a license for the consumption of wines and beers in tea-shops, and places of public refreshment where food is consumed at tables, would tend to abolish secret drinking, reduce drinking according to opportunity rather than to need, and limit harmful drinking between meals.

In South Australia the occupier of a restaurant may apply to a special Magistrate for a permit to sell light wine, not exceeding 25 per cent. of proof spirit, and cider, not exceeding 12 per cent. of proof spirit, for consumption by a person having a *bona fide* meal between 12 noon and 2 p.m., and 6 p.m., and 8 p.m.

In the New South Wales Act of 1946 provision is made for permits to sell light wines and malted liquors in restaurants, at the discretion of the Licensing Court.

We consider that the provisions of the recent New South Wales legislation should be adapted to New Zealand. The granting of the permit should lie in the discretion of the Licensing Committee of each district.

1638. We make these recommendations:—

(1) A permit should be granted only at the discretion of the Licensing Committee in respect of a restaurant with adequate staff and accommodation for the provision of meals for at least fifty persons in separate seats.

(2) The permit should be granted only to an individual who is responsible for exercising personal supervision, and not to a firm or company.

(3) The discretion of the Licensing Committee to grant a permit should be exercised in the light of such other facilities as exist in the locality of the restaurant for obtaining alcoholic liquor with a meal.

(4) Only light (unfortified) wine, cider, or perry, not exceeding 24 per cent. of proof spirit, or malted liquors, manufactured in New Zealand, should be sold, and only for consumption on the premises by persons *bona fide* partaking of a meal of at least two courses; served between say, 12 noon and 2 p.m. and 5.30 p.m. and 7.30 p.m.; the beer or light wine to be served only in sealed bottles to persons *bona fide* partaking of the meal; the bottles to be removed from the table before 2.30 p.m. in the afternoon and before 8 p.m. in the evening; no liquor to be carried away from the restaurant; the holder of the permit to be responsible for all acts of his servants; maximum charges for the liquors to be prescribed by the Licensing Committee; Inspectors to have free right of entry; upon any complaint by an Inspector, a summons may be issued to the holder of the permit to show cause why the permit should not be cancelled by the Chairman of the Licensing Committee.

(5) The permit should be issued subject to such other conditions as the Licensing Committee thinks fit to impose for its proper use. Music should be permitted in the restaurant, but not dancing, without the special permission of the Licensing Committee.

(6) The person holding the permit should have power to exclude any inebriates.

(7) As an additional safeguard, we recommend that the permit should be granted, subject to the specific power of the Governor-General in Council, after, say, three calendar months' notice in the *New Zealand Gazette*, to reduce the strength of the liquor which may be sold under any or all of these permits to not more than 3·1 per cent. of proof spirit. The liquor would still be intoxicating liquor within the definition which we recommend for that term (para. 1660), but for practical purposes it would be as harmless as non-intoxicating liquor.

1639. *Permits for Receptions in Restaurants.*—(1) Permits should also be granted at the discretion of the Chairman of the Licensing Committee, or of the Licensing Committee, to enable a private person or association to hire a restaurant of suitable type for wedding breakfasts, receptions to visitors, and the like, and to have reasonable quantities of liquor supplied by the hirer for consumption on such occasions. The permit should be granted upon such conditions as the Chairman, or the Licensing Committee, thinks fit.

In some towns in New Zealand there is no suitable building, other than a large tea-room, for such functions.

(2) The applicant should give notice of his intention to apply for a permit to the police so that the Chairman of the Licensing Committee, or the Licensing Committee, may have a report upon the application before a decision is made.

1640. *Permits in respect of Dance-halls and Cabarets.*—(1) We recommend that the Licensing Committee, or equally its Chairman, should have power to grant a permit to enable a person or society, which has hired a reputable dance-hall or cabaret for the night for the hirer's exclusive use, to supply light wine, not exceeding 24 per cent. of proof spirit, or malted liquors, to the guests upon the terms approved by the Licensing Committee or the Chairman. Previous notice should be given by the hirer to the police, and the police should report to the Chairman before the permit is granted. The arrangements for the control of the supply, suggested by the cabaret-proprietors in evidence, should be considered (para. 1033, *supra*).

(2) The grant of this permit will not cure surreptitious drinking on open nights.

We have not enough evidence to enable us to make any positive recommendation on this matter. We suggest, however, that favourable consideration should be given to the question whether, if a cabaret-proprietor desired that light liquor should be served to patrons, an arrangement might be made whereby the liquor would be sold in the cabaret at tables, as it would in a restaurant, but under public disinterested management. We contemplate that, if a local Trust were formed, or the L.M.S. Board were set up, either of these bodies might undertake the control and sale of light wines and malted liquor in a cabaret, in the same manner as we recommend these liquors may be sold by the proprietor of a restaurant, although the supper in the cabaret would be only a light one. This provision would, we think, be much better than surreptitious drinking.

1641. *Permits for the Social Functions of Returned Servicemen.*—We recommend that the Licensing Committee or, equally, its Chairman should have power to grant a permit for the "on" consumption of liquor only at a social function of returned servicemen, including Maori returned servicemen, which is held under the auspices of a *bona fide* returned servicemen's association, whether in their club rooms or in other premises approved for the purpose. The grant of the permit to be subject to report by the police, to be in the discretion of the Licensing Committee or its Chairman, and to be subject to such conditions, including extended hours for consumption, as the Committee or its Chairman thinks proper to impose. The number of such permits to be limited to six in any one year for each Association.

1642. *Permits for Canteens in Public-works Camps.*—We recommend that provision be made for the grant of a permit for the "on" consumption of liquor only at the canteen in a public-works camp. Instead of being granted by the Licensing Committee, this permit should be granted by the Minister of Works with the consent of the Licensing Committee of the district in which the public-works camp is situated. This would enable the Minister to revoke the permit at any time when he thought it desirable. Legislation enacted in the New South Wales Act of 1946, covering such permits, could well be adopted. Essential points would be that the hours of sale and the other terms and conditions of sale would be fixed by the district Licensing Committee, not by the Minister. (In New South Wales these matters are fixed by the Licensing Court.)

CHAPTER 86.—FEES FOR LICENSES AND FOR PERMITS

1643. We now refer to the license fees payable on the principal licenses.

Several views may be held as to the basis upon which fees for liquor licenses should be fixed in New Zealand. The first is that a license is merely an authority to conduct the business of selling liquor lawfully and that the fee should be merely a payment for the work involved in preparing and issuing the license. The second is that the fee should be large enough to cover this cost and also to reimburse the local body which is obliged to pay the costs of the elections and meetings of the Licensing Committee. The third is that, having regard to the nature of alcoholic liquor, the fee should be high enough (1) to keep up the price, and thereby discourage excessive consumption, and (2) to make some return to the State for the cost of supervision.

1644. The first view appears to be adopted under the English licensing legislation, but in England there are no Licensing Committees whose expenses are met by local authorities. The second view has hitherto been adopted in New Zealand. The third view appears to be acted upon in some Australian States, where license fees are a percentage upon the wholesale price of the liquors purchased by an hotel, subject to a maximum, such as £500.

1645. The objection taken before us to the New Zealand system was that it made no distinction between the hotel with the large bar trade and the hotel with the small bar trade.

1646. In considering the proper basis for the license fee, we have referred to the method adopted under the Licensed Industries General Regulations of 1940 (1940/279), made under the Industrial Efficiency Act of 1936. These regulations provide for an annual license fee of £1 and a levy of one-eighth of 1 per cent. of the sales turnover. The purpose of the small fee for the license—*i.e.*, for the mere authority to do that which could not otherwise lawfully be done—is to cover the cost of printing, preparing, and issuing the license. The purpose of the levy is to provide a fund for paying expenditure incurred in carrying out any plan for the common benefits of the trade which is licensed.

1647. We have noted that, when the motor-spirits retailers were exempted from the levy under the Industrial Efficiency (Motor-spirits Retailers) Regulations 1941 (1941/21), the license fee was varied. The reseller with two or more pumps was required to pay a license fee of £2, while other resellers were required to pay £1. The principle upon which this differentiation was based is not clear to us.

1648. In our view, the fees payable on the issue of a license should include (1) the fee payable for the license, which of itself would be small, and (2) a fee for the services rendered by any public authority for the particular control of the branch of the trade which is licensed. This second fee would, we think, properly include (as it has included in the past) the reimbursement of local authorities which pay the expenses of Licensing Committees. It would not properly include the costs of police supervision or of inspection by the Health Department which are parts of the general supervision of the various activities of the community and should be more properly met out of the general revenue to which the liquor trade makes a large contribution in duties and income-tax.

1649. We are proposing a Liquor Trade Inspection and Advisory Board, which will be a public body operating for the particular benefit of the trade and the public. Nevertheless, we do not consider that the expenses of this Board should be met by a levy on the trade. There should be no appearance that an executive body of inspection depends upon the trade which it inspects. The Consolidated Fund receives sufficient from the trade in the way of duties and income-tax to enable the cost of the Board of Inspection to be met from the Consolidated Fund.

1650. We do not consider that a license fee should be used for the purpose of keeping liquor at a sufficient price. That should be done by duties and general taxation.

1651. If the work of the Licensing Committee in relation to each license were proportionate to the business done by each licensee (as the operation of an industrial plan for the benefit of a licensed trade might be presumed to be), the contribution towards the expenses of the Licensing Committee might be met by a levy on gallonage. The existence of this basis cannot, however, be assumed. Hotel licenses, as a class, require more supervision than wholesale or packet licenses. Among hotels, a small hotel might require more attention than a large hotel.

1652. We conclude that the present system of fixed amounts, called license fees, which vary between the different classes of licenses, is generally fair. The feeling that a heavier burden of impost should be placed on the larger hotel than on the smaller one is adequately met by the income-tax. This is a tax which uses the fair basis for the imposition of higher burdens—viz., a higher income.

1653. As to the rates of fees, we recommend as follows :—

(1) The fees for the hotel and bar licenses, which we propose should be the same as for the present publican's license, the difference between the fee for a license within a borough (£40) and without a borough (£25) to be retained.

(2) The fee for a house license should be substantially less than the fee for an hotel license. We suggest it might be the same amount (£10) as for a packet license for a vessel exceeding 50 tons register under which sales are limited to the persons on the vessel during a voyage (section 139 of the Licensing Act, 1908).

(3) The fee for a brewery license to be the same as for a wholesale license (£20), and to be payable like the other license fees to the Licensing Committee, which, if our recommendation is accepted, will issue the brewery license. (In the past breweries have paid no license fee for the right to sell beer in lots of not less than 2 gallons.)

(4) The fee for a wholesale license (£20) and for the other licenses to be as they are at present.

1654. These fees should be maintained unless they prove insufficient to meet the expenses of the Licensing Committees by reason of the additional work which will fall upon them if our recommendations are accepted. In that event, some proportionate amount should be added to the present fees. Once, however, the proposal to fix the fees on a gallonage basis is discarded, as we recommend it should be, the license fees will not be an appreciable burden on the trade.

1655. In the past the brewery-supervision fees have sometimes been called "the brewery license fee." The supervision fees constitute, however, payment for a distinct service by the Customs Department. They should be a separate charge and should continue to be paid to the Customs Department.

To-day the breweries are paying less than the cost of their supervision. We recommend, accordingly, that brewery supervision fees be raised to an amount which will adequately cover the cost of their supervision.

1656. We recommend that, if the existing club charter continues to confer the right to sell for both "on" and "off" consumption, the fee for that charter should be £20—*i.e.*, double the amount we recommend in the next paragraph for the new charter.

1657. We recommend that the fee for the new charter, which confers the right to sell for "on" consumption only, should be the same as for a house license (£10 recommended).

1658. We recommend that the fee for a permit should be a moderate fixed amount suited to the class of permit. The fee for a permit for extended hours on a single occasion should be considerably less than the fee for a permit to serve liquor with meals in a restaurant.

CHAPTER 87.—THE DEFINITION OF INTOXICATING LIQUOR AND THE STRENGTH OF LIQUOR

1659. Having now dealt with the licenses for manufacture and sale and the fees payable thereon, we state our recommendations concerning the strength of the alcoholic liquor which may be sold under these licenses.

1660. The definitions of "beer" in the Finance Act, 1915, and of "intoxicating liquor" or "liquor" in the Licensing Act, 1908, do not specify a minimum strength. We think that the minimum strength of intoxicating liquor should be defined precisely. In England beer includes ale, &c., which is found to contain more than 2 per cent. of proof spirit. In New Zealand section 73 of the Finance Act, 1915, defines hop beer as containing not more than 3 per cent. of proof spirit. It is desirable to make a distinction between hop beer and beer.

We recommend, therefore, that intoxicating liquor should be defined to include any liquor which, on an analysis of a sample thereof, is found to contain more than 3 per cent. of proof spirit. This percentage is recommended by the Commissioner of Police.

1661. On the question of the strength of beer, there is evidence which satisfies us that the brewers can to-day brew a satisfactory beer at 1,036 units of specific gravity (para. 834, *supra*). There is some demand for relief from the wartime reduction in strength. On the whole, we recommend that the standard specific gravity of beer shall be fixed at 1,040 units instead of 1,036 as at present, and that the rate of duty should be increased for every unit above 1,040 and decreased for every unit of specific gravity below 1,040 (compare section 6 of the Customs Acts Amendment Act, 1942). This increase will raise the alcoholic content of beer by about 1 per cent. of proof spirit.

1662. We recommend consideration of the proposal made by Mr. Stevens, the chairman of directors of Dominion Breweries, that encouragement should be given to the manufacture of an all-malt beer. This is a beer in which the fermentable extracts are derived entirely from cereal products in which there is no artificial colouring, such as caramelized sugar. Mr. Stevens submitted that, to encourage the production of this beer, it would be necessary to assess the duty at four units below the actual specific gravity of the all-malt wort in order to enable the beer to compete with the ordinary malt and sugar beer (R. 6684 and 6685).

1663. We recommend that the strength of wine manufactured in New Zealand shall not exceed 40 per cent. of proof spirit.

1664. *As to Whisky.*—We find that no satisfactory case has been made out for the manufacture of whisky in New Zealand. The weight of the evidence was plainly against it, and we do not recommend it.

1665. *As to Industrial Alcohol.*—Proposals were made to us for the establishment of an industry producing industrial alcohol. We do not consider this matter to be within the scope of our inquiry, and we have no recommendation to make concerning it.

1666. *As to Brandy.*—See our report on the wine industry (paras. 1941 (10) and 1944 (8) (*g*), *infra*).

CHAPTER 88.—RECOMMENDATIONS REGARDING THE MANUFACTURE OF LIQUOR

1667. We recommend as follows:—

The percentage of alcoholic content by volume, as is now used in the British Pharmacopœia, should be shown on the labels of—

(*a*) All beer bottled in New Zealand; and

(*b*) All wines and spirits bottled in New Zealand.

1668. Inquiry should be made to ascertain whether it is practicable to require that the labels on imported liquors should also show the alcoholic content by volume and by proof spirit (see para. 461, *supra*).

1669. Hop-beer manufacturers should be forbidden to use the word "ale" on their labels (R. 7394).

1670. The provisions of section 209 of the Licensing Act, 1908, as to the words "Bottled in New Zealand" and the name of the bottler being placed on labels, should be strictly enforced (R. 7397).

1671. Section 210 of the same Act should be amended to except labels imported for the purpose of replacing damaged labels, or of reconditioning imported spirits. These labels should be held by the Customs Department and used only under proper supervision (R. 7399).

1672. Provision should be made for the bottling of alcoholic liquor in New Zealand to take place under supervision that will ensure hygienic bottling (see para. 463, *supra*). The label may then refer to the true nature of the supervision of the bottling (R. 7401).

1673. The objection made by the trade to Regulation 14 of the Regulations made under the Health Act 1920 (*N.Z. Gazette*, 1924, p. 1721) should be carefully considered. The application of Regulation 14 to intoxicating liquors should be specifically expressed, but consideration should be given to the requirement of Regulation 14 (2) (*h*), which requires containers made of copper to be coated with tin. The trade says that tin has a detrimental effect in the manufacture of beer (R. 7402). If this is so, a proper exception should be made.

1674. The taking of a sample of alcoholic liquor under section 222 of the Licensing Act, 1908, should be deemed to be a sale for human consumption or use under section 22 of the Sale of Food and Drugs Act, 1908 (R. 7390).

1675. An Inspector taking a sample should be enabled to purchase less than 2 gallons for such sample from any brewery, wholesaler, winemaker, or other person authorized to sell only in lots of not less than 2 gallons (R. 7391).

1676. Licensing Committees should have power to make the grant or renewal of a brewer's license dependent on the use of bottles efficiently washed.

1677. A similar power should be conferred, if required, upon any local authority in respect of any bottling license it may issue under its bylaws.

1678. We do not recommend any reduction in the requirement that spirits must be stored in wood for maturing purposes for a period of at least five years (R. 7409 to 7414).

1679. The Liquor Trade Inspection and Advisory Board (which we recommend) would be suited to making inquiry and recommendations in respect of the foregoing matters where we recommend inquiry or alteration of the law.

CHAPTER 89.—REMEDIES IN RESPECT OF THE TRANSPORT OR DELIVERY OF ALCOHOLIC LIQUOR

1680. We make these recommendations:—

As to the Unlicensed Stores of New Zealand Breweries.—We think the practice of shipping beer is a justifiable commercial practice. Some scheme should be worked out by the Liquor Trade Inspection and Advisory Board which we propose, in conjunction with the police, the Customs, or any other interested Department, to enable any brewery which desires to do so to ship beer to a distant port, either in the fulfilment of orders or for establishing limited stocks from which local orders may be filled. We recommend that any storekeeper must hold some suitable license from the Licensing Committee of the district. As a wholesale license would probably be found to give too wide an authority to buy and sell alcoholic liquors, a new and more limited license would probably be required.

1681. *As to the C.O.D. System of the New Zealand Railways.*—The mischief in this matter arises mostly in the King-country (paras. 1179 to 1187, *supra*). We think it would be too great an interference with legitimate trade to prohibit the sending of alcoholic liquor by the C.O.D. system. If it were stopped, we think the liquor would go into the King-country in some other way.

We recommend that all persons residing in the King-country who desire to order liquor from a source of supply outside the King-country (and there is no other lawful source at present) shall sign an order in a form which shall state :—

(*a*) The order for the liquor ;

(*b*) That the liquor is for his personal use ;

(*c*) That he is over twenty-one years of age ;

(*d*) That he is not a half-caste or of any degree between a half-caste and a full Maori ;

(*e*) That he is not a prohibited person ; and

(*f*) That the statements made in the order are true.

The person signing the order should be required to have his signature witnessed by a Justice of the Peace, solicitor, doctor, postal official, or the like. The form should show that the witness certifies that the person who signed the order did not appear to him to be under the age of twenty-one years or to be a Native.

The making of a false statement in this order should be made an offence punishable as follows : for a first offence, a fine not exceeding £50 ; and for a second or subsequent offence, a fine not exceeding £100 or imprisonment not exceeding three months, or both. There should be no right of trial by jury, but there should be a right of appeal to the Supreme Court.

1682. *Agencies* (see Chapter 33, *supra*).—Unlicensed agents should be prohibited. If an unlicensed agent has served a useful function, he should be licensed by the Licensing Committee. It may be that a special license should be created. The Inspection and Advisory Board we recommend could inquire and make a recommendation.

The legal provisions required to prohibit unlicensed agents would require to be carefully drafted in the light of the legal interpretation of existing licenses which permits the use of these unlicensed agents not as vendors, but as intermediaries in the delivery of the liquor (see paras. 683–686 of Book I, *supra*).

1683. *Wine Depots* (para. 1944 (11), *infra*).—A wine-maker in a no-license district should be permitted to have a depot in that district from which he may fulfil orders received from outside that district. The present restrictions involve an unnecessary expense.

CHAPTER 90.—REMEDIES WITH RESPECT TO THE RETAIL SALE OF ALCOHOLIC LIQUOR

Section 1.—Licensees

1684. We see no reason to alter the present law regarding women as licensees.

1685. As to licensees under publicans' or accommodation licenses, we make certain recommendations for ensuring that only suitable persons shall hold these licenses (or the hotel, bar, or house licenses which we recommend, in lieu of publican's and accommodation licenses).

1686. Before a licensee obtains his license he must, pursuant to section 85 of the Licensing Act, 1908, present to the Licensing Committee an application, accompanied by testimonials as to his character and suitability for the particular premises. The application must also be accompanied by a certificate of fitness, signed by a Magistrate, to the effect that the applicant is a person of good fame and reputation and fit and proper to have granted to him the license for which he applies. The application for this certificate of fitness may be made to any Magistrate anywhere. The inquiry the Magistrate makes upon it is not a judicial proceeding, with the result that the applicant may not be prosecuted for perjury if he makes any false statement in his application : *R.* v. *Aitken*, [1931] 32 N.Z.L.R. 1185.

1687. We recommend that the applicant be required to state in his application whether or not he has been refused a certificate at any time previously by any Magistrate, and whether or not he has been convicted of any offence.

1688. We recommend that, as an alternative to a prosecution for perjury, the making of a statement in an application for a license, which is known to the applicant to be false, should be an offence, to be tried in a summary way, without the option of trial by jury, and that the penalty shall be imprisonment not exceeding one month or a fine not exceeding £50, or both. We think this lesser offence would be more effective than a prosecution for perjury before a jury.

1689. The request for a certificate of fitness is often made to the Magistrate of the district in which the license is to be granted, whereas, if the applicant has come from another district, it is more important to obtain a certificate from a Magistrate presiding in that district. The Commissioner of Police gave an instance of the disadvantage of not obtaining a certificate from a Magistrate of the district from which the applicant had come. A publican was convicted in Dunedin of an offence against the Distillation Act, 1908. Prior to his conviction, he transferred his publican's license. After the man's conviction, this transfer prevented the cancellation of that license for five years under section 119 of the Distillation Act, because he was not the holder of the license at the time of his conviction. The man then went to Blenheim and applied for the license of an hotel at Renwicktown. Notwithstanding the objections raised by the police regarding the conviction in Dunedin, the Magistrate in the Marlborough Licensing District, with some reluctance, granted a certificate of fitness. Subsequently, there was a serious affray at the Renwicktown Hotel in which an airman was killed (R. 6566, 6567, 6572, 6573, and 6565). It would have been better if the applicant had been required to obtain a certificate from the Magistrate in the district from which the applicant had come.

1690. We recommend that provision be made requiring a certificate to be obtained from the Magistrate in the district or districts within which the applicant has been residing for, say, the past three years.

1691. We recommend also that every applicant for a publican's license (or for any license we recommend in substitution thereof) should be required to send a copy of his application to the Liquor Trade Inspection and Advisory Board which we propose. This Board should keep a record of all licensees in New Zealand and of all convictions against them. The Inspection and Advisory Board should send a report to the Licensing Committee upon each application.

1692. We recommend also that the licensee under an hotel, bar, or house license shall not be absent from his licensed premises for a longer period than fourteen consecutive days in one year, and not more than twenty-eight days in all in any one year, without the consent of the Chairman and any two members of the Licensing Committee (see section 171 of the Licensing Act, 1908). A breach of this provision should be made an offence subject to a substantial penalty.

Section 2.—Barmen

(See Chapter 29 of Book I)

1693. We see no reason to alter the present law as to women as barmaids.

1694. We recommend that all barmen serving liquor under any of the licenses or permits which may be granted shall be registered with the District Licensing Committee. The only tests required should be those of good character and sufficient health, particularly freedom from any communicable disease.

1695. As we think that some barmen may have been convicted of the offence of after-hours trading because they sold the liquor within the express or implied permission of the licensee, we do not think that previous convictions for after-hours trading should prevent a barman from being registered, unless they are regarded as serious by the Chairman of the Licensing Committee.

1696. The application for registration could be made to the Chairman of the Licensing Committee, supported by two certificates, signed by reputable persons to the effect that, in the opinion of the person giving the certificate, the applicant is of good character and repute, and also by a certificate from a registered medical practitioner that the applicant is of sufficient health to undertake the duties of a barman and, in particular, is not suffering from any communicable disease.

1697. Notice of the application should be given to the police, who should report to the Chairman of the Licensing Committee. If the Chairman is not disposed to grant registration upon the certificates and upon the report of the police, notice should be given to the applicant so that he may be represented before a decision is made.

1698. The name of every person entitled to be registered should be entered in a register of barmen kept by the District Licensing Committee.

Provision should be made for the transfer of registration from one Licensing District to another.

1699. If a registered barman is convicted of any offence or offences against the licensing laws which the Court before which he is convicted regards as serious, the Court should be enabled, in addition to any other penalty that it may impose, to suspend his registration for such time as the Court thinks fit, or cause particulars of the conviction to be endorsed on the certificate of registration and to be entered in the register. After a specified number of convictions the certificate should be cancelled.

1700. In view of the necessity which sometimes arises of engaging a barman without delay, a person should be permitted to act as a barman for a period of fourteen days without registration. (This would exempt barmen under conditional licenses.) Subject to this exception, it should be an offence, punishable with a substantial penalty, for any person to act as a barman unless he is at the time registered as a barman.

Section 3.—The Responsibility of a Licensee for His Servants

1701. We recommend the enactment of the following provision in clause 34 of the Bill of 1928:—

(1) Every licensee on whose licensed premises any offence is proved to have been committed against the principal Act shall have been deemed to have committed that offence, and shall be liable accordingly unless he proves that it was committed without his knowledge, acquiescence, or connivance, and that he took all reasonable practicable measures by way of personal supervision or otherwise to prevent the commission of any such offence.

(2) The Act or default of any servant or agent of a licensee in relation to the licensed premises shall, save as provided in the last preceding subsection, be deemed to be the act or default of the licensee.

Section 4.—The Premises and Equipment used under Licenses for the Sale of Liquor

Bars

1702. As private bars are lawful in hotels, we recommend that they be expressly recognized. We recommend, as in clause 10 of the Bill of 1928—

(*a*) The correction of the definition of "public bar" or "bar" in section 4 of the Licensing Act by deleting the words "or bar"; and

(*b*) The definition of "private bar" as follows: "'private bar' means any part of licensed premises other than a public bar which is principally or exclusively used for the sale, supply, or consumption of intoxicating liquor." This will include any bars known as a "lounge bar," "house bar," "cocktail bar," &c.

Where in the principal Act or any other Act relating to the sale of intoxicating liquor, the term "bar" is used without qualification, it should include either a public bar or a private bar, unless, by reason of the context, it is necessarily limited in its application to one or the other.

1703. As each license is granted or renewed the Licensing Committee, after making inquiries and taking such evidence as it thinks proper, should authorize the use of one or more private bars, and the number thereof should be specified in the license. The use of any bar, other than those specified in the license, should be an offence. Section 200 of the Licensing Act should be deemed to be superseded, and the form numbered 1 in the seventh schedule should be amended.

1704. We see no reason to charge an additional fee for the specification of the various bars. The important thing is to have all places from which liquor may lawfully be sold in the licensed premises clearly specified in the license.

1705. The Licensing Committee should have power to increase or reduce the number of bars in an hotel. This power has been taken in the recent New South Wales legislation.

1706. We do not think that any material advantage would accrue from requiring that public bars should be on view from the street. Drinkers who do not wish to be seen would go to private bars.

Measures

1707. (*a*) *Beer.*—We recommend that standard measures for the sale of beer for consumption on the premises (including any public bar, private bar, or lounge) should be laid down in the statute. We recommend that there should be standard measures of 12 oz. and of 5 oz. and of an intermediate number of ounces. The 12 oz. measure is required by workers in heavy industry. The 5 oz. measure is required not only by those who drink draught beer, but also by those who drink bottled beer, the quart bottle being usually of 26 oz. As an intermediate measure, we recommend 8 oz., but if it were found to be more suitable for the fixing of a price, then 7 oz.

The standard measures should be marked on the glasses as described in Chapter 28 of Book I.

Different standard prices should be fixed for each measure by the appropriate authority—*e.g.*, by the Price Tribunal or by the Governor-General in Council.

1708. (*b*) *Spirits.*—For spirits we recommend a standard measure of one full fluid ounce, as in New South Wales, the glass to be properly marked. This measure of spirits to be likewise available for consumption in any bar or lounge. Prices to be fixed.

The Governor-General should have power by regulation—(i) to exclude liquor of any kind, not being beer or other malted liquor, from the operation of these provisions, and (ii) to prescribe other standard measures and prices for the liquor so excluded.

These powers of exclusion have been provided in the New South Wales legislation fixing standard measures.

The provision for standard measures should commence on a day to be specified by proclamation to enable licensees to become equipped with standard glasses.

Hot Water and Clean Towels

1709. The increased powers we recommend for the Licensing Committees will enable these to be required.

Dregs

1710. We recommend that the use of dregs be prevented by the best means available. We suggest (i) the use of Condy's crystals in all trays in bars used for the collection of liquor, or (ii) the compulsory fitting of a waste-pipe to the tray so that the dregs will run away immediately to the drainage. Some provision would need to be made to prevent the blocking of the pipe.

The use of liquor left in handles or glasses in the bar should be an offence punishable with a severe penalty for breach.

More frequent inspection of the bars by the Medical Inspectors of Health during closed hours and, in particular, after any closing-hour during the day, should be carried out.

As to Flies, &c.

1711. The licensee should be required, under a substantial penalty, to take all reasonable steps to keep his licensed premises free from flies, mosquitos, bugs, and vermin of every description.

(This provision has been inserted in the recent New South Wales Act.)

The Hours of Retail Sale

1712. In our view, the evidence shows that the hours of retail sale should be extended for the following principal reasons :—

(1) In the cities decent conditions of drinking do not appear to be practicable when the sale of liquor closes for the day at 6 p.m.

(2) Workers coming in from their work in the country to the town at the end of the day must, if they desire a drink, rush to hotels before 6 p.m., and then engage in rapid drinking.

(3) Many workers in the country cannot leave their work, such as milking, in order to have a drink before 6 p.m.

(4) We think that after-hours trading would be diminished if opening hours in the evening were permitted.

(5) The object of treating alcoholic liquor as an incidental aid to the social enjoyment of those members of a civilized community who desire it would be assisted by providing evening hours.

(6) The improvement in temperance and manners in relation to alcoholic liquor over the past twenty-five years and more affords good ground for assuming that evening hours would not be abused.

(7) In Tasmania, where the closing-hour was extended to 10 p.m. in 1937, there has been a progressive drop in the convictions for drunkenness and for drunkenness and related offences. (We note this fact, though we have not seen any critical analysis of the position.)

(8) Some of the alterations in the law which we propose would assist to safeguard the "on" sale of liquor in the evening—*e.g.*, the additional check on the character of a licensee, the registration of barmen, the conduct of the breweries by a public corporation, and inspection by a Liquor Trade Inspection and Advisory Board.

1713. We recommend accordingly the following hours for sale to the public :—

Under an hotel or a bar license (which we recommend in replacement of the publican's and accommodation license) and a New Zealand wine license, on the days of the week, other than Saturday or Sunday, the hours for sale for both "on" and "off" consumption be from 10 a.m. to 2 p.m., from 4 p.m. to 6 p.m., and for "on" consumption only, from 8 p.m. to 10 p.m.

We think the breaks in the hours we have suggested will be useful for clearing the bars on week-days so that some customers will not remain in a bar all day.

1714. On Saturdays we recommend that the hours of sale be from noon to 6 p.m. only. We think that this period would prevent the misuse of a free Saturday morning and tend to ensure that the first drink would be taken after food. Keeping open during the whole of the afternoon would tend to relieve the situation at sports matches. At present many bottles are taken to football grounds to provide drinks. If hotels handy to sports-grounds remained open during the afternoon fewer bottles might be taken to the grounds.

1715. On Sundays we recommend there should be no hours of sale to the public.

1716. Hotels would retain the same right as they have at present to sell liquor at meals on any day of the week between 6 p.m. and 8 p.m. Hotels should also have the same right to sell liquor to *bona fide* guests at any time as they have at present.

1717. We recommend also that any person, as well as a lodger in an hotel, having a meal in the dining-room of an hotel between noon and 2 p.m. on a Sunday should have the right to be supplied with liquor as part of his meal, even though the meal is then eaten when licensed premises are required to be closed.

1718. With respect to a house license, we recommend hours from 10 a.m. to 11 p.m. on every day of the week, including Saturdays and Sundays. Under this license the service would be to guests only and their guests.

Club Charters

1719. In residential clubs the members and honorary members in residence have and should have the same right to be served with liquor at any time as the guests in an hotel. We recommend that the hours of sale to the members not in residence in residential clubs and to all the members of clubs without residential accommodation should be the same as the hours of sale under the bar license we propose—viz., from 10 a.m. to 2 p.m., from 4 p.m. to 6 p.m., and from 8 p.m. to 10 p.m., save that a chartered club serving a substantial evening meal in its dining-room between 6 p.m. and 8 p.m. should keep its right to serve liquor with the meal pursuant to section 10 of the Sale of Liquor Restriction Act, 1917.

1720. We recommend also (as we have recommended for a person dining in an hotel, para. 1717) that a member not in residence, and his guests, having a meal in the dining-room of a chartered club between noon and 2 p.m. on a Sunday should be entitled to be supplied with liquor with his meal.

Under the new charter which we recommend the sales during any of the specified hours will be for "on" consumption only.

1721. If the hours we have recommended for the sale of liquor should be found unsuitable, then the Liquor Trade Inspection and Advisory Board, which we propose, could recommend Parliament to alter the hours.

1722. We recommend that hours of sale under the brewer's, wholesale, and wine-maker's license and under the wine-seller's permit should be the same as they are at present.

1723. We recommend that the hours under conditional or packet licenses should be regulated as they are at present.

1724. Save for the hours we have recommended, licensed premises should be closed, unless a permit is granted for extended hours on special occasions.

Permits for Extended Hours

1725. We recommend the granting of permits for extended hours at the discretion of the Licensing Committee or, say, the Chairman and any two members of the District Licensing Committee, or the Chairman alone.

1726. We recommend a permit for the extension of hours for the sale or consumption of liquor at special functions held in hotels, chartered clubs, or restaurants. The functions contemplated are banquets or similar dinners, social gatherings of a chartered club, receptions to distinguished visitors, reunions of societies, wedding parties, and the like.

Previous notice of the application should be given to the senior officer of police in the licensing district, who should obtain a report for the Licensing Committee (or the Chairman) before the permit is granted.

1727. The number of occasions for these late hours in a chartered club should be limited to the number asked for by the clubs—namely, six per annum. The number of occasions for hotels or restaurants should be in the discretion of the Licensing Committee (or the Chairman).

1728. The hours should not, however, be extended beyond 1 a.m. of the following day. All such gatherings during extended hours, including those in clubs, should be open to inspection.

1729. A more limited extension of hours is proposed in clause 37 of the Bill of 1928, but we think it is too limited for the needs of New Zealand to-day and for the holding of functions of a diplomatic or international character.

1730. We recommend that the law be altered so as to permit a licensee and his family to treat personal guests during closed hours and to supply liquor to his family and servants (see Regulation 3 (1), (2), and (3) of the regulations of 1942/186, and *Graham* v. *Sloan*, [1943] N.Z.L.R. 292).

After-hours Trading

1731. The more liberal provisions for sale which we recommend justify the tightening of the law as to after-hours trading (section 190 of the Licensing Act, 1908).

1732. We recommend that the change in the onus of proof effected by Regulation 21 of the regulations of 1942/186 (affecting sly-grog selling) should be applied to after-hours trading—*i.e.*, the onus of proof should change when the circumstances are sufficient to constitute a reasonable cause of suspicion that the defendant is guilty of the offence charged. This change in the onus of proof should also be applied to the offence of supplying persons, other than lodgers, after hours (see section 191 of the Act).

1733. We recommend that the maximum penalty for a first offence should be increased from £10 to £50 and from £20 for any subsequent offence to £100. For the third offence we recommend a maximum fine of £150, and the power to suspend the license of the licensee for a defined period, and the power to order the closing of all the bars in the hotel for not less than one week, nor more than two weeks. This latter power was termed in the evidence "padlocking the bar."

As to Sly-grog Selling

1734. We recommend that Regulation 6B of the Regulations 1943/122 as to *keeping* liquor for sale without being authorized by law be included in section 195.

1735. Regulation 20 of the Regulations 1942/186, as amended by Regulation 7 of the Regulations 1943/122, and also Regulation 21 of the Regulations 1942/186 (affecting the onus of proof) should be permanently enacted in the licensing legislation.

1736. Consideration should be given to the question whether the right to trial by jury should be excluded with respect to sly-grog selling. We recommend that it should, but there should be an appeal to the Supreme Court in the ordinary way.

1737. The maximum penalty for the first offence of sly-grog selling should be that which is now provided for a second offence—viz., a fine of £100 or imprisonment, with or without hard labour, for a term not exceeding three months. For a second offence the penalty should be increased to £200, or to imprisonment, with or without hard labour, for any term not exceeding six months, and the Court should have power to disqualify the convicted person for any term, not exceeding five years, from holding any license for the sale of liquor. In addition, the power to forfeit the license for a second or any subsequent offence contained in section 195 (3) should be retained.

1738. Furthermore, the Court should be given power to order that any boat, vessel, or vehicle used in the carriage of the liquor be forfeited and sold and the proceeds paid to the Consolidated Fund. Provisions for the forfeiture of boats, vessels, or vehicles carrying liquor for unlicensed persons or to unlicensed premises are contained in the New South Wales legislation enacted this year.

1739. We recommend also that persons other than Natives be not permitted to reside in a Maori *pa* without a permit in writing from a Judge of the Native Land Court, which may be revoked at any time upon cause shown.

CHAPTER 91.—REMEDIES IN RESPECT OF EXCESSIVE GOODWILL PAYMENTS, MANAGERS' AGREEMENTS, TIES

1740. We have already explained (para. 1527, *Supra*) that we consider alcoholic liquor differs from the ordinary commodities of trade in that the pushing of its sale is detrimental to the public interest. In our view, the tendency of business to link production with stimulated retail consumption is not properly applicable, in the public interest, to alcoholic liquor.

In our view, the ownership of hotels by brewery companies, or hotel companies which are financially interested in brewery companies, and the operation of these hotels by a licensee-manager for these companies, creates an undue pressure to sell alcoholic liquor. The tenant of these hotels under a weekly, monthly, or even yearly tenancy is in a similar position to a licensee-manager, whether there is any tie under an agreement or not.

In our view, where an hotel is leased for a term of years but is under a tie, there is still a similar pressure to sell alcoholic liquor. In all these cases, where the owner or the lessor is interested in the trade, he expects the returns to be at least kept up regardless of the fact that a natural fall in the sales of alcoholic liquor would be satisfactory when viewed from the point of view of the public interest.

1741. We shall recommend provisions which will involve the abolition of the pressure to sell from brewery companies and hotel companies which are financially interested in brewery companies. These provisions will comprise the acquisition of the breweries by a public Corporation (which we call " the Liquor Manufacture and Sale Board "), and the sale of beer by the Corporation at fixed wholesale and retail prices, just as milk is sold by the Wellington City Corporation.

1742. We shall recommend that, when beer is sold under a bar license—*i.e.*, without the provision of accommodation or substantial meals—the sale shall be only by a local Trust or, alternatively, by the Liquor Manufacture and Sale Board controlling the breweries, whose policy will be not to push the sales of liquor. If these arrangements are made, every licensed person who provides accommodation will be placed on the same basis as any other licensed person providing accommodation, and the emphasis will, we think, tend to shift from the sale of beer to the provision of good accommodation in order to deserve custom.

1743. Wholesale licensees will require to purchase their supplies of beer from the Board, but this, of itself, would not prevent the wholesale licensee from controlling an hotel and employing a manager or from having a tied house. For the reasons we give later (para. 1807, *infra*) we do not think it necessary for a public corporation to acquire the business of wholesale wine and spirit merchants.

1744. With the tie in beer out of the way because of the taking-over of the breweries by the Liquor Manufacture and Sale Board, the tie in wines and spirits could be controlled by making its validity subject to the approval of the tie as fair and reasonable by the Licensing Committee. If it were found desirable, the tie in wines and spirits could be prohibited (para. 1807, *infra*).

1745. The validity of the terms of employment of any licensee-manager should be made subject to a similar approval. The remuneration of a licensee-manager or any barman by reference, directly or indirectly, to the sales of liquor should be prohibited.

1746. We have already specified the powers of a Licensing Committee to undertake these reviews of agreements (para. 1598, *supra*).

We recommend, further, that the Licensing Committee be not bound to take notice only of written agreements. The Committee should have power to inquire whether there are any oral or implied agreements which would have the effect of a tie or of the payment of a commission on profits to a manager, and, if so, to require that they be reduced to writing for consideration.

1747. A method of diminishing goodwills was suggested by the chairman of directors of Dominion Breweries—viz., that payments made for goodwills of licensed hotels should be taxable as the income of the vendor and be deductible as an expense from the income of the purchaser (R. 6688). This would involve treating capital payments as revenue or expenditure. We think the proposal would probably drive the payments underground, but we refer it to the Government for consideration (R. 6688).

CHAPTER 92.—ADVERTISING

1748. Another means of pushing sales is advertising.

We recommend that the advertising of alcoholic liquor by radio or by screen should be prohibited; also that advertising by poster or writing, except on the premises where the liquor is manufactured or sold, should be prohibited. We recommend that some increase should be made in the maximum size of newspaper advertisement permitted in case it should be necessary for a licensed person to advertise for the protection of his name or product or to expose what he considers to be the unfair practice of a competitor.

1749. We recommend, therefore, that the present restrictions on advertising, contained in Regulation 18 of the Regulations 1942/186, be retained, with the exception that the size of the advertisement permitted in any newspaper (other than a newspaper circulating exclusively or principally among persons engaged in trade or commerce) be increased from $2\frac{1}{2}$ in. by 2 in. to 5 in. by 8 in. in length.

CHAPTER 93.—REMEDIES IN RESPECT OF NATIVES, POLYNESIANS, AND MINORS AS CONSUMERS

1750. We make these recommendations:—

(1) The possession of alcoholic liquor by a Native (other than a male Native on licensed premises, or a Native who is the wife of a European, or a Native pursuant to the prescription of a registered medical practitioner or otherwise pursuant to lawful authority) should be made an offence.

(2) Special provision should be made to permit Maori returned soldiers to consume liquor at social functions which are organized by any *bona fide* returned servicemen's association.

(3) Provision should be made to permit wine at the communion services of any recognized Maori Church which desires it.

(4) Adequate and proper steps should be taken to control the expenditure of those Maoris who spend their wages and social security moneys on excessive drinking. (The Maori Social and Economic Advancement Act, 1945, gives certain powers to tribal executives and tribal committees, but does not give the power to control the moneys of individuals.)

1751. If it is in accordance with the Native policy of the Government to re-enact the provisions for the Europeanization of Natives (authorized by section 17 of the Native Land Act, 1912, but repealed by the Native Land Act, 1931) the Maori declared to be a European would be entitled to consume liquor as a European.

As this broad question is a matter of Government policy in Native affairs, we limit our recommendation to one for consideration.

1752. We recommend, further, that the Government should consider whether it is advisable to authorize the Native Land Court to grant permits to individual Maoris to purchase and consume alcoholic liquor to the same extent as a European. A permit could well meet individual cases. The wisdom of the provision would depend upon a general view of Native policy, and again we limit our recommendation to one for consideration.

1753. Polynesians should be placed under the same restrictions as Maoris. Clause 35 of the Bill of 1928 appears to be sufficient, and is in these terms :—

The provisions of sections forty-three, forty-four, and forty-six of the Licensing Amendment Act, 1910, shall apply to Polynesians in the same manner as they apply to Natives. For the purposes of this section the term " Polynesian " includes Melanesian and Micronesian ; half-castes and persons intermediate in blood between half-castes and persons of pure Polynesian descent shall be deemed to be Polynesians.

We do not recommend restrictions upon Indians, Chinese, or Negroes, who are entitled to drink liquor in their own country without special restriction.

1754. Heavy penalties should be provided for the supply of liquor to Maoris in *pas*. The administration of the law in this respect needs to be tightened. We have recommended, as an aid to the suppression of sly-grog selling, that persons other than Natives should not be permitted to reside in a Maori *pa* without a permit from a Native Land Court Judge, revocable at any time upon cause shown to a Judge.

1755. We recommend that minors should be prohibited from purchasing liquor from breweries, and that breweries shall be prohibited from selling liquor to minors.

CHAPTER 94.—REMEDIES IN RESPECT OF HOTEL ACCOMMODATION

(See Chapter 30 of Book I)

1756. The main remedies must lie in the action of Licensing Committees under the additional powers we propose for them—*e.g.*, to require the supply of hot water and the provision of sanitary accommodation, baths, and showers as required for the convenience of the public ; likewise the power to require improvements in the furnishing and lighting of hotels, and also the power to order structural alterations, and, if necessary, rebuilding, subject in the last case to an appeal to the Supreme Court.

Another remedy lies in the power we propose for the Licensing Committee to fix (*a*) standards of meals and accommodation, and (*b*) prices for different standards in relation to any particular premises.

In carrying out these duties the Licensing Committee would, we think, be greatly assisted by the reports of the Inspectors of the Liquor Trade Inspection and Advisory Board which we propose. That Board could submit gradings for hotels in each district, specifying the standards and accommodation required for each grade. That Board could also submit proposals as to the way in which the conditions in the kitchens and in " the back of the house " generally could be improved. The power of the Licensing Committee to call for proposals (including any sketch-plans), which the licensee is prepared to put forward for improving, altering, or rebuilding his premises, should be helpful.

1757. We make the following additional recommendations :—

The provisions of section 165 of the Act concerning the refusal to provide accommodation and meals should be strengthened. In the recent New South Wales legislation the proof of reasonable cause for the refusal has been placed upon the licensee, and the maximum penalty fixed at £30. We recommend the same provisions in our legislation.

1758. When new hotels are built in the future, particularly at tourist resorts, they should be planned to provide accommodation for the busy seasons, even though this may require, in accordance with overseas practice, the closing of part of the hotel in the " off " season.

1759. Hotelkeepers should be encouraged to keep proper accounts, differentiating between the " bar " and the " house " sides of the hotel.

1760. The provisions of Regulation 23 of the Regulations of 1942/186, regarding the keeping of a register of lodgers, should be enacted in the statute (see clause 39 of the Bill of 1928).

1761. A training school for hotel staffs should be brought into operation as soon as practicable (see Section 7 of Chapter 30).

1762. As buildings are remodelled and rebuilt, provision should be made for separate accommodation for the staff, outside, if possible, the actual licensed premises of the hotel (para. 645, *Supra*).

CHAPTER 95. CORPORATE CONTROL AND THE NATIONAL LICENSING POLL

1763. We had the evidence of witnesses, representing a substantial body of opinion, that the control of the liquor trade by private enterprise under a licensing system supported by the method of inspection was not, and was not likely to be, adequate. These witnesses, representing the Council of Churches, the Church of England, and certain labour organizations, maintained that what was essentially required was a system of disinterested management. The essence of disinterested management is that the motive to push the sale of liquor for private profit is removed.

We agree with the view which is implicit in this proposal—viz., that alcoholic liquor is a commodity which differs from the ordinary commodities in trade in that its maximum production and consumption do not mean maximum public benefit. On the other hand, certain disadvantages may be involved in any particular system of disinterested management.

1764. One system of this kind is State control. We do not propose, ourselves, to consider direct control by a State Department at any length. In our view, this form of control has possibilities of interference with Government in other matters which are avoided by control by a public Corporation whose directors are appointed for a period of years and have, during that period, subject to the general policy laid down by the State, the same power of management as they would have if they were the directors of a private business. We proceed, therefore, to consider the system of control by a public Corporation.

1765. There are many private undertakings, like the big industrial and commercial organizations of the United States of America and Great Britain, with a much larger capital than would be required to take over the whole liquor trade of New Zealand. There are also many public authorities, like the T.V.A. of the United States, the London Transport Board, the Port of London Authority, the New Zealand Government Railways, which also have a much larger capital at stake than would be involved in acquiring the assets of the liquor trade of New Zealand.

1766. We think that, if men of suitable character and intelligence, with direct managerial, technical, or other practical working experience of the industries and services involved in the liquor trade were available and appointed to the Board of a public Corporation to control the whole liquor trade of New Zealand, including its hotels, they could successfully administer the whole trade. We think that their administration would be assisted and would be brought more into harmony with the views of the people of each locality if the public corporation were subject to the control of Licensing Committees and to inspection by an independent and competent Board of Inspection which could give evidence before Licensing Committees and make an annual report to Parliament. We think, therefore, that a system of complete corporate control could be carried out, and, although we are not recommending its adoption, we think it our duty to indicate how the Government, if it desires to put such a scheme to the vote of the people, could frame suitable legislation for the purpose.

