

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 Regulation 20 (1) was repealed, and the following substituted :—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 steady 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).