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.