1767. A scheme could be adapted from the present scheme for State purchase and control which is contained in sections 65 to 71 (inclusive) of the Licensing Amendment Act, 1918. Provision could be made for the creation of a National Board of Liquor

Control, the members to be appointed by the Governor-General in Council for a period of, say, seven years. We think the appointees should mainly comprise persons with direct managerial, technical, or other practical working experience of the manufacturing, wholesaling, retailing, and hotelkeeping sides of the liquor trade. They would, however, have for the future no private interest in it. They would receive adequate fixed salaries for administering the trade in the public interest.

1768. The basis laid down for the acquisition of assets under State control could be adopted for corporate control. When corporate control came into force, after a favourable referendum of the people, all the assets of the trade would vest in the public Corporation, subject to the assessment and payment of compensation by the Supreme Court in each Supreme Court district, or in the manner provided in the Act of 1918, but subject also to the question whether the assessors should not be independent persons, instead of representing the views of the claimant and of the Crown respectively (see section 41 (4) of the Licensing Amendment Act, 1918).

1769. The cost of purchasing all the breweries and hotels in New Zealand was estimated by counsel for the Commission at an amount in the vicinity of £12,000,000 (R. 7810). To this amount the cost of purchasing any assets of the wholesale wine and spirit merchants that might be required would need to be added.

We did not ourselves undertake an investigation of the costs of the purchase. To do so thoroughly would have been impracticable within the time available to us. No objection to the estimate made by counsel for the Commission was made by counsel for the trade, though they are not to be taken to assent by silence.

1770. If the assets of the trade were to be taken over, the purchase-price would need to be advanced by the State. We see no reason to doubt that, with satisfactory management, the public Corporation could repay the total amount, with interest, from its profits, within a reasonable time.

1771. If corporate control were established, the Licensing Committees should be continued instead of being excluded, as they would be under the present legislation authorizing State control. Even a statutory Corporation appointed in the public interest will conduct its business more in conformity with the views of the people of the district if it holds its premises under license from the district Licensing Committees which have power to revoke or deal with the licenses in the event of breaches of the law. The Licensing Committees should have the additional powers which we have recommended for them, subject to a right of appeal to the Supreme Court in certain matters, such as the grant or refusal of a license or of the renewal of a license or an order for rebuilding.

1772. In addition to the Licensing Committees, we think provision should be made by statute for inspection by a small independent and competent Liquor Trade Inspection and Advisory Board, which we shall recommend. The members of this Board would not, we think, need to devote their whole time to its work, but we consider that an independent power of inspection and of report to Parliament upon the operation of any corporate control would be advisable. The report would be of the same independent nature as the report of the Auditor-General to Parliament upon the Government accounts.

1773. The use of Licensing Committees and of this Inspection and Advisory Board would be a check upon any tendency of a Board of corporate control to abuse the power of a monopoly.

1774. We assume that the taking-over of the whole of the liquor trade (including the hotels) under a system of complete corporate control would be dependent upon a vote of the electors. For this purpose we recommend the abolition of the issue of State control and also of the present form of ballot-paper and of the methods of determining whether a proposal is carried at the national poll. We consider that both the ballot-paper and the method of determining the voting are ill adapted to ascertaining the real will of the electors.

1775. In view of the substantial body of evidence in favour of a vote upon corporate control of the whole trade, we recommend that the ballot-paper for the national poll should be divided into two parts as follows :—

PART I

I vote for Continuance (subject to the vote in Part II).

I vote for Prohibition.

PART II

(To operate if Continuance is carried.)

I vote for Corporate Control.

I vote against Corporate Control.

In Part II we use the words " I vote against Corporate Control " instead of " I vote for Private Enterprise," because, if corporate control is not carried, " private ownership " would not be apt to describe a system which included the Invercargill Licensing Trust or the holding of a license by a City Council or Borough Council, if our recommendation in respect of these Councils is adopted.

1776. We state here our views on the majorities which should be required for the votes on national and local licensing polls :—

(1) The vote for national prohibition and the vote for local restoration represent a complete change in the *status quo* over the area affected, and the majority required to carry either prohibition or local restoration should be 60 per cent. of the valid votes.

(2) A vote for local Trust control following a vote for restoration only determines the kind of system for the sale of liquor which is to be restored after restoration has been carried by a majority of 60 per cent. For this purpose we think a bare majority in favour of local Trust control is sufficient. If any owners of previously licensed premises have preferential rights after the lapse of thirty-five years and more, they should be compensated.

(3) Corporate control for the whole country represents a change from one form of continuance to another, but it would involve a transfer of the large business interests of the manufacturing, wholesale, and retail trade throughout the country. This change from one form of continuance to another appears to occupy a position halfway between the change on the vote for local Trust control following a vote for restoration and the change on the vote for national prohibition. We think that a majority of 55 per cent. of the total valid votes should be sufficient to carry corporate control of the whole trade.

1777. We recommend that the national licensing poll, upon the form of ballot-paper which we recommend for that poll, should be held in 1946. If this is not practicable, we presume the present ballot-paper will be used. In either event, if continuance is carried on this national poll, and, if our proposals, or our main proposals, are enacted before 1949, then we recommend—

(*a*) That no further national licensing poll be held after 1946 until 1955, and thereafter the national poll be held only every nine years ; but

(*b*) That the local poll on restoration should be held in 1949, and thereafter only when the national licensing poll is held.

In making this recommendation for the national poll we do not intend to indicate that a system of complete corporate control or State control would be better than the system of control which we recommend for adoption.

CHAPTER 96.—CONTROL OF THE BREWERIES BY A PUBLIC CORPORATION

1778. For the following reasons, we do not think that corporate control of the whole trade is desirable at least at present :—

(1) Hotelkeeping requires much attention to many and varied details. There is reason to think that one hotel or each of a moderate number of hotels could be more efficiently conducted under one management than, say, the average of one thousand hotels under one management.

(2) There is much to be said against the elimination of the small hotelkeeper on his own account, particularly in a country district, provided he holds his hotel upon reasonable terms and free from a pressure to sell liquor. He has a personal interest in his customers and people like the familiar contact with one who acts as "mine host."

(3) There is much to be said against the elimination of the private wholesaler as a dealer in wines and spirits. He has overseas agencies. By his knowledge of a specialized trade, he is able to make good wines available in New Zealand. We do not suggest that, in time, a public corporation could not obtain the same results, particularly if it employed some who were expert in the wholesale business. We presume that, in the ordinary course, overseas exporters of wine with a surplus to sell would sell to a public corporation just as readily as to private persons. Yet the wine and spirit importations are small in relation to the total quantity of liquor consumed, and we see no particular reason for the acquisition on behalf of the public of the business of wine and spirit merchants who have built up valuable overseas connections.

(4) There is also a doubt whether corporate control of the whole liquor trade of the country could be started immediately without some dislocation, and it would seem to be wise to consider a less ambitious approach to the solution of public disinterested control.

1779. In considering the remedies, we think a distinction should be made between the business of manufacturing or selling alcoholic liquor, as the principal source of profit, and the business of selling alcoholic liquor as an adjunct to the provision of accommodation or substantial meals. The manufacture and sale of alcoholic liquor by itself is a business which has dangerous possibilities affecting the public welfare and requires to be limited and controlled. The business of providing accommodation or substantial meals for the public is a business to which no limit need be set on the grounds of public welfare. But, because the law has permitted the sale of alcoholic liquor under a publican's or an accommodation license, only where accommodation has also been provided, the strong tendency of those engaged in the manufacture of alcoholic liquor has been for many years past to acquire licensed premises as outlets for their beer and other alcoholic liquors. Hence many breweries, and hotel companies which are financially interested in brewery companies, have ensured a large revenue for the sale of the beer produced by the brewery, through many hotels which are really only beer-houses, while they have, in a few cases, erected large hotels (such as the Hotel Waterloo) and have managed them very well.

1780. This method of conducting business enables good service to be provided in some cases, while it maintains in many others the bad system of crowded drinking in unpleasant surroundings under a management which tends to push the sale of liquor as far as it may.

1781. In our view, what is required is the establishment of a system which will enable beer to be sold at a reasonable price to all who may properly purchase it, whether wholesale or retail. The system should provide for meeting the demand which exists, but not for the stimulation of demand.

Under such a system beer would be available to all hotels, at fixed rates, just as the milk of the Wellington City Council is available, or the electric current provided by the State through Power Boards. Every hotel would then be placed upon the same basis in relation to the purchase of beer, just as it is in relation to the purchase of milk in the City of Wellington or of electric current in any part of the country. The capacity of the hotel to attract custom would tend to depend upon the provision of good accommodation and of other amenities, both in the house and in the bar.

1782. This result can be attained by the acquisition of all the breweries by a public Corporation, by the manufacture of the beer by the Corporation, and by its sale by the Corporation, at fixed wholesale and retail rates, to all who may lawfully purchase it.

1783. One method of attaining this result was attempted by the principal brewery companies themselves when they formed New Zealand Breweries, Ltd., in 1923. We have explained the position fully in Chapter 11 of Book I. Put shortly, that company aimed, through the amalgamation of all the brewery companies, to eliminate the competition of separate brewery companies (and of hotel companies interested in brewery companies) for hotels as outlets for the beer of each brewery company. The object was to ensure that, as all principal brands of beer were sold by one company, the hotels, however they were owned, and whether they were tied or not, would have to purchase those brands of beer at fixed prices.

This private method at reform ceased when the breweries again entered into competition after the rise of Dominion Breweries in 1931. At the present time New Zealand Breweries, Dominion Breweries, and Ballins Breweries are all ready to continue in competition. We have set out the results in Chapter 11 of Book I. If this competition continues, we do not think it will be in the public interest. If it ceases, because the three major companies come to some understanding, then the control of the liquor trade in New Zealand will be largely a monopoly in private hands, and we do not think that the result will be in the public interest.

1784. This method of amalgamating all the breweries under one public control is better and more efficient, we think, than attempting to break the tie between each brewery on the one hand and the retailer on the other hand. Under that method the separate manufacturers are still competing with one another and still endeavouring to increase their profit from the sale of a dangerous article of trade at the expense of other manufacturers. This competition leads to various methods of defeating the legislation intended to break the tie. The New Zealand legislation against the tie was avoided by a conveyancing device, and Parliament did not subsequently enact further legislation intended to defeat the tie.

1785. The fact is that it is very difficult to prevent the operation of a tie when it is true that any form of financial, or even of moral, obligation has, for practical purposes, the same effect. The financial or moral obligation may exist in respect of matters which are of some importance to the licensee, but which have nothing directly to do with the licensed premises. But the licensee, feeling a sense of obligation, acts in respect of the licensed premises as though he were under a tie in relation to them.

1786. In Canada the method adopted has been to require breweries to sell only through a State purchasing agency. This method was presented to us in the interesting evidence of Mr. J. W. Collins, who had been the New Zealand Trade and Tourist Commissioner in Canada and the United States from 1930 to 1938. We think, however, that this method is open to the objections we have just stated against legislation intended to break a tie. While the breweries remain in existence as competing entities, illegal relationships in trade tend to arise between some breweries and the purchasers of their produce. Illegal sales have occurred in Canada, and they may do so elsewhere.

1787. In our view, the best solution lies in making effective the idea of one control of the breweries that was the basis of the formation of New Zealand Breweries, Ltd., in 1923.

1788. We recommend, therefore, that all the breweries in New Zealand should be acquired by a public Corporation which will manufacture beer on the basis that the demand should be met, but not stimulated, and that beer of the best quality should be made available to all who may lawfully purchase it, at fixed prices, both wholesale and retail. This public Corporation we call "the Liquor Manufacture and Sale Board" or, more shortly, "The L.M.S. Board."

We include in the term "beer" the other liquors manufactured by a brewery (ale, porter, &c.) and included in the definition of "beer" in the Finance Act, 1915.

1789. There is no great difficulty in separating the brewery business from the hotel business of a firm or company. That separation was involved in the purchase by New Zealand Breweries, Ltd., of the brewery assets of some of the vendor companies which owned hotels as well as breweries. The agreement for sale and purchase made on that occasion shows that New Zealand Breweries, Ltd., purchased: —

(1) The goodwill of the business of each vendor as a brewer and maltster as a going concern;

(2) The lands and premises used therein;

(3) The machinery and plant required; and

(4) The stocks on hand, the price for draught beer and for bottled beer being separately fixed.

We see no real difficulty, therefore, in the acquisition by a public Corporation of the business of brewers and maltsters carried on by companies which also own hotels.

1790. We recommend that, in default of agreement, the compensation payable should be assessed either: —

(*a*) By a series of Compensation Courts, each presided over by a Stipendiary Magistrate, as is provided for the acquisition of the liquor trade by the State under sections 40 to 45 (inclusive) of the Licensing Amendment Act, 1918, subject to the qualification that we think the assessors should be independent of the trade or of the membership of the New Zealand Alliance for the Abolition of the Liquor Trade; or

(*b*) By a Compensation Court in each Supreme Court district for the assessment of compensation for the breweries in that district, presided over by a Judge of the Supreme Court and two independent assessors, as mentioned above.

1791. The reforms involved in the acquisition of the breweries by a public Corporation would eliminate the high goodwills paid for hotels by brewery companies and hotels interested in brewery companies. It would eliminate the pressure to keep up, or to increase, the returns from the sale of beer in order to enable steady dividends to be paid at a substantial rate to the shareholders of the brewery companies.

This reform would take away from hotel companies which have been financially interested in brewery companies that part of their incentive to rely on the sale of beer which arose from their financial interest in the brewery company.

1792. This reform would still leave the hotel companies and other hotelkeepers with a substantial interest in deriving revenue from the bar trade in their hotels. The control of the pressure to sell which arises from this interest will depend on the fact that an hotel license will only be granted where the premises are providing accommodation which is required in the locality and upon the new emphasis on accommodation as a source of profit, also upon the standard of conduct of the licensee and of the barmen (whose registration we recommend), also upon a system of proper inspection and upon the administration of the law. Furthermore, as bar licenses are only to be

granted where they are required and so that they will not unfairly compete with hotels providing accommodation, these hotels should still have the bar trade they had before the reclassification of licenses and should not need on that account to raise their tariff.

1793. The cost of acquiring all the breweries in New Zealand was estimated by counsel for the Commission at from £1,700,000 to £1,829,287 (R. 7809). This estimate was not disputed by counsel for the trade, but, again, their silence does not mean assent. For reasons already given, we have not undertaken an investigation of the cost. On the evidence of the balance-sheets, the cost of acquiring the breweries would be something less than £2,000,000. The State would require to find the money. We see no reason to doubt that full repayment with interest could be made within a reasonable time. The two principal brewery companies are earning approximately 40 per cent. per annum on their paid-up capital.

CHAPTER 97.—THE CONTROL OF THE BREWERIES AND THE DISPOSITION OF THE PROFITS

1794. We make these recommendations regarding the proposed Liquor Manufacture and Sale Board :—

The Board should comprise, say, five persons. All of them should be regarded as suitable persons to conduct the breweries in the public interest, and we recommend that at least three of them should have had direct managerial, technical, or other practical working experience with the manufacturing and retailing sides of the brewing industry. All should be appointed, we think, by the Governor-General in Council for a period of, say, seven years. It should be open to Licensing Committees to submit the names of suitable persons to the Governor-General in Council.

The remuneration of the members of the Board should be by fixed salary which is properly adequate to ensure that men of high ability will accept membership of the Board. The amount should be fixed by statute, and should, of course, have no dependence upon profits.

1795. The Board would hold its brewery licenses from the Licensing Committees in the various districts. The Board should also have a wholesale license.

1796. The general policy to be followed by the Board should be laid down by statute. The Board should be required to meet the demand for liquor but not to stimulate it.

Advertising should be limited in the manner we have recommended in the chapter on advertising. The policy of the Board should be not to advertise, but it may be there would be need to do so on occasions, even to explain some position. Overhead costs would, no doubt, be reduced, but it would not follow that the price of beer should be reduced to the minimum required to make the breweries pay their way. A reduction in price of that kind might be a bad thing in that it would encourage an undesirable increase in consumption.

1797. The Board should be subject, as at present, to the excise duties imposed by Parliament, and the Board should be subject to income-tax and the other taxes which would be payable if the Board were a brewery company. These duties and taxes would, to a large extent, control the prices. The wholesale and retail prices could be fixed by the Board itself, subject to the approval either of the Price Tribunal or of the Governor-General in Council.

1798. Such proportion of the profits of the breweries as is required by the terms of repayment of the advances made for the acquisition of the breweries should first be paid out of the profits of the breweries. Such further proportion of the profits as is not required in the opinion of the L.M.S. Board for a reserve fund or otherwise for the proper conduct of the breweries, should be paid annually to a Central Liquor Fund to be held and invested by the Public Trustee.

1799. The Public Trustee should hold this Central Liquor Fund upon trust :—

(1) To pay to the State Advances Corporation for an Hotel Advances Account such amounts annually as shall be recommended by the Liquor Trade Inspection and Advisory Board (which we propose). The State Advances Corporation to make advances at interest from this fund to any hotel licensee, whether a local Trust or not, for the improvement or rebuilding of an hotel or hotels, or for the building of new hotels.

(2) After the foregoing payments to the Hotel Advances Account have been annually made, to apply such proportion of the balance of the Central Liquor Fund for such cultural, philanthropic, and recreational purposes within New Zealand as shall be specified by the Governor-General in Council after taking into account the recommendations of the Public Trustee.

1800. We place importance upon the provision of the Hotel Advances Account. We think it will probably supply far more ample funds for the improvement of hotel accommodation throughout New Zealand than have ever been made available by the brewery or hotel companies.

Any surplus in the Hotel Advances Account from time to time should be repaid to the Central Liquor Fund.

1801. The L.M.S. Board might divide its technical management into two divisions, placing one in charge of the breweries of the North Island and the other in charge of the breweries of the South Island. In this way, without any increase, or any important increase, in overhead expenses, a competition in quality, though not in quantities and sales, might be created for the benefit of the consumer. It has sometimes been said that, if there were two British Broadcasting Corporations, the result would be better than if there were but the monopoly of one.

1802. The L.M.S. Board should hold each brewery license from a District Licensing Committee. The breweries should be subject to inspection by the Liquor Trade Inspection and Advisory Board, which we recommend, and be subject to the same control as if they had remained in private hands.

1803. The L.M.S. Board would sell its various brands of beer, both to hotels and to the public, in lots of not less than 2 gallons, as at present.

1804. Where the L.M.S. Board conducts a bar license for retail sales it should be entitled to sell snacks of food with the liquor.

1805. There are forty-two breweries in New Zealand. We have no doubt that the quantity of beer required could be produced by a few large breweries. Nevertheless, the various brands supply a variety of tastes and consumers in various localities may prefer the local brew. Furthermore, the spread of the breweries saves long-distance transport for other goods and freight charges. These matters would, no doubt, all be considered by the L.M.S. Board if it desired to close down a brewery, but if the Board proposed to do that, it should notify the Licensing Committee of the district in which the brewery is situate and inquire whether the Committee has any objection to express to the closing of the brewery before the Board makes a final decision on the question.

CHAPTER 98.—WHOLESALE MERCHANTS AND HOTELS

1806. The acquisition of the breweries by a public Corporation would not solve the difficulty of such pressure to sell wines and spirits and other liquors as may be exercised by wholesale merchants upon the publicans tied to them. This is a small problem compared with the tie in beer.

1807. We are not satisfied that it would be necessary to break any tie that exists between the wholesale merchants and hotelkeepers. On the whole, we think it would be sufficient if the terms of any tie were rendered unlawful unless they were approved

as fair and reasonable by the Licensing Committee of the district in which the premises of the hotelkeeper are situate. We recommend, therefore, that legislation be passed to that effect (see sections 221 and 222 of the Licensing Act, 1932–1936, of South Australia).

If this solution appears in practice to be insufficient, the Liquor Trade Inspection and Advisory Board which we propose could recommend Parliament to pass legislation invalidating any tie as far as may be possible. The most effective method appears to be to provide that no wholesale merchant may lawfully advance money, directly or indirectly, to the licensee of an hotel or be financially interested, directly or indirectly, in the licensed premises of an hotel.

CHAPTER 99.—SPECULATION BY HOTELKEEPERS

1808. When the licensees of hotels are freed from the influence of brewery companies and of wholesale merchants they will themselves be in a position to speculate in their licensed freehold or leasehold properties unless some control is exercised over them. The evils of this speculation were made apparent by the investigations of the Licensing Committee of the Legislative Council in 1902 (see Chapter 9 of Book I).

1809. We think, however, that the dangers of speculation of this kind by hotel-proprietors are likely to be much less under the scheme we have proposed for the regulation of the liquor trade than they would be otherwise. The hotelkeeper will only obtain his hotel license if he is providing accommodation which is required in the locality. There will be a new emphasis on accommodation as a source of profit. As he will be required to sell beer at fixed rates in standard measures, he will need to concentrate more on the provision of good accommodation in the bar and in the house, in order to secure custom, than in mere beer-selling. This emphasis upon the accommodation side of an hotel will tend to keep down high prices for leases and licenses.

1810. Apart from this effect, we think that speculation by hotel-proprietors will be kept under control :—

(1) By the review of purchases by the Land Sales Committee and the Land Sales Court ; and

(2) By the review of any tie in wines and spirits and of the terms of employment of any licensee-manager by the Licensing Committee for the purpose of determining whether the terms are fair and reasonable in the public interest.

CHAPTER 100.—THE CANCELLATION OF REDUNDANT LICENSES AND THE DISTRIBUTION OF NEW LICENSES WHERE REQUIRED

Section 1.—The Liquor Licenses' Distribution Commission

1811. We have now dealt sufficiently with the methods of control which we recommend to enable us to consider the distribution of licenses. By this term we mean the cancellation or non-renewal of existing licenses which are redundant, and the issue of fresh licenses where they are required.

The need for this distribution has, we think, been made manifest in Chapter 53 of Book I, where we have stated the facts and the various proposals which were presented to us.

1812. The submissions made during our public sittings were limited to publicans' licenses and accommodation licenses. Our review in Book I shows, however, that the sale of liquor under these licenses may compete with its sale under club charters and with its sale on a semi-retail basis under wholesale licenses and brewery licenses (see Chapter 3).

Proposals were made to us for an increase in club charters and in wholesale licenses. We think, therefore, that the review of publicans' and accommodation licenses and the distribution of new hotel, bar, and house licenses (in place of the publicans' and accommodation licenses) should be made by one authority which is also able to review the need for more club charters and more wholesale licenses.

1813. We think that the authority to deal with the readjustment of licenses should be independent in character and should exercise a national jurisdiction. We have referred in para. 1060 of Book I to the Australian provisions governing the constitution of the Licensing Commission in Queensland and of the Reduction Boards in New South Wales, Victoria, and South Australia. All these authorities are independent of the trade.

1814. It may be said that, pursuant to section 41 (3) of our Licensing Amendment Act, 1918, a Court, comprising a Stipendiary Magistrate as President and two assessors, is to be appointed by the Governor-General to award compensation for the abolition of licenses if prohibition is carried; and that, pursuant to section 41 (4), the appointment of assessors is to be so made as, in the opinion of the Governor-General, to ensure that the views of the classes of claimant and the Crown respectively will be fairly represented on the Court. In our view, the situation which exists upon the cancellation of redundant licenses and the issue of new licenses where required is very different from that which would exist if compensation were to be paid after the abolition of all licenses. Where licenses continue it is to the financial interest of the trade to keep down the number of licenses. On the other hand, the authority should be independent of the membership of the New Zealand Alliance for the Abolition of the Liquor Trade. Under a fresh distribution licenses will continue, and it is the expressed view of the New Zealand Alliance that the number of liquor licenses should be kept down because, it says, experience proves that the more the licenses the more the consumption of drink.

1815. We recommend, therefore, that the authority to cancel redundant licenses and to issue fresh licenses where required should be independent both of the liquor trade and of the membership of the New Zealand Alliance. We think, too, that its impartial character can be properly secured only by appointing as members of the Tribunal persons who are competent to exercise a national jurisdiction. An impartial view of the needs of one district in relation to the needs of another or other districts over the whole country is required. District Licensing Committees might find it difficult to take that view. They might be influenced too much by local consideration. For example, the representative of the Reefton, Hokitika, Grey, Westland, Buller, and Motueka Licensed Victuallers' Associations, and of the Buller and Westland Provincial Councils of the Licensed Trade, informed us that the parties he represented did not consider there were any redundant licenses on the west coast of the South Island (para. 1041, *supra*). We, on the contrary, undoubtedly think there are.

1816. We recommend, therefore, the appointment by the Governor-General of a national commission, which we call "the Liquor Licenses Distribution Commission." For brevity we refer to it as "the Distribution Commission."

We recommend that the Chairman should be a Judge of the Supreme Court, and that there should be two or four other members as may seem proper to the Government after further inquiry. Among them the members of the Commission should have knowledge of the trade, though no financial interest in it; of accountancy and property valuation; of architecture and town-planning principles.

1817. The main purposes of the Distribution Commission should be to secure a satisfactory distribution of licenses throughout the country in the public interest.

We have considered the question whether the test if the public interest should be subject to an over-all limitation of licenses, as, for example, one license to a specified number either of the total population of the country or of each licensing district. We have set out the proposals for distribution according to population in paras. 1046 and 1047 of Book I. We have, however, come to the conclusion that it is best to rely upon

the judgment of the Distribution Commission. That Commission is the only body which will be in possession of the material required to enable a proper determination to be made of the number of hotel licenses and of bar licenses and of the other licenses and charters required in the public interest. It may be found that the number of licenses will be substantially reduced ; on the other hand, they may need to be increased.

1818. We recommend that the Commission should have full statutory powers to make its own inquiries as well as to summon witnesses. We recommend that it should sit in public, unless it is proper on occasions that it should sit in chambers.

1819. We recommend that the decisions of the Distribution Commission should be final on questions of fact, as are those of the Reduction Tribunals in the Australian States, but that the Commission should be given a power of rehearing upon the facts if it thinks fit. On a question of law, the Distribution Commission should have power to take the opinion of the Court of Appeal.

Section 2.—The Principles for determining Redundancy and the Need for New Licenses

1820. The question arises as to the principles upon which the Distribution Commission is to determine (*a*) what licenses are redundant and (*b*) where new licenses are required. In dealing with these matters we contemplate primarily that the licenses which will be found redundant in various districts are publicans' and accommodation licenses, and that in some other districts one or more of the new licenses we propose (the hotel license, the bar license, and the house license) will be required.

1821. We have referred in Book I to the views upon redundancy expressed in the evidence and to several statutory provisions in New Zealand and in the Australian States for determining what licenses should be reduced (paras. 1036 to 1057 of Book I). We have noted in para. 1057 that the general test of the convenience of the public and the requirements of the several localities in a district, which were laid down in statutes before the principles of town-planning had been developed, lead to the modern town-planning classifications of urban and rural areas and of their division into residential, commercial, light industrial, heavy industrial, noxious industrial, and agricultural districts. Put shortly, it is not in accord with town-planning principles that licenses should be placed in urban residential districts unless the residents consent, or in heavy industrial or noxious industrial districts without the special consent of the local authority. It is in accord with town-planning principles that licenses should be placed in commercial or light industrial districts or in rural areas, subject to a right of objection as to the particular site from persons residing in the neighbourhood of the proposed premises.

We think that both the cancellation of redundant licenses and the issue of new licenses should be dealt with in the light of these classifications.

1822. For this purpose some criterion for distinguishing between urban and rural populations is required. The distinction made in section 7 of the Electoral Act, 1927 (now repealed by section 9 of the Electoral Amendment Act, 1945), is as follows :—

> "Urban population" means any population contained in a city or borough having a population of over two thousand, or contained in any area within five miles of the chief post-office of Auckland City, Christchurch City, Dunedin City, or Wellington City.
> "Rural population" means any population other than Urban.

It may be that this definition would afford a satisfactory distinction. On the other hand, it may be more satisfactory for licensing purposes to include within an urban population the population of a borough which has the minimum number of one thousand persons required for the formation of a borough, or perhaps even of a Town Board, which requires a minimum population of five hundred. These matters would need expert inquiry. We see no reason to doubt that a satisfactory distinction can be drawn having regard to the question whether the minimum urban area in New Zealand is likely to have a commercial or light industrial locality as distinct from a residential locality.

1823. Assuming a satisfactory distinction can be drawn for licensing purposes between an urban and a rural population, the Distribution Commission should determine for its own purposes what are the urban and the rural areas and what are the commercial, light industrial, and residential districts of an urban area. The Commission could probably use the various town-planning schemes which have so far been adopted by local authorities. Where no such schemes are in existence, the Commission could take the evidence of the local bodies and of the town-planning authorities and of any interested citizens.

1824. When the Distribution Commission has completed this classification of a district, or of any related districts, both redundancy and the need for new licenses therein can be determined by reference to the convenience of the public and the needs of the locality in the light of the classification.

1825. We recommend that, in addition to dealing with the redundant licenses, the Distribution Commission should have power to accept the surrender of licenses offered to it upon the basis that compensation will be paid where the surrender involves loss to the licensee.

Section 3.—The Assessment of Compensation

1826. When a license is adjudged redundant the Distribution Commission is to assess the amount of compensation payable. Where practicable, we think the license should be allowed to run to the end of its year and then expire without the right of renewal. This procedure would reduce the claim for compensation on the ground of the cancellation of the license during its term.

1827. We refer here to the basis for the assessment of compensation. The trade suggested that compensation for a redundant license should be determined under the Public Works Act, but the question of the basis of compensation was not argued before us. We think the Public Works Act does not give sufficient guidance upon the principles to be adopted. We think better guidance may be obtained from the Australian legislation, which provides for compensation when licenses are reduced. Reference may be made to section 43 (2) of the Queensland Liquor Acts, 1912 to 1935 (see statute No. 1573); also to sections 21 to 23 and section 74 of the Liquor Amendment Act, 1919, of New South Wales; and also to section 77 of that Act, which provides compensation for employees who lose the opportunity of occupation; also to section 282 of the Licensing Act, 1928, of Victoria.

1828. We attach as an Appendix to this report a summary of the main outlines of this Australian legislation prepared, at our direction, by our Secretary (Appendix F). The summary shows that loss to the owner, to lessees, sub-lessees, and to licensees may be involved. Each of these persons is entitled to an assessment for the loss in respect of his interest. Compensation to owners may be assessed in respect of either the diminution in the capital value or the diminution in the fair rental value. Compensation to lessees and sub-lessees has been assessed by reference to the difference between the fair average net yearly rent of the premises as licensed over a three-year period, and the probable fair average net yearly rent over the same period without a license. Compensation to the licensee may be based on the net profit of the preceding year, or, if possible, on an average of the three preceding years. If the licensee is also the owner of the premises, he is entitled to compensation, both as owner and as licensee, but less a fair sum deducted from the net profits as rent. As the question of the basis of compensation was not argued before us, we do not recommend any particular formula, but we do recommend that the basis of compensation should be laid down as it is in the Australian legislation, to which we have referred, instead of being left unduly at large as it would be under the Public Works Act.

1829. In assessing the compensation for the redundant licenses the Distribution Commission should sit as a judicial tribunal. We think its decision should be final, but it should have power to take the opinion of the Court of Appeal on a question of law and have power to rehear the facts if it thinks fit.

1830. If moneys are payable as compensation before moneys are paid into the Licenses Disposal Fund arising from the disposal of the new licenses (see para. 1856), moneys should be advanced from the Treasury to make the payment against repayment from the Licenses Disposal Fund. There is, we think, no likelihood that the claims for compensation will exceed the amounts payable for the new licenses.

Section 4.—The Location of New Licenses

1831. We refer now to the issue of new licenses, and here we expand our references to town-planning principles. According to these principles, as we have already briefly stated, a new license should not be placed in a heavy industrial district or in a noxious industrial district without the consent of the local authority given on special grounds, or in an urban residential district without the consent of the residents of that district.

1832. No public interest would be served by over-riding the wishes of the residents in an urban industrial district, because, in the ordinary course, the hotels which are required for the whole urban area can be conveniently placed in the commercial and light industrial districts of that area where people do not usually reside.

1833. On the other hand, there may be a demand for a license in a district which is substantially residential. We were informed, for example, by Mr. J. W. Mawson, the Town-planning Officer, that the future development of cities would probably include the development of neighbourhood units of from 8,000 to 10,000 people, each with its own shopping and commercial centres. Mr. Mawson said it would not be contrary to the principles of town-planning to establish a house license or a club charter, or even an hotel license, in one of these centres, provided that the residents agreed thereto by their vote. The wishes of the residents would prevail.

1834. The general public interest therefore permits the residents of an urban residential district a right to veto a license in that district, but permits to those who work and reside in the commercial and light industrial districts only a right to make objection to the placing of licensed premises in their neighbourhood and to obtain a decision upon their objection.

1835. In the rural areas, where there is no commercial or light industrial district, but an hotel must go somewhere, the general public interest can, again, only permit the residents a right to make objection to the placing of the licensed premises in their neighbourhood and to obtain a decision upon their objection.

1836. We do not anticipate that the Distribution Commission would desire to allocate a license to an urban residential district unless it was satisfied that the majority of the residents desired a license there. If the Commission did so, the residents would have an opportunity of voting to decide whether the license would be permitted when application was made to the Licensing Committee for the license in respect of a particular site. We refer at a later stage in this chapter to the machinery required for defining an area for this vote (para. 1862).

Section 5.—The Authorization of New Licenses and of Club Charters by the Distribution Commission

Hotel, House, and Bar Licenses

1837. If our proposal regarding the substitution of the hotel, the bar, and the house license for the publican's and the accommodation license is adopted, the Distribution Commission will have the three new licenses for disposal.

1838. We think it would be desirable if these licenses could be disposed of forthwith on the basis that hotel licenses were only to be issued in respect of hotels which were large enough to form an economic unit for the provision of accommodation with the assistance reasonably to be expected from a lawfully conducted bar trade; and that bar licenses should be issued only for bars or lounge bars which could be locked up.

The evidence shows that an hotel which provides accommodation for the public can only be conducted on an economic basis if it is of a certain size. One hotel, large enough to serve the needs of the public for accommodation in any locality, may be much more economic than two or more small hotels with their separate overhead costs.

1839. The difficulty about imposing this standard immediately upon hotels is the shortage of building materials and labour, which not only exists, but is likely to continue for some time to come. The difficulty may be exemplified by reference to a particular case.

It may appear to the Distribution Commission that the City of Lower Hutt requires one modern hotel with, say, sixty bedrooms, and that one or more of the other hotels should be adjudged redundant or converted simply into a lock-up bar or bar lounge conducted either by a local Trust or, if the electors do not desire a local Trust, by the L.M.S. Board. The Distribution Commission could authorize the new license for the modern hotel, but it might not be possible to erect it for some considerable period of time. In the meantime one or more of the other hotels which were providing some accommodation for the public, even though on an uneconomic scale, might need to be continued as hotels under hotel licenses.

We think, therefore, that the Distribution Commission must proceed with regard to the existing situation.

1840. It is in these circumstances that the question arises whether section 76 of the Licensing Act, 1908, should be immediately reviewed. That section provides, as a condition of the grant of a publican's license in a borough, that the house shall contain "for public accommodation, not less than six rooms, besides the billiard-room (if any) and the rooms occupied by the family of the applicant." The dining-room and sitting-room have been regarded by the Licensing Committees (we think rightly) as rooms "for public accommodation." The number of bedrooms available for the public in an hotel in a borough may therefore be only four. In practice, this means that a house which should be an hotel is often only a beer-house.

We contemplate that, when building materials and labour are available for hotel construction generally, this section will require revision sufficient to meet the needs of an expanding community and the conception of an hotel as large enough to provide adequate accommodation for the public upon an economic basis, including therein the assistance to be reasonably expected from a lawfully conducted bar trade.

We recommend that the Distribution Commission should, as the result of its inquiries, make a recommendation as to the review of section 76.

1841. We recommend that the Distribution Commission should have a discretion to require as a condition of the grant or renewal of an hotel license, whether within or without a borough, that the premises shall contain a minimum number of rooms for the accommodation of the public. This condition could be imposed in cases where the Distribution Commission was satisfied that labour and materials were available to provide the additional number of rooms.

1842. We are recommending a ten-yearly review of licenses on a national scale. At the end of that period it may be found that some premises which are now granted an hotel license should be granted only a bar license and be conducted by a Trust or by the L.M.S. Board. The determination of this question must be made in the light of the circumstances of the time.

1843. Upon the first distribution of licenses, however, we contemplate that, where it is clear to the Distribution Commission that licensed premises under a publican's or accommodation license are not required for accommodation in the locality the Distribution Commission will either adjudge the license to be redundant, or else will authorize the issue of a bar license in place thereof, to be held by a local Trust or, if no local Trust is authorized by the electors, by the L.M.S. Board.

1844. Bar licenses for the sale of liquor, with or without snacks of food, should be granted only to the extent that they are reasonably required. We contemplate that these bars will be lock-up bars and lounges with seating accommodation.

1845. The distribution Commission should, in its discretion, authorize an hotel or a house license, as is appropriate, for any tourist hotel or hotels, whether owned by the State or not, in any license district. If and when there is any State tourist hotel in a no-license district, the Distribution Commission should, in its discretion, authorize a house license for that hotel.

Wholesale Licenses

1846. Wholesale licenses should be reviewed by the Distribution Commission. Some firms hold more than one, but use only one. They keep the other license or licenses unused. The Distribution Commission should therefore determine what are redundant wholesale licenses and cancel them, fixing such amount as is proper for compensation, payable from the Licenses Disposal Fund.

The Distribution Commission should then authorize such further new wholesale licenses as it thinks proper in any district, fixing a fair price for each. The number of wholesale licenses should be in the discretion of the Distribution Commission.

Club Charters

1847. Club charters, like licenses, will require to be considered by the Distribution Commission in the light of all the applications which it has for consideration.

1848. In assessing the numbers of the principal licenses and the club charters, the Distribution Commission should, we think, consider the general convenience of the public in any locality or area affected by a group of licenses and charters. In considering this matter the Commission will need to act upon some view of the size of an hotel that should be required under the economic conditions of to-day, and the measurable future. The view which the Commission takes of that matter will to a large extent determine the number of hotels required, and will therefore also have a bearing on the number of bar licenses and club charters.

In reaching its conclusions the Commission should also have regard, we think, to the effect of the competition of chartered clubs upon hotels which provide accommodation and to the question whether some fixed proportion of clubs to hotels should be maintained.

1849. Under the recent New South Wales legislation the number of clubs is limited by reference to the number of publicans' licenses as follows:—

(*a*) For the Metropolitan Licensing District, the number of registered clubs may not exceed one-quarter of the number of publicans' licenses, less 20; plus 20 clubs for returned servicemen; and

(*b*) For other licensing districts, the number of registered clubs may not exceed one-sixth of the number of publicans' licenses, plus one returned servicemen's club for each electoral district outside or partly outside the metropolitan boundary.

1850. It may be advisable to control the discretion of the Distribution Commission by laying down a ratio of the maximum number of club charters to hotel licenses in New Zealand, but, on the whole (as we have already indicated, para. 1817), we think that, as we are recommending the grant, as far as possible, of hotel licenses only to hotels of a suitable size to be economic units for the provision of accommodation, it would be preferable to leave the allocation of all licenses and club charters to the judgment of the Distribution Commission. In our view, that Commission will be the only body which will have the necessary information to enable a decision to be made as to the number of hotels, of the kind we recommend, which will be required.

1851. In a no-license district, if there is no State tourist hotel, the Distribution Commission will have only to consider the number of clubs which use or could use the locker system.

1852. We anticipate that club charters will be authorized in respect of specific clubs and in contemplation of specific premises. No ballot will be required and no payment of a fair price; only the annual fee will be payable.

1853. The Distribution Commission should allocate the various licenses and club charters to a zone or locality within which a particular site will be required. Even though the precise site is in contemplation, the license or the charter should be authorized for the locality so that the right of veto may be exercised by the residents of an urban residential district, or the right of objection by the residents of any other district may be duly exercised when application is made to the Licensing Committee for the issue of any license or any charter in respect of a particular site.

Section 6.—The Fair Price and the Licenses Disposal Fund

1854. The Distribution Commission is to fix the fair price for each license.
No fair price is required for a club charter.

1855. Licenses not authorized for issue to existing licensees will be available for disposal, and we refer to them as "licenses for disposal" (para. 1567, *supra*).

1856. The disposal of the licenses for disposal at the fair price will provide the moneys for the fund, which we call "The Licenses Disposal Fund," from which compensation will be paid to those whose redundant licenses have been cancelled or not renewed and who have suffered loss thereby.
The Licenses Disposal Fund should be administered by the Distribution Commission.

Section 7.—The First Offer of Licenses available for Disposal to a Local Trust if the Electors of the District Approve

1857. We recommend that the first offer of all the licenses for disposal (as defined in para. 1567, *supra*) in a licensing district shall, if the electors of the district so desire, be made to a local Trust at the fair price fixed for each of them.
We recommend that a poll to determine whether the electors of the district desire that all such licenses for disposal in the district be acquired and controlled by a local Trust be conducted in the same way as a poll for the election of the members of the Licensing Committee.

1858. We recommend that the local body shall receive a percentage or commission on the fair price or prices (paid to the Licensing Committee on the disposal of licenses) to assist in defraying the cost of this election and any other costs which the local body may incur in relation to the disposal of the licenses.

1859. If the vote is in favour of the Trust, the boundaries of the licensing district should be fixed and a separate roll of electors prepared by the Electoral Office, as has now been required for the existing no-license districts.

1860. The Trust should then be formed according to the standard constitution laid down in the statute. When formed, the Trust Board must arrange its finance and obtain control of any sites it proposes for its licensed premises.
The Trust should have power to acquire land under the Public Works Act for such a site.

1861. The Trust must then apply to the Licensing Committee for the hotel, bar, house, or wholesale licenses allocated to the district which are available for disposal, and herein called "licenses for disposal."
At this stage the residents of the urban residential district, if the proposed licensed premises are in their district, should be entitled to determine by vote whether the license is to be placed in their district.

1862. For the purpose of defining the urban residential district within which the vote may be taken, we recommend that, upon the petition of twenty electors residing within a radius of one-quarter mile from the front door of the proposed premises, the Licensing Committee, after taking the evidence of interested parties, shall define the urban residential area affected by the premises.

We recommend that the vote on the question shall then be taken in the area so defined in the same way as the poll for the election of members of the Licensing Committee. We understand from the Chief Electoral Officer that there will be no difficulty in providing a roll for any urban residential area so determined.

The issue on the vote should be decided by a bare majority.

1863. Although we have dealt with this matter at some length we do not anticipate that the Distribution Commission is likely to allocate any license to an urban residential district unless it considers that the majority of the persons affected would approve of the location of the licensed premises in that district.

1864. Where the local Trust applies for licenses in districts other than urban residential districts, the residents in the neighbourhood of the proposed licensed premises will have the right to object to a particular site. We refer to this matter here in more detail. The right of objection is already conferred upon persons "in the neighbourhood" by the Licensing Act, 1908 (see sections 86 to 88 and 91 of that Act). It is also conferred by section 19 of the Invercargill Licensing Trust Act, 1944, and by sections 41 to 43 of the Licensing Act, 1932/1936, of South Australia. Under the South Australian legislation the right of objection is limited to the "immediate neighbourhood," which, as regards premises situate within a town, means all territory within a radius of 200 yards from the front door of the proposed licensed premises, and, as regards the premises not within a town, the territory within a radius of one mile from the front door of the premises (section 4). Some similar guide might be adopted in our legislation for defining "the neighbourhood" in a commercial, or light industrial district, or in a rural area.

1865. Upon the issue of a license or licenses to the Trust, the Trust will pay the fair price to the Licensing Committee. Subject to the deduction of a fair percentage or commission (at a rate to be fixed by statute or by the Governor-General in Council), to be paid to the local body which meets the expenses of the Licensing Committee, that Committee will then remit the balance to the credit of the Licenses Disposal Fund of the Distribution Commission for the payment of compensation to those entitled to compensation (see paras. 1826–1830, *supra*).

1866. The Trust will administer its licenses, subject to the powers of the Licensing Committee, in the same way as if the Trust were a private individual.

1867. The destination of the profits of the local Trust will be defined by its constitution. We recommend that they should be applied (*a*) in paying the cost of the acquisition of the license or licenses—*i.e.*, the fair price—and of the premises of the Trust and other assets; (*b*) in improving or rebuilding those premises or in building new premises; and (*c*) for such cultural, recreational, and philanthropic purposes within the licensing district as shall be approved by the Governor-General in Council.

Section 8.—Disposal of New Licenses otherwise than to a Local Trust

1868. We do not recommend that a local trust should have the right to pick and choose between the licenses for disposal allocated to its licensing district. Consideration might be given to the question whether the Trust should have the right to take the bar licenses while leaving the hotel licenses to private individuals. We recommend that it should take all or none.

1869. If, then, a local Trust is not approved by the electors, or, if approved, does not apply for all the licenses for disposal within a defined period from the date of the poll which approves the establishment of the Trust (say, within a period of six calendar months unless, in exceptional circumstances, the period is extended by the Governor-General in Council), the licenses for disposal should be issued on a different basis.

1870. We recommend a ballot among "approved applicants" (as hereinafter explained) for each license (other than the bar license) at the fair price, subject to a priority, at the discretion of the Licensing Committee, for any City Council or Borough Council which has been approved as an applicant by the Governor-General in Council. (We include a City Council or Borough Council as an applicant for an hotel license (or a house license, but not a bar license) because the hotel license (or house license) will be granted primarily for the provision of accommodation in a locality. The principal local authority may be most interested in providing this accommodation with such aid as may reasonably be expected from a lawfully conducted bar trade. We do not think that an hotel which must be conducted on this basis would create any appreciable danger of interference in local or national politics or in other matters. The position would be very different from that which would exist if the whole liquor trade were directly controlled by the State.

1871. We have considered the trade's proposal of a sale for cash at a public auction in lieu of a ballot. We have already referred to the evil effects of the competition for licenses and have set out at length in Book I the history of the recent competition between powerful companies for licensed premises. We think that a public auction would only produce inflated bidding. Control by the Land Sales Court could result in the fixing of a fair price, but it would not fairly decide who was to have the licenses. We have therefore decided on the method of a ballot for each license at a fair price.

We deal with four licenses separately :—

(1) *Hotel Licenses*

1872. The Licensing Committee should call for applications for each separate hotel license available for disposal, the application to be accompanied by a sketch-plan of the hotel the applicant would be prepared to erect, and an estimate of the cost. A City Council or a Borough Council may be an applicant, subject to the approval of the Governor-General in Council.

1873. The Licensing Committee should then consider the applications, the sketch-plans, and the estimate of costs, and draw up a list of "approved applicants." Having regard to all the circumstances, the Licensing Committee should have power to give priority to any City Council or Borough Council which has been approved as an applicant. If it does not give this preference, the City Council or Borough Council should have power to participate in the ballot if it is an approved applicant. The ballot should be conducted by the Licensing Committee, and the license should be held by the Licensing Committee for the successful applicant when he applies for his license and when, if his application is granted, he pays the fair price for the license.

1874. If any public body acquires a license, it should have the right to acquire a site for the licensed premises under the Public Works Act.

1875. The applicant, having obtained a site for the licensed premises, must then apply to the Licensing Committee for the license in respect of that site and supply such further plans and estimates of cost as may be reasonably required.

1876. At this stage the right of veto by the residents of an urban residential district and of objection by the residents of other districts, as already explained, will apply.

1877. The applicant who obtains the hotel license must pay the fair price to the Licensing Committee. Subject to the deduction of a fair percentage or commission to be paid to the local body which meets the expenses of the Licensing Committee, that Committee will then remit the balance to the credit of the Licenses Disposal Fund of the Distribution Commission as already explained.

(2) *Bar Licenses*

1878. If the bar licenses are not issued to a local Trust, they are to be controlled by the L.M.S. Board, which controls the breweries.

1879. Upon the application of a local Trust or of the L.M.S. Board for a bar license in respect of a particular site, the right of veto by the residents of an urban residential district and of objection by the residents in the neighbourhood in other districts, as already explained, will apply. If the bar license is granted, the local Trust or the L.M.S. Board, as the case may be, will pay the fair price, and the Licensing Committee will deal with it for payment to the Licenses Disposal Fund of the Distribution Commission as already explained in respect of an hotel license.

1880. We recommend that the profits of a bar license, when held by the L.M.S. Board, shall be applied :—

(*a*) In paying off the cost of the bar and lounge-bar premises ;

(*b*) In making improvements to them, rebuilding them, or building new premises ;

(*c*) In promoting such cultural, recreational, and philanthropic purposes within the licensing district in which the bar is situated as may be approved by the Governor-General in Council.

