

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.