

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.