(3) *House Licenses*

1881. (*a*) House licenses are for issue to tourist hotels. The Distribution Commission may well authorize a house license for a particular applicant and a particular site—*e.g.*, to the State in respect of an existing tourist hotel. Nevertheless, the particular applicant should be required to apply to the Licensing Committee for the license in respect of the particular site, and the right of veto in an urban residential district (if it should be affected) and of objection in other districts, as already explained, will be exercisable.

(*b*) A house license authorized for a particular applicant will be issued at the fair price, and the amounts, less the specified deduction, will be paid to the Licenses Disposal Fund, as already explained in respect of an hotel license.

(*c*) If any house licenses are available for disposal—*i.e.*, are not authorized for the particular proprietor of specified premises—they will be disposed of by the Licensing Committee by ballot at the fair price, as with hotel licenses available for disposal.

(*d*) In a no-license district or in the King-country (if the referenda we recommend do not authorize open licenses) a house license to be authorized only for a State tourist hotel.

(4) *Wholesale Licenses*

1882. If there are any wholesale licenses available for disposal, they will be disposed of by ballot at the fair price, as with an hotel or house license.

SECTION 9.—COMPENSATION ON THE REPLACEMENT OF EXISTING PUBLICANS' AND ACCOMMODATION LICENSES BY HOTEL, BAR, OR HOUSE LICENSES

1883. The replacement of a publican's or an accommodation license by an hotel license presents no difficulty. The hotel license will be issued to the existing licensee and will confer the same rights as the publican's license. No compensation will be payable.

This replacement could be effected by a Licensing Committee (on a certificate from the Distribution Commission) when the publican's license or accommodation license comes before the Licensing Committee for renewal.

1884. The replacement of an existing publican's or accommodation license by a house license may represent a reduction in the value of the license. If so, compensation should be assessed by the Distribution Commission, and the licensee would be entitled to be paid out of the Licenses Disposal Fund.

1885. The replacement of an existing publican's or accommodation license by a bar license involves a change of ownership. A local Trust or, if there is no local Trust, the L.M.S. Board will acquire premises at present held under a publican's or an accommodation license, but serving no useful purpose in the provision of accommodation through meeting a need for the supply of liquor in the locality. The fair price for a bar license of this kind constitutes the compensation for the change of ownership, and it may represent a considerable sum.

The fair price would be provided by the local Trust or, if the electors did not desire a local Trust, by the L.M.S. Board. The finding of the money would be the responsibility of the body taking the license.

The bar license would be obtained by the local Trust or the L.M.S. Board from the Licensing Committee in the ordinary way. When the license was issued, the price, less any percentage as already mentioned (para. 1877, *supra*), would be paid by the Licensing Committee to the Licenses Disposal Fund of the Distribution Commission for settlement with the former licensee.

Section 10.—Surplus in Licenses Disposal Fund

1886. If there is a surplus in the Licenses Disposal Fund of the Distribution Commission which is not required by the Commission for its purposes we recommend that a proportion thereof, fixed by statute, should be paid to the Consolidated Fund as a set off against the costs of the Distribution Commission. We recommend that the balance should be paid to and form part of the Central Liquor Fund to be held by the Public Trustee.

Section 11.—Ten-yearly Review and Distribution

1887. At a later stage in this report we shall recommend that the Distribution Commission shall allocate licenses :—

(1) In a no-license district if restoration is carried ; and

(2) In the King-country if separate referenda of Maori and of European residents authorize licenses in that territory.

We shall also recommend that the Distribution Commission may allocate a house license to any State tourist hotel in a no-license district or in the King-country.

We shall also recommend that, if licenses are not authorized in the King-country, the Commission shall distribute club charters in the King-country, subject to the control of a Licensing Committee, which shall be either appointed as if the King-country were a special licensing district, or elected as if the King-country were an ordinary licensing district.

1888. The services of the Distribution Commission will therefore, in our view, be required from time to time, and it should remain continuously in existence, though its operation may be in abeyance for a period. We do not recommend, however, any national review of the distribution of licenses until the expiration of a period of ten years from the commencement of the first distribution. We think that a sense of stability is desirable.

1889. At the end of the period of ten years from the commencement of the first distribution we recommend another national review and, if required, another national distribution of all licenses and charters, and so on, every ten years. The need for this review and distribution should be much less than it is at the present time. We have

recommended that Licensing Committees be enabled to authorize the removal of licenses from one part of their district to another and from one district to another district, with the consent of both the Licensing Committees concerned. This piecemeal removal will not interfere with the sense of business stability, but it should considerably diminish the need for the national revision of licenses on any extensive scale.

We contemplate also that during this period the Licensing Committee will retain its power to issue new licenses (*a*) in replacement of licenses which have ceased to exist or (*b*) where there has been a sudden increase in population in a county or in a road district.

Our recommendations involve the removal from the Licensing Committee of the power to allocate licenses if restoration is carried in a no-license district. The Distribution Commission would then operate, but the Licensing Committee would have the right to issue the licenses authorized by the Distribution Commission and to hear the objections in respect of any particular site (para. 1895, *infra*).

CHAPTER 101.—NO-LICENSE DISTRICTS

1890. The position in the no-license districts is explained in Chapter 5 of Book I.

1891. We make these recommendations :—

Subject to our recommendations as to the special areas (Chapter 102), no more no-license districts should be created as part of the licensing system.

1892. In no-license districts, electors should be able to exercise their vote on the question of restoration with the knowledge that, if licenses are restored, they will not be issued for premises situated in an urban residential district without the consent of the majority of the electors of that district. The legislation should therefore provide that if a vote for restoration in a no-license district is carried, licenses and club charters will be distributed by the Distribution Commission. They will be issued by the local Licensing Committee in respect of each particular site, but not in any urban residential district without the consent of a vote of the majority of the residents in that district, or in any other district without the usual right to object (sections 86 to 95 of the Licensing Act, 1908).

1893. Legislative provision should be made for the electors in a no-license district to decide, upon a vote for restoration, whether, if restoration is carried, they desire the new licenses to be issued in that district to be acquired and controlled by a local Trust of the type we recommend. Accordingly, the ballot-paper in a no-license district should be divided into two parts, as follows :—

PART I

I vote for Local Restoration (subject to the vote in Part II).
I vote for Local No-license.

PART II

(To operate if local restoration is carried)

I vote for Trust Control.
I vote against Trust Control.

We put the second vote in the form in which it is, instead of " I vote for private ownership," because we have recommended that, on a distribution of licenses, a City Council or a Borough Council approved by the Governor-General in Council should have the right to apply for a license. Control of that kind is not control by private ownership.

1894. The majority required to carry restoration to remain at 60 per cent., but if restoration is carried the majority required to carry Trust control to be a bare majority.

1895. If restoration is carried, the Distribution Commission to operate to distribute all hotel, bar, and house licenses and club charters in the manner already outlined. The Distribution Commission to fix the fair price of all licenses. The issue of all licenses and charters authorized for specific premises to be left to the Licensing Committee, subject to the right of veto in an urban residential district and the right of objection to any particular site in other districts, as we have already mentioned.

1896. If, by reason of the establishment of Trust control, any person loses his claim to a license pursuant to section 11 (3) of the Licensing Amendment Act, 1910, and suffers loss thereby, compensation should be assessed by the Distribution Commission and paid out of the Licenses Disposal Fund.

1897. If restoration is carried, but the proposal for Trust control is not carried, licenses and club charters to be issued pursuant to the other provisions of the legislation.

1898. All licenses and charters, when issued, to be under the control of the Licensing Committee.

1899. Whether restoration is carried or not, the Distribution Commission to authorize, in its discretion and to the extent it thinks reasonable, charters for such clubs as use the locker system and for such clubs as propose to use or could use the locker system. If any State tourist hotel is acquired in a no-license district, the Distribution Commission to authorize a house license, if it thinks fit, and to fix the fair price.

Where any charter or house license is so authorized in a no-license district, a Licensing Committee to be appointed by the Governor-General in Council, as though the no-license district were a special licensing district under section 65 of the Licensing Act, 1908. Alternatively, the Licensing Committee could be elected for the control of any club charter or charters or house license.

Any charters or house licenses so authorized to be issued by the Licensing Committee and to be subject to its control and to inspection as though the district were a license district. The right of veto and of objection, as already explained, to operate on the application for the license in respect of a particular site.

The fair price received for any house license, subject to any authorized deduction, to be remitted by the Licensing Committee to the Licenses Disposal Fund.

1900. The vote on the question of restoration in no-license districts should be taken in 1946 and, if practicable, upon the form of ballot-paper which we recommend. If this is not practicable, we presume the present form of ballot-paper will be used.

If our proposals, or our main proposals, are enacted before 1949, the vote on restoration in no-license districts at the poll in 1949 should be taken upon the form of ballot-paper which we recommend. Thereafter the next poll on restoration should be taken at the time which we recommend for the next national licensing poll—viz., in 1955. Subsequently, the poll on restoration should be taken only every nine years when the national licensing poll is held.

CHAPTER 102.—SPECIAL AREAS

Section 1.—Ashburton

1901. We have set out the facts concerning the former Ashburton No-license District in Chapter 55 of Book I (paras. 1098 to 1106).

1902. Two areas of this licensing district raise separate problems. The first area is that of the electorate which carried no-license in 1902. The second area is that comprised of the various districts which were added to the original Ashburton area down to the year 1927 by reason simply of the change in electoral boundaries.

1903. In 1927 the two areas ceased to exist as the Ashburton Parliamentary Electorate, and therefore as the Ashburton No-license District, for the reason that they were then divided between two "wet" electorates, Mid-Canterbury and Temuka, in

which the majority of the people resided in license areas. The effect of the statutory provisions upon this mere alteration in the parliamentary electoral boundaries was to keep the people of these two areas not only without licenses, but without the right to vote for restoration.

1904. By reason of the alteration in electoral boundaries in 1946, the two areas have again been divided into two new licensing districts, the Ashburton Licensing District and the Waimate Licensing District, which are both "wet" districts. Nevertheless, the effect of the statutory provisions is still to leave the two areas without licenses and without the right to vote for restoration.

1905. The grievances of the people of the original Ashburton area to-day are—

(1) That, although they belong to an area in which the people did vote for no-license and which was under no-license when it became part of the license district, they have lost their right to vote for restoration through the mere alteration in electoral boundaries; and

(2) There is reason to think there is a substantial body of people in the original Ashburton area who would to-day vote for restoration of licenses if they were given the opportunity.

1906. The grievances of the people in the added areas are that, although they never belonged to a district which carried no-license, they have lost, through the mere change in boundaries for electoral purposes,—

(1) The hotel licenses which were in existence in these added areas when they were added to the original Ashburton area for the purposes of the parliamentary election;

(2) Their right to vote for restoration after their areas were brought within the boundaries of license districts; and

(3) There is reason to think there is a substantial body of people in the added areas who would vote for restoration if given the opportunity.

1907. Of the two areas, the evidence shows that the original Ashburton area constitutes a natural area of community of interest centred on the Borough of Ashburton. This original Ashburton area is large enough to form a licensing district on its own account.

1908. The added areas lie entirely, or almost entirely, to the south of the Rangitata River. We infer from the evidence that these areas are centred on Geraldine and Temuka, not on Ashburton. We refer to them hereinafter as the "added areas." Some of these added areas are to-day included in the Waimate Licensing District; some are not.

1909. We make these recommendations as to the steps to be taken, in the sequence set out, in order to resolve the existing difficulties:—

(1) The original Ashburton area which carried no-license in 1902 should be defined as a no-license district with fixed boundaries and called "the Ashburton No-license District." We assume this to have been done, and use the name proposed.

(2) If there are areas in the present Ashburton Licensing District outside the Ashburton No-license District and the added areas, these outside areas should be transferred to the adjacent licensing districts, which we take to be the Selwyn Licensing District on the north and the Waimate Licensing District on the south, and the present Ashburton Licensing District should be abolished.

(3) The added areas should be constituted a separate voting district with a separate roll, for the purpose of enabling the electors therein to determine, by a bare majority of votes, whether they desire the added areas to be included as a whole in the Ashburton No-license District which we propose or in the Waimate Licensing District.

(We think that it is reasonable that the electors in areas which have been added to a no-license district without a vote and merely by the action of the Representation Commissioners should be able to decide by a bare majority whether they wish to belong to a no-license or a license district.)

(4) The ballot-paper for this vote could be expressed as follows:—

I vote for inclusion of the added areas in the Ashburton No-license District.
I vote for inclusion of the added areas in the Waimate Licensing District.

The ballot-paper could be in such other form as appeared most satisfactory to the representatives of interested parties.

(5) If practicable, this vote should be taken in 1946; but, if not, then at a special poll as soon after 1946 as practicable.

(6) According to the result of the poll, the added areas should be included in the Ashburton No-license District or in the Waimate Licensing District.

(7) The same steps should then be taken in the Ashburton No-license District (including the added areas if they have decided for inclusion, but excluding the added areas if they have not) as we have recommended in respect of other no-license districts (see Chapter 101, *supra*), subject as follows:—

(*a*) The vote on the question of restoration should be taken in 1946, but if that is not practicable, then as soon after 1946 as is practicable.

(*b*) The Distribution Commission should not review the Ashburton No-license District until after the first vote on restoration in that district has been taken.

(*c*) The Distribution Commission should operate and the other consequences should follow as in a no-license district according as restoration is or is not carried by a majority of 60 per cent. (paras. 1895 to 1900, *supra*).

(8) (*a*) If the added areas decide for inclusion in the Waimate Licensing District, they should become part of that licensing district for all purposes, including review by the Distribution Commission and the consequences thereof.

(*b*) The Distribution Commission should not review the Waimate Licensing District until after the vote has been taken in the added areas as to the district the electors wish to join.

Section 2.—The Oamaru No-license District: Areas South of Maheno

1910. Certain areas south of Maheno have been added since 1905 to the Oamaru No-license District by reason of changes in boundaries for electoral purposes. The last addition was made in the year 1937. We refer to these areas as the "added areas."

1911. The position in the Oamaru No-license District differs from that at Ashburton. The people of the original Oamaru No-license District have not been moved into a "wet" district for electoral purposes. They have continuously had the vote for restoration every three years. There is no evidence that the Borough of Oamaru is in favour of restoration, as is the Borough of Ashburton in the Ashburton district. The evidence indicates the contrary. We think, therefore, that there is no need to provide any special poll for the original Oamaru Electorate.

1912. The case is different with the people in the added areas south of Maheno. They have been the puppets of the Representation Commissioners. Against the will and the sentiment of the majority, as appears from our evidence, they were brought into the Oamaru Parliamentary Electorate and thereby lost their liquor licenses.

1913. The licensing districts adjacent to the added areas are Otago Central and North Dunedin. Otago Central is very large and North Dunedin includes a city population. It does not seem proper to attempt a remedy by including the added areas in either of these licensing districts.

1914. We recommend that the added areas should be defined as a separate voting district with a separate roll.

1915. We make these recommendations :—

(1) The Distribution Commission should await the result of the local restoration poll in the Oamaru No-license district in 1946.

(2) If the vote for restoration in the added areas at that poll is more than 50 per cent. of the total of the valid votes of the added areas, these added areas should be created a separate licensing district with fixed boundaries. Assuming this to have been done, the district might be called "the Palmerston South Licensing District." A Licensing Committee should be elected.

(3) The Distribution Commission should then distribute licenses and club charters as it would in a no-license district which carried restoration (paras. 1895–1898, *supra*).

(4) If the vote for restoration at the local restoration poll in the added areas in 1946 is not more than 50 per cent. of the total of the valid votes of the added areas, then the added areas should remain thereafter part of the Oamaru No-license District and have the rights and be subject to the obligations attaching to a no-license district in accordance with our recommendations (paras. 1899 and 1900, *supra*).

Section 3.—Masterton No-license District: Eketahuna Area

1916. The Masterton No-license District, as fixed by the Electoral Amendment Act, 1945, includes a northern area which differs in sentiment on the liquor question from the southern area, which is centred on Masterton. This northern area is centred on Eketahuna or Pahiatua, and the sentiment appears to be strongly in favour of license. These facts were agreed upon by those who gave evidence before us on this question, whether they personally favoured license or no-license.

1917. The line of division between these two portions of the no-license district is, we are informed, the range of hills commencing at Mount Bruce and running generally due east from there (R. 1717).

1918. The people of this northern part of the district thought that they might permanently lose the right to a vote on the question of restoration if they were included in the Pahiatua Licensing District. In that event, as the majority of the people would have resided in licensed areas, the people of the included Eketahuna area would, under the law as it was before 1945, have no vote for restoration. This change has been avoided by the fixing of the boundary of the Masterton No-license District by the Electoral Amendment Act of 1945. The people of the Eketahuna part of the Masterton No-license District have therefore at present a right to vote on the question of restoration every three years.

1919. With regard to the northern part of the district, we make these recommendations :—

(1) The Distribution Commission should define, as a district for voting purposes, the northern portion of the Masterton No-license District, with a community of interest centered on Eketahuna or Pahiatua. This district is hereinafter called "the Eketahuna area." The Distribution Commission should define the Eketahuna area as soon as practicable (whether before or after the poll of 1946), after making inquiries and taking such evidence as it thinks proper.

(2) A separate electoral roll should be prepared for the Eketahuna area.

(3) The electors of the Eketahuna area should decide by a majority of 60 per cent. of the valid votes of the Eketahuna area whether they desire the Eketahuna area to be included in the Pahiatua Licensing District.

The majority required should be 60 per cent., because the Eketahuna area was part of the Masterton Licensing District when that district voted no-license in 1908, and it has had a vote on restoration ever since.

We provide for a special poll in the Eketahuna area, instead of using the local restoration poll of 1946 as we have recommended for the added areas in the Oamaru No-license District, because, when that poll is taken, the area for the vote is not likely to have been precisely defined. We think the vote should be taken after the area to be affected has been clearly defined.

(4) If practicable, this poll should be taken in 1946, but, if not, as soon after 1946 as is practicable.

(5) If the vote is in favour of the inclusion of the Eketahuna area in the Pahiatua Licensing District, the area should become part of that Licensing district for all purposes, including the review of licenses by the Distribution Commission and the consequences thereof.

(6) If the vote is not in favour of the inclusion of the Eketahuna area in the Pahiatua Licensing District, the Eketahuna area to remain part of the Masterton No-license District and to have the rights and be subject to the obligations attaching to a no-license district in accordance with our recommendations (paras. 1899 and 1900, *supra*).

CHAPTER 103.—THE KING-COUNTRY

1920. We have stated the facts fully in Part X of Book I. We accept the Chairman's report on the history of the Proclamations in Appendix C as showing there is no reason in the history of the matter to withhold a referendum from the Natives of the King-country on the question whether they now desire the issue of open licenses in the King-country.

By open licenses we mean hotel or bar licenses for the public, not house licenses or club charters.

We have given our reasons for saying that the Proclamations did not, when they were issued, whatever may be the position to-day, prohibit the issue of a club charter (paras. 1218 to 1220, *supra*). The house license which we propose does not authorize a sale to the public, and is in a similar position to a club charter.

1921. We do not now repeat the analysis of the position in the King-country, but proceed to state the remedies which we recommend.

1922. We make these recommendations :—

(1) Legislation should provide for a referendum of the Natives who were residing in the King-country at some specified date and for another referendum of the Europeans who were residing in the King-country at the same date on the question whether open licenses should be granted in the King-country to be controlled by a local Trust formed under the standard constitution for a local Trust, which we recommend, should be prescribed by the Licensing Act.

(2) Separate electoral rolls of all Maori and European electors who were resident in the King-country on the specified date should be prepared. The qualification of an elector should be his qualification for the parliamentary roll, whether European or Native. Half-castes who have been included at their request on the European roll should be included, if they wish, upon this special Native roll because they are subject to the licensing laws as they affect Natives.

(3) Legislation should provide that, if licenses are authorized in the King-country, they will not be located in urban residential districts without the consent of a majority of the people in those districts, and that the licenses located in other districts shall be subject to the usual right of objection to the specific site selected (see sections 86 to 95 of the Licensing Act, 1908).

(4) A referendum should first be taken of the Natives entitled to vote upon a ballot-paper in this form :—

I vote for Open Licenses (to be controlled by a Trust).
I vote against Open Licenses.

The majority required to carry the proposal for open licenses to be 60 per cent. of the total number of persons who record valid votes.

(5) If the proposal for open licenses is carried on the Maori referendum, a second referendum of the European electors on the parliamentary roll should be taken on the same form of ballot-paper.

The majority required to carry the proposal for open licenses to be again 60 per cent.

(6) If the proposal for open licenses is carried upon both referenda, the Distribution Commission to distribute hotel, bar, and house licenses, and also club charters according to the public need, the number of hotel and bar licenses to be regulated in the light of the number of house and club charters to be granted, and *vice versa*. The Distribution Commission to allocate the licenses and charters to specific zones or localities.

(7) The Distribution Commission to fix the fair price for each license.

(8) A local Trust to be appointed. This local Trust to hold all the licenses for the sale of liquor, either wholesale or retail, in the King-country.

Wholesalers outside the King-country would be required to sell to the Trust instead of to purchasers in the King-country, but purchasers could ask the Trust to indent wines and spirits for them.

(9) A Licensing Committee to be elected for the King-country.

(10) The hotel and bar licenses authorized by the Distribution Commission to be issued by the Licensing Committee to the Trust in respect of specific sites, subject to the principles we have stated, whereby the residents of an urban residential district may, by their vote, veto a site in their residential district, and the residents of other districts may make objection to the Licensing Committee as to the particular site.

1923. Upon the issue of any license the Trust will pay the fair price to the Licensing Committee.

The destination of these payments of the fair price requires consideration. The moneys should be subject to the deduction of the percentage or commission which we propose as a contribution to the expenses of the local authorities which meet the expenses of the Licensing Committee. In the King-country we think that probably more than one local authority should be required to bear the expenses of the Licensing Committee.

If the local Trust for the King-country were governed entirely by the standard constitution for a local Trust, the balance of the moneys from the disposal of the licenses would go to the Licenses Disposal Fund of the Distribution Commission. As part of that fund these moneys would be used for compensating licensees with redundant licenses who had suffered loss. The surplus left in the Fund would be paid to the Central Liquor Fund of the Public Trustee.

There is, however, no reason for transferring the moneys paid for the licenses in the King-country to the Licenses Disposal Fund, because, in the King-country, there has not been any liquor licensing system.

Another suggestion for the disposal of these moneys is that they should constitute a trust fund for only the Natives of the King-country. We do not think this would be satisfactory. The fair prices of the licenses from which the moneys are derived will have been fixed by reference to the anticipated trade of the licensed premises, and that trade will probably be largely European. Furthermore, this suggestion cannot be justified on the ground that the moneys would constitute payment for the Main Trunk Railway lands. The facts set out in Appendix C show that the Natives required payment for the railway land as land, after the first Proclamation prohibiting the issue of licenses in the King-country had been made and gazetted. If the Natives have claims to-day

against the Government in respect of the Main Trunk Railway lands, having regard to their unpaid survey lines, these claims should, we think, be settled by the Government direct with the Natives, quite apart from the issue of licenses in the King-country.

1924. The question then seems to be whether the amount paid for the licenses in the King-country should be spent for the benefit of the people in the King-country generally, or passed direct to the Central Liquor Fund held by the Public Trustee, where it might be used for improving or rebuilding hotels, or building new hotels in any part of New Zealand, or be distributed for cultural and philanthropic purposes of a national character.

1925. On the whole, as hotelkeepers who do not contribute to the Central Liquor Fund will be entitled to obtain advances from the Hotel Advances Account created out of that fund (para. 1799, *supra*), we think that the moneys realized by the disposal of licenses in the King-country should be added to that proportion of the profits of the King-country local Trust which are to be spent in the King-country for such cultural, philanthropic, and recreational purposes as may be approved by the Governor-General in Council. In this way both the European and the Maori residents of the King-country will be entitled to receive a benefit from these moneys.

1926. So far we have dealt only with the hotel and bar licenses.

Any house licenses and club charters will probably have been authorized by the Distribution Commission in contemplation of particular sites for existing premises. For example, any house license is likely to have been authorized, we think, in respect of existing State tourist hotels—*e.g.*, the Hotel Waitomo and The Chateau Tongariro. Nevertheless, each house license and each club charter which the Distribution Commission authorizes for issue by the Licensing Committee will be subject to the right of veto by the residents of any urban residential district and to the right of objection in respect of any particular site by the residents of any other district, as already explained. All licenses issued will remain under the control of the Licensing Committee.

1927. If open licenses are not authorized by both referenda, then the Distribution Commission should specify :—

(*a*) The house licenses which should be issued for State tourist hotels in the King-country ; and

(*b*) The club charters which are reasonably required in the King-country for clubs of a suitable character which use or could use the locker system at the present time.

1928. A Licensing Committee should then be appointed to control these house licenses and club charters as though the King-country were a special licensing district under section 65 of the Licensing Act, 1908. (Alternatively, a Licensing Committee could be elected.)

1929. If the two referenda are carried, special provision should be made for a permit to be granted by the Chairman of the Licensing Committee for the social functions of returned servicemen, including Maori returned servicemen, which are held in the King-country under the auspices of a *bona fide* returned servicemen's association, at which liquor may be consumed. The conditions of the permit are to be specified by the Chairman after a report from the police.

The number of such permits should not exceed six in any one year for any association.

1930. If both referenda are not carried, similar provision should be made for these returned servicemen's functions, the permit to be granted by the senior officer of police in any borough.

CHAPTER 104.—CHATHAM ISLANDS

1931. The facts are set out in Chapter 66 of Book I.

1932. We make these recommendations :—

(1) One of the licenses at Waitangi should be cancelled or not renewed upon expiration.

(2) The store should be removed from the remaining licensed premises to another building at some distance from it.

(3) The law should be strictly enforced, and the Police Force should be adequate. Attention should be paid to ensuring that Maoris seeking accommodation or meals at the hotel at Waitangi should be able to obtain what they require.

(4) Several Government Departments—*e.g.*, Native, Health, Education, and Agriculture—might co-operate in the development of the Islands. The appointment of a Government Administrator might assist in this development and so provide more work and more interests for the Maoris.

(5) Owing to the difficulty of ascertaining what persons of any Maori caste are entitled to purchase liquor for " off " consumption, all those so entitled, whether European or three-quarter-caste Maori, should be ascertained by inquiry before the Licensing Committee and registered. On registration each person should be required to supply a specimen signature. When purchasing alcoholic liquor, otherwise than by the glass, such persons should be required to sign for the liquor in a record-book in the hotel, available for inspection at any time by the police.

(6) The personnel of the Licensing Committee should be reviewed by the Governor-General in Council.

CHAPTER 105.—THE INVERCARGILL LICENSING TRUST

1933. The facts are set out in Chapter 63 of Book I.

1934. We make these recommendations :—

(1) A Licensing Committee should be elected which should function in relation to the Trust as though the Trust were a private individual.

(2) The constitution of the Trust should be amended to conform to the standard form of local Trust which may be adopted by the electors in any licensing district.

(3) The foregoing alterations would involve the following consequences :—

(*a*) Residents in an urban residential district would be entitled to veto the placing of a license in their district; residents in other districts would have the right of objection, as at present, to a particular site.

(*b*) The Trust would be entitled to hold all licenses, other than brewery licenses held by the L.M.S. Board for the sale, wholesale or retail, of all liquor in the Invercargill Licensing District. Wholesalers outside the district must sell to the Trust, but the Trust could indent wines and spirits for individual purchasers within the district.

(*c*) The Trust premises and the conduct thereof would be subject to inspection as though the Trust were a private individual.

(4) When occasion arises for the appointment of new members of the Trust, we recommend that one or more persons who have had managerial, technical, or other practical experience of the liquor trade, including the conduct of hotels, should be appointed members of the Trust.

CHAPTER 106.—THE TOURIST TRADE

1935. The facts are set out in Chapters 64 and 65, Book I.

1936. We make the following recommendations :—

(1) If there is no suitable fireproof hotel at any important tourist resort, the State should undertake the responsibility of providing such hotel. Even if the hotel is run at a loss, it will probably be of advantage to the country.

(2) If private enterprise does not provide one hotel in New Zealand which is adequate for the purpose of holding an International Conference, the State should undertake that responsibility.

(3) The Liquor Trade Inspection and Advisory Board (which we propose) should have power to make recommendations to a Licensing Committee as to what hotel or hotels at a tourist resort should receive a permit for dancing in the hotel.

(4) Unless some reason to the contrary appears to the Distribution Commission, we think that a house license should be authorized for the Lodge at Hanmer (see paras. 1364–1367 of Book I).

(5) It should be a condition of an hotel or house license that the licensee must accept accommodation coupons at standard rates issued by the Government Tourist Bureaux or by New Zealand travel agencies which are approved by the Liquor Trade Inspection and Advisory Board (which we propose) and must allow the issuing organization a commission of 10 per cent. on the value thereof.

(6) A Central Travellers' Bureau should be established in each of the main centres of the Dominion for advising any travellers of accommodation which is available in that centre. The Bureau should remain open until a late hour.

The cost, or the main cost, of each bureau should be met by the Government Tourist Department.

(7) For the improvement of tourist hotels, apart from the issue of the license, we refer to our general comments on the quality of service in hotels in paras. 639 to 641 of Book I, and to our recommendations in respect of hotel accommodation in paras. 1756 to 1762 of Book II. In addition, we make the following specific recommendations, designed to improve conditions for tourists from abroad, though in making these recommendations we do not intend to exclude the provision of accommodation of a less-expensive type.

(*a*) The hotel building should be suitable for tourists. There should be central heating that works, but there should also be fireplaces. The lounges should have large plate-glass windows which enable good views to be obtained, even though the weather is bad. The lounges and the bedrooms should be amply but softly lighted. Bath and toilet should be attached to each of a sufficient number of bedrooms. Screening against flies and mosquitos should be adequate and effective, yet the system of ventilation should keep the air fresh without draughts.

There should be adequate and quick cleaning and pressing services and laundry.

(*b*) The dinner hour should be adjusted to suit the habits of overseas tourists. This means that guests should be able to enter the dining-room for a meal up to 8 p.m. This adjustment would also permit of late sight-seeing in the summer and of late arrival at a destination.

(*c*) The food should be good, cooked by trained chefs, and attractively served. For Americans, the tendency should be away from boiled dishes and steamed sweets. Salads are appreciated.

Lunches should be willingly "put up" and handed out.

(*d*) There should be facilities for recreation in the lounge in the evening.

(*e*) It is very important that the beds should be comfortable. Only the best type of mattress should be used—*e.g.*, the mattress with individual springs, encased in a pocket.

(*f*) In all departments of a tourist hotel the quality of service and of attention to the needs of a guest should be outstanding. The staff should be trained to be alert to meet those needs.

(*g*) At mountain resorts suitable lodges should be provided, and the guides should be highly qualified.

(*h*) The Tourist Department should continue to develop tours throughout the country, taking in the main tourist resorts of both the North and the South Island, including the Waitomo Caves, Rotorua, the Chateau Tongariro, the West Coast Glaciers, Mount Cook, the Southern Lake District, and Milford Sound. To make the travelling pleasant, the roads used in travelling from one resort to another should be sealed. The Tourist Department should keep urging the sealing of all the roads used in travelling from one resort to another.

Interest might be added to these tours if visits were arranged, for those interested, to units of characteristic New Zealand industries—*e.g.*, to a sheep-station.

CHAPTER 107.—CLUBS

1937. The facts are set out in Chapter 62 of Book I.

1938. We gather together our recommendations regarding clubs:—

(1) A new form of club charter for one year, annually renewable, authorizing sale or supply for "on" consumption only to be created.

(2) Each existing charter to be replaced, if practicable, by the new form of charter.

(3) Special provisions, corresponding to the Australian provisions set out in Appendix E of this Book, to be enacted to ensure that only clubs suitable to control the sale of wines and spirits, as well as malted liquors, are chartered, and to ensure the suspension or cancellation of the charter according to the degree of failure to observe the conditions of the charter. For example, cancellation should be obligatory upon a third conviction within a period of, say, five years.

(4) The Distribution Commission to receive applications for club charters and to make its own decision as to how many club charters should be authorized. It should do this in the light of all the applications for licenses, permits, and charters, and after considering whether a chartered club would create any unfair competition with an hotel which provides accommodation.

(We think we should say that, unless the Distribution Commission finds some reason to the contrary, it seems to us that a charter should be granted to the Christchurch Commercial Travellers' Association, but in saying this we do not indicate any limitation upon the charters for such other associations as officers' clubs, working-men's clubs, golf clubs, and professional and businessmen's clubs which the Distribution Commission thinks proper to allow.)

(5) Returned servicemen's clubs should be entitled to such proportion of charters as the Distribution Commission after full inquiry thinks proper. We have not sufficient knowledge to make a definite recommendation beyond saying that, if there is a suitable Returned Services' Association club which desires a charter in each licensing district, we see no reason why one charter should not be granted in each district. This quota should not, however, exclude a charter for any officers' club if the Distribution Commission thinks proper to allow that as well.

(6) Though all club charters will be authorized by the Distribution Commission, they will be issued by the Licensing Committee in respect of specific premises, subject to the rights (already explained) of the residents in an urban residential district to veto the placing of the licensed premises in their district and the rights of residents in other districts to make objection to the particular site.

(7) The fee payable for a club charter should be fixed as we recommend (paras. 1656 and 1657, *supra*).

(8) Chartered clubs should be subject only to the inspection of senior inspecting officers of police, as chartered clubs are at present, and to the inspection of a senior officer of the Liquor Trade Inspection and Advisory Board, which we propose.

(9) As clubs will hold their licenses from a Licensing Committee, they will be subject to the control of the Licensing Committee, with a right of appeal to the Supreme Court with respect to the grant or refusal of a license or the renewal of a license or an order for rebuilding.

(10) If a club does not hold a charter, the keeping, supply, sale, or consumption of liquor in the club should be prohibited under a substantial penalty or penalties.

(11) As to sales of intoxicating liquor in clubs :—

(*a*) Members and honorary members in residence in a club should have the same right to be served with liquor at any time as the guests in an hotel.

(*b*) For members not in residence in residential clubs and for all members of clubs without residential accommodation the hours of sale in the club should be the same as the hours of sale to the public under the bar license which we propose—that is to say :—

(i) On week-days, other than Saturdays, from 10 a.m. to 2 p.m., 4 p.m. to 6 p.m., and from 8 p.m. to 10 p.m.

(ii) On Saturdays, from noon to 6 p.m. only ; no sales thereafter except to members and honorary members in residence.

(iii) On Sundays, no sales, except to members and honorary members in residence.

(iv) The foregoing hours to be subject to the following provisions : (*a*) members or guests dining in the dining-room of a club between 6 p.m. and 8 p.m. to keep their right to be supplied with liquor as part of the meal, pursuant to section 10 of the Sale of Liquor Restriction Act, 1917 ; also (*b*) a member not in residence, and any guest of his, having a meal in the dining-room of a chartered club between noon and 2 p.m. on a Sunday should be entitled to be supplied with liquor with his meal ; (*c*) members of golf or bowling clubs which have charters should be entitled to be supplied with liquor on Sundays during the period in which the locker system is ordinarily used in those clubs at the present time ; say, from noon to 6 p.m.

(12) Chartered clubs to be entitled to apply to the Chairman of the Licensing Committee for an extension of the hours for sale and consumption of liquor at a special function held in the club, such as a banquet or similar dinner, social gathering of the chartered club, or reception to a distinguished visitor. Previous notice of the application to be given to the senior officer of police in the licensing district, who should obtain a report for the Chairman of the Licensing Committee before the permit is granted. The number of these occasions to be limited to six per annum. The period of extension and the conditions upon which it is granted to be determined by the Chairman of the Licensing Committee. Probably the period should not extend beyond 1 a.m. of the following day. All such functions to be open to inspection during the extended hours (paras. 1725 to 1728, *supra*).

(13) We make the following recommendations with regard to improvements in the existing statutory provisions :—

(*a*) Section 260 (3) should be amended to overcome the technical difficulty with regard to the supply of a balance-sheet at the end of the club's first year (para. 1301, *supra*).

(*b*) Section 261 (*g*) should be amended to permit of the letting of a portion of the club property (para. 1302, *supra*).

(*c*) Section 262 (6) should be amended to give a discretion with regard to the cancellation of a club's charter, subject to our recommendations with regard to the control of the charter by the Licensing Committee in lieu of the Minister of Internal Affairs (para. 1303, *supra*).

CHAPTER 108.—THE WINE INDUSTRY

1939. The facts are set out in Part XV of Book I.

1940. The evidence concerning the wine industry shows that a large proportion of the wine made in New Zealand, perhaps as much as half the quantity, is of poor quality (para. 1398, *supra*) yet in evidence as to the reasons and to the lines of remedy is so conflicting that we strongly recommend a survey of the industry by an independent expert from a country where wine is made under climatic conditions somewhat similar to those of New Zealand. An expert from one of the Universities of the north-eastern States of the United States of America might be the most suitable.

1941. The survey should primarily be factual and concern, for example :—

(1) An assessment of the conditions of soil and climate in the various districts.

(2) A report on the kind or kinds of grapes suitable for winemaking in the various districts.

(3) What kinds of wine the various districts are suitable to produce.

(4) The extent to which sugar must be used in the production of wine in these several districts.

(5) Whether, if sugar to the required extent is used, the resultant product in any district could properly be termed "grape wine."

(6) What kind of wine could be produced in any district when the use of sugar was limited to the amount that would be approved in a winemaking country with climatic conditions similar to those in that district, and in what quantities could such wine be produced.

(7) Whether satisfactory light wines can be produced in any district; and, if so, whether on a commercial basis.

(8) Whether a change-over from the production of strong fortified wines to light wines is desirable; and, if so, whether it appears to be commercially practicable; and, if so, what steps would need to be taken to effect the change over during a period of time.

(9) Whether winemakers in New Zealand should be permitted to blend their wines with imported wines.

(10) Whether good brandy can be made in New Zealand; and, if so, on what conditions, and whether it would appear to be commercially practicable.

(11) What is the best site for a Government winery or wineries, and what function should they fulfil.

(12) What scope there is for co-operative manufacture or production.

(13) Whether a Wine Advisory Board is desirable, having regard to the other methods of control.

1942. The independent expert should also be asked to report on the present conditions of manufacture in the industry, on the conditions of premises and of equipment, and on the apparent skill of winemakers and the like.

1943. It is very important that the expert who is asked to report should not only be competent, but be independent of all interests in this country.

1944. In the meantime, and in case no report is obtained from an independent expert, we make these recommendations :—

(1) There should be a reduction in the number of controlling authorities. All licenses and permits affecting the wine industry in each licensing district should be granted by the Licensing Committee of that district, subject to an appeal to the Supreme Court in respect of the grant or refusal of any license or the renewal of any license, or of an order for rebuilding. (This is in accord with the policy of bringing the control of all sources of liquor-supply in a licensing district under the Licensing Committee, subject to the appeal to the Supreme Court in respect of specified matters.)

(2) The inspection of the wine industry should be primarily the responsibility of the independent Liquor Trade Inspection and Advisory Board, which we recommend for the inspection of the trade generally. The Wine Inspector of this Board would also be competent to give helpful advice. The Health Department should be free to carry out such inspections as it thinks proper (though they appear to have been rare in the past), but the Inspection and Advisory Board should be entitled to draw the attention of the Health Department to any matters which the Board considers require the attention of that Department.

The police should be relieved of all duties in relation to the wine industry, save the enforcement of law and order.

(3) The law relating to the wine industry should be collected in as few statutes as possible and made readily available to the public at a moderate price.

(4) *As to Licenses and Permits.*—We recommend :—

(*a*) That the wine-sellers' permits authorized by Regulation 3 of the Emergency Regulations 1943/122 should be incorporated in the Licensing Amendment Act, 1914, and all wine-sellers' permits converted into wine-sellers' licenses. The power to issue the licenses should be vested in the Licensing Committee of the district. Before a license is granted or renewed a report on the premises from the Inspector of the Inspection and Advisory Board (which we recommend) should be required.

(*b*) Control of the manufacture of cocktails and liqueurs, at present under Regulation 4 of the Emergency Regulations 1942/251, should be made subject to a license from the Licensing Committee, to be granted in open Court.

(*c*) The New Zealand wine license (which is a retail license) should be extended to permit sales of wine up to a strength of 40 per cent. of proof spirit—*i.e.*, to the same extent as sales may be made under the winemaker's license.

(*d*) The obligation to prevent drunkenness and maintain sobriety imposed upon an innkeeper by section 181 of the Licensing Act, 1908, should be imposed upon the holder of a New Zealand wine license as if he were an innkeeper.

(*e*) The Licensing Committee should have power to issue permits for the sale of light wines or malted liquors with substantial meals in restaurants in the manner already recommended (para. 1637, *supra*).

(*f*) No bottle licenses for the sale of wine should be granted.

(5) *As to the General Policy to be pursued in the Wine Industry.*—We recommend that the New Zealand tariff and taxation system should be adjusted so as—

(*a*) To encourage the production of a good-quality light wine ; and

(*b*) To permit, nevertheless, the importation of a sufficient quantity of good wine from well-known overseas wine-producing countries.

(6) *As to Vine-growing.*—We recommend the planting of suitable types of vines. Franco-American hybrids are recommended by the Department of Agriculture.

(7) *As to the Organization of Manufacture.*—We recommend :—

(*a*) That the Inspection and Advisory Board (which we recommend) should investigate how the co-operative methods applied in the wine industry in Australia and in South Africa could be applied, with or without modifications, to the wine industry in New Zealand, or what other co-operative methods would be advisable, and should publish their views for the information of winemakers.

(*b*) If it is decided to encourage the production of light wines, consideration should be given to the establishment of a Government winery in the Hawke's Bay district for experimental purposes and for the training of winemakers in the making of acceptable light wines.

(*c*) As the Government winery at Te Kauwhata is at present competing commercially with the wine-growers, we think that the accounts of the winery should be published every year after audit by the Auditor-General.

(8) *As to the Manufacture of Wine.*—We recommend :—

(*a*) Adequate and clean premises, sufficient equipment and testing instruments.

(*b*) Improvement in the processes of manufacture—*e.g.*, by the reduction as far as practicable of the quantity of added water and of cane-sugar.

(*c*) An adequate period for the maturing of wines.

(*d*) The manufacture of wine from fruits other than grapes, provided that the source is clearly shown on the label—*e.g.* "grape-fruit and lemon wine."

(*e*) The manufacture of unfermented grape-juices.

(*f*) The prohibition of the manufacture and of the importation of medicated wines.

(*g*) If the Government is satisfied, after taking the advice of an independent expert, that brandy of good quality can be manufactured in New Zealand on an economic basis, we recommend its manufacture.

(9) *As to Bottling.*—Steps should be taken to ensure that the bottling of wine is done under hygienic conditions. If the Inspection and Advisory Board we recommend is set up, it would no doubt make adequate proposals for this purpose.

(10) *As to Labelling.*—We do not recommend that New Zealand wine must be described as "grape and sugar wine." We think it is sufficient that it should be described as "New Zealand wine." Nevertheless, cane-sugar is so largely used in its production that the use of words to indicate that the wine is produced only from the grape, such as "grape wine" or "New Zealand grape wine," should be prohibited.

(11) *As to Sales of New Zealand Wine.*—Increased avenues for lawful sale are provided by the alteration to the New Zealand wine license and by permits to restaurants. We recommend also that a winemaker in a no-license district should be entitled to have a depot within that district, approved by the Licensing Committee, for fulfilling orders received from without that district (para. 1496, *supra*).

(12) *As to Inspection at the Present Time.*—There is great need for the improvement in inspection of wineries at the present time. The Vine and Wine Instructor of the Department of Agriculture has only the authority of an inspector under the Orchard and Garden Diseases Act, 1928. Inspection by the Medical Inspectors of Health appears to have been rare. The police are not trained to inspect wineries. The need for inspection in the wine industry is a further ground for the appointment of the Liquor Trade Inspection and Advisory Board which we recommend. It should have a qualified Inspector who is entitled to prosecute for breaches of the law, but whose principal aim should be to give helpful advice to vine-growers and winemakers, and to give evidence before any Licensing Committee.

CHAPTER 109.—RECOMMENDATIONS *RE* THE CUSTOMS DEPARTMENT AND THE POLICE

1945. The facts are set out in Chapters 37 to 45 of Book I.

Customs Department

1946. We make these recommendations :—

(1) The issue of brewery licenses should be in the hands of Licensing Committees, subject to an appeal to the Supreme Court in respect of the grant or refusal of a brewery license.

(2) This alteration involves, *inter alia*, the vesting of certain important powers in a judicial, not an administrative, authority—viz., in the Licensing Committee and in the Supreme Court on any appeal that is permitted. These important powers are those of cancelling or suspending a brewer's license and of deciding when the moral character of any director, manager, superintendent, foreman, agent, or other person acting, or apparently acting, in the general or special management or control of a brewery is to be attributed to the company which holds the brewer's license (section 68 of the Finance Act, 1915; section 48 of the Finance Act, 1917; and sections 21 and 22 of the Customs Acts Amendment Act, 1931).

(3) The Customs Department should be limited to the collection of revenue and to the inspection and enforcement of the law required for that purpose.

(4) At least one of the Department's Inspectors should be a competent brewer and he should have been employed in the brewing industry as a competent brewer for a number of years.

(5) (*a*) The wastage allowance should be reviewed.

(*b*) The meaning of section 55 of the Finance Act, 1915, should be interpreted by the Court. If the wastage allowance does not include bottling, then the 10 per cent. allowance for wastage should be substantially reduced.

(*c*) A materials check should be provided as in England. For further details see para. 772 of Book I.

(6) A general system for the shipping of beer and storing it at the port of destination, which should be available to any brewer who desires to ship, or to the L.M.S. Board if it is set up, should be established in place of the unlicensed stores permitted to New Zealand Breweries.

(7) Careful consideration should be given to the question whether the sugar used in the priming of beer should be taxed as well as the sugar which is used in the wort. So far as we can see, the sugar used in priming ought to be taxed as it is in England. The only question seems to be whether the yield would justify the expense. We think the method adopted in England should be tried. This is probably a matter in which the services of a skilled practical brewer on the staff of the Customs Department would be helpful.

Police

1947. We make these recommendations:—

(1) The place of the police as inspectors of hotel accommodation should be taken by properly qualified Inspectors of the Liquor Trade Inspection and Advisory Board which we recommend.

(2) The Police Force should be adequate in size for the discharge of its duties in respect of the licensing laws as well as other laws. In relation to the licensing laws its duties should be limited, as far as practicable, to the maintenance of law and order.

(3) If our recommendation as to evening hours for "on" consumption is accepted, sufficient police should be available to survey the hotels during the initial period.

CHAPTER 110.—LIQUOR TRADE INSPECTION AND ADVISORY BOARD

1948. We have recommended that all licenses in respect of alcoholic liquor within any district shall be issued by the Licensing Committee of that district. We have recommended that the control of the Licensing Committee shall be subject to a right of appeal to the Supreme Court in respect of certain matters, such as:—

(1) The grant or refusal of any license or the renewal of any license; and

(2) An order for the rebuilding of any licensed premises.

1949. The reliance we have placed on this local control is in accord with what we judge to be the strong feeling of the people. Nevertheless, we think that this local control should be supported and harmonized and made as efficient as possible.

1950. For this purpose we recommend the creation of a Liquor Trade Inspection and Advisory Board, which should exercise these functions :—

(1) The inspection of all kinds of licensed premises (breweries, wineries, hotels, bars, clubs, restaurants, &c.) in order to ascertain that they comply with the law ; the inspection and testing of all kinds of liquor ; the grading of hotels and the preparation of proposals for submission to the Licensing Committee, for improving licensed premises, which have not been maintained at the required standard. The Inspectors would be officers with special functions like the Traffic Inspectors appointed under regulations under the Motor-vehicles Act, 1924.

(2) Giving evidence, where the Board thinks it proper, before Licensing Committees as to the foregoing matters.

(3) Bringing an appeal to the Supreme Court, where the Board considers an appeal should be brought against the decision of a Licensing Committee in granting or refusing a license, or the renewal of a license, or against the grant or refusal of an order for rebuilding.

(4) The publication of such scientific or objective information, concerning alcoholic liquor, or the conduct of any branch of the liquor trade, as the Board thinks proper.

(5) The presentation of an annual report on the liquor trade to Parliament.

1951. With respect to the power of independent inspection, we make these observations :—

(1) The power to appoint a special Inspector, not being an officer of police, was first given by section 36 of the Alcoholic Liquors Sale Control Act Amendment Act, 1895. The duties of these Inspectors were laid down in regulations in the *New Zealand Gazette* of 1897, p. 884. Shortly put, the duty of the special Inspector, who was not to be an officer of police, was to prevent and detect violations of the Act and the sale of adulterated liquor. The regulations show that this inspection extended to accommodation as well as to sanitary arrangements and to the purity of alcoholic liquor. Every special Inspector was to report monthly on his work to the Minister of Justice.

(2) The power to appoint special Inspectors is now given by sections 237 to 239 of the Licensing Act, 1908.

(3) The Hockly Committee of 1922 urged special inspection (para. 200, No. 6), but no special Inspector has ever been appointed.

1952. With respect to the value of co-ordination, we make these observations :—

(1) The value of a co-ordinating body was emphasized in the report of the Royal Commission on Licensing for England and Wales (see paras. 428 to 435 of the report). That Commission proposed a National Licensing Commission which should have certain specified powers, viz. : —

(*a*) Approving the plans of Licensing Justices for the reduction of licenses ;

(*b*) The delimiting of special areas of new development in which the residents might record an advisory vote as to whether they wished licenses in the area or not ;

(*c*) Framing schemes for the extension of public ownership for submission to Parliament ;

(*d*) Advising on the regrouping of licensing districts ;

(*e*) Drawing up a list of spirits or wines which were sufficiently " medicated " to be incapable of use other than as a medicine or for medicinal purposes ; and

(*f*) The collection and publication of data as to the administration of the law relating to intoxicating liquor and the presentation of an annual report to Parliament.

(2) None of these specific powers affects the daily conduct of the licensed trade. In that matter the National Commission was left to exercise the powers of suasion and, as the English Royal Commission hoped, to exercise a co-ordinating influence upon the system of local administration by Licensing Justices.

(3) Though this National Licensing Commission was strongly urged by the Royal Commission for England and Wales, it has not been appointed.

1953. In our view, the most effective way to ensure the better administration of the trade and, at the same time, to bring about a co-ordination of the work of the local Licensing Committees and to assist them, is to provide an independent National Board of Inspection of high status which can inspect the actual conduct of the trade in each district and bring its reports and recommendations before the Licensing Committee of each district.

1954. With reference to the constitution of this Board, we make these recommendations :—

It should comprise three members appointed by the Governor-General in Council for a period of, say, seven years. Its Chairman should be a barrister of the Supreme Court of not less than seven years' standing in the actual practice of the law, and he should have the status of a Judge of the Court of Arbitration. None of the members should be financially interested in the trade or be members of the New Zealand Alliance, which is professedly constituted for the abolition of the liquor trade. We recommend that the members should be so chosen as to have among them a sufficient knowledge of the trade, of building construction, and of accountancy and valuation.

1955. With reference to the administration of the Board, we make these recommendations :—

(1) The Board should have an administrative staff and office.

(2) The Board should keep a register of all licensees, and of all licensed premises.

(3) The Clerk of each Licensing Committee should be required to send to the Board sufficient information to enable the Board to keep its register with a record of all transfers, removals, &c., and of convictions or disqualifications in respect of each license or permit or charter.

(4) The Board should also be entitled to certain information. The provisions recently enacted in New South Wales for the assistance of the Licenses Reduction Board afforded a precedent. Accordingly, we recommend that every person who sells, supplies, or delivers liquor to the holder of any license or permit or to a registered club during a specified month in each year shall forward to the Board a correct statement in writing, setting forth, in respect of the twelve months ended on a specified date :—

(*a*) The name and address of the holder of the license or permit or registered club to whom any liquor was supplied ;

(*b*) The quantity of each of the various kinds of liquor supplied to each holder of a license or permit or to each club ; and

(*c*) The amount paid or payable (including any duties) by each holder of a license or permit, or by each club for each of the various kinds of liquor so supplied.

(5) The Board should also have power to direct any person to produce for inspection by the Board any books, documents, or other records relating to the sale, supply, or delivery of liquor to holders of licenses or permits or to registered clubs, and it should be lawful for the Board to make copies of or to take extracts from any such books, documents, or records (see New South Wales Act).

We think that the information so obtained would materially assist the Board in the proper performance of its duties.

1956. With regard to the inspection of premises, all licensed premises, whether of a public Corporation, a local Trust, or of private persons, and all premises under a club charter, should be subject to inspection.

We do not think that the Board would require a large number of Inspectors. We were impressed by the way in which the representative of the automobile association (Auckland) was able to inspect all the hotels in the North Island within a period of four months. We think that, after the first inspection, the Board would know very well where most attention had to be given.

1957. We recommend that the Board should appoint an expert Inspector for each branch of the Liquor Trade—*e.g.*, brewing, winemaking, and hotelkeeping.

Each Inspector should ascertain whether :—

(1) The part of the liquor trade with which he is primarily concerned is conducted in accordance with the law ; and

(2) What improvements or alterations are desirable in that part of the trade.

1958. We do not contemplate that in carrying out his inspection an officer of the Board would act in any antagonistic spirit ; we contemplate the very opposite. His object should be to be helpful to the licensees as well as to do his duty to the public. Competent inspections, properly carried out, would, we think, be welcomed in the long run by the licensees as well as by the public.

1959. We do not propose that the Inspector shall take the place of the police in the enforcement of law and order in respect of the licensed premises, but we think the Inspection Board should have the right to bring a prosecution in respect of any breach of the laws relating to the liquor trade if it thinks proper so to do. In many ways the Inspectors of the Board could assist the police, just as do the Traffic Officers.

1960. In carrying out their inspections the Inspectors of the Board would be entitled to call the attention of the police to matters affecting them, and the attention of the Medical Inspectors of Health to matters affecting them.

We recommend that the Inspection Board should be entitled to a copy of the report of every Medical Inspector of Health.

1961. As to the assistance which the Board can give the Licensing Committees, we recommend that the Board should have a right of audience before all Licensing Committees. The Board's Inspectors should be entitled to give evidence before any Licensing Committee with regard to matters affecting the conduct of the licensed trade within the district of that Committee. The Board should also have the right to submit to the Licensing Committee, either directly or in evidence, the gradings of hotels which it proposes for the district according to standards of accommodation. This assistance should tend to the co-ordination of the administration of the licensing laws and to the raising of the standards of accommodation throughout the country, while at the same time leaving the final control with the District Licensing Committee, subject to an appeal in certain important matters to the Supreme Court.

1962. We recommend also that the Licensing Inspection Board should have the right itself to take an appeal to the Supreme Court from any decision of the Licensing Committee in respect of which the right of appeal is conferred.

1963. The work of the Licensing Committees would also tend to be co-ordinated if our recommendation as to the appointment of Licensing Magistrates as Chairmen were adopted. One Magistrate might be Chairman of several Committees. Several Chairmen could from time to time confer together. These conferences would assist smooth administration.

1964. As this scheme of inspection progressed it would probably be found that the police could be relieved of many of their duties in relation to hotels, although they would still need to inspect the premises to ensure the enforcement of law and order.

1965. *As to the Report to Parliament.*—We recommend that the Liquor Trade Inspection and Advisory Board should make an annual report to Parliament upon the whole state of the liquor trade in New Zealand. For this purpose the Board should have the same independent status as the Auditor-General. This report would provide every year an authoritative public statement on the condition of the licensed trade, with its breweries, wineries, hotels, bars, clubs, restaurants, &c. We think this publicity would have a salutary influence of itself. Licensees, whether local Trusts or private individuals, who were doing their duty would have nothing to fear. They would stand to gain credit.

1966. *As to the Cost of the Inspection Board.*—We recommend that the cost should be borne directly from the Consolidated Fund. The Board's independence might appear to be prejudiced if its finance came from any direct levy upon the liquor trade. On the other hand, the revenue taken from the trade by means of taxation would amply offset the expenditure upon the Inspection Board.

We do not contemplate that the work of this Board would occupy the full time of the members. They could meet regularly, and as required, to consider reports and give directions. They could also make a personal inspection whenever they thought it advisable.

We are confident that the public would derive much benefit from the operations of a Liquor Trade Inspection and Advisory Board.

PART XX.—EDUCATION

CHAPER 111.—EDUCATION IN THE SCHOOLS AND AFTER

1967. The education of the people in relation to alcoholic liquor concerns those of school age and those beyond school age. Though this distinction is convenient, the education of each group affects the education of the other group.

1968. The education of those of school age is the care of the Education Department. On general grounds, as the Director of Education (Dr. Beeby) explained in his valuable contribution to the evidence, the teaching of temperance in the wider sense of moderation in all things is an essential part of true education and should begin in the cradle, though the inculcation of this general attitude of temperance does not exclude the need for more specific teaching about temperance in relation to alcoholic liquor. In our view, the need for this specific teaching is not less to-day than it has been. On the contrary, there are definite grounds for asking that the teaching of temperance in relation to alcoholic liquor should be strengthened.

1969. One matter of concern to any community is an increase in the practice of drinking by young people, particularly by young women. This occurred extensively during the war. The practice is, we think, substantially less to-day than it was then. Nevertheless, many may have acquired a habit. It is important, therefore, that the youth of the community should understand clearly that the practice of drinking may cause great harm and that self-control and a temperate use of alcohol is of the greatest importance not only to the individual, but also to the community.

1970. Another matter of concern is the sale of drink in the bars to minors. We do not think the convictions reveal by any means the true position. They are probably much less than the number of offences. The better education of the youths in the schools might diminish the number of minors who enter bars for the purchase of liquor.

1971. For many years past the Education Department has required teachers in the primary schools to include the subject of " Temperance " in their schemes of work, but considerable latitude has been allowed to the teacher in the planning of the lessons

and in the detailed treatment. There has been a tendency for the teachers to treat temperance less as an isolated topic and more as an aspect of a wide range of subjects, particularly hygiene, science, physical education, and social studies (R. 6360).

1972. In August, 1945, the Education Department issued a new syllabus of health education, devised by a joint committee representing the Education Department, the Health Department, the Education Boards, the training colleges, and the primary and post-primary teachers (R. 6360). The syllabus contains the following section under the heading "Temperance" (R. 6361):—

> Temperance in its widest sense—that is, the avoidance of any over-indulgence—is an essential part of the scheme of health. The harmful effects of over-indulgence in any activities in life are dealt with in the programmes for the junior and middle schools. Specific teaching on the effect of alcohol is reserved for the upper-school programme, where it will be treated in a scientific manner as part of the health course. In broad outline, the lessons provide for discussion of the following topics:—
>
> (*a*) The food value of alcohol.
> (*b*) The effect of alcohol on the human body.
> (*c*) Alcohol in the light of modern research.
>
> The treatment of alcohol in this way largely removes much of the controversial element that hitherto caused some difficulty in presentation. The lessons outline simple facts in a manner that does not lend itself to misinterpretation. A knowledge of these facts is essential for all children at the primary-school stage.

1973. The provision for discussion of the three matters specified seems to us important. We realize, as Dr. Beeby pointed out (R. 6365), that at the primary-school stage the object of temperance teaching is to lay down the basic pattern of self-control, a pattern which can readily be extended at a later age to deal with alcohol and other adult enticements. We realize also that, because alcohol is no temptation to the child at the primary school, this pattern is best laid down by reference to matters which are temptations to the child at that age—*e.g.*, over-indulgence in sweets or moving pictures, or comics, or sports. Nevertheless, we think that, because many children do not go beyond the primary school, there is much wisdom in the provision of the new syllabus for specific instruction concerning alcoholic liquor in the upper classes of the primary schools.

1974. The removal of the controversial element contemplated by the new syllabus seems to us also a definite advantage. No reasonable complaint can be made by any parent who drinks, of instruction of an objective and scientific nature which is supported by an established body of evidence. Dr. Beeby suggests (R. 6364) that it might be advisable to assist teachers to secure in a simple form the latest scientific findings on the effects of alcohol. As pamphlets previously issued on the subject are some years old, the Education Department is now endeavouring to have more material on these lines prepared. We recommend that these new pamphlets should be prepared for use in the primary schools, and that steps be taken to ascertain that the teachers do use them in preparing their schemes of work.

1975. We think the Health Department should assist in this work. We draw attention also to a publication on "Alcohol" issued by the Board of Education in England under the general title "Suggestions of Health Education." This statement appears to have been prepared after the publication of the report of the Royal Commission on Licensing in England in 1932. This report advocated:—

> that every child ought to receive specific and systematic instruction as to the properties of alcohol, as in all other matters which may affect future health, so that the child may at least be in possession of sound material on which to form a personal judgment when years of discretion are reached. (Report of Royal Commission on Licensing for England and Wales, 1932, p. 147, para. 695.)

This publication on "Alcohol" (submitted by the Under-Secretary for Justice) is recorded in the evidence (R. 62 to 73). We refer also to two other articles put in evidence by the Under-Secretary which may be helpful—viz., "The Causation, Treatment, and Control of the Alcoholic Habit" (Exhibit A, 9) and "Mental Defectiveness and Alcohol and Drug Addiction" (Exhibit A, 10).

1976. We think also that the pamphlets should include specific reference to the social effects of over-indulgence in alcohol. This should be done not only primarily in the interest of those who suffer, but also secondarily because so much money is now paid from the public purse for the purposes of social security that it is unfair that any of it should be wasted on over-indulgence in alcohol.

1977. Whilst we think that instruction should be given primarily by the class teacher, we think consideration should be given to the question whether the visiting Medical Officer of the school should not also give instruction. No doubt much would depend upon the capacity of the Medical Officer for this kind of work. Consideration might also be given to the use of film which illustrates scientific experiments showing the effect of alcohol upon mental and physical reactions, &c.

1978. We refer now to the secondary schools. In these schools the Education Department has never exercised the same control over the syllabus as it has in the primary schools (R. 6361). In these schools the curriculum has been governed largely by the requirements of external examinations and by the views of the principal and the teachers. In most schools, however, girls would touch on the effects of alcohol in their home-science courses, and rather fewer of the boys would meet the topic in science or physical education courses (R. 6361). Beyond these contacts specific teaching on the effect of alcohol has depended entirely on the individual teacher or the principal and, says the Director of Education, "opinions vary widely among teachers as to the value of specific teaching on the effect of alcohol" (R. 6362). We agree, however, with the Director's own view that "the specific teaching of the effects of alcohol on the human mind and body can best be approached in a cool, scientific, and objective manner." Instruction so given is part of an established body of objective fact and also in harmony with the development in the individual of the general attitude of temperance.

1979. Although little attention may have been given in the past at the secondary school to specific teaching concerning the effects of alcohol, the fact is that the girl or boy leaving the secondary school is much nearer the stage in life at which alcohol may become a temptation.

1980. We recommend that provision should be made in the secondary schools for specific teaching concerning the effects of alcohol upon the mind and body and concerning the social effects of over-indulgence, in such manner as it may best be given in the view of those competent to decide.

1981. We recommend that the Department of Education and the Department of Health should collaborate in the preparation of suitable material to assist teachers in the secondary schools to deal with these topics in the science or home science or physical training classes, or in such other ways as may be thought best by competent educationalists. We think the material should be prepared in the light of the fact that the boys and the girls from the secondary schools will shortly be reaching the age when the dangers of intemperance may become real to them.

1982. We draw special attention to the evidence we have had concerning Maori youth. The Maori boy or girl leaves school with little idea of how to use his or her leisure. The misuse of social-security money upon alcoholic liquor is extensive. We think that close thought should be given to the question as to how best the Maori youth can be given instruction upon the effect of alcoholic liquor upon the mind and the body and upon the social consequences of over-indulgence. It may be that some particular type of film, showing the evil social consequences of over-indulgence, would be appropriate in Native schools, as well as the scientific film showing scientific effects.

(We are not aware whether these films are in existence, but no doubt they could be made.)

1983. We recommend also that it should be the business of some person or group of persons in the Education Department to ascertain from time to time, and at not too infrequent intervals, that temperance teaching in relation to alcoholic liquor is being carried out in the primary, secondary, and Native schools.

We are aware of the difficulties of an over-crowded syllabus. We do not ask for more instruction than can reasonably be given, nor do we ask for instruction at any stage of a kind that is regarded by competent educationalists as unsuitable for girls and boys of the age dealt with. We recommend, however, that adequate attention should be given to the subject at the various stages.

1984. If the teaching is to be adequately given, sufficient attention must be given to the subject at the teachers' training colleges. The text-books used in these colleges, and placed before us by the Director of Education, seem admirable. We refer to *Hygiene and Health Education for Training Colleges*, by M. B. Davies (2nd Ed., 1937); *Health Education*, issued by the Board of Education (England), 1939; and *A Text Book of Hygiene for Training Colleges*, by Margaret Avery (10th Ed., 1927). The information supplied could be supplemented and kept up to date from time to time by the Health Department.

1985. In view of the development of social services and the necessity for educating the people to a proper sense of control, we think that attention should be given in the training colleges to the social effects of alcoholic excess. These are objective facts—*e.g.*, when moneys are spent in the bar which should be spent on the home, there may follow, *inter alia*, (1) the loss of the actual necessaries of life for wife and child; (2) the loss of efficiency for a good day's work; and (3) the lack of ability to fill a responsible position.

1986. We refer now to education of those beyond school age. When the school has done its best, influences existing outside may tend to undo the good it has done. As the Director of Education says (R. 6367), "Every teacher knows that his work can be nullified by conditions beyond his control—poverty, poor housing, unduly high wages for juniors, lack of parental control, or a generally loose moral tone in the community." Furthermore, the community may fail to provide the facilities for the use of those skills and crafts which the school has taught its pupils for their use and creative enjoyment in their leisure hours. If the young adult cannot adequately pursue drama, music, arts and crafts, physical education, and hobbies, he may turn to adolescent drinking. Thus the contribution which the school has potentially made to the solution of the problem of intemperance may be partially nullified.

1987. There are, therefore, two methods of adult education which have their effect upon temperance in relation to alcoholic liquor, viz.:—

(1) The presentation of the need for providing throughout the land, and particularly in the country districts, sufficient opportunities for the happy and healthful use of leisure. This involves not only the provision of the cinema and of other forms of entertainment, but also the provision of buildings and facilities which enable adults to practise and creatively enjoy those arts, crafts, and skills which they were taught at school for use in their leisure time; and

(2) The presentation of scientific and objective facts concerning the use and abuse of alcoholic liquor and of the social consequences of abuse.

1988. The first of these methods belongs to no particular Department. It should be the concern of the Education Department, the Health Department, the Justice Department, Ministers of the Crown, members of Parliament, all persons holding public positions, and private individuals.

1989. The second method—viz., the presentation of the scientific and objective facts concerning the use and abuse of alcoholic liquor—is primarily, we think, the function of the Health Department. We see no reason why the effect of alcohol on the mind and body and its social consequences should not be dealt with from time to time in a scientific and objective manner, just as the Department deals with other aspects of health in its admirable publicity. The Social Security Department is also directly concerned with the social effects of abuse, and should provide material both for publication and for broadcasting on the subject.

1990. We recommend that both the Health Department and the Social Security Department should take adequate steps from time to time to give the people interesting information upon the use and abuse of alcoholic liquor and the social consequences of abuse, although each Department might deal more particularly with that aspect of the question with which it is primarily concerned. A broadcast now and then to the Maori people, dealing, perhaps indirectly, with the drink problem among sections of the people, by a Judge of the Native Land Court would probably be helpful.

1991. Summary of recommendations :—

Section 1.—Teachers' Training Colleges

Sufficient attention should be given to the training of teachers to deal with the topic of temperance in the schools. The information supplied in the text-books should be kept up to date. Attention should be given to the social effects of alcoholic excess.

Section 2.—Primary Schools

(1) Instruction should be given in accordance with the syllabus of 1945.

(2) The Department of Education should, as the Department suggests, prepare for the assistance of teachers in the primary schools pamphlets, stating in simple form, the latest scientific findings on the effects of alcohol. The Health Department should assist. We recommend that the pamphlets should include specific reference to the social effects of over-indulgence in alcohol.

(3) The School Medical Officer, if he or she has the capacity for teaching, might give an occasional talk on the subject of temperance.

(4) Film of a scientific nature might be used.

Section 3.—Secondary Schools

(1) Such provision, as is approved by competent educational authority, should be made in the secondary schools for specific teaching concerning the effects of alcohol on the mind and body and concerning the social effects of over-indulgence.

(2) The Department of Education and the Department of Health should collaborate in the preparation of suitable material to assist teachers in the secondary schools to deal with these topics in science or home science or physical training classes, or in such other ways as may be thought best by competent educationalists.

(3) A separate study should be made of the best way of dealing with these topics in Maori secondary schools.

Section 4.—Education Department

We recommend that it be the specific duty of some officer or officers of the Education Department to ascertain from time to time, and at not too infrequent intervals, that temperance teaching in relation to alcoholic liquor is being carried out in the primary, secondary and Native schools.

Section 5.—Adult Life

(1) There should be in any community sufficient opportunities for the happy and healthful use of leisure, including the opportunity to enjoy creatively the arts, crafts, and skills which have been taught at school for use in leisure-time.

(2) From time to time Government Departments, such as the Department of Health and the Department in charge of social security, should present in the press, on the radio, or in such manner as seems suitable, the scientific and objective facts concerning the use and abuse of alcoholic liquors, and of the social consequences of abuse.

A broadcast now and then to the Maori people, dealing, perhaps indirectly, with the drink problem among sections of the people, by a Judge of the Native Land Court, would probably be helpful.

POSTSCRIPT

Since completing our report we have had the opportunity of reading the report of our colleague Mr. Percy Coyle. We think it is our duty to say that we do not agree with Mr. Coyle's criticism of counsel for the Commission. We think that he did not waste the time of the Commission on any matter. On the contrary, his services were throughout of very great assistance to the Commission.

We have the honour to be,

Your Excellency's most obedient servants,

[L.S.] D. S. SMITH (Chairman)
[L.S.] B. F. LOGIE.
[L.S.] P. MALTHUS.
[L.S.] E. C. N. ROBINSON.
[L.S.] JAMES P. RUTH.

Dated at Wellington, this 27th day of August, 1946.

APPENDIX A.—ANALYSIS SHOWING CONTROL OF LICENSED HOTELS BY BREWERS AND WHOLESALE WINE AND SPIRIT MERCHANTS, PREPARED FROM THE ANSWERS TO THE QUESTIONNAIRE ADDRESSED TO THESE FIRMS BY THE COMMISSION

This analysis shows the number of hotels in which the firms named are interested as owner of the freehold or of the leasehold, or as mortgagee or as the holder of some other financial interest; and also shows the extent to which a firm's hotels are leased or managed.

In 118 of these hotels either more than one firm is financially interested in the same hotel (*e.g.*, two firms each owning a half-interest in the freehold) or the same firm is financially interested in more than one way (*e.g.*, as owning the freehold and as holding a mortgage of a leasehold interest or a chattel security from the licensee). The figure of 118 must therefore be deducted from the apparent total of 749 (column 7) to ascertain the actual number of hotels in respect of which the firms, in the aggregate, are interested—viz., 631 (column 9). A detailed adjustment as to each firm has been made in column 8, showing the number of hotels (including part interests) in which that firm has more than one financial interest, or in which another firm or firms are financially interested.

This analysis does not include hotels subject to ties which are effective under private documents of the kind described in para. 514 of Book I and of which we have no knowledge.

Name and Address.	B. = Brewer; W. = Wine and Spirit Merchant; H. = Hotel-owning Company.	Nature of Interest of Firm in Hotels.				Totals of Columns 3, 4, 5, and 6.	Adjustments, as explained above.	Actual Total.	Terms of Leases to Firm as in Column (4).		Hotels leased or let by Firm to Tenant-licensees.	Hotels managed for Firm.
		Freehold.	Leasehold.	Mortgagee.	Otherwise Financially Interested.				Three Years and over.	Under Three Years.		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Hancock and Co., Ltd., Auckland (and subsidiary companies)	W. ..	43	30	6	4	83	17½	65½	26	4	46	16
Campbell and Ehrenfried Co., Ltd., Auckland (and subsidiary companies)	W. ..	32	4	..	2	38	3½	34½	4	..	8	26
L. D. Nathan and Co., Ltd., Auckland	W. ..	15	..	2	..	17	14	3 (14 leased to firms otherwise noted)	..	..	15	..
Northern Properties, Ltd., Auckland	H. ..	7	..	3	..	10	½	9½	..	..	5	2
Dominion Breweries, Ltd., Auckland	B. & W. ..	17	27	4	2	50	4½	45½	23	4	10	34
J. Reid and Co., Ltd., Auckland	W. ..	..	1	1	..	2	..	2	1	..	..	1
D. J. Barry, Ltd., Gisborne ..	W. ..	19	1	1	..	21	1½	19½	1	..	11	9

APPENDIX A—*continued*

Name and Address.	B. = Brewer; W. = Wine and Spirit Merchant; H. = Hotel-owning Company.	Nature of Interest of Firm in Hotels.				Totals of Columns 3, 4, 5, and 6.	Adjustments, as explained above.	Actual Total.	Terms of Leases to Firm as in Column (4).		Hotels leased or let by Firm to Tenant-licensees.	Hotels managed for Firm.
		Freehold.	Leasehold.	Mortgagee.	Otherwise Financially Interested.				Three Years and over.	Under Three Years.		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Wairoa Wine and Spirit Co., Ltd., Wairoa	W. ..	2	..	1	..	3	1	2	..	..	2	..
Barry's Bottling Co., Ltd., Napier	W. ..	..	..	1	6	7	..	7	..	..	..	..
Warren Smith and Co., Ltd., Port Ahuriri, Napier	W. ..	..	..	9	..	9	..	9	..	..	..	..
D. H. Newbigin, Hastings ..	B. & W. ..	..	3	..	..	3	..	3	3	..	3	..
J. Vigor Brown and Co., Ltd. (Neal and Close, Ltd.), Hastings	H. ..	1	..	..	..	1	..	1	..	..	..	1
Taranaki Brewery and Cordials, Ltd., New Plymouth	B. & W. ..	1	2	1	..	4	..	4	2	..	2	1
Wanganui Brewery Co., Ltd. ..	B. ..	2	2	..	..	4	..	4	1	1	2	2
F. J. H. Nancarrow, Ltd., Wanganui	W. ..											
Tui Brewery, Ltd., Mangatainoka	B. ..	1	..	..	..	1	$\frac{2}{3}$	$\frac{1}{3}$	..	..	..	..
Cascade Brewery, Ltd., Taihape	B. ..	..	..	1	1	2	..	2	..	..	..	..
Barraud and Abraham, Ltd., Palmerston North	W. ..	..	..	1	..	1	..	1	..	..	..	..
Burton Brewery Co., Ltd., Palmerston North	B. ..	..	..	1	..	1	..	1	..	..	..	..
T. and W. Young., Ltd., Wellington	W. ..	..	2	6	..	8	1	7	2	..	..	..
E. T. Taylor and Co., Ltd., Wellington	W. ..	1	..	1	..	2	..	2	..	..	(1 partnership)	1
Macarthy's Brewery, Wellington	B. & W. ..	..	2	..	..	2	..	2	2	..	1	1
Hardwicke and Robertson, Ltd., Wellington (and subsidiary companies)	W. ..	3	..	1	..	4	..	4	..	..	1	2
New Zealand Breweries, Ltd., Wellington	B. & W. ..	59	51	87	5	202	$15\frac{1}{2}$	$186\frac{1}{2}$	46	5	61	51
Levin and Co., Ltd., Wellington	W. ..	..	..	2	..	2	..	2	..	..	..	..

Marlborough Brewery Co., Ltd., Blenheim	B.	..	2	..	2	..	4	..	4	..	..	2	..
Nelson Breweries, Ltd. (through Nelson Hotels, Ltd.), Nelson	B.	..	18	..	6	..	24	½	23½	..	..	18	..
Westland Breweries, Ltd., Greymouth	B. & W.	..	8	5	11	15	39	8	31	4	1 (1 close	9 ; 1 part	2 nership)
M. McDonnell, Greymouth ..	W.	..	2	..	15	..	17	7½	9½	..	..	2	..
Robert Ford and Co., Ltd., Hokitika	B.	..	2	..	9	5	16	5	11	..	..	2	..
Griffen and Smith, Ltd., Greymouth	W.	..	2	3	20	..	25	12½	12½	3	..	2	2
Bailie and Co., Westport ..	W.	..	..	..	8	..	8	..	8	..	..	..	..
W. Jefferies and Co., Ltd., Hokitika	W.	..	..	..	1	..	1	..	1	..	..	..	..
Morley and Co., Westport ..	W.	..	..	..	9	..	9	3½	5½	..	..	..	..
Ballins Breweries (N.Z.), Ltd., Christchurch	B. & W.	..	11	15	31	4	61	11	50	8	7	16 (1 part	9 nership)
Ballin Bros., Ltd.	H.	..	13	..	7	..	20	2	18	..	..	9	3
James Shand and Co., Ltd., Christchurch	W.	..	1	1	..	..	2	..	2	1	..	2	..
Quill Morris (1936), Ltd., Christchurch	W.	..	..	1	7	..	8	½	7½	1	..	..	..
R. Wilson and Co., Ltd., Dunedin	W.	..	1	..	2	..	3	..	3	..	..	..	1
Milne Bremner, Ltd., Dunedin	W.	..	4	..	1	..	5	..	5	..	..	3	1
Dunedin Brewery and Wilson Malt Extract Co., Ltd., Dunedin (and through F. Meenan and Co.)	B. & W.	..	6	..	5	..	11	5	6	..	..	5	1
R. Powley and Co., Ltd., Dunedin	W.	..	..	..	4	..	4	3	1	..	..	..	..
Mackerras and Hazlett, Ltd., Dunedin	W.	..	..	..	1	..	1	..	1	..	..	..	..
Lanes Ltd., Dunedin ..	W.	..	..	..	2	..	2	..	2	..	..	..	..
W. Scoular and Co., Ltd., Dunedin	W.	..	..	..	2	..	2	..	2	..	..	..	..
Wholesalers Ltd., Dunedin ..	W.	..	..	..	4	..	4	..	4	..	..	..	..
Moffett and Co., Ltd., Invercargill	W.	..	3	..	3	..	6	..	6	..	..	3	..
	..		276	150	279	44	749	118	631	128	22	240	167

Total number of licensed hotels in New Zealand = 1,098.

APPENDIX B.—SUMMARY OF HOTEL STATISTICS HANDED IN BY COMMISSIONER OF POLICE

District.	Auckland.	Whangarei.	Hamilton.	Wanganui.	Palmerston North.	Napier.	Gisborne.	New Plymouth.
1. Number of hotels	116	38	57	35	61	64	39	46
2. Age (total years)	5,744	1,679	2,094	1,495	2,406	2,465	1,243	2,041
3. Additions prior 1920—A* ..	7	3	3	3	2	2	5	1
B ..	..	..	..	..	..	..	3	..
4. Additions, 1920-35—A ..	9	3	8	..	1	2	2	5
B ..	7	1	4	..	1	..	..	..
5. Additions, 1935-45—A ..	15	2	11	1	6	2	2	1
B ..	12	1	3	..	4	..	..	1
6. Number of bedrooms ..	1,604	478	1,054	448	877	776	539	603
7. Number of hotels with private phones	5 (285)†	1 (3)	4 (59)	1 (4)	1 (1)	2 (18)	..	..
8. Number of hotels with hot and cold water	18 (568)	8 (175)	25 (492)	5 (164)	11 (236)	11 (249)	8 (173)	9 (208)
9. Number of hotels with private bath	4 (19)	..	4 (44)	2 (19)	3 (3)	2 (14)	1 (2)	..
10. Number of bathrooms ..	300	71	178	74	129	132	94	83
10. Number of shower-rooms ..	128	56	102	25	47	48	27	48

District.	Wellington.	Nelson.	Greymouth.	Christchurch.	Timaru.	Dunedin.	Invercargill.	Dominion Total.
1. Number of hotels	77	70	144	129	46	100	64	1,086
2. Age (total years)	3,479	3,300	5,977	6,996	2,299	5,404	2,732	49,354
3. Additions prior 1920—A* ..	2	5	10	7	4	6	5	65
B ..	..	..	1	3	..	..	2	9
4. Additions, 1920-35—A ..	3	7	18	6	4	17	13	98
B ..	1	..	4	5	..	5	..	28
5. Additions, 1935-45—A ..	2	3	14	11	3	12	8	93
B ..	3	..	7	9	..	5	1	46
6. Number of bedrooms ..	1,146	748	1,097	1,199	539	1,004	718	12,830
7. Number of hotels with private phones	7 (427)	..	..	3 (129)	..	2 (48)	..	26 (974)
8. Number of hotels with hot and cold water	14 (609)	8 (174)	5 (162)	17 (402)	4 (101)	8 (242)	6 (98)	157(3,953)
9. Number of hotels with private bath	6 (242)	2 (5)	2 (3)	5 (41)	3 (6)	2 (12)	2 (3)	38 (413)
10. Number of bathrooms ..	204	118	208	207	93	214	112	2,217
10. Number of shower-rooms ..	80	36	52	103	24	55	51	882

Key: *A, Accommodation; B, Bar. † Number in parentheses is number of bedrooms.

Average age of hotels	45·35 years.
Average age of hotels with no substantial additions	42·90 years.
Average number of bedrooms per hotel	11·80.
Proportion of bedrooms to bathrooms	5·7 to 1.
Proportion of bedrooms to showers	14·5 to 1.
Number of hotels under six bedrooms	282.

APPENDIX C.—KING-COUNTRY: REPORT BY THE CHAIRMAN OF THE ROYAL COMMISSION ON LICENSING (THE HON. MR. JUSTICE SMITH) ON THE HISTORY OF THE PROCLAMATIONS OF THE KING-COUNTRY AND ON THE QUESTION OF A SACRED OR SOLEMN PACT, PLEDGE, OR TREATY BETWEEN THE GOVERNMENT AND THE MAORI TRIBES

1. The Maoris in the King-country are divided on the question whether the sale of liquor should now be permitted in that area. The Elders in general oppose the proposal, though the evidence shows that they sanction the use of alcoholic liquor in the pas at weddings and tangis (Record 4870, 4893, and 5027).

2. The Elders express the view that there was a sacred pact made in connection with the construction of the Main Trunk Railway. Mr. Tita Taui Wetere, Chairman of the Waikato-Maniapoto Council, stated this view as follows (R. 4903):—

> The pact was a bargain made after much preparatory talk and we briefly state its main provisions. It gave the Government—
>
> (1) The right to put the Main Trunk Railway through.
>
> (2) The necessary land for the railway, including 5 to 8 acres for stations and extra width for cuttings, &c.
>
> (3) The opening of land under limitation of King Tawhiao's veto for pakeha settlement.
>
> On the other side it gave the Maoris—
>
> (1) Protection from taxation for railway and feeder roads.
>
> (2) The permanency of their mineral rights.
>
> (3) A solemn undertaking that no sale of intoxicants should ever be allowed in the King-country.

In the evidence for the New Zealand Alliance a pact is alleged in this form (Record 2001):—

> This bargain gave the Government—
>
> (1) The right to put the Main Trunk Railway through.
>
> (2) All the land for railway (including 5 to 8 acres for stations and for cuttings, &c.) as a free gift from the Maoris.
>
> (3) The opening of the land for pakeha settlement.
>
> What did the Maori get in this bargain? Protection (*a*) from taxation for railway and feeder roads; (*b*) of mineral rights; (*c*) from liquor evils and a guarantee that no sale would ever be allowed in the King-country.

3. These two versions are much the same, but there are two important differences. Mr. Wetere omits in his first para. "(2)" any express reference to the railway land being a free gift. Actually, as will appear, the Natives required payment for the railway lands. Again, Mr. Wetere's first para. "(3)" includes the statement that the land was opened "under limitation of King Tawhiao's veto." The fact was, as will appear, that the land was opened when Ngatimaniapoto separated themselves from Tawhiao and the Waikatos at Kawhia. Tawhiao himself went to England for the purpose of trying to stop the process of European settlement by getting the land set aside under Native control under the Queen's sovereignty.

4. In his closing address Mr. Spratt, senior counsel for the New Zealand Alliance, said he did not assert all that had been said about the concomitants of the pact, such as that the Natives were required to give the land for the railway (R. 7263). He submitted that there was a promise solemnly given and solemnly accepted that no licenses were to be permitted in the King-country, and that the Natives did in fact give the land.

5. There is no evidence available to-day from witnesses who could purport to recollect what occurred at the time of the negotiations for the opening-up of the King-country, and, if there were, the evidence would have little weight in comparison with that available from the documents of the time. One curious fact is that those documents, which are numerous, make no reference to "a sacred pact" or "a solemn promise." These phrases, or phrases like them, do not appear on the files of the Native Department dealing with this matter prior to the year 1923. They then appear in the course of a

public agitation which followed the publication of the report of the parliamentary Licensing Committee of 1922 (the Hockly report; 1922, I.–14). The fifth recommendation of that report was as follows :—

That if national prohibition is not carried at the next licensing poll, the people of the Rohe Potae should be given the opportunity of voting as to whether they desire licence or not; the poll to be taken on the lines laid down in the Licensing Act.

6. National prohibition was not carried at the poll in 1922. A series of resolutions was then passed by various Church and temperance organizations in both the North and the South Islands between March and July of 1923. They were much in the same terms and referred to the proposal to break "a sacred pledge," "a solemn pledge," or "a sacred treaty" between the Government and the Maoris. Some of the comments were that the treaty was being "treated as a scrap of paper."

7. As it is important to determine the true position, I have, as Chairman of the present Commission, endeavoured to ascertain what the facts were concerning any promise regarding alcoholic liquors made to the Natives in respect of the opening of the railway-line or of the country to European settlement. For this purpose I have examined all the documents which appeared relevant, including (1) the reports in the Appendices to the Journals of the House of Representatives of the meetings of Ministers of the Crown with the Natives at the material times; (2) the reports in the same Appendices of the Officers of the Government, called Native Agents, residing in the King-country between the years 1880 and 1892; (3) such old files of the period of the Native Department and of the Public Works Department as are available; (4) the evidence of John Ormsby given before the Licensing Commitee (the Hockly Committee) of 1922; and (5) the reports placed before us by the New Zealand Alliance of the speech by Sir Robert Stout at the opening of the Main Trunk Railway at the Puniu River on the 15th April, 1885, and of the speech made by Sir Robert in Wellington on the 2nd August, 1923.

8. The background of the whole matter is the opening-up of the country to settlement. The Maoris had resisted this process by a Land League and by the Maori King Movement. Following the wars of the "sixties" the Maoris continued their King Movement under Tawhiao. The Europeans proceeded with a large public-works policy, launched by Sir Julius Vogel in 1870, with the object of linking up the scattered settlements of New Zealand by roads and railways. Various statutory powers were taken. Among those relevant to the present matter is section 106 of the Native Land Act, 1873, which empowered the Governor to take 5 per cent. of lands Crown granted under specified statutes for lines of road or railway. Section 14 of the Native Land Amendment (No. 2) Act of 1878 provided that the right given by section 106 should cease at the expiration of fifteen years from the date of the Crown grant. The Railway Construction Act of 1878 authorized the Government to construct various railways, including a line from Te Awamutu to New Plymouth, and to take or purchase land for the purpose.

9. Until about 1881 the aim of the Natives was apparently to attain some measure of independent authority in territory reserved for them (1884, G.–1, p. 12). In May, 1879, Sir George Grey, who was then Premier, met five thousand Natives near Kihikihi with a view to making some return of land or other concessions which might improve the attitude of the Maoris towards the extension of European settlement, but the negotiations came to nothing. In the Governor's Speech to Parliament of the 15th July, 1879 (1879, L.C., p. 4), it was stated that negotiations with the Waikato Natives had been suspended and that a new approach would be made. A new Government came into power in October, 1879, with Mr. John Bryce as Native Minister. He remained in office until January, 1881, but again became Native Minister in October, 1881, and remained in office until August, 1884. He was succeeded as Native Minister by Mr. John Ballance, who continued in office in the Stout-Vogel Ministry from September, 1884, until October, 1887. During the material part of the period under review, Mr. Bryce was Native Minister until August, 1884, and Mr. Ballance from September, 1884, until October, 1887.

10. A change in Government policy occurred under Mr. Bryce. The Government was determined to open up the country to settlement, and it took various steps for the purpose. In the course of this pioneering development the evils of the abuse of intoxicating liquor fell heavily upon some of the Natives. There was heavy drinking at the Native Land Courts, particularly at Cambridge. The Native leaders were afraid that sales of land would be made against the real wish of the Natives and that titles would not be investigated as they should be.

11. In 1881 there was considerable division among the Natives. Those at Kawhia under Tawhiao maintained the old policy of non co-operation. The Ngatimaniapoto at Kihikihi tended to accept the new order of things and to co-operate with the Government (see 1884, G.–1, p. 12). (In 1882 the Government took additional statutory powers. Sections 24 and 26 of the Public Works Act, 1882, gave the right to take lands held or occupied by Native owners for any Government work, subject to payment of compensation, but section 72 of the Act provided that no compensation should be payable in respect of any land taken under that Act for a road or railway, the right to make a road over which was otherwise reserved to the Crown and had not lapsed or become barred. This proviso appears to have covered land taken under section 106 of the Act of 1873 during the period of fifteen years allowed by section 14 of the Act of 1878.) During 1882 the Ngatimaniapoto under Wahanui did not recognize that Tawhiao, as King, had any right or claim over the Ngatimaniapoto lands. This appears from the report of the Government Officer or Native Agent, Mr. G. T. Wilkinson, who was stationed at Alexandra and who later became a Justice of the Peace (1883, G.–1, p. 2). Wilkinson also reported that the Ngatimaniapoto were evincing a lively interest in the disposition of their lands and had requested that all surveys and public works be postponed until they had come to a decision as to the way in which they could best throw their lands open to the public with advantage to themselves. For this purpose they proposed to petition Parliament to have a new Land Act passed which would embody the scheme they proposed. Wilkinson said that Wahanui or other representative of the tribe would convey this petition in person to Wellington. It may here be noted that it was on a petition that Wahanui be heard against the Native Land Settlement Bill that Wahanui appeared before the Bar of the House of Representatives on the 1st November, 1884.

12. In 1882 the owners of the Rohe Potae under Wahanui or Taonui separated themselves from the King Party under Tawhiao at Kawhia. See 1890, G.–2, p. 5, where Wilkinson says :—

> Their first step in the new order of things was to separate themselves from the Waikatos and the King Party, which they did by laying down the external boundaries of the land claimed by them, which they called " Rohe Potae," surveying the same and proclaiming it to be owned by the five tribes—Ngatimaniapoto, Ngatiraukawa, Ngatiwhakatere, Ngatihikairo, and Whanganui.

Thus " Rohe Potae," which meant the external tribal boundary, did not, when the split took place, include the Kawhia area. Wilkinson reports that after this split the Ngatimaniapoto were busy with sittings of the Native Land Court and their surveys (1892, G.–3, p. 4).

13. In 1883 the Government were enforcing the law in the Waikato. They also showed their ascendency by a formal opening of the Township of Kawhia in February of that year. At the same time Te Kooti, after making satisfactory promises as to his future conduct, was formally pardoned. All these matters constituted important contributions to the opening-up of the King-country (see 1883, G.–1, p. 4).

14. In November, 1883, the Native Minister (Mr. Bryce) had a large meeting with the Ngatimaniapoto at Kihikihi (1884, G.–1, p. 9). Wilkinson reports that it was unanimously agreed to have a large area of country in the middle of the North Island, containing something like 3,500,000 acres, surveyed. It was admitted that the area did not wholly belong to Ngatimaniapoto, but that the Whanganui, Ngatiraukawa, and Ngatituwharetoa had claims to portions of it, and representatives of each of these tribes were present at the meeting. It was also agreed that the survey should be done by the Government and that in conjunction with this survey the prospecting surveys

for the Main Trunk Railway line, which were already in progress, should also be carried on, but that no prospecting for gold should be allowed until the land had passed the Court (1884, G.–1, p. 9).

15. A further account of what occurred at this meeting with Mr. Bryce was given by Wahanui when Mr. Bryce's successor, Mr. Ballance, met the Ngatimaniapoto at Kihikihi on the 4th and 5th February, 1885 (1885, G.–1, p. 12 ff). Wahanui said, in effect, that the compact with Mr. Bryce was that they would agree to his making a survey of the railway-line, providing that he did nothing more than the survey without further consultation with the Natives. Wahanui said that he told Mr. Bryce that this had been agreed to, and then said he had some requests to make to Mr. Bryce, and he stated them as follows :—

(1) With regard to the external boundary line.
(2) To leave us to sanction the making of the railway-line.
(3) That the gold should not be worked by the Europeans without our authority.
(4) With regard to giving power to the Maori Committees to conduct matters for the Maori people.
(5) That no liquor licenses should be granted within certain boundaries.
(6) That the Native Land Court should not try any of our lands without our first sanctioning it and that the Europeans should refrain from interfering with the Maori lands, but leave the Natives to manage them themselves.

16. Another representative of the Natives at the meeting in February, 1885, John Ormsby, referred to another matter which he said had been arranged with Mr. Bryce. He told Mr. Ballance that the Maoris were perfectly willing that the roads should be made and that the objection was to the rates, not to the roads. The context shows that no distinction was intended between the roads and the railway. Mr. Ballance explained that the lands would not be rated until they were sold or leased or in actual cultivation. Ormsby then said :—

If it is possible for him to sign a document satisfying us all that the Act—*i.e.*, the Rating Act—shall not be put in force over our lands, it will be well, but we do not want that; we just believe what he says, but we bear in mind the compact that was entered into between Mr. Bryce and ourselves regarding the railway-line.

The inference is that Mr. Bryce agreed to do nothing more than the survey for the line without further consultation with the Natives, but that he also agreed that the lands about the railway should not be rated.

17. A different view of the arrangement with Mr. Bryce in November, 1883, was, however, expressed to Mr. Ballance at this meeting in February, 1885, by the chief, Manga (Rewi Maniapoto). He said (1885, G.–1, p. 24) :—

When Mr. Bryce was here, it was arranged to give up the railway-line, and I wrote a letter to Mr. Bryce and asked him to hurry on with the formation of the line, in order that it might be completed within five years, that I might ride on it before I died. I thought that was all settled and that there would be nothing to talk about with regard to that; but I found they are talking about it again.

It may be assumed that Rewi, a prominent chief, would represent any body of Natives who wanted to give the land for the railway-line in order that they might get the trains into the district and ride upon them. However, it was clearly not the view of all the Natives. They wished to consider the whole matter after the survey for the line had been completed.

18. During 1883 the social position of the Natives had improved. There had been very little drunkenness in any part of the territory, with the exception of Kawhia. The position in the King-country is set out in the report in 1884, G.–1, pp. 5–12. The Government Native Agent, Mr. Wilkinson, states the view of the Natives concerning intoxicating liquor as follows (1884, G.–1, p. 6) :—

The Natives (as a body) all through the district are very much against the introduction of any kind of intoxicating liquor into what is known as Native Territory or the King-country. The wave—I might almost say tidal wave—of temperance that seems to have lately visited European communities has to a great extent extended to the Natives. I find it so not only here, but also in the Thames (Hauraki) district, and I believe it will be found in other districts as well. A number of Natives who used to be notorious for their tippling propensities have now reduced their drinking to a minimum,

while others have renounced it altogether and have joined the ranks of the Blue Ribbon Army. Advantage is being taken of the present feeling of the Natives regarding the drink question by Messrs. C. O. Davis and T. B. Hill of Auckland, assisted by Mr. Graham Tawhai of the Bay of Islands and Mr. Arthur Ormsby (half-caste) of Kopua, all of whom have the welfare of the Maoris at heart. These gentlemen are at present visiting the different settlements in this district for the purpose of getting a petition signed by the Natives, praying His Excellency the Governor not to sanction any license for the sale of intoxicating liquor within the boundaries of the King-country. Although a few of the Kawhia Natives may have misconducted themselves in this matter, I think there is no doubt that the majority of the Natives of that place would rather that drink should not be introduced in their midst, as it will be remembered that at the meeting they had with His Excellency at Kawhia in March last some of them publicly asked him to use his power in preventing drink from being brought amongst them.

19. This statement, written in 1884, shows the origin of the petition against the introduction of publicans' licenses which was presented to the Governor in September, 1884, through the agency of the Gospel Temperance Mission (the Blue Ribbon Army). This petition contained the signatures of some 1,400 Maoris. It asked the Governor to act under section 25 of the Licensing Act, 1881, and " not in anywise permit a publican's license to become legal through our district extending to Waipa, Kawhia, Mokau, and all its boundaries." During the time the signatures were being obtained, the surveys for the Main Trunk line were being carried on without obstruction from the Natives, and the King-country Natives were having their large blocks surveyed and put through the Native Land Court (1884, G.–1 pp. 8 and 10, and 1890, G.–2, p. 5). The small minority at Kawhia who objected to this policy and still wished independent authority were sending Tawhiao to England to put their views before the Queen (1884, G.–1, p. 12).

20. When Wahanui went to Wellington in November, 1884, he appeared before the Bar of the House of Representatives upon a petition by the Natives that he be heard against the Native Land Settlement Bill. At the end of his speech he added these words :—

> Another request I have to make is that the sale of spirits within our district shall be stopped absolutely. I do not want that great evil brought upon our people. I hope this House will be strong in preventing this evil coming upon us and upon our people. That is all I have to say and I can only add that it is my great desire and wish that you pass just laws with respect to my land and my people.

There is no suggestion whatever in the speech that Wahanui was making a bargain whereby land would be given for the railway in return for a Proclamation prohibiting the sale of liquor. That there could have been no such bargain was made clear by Wahanui's subsequent statement at the meeting with Mr. Ballance in February, 1885, when he said (1885, G.–1, p. 21) :—

> When I was in Wellington, Mr. Ballance asked me to give up a road for the railway-line to be made. I replied to Mr. Ballance and said that I will not discuss the matter now; it is left for the whole of the people to settle, and everything in connection with it is to be settled by the people themselves.

21. The Government acted on the petition against the publican's license in the districts mentioned by issuing a Proclamation under section 25 of the Licensing Act, 1881, on the 3rd December, 1884 (*N.Z. Gazette*, 1884, p. 1685). Clearly the Proclamation was issued before the Native tribes had agreed that the railway-line might go through their lands, although they had agreed on a survey for the line.

22. On Native Office file 84/3686 there appears a letter from Henare Tikini and others of Kihikihi, dated 9th December, 1884, as follows :—

> To the Native Minister.
>
> Friend Greeting. This is an inquiry of ours with reference to the land that will be required for the railway you are taking through our land at Puniu. Will compensation be paid us for it now or not until later on ? Our reason for asking is that we would like to be clear upon this point.

On the 24th December, 1884, the Native Minister, Mr. Ballance, approved the following recommendation for a reply :—

> Recommended that the writers be informed that the Government intend to pay the Natives found to be owners for all the land taken for the trunk railway. The payment cannot of course be made until the ownership is decided.
>
> T. W. Lewis.
> 23/12/84.

This reply was sent by letter of the 29th December, 1884.

23. I refer now to the meeting of the King-country tribes with Mr. Ballance at Kihikihi on the 4th and 5th February, 1885 (1885, G.–1, p. 12), when the Natives considered their attitude to the railway-line. Mr. Ballance said he had found no record of any arrangement with Mr. Bryce, and he was then informed of the views, already set out (paras. 14–17), which were held by several speakers of the arrangement with Mr. Bryce in November, 1883.

24. John Ormsby, a leading speaker for the Natives, put forward a series of matters for consideration, and Mr. Ballance dealt with each. Mr. Ballance summed up the effect of the speeches of the Natives with regard to the agreement to allow the railway to go through when he said that they knew the roads and railways made their land valuable (1885, G.–1, p. 17). He continued :—

> But I have learned from the speeches that were made to-day by the more responsible speakers that no one objects to roads and railways. What they do object to is that the land should be rated on account of these roads and railways.

He explained that the land would not be proclaimed for rating until it was sold, leased, or in actual cultivation, when the land would need the roads and the roads could not be made or maintained without rates. He assured the Natives that there was no danger that the lands along the railway or the roads leading to the railway would be proclaimed for rating until sold, leased, or under actual cultivation. He also explained that the Engineers wanted a chain width for the railway, 2 chains were there were cuttings, and 5 or 10 acres, as the case might be, for station sites, and he said that the surveys would be finished in three weeks. *He also said the Government would pay a fair price for the lands fixed by arbitration.* Some speakers for the Natives asked for a delay of three weeks to determine finally the terms on which they would part with the railway lands, and Mr. Ballance agreed.

25. These final terms are disclosed in two telegrams, the one to the same effect as the other, which appear on a file of the Native Department (N.O. 85/692). The first is from John Ormsby at Alexandra on the 27th February, 1885, in these words :—

> The Honourable John Ballance Wellington.
>
> Meeting at Kihikihi today consent to the railway given at last meeting at which you were present confirmed the line to be paid for and be one chain wide and fenced at once on both sides the representatives of Maniapoto Raukawa Tuwharetoa and Hikiaro and Wahanui to turn the first sod could not send my brother as advised in your telegram of twentyfirst instant will send him as soon as possible.

The second telegram is from G. T. Wilkinson, Government Native Agent at Alexandra, on the 28th February, 1885, and it is in these words :—

> U S Native Department
>
> I omitted to state in my telegram of last night that the Ngatimaniapoto meeting in agreeing to the railway line stipulate that the width is to be one chain that it is to be paid for and to be fenced on both sides as a protection for their cattle etc.

26. It is obvious from these telegrams that the final decision of the Natives was that they consented to the railway-line in return for payment for the railway-line. The Proclamation prohibiting the sale of liquor had been issued in the previous December. There was not, and could not have been, a bargain or pact whereby the Proclamation was issued in return for a gift of the railway land. Moreover, as part of the final decision, there was an express determination about the cutting of the first sod and the representation of the Native tribes at the ceremony.

27. On the 28th February, 1885, Te Rangitutea, a chief who had been at the meeting with Mr. Ballance at the beginning of the month, wrote asking the Native Minister not to pay compensation for the land taken for the railway until the ownership of the land had been decided. He was informed in April, 1885, by the Native Office that compensation would not be paid until the land had passed the Court or until the owners were agreed.

28. On 7th March, 1885, the committee of the Whanganui people, by one Paiaka, wrote objecting to the system of sale being introduced into the Whanganui lands, and asking that they be left to deal with their own lands. This committee was informed

by the Native Office that they had misunderstood what took place at Kihikihi, that there was no question of sale, that the Government would, if desired, pay for all the land taken for railway purposes, but that the payment would only be made to the owners ascertained by the Native Land Court.

29. The form of this reply indicates that the Government did not wish to introduce the idea that it was pursuing a land-purchasing policy. Implementing this view, the Government proceeded to take the land under the Public Works Act so that compensation fixed by a tribunal, where required, could be paid instead of the price payable on a bargain and sale. On the 2nd April, 1885, an Order in Council was made under that Act which directed the construction of the whole length of the railway, 3 chains wide for 210 miles, over the land specified, including the Native lands in the King-country. This Order in Council was first gazetted on the 9th April, 1885, and was then gazetted continuously for eight weeks.

30. A Proclamation, dated 8th April, 1885 (*N.Z. Gazette*, 1885, p. 404), was then made correcting what was said to be a mistake in the area of land proclaimed in December, 1884, under section 25 of the Licensing Act, 1881, which had been called the Kawhia Licensing District. This Proclamation cured an ambiguity in the description of the land between Kawhia Harbour and Aotea Harbour and took in additional land between Pirongia and the Waikato.

31. Sir Robert Stout (then Mr. Stout), the Premier at the time, arrived at Otorohanga on the 14th April, 1885, for the purpose of opening the railway. Speaking in Wellington nearly thirty-eight years later, on the 2nd August, 1923, Sir Robert gave an account of this visit. The full report is not in the evidence given by the New Zealand Alliance before us, but it is contained in a pamphlet entitled " Our Native Race," No. 85, issued by the New Zealand Alliance and filed on the Justice Department file. Sir Robert is reported as follows :—

In 1885 arrangements were made to begin the construction of the North Island Main Line of Railway, and the Natives were willing to grant permission to the Government to make the railway through their land, and to give them the land necessary for the making of the railway without charging the Government anything for the concession. It was agreed that the railway construction should be started in April, 1885, and I myself went to Waikato to be present at the cutting of the first sod of the railway. Mr. Blair, the Chief Engineer, and Mr. Hales, the engineer-in-charge, were there, and a great number of Europeans. I arrived at Alexandra on the 14th April, and up to that time there had been no express consent given to the cutting of the sod on Native territory across what was called the Aukati, or boundary line. I went with Mr. Wilkinson, an interpreter and native agent, to Wahanui's house on the morning of the 15th April. There were present, in Wahanui's house, Wahanui, Taonui, and Rewi Maniapoto, and other members of the tribe. There were also present two delegates from the King Party from Waikato, namely, Te Tawhiao, the eldest son of Tawhiao, and Hete Tamehana, who was the eldest son of the formerly well-known Maori chief, who was then dead, Wiremu Tamehana, called the King-maker. These two delegates objected to permission being granted to turn the first sod, and claimed that Tawhiao and the Kingite Natives should be consulted. To this, however, after a long discussion, Taonui, a chief of great mana among the Ngatimaniapoto, objected, and the Natives of the tribe present at this meeting in Wahanui's house agreed with Taonui. After they had agreed, Wahanui stood up and made a very forcible speech. What struck me most was that he entirely ignored the existence of the Waikato delegates.

In this discussion, and by questions put to me by Wahanui, the Natives wished to know if the Government would continue the prevention of alcohol being brought into the Rohe Potae district. I told them that I pledged the Government to that effect, and that the Government had already carried out the promise which had been made to Wahanui by the publication of the *Gazette* notices in December. The cutting of the first sod took place that morning and I made a speech on that occasion saying etc. (see paras. 35 and 38, *infra*).

32. The comments which may be made upon this speech in August, 1923, concerning events in April, 1885, are these :—

(1) With all respect to Sir Robert's memory, it appears that he was in error in stating, as though it were a final arrangement, that the Natives had agreed to give the land for the making of the railway without charging the Government anything. The Ngatimaniapoto, who owned the territory through which the railway was to go, had decided on payment, and they did not recognize the rights of the Waikato Natives in their territory of the Rohe Potae.

(2) Sir Robert states that he went to Otorohanga because of an agreement that railway construction should be started in April, 1885. This agreement was plainly made before the discussion in Wahanui's house.

(3) The discussion in Wahanui's house, apparently, did not arise about liquor at all. It arose because delegates from the Waikato Tribe claimed that they should be consulted before permission was given to turn the first sod. The Ngatimaniapoto had already given that permission. They had split from Waikato in 1882 and did not recognize the rights of Waikato in their lands (para. 11, *supra*). The result of the discussion was the complete ignoring of Waikato and the resting of the Government upon the permission of Ngatimaniapoto. The fact is, the Waikatos under Tawhiao continued to oppose the Government. This is recorded by Wilkinson in his report of 25th May, 1886 (1886, G.–1, pp. 4–7).

(4) It appears that incidentally in the course of the discussion in Wahanui's house, Wahanui wished to know whether the Government would continue the prevention of alcohol being brought into their district. As Ngatimaniapoto had required payment for their land for the railway, it would be natural for their speakers to ask whether the Government still intended to prevent the introduction of liquor.

33. Another account of what occurred at the time of the turning of the first sod was given by Mr. John Ormsby to the Licensing Committee (the Hockly Committee) of 1922. The evidence is not printed with the report (1922, I.–14), but the New Zealand Alliance has put in evidence a record of the proceedings. Speaking in 1922, nearly thirty-seven years after the event, Mr. John Ormsby made these statements about what he said in 1885 :—

(1) That he spoke for the Natives at the turning of the first sod and said it was their wish that liquor should not be allowed to cross the Puniu River (Evidence, pp. 169 and 174).

(2) That they made the request in order that the Natives might carry on the investigation of their titles without the interference of drink (Evidence, pp. 169 and 175), but that the liquor question was secondary so far as the Natives were concerned.

(3) That they wanted the Government to stop buying the Native lands (Evidence, p. 173).

(4) That Mr. Stout gave them a verbal promise that no liquor was to cross the Puniu River and that they were expected to believe that it would be carried out (Evidence, p. 171).

(5) That the Natives knew at the time that the railway had been surveyed and where it was going to run, that isolation had been somewhat broken down but without doing business, and that they promised the opening-up of the country as one of the conditions.

(6) That he did not think that the question whether Mr. Stout's promise was to last for ever and ever was in the minds of the Natives (Evidence, pp. 174 and 175).

(7) That a solemn pact was entered into (Evidence, pp. 169 and 172), but that the Government had not ratified the promise for nine years (Evidence, pp. 169 and 173).

Mr. Ormsby's view in 1922 was that the Government had never kept the pact and that licenses should be introduced in the King-country.

34. In August, 1923, Sir Robert Stout, when referring to his discussion on the 15th April, 1885, with the leaders of Ngatimaniapoto and the two Waikato delegates from the King Party in the Waikato, did not say that, prior to the turning of the first sod in April, 1885, the Natives had promised him anything. Mr. Ormsby did, however,

say in 1922 that, prior to the ceremony in April, 1885, they did promise Mr. Stout the opening-up of the country. If this is not a mere trick of Mr. Ormsby's memory, then the facts shown by the documents of the time are that, nearly seven weeks before the turning of the first sod, the Native owners of the Rohe Potae had formally decided to require payment for their lands for the railway and had made arrangements for their representatives to attend the opening ceremony.

35. What was actually said by Mr. Stout (as he then was) when he turned the first sod at the Puniu River on 15th April, 1885, is given in the evidence of the New Zealand Alliance as follows (Record, p. 1991).

Ladies and gentlemen, it is by what we may term a small ceremony, it is by what we may say is almost a thing not to be noticed at the time that history after all is made. History is made by the growth of the social life of the people. I ask those who have to deal with the Maoris in these out-districts to think that on themselves rests a great responsibility, a heavy responsibility, a heavier responsibility than rests on the Government, than rests on those who live far from the Maoris. It is your duty to educate them, to train them, and to-day we have done a thing, I hope, that will remain in the remembrance of the whole Colonial people. We are standing on soil on which there has been a Proclamation that no liquor shall be sold (cheers) and we are to-day going to provide you with lunch, but you are to have no alcoholic liquor (cheers), and I hope those who do not agree with me in my temperance views will think of this, that although many Europeans can take liquor without injuring themselves to any appreciable extent, if what is called firewater gets among any aboriginal race like the Maoris, it is condemning them to destruction. I ask those who feel that there is some solemnity in human life to consider the bravery and loving kindness of the race which the Maori people have shown in the past to any settlers and the many good deeds they have done—to agree with me when I say the Maoris ought to be preserved ; and I say if this race is not preserved we will be handed down to history as a people who came to this country and met a race capable of much improvement and did nothing to improve the race. I hope that will never be written of Europeans in this colony. I ask the out settlers to be careful in dealing with the Maoris, to teach them how to preserve their physical and moral health, and if we could only teach them these two things the race would live ; and hereafter we would see the descendants of the noble chiefs of the people and past generation taking a part in the Government of this colony.

36. This speech is a plea for good treatment, but makes no reference of any sort to any gift or consideration from the Maoris in return for the Proclamation against the sale of liquor.

37. Wahanui is reported to have said on this occasion :—

I shall not make a very long speech after what Mr. Stout has said. The part of his object I took particular note of is that referring to restrictions of spirituous liquors in this district (cheers). I consider that we could not have a better boundary with which to keep back the liquor than this stream of fresh water running down before us.

38. When, on the 2nd August, 1923, Sir Robert Stout referred to his speech at the turning of the first sod, he is reported to have said :—

The cutting of the first sod took place that morning and I made a speech on that occasion, saying amongst other things this : " We are standing on soil on which there has been a Proclamation that no liquor shall be sold . . . " We therefore have this position, that there was a bargain made between the Maoris and the Government that this district was to be kept free from the sale of spirituous liquors. That was our bargain and I might say that this bargain has often been referred to since by the Maoris (Record, p. 2001).

39. The difficulty is to see how there was any " bargain." Was the Premier on the Puniu River on the 15th April, 1885, bargaining with the Natives as to whether he would be allowed to turn the first sod when nearly seven weeks before they had formally decided to sell, not to give, their lands for the railways and had decided on the representation of all the tribes at the opening ceremony and when the opening ceremony had already been arranged ? It is scarely credible. Neither Sir Robert Stout in 1923, nor Mr. Ormsby in the previous year, apparently recollected the arrangements that had been completed. In 1922 Mr. Ormsby also thought that no Proclamation had been issued until nine years after the turning of the first sod, although Sir Robert had said in his speech at that ceremony that the Proclamation had already been issued. It does not seem to me that weight can be attached to these recollections of thirty-seven and thirty-eight years respectively after the event.

40. In my view, the true interpretation of these events is as follows: at the ceremony of turning the first sod the Natives knew, and Mr. Stout knew, that the Maori owners of the Rohe Potae had decided to require payment for the land for the railway, not to give that land, and that they had appointed representatives of the tribes for the opening ceremony. By these acts the Maori owners had already agreed to the railway going through their lands and to the opening-up of the country. Realizing this, when explaining the position to the two Waikato delegates before the turning of the first sod, they informed Mr. Stout that it was still their wish that alcoholic liquor should not cross the Puniu River, and inquired of Mr. Stout whether the Government (which they recognized was now entitled to take the railway through the country) would carry out their desire. Mr. Stout answered that he pledged his Government to that effect and that the Government had already carried out the promise to Wahanui by the Proclamation of December, 1884.

41. This reply did not really mean that liquor would not cross the Puniu River. The petition by the Natives had not asked for that. Their petition had asked only that no publican's license should be granted in the King-country (para. 19, *supra*). Under the proclamation, liquor could cross the river, but could not be sold under any license in the territory beyond. At the opening of the railway, therefore, the Natives were asking for something different from what they had asked in their petition of 1884. One can understand that at the time Mr. Stout thought that the action of the Government on the formal petition was a sufficient answer to the request made at the opening of the railway. One can also understand that at the time the Natives thought that their petition, though it sought only the prohibition of a publican's license—*i.e.*, a license for open sale—meant that liquor would not cross the Puniu River, although it did not mean that. No precise explanation may ever have been given them of the difference between a prohibition of the sale of liquor within the Rohe Potae and a prohibition of the entry of liquor into that territory.

42. The Natives found later that liquor was crossing the river and following the railway. It is the difference between the effect of the Proclamation and the view which the Natives took of Mr. Stout's reply which explains the statements of the Natives who say that "the pact" has never been kept.

43. The important question of whether there was really any "pact" is whether Mr. Stout's statement constituted any agreement for which there was consideration or whether it was a unilateral statement of policy. As the Natives had required payment for the railway lands, they cannot really claim that they gave any consideration for Mr. Stout's statement. There was no bilateral arrangement or pact. There was a statement of policy which bound Mr. Stout's Government, but which could not bind the future as a contract could.

43A. This interpretation is consistent with the form of Wahanui's reply to Mr. Stout. Wahanui said: "That part of his object I took particular note of . . . " Too much emphasis should not be laid upon a phrase, but this form of language indicates that, to Wahanui's mind, Mr. Stout was free to define "his object" in various matters, including alcoholic liquors. It is difficult to think that Wahanui thought that Mr. Stout was bound by some pact to Wahanui.

44. Subsequent events show that those who took part in the arrangements for the opening-up of the country never considered that Mr. Stout's statement constituted an arrangement regarding alcoholic liquors which could not be altered if the Natives thought that alteration was desirable; but before dealing with those events I refer to a statement made at a meeting in April, 1885, and to the conditions which existed after the opening of the railway.

45. In the month of April, 1885, whether before or after the opening of the railway does not appear, the Native Minister had meetings with both the Ngatimaniapoto and the Waikato tribes, or, as he put it, "in other words, with those who are on good terms with and assist the Government, and those who oppose." An account of these

is given by Wilkinson in his report of the 25th May, 1886 (1886, G.–1, p. 7). He says that the meeting with Ngatimaniapoto was held at Kopua, both Wahanui and Taonui being present, but that the principal speaker was Mr. John Ormsby, to whom the tribe had entrusted the task of putting their views before the Minister. Wilkinson reports :—

The meeting was a very satisfactory one. The Natives evinced a willingness to work under our laws, and to assist the Government in every way, even to putting the land known as the " King-country " through the Court, by which means only can a settlement be promoted ; though, on their side, only making certain reasonable requests in connection with matters which they consider will conduce to their welfare and protection under the new order of events which is now taking place, the principal of which requests were the alteration of the Native Committees Act 1883, to make it more workable and more acceptable to them, and the appointment by Government of an officer to act in conjunction with one of the Natives, appointed by themselves, to assess the value of the land in excess of the 1-chain width which has been taken for the North Island Trunk Railway line and for station sites.

46. The question arises as to what inference is to be drawn from this last statement as to the value of the chain width itself. The Order in Council covered a width of 3 chains. Was only the excess to be valued and the chain width to be given ? Or was the excess to be valued in the special way proposed and the fair price for the chain width to be fixed in accordance with the way in which it would ordinarily be fixed when land was taken under the Public Works Act ? Was this a shift of opinion by a meeting of some Natives in April, 1885, which differed from the formal decision in February, 1885 ? All that can certainly be said is that there is no record of any gift at all. The proper inference appears to be that the tribal decision, that the line was to be paid for and fenced on both sides, was never altered or abrogated. This view is confirmed by a minute of an officer of the Native Department in April, 1891 (para. 54, *infra*).

47. Between October and December, 1885, the Ngatimaniapoto had made further arrangements for the opening-up of the King-country. In November, 1885, Mr. Ballance, the Native Minister, visited the district and met Wahanui and other representative chiefs. The Government Officer records (1886, G.–1, p. 4) that a considerable amount of business was done in connection with the North Island Main Trunk Railway, roads, surveys, and other matters. He also states that the Ngatimaniapoto were doing all they could to strengthen the Government's hands against the supporters of Tawhiao, who were acting to embarrass the Government. For example, they had fixed a scale of prices for timber, agreed to occupation leases for contractors and storekeepers, and had agreed to throw open the whole of the King-country for gold prospecting upon certain conditions.

48. In 1886, Wilkinson recorded a complete change in the King-country. In his report of 19th May, 1887, he said (1887, G.–1, p. 4) that the country had become safe, had been opened up to Europeans, that the railway had advanced thirty miles into the heart of it, that prospecting was going on, and schools were being established. He said that some Natives and Europeans were already selling drink illegally, that some disaffected Natives were the first to do so, but that the Natives generally were much more temperate than they used to be (1887, G.–1, p. 6).

49. In March, 1887, the second large area was proclaimed under section 25 of the Act of 1881 (*N.Z. Gazette*, 1887, p. 436). This comprised the Upper Whanganui district and was called " The Upper Whanganui Licensing Area." There is little in the records I have seen to indicate how this came to be proclaimed. It appears, however, from the report of Mr. Robert Ward, the Resident Magistrate at Wanganui, of the 14th April, 1884 (1884, G.–1, p. 19), that the temperance movement had spread among the Natives of his district, which included the Upper Whanganui. The Magistrate said :—

I am glad to be able to report favourably on the success of the Blue Ribbon Movement among the Natives : its spread is truly wonderful. Some little while ago many Natives who brought their wool down the river sold it, and, instead of spending a large portion of the proceeds in the public houses, bought timber for the erection of a church and at once took it back with them. Though some have back-slided from their pledges, a very great majority have strictly adhered to their promises, and are true to their " bit o' blue."

50. It also appears that large areas were required for the railway in 1886, but these were purchased (1887, G.–1, p. 15). The Whanganui Natives were included in the owners of the Rohe Potae, and it may be inferred that the Proclamation under section 25 of the Act of 1881 in March, 1887, was intended to meet the views of the Natives on temperance and to assist in the opening-up of the lands for settlement.

51. I refer now to the attempt of the Public Works Department in 1891 to carry out the promise to pay those Natives of the northern part of the Rohe Potae who desired payment for that part of their land taken for the railway-line. In 1885 the Natives had not desired payment until the owners had been ascertained. For this purpose they appear to have contemplated that the owners entitled to payment were the owners of small blocks through which the line passed, though the conception of the separate right of an individual in tribal land was contrary to Native custom. Indeed, the subsequent lack of application by many Natives for payment may have been due wholly or partly to the fact that they thought the money was due to the tribe, not to them as individuals.

52. The steps toward small subdivisions appear in the account given by the Government Native Agent, Wilkinson, in his report of the 19th June, 1890 (1890, G.–2, p. 5), where he explains the various stages of the opening-up of the King-country. He says that the third stage was allowing the railway-line to run through their country, and says :—

> This was agreed to by them after due consideration and deliberation as a body; and most likely what helped them considerably to come to such a decision was the fact that they could see that Government were determined to put it through.

He then explains that, after the land was put through the Court in one large block in accordance with the survey of the external boundaries, the people objected to the sending-in of the names of individuals. They wanted it awarded to tribes and hapus so as to prevent sales and keep the power in the hands of the chiefs. As the Court had no power to do this, they had to send in the names of individuals. This resulted in many differences and in the creation of numerous small blocks with lists of separate owners for each. He says the Natives tried hard to stop there and to avoid surveying the boundaries of these small blocks, because they saw that, once the surveys were done, the owners could sell. When they found that surveys were necessary, they wanted to avoid a Government survey lien by making arrangements with private surveyors. Eventually they allowed the work to be done by the Government, as it was pointed out to them that it would be done with greater accuracy and quite as cheap that way. Wilkinson called this the sixth stage, and said (in June, 1890) that these surveys were then being done.

53. The Public Works Department apparently thought that at this stage it could pay those owners of the railway lands who were found to desire payment, and it made application itself under its statutory powers to have the compensation fixed. The Public Works Department inform me that there has been a purge of the Department's files, but it has produced file 19/521, which shows the attempt that was made to have the question of compensation settled for certain short lengths of the line through eleven blocks. What happened was that representatives of the Public Works Department met individual owners and arranged matters with them out of Court. In every case the order was a consent order. In five of the blocks the Court was informed that the owners did not want the compensation. In some the compensation was desired in order to pay the survey fees.

54. Most of the small total of £123 10s. which was awarded by consent seems to have remained unpaid, because there were so many owners and the amounts were so small that the Native Agent, Mr. Wilkinson, who acted on behalf of the Public Works Department, could not make satisfactory arrangements for payment. The file contains a memorandum of the Native Office for the Native Minister signed "T. W. Lewis," dated 15th April, 1891, which is in these terms :—

> It would have been better if the Public Works Department had not moved in this matter at all. There was, I understand, no necessity as the land had been taken for settling the amount of compensation. Indeed, the land was in the first place given by the Natives. If you approve, I will send this to Mr. Wilkinson to ascertain whether he can, without interference with his more important land purchase duties, pay the compensation.

This minute was approved by the Native Minister.

55. The phrase, "as the land had been taken for settling the amount of compensation," appears to be clearly a reference to the procedure adopted to avoid an appearance that the Government was in 1885 trying to purchase blocks of land when it was the policy of the Natives not to sell them. Under the statutory powers existing in 1885 the Government, if it acted under those powers, need not have paid compensation for the railway land. But the Government had said it would pay compensation. Then it had told at least one chief that it would pay compensation to those who desired it. The idea behind the first part of this minute, therefore, appears to be that the land had been taken under the Public Works Act so that compensation could be settled by a tribunal and that those who desired the compensation could themselves apply for it, as they had power to do. The idea further is that, if the Department had adopted that attitude, there would have been no occasion for it go go out of its way to initiate proceedings in order to see that compensation was paid.

56. The second statement in the minute—viz., "Indeed, the land was in the first place given by the Natives"—may be interpreted (1) in the light of Rewi Maniapoto's statement (para. 17, *supra*)—viz., that at the meeting with Mr. Bryce in November, 1883, he was in favour of giving the land so that the railway might be quickly completed and that he might ride upon it; and that this idea of gift was taken to be the view of some of the Natives at the time, though it was not the considered view reached by the Natives at the end of February, 1885; and (2) in the light of Wilkinson's reference to the desire of a meeting of Natives in April, 1885, to have the value of the land in excess of the 1-chain width assessed by a Government Officer and a Native (paras. 45 and 46, *supra*). But the minute of April, 1891, that the land was "in the first place given by the Natives" implies that they did not abide by that view. It seems clear that the formal decision of February, 1885, was never abrogated.

57. The Public Works file 19/521 also contains a letter of Wilkinson's of the 9th November, 1891, in which he says that in most cases the Natives wished their compensation money "to go towards paying expenses already incurred for survey of the block and their idea was that one or at least a few of the principal people would receive the money on behalf of the whole and use it for the purpose intended." On the other hand, this file (19/521) contains an extract from the minute-book of the Native Land Court showing that one Native, Rangituatea, had agreed to give the line for a certain distance, including the excess over 1 chain, free, but required payment for excess for another portion.

58. The attempt, however, to arrange payment or settlement for the railway-line broke down because it was too difficult to find the owners and pay to them the small amounts which were their individual shares and perhaps because the Natives took no interest, for the reason that they knew the money would be wanted by another branch of the Government in settlement of their liability for the survey fees on their subdivided blocks. I have not pursued the question of what survey fees remained unpaid. It may be that they would have balanced, or more than balanced, the value of the railway strips.

59. The Native Department's file now shows the following correspondence.

60. On 21st December, 1891, Wahanui, Taonui, and thirty others wrote a letter to the Native Minister, of which the following is a translation:—

Otorohanga
December 21st 1891.

To the Hon. the Native Minister.

Greeting. This is an application from us the Maoris who reside at Otorohanga, that you will grant a license (to sell liquor) to the house (hotel) at Otorohanga. The reason we make this application to you is because a number of European customs are now in vogue in this town. The Native Land Court holds its sittings here. There is also the railway, and every traveller to this place has to live at the hotel. Therefore we ask you to grant a license for liquor to be sold at this hotel, so that it may be sold in accordance with the law (be amenable to the law). It is true that formerly we objected (to any licenses being granted) but now so many of our European friends come here that we ask you to grant a license for this place only within Rohe Potae (that an exception be made in this case only).

That is all.

WAHANUI HUATARE
TAONUI HIKAKA and 30 others.

61. On the same day (21st December, 1891) Wahanui wrote another letter from Otorohanga to the Native Minister, of which the following is a translation :—

The Hon. the Native Minister.

Greeting. On the 18th inst. I spoke to you about the erection of a public house at Kawhia and asked you to grant us two a license when you and your colleagues have given it your consent. I request that you and your colleagues will grant it now. Sufficient.

WAHANUI HUATARE
HAUPOKIA TE PARAKE.

(It may be inferred that the Native Minister had been in the district a few days before.)

62. Wahanui's explanation of his signature to these letters is given in a second letter of the following day (22nd December, 1891) of which the following is a translation :—

To the Hon. the Native Minister.

Greeting. I am in sorrow because of the trouble that the Europeans have got into through breaking the law since you were here. (The translator here inserts " Wahanui refers to Messrs. Perry and Tanner of Te Kuiti who have been charged with sly grog selling.") I express regret for (or to) my European friends and that is why I have signed my name to the two documents that are being sent to you (this one, and the application that a license be granted for the Otorohanga hotel). I ask you to give effect to (sanction) my request that a license be granted for both Kawhia and Otorohanga.

From your friend WAHANUI HUATARE.

63. The reason given by Wahanui at the time he made his request for two licenses was that he wished to remove the temptation to sly-grog selling on the part of the Europeans. The explanation given to us by the New Zealand Alliance was that Wahanui is said to have stated in September, 1896, that he changed his position because he had lent money upon the accomodation-house at Otorohanga and that he had been told that he would lose his money unless the house was licensed (R. 1992). Accepting this statement as true, it is difficult to think that a prominent chief like Wahanui, who had dealt manfully with the Government on behalf of his people, should think that the proposal that he and the other Natives were now making was an unreasonable one or that they were prevented by some solemn pact from making it.

64. The fact is the house at Otorohanga was kept by a half-caste, John Taonui Hetet, who was having difficulty with the Europeans. The position is explained by G. T. Wilkinson, the Government Agent, in his report of 28th June, 1892 (1892, G.–3, p. 3), which I shall quote in its order of date (para. 74, *infra*).

65. On the 18th February, 1892, the Native Minister, the Hon. A. J. Cadman, made a minute to the effect that he thought one hotel in that part of the King-country sufficient; that a license should be granted at Otorohanga, but that the request for a publichouse at Kawhia should not be granted.

66. On the 11th April, 1892, John Taonui Hetet formally applied to the Minister of Justice for a license to sell alcoholic liquors at his Otorohanga hotel. He said it was the only building where tourists, business people, and others could obtain board and lodging, and that visitors to the Waitomo Caves had to stay there.

67. The Government met the application by excluding 1 acre of land from the proclaimed area for a licensed hotel at Otorohanga (*N.Z. Gazette*, 1892, p. 598). It is plain that the Government of the day did not think that it was debarred by a " solemn pact " or " a bargain " from altering the proclaimed area. No such arguments were used either by the Europeans or the Maoris at the time.

68. A public agitation arose against the Government's action. A prominent ground of opposition was that there was no evidence that the Natives of the King-country generally desired the change. The *New Zealand Herald* of 24th May, 1892, in a leading article said :—

This acre is at Otorohanga and the overseers, we are informed, are Mr. John Ormsby and Mr. John Hetet, two half-castes of considerable influence . . . The whole thing appears to have been done by the owners of the acre. We believe that if the opinion of the whole of the Native owners of the King-country were taken, it would still be in favour of keeping out any licensed house.

Sir William Fox, the president of the New Zealand Alliance, by letter of the 25th May, 1892, sent a copy of the leading article to the Premier, Mr. Ballance, and said the Alliance had been informed that the Native owners had not consented to the exclusion

of the acre and asked who were the Natives who had consented and how their consent had been obtained. A resolution from Masterton of 22nd June, 1892, concluded: "Finding it impossible to believe that the King-country Natives generally desire the proposed change, this meeting appeals to the Hon. J. Ballance to use his influence to revoke the recent Proclamation." Other arguments were that the granting of the license would be a bad thing for the Natives and that it was against the increasing prohibition sentiment of the country.

69. No one suggested there was any solemn treaty or pact. On the contrary, the Premier, after hearing a deputation of Ministers of various denominations, who expressed their view of the evils of the course proposed, caused a telegram to be sent to Mr. Wilkinson, the Government Agent at Otorohanga, explaining the effect of the representations of the deputation and asking him to put them to the chiefs and principal Natives with a view to ascertaining whether the Natives wished the first petition still to be retained (para. 21, *supra*).

70. On 21st June, 1892, Wahanui, Te Kanawa, Taonui, and others replied to the Premier as follows:—

The Hon. Mr. Ballance,
Premier,
Wellington.

Friend,

Greeting to you in your honourable position. Your communication to Mr. George Wilkinson with a view of ascertaining our view with regard to our action in granting a license for the sale of spirits at a small place called Otorohanga has been received. This then is our opinion which we now make known to you. In the days of the Rohe Potae (tribal boundary question) sales, leases and the issue of licenses were restricted and it was stated by us then that in the event of the restriction being taken off any of these, all? should be opened, now this is the time in which we have given our assent to a licence being granted for this small place only, for the convenience of visitors. We also think that it is preferable to go by day than by night (openly not secretly). Therefore we say, let it be granted under the shining sun. Do you give this application of ours your strongest support.

71. That this represented the view of the Natives is supported by the telegram from the Government Agent, Mr. Wilkinson, to the Under-Secretary of the Native Department, sent on the 23rd June, 1892, which was as follows:—

Ngatimaniapoto had a meeting here on Tuesday to consider the Premier's question as conveyed in your telegram to me on Monday. Their decision has been conveyed to the Hon. Mr. Ballance by Wahanui and Te Kanawa in a telegram. It is in effect that when the Rohe Potae was formed they wished to prohibit selling and leasing of land and also the introduction of spirituous liquor but stated at that time that when they desired to have any of those restrictions removed it should be done. Seeing therefore that land selling has been allowed they have decided also to allow the sale of liquor but only at Otorohanga and that more with a view of accommodating visitors and travellers than anything else. They consider it better that it should be done openly and under the eye of the law than in a surreptitious way as at present.

GEORGE T. WILKINSON
Government Native Agent, Otorohanga.

72. On the other hand, Rewi Maniapoto sent a telegram to His Excellency the Governor on the 23rd June in the following terms:—

This is my word to you. Do not by any means allow a license to be issued within this Rohe Potae tribal boundary district at Otorohanga.

73. Wahanui and Taonui sent further communications to the Premier, dated 25th June, 1892, and 5th July, 1892, supporting their views. In the latter communication, signed by Taonui, Wahanui, and three others, they said the police report was favourable and that they had suffered much loss through an adjournment of a sitting of a Licensing Committee which had been appointed. They continued, *inter alia*—

However, we are quite agreeable to a poll of all the people in this district being taken with a view to ascertaining whether they approve of a licensed house being erected here or not. We entirely object to a small section of the European community having control over us. If they could entirely prohibit the sale of liquor within the whole of the Colony we could then clearly understand why the issue of a license in our district should be stopped. It was ourselves who had the restrictions placed on our district and we all object to this proceeding. We have heard that Rewi Maniapoto has sent a telegram on this subject. We regret this but he does not know for he does not belong to this district to be in a position to explain why a license should not be issued for a house at Otorohanga.

74. On 28th June, 1892, Wilkinson stated the facts concerning the application for the license at Otorohanga in his official report to the Native Department. He wrote as follows (1892, G.–3, pp. 3 and 4) :—

Considerable public comment has lately been passed on the proposal to grant a license to the Temperance Hotel, at Otorohanga, to sell spirituous liquors, and a very determined effort is being made by the Good Templar or ultra-temperate party in New Zealand to prevent the license being granted, they believing that it will result in harm, both mental and physical, to the Natives. As the King-country, however, is no longer the purely Native district that it was eight years ago, when licenses to sell liquor were prohibited throughout the district at the request of the Natives, and as the action of the Government, the press, and the public generally has within the last few years been of such a nature as to induce Europeans to flock into the country for the purpose of visiting the Waitomo Caves, to view land for settlement, and to construct railway and road-works under the Public Works Acts, it follows that the position is different now to what it was then ; and that whereas at that time there was only the wants and interests of the Maori race to consider, now there are those of both Maori and European. It is not my place as a Government officer to criticize the action taken by the temperance party in this matter, for whether they are justified or not in what they are doing is merely a matter of opinion; but there can be no doubt, I think, that they are actuated by a desire to protect the Natives from what they believe will result in evil consequences to them. I think, however, I am right in pointing out that in this, as in European communities, it is the wishes of the people of the district, or the majority of them, that have to be considered, and in the present case the Natives have decidedly shown by petition and otherwise that they desire to have the house at Otorohanga licensed. The reason for their action is not far to seek. The house is kept by an intelligent and respectable half-caste—one of their own people—and his wife, and it is the only house in the locality where travellers can obtain accommodation in the shape of board and bedding for themselves and stabling for their horses. The house is used almost exclusively by Europeans, and they, or the majority of them, look upon it as a hardship if they cannot get the same accommodation there as at hotels in other places. The landlord is therefore prevailed upon to supply them with what they want, although he is breaking the law in doing so. There is also the fact that being an unlicensed house makes it a mark for European detectives and policemen, who lay themselves out to entrap the landlord or his wife into selling them a glass of spirits, and numerous and questionable are the devices they adopt to catch their victim. Now, the chiefs in this district note that the people who require the liquor are mostly Europeans, and that the detectives and those whom they make use of to assist them in catching the landlord in breaking the law are also Europeans, and they fail to see why one of their people should be made to suffer solely for the sake of and by the agency of the pakeha. Hence they say, in effect, " Otorohanga is at present the focus of European population in the King-country. These people require, and will have, liquor. Let them therefore have it. License the hotel, so that the landlord can supply the wants of these people without risk to himself, and let it be under the supervision of the police, of which there is a representative resident at Otorohanga ; but let this be the only licensed house in the district, because it is there, and only there, that it is said to be wanted." The above is, I think, a fair statement of the case as looked at from a Native point of view, and, although one cannot help sympathizing with the temperance party in the action they are taking, which is really for the welfare of the Natives, I do not see what is to be done in the face of the fact that the views and wishes of the Natives are against them. Had the Natives themselves been divided in opinion, and had one section of them expressed themselves as strongly against the Otorohanga hotel being licensed as the other section was in favour of it, there would be good reason for withholding the license, for a time at least. But we do not find that it is so. I mention this in order to show that, if a license is granted for the Otorohanga hotel, it will be because the travelling European public require it, and the Natives have asked for it, and for no other reason.

75. As this report is both contemporary and official, it may be accepted as true. It shows that the attitude of Wahanui and the other Natives at Otorohanga was at least a reasonable one. It shows also that no one at the time raised the question of the breaking of a sacred pact, for the reason, one may infer, that no such pact existed in the minds of the Natives at the time. Even Rewi's telegram makes no suggestion of an arrangement of that kind. He only expresses a view against the exercise of a power of alteration.

76. The result of the public agitation against Wahanui's application was that the Government again included the acre at Otorohanga in the Rohe Potae by a proclamation of the 5th July, 1892 (*N.Z. Gazette*, 1892, p. 945).

77. In September, 1892 (the exact date is not given), Wahanui and four other Natives sent a letter from Otorohanga to the Hon. James Carroll, M.H.R., in the following terms :—

The Hon. James Carroll, M.H.R.

Greeting to you. Enclosed is our petition which we ask you to be good enough to bring before the House. The petition asks that the prohibition against the sale of liquor within the Rohe Potae be withdrawn. The position is this. The idea of prohibiting the sale of liquor in our district, in the first place, emanated from ourselves, the whole of the territory at that time being entirely Native.

Since then, however, the land has been put through the Native Land Court and, consequently, has been brought under the influence of the law and is now open for sale to Government. Under these circumstances we wish that all privileges be conferred on the whole of our district, especially that which we now ask for and others that will be beneficial not only to us but also to all. Now the desire to have the proclamation of prohibition withdrawn emanates from us also and Parliament can have no reason for considering (paying attention to) the objections raised by outsiders, like the Good Templars and Salvation Army. We trust that you will strongly support our petition.

From your friends

TAONUI HIKAKA

WAHANUI and four others.

78. It may, of course, be thought that persons interested in obtaining a license would prompt Wahanui to this action, but there is no suggestion anywhere on the file that he did not really hold these views. The Hon. Mr. Carroll minuted the file for the Assistant Under-Secretary of the Native Department, Mr. Morpeth, as follows :—

You had better make this an official document as it shows that the desire to license that district emanated from the Natives and that the Government in no way expressed any interest in the matter. The question may crop up again.

J. CARROLL

10/10/92.

79. In the face of all these documents, it seems very difficult to suggest that the predecessors of the present-day Maoris made some solemn pact or treaty that was so sacred that it could not be altered.

80. On the 8th May, 1894, the boundaries of the Rohe Potae were reproclaimed in order to exclude some 590 acres which included the premises of one Blake at Tokaanu (*N.Z. Gazette*, 1894, p. 712). It appears that a license for the sale of alcoholic liquors had been granted to Blake in 1882, or perhaps earlier, but that the fact had been previously overlooked.

81. In 1903 the Public Works Department asked the Solicitor-General to advise whether the Department was liable to pay any compensation for the land taken for the Main Trunk Railway. The Solicitor-General advised that, under the legal powers in force when the Order in Council directing the construction of the railway was made, there was no liability to pay compensation. Since then a small claim was made in 1911 and another in 1923, but in each case the Department said it was not liable for any payment, and no further application was made.

82. In 1923, when the agitation against the fifth recommendation of the Hockly report arose, there came on to the file of the Native Department two copies of a petition, dated 26th March, 1923, from four Natives, said to be respectively ninety-five, seventy, sixty-seven, and sixty-five years of age. The basis of their opposition to a vote on the question whether or not licensed premises were to be allowed in the Rohe Potae was this statement :—

We beg to state that the said Rohe Potaes was a proclaimed area by our father and Sir Governor Grey when he was Governor of New Zealand and it was their wish. So shall it be ours.

Governor Grey had nothing to do with the Proclamation. He ceased to be Governor of New Zealand in February, 1868. These Natives did not know the facts.

83. Summed up, I think the position is as follows :—

84. *Firstly*, the desire of the Natives for the proclamation of their territory under section 25 of the Act of 1881 was due to their clear recognition of the evils which alcoholic liquors brought to the Natives in those pioneering times, particularly at the Native Land Courts, and to their strong feeling against alcoholic liquor, a feeling which was prevalent among the Europeans as well as the Maoris.

85. *Secondly*, the desire to prevent the introduction of liquor was only one of several matters upon which the King-country tribes wished to be satisfied before agreeing to the opening-up of the King-country for settlement. These other matters concerned the survey of the external boundaries and the agreement with the Government on the

survey fees for these large areas (see 1884, G.–1, p. 9, and 1888, G.–5, p. 4), which are to be distinguished from the liability for the survey fees on the small blocks which had been incurred by 1891; the prohibition of prospecting for gold; the conferring of additional powers upon Maori committees and an arrangement that their land should go through the Native Land Court only when they wished.

86. *Thirdly,* the contemporary documents show that the Natives of the King-country agreed to the railway going through their lands upon the basis that they were to be paid for all their land used for the purpose, whether for the railway-line, the cuttings, or the station sites. The documents also show that very few Natives have been paid. Many may not have been interested, because they thought they had no individual right to payment for a part of lands they still regarded as belonging to their tribe. Others may not have been interested because they were liable for survey fees which would be chargeable against any payments for the railway lands. Others may have sold their lands about the railway-line at an enhanced price because the line was going through and did not trouble to ask for the small compensation they might have received for the railway strips.

87. *Fourthly,* whether payment is now to be made or not to the descendants of any entitled to it after allowance is made for any unpaid survey fees, it is clear that the railway lands were never transferred in consideration of any promise to prohibit drink in the King-country. They were taken under the Public Works Act following an agreement by the Natives to agree to the railway-line going through their territory in return for the payment of compensation for the lands required for the line. The reaching of this agreement was helped by various concessions by the Government, one of which was the Proclamation of December, 1884, prohibiting licenses for sale in the Northern King-country—*i.e.,* the Kawhia Licensing District. This Proclamation ranked with other matters like the pardoning of Te Kooti, the arrangements for the survey of external boundaries, the improvement of Maori committees, the arrangements for prospecting for gold, and the determination of the Government to put the line through. All these were matters of policy suited to the circumstances of the times.

88. *Fifthly,* with the greatest respect to the memory of Sir Robert Stout, the documents show that his recollection in the year 1923 of his discussion with the Natives in April, 1885, is not a sufficient basis for the allegation that there was a "bargain" with the Natives, still less "a sacred pact."

89. *Sixthly,* similar comment may be made with regard to the recollections of John Ormsby in 1922.

90. *Seventhly,* the documents also show that the leaders of the Maoris who took part in the discussions with Sir Robert Stout did not subsequently act as though there were a solemn pact or treaty in existence which could not be altered.

91. *Eighthly,* the documents show that the Europeans who opposed the application for a license at Otorohanga in 1891 did not suggest a sacred pact. The *New Zealand Herald* and Sir William Fox, the president of the New Zealand Alliance, considered that the test of alteration was whether the Natives consented to it.

92. Finally, in my judgment, the weight of the evidence is heavily against the view that the Natives of to-day are prevented by "a sacred pact" or "a bargain" from deciding, in the circumstances of to-day, what ought to be done in their best interests about the sale of liquor in the King-country.

Dated at Wellington, this 20th day of June, 1946.

D. S. Smith.

APPENDIX D.—LIST SHOWING THE NUMBER AND DISTRIBUTION OF WHOLESALE LICENSES THROUGHOUT NEW ZEALAND AS AT 3rd OCTOBER, 1945

District.	Number of Licenses.	Name of Licensee.	Address of Premises.
Marsden ..	1	The Simons Pty., Ltd. ..	James Street, Whangarei.
Auckland ..	16	Burns, Philp, and Co., Ltd. ..	Albert Street West, Auckland.
		Campbell and Ehrenfried Co., Ltd.	Elliott Street, Auckland.
		Cooke and Co., Ltd. ..	127 Albert Street, Auckland.
		A. A. Corban and Sons, Ltd. ..	28 Fort Street, Auckland.
		Dominion Breweries, Ltd. ..	Waitemata Depot, 5 Gore Street, Auckland.
		C. H. Drysdale and Co. ..	15 Little Queen Street, Auckland.
		Gollin and Co. Pty., Ltd. ..	Corner of Customs and Commerce Streets, Auckland.
		Hancock and Co. (N.Z.), Ltd. ..	Corner of Fort and Customs Streets, Auckland.
		Hughes and Cossar, Ltd. ..	Melrose Street, Newmarket, Auckland.
		Hutchinsons (Wholesale), Ltd.	Beach Road, Auckland.
		C. L. Innes and Co., Ltd. ..	Khyber Pass, Newmarket, Auckland.
		C. G. Macindoe Pty., Ltd. ..	26 Little Queen Street, Auckland.
		Marriotts Stores, Ltd. ..	Broadway, Newmarket, Auckland.
		L. D. Nathan and Co., Ltd. ..	Fort Street, Auckland.
		New Zealand Breweries, Ltd. ..	Mountain Road, Epsom, Auckland.
		John Reid and Co., Ltd. ..	Anzac Avenue, Auckland.
Tauranga ..	1	Guiness Bros., Ltd. ..	The Strand, Tauranga.
Rotorua ..	1	McGill Ltd.	Arawa Street, Rotorua.
Gisborne ..	5	Common, Shelton, and Co., Ltd.	1 Peel Street, Gisborne.
		Williams and Kettle, Ltd. ..	Customhouse Street, Gisborne.
		D. J. Barry, Ltd.	Childers Road, Gisborne.
		Murray, Roberts, and Co., Ltd.	Customhouse Street, Gisborne.
		Chas. George Lunken (*trading as* "The Poverty Bay Wine and Spirit Company")	385 Gladstone Road, Gisborne.
Napier ..	9	Barrys Bottling Co.	Wellesley Road, Napier.
		Dominion Breweries, Ltd. ..	Wellesley Road, Napier.
		Dalgety and Co., Ltd. ..	West Quay, Port Ahuriri.
		Ellison and Duncan, Ltd. ..	Waghorn Street, Port Ahuriri.
		Fraser, Donald Wm... ..	Dalton Street, Napier.
		Hindmarsh, Ltd.	Dickens Street, Napier.
		Murray, Roberts, and Co., Ltd.	West Quay, Port Ahuriri.
		Warren Smith and Co., Ltd. ..	Customs Street, Port Ahuriri.
		Williams and Kettle, Ltd. ..	West Quay, Port Ahuriri.
Hawke's Bay ..	6	de Pelichet McLeod and Co. ..	Lyndon Road, Hastings.
		Mrs. M. A. Starnes	St. Aubyn Street, Hastings.
		C. L. V. Vidal	Avenue Road, Hastings.
		D. H. Newbigin	Hastings Street, Hastings.
		Dalgety and Co.	Marine Parade, Wairoa.
		Wairoa Wine and Spirit Co. ..	Queen Street, Wairoa.
Waipawa ..	2	Union Brewery Co., Ltd. ..	Ruataniwha Street, Waipawa.
		Waipukurau Wine and Spirit Co., Ltd.	Ruataniwha Street, Waipukurau.
New Plymouth ..	2	Hardwicke and Robertson, Ltd.	New Plymouth.
		Taranaki Brewery and Cordials, Ltd.	New Plymouth.
Patea	3	Levin and Co., Ltd.	Princes Street, Hawera.
		Johnston and Co., Ltd. ..	Princes Street, Hawera.
		Gibsons Stores, Ltd. ..	Egmont Street, Patea.

District.	Number of Licenses.	Name of Licensee.	Address of Premises.
Wanganui ..	7	Goldingham and Beckett, Ltd.	16–18 St. Hill Street, Wanganui.
		F. J. H. Nancarrow, Ltd. ..	13 St. Hill Street, Wanganui.
		Johnston and Co., Ltd. ..	68 Taupo Quay, Wanganui.
		Phœnix Wine and Spirit Co., Ltd.	26 Victoria Avenue, Wanganui.
		New Zealand Breweries, Ltd. ..	59–60 Taupo Quay, Wanganui.
		Levin and Co., Ltd.	Taupo Quay, Wanganui.
		Albert Francis Cantwell ..	5 Victoria Avenue, Wanganui.
Stratford ..	1	D. J. Malone and Co., Ltd. ..	Juliet Street, Stratford.
Egmont ..	1	McWilliams (N.Z.), Wines, Ltd.	Bridge Street, Eltham.
Palmerston North	4	Manawatu Wine and Spirit Co., Ltd.	281 Cuba Street, Palmerston N.
		Goldingham and Beckett, Ltd.	29 King Street, Palmerston N.
		Barraud and Abraham, Ltd. ..	Rangitikei Street, Palmerston N.
		Johnston and Co., Ltd. ..	30 King Street, Palmerston N.
Manawatu ..	1	Barraud and Abraham, Ltd. ..	Fergusson Street, Feilding.
Otaki	1	W. Bull, Ltd.	Queen Street, Levin.
Pahiatua ..	2	Barraud and Abraham, Ltd. ..	Dannevirke.
		Wairarapa Farmers' Co-operative Association, Ltd.	Pahiatua.
Wairarapa ..	1	Wairarapa Farmers' Co-operative Association, Ltd.	Main Street, Greytown.
Hutt	1	Walter Hamilton Lees ..	434 High Street, Lower Hutt.
Wellington ..	20	Burns, Philp, and Co., Ltd. ..	75 Molesworth Street, Wellington.
		Reginald Collins, Ltd. ..	Corner of Ballance Street, and Customhouse Quay, Wellington.
		Frederick Dobson	182 Wakefield Street, Wellington.
		Dominion Breweries, Ltd. ..	111 Lambton Quay, Wellington.
		Gollin and Co. Pty., Ltd. ..	Post-office Square, Wellington.
		Hardwicke and Robertson, Ltd.	35 Victoria Street. Wellington.
		Johnston and Co., Ltd. ..	166 Featherston Street, Wellington.
		Levin and Co., Ltd.	Customhouse Quay Wellington.
		McCarthy's Breweries, Ltd. ..	46 Tory Street, Wellington.
		W. L. McIlraith	146 Willis Street, Wellington.
		Murray, Roberts, and Co., Ltd.	135 Featherston Street, Wellington.
		New Zealand Breweries, Ltd.	142 Molesworth Street, Wellington.
		Phillips and Pike, Ltd. ..	93 Featherston Street, Wellington.
		Preston and Co., Ltd. ..	114 Wakefield Street, Wellington.
		Reid and Reid, Ltd. ..	18–20 Harris Street, Wellington.
		E. T. Taylor and Co., Ltd. ..	71 Courtenay Place, Wellington.
		Tui Bottling Co., Ltd. ..	7 Allen Street, Wellington.
		Wairarapa Farmers' Co-operative Association, Ltd.	176 Lambton Quay, Wellington.
		T. and W. Young, Ltd. ..	77 Customhouse Quay, Wellington.
		H. W. Moss, Ltd.	6 Ballance Street, Wellington.
Marlborough ..	3	Levin and Co., Ltd.	Horton Street, Blenheim.
		Levin and Co., Ltd.	High Street, Picton.
		W. E. Clouston and Co., Ltd.	Wynen Street, Blenheim.
Nelson ..	4	Kenneth, McKenzie, Black ..	124 Bridge Street, Nelson.
		Levin and Co., Ltd.	244 Hardy Street, Nelson.
		J. Shields and Co., Ltd. ..	123 Hardy Street, Nelson.
		T. and W. Young, Ltd. ..	Grant's Buildings, Vanguard Street, Nelson.
Motueka ..	3	J. H. Blackmore (*trading as* "Harold Bros.")	Smith Street, Reefton.
		J. Patterson (*trading as* "Robert Patterson")	Broadway, Reefton.
		H. Manoy and L. Manoy (*trading as* "H. and L. Manoy")	High Street, Motueka.

District.	Number of Licenses.	Name of Licensee.	Address of Premises.
Buller	2	Griffen and Smith, Ltd. ..	Henley Street, Westport.
		Bailey and Co., Ltd. ..	Wakefield Street, Westport.
Westland ..	6	Griffen and Smith, Ltd. ..	Boundary Street, Greymouth.
		C. L. Kettle	Mawhera Quay, Greymouth.
		E. McDonnell	Tainui Street, Greymouth.
		Westland Breweries, Ltd. ..	Turumaha Street, Greymouth.
		Griffen and Smith, Ltd. ..	Weld Street, Hokitika.
		W. Jeffries and Co. (license in name of Arthur Jeffries)	Sewell Street, Hokitika.
Christchurch ..	10 and 1 dormant	Ballins Breweries (N.Z.), Ltd.	9 Byron Street, Christchurch.
		Bishop and Co., Ltd. ..	111 Armagh Street, Christchurch.
		F. A. Cook, Ltd.	759 Colombo Street, Christchurch.
		Fred Cross and Sons ..	55 Manchester Street, Christchurch.
		Dalgety and Co., Ltd. ..	Cathedral Square, Christchurch.
		Fletcher Humphreys and Co., Ltd.	49 Cathedral Square, Christchurch.
		Maling and Co., Ltd. ..	86 Gloucester Street, Christchurch.
		New Zealand Breweries, Ltd. ..	15 Bath Street, Christchurch.
		Quill Morris (1936), Ltd. ..	15 Dundas Street, Christchurch.
		Shand and Co. .. (One license not allocated)	181 Hereford Street, Christchurch.
Lyttelton ..	1	R. Powley and Co. (Canterbury), Ltd.	14 Broad Street, Woolston.
Timaru ..	6	Canterbury Farmers' Co-operative Association, Ltd.	Beswick Street, Timaru.
		National Mortgage and Agency Company of New Zealand, Ltd.	123 Stafford Street, Timaru.
		New Zealand Breweries, Ltd. (Timaru Branch)	Corner of Victoria and Browne Streets, Timaru.
		R. Wilson and Co., Ltd. ..	Sophia Street, Timaru.
		Maling and Co., Ltd. ..	27 Sophia Street, Timaru.
		Milne Bremner, Ltd. ..	Sophia Street, Timaru.
Waitaki ..	1	National Mortgage and Agency Co., of New Zealand, Ltd.	Queen Street, Waimate.
Dunedin ..	15	Dalgety and Co., Ltd. ..	51 Jetty Street, Dunedin.
		Dunedin Wine and Spirit Co., Ltd.	24 Water Street, Dunedin.
		Lane's Ltd.	8 Carroll Street, Dunedin.
		James Lindsay	Vogel Street, Dunedin.
		Mackerras and Hazlett, Ltd. ..	43 Crawford Street, Dunedin.
		F. Meenan and Co.	267 Moray Place, Dunedin.
		Milne Bremner, Ltd. ..	23 Vogel Street, Dunedin.
		Murray, Roberts, and Co., Ltd.	Crawford Street, Dunedin.
		Neill and Co., Ltd.	31 Crawford Street, Dunedin.
		New Zealand Breweries, Ltd. ..	49 Dowling Street, Dunedin.
		R. Powley and Co., Ltd. ..	24 Hope Street, Dunedin.
		W. Scoular and Co., Ltd. ..	23 Jetty Street, Dunedin.
		Thomson's Ltd.	23 Police Street, Dunedin.
		Wholesalers Ltd.	23 Maclaggan Street, Dunedin.
		R. Wilson and Co., Ltd. ..	Corner of Bond and Jetty Streets, Dunedin.
Awarua ..	4	Mackerras and Hazlett, Ltd. ..	Gore Street, Bluff.
		Moffett and Co., Ltd. ..	Marine Parade, Bluff.
		Thomsons Ltd.	Lee Street, Bluff.
		Q.S. Stores, Ltd.	Palmerston Street, Riverton.

Total number of holders of wholesale licenses in New Zealand = 140 (plus 1 dormant in Christchurch District).

APPENDIX E.—EXTRACTS FROM LEGISLATION OF THE STATE OF VICTORIA ON THE QUALIFICATIONS FOR THE REGISTRATION OF A CLUB

1. Section 251 of the Victorian Licensing Act, 1928, is as follows :—

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

(*a*) The club must be a *bona fide* association or company of not less than fifty persons in the case of a club established at any place within a radius of fifteen miles from the General Post Office situate at the corner of Bourke Street and Elizabeth Street in Melbourne, and not less than thirty 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 and their guests upon premises of which such association 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 alcoholic drink supplied.

(*g*) A register of members of the club for the time being shall be kept on the club's premises as hereinafter required.

(2) In the case of a club which existed as a *bona fide* club on the fourteenth day of July, one thousand eight hundred and eighty-five, and in respect of which a certificate that it was such a *bona fide* club had been given by the proper Licensing Court being still in existence as a *bona fide* club, such club shall be entitled to be registered under this Part notwithstanding that it does not comply with the provisions of paragraphs (*c*) and (*d*) of this section.

2. The recommendation of the Victorian Commission upon this section concerned subsection (1) (*d*). The Commission recommended its deletion, and the substitution of the following paragraph :—

(*d*) The accommodation must be provided and maintained from the joint funds of the club : Provided that the club may use for such accommodation any property real or personal—

(i) Which it has acquired by way of unconditional gift ; or

(ii) Which has been lent to it for any fixed period free of charge or interest.

(*dd*) 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 :

Provided that the provisions of this paragraph shall not prevent a club from having different classes of members paying different rates of subscription and entitled to and enjoying different rights, facilities, benefits, or advantages according to classes.

3. We pause to note here that a further condition was inserted in the South Australian Act (subsection (1) (*j*) of section 93) as follows :—

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.

4. Section 252 of the Victorian Licensing Act is as follows :—

252. (1) In order that any club may be eligible to be registered, the rules of the club shall provide that—

(*a*) The business and affairs of the club shall be under the management of a committee elected by the general body of members for not less than twelve months ;

(*b*) The Committee shall hold periodical meetings, and minutes of all resolutions and proceedings of such committee shall be entered in a book to be provided for that purpose ;

(*c*) 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 not less than two weeks shall elapse between nomination and election of ordinary members ;

(*d*) All members shall be elected by the general body of members or by a general or an election committee, and a record shall be kept by the secretary of the club of the number of the members voting ;

(*e*) There shall be a defined subscription of not less than five shillings per annum payable by members quarterly, half-yearly, or annually in advance ;

(*f*) Correct accounts and books shall be kept showing the financial affairs of the club and the particulars usually shown in books of account of a like nature ;

(*g*) A visitor shall not be supplied with liquor in the club premises unless in the company and at the expense of a member ;

(*h*) No persons shall be allowed to become honorary or temporary members 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 prescribed therein;

(*i*) No person under twenty-one years of age shall be admitted a member of the club unless the club is primarily devoted to some athletic purpose, in which case there shall be no limitation of the age of a member of the club. No liquor shall be sold or supplied to any person under twenty-one years of age;

(*j*) No liquor shall be sold or supplied for consumption elsewhere than on the club premises unless such liquor is removed from the premises of the said club by the member purchasing the same; and

(*k*) No persons under eighteen years of age, except boys who are being trained as waiters and are not allowed to serve behind the bar, shall be employed in any club.

(2) In the case of a club primarily devoted to some athletic purpose the management of which is vested in trustees appointed by the Governor in Council, such club shall, if the Governor in Council so declares by Proclamation in the Government *Gazette*, be exempted from compliance with the provisions of paragraphs (*a*), (*c*), and (*d*) of this section and of paragraph (*c*) of the last preceding section, and such trustees shall for the purposes of this Act be deemed the elected committee of the club.

5. The Victorian Commission recommends the following addition at the end of paragraph (*a*) in subsection (1)—viz., the addition of the words "or in the case of casual vacancies, elected by such committee or otherwise in accordance with the rules for less than twelve months."

6. The provision for making objections to the grant of a charter is contained in section 256 of the Victorian Act, which is as follows:—

256. (1) At the hearing of any such application, objections may be taken by any person or council hereinafter in this Act mentioned 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 fifty or thirty (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 the club occupies—

(i) Premises which have been disqualified under this Act or any corresponding previous enactment; or

(ii) Premises the license of which has been revoked or cancelled; or

(iii) Premises in respect of which the renewal of a license has been refused within twelve months next preceding the formation of the club;

(*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 contrary to the provisions of this Act; or

(*l*) That any provision of this Act 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 things, have regard to the nature of the premises occupied by the club.

7. The Victorian Licensing Commission of 1944 suggests the following alterations to section 256:—

In subsection (1): In paragraph (*c*), for the word "habitually", substitute the word "frequently".

At the end of paragraph (*d*) add the words "or that persons leaving the club premises have in the immediate vicinity of the club premises frequently indulged in noisy, disorderly, or objectionable conduct;"

For paragraph (*e*), substitute new paragraph as follows:—

"(*e*) That liquor has been unlawfully sold, supplied, or disposed of upon or from the club premises, or that other contraventions of the Licensing Acts have taken place upon the club premises;"

In paragraph (*k*): For the word "habitually", substitute the word "frequently".

Add new paragraph as follows:—

"(*m*) That, if registered, the club will be kept or frequently used for an unlawful purpose or mainly for the supply of liquor."

APPENDIX F.—LEGISLATIVE PROVISIONS OF SOME AUSTRALIAN STATES AS TO PAYMENT OF COMPENSATION WHERE LICENSES CANCELLED OR SURRENDERED

QUEENSLAND

Under the provisions of the Liquor Acts Amendment Act, 1935 (Queensland), provision is made for the payment of compensation to the owner of licensed premises and to the licensee where a licensed victualler's or wine-seller's license is cancelled or surrendered. No distinction is made in these statutory provisions as between licenses cancelled and those surrendered.

The Licensing Commission is to determine a fair and equitable compensation as soon as possible, and, for this purpose, is to make a "valuation" which may be used as a basis for fixing the proper amount of compensation. This valuation is made as follows in respect of—

(*a*) *Owner of Premises.*—Fair market value of premises as licensed, less fair probable market value without license, with adjustments where a cash premium has been paid for a lease. Any claims by a lessee or sub-lessee can be heard at the same time and compensation apportioned. A mortgagee may also be represented and call evidence.

(*b*) *Licensee* (who is not the owner of premises).—Fair value of the lease for any three years selected by the licensee within previous ten years, adjustments being made where the unexpired portion of tenancy is less than three years and where a cash premium has been paid for the lease. Annual percentage fees paid by licensees and net profits as shown on income-tax returns during such ten years are to be taken into account.

(*c*) *Licensee-owner.*—Compensation to him both as licensee and as owner, but less such sum as is deemed a fair and proper rent of the premises.

The Commission may fix the compensation payable at a greater or less amount than under such valuation, but so that the compensation shall, in the opinion of the Commission, be a fair and equitable compensation.

The rights of a mortgagee whose security is depreciated by the loss of the license are protected.

VICTORIA

Under the provisions of the Licensing Act, 1928 (Victoria), there are three ways (other than forfeiture for offences) by which licensed premises may be deprived of the license and compensation awarded :—

(1) *Surrender :*—

(*a*) *Victualler's License :* The Licenses Reduction Board may accept surrender at the request of the owner and occupier.

(*b*) *Any other License :* The Licensing Court may cancel at the request of the holder of the license.

(2) *Reduction of Licenses by Order of the Licensing Court.*—Where the Licensing Court considers that the number of licenses of any description is greater than is necessary for the convenience of the public or the requirements of the locality it may reduce the number of licenses of any particular class by up to one-fourth of the number of such licenses then in existence in the district, and award compensation.

(3) *Abolition of Licenses* as a result of the decision of the electors at the State poll (held every eighth year).

Provision is made in all cases for the payment of compensation.

A method of checking the compensation payable to the following persons is provided as follows:—

(1) *Owner of Licensed Victualler's Premises.*—Loss shown by the difference between the fair average capital value of the premises as licensed during the ten years ended thirty-first December, nineteen hundred and sixteen, and the fair probable average capital value without a license during the same period, taking into consideration any lease, rent received (if it was a fair rent), and compensation fees paid.

(2) *Licensee of Licensed Victualler's Premises.*—Fair average value of a lease of the premises for any term of three years during such ten years, having regard to compensation fees paid and net profits during such ten years.

(3) *Holder of a Spirit Merchant's, Grocer's, or Australian Wine License.*—Loss accruing or which would have accrued on a lease of the premises for a period not exceeding three years, regard being had to percentage fees paid in respect of the license for the three years following the passing of the Licensing Act, 1916.

It appears that in some cases the Tribunal may assess the compensation on a fair and equitable basis without making any such valuation.

The rights of mortgagees are protected.

New South Wales

The Liquor (Amendment) Act, 1919 (New South Wales), provided two ways (other than by the one State referendum which it provided but which was not carried) by which licensed premises might be deprived of the license and compensation awarded.

(1) The Licenses Reduction Board may accept the surrender of a publican's license at the request of the owner and licensee and of the lessees, sub-lessees, and mortgagees (if any); and of an Australian wine license at the request of the licensee;

(2) The Board, in accordance with its duty to reduce the number of publicans' and Australian wine licenses in New South Wales, may, in the case of—

(*a*) Publicans' licenses, where there are more in existence in an electorate than the statutory number determined by the number of electors on the roll, reduce the number of licenses but not by more than one-fourth of the number in existence in that electorate on 1st January, 1920, nor below the said statutory number; and

(*b*) Australian wine licenses, reduce the number of such licenses in any electorate, but not by more than one-fourth of the number in existence in that electorate on 1st January, 1923.

Compensation is payable on the same basis whether the license is surrendered or is cancelled as a result of reduction proceedings; and the provisions are the same for both types of license, except that for the Australian wine license, the licensee only is concerned and entitled to compensation.

Compensation to owners, lessees, and sub-lessees is based on the difference between the average net yearly rent of the premises as licensed (provided the rent was a fair rent) over a three-year period and the probably average fair net yearly rent over the same period without such a license.

Compensation to licensees is based on the net profit of the preceding year, or, where the licensee has been the licensee for the three preceding years or more, on an average of the three preceding years.

If the licensee is also the owner of the premises, he is entitled to compensation both as licensee and as owner, but less a fair sum deducted from the net profits as rent.

The amount of compensation is to be determined on a fair and equitable basis, but must not exceed the valuation made on the above basis. A right of appeal is given to the Land and Valuation Court.

The rights of mortgagees are protected.

South Australia

The Licensing Act, 1932–1936 (South Australia), makes only one provision for the cancellation of licenses (apart from forfeiture for offences)—viz., where "reduction" of licenses is carried at a local option poll held in the particular district. Under these provisions a special Court would determine what licenses, comprising one-third of the then existing licenses in each class, would not be renewed. There is no provision for the payment of compensation to either the owners of the premises or to the licensees. Similarly, in the event of "increase" of licenses being carried, these would not be for sale by auction or public tender, but would be granted in the discretion of the licensing Court.

Summary of the Provisions of some Australian State Legislation as to Compensation in respect of Publicans' Licenses

In the four States which have been considered, one (South Australia) has no provision for compensation; and licenses are only to be reduced or increased in accordance with the decision of the electors at a local option poll in the electorate concerned.

The three other States (Queensland, Victoria, and New South Wales) make provision for compensation to the owner of the premises and to the licensee where a license is surrendered or cancelled as a result of a decision by the proper authority.

In Queensland and Victoria the assessment of compensation to an owner under the provisions for surrender or cancellation is based on the diminution in "capital" value of the premises, whereas in *New South Wales* the assessment is based on the diminution in "rental" value. Similarly, compensation to a *licensee* in Queensland and Victoria is based on the fair value of a lease for a term of three years, and, in New South Wales, it is based on the net profit of the preceding year or the average of the three preceding years. In all cases an owner-licensee is entitled to compensation both as owner and as licensee, but less a fair sum deducted as rent.

APPENDIX G.—THE LICENSING ACTS AND REGULATIONS

RECOMMENDATIONS: (1) FOR CERTAIN AMENDMENTS TO THE LEGISLATION, SUBJECT TO THE OTHER RECOMMENDATIONS OF THE COMMISSION AND TO A GENERAL RECOMMENDATION THAT ALL THE LEGISLATION BE CONSOLIDATED AND ENACTED AFRESH IN AS FEW STATUTES AS POSSIBLE; AND (2) FOR THE RETENTION OF CERTAIN REGULATIONS

Acts, Section, &c.	Subject-matter.	Specific Recommendations.
Licensing Act, 1908		
s. 4	Definition of "bar"	Define "public bar" and "private bar" as recommended (paras. 1702–1705).
	Definition of "intoxicating liquor"	Define "intoxicating liquor" as liquor containing more than 3 per cent. of proof spirit, as recommended (para. 1660).
s. 39	Declares day of election a public half-holiday and that, between 12 noon and 7 p.m., sale of liquor unlawful in any licensed premises	Add a subsection declaring it to be an offence for persons (other than lodgers, *bona fide* guests of lodgers, *bona fide* guests for meals, employees, and licensee's family) to be on the licensed premises between noon and 7 p.m. on the day the poll is taken.
s. 60 (1)	No store, theatre, concert-room, or dancing-hall in new hotel	Amend to permit of shops as recommended (para. 1607), and to permit of dancing at tourist hotels as recommended (para. 1608).
s. 65	Native licensing districts ..	Provide for abolition of Inland Patea and the Mangonui, Hokianga, and Bay of Islands District and any similar district (paras. 115–117 of Book I).
ss. 42 to 82 ..	Licensing Committees and licenses	Reclassify licenses as recommended (Chapter 84), and give increased powers to Licensing Committees as recommended (Chapter 82).
s. 82	Conditional licenses	Set out conditions as recommended (paras. 977 and 1628), and give additional power to endorse conditional license for breach of conditions.
s. 85 (2)	Certificate of fitness	Amend as recommended (paras. 1690 and 1691).
s. 98 (7)	Certificate authorizing issue of license void unless fee paid within fourteen days	Extend s. 292 relating to waiver of omissions to cover non-compliance.
s. 109	Objections to renewal ..	Add the additional grounds regarding alterations, improvements, and rebuilding (para. 1601).
s. 109 (*c*)	Objections to renewal of license house conducted in improper manner *and* drunkenness permitted	Make provision alternative—*i.e.*, replace "and" by "or" so that license may be refused on either ground.
s. 119	Permitting transferee of endorsed license to obtain clean license at next annual meeting	Amend to enable transferred publican's license to be renewed, subject to operation of s. 249.
s. 120 (3)	Permitting temporary transfer until next quarterly meeting, but not allowing enough time for advertising as required by section 84	Amend to ensure temporary transfer remains effective until quarterly meeting after expiration of time for advertising.
s. 123	No transfer of license within three months of original issue	Provide discretionary power in exceptiona circumstances.

Acts, Section, &c.	Subject-matter.	Specific Recommendations.
Licensing Act, 1908—continued		
s. 133	Privileges and obligations of a licensee pass to executor or administrator, assignee, or trustee of licensee without Licensing Committee having power to prevent transmission. Under this provision an habitual criminal can get a license until date for renewal	Grant discretion to Licensing Committee to prevent unsuitable person from becoming licensee even though he is executor or administrator, assignee or trustee.
s. 139	Fees	Make provision as recommended (paras. 1653–1658).
s. 146 (*a*) (iii) and (iv), (see also s. 273 (*a*) (iii) and (iv))	Provisions applying in no-license districts	Replace "send or deliver . . . liquor" with "send, deliver, or take . . . liquor."
s. 147 (*a*)	Person ordering liquor for no-license district shall give "name and address"	Make failure to give true or usual name and address an offence.
s. 147 (*h*)	Dispensing by a chemist in a no-license district	Amend by inserting, after the words "nothing in this section", the words "or in the last preceding section."
ss. 149 and 153 ..	Register of licenses and registration of owners and co-owners	Provide that each register shall show all interests in the property or in respect of the property; including owners, mortgagees, lessees, sub-lessees, tenants, licensee-managers. Provide also for declaration, by applicant for renewal, of any alteration in the interests or that there are no other interests.
s. 164	Licensed premises not to be used for dancing, concert, theatrical saloon, or place of common resort	Amend to permit of shops as recommended (para. 1607), dancing at tourist hotels as recommended (para. 1608), and banquets, receptions, and the like as recommended, and in other rooms as well as the dining-room (paras. 1639 and 1726–1728).
s. 165	Refusing to provide accommodation and meals	Set out in the statute the duty of the licensee in precise terms, and increase penalty from £10 to £50.
s. 166	Stabling accommodation ..	Repeal as obsolete.
s. 171	Absence of licensee from premises	Amend as recommended (para. 1692).
s. 181	Permitting drunkenness ..	Provide for increased responsibility of licensee as recommended (para. 1701), and increase the penalty from £20 for for a first offence to £50. Apply s. 181 to the holder of a New Zealand wine license under same increased penalty.
s. 185	Permitting gambling	Increase penalty for first offence from £10 to £20, and for any subsequent offences to £50.
s. 190	After-hours trading	(1) Change the onus of proof and increase the penalties as recommended (paras. 194–5), including the "padlocking" of the bar for a third offence. (2) Permit the licensee and his family to treat personal guests during closed hours and to supply liquor to his family and servants.
s. 191	Licensee may sell to lodger during closed hours	Place onus on the accused to prove status of person supplied as recommended (paras. 1731–1733).
s. 195	Illicit sale—"sly-grog selling"	Provide increased penalties as recommended (paras. 1734–1738).

Acts, Section, &c.	Subject-matter.	Specific Recommendations.
Licensing Act, 1908—continued		
s. 202	Supplying liquor to youths. Provision is said not to apply to breweries or to conditional licenses	Extend the prohibition to supply by breweries or by licensee under conditional license.
s. 210	Labels	Amend as proposed (para. 1671).
s. 217	Prohibition orders against Maoris	Empower a Court to make a prohibition order when a Maori is convicted of any offence involving liquor. Define "Maori" in same way as "Native."
s. 222	Purchasing samples of liquor ..	Amend as proposed (paras. 1674 and 1675).
s. 226	Power of Inspector or constable to enter premises	Extend as authorized by Regulation 7 of the Emergency Regulations 1943/122.
s. 227	Refusing entrance to constable	Increase the penalties substantially.
s. 229	Forfeiture of liquors	Empower Court, in its discretion, to forfeit liquor and vessels of any person selling liquor without a license, whether they are his goods or not: *Young Sow* v. *Kemp*, 23 N.Z.L.R. 609, 612.
s. 240	General penalty, maximum £5 ..	Increase maximum to £20.
s. 241	Provides for summary trial before a Magistrate of all offences, but Justices of the Peace Act, 1927, gives a right to claim trial by jury to any person liable to more than three months' imprisonment	Abolish the right of trial by jury in respect of all offences under the Licensing Act, except that of forging a license, leaving appeal to the Supreme Court, as at present.
s. 246 ff.	Endorsement of licenses and cancellation	(1) Provide that Magistrate is to endorse license unless he considers it would be manifestly unjust to do so. (2) Endorsements to be cumulative. (3) Empower Magistrate on second or subsequent conviction to suspend the license of the house for a period or to cancel the license. (4) But continue provisions of s. 249 as to lapsing of endorsements.
s. 262	Inspection and prosecution of chartered clubs	Chartered clubs to be inspected only by senior Inspectors, but to be subject to prosecution in the same way as licensees of hotels.
s. 267	Sale of liquor by unchartered clubs	After making new provisions for clubs, prohibit the sale or supply of liquor in clubs without charters as recommended (Chapter 107).
s. 269	Supplying liquor to Natives in a Native Licensing district	Increase penalty from maximum of £20 to a minimum of £20 and a maximum of £100 for a first or subsequent offences.
s. 273	Restrictions in proclaimed area	The unlawful possession of liquor by a Native in a proclaimed area should be made an offence under a penalty not exceeding £20.
s. 273 (*a*) (iii) and (iv), (see s. 146 (*a*) (iii) and (iv))	Provisions applying in a proclaimed area	Replace "send or deliver . . . liquor" with "send, deliver, or take . . . liquor."
s. 273 (*a*) (iv) ..	Power of search in proclaimed area	Obviate necessity for search in presence of at least two witnesses and permit any police officer to make a search.
s. 284	Justices may order licensed premises to be closed in case of riot or tumult	Extend to cover cases such as Napier earthquake and give power to non-commissioned officer of police to direct closing of any particular premises.

Acts, Section, &c.	Subject-matter.	Specific Recommendations.
Licensing Act, 1908—continued		
s. 292	Waiver of omissions	Amend section to revive rights if already inadvertently forfeited as they might be—for example, under s. 98 (7) of the Act.
s. 297 (2)	Notice to "any officer or other person interested in any licensed premises"	The word "officer" appears to be a misprint for "owner." Amend accordingly.
Licensing Amendment Act, 1910		
s. 37	Illegal use of premises for consumption of intoxicating liquor in no-license districts	Make permanent the power of search given by Regulation 7 of the Emergency Regulations 1943/122.
ss. 43 and 44 ..	Supplying liquor to Natives in special districts under s. 43	(1) Extend to Polynesians (para. 1753). (2) Increase maximum penalty to £100 or twelve months' imprisonment, and do not permit right of trial by jury. Leave right of appeal to Supreme Court as at present. (3) Provide for permits for returned services' associations and for communion wine, where required (paras. 1750–1754). (4) The unlawful possession of liquor by a Native in such district should be made an offence under a penalty not exceeding £20.
Licensing Amendment Act, 1914		
s. 8	Delivery of liquor in no-license districts	Apply s. 8 to any proclaimed area as well as to no-license districts.
s. 10	Employment of minors in bars ..	Extend to include booths under a conditional license.
s. 11 (8)	Authorizing winemaker to sell not less than 2 gallons of his own wine, but restricting delivery to "from one place only" (as specified in the license)	Control delivery, through agencies under winemaker's license and all other licenses as recommended (para. 1682).
Sale of Liquor Restrictions Act, 1917		
s. 10	Permitting liquor to be served in dining-room of hotel or chartered club between 6 p.m. and 8 p.m.	Provide for altered hours as recommended (paras. 1713 to 1720) and for extended hours by permit (paras. 1725–1728).
s. 11	Consumption of liquor in restaurants while licensed premises are required to be closed	Amend in accordance with our recommendations (paras. 1637–1639).
Finance Act, 1915, Finance Act, 1917, and Customs Acts Amendment Act, 1931, and other Customs Acts relating to Breweries ..	These Acts govern the granting of licenses to breweries and their administration	Repeal and replace by new provisions in accordance with the Commission's recommendations.

Acts, Section, &c.	Subject-matter.	Specific Recommendations.
Emergency Regulations		
Reg. 1942/186 ..	War Regulations	Make permanent all the regulations subject to the amendments necessary to give effect to our recommendations. Under Regulation 8, relating to the cancellation of publican's licenses, the application should be to the Licensing Committee, subject to an appeal to the Supreme Court by the licensee against a decision to cancel the license or by the prosecution against a decision not to cancel the license. If the provision is made permanent, the ground of public interest would not be dependent upon the state of emergency arising out of the war—*In re Criterion Hotel Paeroa: Police* v. *Waugh*, (1943/44) 3 M.C.D. 131.
Reg. 1942/251 ..	Relating to the strength of beer and the manufacture of liqueurs	Alter as recommended (para. 1661).
Reg. 1943/71 ..	Maintenance of premises at required standard amending Regulation 15 of 1942/186	Amend to suit conditions of peace as distinct from conditions of war.
Reg. 1943/81 ..	Relating to the use of sugar in the manufacture of beer	Make regulations permanent.
Reg. 1943/122 ..	War regulations	Make permanent, but Regulation 3, relating to wine-seller's permit, to be altered to license as recommended (para. 1632).
Reg. 1944/72 ..	Places of entertainment other than licensed premises within the Licensing Act or the premises of a chartered club (see Regulation 7 of 1944/72)	The regulations should be retained.

NOTE.—These amendments do not touch some of our main proposals, such as the acquisition of the breweries by a public Corporation, the creation of a new licensee—viz., the local Trust—and the appointment of a Liquor Trade Inspection and Advisory Board, or some of the important detailed recommendations, such as standard measures and prices, the registration of barmen, the prevention of the sale of dregs, and the legal responsibility of the licensee, for all of which new statutory provisions would require to be framed.

BOOK III.—MINORITY REPORTS

BY GEORGE WILLIAM HUTCHISON ESQUIRE, C.M.G., J.P.

To His Excellency the Governor-General of the Dominion of New Zealand.
May it please Your Excellency,—

1. I am in general agreement with that portion of the report which is contained in Book I and comprised in paragraphs 1 to 1521 inclusive.

I am also in general agreement with that portion of the report which is contained in Book II and comprised in paragraphs 1522 to 1563 inclusive.

While there is much in the remainder of the report with which I am able to agree, it is so interwoven with recommendations with which I am not in agreement that I find it necessary to set out my own conclusions in separate form, even though in some respects they are in conformity with the majority report.

2. I am in agreement with the remainder of the report in so far as it does not conflict with my conclusions, which I crave leave humbly to submit as follows:—

In my opinion, much of the blame attributed to those engaged in the liquor trade for deficiencies that exist in its conduct must be accepted by Parliament itself, for the reason that it has on more than one occasion failed to take action when important reports were submitted to it directing attention to defects that required legislative action, and when legislation aimed at rectifying those defects was submitted and not proceeded with.

The evident reason why Parliament has been reluctant to deal with licensing leglisation so as to rectify defects in the system is that such widely divergent views regarding it are held by numerically large sections of the electors.

3. I have therefore concluded that action must be taken to remove all possibility of the administrative control of the liquor trade having any influence on the political life of the Dominion.

The recommendations in the majority report involve the setting-up of a system comprising the following:—

(*a*) A Liquor Manufacture and Sale Board, to acquire all the breweries in New Zealand (para. 1564) and to conduct bar licenses (para. 1570 (3)).

(*b*) A Central Liquor Fund, to be administered by the Public Trustee (para. 1564).

(*c*) An Hotel Advances Account, to be administered by the State Advances Corporation (para. 1564 (1)).

(*d*) A Liquor Licenses Distribution Commission, to deal with the redistribution of licenses (para. 1566 (1)).

(*e*) Local Trusts, to conduct certain licensed premises (para. 1566 (1) (*c*)).

(*f*) A Licenses Disposal Fund, for payment of compensation to any licensee who has suffered loss (para. 1571 (1)).

(*g*) A Liquor Trade Inspection and Advisory Board, to deal particularly with the work of inspection for which the police are not adapted (para. 1583 (1)).

(*h*) Continuance of Licensing Committees with increased powers, the Chairman to be specially appointed Licensing Magistrates (para. 1557).

4. It should be noted that the majority report recommends, further, that—

(*a*) The Liquor Manufacture and Sale Board should comprise five persons to be appointed by the Governor-General in Council; Licensing Committees to have the right to submit the names of suitable persons (para. 1794).

(*b*) The Liquor Licenses Distribution Commission should comprise a Judge of the Supreme Court as Chairman and two or four other members as may seem proper to the Government (para. 1816). The Distribution Commission to undertake a review of all licenses and club charters every ten years (para 1582).

(*c*) The Liquor Trade Inspection and Advisory Board should comprise three members appointed by the Governor-General in Council for a period of seven years, the Chairman to be a Barrister of the Supreme Court of not less than seven years' standing in the actual practice of the law, who shall have the status of a Judge of the Court of Arbitration (para. 1954).

(*d*) District Licensing Committees to remain with increased powers (para. 1589), the Governor-General to appoint as Chairman a Stipendiary Magistrate, who shall be known as a "Licensing Magistrate."

5. I disagree with the foregoing recommendations on the following grounds :—

(*a*) They involve undesirable complexity.

(*b*) The method of appointment of the Liquor Manufacture and Sale Board and the Liquor Licenses Distribution Commission, and the administration by State Departments of the Central Liquor Fund and the Hotel Advances Account, would in effect be equivalent to State control, which has steadfastly been rejected by the electors at every licensing poll.

(*c*) The evidence before the Commission revealed no evil conduct or technical inefficiency on the part of brewery companies sufficient to justify the dispossession of the shareholders in those companies of their assets.

(*d*) A revision of issued licenses every ten years is insufficient to maintain an appropriate degree of service to consumers ; it would only modify, and not eliminate, the past static position regarding licenses that is universally condemned.

(*e*) Representation of the most important factor in the industry—namely, the consumer—in the control is relegated to Licensing Committees only as at present.

(*f*) The recommendations involve the establishment of separate secretariats and staffs for the proposed Liquor Manufacture and Sale Board and the proposed Liquor Licenses Distribution Commission (for an indefinite term), and the two State Departments administering the Central Liquor Fund and the Hotel Advances Account would no doubt also require to be remunerated at least sufficiently to cover the expense involved. This set up would be unnecessarily expensive.

(*g*) The valuable knowledge gained by the authority undertaking a redistribution of licenses should be preserved in the permanent control of the industry.

Proposal to dispossess Brewery Shareholders

6. In the majority report there is embraced a proposal which it is contended is essential to rectify at least one of the complaints that has been made before the Commission—namely, the competition between brewery companies for hotel licenses, involving excessive goodwills and resultant harmful effect upon trading methods. The proposal is to deprive the shareholders of the brewery companies of their undertakings and transfer them to public ownership.

I will endeavour to show that the disability arising from harmful competition for hotel licenses can be eliminated by effective legislation.

I have not learned from the evidence that socialization of any existing section of the industry is essential, or should be approved, even under the guise of "corporate ownership," nor is there any proof that corporate ownership would be regarded more favourably by the electors than State ownership.

NATIONAL CONTROL

7. I am of opinion that simplification and a maximum degree of uniformity are essential.

My recommendation is that a National Liquor Control Board (hereinafter referred to as "the Board") be established in which shall be vested sole authority for the issue or cancellation of every type of liquor license, and permanent supervision of all phases of the trade.

This Board should have no power to engage in trade in any respect.

Licensing Committees should continue as at present elected, but should function within the powers vested in the Board, and, subject to any general policy directions which the Board may give, the effect of which would be to endow them with much wider powers than they at present possess—particularly in regard to the fulfilment of requirements for the issue of the various types of licenses.

The Board's powers, which would be administered on its behalf by the Licensing Committees, would include those enumerated for Licensing Committees in Chapter 82 of the majority report.

8. A license should only be issued by the Board on a favourable recommendation of the appropriate Licensing Committee, and the Board should take steps to ensure that a uniform Dominion policy is followed by Licensing Committees in performing their functions. It is only by the issuance of all licenses by a National Board that an overall picture of the national licensing plan can be maintained.

The Board should have power to delegate to Licensing Committees the issue of permits of a temporary nature—such as permits for consumption of liquor at social functions on unlicensed premises within times specified in the permit. Licensing Committees should obtain police reports on any such applications, and the Police Department should receive notice from Licensing Committees of any granted.

Quarterly reports should be made by the police to Licensing Committees on the conduct of licensed premises.

9. The Board should appoint qualified Inspectors to report on all matters not involving law enforcement, such as the condition of licensed premises, the adequacy and standard of bar and house accommodation, sanitary equipment, hygienic conditions, and quality of service.

Not more than six such Inspectors should be required for inspection of retail licensed premises and breweries, with a definite territory allotted to each. It should appoint an Inspector with appropriate qualifications for the wine industry.

They would act as liaison officers between the Board and Licensing Committees, and would furnish to the appropriate Licensing Committees immediate reports on matters calling for prompt attention and quarterly reports covering all licensed premises in their respective territories. This would involve inspection of all licensed premises at least four times a year. Duplicates of all reports should be forwarded by Licensing Committees to the Board.

The Board would carry out all the functions which the majority report suggests should be carried out by a Liquor Trade Inspection and Advisory Board.

Quarterly reports should be made to the Board in prescribed form by all Licensing Committees, and the Board should forward an annual report to Parliament. Decisions of the Board should be subject to right of appeal to the Supreme Court by persons who consider themselves prejudicially affected, which would overcome any conflict between the Board's administrative and judicial powers.

CONSTITUTION OF THE NATIONAL LIQUOR CONTROL BOARD

10. My suggestion for the constitution of this Board is that it should consist of five members to be appointed by the Governor-General. One, who shall be Chairman, to be nominated by the Minister of Justice, and one, to be nominated respectively by the following national bodies: the Municipal Association, the Counties Association, the Licensed Victuallers' Association, and the Federation of Labour. No person having any direct or indirect financial interest in the trade to be eligible to hold office.

The Board should have full power of supervision and inspection, with the right to employ, in conjunction with such Inspectors as it may itself appoint, such State Departments or other agencies in that behalf as it may decide, but nothing should be deemed to limit or interfere in any way with the powers vested in the police for law enforcement, or police inspection to ensure compliance with the law.

FINANCES OF THE NATIONAL LIQUOR CONTROL BOARD

The Board's Revenue

11. The Board should be provided with a fund to enable it to carry out its functions, and I suggest the following sources:—

(*a*) The Board should be empowered to raise money by the issue of debentures on terms approved by the Local Government Loans Board to enable it to carry out the purpose for which it is established.

(*b*) The Board should receive all license fees. These are at present paid to local bodies which bear the cost of holding Licensing Committee polls. It frequently happens that no poll is held. It is my proposal that the Board should pay the cost of holding Licensing Committee polls, and that these should be conducted by the Electoral Department on behalf of the Board.

(*c*) The Board should assess and receive a fair amount as the goodwill value of all new licenses issued, which should be paid by a local Trust or private licensee to whom the license is issued.

(*d*) There should be paid to the Board by all breweries and wholesale licenses a levy based on the money value of their sales similar to the voluntary levy at present paid by the trade to provide a Trade Protection Fund. The rate of the levy should not be more than sufficient to cover the administrative expenses of the Board, including interest and sinking fund on the excess (if any) of the compensation paid on cancellation of redundant licenses over the amount received for goodwill on the issue of new licenses. If my recommendation in para. 16, *infra*, on triennial polls is adopted, a Trade Protection Fund would be no longer required.

The Board's Expenditure

12. The expenditure of the Board would comprise—

(*a*) The remuneration of members fixed by legislation, travelling-expenses, salaries, office expenses, cost of Licensing Committee polls, remuneration (if any) of Licensing Committees, expenses of Licensing Committees.

(*b*) Compensation to holders of licenses cancelled as redundant, licenses reduced in scope, and to any other person prejudicially affected.

(*c*) Interest and sinking fund on any money the Board may find it necessary to raise by an issue of debentures pending receipt by the Board of amounts receivable for goodwill on the issue of new licenses and receipt of its regular annual income.

REDISTRIBUTION OF LICENSES

13. The first function of the Board should be to make a complete survey of the licensed districts of the Dominion for the purpose of adopting a plan—

(*a*) For the cancellation of such licenses as may be held to be redundant.

(*b*) For changing the type of any licenses.

(*c*) For the issue of new licenses where it is proved to the Board's satisfaction that such are required.

In deciding which licenses are redundant regard should be had for recommendations of Licensing Committees, which should take evidence at public hearings.

SUFFICIENCY OF LICENSES

14. It is not possible to estimate on a statistical basis whether there are too many or too few licenses either in the Dominion aggregate or in individual licensing districts, and adoption of a fixed quota based on population would prove anomalous. The number of licenses of each type requisite to give reasonable service could only be decided by a detailed survey conducted for that purpose.

COMPENSATION FOR CANCELLED LICENSES

15. It does not follow that all the trade of a cancelled license would go to the remaining licensees. Under any system of extinction there would be a measure of loss. Furthermore, there would be placed on the remaining licensees the liability to reconstruct or improve their premises. Betterment should therefore not be imposed on the remaining licensees in districts where licenses have been cancelled. Similarly, compensation should not be payable to licensees in districts in which additional licenses are granted.

An individual assessment of compensation would be necessary on cancellation of each redundant license. I suggest that the basis of compensation be a sum equal to the net profit of the licensed premises assessed for income-tax during the three years immediately prior to the date of cancellation, less a sum equal to three times the annual rental value of the premises without a license at the time of cancellation.

I fix the term as three years because the license is liable to be cancelled without compensation at any triennial licensing poll.

TRIENNIAL POLL

16. I am of opinion that after the holding of the triennial licensing poll in 1946 there should be no further licensing polls for a period of nine years, which period would enable reorganization of the liquor trade to be completed and permit time to form a judgment regarding the results. At the poll held in 1955 the question should be put whether the licensing poll should be permanently abandoned.

My interpretation of the evidence is that the public attitude to liquor could be raised to a higher plane by an educative plan to inculcate the social virtue of self-control rather than by the effort expended in a losing fight for total prohibition.

GOODWILL

17. The goodwills paid on the transfer of hotel licenses are in many cases pernicious. The only source of recoupment by a licensee who pays an exorbitant price for goodwill is the price paid by the consumer; the inference, therefore, is that the price he pays for his liquor is too high.

An exorbitant goodwill indicates an exorbitant profit, and this in turn indicates that licensees have not been required to fulfil all the obligations entailed by the holding of a license, otherwise a substantial portion of their profits would have been spent in provision of comfortable well-furnished accommodation, modern amenities, and hygienic conditions in liquor service.

High prices for goodwills must have a tendency to encourage illegal liquor sales.

Goodwills of all licenses should be stabilized at three years' purchase of the net profit returned for taxation. This system would enable a licensee to obtain compensation for improved profits due to good management should circumstances compel him to sell out.

Transfers of licenses should be subject to approval of the Board, including the terms of the contract.

The exorbitant prices obtained for goodwills have been created by the limitation placed on the number of licenses. There should be no legislative limitation. The number of licenses issued by the Board should be sufficient, but not more than sufficient, to serve the needs of the public. The Board should not be restricted in its operations by placing at its disposal a specified number of each type of license.

The limitation that has existed in the past has not only created fictitious goodwills, but, along with the restriction on removal. has also prevented growing and new communities from securing hotel service.

I make no proposal for compensation to licensees who have paid sums for goodwills in excess of the basis at which I suggest they should be pegged. Those who bought licenses for speculative purposes need cause no concern, and those who bought licenses with no intention of reselling will suffer no disturbance.

If goodwills are pegged at three years' purchase of the net profits returned for income-tax, and all agreements for transfer receive the approval of the Board, the mischief involved in the payment of high goodwills will be removed.

TIED HOUSES

18. A number of witnesses alleged that the " tie " in leases from brewery companies to licensees deprived the consumer of a reasonable choice of liquor. The evidence of the trade went to prove that in practice the " tie " applies to draught beer only, and many hotels are not equipped to supply more than one brand of draught beer.

Another suggestion is that the " tie " may be used to push the consumption of beer contrary to the public interest. Licensees denied in evidence that they were subjected by their brewery landlords to pressure to maintain a specified volume of turnover.

It is evident, however, that the " tie " is not invoked for the benefit of consumers, and legislation aimed at its removal in section 177 of the Licensing Act, 1908, was circumvented by what a learned Judge described as a " conveyancing device."

To dispose of the " tie " it should be provided that all leases or other contracts dealing directly or indirectly with liquor licenses must be approved by the Board, which should be empowered to withhold approval if any device is employed that would make a tie legally effective.

The measures I suggest to eliminate excessive goodwills and tied houses would render unnecessary the remedy proposed in the majority report of dispossessing brewery companies. Furthermore, the proposal to make all new and bar licenses available in the first place to local Trusts would limit the extension of joint brewery-hotel ownership.

NEW LICENSES AND BAR LICENSES

19. I agree with the recommendation that all new retail licenses and bar licenses should in the first place be made available to local Trusts. In the event of a local Trust not being incorporated within a specified time, the new licenses should be made available to private licensees. I do not agree to the operation of any type of license by a national Trust, or the functions of the Board which I suggest, being extended to the operation of liquor licenses.

I regard it as essential that all licenses should come under the control and supervision of the Board, and the Invercargill Licensing Trust Act should be amended accordingly.

I agree with the recommendations on local Trust in Chapter 83, paras. 1609 to 1620 inclusive, of the majority report, with the following reservations :

(*a*) *Constitution.*—As a local Trust is a community enterprise, I should like to see not less than one-third of the members elected at a poll of the electors.

(*b*) I disagree with para. 1616 and such other references in the Chapter as conflict with my expressed opinion on a national Trust.

(*c*) My agreement applies to new licenses, whether brewery, wholesale or retail, and to bar licenses. I am of opinion that better service is likely to be established by a system in which there is the element of competition.

THE MANUFACTURE OF BEER

20. There have been few complaints in evidence concerning production ; in fact, the evidence indicates that the brewery companies produce a potable beverage under hygienic conditions. There have been some complaints about the reduction in alcoholic content, but that is a matter of Government policy. There is [illegible] competition

between three large brewery companies that safeguards the quality of their respective products. Under public ownership this competition would disappear and the incentive of technicians engaged in the industry would be discouraged, even though the breweries were maintained as separate entities.

Two matters relating to production have been raised :—

(*a*) That whereas section 55 of the Finance Act, 1915, provides for an allowance for brewing wastage only, the Customs Department has interpreted it to include bottling losses also.

(*b*) That the levy paid by breweries to the Customs Department for supervision does not cover the cost.

In regard to (*a*), it is stated in para. 767 of the majority report that " If the loss of gallons for revenue in 1944 were only what it was in 1941, the loss of revenue amounted to £110,788." The fact that any allowance for wastage is offset by additional income-tax is mentioned in para. 755.

I think it should be noted that on an extra profit of £110,788 at the maximum rates of taxation payable in 1944 the additional taxes paid for income, national security, and social security would have amounted to £77,859, plus any excess profits tax that may have been payable.

There would appear to be no reason why one type of loss should be allowed and another disallowed, and the section should be amended to bring the allowance clearly into conformity with the Customs Department's interpretation.

In regard to (*b*), the supervision charge should be abolished. It appears to be peculiar to the Customs Department ; no charge is made by the Income-tax Department for service.

I suggest that inquiry should be made as to whether a more satisfactory method of assessing excise duty on beer could be adopted, for instance, by means of a sales tax. The present method, which follows English practice, involves the employment of Customs officials with technical knowledge of brewing, and the amount of attendance required at the breweries absorbs a substantial portion of their time.

In cases where the testing duties are carried out by a district Postmaster, efficient performance of the duties cannot be expected, as was illustrated in the Westland Breweries' case referred to in the report (Book I, Chapter 40).

In regard to the statement made by the Comptroller, quoted in para. 763 as follows, " the principal difficulty is that we do not know and there is no means of knowing the precise quantity of beer which the brewery sells," I submit that this suggestion is unacceptable, and I am sure it would not be endorsed by any capable brewery-manager.

Duty on wine produced in New Zealand is levied by means of a sales tax (para. 1490).

Adoption of a system of assessing beer duty by means of a sales tax would automatically dispose of the following difficulties raised in regard to the present method :—

(*a*) The allowance for wastage.

(*b*) The levy for testing by Customs officers.

(*c*) The possibility of fraud as in the Westland Breweries' case.

(*d*) The duty on added ingredients, such as sugar.

ADVERTISING

21. I disagree with the majority report on the subject of advertising (paras. 1748 and 1749). The merits and demerits of alcoholic liquor are common knowledge, and fallacious claims are not likely to have an impressive effect on the public.

I do not consider it to be in the interests of the public to debar the proprietors or agents of any new brand of liquor from making the availability of their product known in a sufficiently effective manner. Such a course would create a monopoly market for those fortunate enough to be already established.

I would agree to the liquor trade being included in any legislative enactment making it an offence to publish any fictitious claim on behalf of any product on sale to the public. I have in mind such things as patent medicines, soaps, and cigarettes.

Advertising restrictions in newspapers were imposed as a war measure to assist paper conservation, and the regulations restricting the use of paper have been abrogated.

CONCLUSION

22. In conclusion, I should like to record my pleasure at the harmonious relations which prevailed at the Commission's many meetings. I join whole-heartedly in the expressions of appreciation of the invaluable service rendered by counsel assisting the Commission, Mr. J. D. Willis, the Secretary, Mr. A. B. Thomson, and the staff.

I respectfully submit this minority report for Your Excellency's acceptance.

I have the honour to be,

Your Excellency's most obedient servant.

[L.S.] GEO. W. HUTCHISON.

Dated at Wellington, this 27th day of August, 1946.

BY PERCY TAYLOR COYLE

To the GOVERNOR-GENERAL IN COUNCIL.

MAY IT PLEASE YOUR EXCELLENCY,—

I find myself unable to agree with the view taken by the majority report. In broad outline, my dissent may be summaried as follows:—

1. I dissent from the proposals for public or State control of the breweries, and regard this matter as, firstly, outside our order of reference, and, secondly, as a matter referable to the electors at the national referendum held every three years.

2. I dissent from the proposals for the taking by compulsion of hotel licenses and issuing in their place "bar" licenses to a public or State authority, and mainly for the same reason.

3. I dissent from the proposals to set up a body with power to bring appeals in certain specified matters from the Licensing Committees, and propose that these have greater powers, including a large say in issuing new licenses where necessary.

4. I dissent from most of the proposals designed to give the public greater facilities and freedom, but only because in my view they do not go nearly far enough.

5. I dissent from proposals for certain coercive measures on the ground that they will prove either not effective or not necessary.

Throughout my report I have endeavoured to explain on what grounds I disagree with major proposals, but it is necessary for me to state that on a number of matters on which I express no opinion I find myself differing as to the effect of the evidence given before the Commission or as to the value to be attached to the evidence of witnesses, so that I do not wish to be regarded as assenting either to facts found or opinions formed unless such is expressly stated in this report.

In some instances I have set out fully my views, even although they more or less coincide with the majority, in the hope that my separately expressed reasons may add something of value. An example of this is the section of this report regarding the King-country.

I now proceed to examine the questions dealt with by the majority report in the order above stated.

STATE CONTROL OF BREWERIES

The majority report proposes that a public Board be set up to which should be transferred all the breweries in New Zealand at the public's expense. At the present time the people of New Zealand have the right to decide this question every three years by referendum as part of the proposal for State control. They have had this right for nearly thirty years. There are three issues, but even if one ignores the votes cast for prohibition at the last election in 1943 there was at that poll a four-to-one majority in favour of continuance against State control. It would seem, therefore, that, whether or not the reasons advanced by the majority report are valid (and volumes have been written in this and other countries for or against), the report arrogates a right to dispose of a matter which the people decide by the directest of means. Worse still, it decides against the democratically expressed wish of the people.

Apart from my view that the Commission should not express an opinion on this topic, I do not believe it had the jurisdiction to discuss the matter in any event. It is outside our order of reference, which reads as follows :—

> The Royal Commission on Licensing has been set up to inquire into and report upon the working of the laws relating to the manufacture and importation, sale, and supply, whether by wholesale or retail, of intoxicating liquors, and the social and economic aspects of the question.

At the outset of the proceedings—indeed, before they formally opened—we called together counsel for the trade and for the Alliance, and informed them we did not propose to allow the proceedings to become a debate for or against prohibition. In fairness to the Alliance, it seems unfortunate if this ruling prevented consideration of practical proposals for bringing into effect prohibition by painless means, and yet allowed State-controllers a fair field.

On the other hand, it is, of course, possible that with all active opposition from the brewers removed the Alliance may be able to pursue more vigorously its proposals for restriction of hours and coercive measures.

Perhaps in due course all the fine proposals of the majority report for more charters for clubs, evening hours of sale, liquor in restaurants, and so on will be whittled away by new and concerted Alliance attacks on personal freedom.

Before passing from this section it is necessary to underline certain features of the new regime which my colleagues have thought worthy of mention. I learn that the new beer is to be of the "best quality," that the cost of acquiring all the breweries in New Zealand is not more than £1,829,287 (figures supplied by Mr. Willis, the Crown representative), and that control by a public corporation involves no possibility of interference with the Government as does direct control by a State Department (1764). I deprecate this enthusiasm and believe it lacks any basis in fact.

At the risk of going to the other extreme and being a "wet blanket" about it all, I doubt not only the quality of the beer, but even that it will always be available when and where required. There have been times under the rule of the Internal Marketing Department when fruit and vegetables have not been available, and though the reasons for it are doubtless very good, I cannot remember when the privately-owned breweries have let us run right out of beer.

Nothing is said in the majority report as to who bears any losses; presumably it is the public.

COMPULSORY TAKING OF HOTELS

The majority report contains proposals for a great number of new types of licenses and permits, among the most prominent of which are licenses to be known as "hotel" licenses (same as present publicans' licenses), "house" licenses (restricted to sale to guests and their friends), and, lastly, "bar" licenses. It is this last that I wish to discuss in detail. It is proposed that a bar license shall authorize sale of liquor in a lock-up bar (1627). It is to be issued in replacement of any existing publican's license where the accommodation is not required, but where there is a need for the supply of

liquor. Such bar license is to be compulsorily taken over be either a local Trust or by a public Board (the same one that is to own the breweries), (1566, 1885). Another Board is to decide whether or not an hotel is providing accommodation (Liquor Licenses Distribution Commission), and, after it has deprived the licensee of his license, it assesses his compensation (1826).

Now these proposals are subject to the same criticism as the scheme for compulsory taking of the breweries (namely, that they are State control and outside our order of reference), but with this important modification (namely, that a local Trust is to have the option of taking over and running the bar license which has been taken from its unwilling owner). I have something to say later about Trust control.

Again I bring to mind that an overwhelming majority of my fellow-electors voted against this at the last election.

Although I disapprove of proposals for State or Trust control involving the compulsory acquisition of somebody else's property, I see some merit in the proposal for bar licenses. It is true that there are publicans' licenses in existence in respect of premises where there is only the legal minimum accommodation of six living-rooms. Such a situation arises from the premises being situated in a locality in which in normal times people do not seek accommodation. It may be in such a case that the licensee himself would be relieved of a burden if he could change over to a bar license. I suggest he be permitted to do so provided he can prove to his local Licensing Committee that no need whatever exists for the accommodation. I am sceptical, however, that more than one or two such instances exist to-day in the whole of New Zealand. I believe that a much better solution is to permit the licensee to remove such a license by consent of the local Licensing Committee to some other place within the district where the need does arise, having proper regard to objections from residents in the proposed new situation.

Examining the proposals in more detail, I note the provision regarding compensation to the dispossessed owners. We are told that the license is to run its term to the end of the licensing year and so "reduce the claim for compensation on the ground of the cancellation of the license during its term" (1826).

The majority report referred without disapproval to the estimate made by the Crown representative of the value of all breweries and hotels in New Zealand at the vicinity of £12,000,000 (1769). I found this in the record of evidence at page 7810, and I find Mr. Willis has encouraged us to ignore the goodwill factor entirely in the case of the hotels and to assess their total value at £10,000,000.

He arrived at this figure by a rather striking exercise in accountancy which deserves setting out in full in view of the reference in the majority report to the figures and the effect such computations may have on shareholders in hotel companies in future. This is how he did it: I quote:—

> We know, however, that New Zealand Breweries owns fifty-seven hotels and that it paid £1,063,000 for them. If that is a fair indication of the prices paid for hotels, then the 1,100 or so hotels in the Dominion must have a selling-value of approximately £20,000,000.

(Mr. Willis then mentions, for the second time he says, that there is no reason to reimburse people who pay fantastic sums for goodwills, and he goes on to give them nothing at all.) He proceeds:—

> I suggest to the Commission that the average hotel is sold for considerably more than double its true value, and that at the very most the total number of hotels are worth £10,000,000. There is a rough test to check that figure. A rough test of that figure of £10,000,000 is supplied by taking the Government valuation of all New Zealand Breweries' hotels (a total of £547,000) and calculating what 1,100 hotels would be worth on that basis. It would be found that the resulting figure is a very little over £10,000,000 (R.7809, 7810).

It would, indeed!

Mr. Willis had the last address, and the majority report goes on (1769) to mention that no objection to this estimate was made by counsel for the trade, though they are not to be taken to assent by silence. The silence is, I suggest, very observable.

The mode of determining who is to belong to this dispossessed class of licensee is not made plain by the majority report. The only method suggested is that the Distribution Board or Commission shall decide that they have premises which "do not provide accommodation which is required in the locality but which serve a need in the supply of liquor" (1566).

The question of private ownership as opposed to public ownership was considered by every Licensing Committee in New Zealand, and recommendations were forwarded by many of those Committees to the Commission, and these are set out in the evidence. It arose in this way. The Under-Secretary of Justice and Controller-General of Prisons, Mr. B. L. Dallard, forwarded to all the Committees a questionnaire framed by him (R. 48). This catechism was drafted as if it were to form the order of reference for the Commission. One of the questions, which, as I have said before, I do not regard as being within the true scope of the inquiry, was as follows:—

To inquire into the question whether private ownership should continue or should be replaced by public ownership, either qualified or absolute, and either subject to or divorced as far as practicable from political control, and in the latter event to suggest the means of giving effect to such proposals.

Christchurch, Avon, Riccarton, and Lyttelton favoured community ownership. Hamilton, Rotorua, Raglan, and Waikato also did according to the record, although I believe there is some doubt. The following favoured private ownership generally without qualification: Wairarapa, Pahiatua, Dunedin, Motueka, Buller, Westland, Hurunui, Timaru, Temuka, Waitaki, Wallace, Awarua, and Egmont. Others were divided and did not express any opinion, and Thames thought a referendum should be taken. These opinions follow the results of the national referendum and are the carefully considered result of the deliberations of these bodies who met together expressly to consider this very topic and were not limited in any way in the expression of their views. The men constituting the Committees are the only skilled and experienced judges in such a matter to be found in New Zealand. Each Committee is headed by its Chairman in the person of a Stipendiary Magistrate, skilled not only in dealing with all branches of licensing law, but as a lawyer and a judicial officer acquainted with infringements of law laid to the charge of licensees, and not likely, I suggest, to be under any illusions or undue optimism.

TRUST CONTROL

I recommend that there should be no extension of Trust control similar to the Invercargill model. As I will indicate later, I support a poll on the subject in no-license districts which carry the restoration issue in future. I also see no objection to the setting-up of local trusts to apply for new licenses providing they apply on equal terms with private applicants and are subject to the same laws.

Before proceeding to detail my findings as a result of hearing evidence and making observations in Invercargill, I believe some mention should be made of the experiments in Carlisle (England) and Cromarty and Gretna (Scotland), and I draw attention to the analysis of the findings of the English and Scottish Commissions which are summarized by Mr. Philip Cooke, K.C., in his opening address for the trade (R. 2151–2157). The system is, broadly, one of public ownership limited to particular districts. So far as the English Commission is concerned, five of the twenty-one members disagreed with the finding that a *prima facie* case had been made out for public ownership. In the case of the Scottish Commission the fourteen members considered that, with perhaps one exception, the licensed houses in the two small districts attained to but were no better than the general standard they would expect to find in privately-owned establishments under similar conditions elsewhere, but they regarded these two small and widely separated areas as an excrescence on the general licensing system of the country, and therefore recommended their discontinuance. I understand that the legislature has not so far given effect to this recommendation.

INVERCARGILL TRUST CONTROL

The Invercargill experiment has now been in operation two years, and I think the following criticisms can be fairly made of the Trust:—

1. A great deal of the Trust's money (£50,000 of which was supplied by the Treasury) has been employed carelessly or without regard to the objects of the Trust. Twelve thousand pounds was paid for the Clyde and Kelvin drinking-houses. These provide drinking facilities only, very limited at that, no accommodation, and the Chairman of the Trust stated they were intended as temporary structures for six or seven months only (R. 5764). The Trust itself declared this contract "a costly mistake" (R. 5811).

Forty-three thousand pounds was paid for a large five-story block of offices in the centre of Invercargill. The building houses a restaurant on the ground floor (Brown Owl) and an office for the Trust office staff (less than half a dozen employees). There is no accommodation for the travelling public, nor can the building be altered to provide it. The Chairman of the Trust defended this purchase on the ground that his Board had to buy in order to take over the Brown Owl Restaurant, and that it is getting a reasonable return on the investment (R. 5777).

The object of the Trust, however, is not to make investments, good or otherwise, but to provide model hotels in Invercargill.

2. The only increase in accommodation to the public was at the Avenal. In other words, the Trust had in its first year of operations increased the accommodation to the travelling public by twelve bedrooms for a city of 26,000 people.

3. The existing accommodation to the public taken over by the Trust has not been markedly improved and is well below the normal for cities of the size of Invercargill. This may improve if energetic measures are taken. After forty years of no-license, accommodation is bound to be inferior to that of licensed areas.

4. The alteration in the law by which a Licensing Committee was deemed unnecessary in Invercargill was a mistake, and has led to things happening which no Licensing Committee would tolerate elsewhere in New Zealand. For instance, all urinals at the Appleby, Clyde, and Kelvin are closed at six, resulting in unseemly spectacles in the public streets. The private bar at the Grand Hotel has not only no hot water, but no running water at all. While we were there a baby's bath filled with cold water was used for rinsing the glasses of guests in the best hotel in the city (R. 5799). The report of the Health authorities would prevent this if a Licensing Committee functioned.

5. The Chairman of the Trust stated that negotiations were proceeding to buy brewery shares (R. 5780), and that he had informed shareholders that the provisions of the Public Works Act would be applied to compel them to sell (R. 5838). I can see nothing in the Act which gives him power to do either.

6. The claim of the Trust was that it gave the public good value. I saw no evidence of this. Beer-glasses served at the Grand for 6d. I tested at over six to the bottle. They were the only beer-glasses I saw in use there.

The following is a copy of the Grand wine card:—

Spirits—	
Whisky, Brandy, Gin, Rum (when available)	1s. per nip.
Cocktails	1s. 3d. per nip.
Liqueurs	1s. 6d. per nip.
Mixed drinks—	
Gin and Vermouth, Brandy and Port, Schnappes and Sherry, &c.	1s. 3d. per nip.
Wines—	
4 Crown Port or Sherry	9d. per nip.
Claret or Hock	9d. per nip.
Sterling Port or Sherry	1s. per nip.
Ales and Stouts—	
Large	1s. per glass.
Small	6d. per glass.
Cider Quarts	2s. per quart.
Ales and Stout by the bottle in dining-room only	1s. 3d. per pint.

In passing I may say that I have never before heard of a "nip" of wine.

Mr. Ritchie, the Chairman, stated that prices are fixed so as to return no more than a reasonable profit (R. 5721).

The price of accommodation in places taken over was increased (R. 5770), and Commercial Travellers', Automobile Association, and Public Service rates were abolished, although the Trust had been made a free gift of the licenses in Invercargill. (The statutory rights of people who were owners at the time of restoration of premises formerly licensed were expropriated by the Government and handed to the Trust.)

7. Finance was provided by the Treasury lending £50,000 and the bank a large sum on second mortgage. Altogether the Trust has spent nearly a quarter of a million of money. With all these advantages, including a monopoly of the retail trade, I believe the Trust could have done more for the travelling public, let alone the drinking public. Also, the profit after payment of taxation is not very high at £6,000, considering the capital involved (R. 5741). The annual payments due to the Treasury under the mortgage will be about £6,000 a year for the next ten years.

By a majority the Trust recently decided to distribute £5,900 to various organizations, notwithstanding that the bank overdraft stood at £236,000. The Chairman of the Trust swore in evidence that he could not expect anything to be made available for such bodies under section 29 of the Invercargill Trust Act for a considerable time (R. 5741). At the date of his giving evidence the overdraft stood at about £63,000 (R. 5841).

LICENSING COMMITTEES, NEW LICENSES, AND THE PROPOSED LIQUOR TRADE INSPECTION AND ADVISORY BOARD

I believe that local control by local Licensing Committees with as great a decentralization as possible is the best control. The main criticisms of the Licensing Committees proceed from the lack of powers which they possess. Other criticisms proceeded from licensing theorists generally located in Wellington and who have little or no idea of the great differences which exist between licensing districts in different parts of the country and between urban and rural districts. The problems are so diverse that a local democratically elected body in close touch with public opinion, residents of that district, and knowing its special problems, is found to operate to the best advantage. There is a great temptation to licensing theorists to invest all powers in a central Board operating from Wellington, or give such a Board some over-riding authority, special powers, and so on. It seems logical and orderly, but the real test of a system always is "Does it work?"

One criticism against the elective system of Licensing Committees by a number of witnesses was that little interest is taken in the elections, and many electors do not vote. Sometimes the loudest complaint was from people in this very category. One witness who lectured us in Christchurch about this had to admit in cross-examination that he himself had failed to vote at the last licensing election (R. 5427, 5429). This complaint of lack of interest did not impress me nor, it seems, my colleagues. If there were general dissatisfaction and uproar about the constitution of the Committees, there would be a big poll. A small vote generally means that the people in a constituency are content with their representatives and with their conduct of affairs.

I agree with the majority report as to the following additions to the powers of Licensing Committees:—

(*a*) Delegation of power to certain members (1590).

(*b*) Power to hold meetings as and when thought fit (1593).

(*c*) Power of issuing all licenses within the district with the exception of brewers' licenses (1594), but including club charters.

(*d*) I do not see the necessity for appeals, however, to the Supreme Court. The present system works quite well without the right of appeal (1597).

(*e*) Power to investigate "ties" and agreements for the employment of managers (1598).

(*f*) Power to require installation of proper hot-water service in public or private bars, bedrooms, and other places, and sufficient power to provide for all sanitary accommodation, showers, alterations, repairs, lighting, &c., and to require rebuilding (1601). Rebuilding, of course, would have to be subject to what is practicable to-day having regard to the difficulties. A great many hotels are contemplated throughout the country at the present time. Provision of a new hotel for Lower Hutt has been held up for years due to the war, and now to the building shortage.

(*g*) I also agree with the recommendations concerning plans and specifications of new buildings, standard of sleeping-accommodation and meals, and prescribing of tariffs contained in paragraphs 1603 and 1604; removal of licenses and club charters from existing premises to other premises within the same licensing district or to other premises in another licensing district with the consent of both Committees, with the qualifications expressed in paragraph 1605; power to permit establishment of shops in the main foyer or hall of an hotel, including booking-office, bookstall, and grill-room (1607).

(*h*) I agree with the majority report that permission should not be granted for theatres, concert-rooms, or dancing-rooms in hotels, with the exception of tourist hotels (1608).

In regard to the proposals of the New Zealand Alliance as to issuing of brewery licenses and distillation licenses, I see no reason to change the present law, which entrusts these functions to a Minister of the Crown. I see no reason to doubt that a member of the Cabinet is at least as well qualified to administer these matters as some Government official or Board sitting in Wellington.

On the other hand, a striking testimonial to the wisdom of Licensing Committees appears in the Finance Act, 1917, section 48, where it is provided that the Minister of Customs, under the circumstances outlined in this section, may cancel or suspend a brewery license. An appeal may be made from this decision to the local Licensing Committee, whose decision is stated to be final and conclusive.

I agree with the majority report that a Licensing Committee should be reinstated in Invercargill.

PROPOSED LIQUOR TRADE INSPECTION AND ADVISORY BOARD

I agree with the majority report that there is a strong feeling of the people in favour of local control by Licensing Committees (1949).

The questionnaire issued to Licensing Committees by the Under-Secretary of Justice, to which I have referred earlier, invited them to consider whether the present system should continue or be replaced by a Board or permanent Commission, either alone or acting in conjunction with district committees (R. 48).

The following Committees thought the present system should be retained (some asking for wider powers): Marsden, Kaipara, Bay of Islands, New Plymouth, Stratford, Egmont, Palmerston North, Thames, Wairarapa, Pahiatua, Rangitikei, Motueka, Buller, Westland, Timaru, Temuka, Waitaki, Wallace, and Awarua. Other authorities on licensing who were in favour of the present system include senior police officers, including the Commissioner of Police (R. 539).

Notwithstanding this strong body of experienced opinion, the majority report recommends the setting-up of such a Board having its own Inspectors, the right to give evidence before Licensing Committees, and (presumably if the Licensing Committee prefer other evidence) the right to appeal in certain important matters to the Supreme Court against the Licensing Committee's decision. It is to have its own staff and suite of offices, and its members are to include a Chairman with the status of a Judge of the Court of Arbitration and persons having knowledge of building and accountancy. Its cost is to be borne by the taxpayer.

I dissent from this proposal as contrary to evidence given by people experienced in licensing matters, and as unnecessary, burdensome, and expensive. It would be just another Board, and we have too many of them now.

NEW LICENSES AND DISTRIBUTION

The majority report sets out an elaborate scheme for the compulsory extinction of licenses and their reissue elsewhere. Such a proposal must necessarily be elaborate and involve much cumbrous and expensive machinery. I propose a simpler method.

In my view, the fact that some localities have more than the average number of licenses creates no real problem. The West Coast is the chief case in point, and Greymouth, with a population of about 9,000, has twenty-one licenses. If this is a mischief to be remedied, one would expect that a vast amount of evidence would have been given as to the evils associated with liquor in Greymouth. Far from it; we heard nothing of the sort. There was no outcry from the New Zealand Alliance as to drunkenness in Greymouth or anywhere else on the West Coast. Licensing Committee and police reports were excellent. The Licensing Committee report on conduct of hotels was as follows:—

CONDUCT OF HOTELS

(ii) The conduct of hotels is regarded as generally satisfactory. After-hour trading is more or less prevalent, and prosecutions come before the Courts from time to time. The Committees take the view that there is a need, especially in mining districts, for provision for the lawful sale of liquor during the evening hours. There is practically no disorderliness. (R. 230.)

There was no complaint about monopoly, tied houses, excessive goodwills, dummy managers, or excessive profits. Accommodation I know to be good in the towns and tourist resorts.

I believe it is stating the position fairly to say that in no other part of New Zealand was there less complaint. The Commission did not even find it necessary to sit in Westland.

This being so, I come to the conclusion that, whether there are redundant licenses or not in Westland or elsewhere, they do not constitute a mischief. The representative of the Provincial Councils and other bodies making up the trade on the West Coast stated there were no redundant licenses and is criticized by the majority report for being influenced by local considerations (1815). I see no ground for the criticism. The witness was entitled to put forward the view of his district, and he may be right.

On the question of districts possessing too few licenses, I agree there is some problem though it appeared to be exaggerated in the evidence. I propose, however, that this question should be left to the Licensing Committees. These should be invited to make recommendations as to the needs of their districts. I agree with the restrictions on localities in which new licenses are to be granted (1831, 1832). I dissent from the proposals to allocate them to a Trust. A number of privately-owned tourist houses should have licenses. The excellent accommodation house at Fox Glacier is a case in point (R. 5267 and 5568, and see Index of Evidence, page 95).

I agree with the provisions for allocating club charters (1847, 1848), substituting "Licensing Committee" for "Distribution Board," but I recommend further that all the organizations which applied to the Commission and which can make a case for a charter to the local Licensing Committee should have one, subject to the number of licenses already in existence in the area being taken into account by the Committee.

I agree that a fair price should be fixed for new licenses, and that they should be balloted for by applicants who have shown proper plans for the building and good character on the part of the proposed licensee. I agree that a local Trust should be entitled to apply, but not to have priority, and much less have the power to compulsorily take land for the purpose of a site from other people (1860).

The proceeds of sales should be held by the Public Trust for the purpose of providing loans for improvement of hotel accommodation in the district, and the income used for sporting and recreational amenities.

I agree with the proposals for new licenses in no-license districts which carry restoration (1890–1900), substituting "Licensing Committee" for "Distribution Board."

It follows from what I have said above that I recommend no separate or national Distribution Board. If I have understood Mr. Spratt correctly (R. 7217), the New Zealand Alliance did not favour such a Board, but preferred Licensing Committees restricted by a local poll.

ASHBURTON, OAMARU, AND EKETAHUNA

I agree with the proposals to remedy the injustices and anomalies arising out of changes in electoral boundaries in Ashburton and Oamaru (1901–1915), substituting "Licensing Committee" for "Distribution Board."

I also agree with the proposals regarding Eketahuna (1916–1919), substituting "Electoral Boundaries Commission" for "Distribution Commission."

If these substituted bodies are not apt, some other provision could be made.

USE OF ALCOHOLIC LIQUOR GENERALLY

I differ from my colleagues and regard as incomplete a description of alcoholic beverages which omits to state how its use is regarded by the great majority of civilized mankind. This aspect in my view was well summed up by Mr. John Hector Luxford, Stipendiary Magistrate, at Auckland (a leading authority on licensing, whose evidence was by no means wholly favourable to the trade):—

> I regard alcoholic liquor as one of the world's greatest social amenities . . . (R. 6447.)

That great emphasis must be put upon moderation in the use of liquor is a proposition that hardly needs stating. I subscribe to it with all my heart. Some twenty years ago an attempt was made in our schools in the direction of educating young people, but, unfortunately, it came under the control of Prohibitionists and the usual absurdities associated with Prohibitionist and Puritan doctrine soon brought the effort to an end. I believe young people should learn to distinguish between use and abuse of liquor at an early age. The Health Department and the Education Department could well co-operate to draw up a brief programme which could be put over in the children's radio session. The excellent advertising by the Health Department in social and dietary questions and the moderate, well-balanced, and factual outlook of its officers leads one to hope that such a programme would be productive of great benefit to the community.

During the war a Dominion-wide programme of advertising moderation in the use of liquor was carried out by the licensed trade. The trade employed the services of a well-known advertising agency and spent a large sum with metropolitan and provincial daily papers to advocate temperance.

There is no organized temperance (as opposed to prohibition) body in New Zealand, and this work had to be performed by the trade.

If I correctly interpret the view of the majority of my colleagues, it is that reform can only come by public control of the breweries, oppressive police powers, and heavier penalties. I dissent from the principle underlying these measures. As I hope to show in the next heading, better education and a better standard of living are the true enemies of intemperance.

DRUNKENNESS

Within the last forty years there has been a great advance in sobriety among New Zealanders. This is a matter of common observation. It is not necessary to discuss statistics for conviction for drunkenness, although these in fact support my view (R. 20). It is sufficient to say that the convictions are a third of what they were forty years ago.

But convictions are not a true index of the position, since a man is only arrested when he is making a nuisance of himself or incapable of looking after himself. Also police vigilance and attitude probably varies in different districts, and even with different officers. The best index is the consumption of alcohol and, particularly, spirits. Statistics show in regard to whisky that the consumption per head declined from about 0·80 of a gallon per head in 1915 to 0·28 of a gallon per head in 1938. This is a striking reduction, and the process has been gradual over the period intervening between these two dates. In regard to beer, the position has to be examined on the basis of the relative alcoholic strength of beer in the earlier year and its strength to-day. I again ignore the wartime period, as an exceptional and extraordinary set of conditions then operated.

If one takes a standard alcoholic content at the old strength and reduces proportionately the quantity of weaker beers sold in recent years, one finds that the consumption of alcohol in beer per head of population in 1938 was much the same as twenty years ago. In other words, although a greater gallonage is consumed, no more alcohol is consumed per head than twenty years ago.

The English Royal Commission on Licensing sitting in 1929–31 came to the same conclusion as to decrease in drunkenness in England (see para. 34–37 of the report).

The reasons for the decline in insobriety in New Zealand are much the same here as in England—namely, better education, increased facilities for recreation, and the very high taxation on liquor. In England the labours of temperance workers have also had an effect (according to the English Commission on Licensing, para. 38). I doubt if this is so in New Zealand, since there is practically no temperance movement in existence here. The New Zealand Alliance apparently does little to encourage temperance, its efforts being directed entirely towards teetotalism, total prohibition, and abolition of the licensed trade. A number of witnesses before us, particularly New Zealand Alliance witnesses, claimed that the six o'clock closing was responsible for the increase in sober habits, but this obviously is not so, since one finds the same trend towards more moderate drinking in other English-speaking countries observing later hours during the last forty years. In Scotland the Royal Commission reported to the same effect with "unfeigned pleasure," and referred to the evidence of Commissioner D. C. Lamb, of the Salvation Army, who stated that drinking was no longer our greatest social evil (see pages 12–15 of the Royal Commission on Licensing, Scotland). I understand my colleagues concur in this view.

It seems to me that one of our chief functions is to investigate whether sober habits are becoming more prevalent or not. There is no doubt in my mind that the position in New Zealand to-day is an exceedingly happy one in comparison with former periods, and now that the extraordinary wartime conditions are over one may expect a progressive improvement.

MAORIS AND LIQUOR

The Commission heard a great deal of evidence concerning the Maoris and liquor. Without wishing to make invidious distinctions as to the witnesses, I would like to say that the careful survey of the problem prepared by the Native Department impressed me very much, and, in my opinion, it was the best statement prepared by departmental officers.

We also heard a number of police witnesses whose long experience as officers in charge of Native districts well qualified them to speak with authority on such matters. Superintendent Edwards was in charge of Gisborne district and also of the Hamilton district (which includes part of the King-country); Senior Detective Doyle, an officer of great experience and knowledge of the world, spent twelve years at Te Awamutu. Senior Sergeant Campagnola had been in charge of Te Kuiti sub-district. We also heard many eminent Maoris, leaders, welfare workers, and others.

It seems to me that the first problem to be considered is whether the Maori has, since the European invasion, adjusted himself sufficiently to European conditions to be permitted access to liquor on an equal basis with his pakeha neighbours. I do not know the answer to this question. If it is answered "yes," it means the removal of all restrictions on Maoris, both in licensed districts and in the King-country. It means the right to take away liquor from hotels and to take it into Maori homes and into the *kainga*. It means giving to Maori women the right to drink in hotels and to take liquor away. If it is answered "no," it means that a Legislature predominantly European says to the Maori, "You cannot be trusted with liquor. In this respect you are not our equals. In this case you must still remain under tutelage. Your returned soldiers may attend reunions with their pakeha friends, but may not join in the drinking of toasts. Your Maori members of Parliament may not drink a toast at a dinner to a visiting celebrity, and may not order even lager beer to be sent to their homes at Christmas."

Whatever may be the answer to the question, I have at any rate come to this conclusion: that no-license in the King-country is a failure, and, more, it is a scandal. It has resulted in excessive drinking by European and Maori alike. The remedy is to extend the good sense, moderation, and control exercised by the private licensee in other Maori districts to the King-country. I agree that licenses should be granted throughout the King-country provided that 60 per cent. of the Maoris and 60 per cent. of the Europeans in the district agree, and signify their consent at separate polls.

This is what well-qualified witnesses say:—

Mr. Coleman, Stipendiary Magistrate, points to excessive drinking in the King-country, and suggests licensed hotels. Judge Harvey, of the Native Land Court, Rotorua, thought the so-called "pact" as to the King-country should be kept so long as the Maori people desire it (R. 362).

Mr. L. J. Brooker, Registrar of Native Land Court at Wanganui, noted the opinion of prominent Maoris in his district in favour of referendum and recommended in favour of it (R. 366).

Mr. Shepherd, the Under-Secretary of the Native Department, thought it was time the "pact" was reconsidered by consent of the people themselves (R. 833). He considered, however, that the taking of a poll would mean subjecting the Maoris to outside influences, and special protection would be required (R. 361).

The Commissioner of Police agreed that experience showed there was greater difficulty in coping with abuses arising from over indulgence in places where there are no hotels (R. 1178).

In regard to other parties before the Commission the Alliance wanted all present restrictions to stand or to be increased, and the penalties to be made heavier, and to be imposed more frequently, the Police Force to be increased, &c. This seems to me to be dodging the issue.

Alliance counsel made the gesture of conceding liquor to Maori servicemen at returned servicemen's functions, but the sincerity of this concession can be gauged by the fact that the Alliance on the outbreak of war contested the setting-up of "wet canteens" under highly disciplined conditions in military camps to Maori and pakeha alike.

The trade wanted present restrictions to stand, except as concerns ex-servicemen and their functions. This is probably due to the fact that licensees would have greater responsibilities to face if restrictions were removed.

Police witnesses who favoured licensed hotels in the King-country, with or without a referendum, include Senior Detective Doyle (R. 912, 919), Superintendent Edwards (R. 883), and Senior Sergeant Campagnola (R. 851), all of whom, as I have mentioned before, have an intimate knowledge of the district. Many witnesses heard at Te Kuiti also supported this view, including European local bodies and associations.

As to adequate control of the new hotels and their patrons, it has been seen in Rotorua, where the licensed trade paid wardens appointed by the Maoris themselves, that the Maori, if given a chance, can govern and police himself. It was left to the licensed trade, rather than to any Government Department, welfare workers, or the Alliance, to make this experiment and prove it could be a success.

A secondary matter to be considered is the fact that accommodation for the travelling public in the King-country is, if anything, worse than it is in other no-license districts. I will have something more to say about this aspect under another head, but introduction of licenses would certainly improve this position, as it has at Ohinemuri.

HOURS OF SALE

I agree that hours of sale should be amended to 10 a.m. to 2 p.m., 4 p.m. to 6 p.m., and 8 p.m. to 10 p.m. I agree that the sales during evening hours should be limited to "on" sales.

In spite of the statement of the Alliance to the contrary, and the entire absence of any help from Crown counsel, it is plain from the evidence that public opinion favours this. However, I see no reason to exclude Saturdays from the proposed new hours.

The present hours cause great inconvenience to the working-man, travellers, and tourists, and to the public generally.

The working-man has difficulty if he leaves his work after five to get a drink at all within the law. All sections of the working public, including the office worker, are obliged to drink in crowded surroundings and to drink too rapidly for health. The conditions of "rapid fire" drinking between five and six o'clock were described in adverse terms by a great number of witnesses, and these conditions are only too well known.

The present hours are also a cause of defiance of the law. It is evident that the law is behind the times. This was elaborated by Licensing Committees and a number of police witnesses. Disclosure was made of some practices which have arisen on the part of Prohibitionists, of which I do not think the average New Zealander will approve. The following method used by one branch of the New Zealand Alliance was described without apology in the evidence given for the parent body.

It seems that a hotel situated in the residential district of Hutt City was suspected by Alliance officials of "after-hour" trading. They set out to watch members of the public entering that hotel in prohibited hours, and forwarded to the Police Department descriptions of visitors to the hotel and the numbers of their cars. The following is a copy of one such letter which was put in evidence by the Alliance itself (R. 2035):—

The Sub-Inspector,
Police Station, Lower Hutt City.

DEAR SIR,—

Since my last letter to you (which by the way was not acknowledged) irregularities at the —— Hotel on Sundays have not ceased.

For your private information, yesterday, Sunday 18th March, the following incident was witnessed at 6.30 p.m. 3 men came out from these premises carrying a sack with contents. 2 of them had carroty hair and tall and 2 drive away in motor car No. —— which was parked almost opposite the hotel.

Following this 2 more men came from the premises and drove away in motor car No. —— parked in —— Road. This car bearing this number is seen to be a frequent visitor at the hotel on Sundays. A sixth man also came out of the premises.

The league will appreciate your reply as to whether these matters are followed up by investigation and League suggest that these complaints be communicated to the Licensing Committee of the District.

These occurrences are taking place invariably every Sunday and are noticeable at 10 to 11 in the morning and 6 to 7 p.m. Neither gates large and small are kept closed after hours or on Sundays and the top story window of the premises appears to be an observation post.

Yours faithfully,
ALEXANDER GERRIE, Hon. Secretary.

In quoting this letter I have omitted the name of the hotel and the numbers of the motor-cars.

It is only fair to the Police Department to say that no prosecution was laid on this "private information" against the individuals mentioned in this letter or against the hotelkeeper arising out of the incidents described.

Apparently this is not a case of a branch Alliance official exceeding his functions. The method of giving numbers of private cars is, it seems, endorsed by executive members of the Alliance, and this body does not hesitate to act as an informer against members of the public as well as against hotelkeepers.

I was impressed by the number of representative bodies which came forward to ask us to recommend evening hours—Magistrates, police officers, returned services' associations, the New Zealand Federation of Labour, the West Coast Miners' Unions, a dozen Licensing Committees, the New Zealand Golf Council (in connection with its application for charters), the Auckland Trades Council, the New Zealand Waterside Workers' Union, the Tourist League, the North Island and South Island Motor Unions, and many others. The Commissioner of Police himself (whose suggestion was limited to hours between 11 a.m. to 8 p.m.) also asked for evening hours (R. 335).

It was plain that some licensees were against this proposed extension on account of increased costs, the difficulties of working barmen on two shifts, of less leisure to themselves, and present-day trouble in getting staff. Some, however, admitted frankly that while they themselves did not favour a change, their customers and the general public wanted the evening hours. The New Zealand Alliance argue that this would increase drunkenness. I believe this change would lessen the already very low drunkenness rate by preventing the concentrated drinking between 5 and 6 p.m.

VERTICAL DRINKING

The problem of the limited bar accommodation in New Zealand would be partly solved by the adoption of the before-mentioned recommendation as to hours. I am satisfied that accommodation in bars is often inadequate. On the other hand, the custom of standing to drink is a national one and part and parcel of the drinking habits of New Zealanders, as a visit to any chartered club will prove. There should be much better seating facilities than exist at present. This can, in most cases, only be obtained by increasing the size of the bars. In city areas this is often impossible. To take an admittedly extreme case, the largest bar in Auckland, if seating accommodation were provided for its customers, would need to occupy about an acre to make room for chairs and tables. It was plain from our observations in Invercargill that the efforts of the Municipal Trust had not succeeded in preventing vertical drinking, and I myself saw at the Kelvin and Clyde Hotels that tables and chairs provided were almost unoccupied between 5 and 6 p.m., while patrons crowded round the bar. On the other hand, in country hotels much better provision could be made, as some of these houses have large premises in which the accommodation is little used, and greater bar space with benches and chairs could be provided without great expense or difficulty. This would, and should, involve provision of additional staff to serve customers.

I agree with the strong comments of the members of the public who came before us to complain of lack of accommodation in bars and of this practice of vertical drinking. I believe, however, that it is not the fault of the licensed trade, but is due to—

(1) The absurd hours of sale.

(2) The triennial poll which has the effect of limiting improvements in hotels, particularly as to drinking facilities.

(3) The successful efforts in the past of the New Zealand Alliance to limit and abolish licenses.

(4) The fact that it appears to be a custom of the country and is followed in clubs just as it is in hotels.

THE TRIENNIAL POLL AND ACCOMMODATION

I believe the triennial poll should be abolished. The history of the polls shows that since 1919 the public feeling has steadily mounted against prohibition, and the feeling in favour of State control, while it has increased, assumes very small importance. Some prohibition witnesses themselves agreed that there was no immediate likelihood of carrying prohibition.

The poll costs the public a good deal of money through the electoral machinery employed, and the trade has been obliged in self-defence to levy for funds and employ large staffs at election time. The cost of all this is ultimately paid by the consuming public.

It results in new accommodation being restricted, and it is also a factor that business and financial interests outside the trade are unwilling to invest in an industry which is liable to extinction every three years.

It is noteworthy that almost every first-class hotel in the country is owned or financed by a brewery, but I see no reason when the poll is abolished why money should not be invested by the public through large finance companies (even outside the trade) in improving accommodation and other facilities, particularly in tourist resorts.

It seemed curious to me that Alliance counsel and Crown counsel spent some time attacking the trade's provision of accommodation. In every no-license district in New Zealand accommodation is lamentable, and in the "trust" district of Invercargill it is as bad. Almost without exception throughout New Zealand towns and cities the only reasonable accommodation is a licensed house. The public has come to associate good accommodation with a license. It has also come to associate no-license with deterioration in facilities for the travelling public.

Lack of accommodation and failure in some cases to make existing accommodation available has been a cause of some public discontent with the trade during the war years. It is, of course, unfair to take this period as typical, and the leading of evidence as to the war-period accommodation was, in my opinion, a waste of time.

We had in New Zealand a large influx of United States servicemen, and this alone, without our own troop movements, made the hotel position acute. There was little or no evidence of dissatisfaction with accommodation during pre-war years. Hotel accommodation in country places is far better than in Australia, and in the cities it is excellent. Its excellence is almost entirely due to the efforts of the large wine and spirit merchants and breweries.

I agree with the majority report that Licensing Committees should have increased powers, however, and have referred to this earlier.

SALE BY THE MEASURE

In my view, sales of all hard liquor and beer should be by measure. It might be convenient to take as a standard for beer the 12 oz. glass. This measure should be used in all public and private bars and house bars and lounges. I see no reason, however, why the pony glass should be dispensed with if it is the desire of the patron to buy a smaller quantity than the standard measure.

I do not feel inclined to make any suggestion as to prices. These are now governed by the Price Tribunal, and this body can make inquiries and fix prices. I do not, for instance, make any suggestion that prices should be the same in the public bar and in the lounge, or in private bar and public bar. In lounges the service is much more costly to the licensee; questions of overtime also arise; and the wear-and-tear and depreciation of costly carpets and upholstered furniture.

There might be a case for difference in the price of beer in different districts. If a customer in, say, Whangarei wants to drink beer brewed by Speights of Dunedin, I do not see why he should not pay for the shipping charges, freight, and cartage involved in satisfying his preference; but the customer, whatever price is fixed, should know in advance what quantity he is buying, and this can only be achieved by the institution of a standard measure.

Prices and measures of spirits have been investigated and fixed by the Price Tribunal since the Commission commenced its sittings.

MONOPOLY AND TIED HOUSES

The allegation that the licensed trade, and particularly the brewers, hold and abuse a monopoly is one to which the Commission gave attention. So far as breweries are concerned, it appears that there are over two dozen independently-owned breweries operating in New Zealand, in competition one with another, and not in any way interlocked. It appears that two of the largest breweries in New Zealand—namely, New Zealand Breweries, Ltd., and Dominion Breweries, Ltd.—use every possible business method of competition, and within recent years their rivalry has resulted in the purchase of licensed premises to gain priority in the sale of their beer.

It appears from the evidence of the hotel-owning companies, their lessees, and managers, and from my own observations in hotels throughout the country, that no restriction exists in fact (whatever may be the legal position under leases and mortgages) to prevent hotel retailers from selling almost any class of bottled beer or spirituous liquor which finds favour with their customers. So far as the "tie" is concerned with hotels operated by wine and spirit companies, such as the large Auckland companies,

it was also made plain that the "tie" operates only so that orders are passed through these firms for the sake of trade discounts. The public are able to get any brand of whisky and other spirits, bottled beer, and wine which are available in the country. Prior to the war one could get a choice of a dozen or more brands from any reasonably-sized hotel. This fact is a matter of common observation, and, apart from this, it must be obvious to any business man that he must meet public demand or lose his business while somebody else does.

It is also clear that a "tied" house in New Zealand pays no more for its draught beer or other liquors than a "free" house does, which is very different from the position in England. It is also plain that hotels, whether tied or free, confine themselves to one brand of draught beer for the reason that a house becomes associated with one brand, and also in most cases for convenience in handling the beer and conducting its trade. It is well known that the practice of tying commodities is not confined to the licensed trade. Wholesale merchants finance grocers and tobacconists as a regular matter of business and tie the retailer to purchase their commodities.

It is also clear that each brewery is compelled by public demand to stock, and does stock, its rival's bottled beer and that of other breweries. The Under-Secretary appeared to think that many tied hotels stock only one brand of bottled beer (R. 10, 1028, 1046). But the contrary position is in the knowledge of any man who cares to enter an hotel owned by one of these companies and ask for a bottle of its rival's beer. It seems to me to have been quite unnecessary to seek for and obtain the statements of the numerous trade witnesses to prove this obvious fact. As to the difficulty of outsiders in breaking "monopoly," it is sufficient to say that within the last twenty years Dominion Breweries, Ltd., has commenced operations, and from small beginnings has built up a huge connection. Ballins Brewery commenced operations in the 1930's and also has made phenomenal growth.

If it is a fact that the licensing of the trade creates a monopoly, it appears that the same position applies to chemists, oil companies, banks, industries licensed under the Industrial Efficiency Act, 1936, and even to dairies operating under City Council by-laws. Most of these "monopolies," however, have been established by legislation of more recent date than the licensing laws. Some of the industries under the Industrial Efficiency Act have been established only since the war and have had less time to become financially strong or to attract the envy of those with less money than themselves. On the other hand, large liquor companies such as the Campbell and Ehrenfried Co., Ltd., and Hancock and Co., Ltd., of Auckland, have been established since the pioneer days of the Dominion with an uninterrupted trade getting on for a century in duration. It would be something to wonder at if by now they did not command a large trade and valuable trade assets. They command also a measure of public goodwill. The founder of one company, Sir John Logan Campbell, gave to that city the greater part of its beautiful parks, and the founder of the other, Mr. Moss Davis, many of the city's art treasures.

In Rotorua the existence of the monopoly in the hotel trade was stated by one witness in extravagant terms with particular reference to members of the Jewish race, but further inquiry showed that the monopoly concerned (if it exists at all) arises from the fact that the founders of the business had the foresight to acquire land and build hotels in the 1890's when Rotorua's European population did not exceed four hundred persons. The heart of the present Rotorua business district was then (as shown to us by photographs) a desert of fern and manuka. The enterprise of these firms also played a large part in encouraging the tourist traffic. The successful efforts of the Prohibition Party prevented further licenses geing granted. (In other districts the number was even reduced under the "reduction" law.) The policy of successive Governments has been to maintain this policy.

Counsel for the Alliance differed from the Under-Secretary of Justice and his witnesses as to the sweeping "monopoly" allegations of the latter (R. 1933, 1934). So far as the retail trade is concerned, he called it a "quasi-monopoly," bearing in mind, no doubt, that monopoly means one single license to trade. He proceeded to attack it, but did not appear to be supported by his own witnesses. For instance, in

Hamilton which has a population of 17,000, there are only five licenses. When the official Alliance representative from Hamilton came forward to give evidence it appeared that he resented strongly the suggestion of the Mayor of Hamilton that more licenses should be granted, and he considered the present bar accommodation ample (R. 4692).

By way of contrast, where Trust control is set up we find the Trust demanding a complete monopoly, excluding any liquor in the district whatever except what the Trust sells. The Chairman of the Invercargill Trust wants legislation to prohibit private residents from ordering their wines and spirits from a merchant other than the Trust (R. 5804–5).

MANAGED HOUSES

Many weeks of our time were wasted by the determination of Crown counsel to find evidence for and support attacks on brewery-owned hotels and the contention of the Under-Secretary that managers are put into hotels by breweries as mere "dummies" to break the law as to hours of trading and otherwise, and to be dismissed immediately any consequences endangered the house.

I find the facts are—

(1) Almost all the best hotels in New Zealand are hotels managed for and owned by breweries.

(2) Generally speaking, the managers of brewery owned hotels have *legally* no security of tenure, but *in practice* their security of tenure is such that they remain on for many years or for life.

(3) So far from being "dummies," they are given an almost uncontrolled discretion in the management of their houses, and are trusted and responsible officers of their employers.

(4) No evidence whatever was produced that managed houses break the trading hours or are encouraged to do so.

The Under-Secretary of Justice's strong contention that large accommodation hotels should be owned and run by private persons, and not by managers for companies with large financial resources, was novel to me. I find it difficult to envisage in New Zealand individuals with resources sufficient to own and run hotels such as the Waterloo and St. George in Wellington and the Grand in Auckland.

SPECIAL PERMITS FOR THE SALE OR CONSUMPTION OF LIQUOR

I agree with the recommendations made by the majority report for the sale of liquor in restaurants in which meals are regularly supplied on sale to the public for consumption on the premises. This recommendation does not, of course, in my opinion depend upon the adoption of recommendations in connection with Magistrates' certificate of fitness, registration of barmen, taking over of the breweries, or establishment of a Liquor Trade Inspection and Advisory Board (1636).

I see no reason why the liquors so purveyed should be restricted to light liquors. Liqueurs and other spirits might I think, well be served after a meal under the conditions mentioned in paragraph 1638.

I agree with the other conditions suggested for the grant of the permit.

In the case of the receptions held in restaurants, I again agree that the Licensing Committee or its Chairman should have power to enable a private person or association to hire a restaurant for wedding breakfasts, receptions to visitors, and so on, and to have reasonable quantities of liquor supplied by the hirers for consumption on such occasions (1639). I think they should similarly be able to hire a room or rooms in an hotel.

In respect to dance-halls and cabarets, I agree that the Chairman of a Licensing Committee should have power to grant a permit to enable a person or association which has hired a reputable dance-hall or cabaret for the night for the hirer's exclusive use to supply light wines not exceeding 24 per cent. of proof spirit or malted liquor to the guests upon the terms provided by the Chairman of the Licensing Committee.

I agree with the report that permits should be granted for liquor at social functions of returned servicemen (1641).

I see no reason to limit the number of such permits.

I agree with the recommendations contained in 1642 for permits to canteens in public-works camps.

MISCELLANEOUS

Wine Industry

I agree with the proposals made by the majority report that the situation concerning New Zealand wine be investigated by an independent expert brought in from abroad.

Strength of Beer

I agree with the recommendations of the majority report that the strength of beer should be increased, but, in my opinion, to a specific gravity of 1045 not 1040.

Customs Department

I am not in the least in agreement with the findings of fact criticizing the Customs Department, which I think has done well in difficult times. It has been fortunate, in my opinion, in possessing permanent heads of the calibre of Dr. Craig and Mr. E. D. Good. In particular, in connection with Westland Breweries, Ltd., it seems to me that this case had been fully investigated by the Department which imposed no penalty without consultation with the Minister of Customs and the Solicitor-General. In view of this, it seems to be impossible to criticize the action of the Department, and criticisms of Westland Breweries, Ltd., simply amount to trying the case over again, but, in this case, without hearing the defence.

Wastage

I disagree with the findings of fact and recommendations concerning wastage. The majority members seem to be trying to seek a logical basis for the allowance of wastage. I think this is wasted effort. Revenue laws are imposed having regard to convenience in method of collection, fairness of tax, and simplicity. These wastage provisions were brought into force many years ago when the tax was a great deal lighter than it is now, and to alter them would simply mean that the tax is increased. This is a matter of public fiscal policy with which, in my view, we have no concern except, perhaps, to remark that the price of beer and spirits to the public is already too high. The system of collection of beer-tax, is I know, a great improvement on the old stamp system.

Beer Drippings

I disagree with the finding of the majority report as to the charges against licensees in regard to beer drippings. My reasons can be found on reference to the evidence as to the standing of the witnesses and other matters on the following pages of the Reprint of Evidence: R. 2565, 2566, 2572, 2587, 2858, 3372, 3374, 3375, 3392, 3396, 3405. I agree with the resolution submitted by the trade that steps should be taken to make such a practice impossible.

Suggested Amendments to the Licensing Act

The War Regulations, while necessary in wartime, should be wholly repealed now. The majority report recommends their retention, but I am strongly opposed in particular to those regulations which deprive my fellow-citizens of trial by jury, cause them to be regarded as guilty until proved innocent, subject them to minimum fines, and authorize them to be arrested and their homes searched without warrant. These provisions in peacetime are oppressive and devoid of sound principle, and I desire to specially note that many of these laws are imposed on members of the public quite apart from licensees. The recommendations are to carry them even further.

The recommendations for "padlocking" bars and forfeiture of licenses are also oppressive. Their effect would be to deprive the public of an hotel bar, and to bring no-license into force in districts where they are imposed. This should not be done without a vote of the electors.

On the other hand, I agree that many of the fines in the Act are now too light. While I have no sympathy with the law-breaker or sly-grogger I oppose the recommendation that motor-cars should be confiscated for illicitly carrying liquor.

I have never heard the suggestion made that a motor-car used in, say, an armed hold-up or bank robbery should be confiscated, and it seems entirely out of proportion to impose this penalty in connection with a no-license district.

All these recommendations were made by the New Zealand Alliance.

CONCLUSION

In concluding, I wish to join warmly with my colleagues in thanking all those who helped us with our work. We suffered the loss of an able and indefatigable colleague through the sudden death of the Rev. Mr. Tom Macky. His work on the index and his sensible and matter-of-fact viewpoint on questions were of great assistance. Our Secretary, Mr. A. B. Thomson, LL.M., was by his industry and ability a great asset to us, and his appointment was a happy one for the Commission.

I have the honour to be, Sir, your most humble servant,

[L.S.] PERCY COYLE.

Dated at Wellington, this 27th day of August, 1946.

BY FREDERICK GEORGE YOUNG, M.L.C.

TO HIS EXCELLENCY THE GOVERNOR-GENERAL of the Dominion of New Zealand.

MAY IT PLEASE YOUR EXCELLENCY,—

1. I am in general agreement with that portion of the majority report summarizing the evidence which is contained in Part I, and comprises paragraphs 1–1521 inclusive, but wish to make the following general observations in connection therewith :—

2. That an undue amount of the Commission's time was taken up by evidence placed before it by the Prohibition Party and by the representatives of churches, which are known to carry on a continuous campaign in favour of the abolition of the liquor trade.

3. That, as prohibition was not an issue within the scope of the Commission's inquiry, the organizations referred to appeared before us in the role of liquor reformers. For that reason I question very much their sincerity, because I fail to see how an organization or individual, who stands four-square for the abolition of the liquor trade, can conscientiously advocate reforms designed to remove abuses with the knowledge that those reforms, if adoped and found effective, would have the effect of reducing future prohibition votes and increasing the continuance vote, thereby defeating their own avowed and self-professed objective.

4. Again, that the evidence tendered on behalf of various Government Departments was, in the main, an attempt to justify departmental administration rather than to improve conditions. For example, amendments to the law recommended by various police officers were designed to ease the burden of law enforcement rather than to improve the facilities available to the public, and would add to the large volume of restrictions at present enforced against the public.

5. That the mass of the people who partake of intoxicating liquors have no organization through which they may express their views, and, as individuals, it was found that they were diffident about coming before the Commission, representing as they would no authority other than their own. It is also possible that they felt that the overwhelming vote which they recorded at the last three general elections in favour of continuance was a clear enough indication of their attitude towards the existing system.

6. That some witnesses gave evidence on behalf of their organizations without the prior knowledge or consent of the members who comprise same. Others came forward to advocate some concession which they considered should be granted to their own particular organization. The few returned servicemen who appeared before us gave refreshing evidence mainly advocating the introduction of the facilities provided for the drinking public in the countries which they had visited. Most of the witnesses were the protagonists of a definite "anti" viewpoint, with the result that, in the main, the evidence has a marked anti-liquor bias. The Commission certainly provided a unique opportunity for cranks of all types to air their views.

7. That a great deal of what is referred to as evidence would not be admitted as such before a Court of law in this country, and, that being so, it is desirable that this so-called evidence should be weighed carefully in the light of the foregoing facts, for only when that is done can one obtain a balanced view of the problems requiring rectification.

8. That my colleagues have by majority decision devoted 33 chapters, containing some 446 paragraphs, to suggested remedies for the mischiefs which they have found to exist in connection with the present administration of the liquor trade. A perusal of these suggested remedies of such a widespread character will show that there is little of which they approve in the present administration, and much of which they disapprove.

9. I feel that such a sweeping condemnation of the existing system will not meet with the approval of the average citizen, because, fortunately, he himself possesses a fairly extensive knowledge of the subject through his patronage of both the liquor and accommodation sides of this industry.

10. I am certain that the major remedies proposed in the majority report are far too drastic to obtain popular approval. The proposed sweeping elimination of private enterprise and the substitution of a huge corporate control scheme savours more of a plan for a new totalitarian State than for the freedom-loving people of this country.

11. The average citizen is conscious of the fact that he has recently assisted in the winning of a war for freedom, and what he now looks for, particularly as a result of our investigation and recommendation, is less, not more, restrictions. He is looking for additional amenities of a higher standard. He wants legal facilities provided for drinking in his leisure-hours. He desires cheaper and better liquor and in greater variety. He wishes to make his own choice in the liquor he consumes and not be compelled to drink what is obtainable. He particularly wants to be rid of wartime restrictions and regulations.

12. Because I believe this summarizes the desires of the majority of the citizens of this country, I propose in my recommendations to concentrate on a plan for their solution. Too many Commissions have brought down voluminous reports and achieved nothing.

13. If reforms calculated to reasonably satisfy public opinion and to give to the community the services to which they are entitled can be achieved within the existing framework, what possible justification exists for the creation of a State monopoly, which completely eliminates even a vestige of competition.

14. It appears that the majority of the Commission accept the evidence tendered as justifying a complete and drastic change in the existing administration, a viewpoint with which I am in total disagreement. I believe that, whilst important changes are needed to meet to-day's requirements and the modern trend, those changes can be consummated within the present framework, and, for those reasons, I substantially disagree with the majority recommendations.

15. The existing liquor laws are merely a relect of a bygone age and have persisted only because successive Parliaments have been unwilling to face up to what is clearly one of the most controversial of issues. Its introduction must and will bring dissention into any political party; that surely is a good reason why restraint and tolerance should be displayed by all those who aim at the betterment of our social life. For fifty years the New Zealand public have been the "chopping-block" between two great rival

factions on the liquor issue. I am positive that most of the improvements desired by the ordinary public can be brought about in the immediate future with the consent, the approval, and the full co-operation of the responsible people engaged in the liquor trade, and I submit that this is the correct approach to the question and will undoubtedly smooth the path for Parliament to carry the necessary legislative amendments.

16. I beg leave to humbly submit my recommendations as follows:—

RECOMMENDATIONS

Wartime Regulations

1. *That the Government immediately remove all wartime regulations affecting the liquor trade which were introduced by Order in Council as measures calculated to assist in the successful prosecution of the war.*

Now that hostilities have ceased, they remain as a silent testimony to the fact that so-called wars of freedom are really a misnomer inasmuch as they provide a favourable opportunity for the introduction of permanent restrictions, as illustrated by the fact that the reduction of hours and the substantial reduction in the alcoholic content of malted liquors introduced during the war of 1914–18 have never been restored.

Extension of Hours

2. *That the pre-war hours be restored and that the law be amended to allow liquor to be served to the ordinary public in hotel lounges between the hours of 7 p.m. and 11 p.m. excepting Sundays, Christmas Day, and Anzac Day, subject to a special license issued by the Licensing Committee, and subject to the withdrawal of this special license at the Committee's discretion.*

I see little merit in the majority's recommendation that the hotel bars be closed from 2 p.m. to 4 p.m. each day, as this would inflict a hardship on country folk who visit the local centres on business and have to return for the evening's milking. This section of the community suffer too many restrictions already, because the hotels at present are open during their working-hours and shut during their leisure-hours. I do not favour the Committee's recommendation to open the bars between 8 p.m. and 10 p.m. Monday to Friday, for several reasons, one of which is that the public's need for liquor is as great or greater on Saturday night than on any other night of the week, and, as patrons are required to be in their seats by 8 p.m. sharp in houses of entertainment, much inconvenience would be caused by those who elected to have a quick "one" in the hotel before the performance. Under my suggestion both sexes would be permitted to partake of liquid refreshment prior to attending the evening shows, and to do this at an hour that would enable them to be in the theatre on time. I think it would be a most unedifying spectacle to see a wife waiting on the footpath for her husband to come out of an hotel bar some time after 8 p.m., and then both necessarily going in late to a picture-show.

The objection may be raised that insufficient lounge space is available to cater for this proposed evening trade, but I suggest that additional space would soon be made available if this plan were adopted. It is my view that the evening, or leisure-hours, is the proper time to indulge in sit-down, leisured drinking, of which we have heard so much.

A drastic change in the hours during which liquor is legally on sale, materially changing, as it must, the social habits of the people, would be a very serious responsibility for Parliament to assume; in fact, I would go so far as to say that I do not think any Government would be entitled to make such a change without first having clear proof that the proposal conformed to the wishes of a majority of the people. For that reason, I suggest the desirability of this issue being submitted to the electors for their decision.

Redistribution of Hotel Licenses

3. *That a complete redistribution of existing hotel licenses be undertaken forthwith in order to ensure that the people in each locality obtain the service to which they are entitled and for which purpose existing licenses were in the first place issued. No case can be made out for the granting of additional licenses whilst the problem remains one of maldistribution.*

The public have indicated clearly that they do not desire licensed hotels in residential areas, so that care must be taken in the choice of sites for proposed new hotels. This should be done with due regard to town-planning and in consultation with the local bodies. New licenses should not be granted without the approval of the people in that district, as indicated by a special vote taken to determine the matter. A clean-cut detailed plan should be placed before the electors so that they could be certain that they would get what they voted for. (A later recommendation outlines the means which I suggest for the implementation of this proposal.)

Redistribution of Wholesale Licenses

4. *That a complete redistribution of wholesale licenses be undertaken and additional licenses granted so as to ensure that every locality obtains a similar service and that no undue monopolies are created.*

So many licenses exist in some provincial towns and competition is so keen for the local business offering that nearly the whole of the turnover of some of these firms is made up of catering for residents in large towns situated more than 100 miles away—surely a case for redistribution. Then new residential areas are being created by housing schemes which have the effect of doubling or trebling the population of a given area within a few years. Such districts, if at present without a wholesale license, would provide a good opportunity for the rehabilitation of returned servicemen, and these men should receive preferential treatment in the allocation of such new licenses.

Chartered Clubs

5. *That Licensing Committees be empowered to grant additional club charters in the case of* bona fide *clubs possessing suitable premises, subject to an allocation of additional club charters being made to that area by the national authority.*

Preference should be given to returned services' clubs, recognized sporting bodies, such as golf and bowling clubs, industrial or workers' social clubs, the hours of sale to be fixed by the Licensing Committee to meet the reasonable needs of the club members, having regard to the type of club concerned—such hours of sale to be set out in the license, and exhibited in the club in a place accessible to all members. Clubs should have the right to hold functions on their own premises at which liquor is dispensed for club members and their friends, but to which no charge is made for admission, under a written permit issued by the Chairman of the Licensing Committee, following a police report. The date and hours during which such function shall be held should be set out in the permit, and such other conditions imposed as the Chairman of the Licensing Committee may deem necessary. Existing charters to come within the jurisdiction of Licensing Committees as soon as this scheme functions.

Licensed Restaurants

6. *That Licensing Committees be empowered to grant licenses for the sale of light wines and malted liquors for consumption on the premises to restaurants at which substantial meals are served, and where the accommodation provided and the type of meal served are up to a standard approved by the Licensing Committee.*

It must be acknowledged that few restaurants at present provide the amenities desired for the sale of liquor with meals, but it can be anticipated that, if licenses are available, establishments will be created that will cater for patrons in the same manner as is the case in overseas countries.

Night Clubs and Cabarets

7. *That Licensing Committees be empowered to grant licenses for the sale of intoxicating liquors to night clubs and cabarets, in any case where the Committee is satisfied that proper facilities exist for the good conduct of such an establishment.*

Patrons bringing liquor into such premises should be subject to a very heavy penalty. The liquor supplied should be dispensed in the bar to be provided for that purpose, and waiters permitted to serve drinks to patrons at tables, or in cubicles, as is done overseas.

It is my view that there is no place in the world where youth conducts itself with more propriety than in this country, and if treated as self-respecting citizens, instead of being tied down with undue restrictions, that standard of conduct would tend to improve rather than deteriorate. Police supervision and the power of the Licensing Committee to cancel such licenses for serious breaches of the law would do the rest.

Tourist Resorts

8. *That Licensing Committees be empowered to grant a house license to tourist accommodation houses for the sale of intoxicating liquors to the* bona fide *guests and staff for consumption on the premises. Government tourist resorts to be granted a license forthwith.*

This should include the Chateau Tongariro, although difficulty exists in this case, because of its location in the King-country, but no doubt that difficulty could be overcome by declaring the area occupied by the Chateau not to be in the King-country for licensing purposes. There is a precedent for this resulting in the preservation of the Tokaanu Hotel license when the King-country pact was made. House bars should be open from 10 a.m. to 2 p.m. and from 6 p.m. to 11 p.m., liquor to be permitted to be also served in the dining-room or lounge.

Such an arrangement would reasonably meet the needs of, and encourage, a tourist traffic so vital to the country's economy, and at the same time give the House Manager a greater degree of control over his guests, which is difficult at the present time, because patrons sometimes bring huge quantities of liquor with them, and this is consumed at parties held in the guests' bedrooms, and over which the Manager has only a limited degree of control.

Winemakers' Licenses

9. *That every encouragement be given to the winemaking industry, especially in the development of light wine, and that the regulations be tightened up so as to ensure that wine is manufactured only under hygienic conditions, and with suitable plant and equipment.*

I believe that the Department of Agriculture has a thorough appreciation of what is needed to bring our wine industry up to a high standard and, if given the necessary financial grants, will see that the job is done. I also believe that the Government vinery at Te Kauwhata should be used mainly for experimental and instructional purposes. Possibly a similar Government vinery should be established in Hawke's Bay, parts of which are claimed to have the best climate for grape-growing in New Zealand. Much has been made of the practice of adding sugar in the manufacture of our wine, but, without added sugar, highly fortified wine of the type demanded by the public could not be produced, at least economically. So all that can be achieved by those who oppose the adding of sugar in our winemaking is the ruination of our viticulturists and our winemaking industry in the interests of the lower-grade wine-manufacturers overseas. Few countries are ideally suited to grape-growing, and then only in certain localities. At those favoured places, types of wine are produced which are famous throughout the world, but these products are usually beyond the pocket of the average person, who has to content himself with a lower-grade wine produced under less ideal conditions.

New Zealand has insufficient sunshine to fully develop the sugar content of the grape. In the process of wine-making, the sugar in the grape turns into alcohol; but ordinary sugar does the same thing, so it is added to bring our wine up to the required alcoholic content at which it will keep, and at which it meets the public palate. Alcohol made from ordinary sugar is just as pure as the alcohol made from the sugar in the grapes. The real disadvantage of adding sugar lies in the fact that the wine produced does not contain the same fine flavour and bouquet.

I have no objection to the suggestion that an expert be brought from overseas to advise the Government on the development of the winemaking industry, but I doubt if this would add much to the knowledge already at our disposal through our own Government Wine Expert.

Distillery Licenses

10. *That licenses should be granted to provide persons or companies desiring to manufacture spirits, such as whisky, brandy, gin, liqueurs, &c., and that every encouragement should be given to the development of a distillery industry in this country.*

It is, of course, well known that considerable quantities of illicit whisky are manufactured, sold, and consumed in this country. Most of it comes from the southernmost part of New Zealand, from a district known as Hokonui. Despite the fact that circumstances prevent this liquor being manufactured under ideal conditions, and that it is sold and consumed in an immature state, it is readily purchased and consumed by those able to obtain it—no duty is paid, and considerable revenue is lost. In New Zealand at the moment we are suffering from a form of partial prohibition as a result of the operation of import restrictions. We now have three bottles of spirits to share among us for every ten bottles we had in 1938. This naturally results in some black marketing and preferential treatment. If funds are not available to purchase the people's needs in the way of spirits imported from overseas, surely that is a strong case for manufacturing our own liquor. Experimental stations situated in the right location and operated under proper governmental control would soon demonstrate the practicability of this proposal. The world's stock of whisky is very low at present because of the restrictions placed upon the manufacture of this commodity during the war, and also partly because of the elimination of prohibition some years ago in the United States, which reopened a vast market for this product. It is clear that this shortage will remain for many years. I believe that in the South Island we have the climatic conditions and the essential materials to produce a whisky which would not only provide substantially for the needs of our own people, but would later develop an export trade in the many markets which are open to us. Dry gin, for example, can be produced ready for sale in a few months. At the present time much of our supplies of gin comes from Australia, and is produced there under conditions similar to those that would obtain here. In the manufacture of brandy I am not so certain of success, but it is claimed that it could be produced here of satisfactory quality and quantity, and, having regard for the lower quality of the product from the present sources of most of our supply—*i.e.*, Australia and South Africa—I strongly urge that an opportunity be given to private enterprise to explore the possibilities of this industry. The manufacture of liqueurs should also be encouraged.

The industries to which I have referred, if successfully established, would not only provide employment for the future generations, but would conserve our overseas funds for more essential requirements. I must point out that most whisky before importation is broken down and bottled overseas, so that we pay freight on hundreds of tons of water, of no better quality than the ample supplies which we have available, plus bottles, labels, and packages, all of which we are quite capable of producing ourselves.

Brewery Licenses

11. *That brewery licenses be issued annually by Licensing Committees in the same manner as other liquor licenses, new licenses to be issued where the need is proved to the satisfaction of the Licensing Committee, subject to the extra license or licenses being authorized by the national authority.*

I have found nothing in the evidence to warrant any substantial change in the control of our breweries. I do not regard the wastage allowance as excessive. The only breweries which make a saving on this allowance are those which are efficiently run with up-to-date equipment. Surely it is not desirable to place a premium on inefficiency. Unlicensed brewery depots would be unnecessary if all districts were adequately served by wholesale licenses, which should distribute the products of all breweries for which there is a local demand.

LIQUOR CONTROL COMMISSION

12. *That a Liquor Control Commission be set up at an early date, charged with the duty of making a complete overhaul of, and, where necessary, redistribution of, all existing liquor licenses, for the purpose of ensuring that a proper service is provided for all sections of the community in each license district.*

I believe that the maldistribution of hotel and other licenses is the fundamental weakness of the liquor trade. It is a relic of antediluvian laws, bringing about, as it does, State-created monopolies, vested in private individuals and companies, who derive vast benefits from goodwills, which are really community-created, as a result, for instance, of rapid and substantial increases in population. This is unavoidable, of course, and only becomes an acute problem when nearly a century is allowed to go by in a rapidly developing country like New Zealand without the matter of redistribution of licenses receiving attention, and which now reaches proportions which demand immediate attention. This question is one on which the whole Commission is more or less agreed. Our real differences lie in how the necessary changes can best be brought about.

My view is that the Liquor Control Commission's first task would be to purchase all redundant licenses throughout the country. These licenses should be purchased at valuation and, when I say valuation, I mean the present actual value based upon that hotel's earning-capacity over, say, the past three years. Where negotiations for purchase cannot be brought to a rapid and satisfactory conclusion, the Commission should have the power to terminate the license, and the owner the right enjoyed by those, whose land or property is acquired under the Public Works Act, of having the value settled by a Court of competent jurisdiction.

The question of principles determining what comprises a redundant license would need to be first established. I would say that a hotel was not redundant when its bar takings averaged an agreed-upon amount each week, or where it was the only hotel in a scattered community, or, again, where it was the only place in a scattered community providing accommodation, or where the total number of hotels did not exceed one for, say, every thousand local residents. The Commission, having acquired a large number of redundant licenses in the manner outlined, should immediately place these delicensed properties on the market for sale, and, whenever possible, should arrange for the owner to retain the property by accepting compensation only for the loss of the license.

Next comes the more difficult task of re-allocating licenses. This should be done in conformity with given principles, the first consideration being towns and localities at present without licensed hotels, and then towns and districts with very limited hotel accommodation in proportion to population, an important principle being to ensure that new hotels are built in locations where they can best serve the needs of the district. This would create a problem which I think could best be overcome by authorizing the Commission to compulsorily acquire sections or buildings suitable for the purposes outlined. In fact, unless the present monopolistic tendencies are to be accentuated, the Commission should itself undertake the renovation of suitable buildings and the building of new hotels, so as to avoid an extension of brewery or chain hotel control, which exists mainly by virtue of the large capital outlay involved, and this plan would also provide an opportunity for these new hotels to be leased by the Commission to individual hotel-keepers, so that the "mine host" type of licensee would have an opportunity of remaining in the business, and not be ousted, as is the case at present, by hotel managers or licensees on weekly tenancies. This brings me to the problem of the breweries acquiring hotels, which, under existing conditions, is more or less a necessity—that is, if the breweries are to flourish and to find an outlet for their products. When a brewery acquires a hotel it naturally installs its own draught beer and stout, to the exclusion of its competitors. It also pushes, as far as possible, its own bottled ale and stout, and if it happens to own a wine and spirit license it also pushes the sale of lines for which it is agent. This occurs whether the brewery runs the hotel as a managed house or whether it leases same, because under the terms of the lease the hotel becomes what is known as a "tied house" (this is dealt with under the heading "Tied Houses"), so breweries vie with

each other in the acquisition of hotels as a means of maintaining and increasing the brewery output. This state of affairs is considered undesirable by many, but the fact remains that so much capital outlay is involved, especially in the larger hotels, as to be beyond the financial capacity of the average hotelkeeper, and, furthermore, it must be admitted that brewery and company-managed hotels are undoubtedly among the best and the most up to date in the country.

No new licenses should be granted in any towns or districts without the approval of the residents of that area, as indicated by a vote taken for that purpose, after the plan outlined for their district had been placed before them in clear and lucid terms. The creation of new licenses would also provide an opportunity for Trust or municipal hotels, which I deal with in another chapter. If such a plan resulted in a substantial increase in licenses in a given district, I think it would be equitable to pay compensation to existing hotel-owners to the extent that their goodwills had thereby been depreciated. These owners, having acquired their properties in a legal and constitutional way, are not entitled to suffer heavy losses without compensation because of the introduction of a scheme for the redistribution of licenses. Likewise, hotels gaining additional business as a result of the closing-down of redundant licenses should either be required to pay goodwill to the Commission for the additional business acquired, or ordered to expend money on bringing their properties up to date, thereby providing added facilities for the public.

Then considerable goodwills would be involved in the new licenses granted, and, in my view, these goodwills belong to the community which creates them, and a ground rent should therefore be fixed on such new licenses, adjustable every ten years, and the funds derived should be vested in an appropriate local body and expended on the provision of added local amenities, such as playing-grounds, swimming-baths, &c. If it were found that insufficient hotel licenses existed to supply the reasonable needs of the whole country, then the Commission should report to the Government, seeking authority for the creation of additional licenses. Parliament, after perusing and discussing the report, should vote "Yes" or "No" on the question on a non-party basis.

After redistributing wine and spirit licenses, the power to create and allocate new licenses, such as wholesale wine and spirit, chartered clubs, licensed restaurants, night clubs and cabarets, house licenses for tourist hotels, winemakers', distilling licenses, and brewery licenses, should lie with the Liquor Control Commission, but Parliament, if it deemed desirable, could place a limitation on the number of licenses of each type. At present brewery and chartered club licenses are issued at the pleasure of the Minister of Internal Affairs, but for many years past these have been refused on the plea that it is not Government policy to do so. For that reason I think such matters are better removed from the realm of politics. Licenses should be issued or refused on the merits of the case, regardless of Government policy, because if a Government thinks that certain things are undesirable it should express that view in amended legislation and show that Parliament approves.

I believe that the Liquor Control Commission should lay down a definite code of building and furnishing standards to be enforced by Licensing Committees. This code should lay down the minimum cubic space for bedrooms, both double and single. Minimum standard furnishings should be provided in each bedroom, hot and cold water for each bedroom, and, where baths for each bedroom are impracticable, a standard number should be provided for each fixed number of bedrooms.

Staff quarters should conform to the same standard, and in new buildings should be located adjacent to, but not on, licensed premises, so that staff may have a home in which their guests can be entertained without creating a breach of the licensing laws. The standard code should set out the minimum guest amenities to be provided in the way of lounges, writing-rooms, &c., with a sitting-room and other similar facilities for the staff quarters. Fire hazards should be eliminated as far as practicable, and new hotels constructed so as to be ratproof and verminproof.

Hygiene should be a feature of all hotels, especially in the kitchens, pantry, bars, and cellars; bars should be air-conditioned and glass-washing machines installed, which would eliminate contagion through unclean glasses and containers.

I would strongly urge the adoption of the recommendations contained on pages 7143–7156 in the Commission's notes of proceedings, containing the recommendations submitted by the New Zealand Hotel Workers' Federation, particularly those dealing with hygiene.

Hotelkeepers or their staff caught selling beer drippings or slops to the public are due for a term of imprisonment without the option of a fine. Such persons should also be debarred from ever holding a hotelkeeper's license. Regulations should be framed compelling licensees to place Condy's crystals in slop-buckets or slop-containers or other more effective means adopted to terminate this filthy practice, which suggestion I am sure will be wholeheartedly approved by the trade itself.

I believe that the best type of Commission to undertake this work would comprise five members—the Chairman to be a Magistrate with lengthy experience of Licensing Committee work, one member to be a chartered accountant, one to be an expert property valuer, and the other two to be men with wide experience of the retail liquor trade, but with no financial interest in the trade. The view has been expressed that the Chairman should be a Judge of the Supreme Court. I disagree, because a Judge is required to live a somewhat secluded life, which precludes his having the intimate knowledge of licensed hotels possessed by the type of Magistrate I have suggested. If it is deemed necessary for the Chairman of the Commission to have the status of a Judge, that status can be granted to him.

Powers of Licensing Committee

13. *That the number of Licensing Committees be reduced and their powers substantially extended so that they can function in the interests of the electors by seeing that hotels are kept up to the required standard and give the service which the public have a right to expect.*

The number of Licensing Committees should be reduced by extending their operation over wider districts. To have more than one Licensing Committee operating in the one town is totally unnecessary. Their authority should be substantially extended, thereby enabling them to insist on necessary alterations and renovations to hotels and also to formulate and carry out a progressive rebuilding programme. I think that Licensing Committees should be empowered to call upon the owner of every licensed premises in their districts to submit plans outlining what immediate alterations, renovations, and additions, if any, are contemplated, and if those plans meet with the approval of the Committee, all that is needed is a time-limit for the carrying-out of the work and the consent of the local Building Controller. It must be appreciated that the average age of hotels in this country is over the half-century, so that a planned campaign regarding future rebuilding schemes is urgently needed. Owners of hotels built more than forty years ago should also be required to indicate to the Licensing Committee what prospective rebuilding plans they have for the future. If agreed between the owner and the Committee that the life of a certain hotel was fifteen years, that could be recorded on the Committee's files, and persons subsequently buying such hotels would be aware of future commitments. A planned campaign of hotel rebuilding could then be undertaken. Committees should have the power to order a hotel to be rebuilt, but the owner should have the right of appeal to be heard by a Supreme Court Judge. Committees should have the power to authorize the transfer of hotels without existing limitations, where a hotel is off the main highway and is to be shifted to a more appropriate spot, or where it is required to serve a newly developed shopping centre. Hotels should not be transferred to residential areas.

Registration of Barmen

14. I strongly disagree with the recommendation of the majority of the Commission that barmen be registered. In my view such a proposal serves no useful purpose unless it is designed to take same of the responsibilities off the shoulders of the licensee and place further responsibility on the barman. The barman has nothing to gain but his livelihood. If he breaks the law by serving a drunken person, a prohibited person, or

a person under twenty-one years of age, he is subject to prosecution, conviction, and fine. Surely that is a heavy enough responsibility for a man who is merely there for the purpose of earning his living. At present a licensee takes the full responsibility for the conduct of his establishment and the actions of his staff. This tends to improve his supervision and places the responsibility where it properly belongs. If a barman were registered and subject to the cancellation of his license, Magistrates would naturally take a more lenient view of a case against a licensee in which a barman was involved. This would tend to make the barman the chopping-block for those who desired to break the law, and the barman already plays that role far too often. I think the law should be drastically enforced against under-aged persons ordering liquor, as they are aware of their own age and the barman has to guess it. If a youth insists he is over twenty-one years of age, he puts the barman in an invidious position.

Standard Measures

15. *That standard measures be adopted for all glasses and containers in which alcoholic liquors are sold to the public.*

This would not prevent hotels having the choice of a wide variety of designs, but each glass and container should have stamped or blasted on it the fluid content in ounces so that a patron would know that he was receiving what he was paying for, and deceptive glasses would lose their significance. Spirit-glasses could be ringed as a measure, but this would only be practical if the price of liquor was standardized.

Alcoholic Content of Malted Liquors

16. *That the alcoholic content of malted liquors be restored to pre-war strength.*

This may not be immediately practicable because of the shortage of sugar, but this should not deter the Government from publicly stating that at the earliest possible moment the pre-war strength will be restored. The strength was reduced in anticipation of the arrival in the country of a large army of allied servicemen, and the reason for this decision is now non-existent.

Reducing Liquor Prices

17. *That alcoholic liquor be reduced to the pre-war price.*

Beer and stout prices, bottled and draught, in both glasses and containers were increased during the war to meet the burden of increased taxation, which may have been justified as a war measure, but in times of peace is iniquitous inasmuch as it penalizes the man who, because of domestic responsibilities, has to get by on a strictly limited amount of pocket-money, and is unjust because it discriminates against the drinker in favour of the non-drinker. It also weighs heavily against those on small incomes who are fond of a glass of beer.

Tied Houses

18. *That hotels be compelled to stock all the popular brands of spirituous and fermented liquors reasonably demanded by the public, Licensing Committees being empowered to enforce a fair observance of this rule.*

I see no merit in the agitation against tied houses except at the point at which it affects the customer. If he does not enjoy a reasonable choice in the variety of brands obtainable at the local hotel, he suffers an undue hardship and inconvenience, and all because the hotelkeeper is taking an undue advantage of his monopoly. The hotelkeeper may have difficulty in obtaining the product of opposition firms from the merchant or brewery to which he is tied, but if the above recommendation is adopted he would be compelled to obtain supplies, whether through his own merchant or otherwise, and the Licensing Committee could deal with the merchant if he attempted to take action against the hotelkeeper. Likewise, where several hotels are situated in the one locality, Licensing Committees could refuse a transfer where any one brewery tried to obtain a monopoly, thereby giving local customers no alternative in the choice of draught beer.

Advertising

19. *That all restrictions on liquor advertising be removed.*

I do not approve of the excessive and exaggerated claims sometimes made on behalf of certain brands of intoxicating liquors. Neither do I approve of similar claims made on behalf of "quack" medicines. It is my view that all such types of advertising should be prohibited by law.

King-country

20. *That the King-country question be determined by means of a plebiscite of—*

(a) The Maori electors resident in that area; and

(b) The European electors resident in that area,—

the vote to be decided by a bare majority, Maori and European votes to be counted separately, the issue to be whether the King-country shall go "wet" or remain "dry."

The King-country pact never realized its objective of keeping that area dry. Strong drink flows freely throughout the district, and both Maori and pakeha are the prey of sly-groggers and other undesirable characters. Despite the efforts of the police, this illicit trade has never been suppressed. For the King-country to go "wet" would therefore only mean one thing, and that is that drink in that district would be put under control by liquor being sold on licensed premises. In the minds of many Maoris the King-country pact is a solemn and binding one, and their viewpoint must be respected. The question arising in my mind is whether it is within the province of any group of men, however well disposed they may be, to enter into irrevocable agreements which bind a race of people for all time. My view is that such agreements can be terminated, with the consent of both parties, and it is with a view to determining the matter in a democratic manner that I make my recommendation. If both Maori and European voters separately endorse the proposal to go "wet," then, in my opinion, licenses should be granted to the King-country in conformity with the general scheme of redistribution. On the other hand, if both races vote "dry," then everything possible should be done to enforce that decision. If one vote goes "wet" and the other "dry," then I believe the position should be met by the issue of club charters, the membership of such clubs to be restricted to the members of the race that voted "wet." In this way both Maori and pakeha would be masters of their own destiny. I deal with other aspects of the Maori liquor question in the following chapter.

Maori Liquor Problems

21. *That the Government offer to remove all or any of the existing liquor restrictions at present applying to the Native race, to the extent that such removal of restrictions is endorsed by responsible Maori opinion.*

It is my view that the time has arrived when we should recognize the absolute equality of the Maori people and write that equality into our legislation. I believe that this great race should be given every opportunity to control and manage its own affairs, and that if liquor restrictions are to remain, they should do so because it is the will of the Maori people. The Maori is proud of his ancestry, he has great respect for his elders, he is sentimental and deeply religious, and has an intelligence which excels any other coloured race in the world. He has twice been overseas to fight for his country, and has maintained the glorious tradition of his race as a fighting man. Wherever he has travelled he has been treated on terms of equality, but he now returns home to find that he cannot enjoy in his own native land the privileges enjoyed by Indians and South Sea Islanders. For these reasons he is becoming restless, and, in my opinion, justifiably so. He is conscious of his own strength and his own weaknesses. I am satisfied that, if vested with the necessary authority, steps would be taken by the Tribal Committees to see that abuses in the use of liquor by Natives were adequately and effectively dealt with. If, under redistribution, new hotels are to be located in Native areas, the ground rent fixed on these hotels (as proposed in my suggestions regarding redistribution) should

be placed at the disposal of Committees dealing with Maori welfare projects. Under the present system the Maori obtains little benefit for the money expended by him on strong liquor.

Invercargill Licensing Trust

22. *That no further local Trusts be created without a mandate to the effect being first obtained from the residents in that area in a special vote taken for that purpose.*

It is generally agreed by the members of the Commission that it is too early to fairly judge the results of the Invercargill Licensing Trust experiment, building difficulties having hampered its development, and the Trust has had to overcome many other obstacles. As an experiment it may prove worthwhile. All I desire to say is that I disapprove of the manner in which this Trust was created. Not only was it done without a mandate from the people of Invercargill, but it was also done in opposition to the expressed opinion of all the local bodies in that area. It should also be pointed out that the vote for restoration was taken in a constitutional manner and in conformity with the laws provided. This conferred certain rights on the owners of those properties which were licensed premises when the area became "dry." If the Government thought that the time had arrived for a revision of the laws governing these matters, that revision should have taken place before the vote bringing about restoration was taken. To change the rules after the race is, in my opinion, unfair and unjust—and to sweep away these property-owners' rights without compensation or without consideration of any kind is not an act of which the Government can be justly proud.

Municipal and Trust Hotels

23. *That, wherever a vote is taken to approve or otherwise of the establishment of a new licensed hotel or hotels, the municipality or other local body controlling the area shall, if they so decide by resolution at a properly constituted meeting, take an additional vote of the electors to approve or disapprove of municipal or Trust control of the proposed new hotel or hotels to be opened in their district.*

The Liquor Control Commission having determined the needs of a certain district and decided the conditions pertaining to such new hotels as are to be built, the location and type of establishment, and all other matters relevant thereto, shall then make such hotels' licenses available to the municipality or Trust on the same terms and subject to the same conditions as private enterprise. It does not appear to me desirable that municipalities or other local bodies should themselves undertake the running of community-owned hotels, because differences of opinion arising in connection with the administration might unduly obtrude themselves into local politics, but an elective local body could be created for this purpose as is done in the case of transport and power boards. If the local bodies in the district decide to take no action in connection with municipal or Trust control, the proposed new hotels would then be undertaken and run by private enterprise.

Triennial Polls

24. *That triennial polls be retained.*

I disagree with the majority report recommending the abolition of the triennial poll on the liquor issue and the substitution after a certain date of a nine-yearly or triennial poll. To my mind, the poll should either be retained in its present form or abolished. I favour its retention because I think that this is one of the few opportunities enjoyed by the elector to express his views, politics apart, on a question of public interest. The triennial poll is also a restraining influence on those engaged in the liquor trade, who are apt to be unmindful of their obligations to the public. It therefore tends to keep the liquor trade up to the mark. The last three liquor polls favoured continuance so convincingly that it is futile for the trade to pretend that they are restrained from pursuing a progressive building policy because of the fear of prohibition. For as long as I can remember, we have always had in this country a Parliament the majority of the members of which leaned towards the "wowser" element, and the poll is therefore useful in so far as it is a clear indication to parliamentarians to keep their hands off the liquor trade.

Goodwills

25. The majority of the Commission appears to be unduly concerned over the question of hotel goodwills. I do not share their anxiety on that point. The position appears to me to be normal, having regard to the circumstances. In the sale or exchange of any business the main factors taken into account are the assets and the earning-capacity of that business. This principle applies whether it is a farm, factory, shop, or any other type of business. The hotel is favoured as a result of parliamentary inactivity with a State-created monopoly which may be exploited by private individuals or companies. Therefore, when an hotel is up for sale, its profit-making capacity is oft-times more valuable than the capital value of the property, for where bar sales are high and the property value and the overhead of the hotel are low, goodwill is the biggest factor in the sale. How could it be otherwise? The best means of eliminating excessive goodwills is to adopt a sane plan for the redistribution of licenses.

Staff Training

26. This matter is receiving the attention of the Tourist Development Committee, and if the plans adopted by that committee are consummated, this country will have a training scheme for hotel staff second to none in the world. Improved hotel facilities for the public will not bring about the results desired unless we are able to fully staff our hotels with efficient employees. The Tourist Development Committee is to be congratulated upon the steps taken.

No-license Districts

27. *That the Liquor Control Commission make such allocation of licenses of all types as it deems necessary for each no-license district, and also clearly indicate to the electors therein the proposed location of such licenses in each area, in the event of restoration being carried.*

An analysis of the voting figures in some "dry" districts, especially in the residential areas, indicates that the voting is two to one in favour of national continuance, and two to one against local option. This appears to indicate that many voters desired their liquor, but do not wish to have it offered for sale in residential areas. From this I draw the deduction that if electors had a clear indication that licenses, if restored, would not be placed in residential areas, but located only in shopping or business areas, many districts at present "dry" would go "wet." In view of my recommendation for a national re-allocation of licenses, I would recommend that the vote on restoration should be taken on the bare majority, and where the vote is "dry" no further vote taken in that district on this issue until the third succeeding election.

ASHBURTON, OAMARU, AND EKETAHUNA

28. I agree with the majority proposals for remedying the injustices and anomalies arising out of changes in electoral boundaries.

EDUCATION ON THE LIQUOR QUESTION

29. I do not agree that the school syllabus should include education on the above-mentioned subject. It is a matter for the parents rather than the school-teacher. As it is a subject upon which there is a considerable conflict of opinion, a great deal would depend upon the teacher as to the manner in which the subject was presented. Children to-day are so sophisticated that unless the matter were put to them in a common-sense way it would tend to bring the subject into ridicule. I do not share what appears to be a prevalent view on the matter of youth requiring further education on this subject. In my opinion, youth has never been so knowledgeable and well-balanced as it is to-day.

One has only to think of the glorious page of history written by our youth in the Battle of Britain, which probably did more to save civilization than any other epic of the war, when the best of our breed, mostly in their teens, danced, wined, and dined, as youth are apt to do, and then went out to die so that their country might live. I cannot see much wrong with the educational system that produces youth of their type.

Method of Voting

30. *That no alteration be made to the ballot-paper on the liquor issue.*

I oppose any alteration in the method of voting on the liquor issue, such as preferential voting, whereby voters could record their votes as follows: Prohibition 1, State Control 2, Continuance 3. This would only be a subterfuge whereby prohibitionists could first vote "dry" and then vote "wet." This could be done by them first voting prohibition and then recording their second preference for State Control, thereby securing two opportunities of eliminating the liquor trade, which provides the only organization which can effectively fight them on the prohibition issue.

General

For the reasons contained herein, I disagree with the general purport of the majority report, particularly that portion of it which is in conflict with my own recommendations. I am utterly opposed to anything in the way of State or corporate control, because it conflicts with the clearly expressed wishes of the electors. This is an issue for the electors to decide, and for Parliament to accept.

I join wholeheartedly in the expressions of appreciation of the invaluable services rendered by the Secretary, Mr. A. B. Thomson, and his staff, and respectfully submit this minority report for Your Excellency's acceptance.

I have the honour to be,

Your Excellency's most obedient servant,

[L.S.] F. G. Young.

Dated at Wellington, this 27th day of August, 1946.

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Approximate Cost of Paper.—Preparation, not given; printing (3,500 copies), £750.

By Authority: E. V. PAUL, Government Printer, Wellington.—1946.

Price 7s. 6d.]